

**THE PENSION PLAN
OF THE
BAY AREA PAINTERS AND TAPERS PENSION TRUST FUND**

**SUMMARY PLAN DESCRIPTION
AND
TEXT OF THE PLAN DOCUMENT**

2018 Edition

IMPORTANT

This explanation of the Pension Plan is intended to be a brief and very general statement of the most important provisions of the Pension Plan. No general statement such as this can adequately reflect all of the details of the Plan and nothing in this statement is meant to interpret or extend or change in any way the provisions expressed in the Plan itself.

A Participant's rights can only be determined by consulting the actual text of the Pension Plan that appears in the last part of this booklet.

ONLY THE FULL BOARD OF TRUSTEES IS AUTHORIZED TO INTERPRET THE PLAN OF BENEFITS DESCRIBED IN THIS BOOKLET. NO EMPLOYER OR UNION, NOR ANY REPRESENTATIVE OF ANY EMPLOYER OR UNION, IS AUTHORIZED TO INTERPRET THIS PLAN - NOR CAN SUCH PERSON ACT AS AN AGENT OF THE BOARD OF TRUSTEES.

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To All Plan Participants:

We are pleased to present you with a booklet that describes your Pension Plan in effect on January 1, 2018. Numerous changes in your Plan of benefits have been made since the printing of the last booklet. These are described more fully in this booklet.

Here are some hints on how to use this booklet:

- The first half of the booklet consists of a summary describing the Plan's provisions in effect as of January 1, 2018, your benefits, rights and obligations. It also contains references to appropriate provisions in the text of the Pension Plan. You should read this portion first in order to have a general understanding of how your Plan works. Note that different Plan rules may apply to your pension benefits if you retired prior to January 1, 2018.
- Within the summary portion, some Plan terms that have special meanings are capitalized. In order to understand how these terms apply to your benefits, you may need to refer to other pages in the summary or to the text of the Pension Plan.
- In describing your Pension Plan in brief form, it is not possible to explain every detail that may be relevant to your particular situation. Therefore, the complete text of the Pension Plan, which sets forth your actual benefits, rights and obligations under the Pension Plan, appears in the second half of this booklet. Your rights can only be determined by consulting the actual text of the Pension Plan that appears in the last part of this booklet.
- Only the full Board of Trustees is authorized to interpret the Plan of benefits described in this booklet. No Employer or Union, nor any representative of any Employer or Union is authorized to interpret this Plan – nor can such person act as an agent of the Board of Trustees.
- Be sure to read this booklet and keep it for future reference. As the Pension Plan is amended, the Administrative Office will send out announcement letters explaining any material Plan changes. You should keep these with your booklet to ensure that you have up-to-date information concerning your Plan. You should also share this booklet and the announcement letters with your family, since some of the benefits described may directly affect them.
- It is important that you keep the Administrative Office informed of your current address so that you can receive information from the Fund in a timely manner. This is especially true if you are vested and have withdrawn from any Covered Employment.
- If, after reading this booklet, you have questions about how the Pension Plan works, you should contact the Administrative Office – at the address and phone number shown above – where the staff will be able to assist you. If you have specific questions concerning your benefits, you may wish to state them in writing.

We are pleased to be able to work together to provide you with benefits which will contribute to the financial security of you and your family.

Sincerely,

BOARD OF TRUSTEES

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HOW YOU BECOME A PARTICIPANT IN THE PLAN

(Refer to Sections 1.14, 2.02, 2.03 and 2.04)

Eligible Employees

The following classes of Employees are eligible to become Plan Participants upon satisfying the Plan's rules described in this section.

- Any person who performs work covered by a Collective Bargaining Agreement between District Council 16 of the International Union of Painters and Allied Trades or Local Union affiliated with District Council 16 and the Northern California Painting and Finishing Contractors Association/FCA Affiliate or other employers, and for whom the Employer is obligated to make Contributions to the Pension Trust Fund and any person who has previously performed work covered by a Collective Bargaining Agreement between an Employer and District Council 16 or a Local Union affiliated with District Council 16 and who satisfies the requirements adopted by the Trustees.
- Any full-time salaried officer or representative of District Council 16 or a Local Union affiliated with District Council 16 that extends pension coverage to such officers or representatives pursuant to regulations adopted by the Trustees.
- Any employee of the Board of Trustees who, pursuant to resolution of the Board of Trustees, is included under the Pension Plan.
- Any other persons who, pursuant to resolution of the Board of Trustees, are included under the Pension Plan.

The term "Employee" does not include any self-employed person, whether a sole proprietor or a partner.

Becoming a Participant

In general, you become a Participant in this Plan on the January 1 or July 1 after you work at least 400 Hours of Service during a twelve-consecutive calendar month period for a Contributing Employer in a job category covered by a Collective Bargaining Agreement between your Employer and any Local Union affiliated with District Council No. 16 of the International Brotherhood of Painters and Allied Trades. Other persons, described above in "Eligible Employees," are also eligible to become Participants. In determining if you satisfy the 400-hour requirement, Hours of Service in Continuous Non-Covered Employment with a Contributing Employer will also be counted.

Termination of Participation

If you have not attained Vested Status or are not a Pensioner, your participation terminates when you incur a One-Year Break in Service (on the December 31 of a Calendar Year in which you work less than 400 Hours of Service). Once terminated, you again become a Participant after satisfying the 400-hour requirement described above under Becoming a Participant.

HOW WORKING TIME COUNTS **(Refer to Article 6)**

The amount of time you work in a job covered by a Collective Bargaining Agreement or other participation agreement that requires your Employer to contribute to this Plan (“Covered Employment”) counts towards your pension in two important ways – It determines whether you are eligible for a pension and, if so, the amount of your pension.

The time you work is measured in three ways:

- Number of Years of Credited Service
- Number of Benefit Units
- Amount of Employer Contributions made or required to be made on your behalf.

After you begin working in Covered Employment, you receive both Credited Service and Benefit Units during the time your Employer contributes to the Plan with respect to your work. In addition, the Plan keeps track of the Employer Contributions required to be made on your behalf. This period of time is referred to as “after your Contribution Date.”

You may also receive Credited Service and Benefit Units for certain work before your Contribution Date (see discussion of Credited Past Service below).

Credited Service Before Your Contribution Date **(Refer to Section 6.02)**

Credited Service earned before your Contribution Date is called “Credited Past Service.” Your Contribution Date is January 1, 1960 or such later date as may be fixed by the Board of Trustees for a Bargaining Group in which you were employed when a Contribution was first required to be made on your behalf to the Pension Trust Fund. If your Contribution Date is on or after January 1, 1976, you are only entitled to Credited Past Service if you have at least 500 Contributory Hours in the Calendar Year in which your Contribution Date occurs or in the next Calendar Year.

You receive one year of Credited Past Service for each Calendar Year before your Contribution Date during which you worked at least 1,000 hours in the geographical jurisdiction of a Local Union in employment of the type for which Contributions are made to the Pension Trust Fund. If you worked less than 1,000 hours during a Calendar Year, one quarter of Credited Past Service will be granted for each 250 hours of such work.¹ In determining the amount of your Credited

¹ You are also entitled to Credited Past Service for periods of service in the Armed Forces of the United States between January 1, 1940 and your Contribution Date if you were employed as a painter or taper in the jurisdiction of a Local Union immediately prior to entering military service and become re-employed within 90 days after your discharge from active duty (or after any disability which continues after your discharge). Your military service must be during a period of war, national emergency or due to national conscription law. You will receive one Year of Credited Past Service for each full year of military service or ¼ of a Year of Credited Service for each three months of military service.

Past Service, your period of membership in a Local Union which participates in the Plan may be used as evidence of employment. The maximum number of Years of Credited Past Service that can be granted is 23 years.

The Trustees have the right to reduce your Credited Past Service with respect to your periods of employment with a Contributing Employer who later withdraws from the Plan.

**Credited Service On and After Your Contribution Date
(Refer to Section 6.03)**

Credited Service earned on and after your Contribution Date is called “Credited Current Service.”

Between Your Contribution Date and January 1, 1976

Before January 1, 1976, the number of Hours of Service needed to earn Credited Current Service in a Calendar Year was based on your age during the year in which the hours are worked, as follows:

<u>Younger than Age 50</u>	
Hours of Service in Calendar Year	Credited Current Service
Less than 250 hours	None
250 to 599 hours	1/4
600 to 899 hours	2/4
900 to 999 hours	3/4
1,000 hours or more	One Year
<u>Age 50 through 59</u>	
Hours of Service in Calendar Year	Credited Current Service
Less than 250 hours	None
250 to 499 hours	1/4
500 to 749 hours	2/4
750 to 999 hours	3/4
1,000 hours or more	One Year
<u>Age 60 or more</u>	
Hours of Service in Calendar Year	Credited Current Service
Less than 200 hours	None
200 to 399 hours	1/4
400 to 599 hours	2/4
600 to 799 hours	3/4
800 hours or more	One Year

On and After January 1, 1976

Beginning January 1, 1976, Credited Current Service in a Calendar Year is earned according to the following schedule:

Hours of Service in Calendar Year	Credited Current Service
Less than 400 hours	None
400 to 699 hours	1/2
700 to 999 hours	3/4
1,000 hours or more	One Year

After January 1, 1976, you also receive Credited Current Service for work in a job not covered by this Plan if you work for a Contributing Employer and:

- You move directly from a covered job (Covered Employment) with that Employer to a non-covered job (Non-Covered Employment) with the same Employer, or
- You move directly from a non-covered job (Non-Covered Employment) with that Employer to a covered job (Covered Employment) with the same Employer.

This is what is meant by the term “Continuous Non-Covered Employment.” (Refer to Sections 1.12 and 6.03.b. of the Plan). If you do not work sufficient Hours of Service in Covered Employment and Continuous Non-Covered Employment for Contributing Employer(s) to earn a full Year of Credited Service in a calendar year, you shall not be entitled to any Credited Service for your Hours of Service in Continuous Non-Covered Employment.

Benefit Units Before Your Contribution Date
(Refer to Section 6.04.a.)

If you earned one year of Credited Past Service you also earned one non-contributory Benefit Unit. Partial non-contributory Benefit Units are also given for partial Years of Credited Past Service.

**Benefit Units On and After Your Contribution
Date and Prior to January 1, 1987**
(Refer to Section 6.04.b. through h.)

On and after your Contribution Date, you earn Contributory Benefit Units based on the number of Contributory Hours credited in a Calendar Year. Contributory Hours are hours in Covered Employment for which Contributions are required to be made by a Contributing Employer to the Fund or, in certain case, hours credited for absences from Covered Employment.

Between Your Contribution Date and January 1, 1976

Before January 1, 1976, the number of Contributory Hours needed to earn a Benefit Unit was based on age, as follows:

Younger than Age 50

Contributory Hours in Calendar Year	Benefit Units
Less than 250 hours	None
250 to 599 hours	1/4
600 to 899 hours	1/2
900 to 1,199 hours	3/4
1,200 hours or more	One

Age 50 through 59

Contributory Hours in Calendar Year	Benefit Units
Less than 250 hours	None
250 to 499 hours	1/4
500 to 749 hours	1/2
750 to 999 hours	3/4
1,000 hours or more	One

Age 60 or More

Contributory Hours in Calendar Year	Benefit Units
Less than 200 hours	None
200 to 399 hours	1/4
400 to 599 hours	1/2
600 to 799 hours	3/4
800 hours or more	One

Between January 1, 1976 and December 31, 1981

From January 1, 1976 through December 31, 1981, Benefit Units are earned for Contributory Hours according to the following schedule:

Contributory Hours in Calendar Year	Benefit Units
Less than 400 hours	None
400 to 499 hours	4/12
500 to 599 hours	5/12
600 to 699 hours	6/12
700 to 799 hours	7/12
800 to 899 hours	8/12
900 to 999 hours	9/12
1,000 to 1,099 hours	10/12
1,100 to 1,199 hours	11/12
1,200 hours or more	One

On and After January 1, 1982

After January 1, 1982, Benefit Units for Contributory Hours are earned as follows:

Contributory Hours in Calendar Year	Benefit Units
Less than 400 hours	None
400 to 499 hours	4/12
500 to 599 hours	5/12
600 to 699 hours	6/12
700 to 799 hours	7/12
800 to 899 hours	8/12
900 to 999 hours	9/12
1,000 to 1,099 hours	10/12
1,100 to 1,199 hours	11/12
1,200 to 1,299 hours	One
1,300 to 1,399 hours	13/12
1,400 to 1,499 hours	14/12
1,500 hours or more	15/12

Carry-Over of Hours

If you worked more than a specified number (see below) of Contributory Hours during any Calendar Year on and after January 1, 1981 and prior to January 1, 1986, the excess hours will be “carried-over” into the following Calendar Year and applied towards earning one Contributory Benefit Unit if you do not otherwise work sufficient hours in that Calendar Year to earn one Contributory Benefit Unit. Please note that carry-over hours may not be used to earn more than one Benefit Unit in a Calendar Year. In addition, disability credits (refer to Section 6.05.b.(3)) cannot be used as carry-over hours.

Between January 1, 1981 and January 1, 1982, Contributory Hours in excess of 1,200 hours are carried-over. Between January 1, 1982 and January 1, 1986 Contributory Hours in excess of 1,500 hours shall be carried-over. These carry-over provisions are last applicable to Contributory Hours earned in Calendar Year 1985 (which are then carried over into Calendar Year 1986). Thereafter, no Contributory Hours are carried-over for benefit accrual purposes.

Benefit Accruals On and After January 1, 1987 (Refer to Section 3.03.a.(3))

The portion of monthly benefit earned on or after January 1, 1987 ceases to be based on Benefit Units and instead becomes based on a percentage of the Employer Contributions required to be made on your behalf during any Calendar Year (in which you have at least 400 Hours of Service in Covered Employment or a Year of Credited Service including hours of Continuous Non-Covered Employment during a Calendar Year). On and after January 1, 1987, Benefit Units will only be calculated and used for other purposes such as determining eligibility for certain benefits.

Non-Working Periods After Your Contribution Date (Refer to Section 6.05)

Hours will be credited on a weekly basis towards Credited Current Service and benefit accruals if you are in military service or disabled.

Prior to January 1, 1976, such periods of absence were credited at the following rate:

- 30 hours per week if you were younger than 50 years of age;
- 20 hours per week if you were age 50 through 59; and
- 16 hours per week if you were age 60 or older.

After January 1, 1976, you receive 25 hours per week regardless of age.

Exception: For “qualified” military service on and after December 12, 1994 under the Uniformed Services Employment and Reemployment Rights Act of 1994 (“USERRA”), benefits will be credited based on the average number of hours you work in Covered Employment in a week during the 12-month period immediately preceding your military service but not less than 25 hours per week for such military service.

Can You Lose Your Credited Service, Benefit Units and Other Accrued Benefits? (Refer to Section 6.06)

You cannot lose your Credited Service, Benefit Units or other accrued benefits once you have attained Vested Status (Refer to page 13). However, you can permanently lose them if you have not attained Vested Status and you fail to work a minimum required number of hours in a covered job or earn a fraction of a Year of Credited Service for a certain number of consecutive Calendar Years, as explained below.

Permanent Breaks in Service Before January 1, 1976

Prior to January 1, 1976, if you had attained Vested Status, your Credited Service and Benefit Units were cancelled if you did not earn at least one-quarter Year of Credited Service as a result of Contributory Hours of Service in at least one of two consecutive Calendar Years.

However, cancelled Credited Current Service and Contributory Benefit Units for that period are reinstated if you returned to Covered Employment and subsequently earned five Contributory Benefit Units prior to incurring a Separation from Covered Employment.

Permanent Breaks in Service Between January 1, 1976 and January 1, 1985

Between January 1, 1976 and January 1, 1985, if you had not attained Vested Status, your Credited Service and Benefit Units were cancelled if you had a number of consecutive One Year Breaks in Service (i.e., Calendar Years in which you earned fewer than 400 Hours of Service).

Your Credited Service and Benefit Units were cancelled at the end of the Calendar Year in which the number of consecutive One-Year Breaks in Service was equal to or greater than your previously earned full Years of Credited Service.

For example:

Year	Hours Worked	Credited Service/ Break in Service	Total Years of Credited Service/ Break in Service Years
1	1,400	Year of Credited Service	1 Year of Credited Service
2	1,800	Year of Credited Service	2 Years of Credited Service
3	1,100	Year of Credited Service	3 Years of Credited Service
4	1,300	Year of Credited Service	4 Years of Credited Service
5	1,400	Year of Credited Service	5 Years of Credited Service
6	1,200	Year of Credited Service	6 Years of Credited Service
7	1,200	Year of Credited Service	7 Years of Credited Service
8	300	Break in Service	1 Break in Service Year
9	250	Break in Service	2 Break in Service Years
10	0	Break in Service	3 Break in Service Years
11	0	Break in Service	4 Break in Service Years
12	350	Break in Service	5 Break in Service Years
13	200	Break in Service	6 Break in Service Years
14	1,100	Year of Credited Service	8 Years of Credited Service

The number of consecutive Breaks in Service (6) did not equal or exceed the number of previously earned full Years of Credited Service (7). Therefore, the Participant in this example did not have a Permanent Break in Service and retained his prior 7 Years of Credited Service and added an 8th Year of Credited Service to this total.

The above example illustrates that one or more One-Year Breaks in Service (less than 400 Hours of Service in a Calendar Year) can be repaired - so long as the number of consecutive One-Year Breaks in Service does not equal the full number of Years of Credited Service earned prior to the beginning of the One-Year Breaks. All previous One-Year Breaks in Service are disregarded after a Calendar Year in which you complete at least 400 Hours of Service.

Permanent Breaks in Service on and after January 1, 1985

On and after January 1, 1985, if you are not vested, you can permanently lose your Credited Service and Benefit Units if the number of consecutive One-Year Breaks in Service is equal to five, or if greater, the number of your full Years of Credited Service.

For example:

Year	Hours Worked	Credited Service/ Break in Service	Total Years of Credited Service/ Break in Service Years
1	1,400	Year of Credited Service	1 Year of Credited Service
2	1,800	Year of Credited Service	2 Years of Credited Service
3	300	Year of Credited Service	1 Break in Service Year
4	250	Year of Credited Service	2 Break in Service Years
5	0	Year of Credited Service	3 Break in Service Years
6	0	Year of Credited Service	4 Break in Service Years
7	1,100	Year of Credited Service	3 Years of Credited Service

Although the number of consecutive One-Year Breaks in Service (4) exceeded the number of previously earned Years of Credited Service (2), the Participant did not have a Permanent Break in Service because the Plan requires that the number of consecutive Breaks in Service be the greater of the number of full Years of Credited Service earned prior to the beginning of the One-Year Breaks in Service or 5.

Grace Periods After Your Contribution Date

Grace periods are used to prevent Breaks in Service that could lead up to a Permanent Break in Service and are periods that are disregarded in determining whether a Permanent Break in Service has occurred. They do not count towards earning Credited Service, Benefit Units or benefit accruals. You are allowed a grace period if you are absent from Covered Employment, as described below:

- Prior to January 1, 1976

You failed to earn at least one quarter of Credited Service in any period of two consecutive Calendar Years before January 1, 1976 due to any of the following reasons:

- You were disabled.
- You were involuntarily unemployed.
- You were employed with a public agency performing the type or kind of work covered by a Collective Bargaining Agreement.
- You were employed as a painter by a non-contributing employer approved by Trustees.

- On or after January 1, 1976

You failed to complete at least 400 Hours of Service because you were employed by a public agency covered by an agreement between that public agency and the Union.

- On or after January 1, 1985

You take time off for maternity/paternity leave (i.e., birth or adoption of a child). You may be granted up to 501 Hours of Service for the purpose of this grace period.

VESTED STATUS **(Refer to Section 6.07)**

Once you achieve Vested Status, you cannot lose your previously earned Credited Service, Benefit Units or benefit accruals and you are entitled to a future benefit from the Pension Plan at Normal Retirement Age (generally age 65) – even if you cease working and never return to work in Covered Employment. You may be entitled to a pension prior to reaching Normal Retirement Age (such as an Early Retirement Pension or Service Pension) if you satisfy that pension’s age and service requirements. The rules used to determine when you achieve Vested Status differ depending on the time period.

On and After July 1, 1996

On and after July 1, 1996, you achieve Vested Status if you have at least one Hour of Service after June 30, 1996 and have at least 5 Years of Credited Service (excluding any Years of Credited Service lost due to a Permanent Break in Service).

Between January 1, 1976 and July 1, 1996

After January 1, 1976 and prior to July 1, 1996, you achieved Vested Status if you had at least 10 Years of Credited Service (excluding any Years of Credited Service lost due to a Permanent Break in Service).

Exception for Non-Bargained Employees: Effective January 1, 1989, if you were a non-bargained Participant with at least one Hour of Service after December 31, 1988, you achieved Vested Status if you had at least 5 Years of Credited Service based solely on non-bargained employment with Contributing Employers.

Between January 1, 1969 and January 1, 1976.

Between January 1, 1969 and January 1, 1976, you achieved Vested Status if you earned at least the number of Benefit Units shown below (excluding any Benefit Units lost due to a Permanent Break in Service):

- 15 Benefit Units of which at least 10 were Contributory Benefit Units; or 25 Benefit Units; or
- 20 Benefit Units at a time when you were at least 45 years of age; or
- 15 Benefit Units at a time when you were at least 50 years of age; or
- 10 Benefit Units at a time when you were at least 55 years of age.

Before January 1, 1969

Prior to January 1, 1969, you achieved Vested Status if you earned at least the number of Benefit Units shown below (excluding any Benefit Units lost due to a Permanent Break in Service):

- 25 Benefit Units; or
- 20 Benefit Units at a time when you were at least 45 years of age; or
- 15 Benefit Units at a time when you were at least 50 years of age; or
- 10 Benefit Units at a time when you were at least 55 years of age.

SEPARATION FROM COVERED EMPLOYMENT
(Refer to Section 6.08)

Although Vested Status entitles you to a future benefit from the Pension Plan, if you incur a Separation from Covered Employment, the amount payable for benefits earned prior to any Separation from Covered Employment will be determined according to the Regular Pension formula in effect at the time the Separation occurred.

You incur a Separation from Covered Employment under the following circumstances:

- **On and after January 1, 1976.** At the end of any two consecutive Calendar Year period in which you fail to work at least 400 Contributory Hours in either one of the two Calendar Years.
- **Prior to January 1, 1976.** At the end of any two consecutive Calendar Years in which you fail to earn at least one-quarter year of Credited Service during the two Calendar Years as a result of Contributory Hours of work.

Exception: Although you may have previously incurred a Separation from Covered Employment, the Separation will be waived if you return to Covered Employment and earn at least five additional Benefit Units.

WHEN YOU ARE ELIGIBLE FOR A PENSION AND HOW MUCH YOU WILL RECEIVE

A Regular Pension (Refer to Sections 3.02 and 3.03)

Eligibility

You are eligible for a Regular Pension if you satisfy either one of the following conditions:

1. You are at least age 65 and have attained Vested Status; or
2. You have otherwise attained your Normal Retirement Age.

You attain Normal Retirement Age when (1) you are at least age 65 and have reached the 5th anniversary of your participation (excluding any years of participation prior to January 1, 1988 and/or years lost due to a Permanent Break in Service); or (2) you are at least age 65 and have reached the 10th anniversary of your participation (excluding any years of participation lost due to a Permanent Break in Service).

Pension Amount

In general, the total amount of your monthly Regular Pension depends on:

- The number of Benefits Units earned and the amount payable for each Benefit Unit; and
- The percentage factor applicable to Employer Contributions required to be made with respect to your work in Covered Employment on or after January 1, 1987.

Pensions with Annuity Starting Dates on or after January 1, 2003 (if there has been no Separation from Covered Employment) are based on the sum of the following formulas:²

² The formula shown above may not apply to your pension benefit if you have been absent from Covered Employment and have incurred a Separation from Covered Employment. In general, this would result in your benefit accrued prior to the Separation being frozen at the time of Separation.

There have been changes to the benefit formulas. The benefit described above is in lieu of benefits under any other formula under the Plan. However, in no event will such changes result in your accrued benefit being reduced from the prior benefit formula in effect when the benefit was earned.

For Calendar Years	Minimum Service Requirement to Earn a Benefit	Formula
1) January 1, 1960 through December 31, 1969	Minimum fraction of a Benefit Unit	\$10.00 for each Contributory Benefit Unit (or a proportional amount for each fraction of a Benefit Unit).
2) January 1, 1970 through December 31, 1986	Minimum fraction of a Benefit Unit	\$83.33 for each Contributory Benefit Unit (or a proportionate amount for each fraction of a Benefit Unit) up to a maximum of 17 Contributory Benefit Units.
3) January 1, 1987 (or your Contribution Date if later) through December 31, 1998	At least 400 Hours of Service in Covered Employment in Calendar Year or Year of Credited Service (counting any hours of Continuous Employment).	4.3% of Employer Contributions for work in Covered Employment in Calendar Year.
4) January 1, 1999 through December 31, 1999	At least 400 Hours of Service in Covered Employment in Calendar Year or Year of Credited Service (counting any hours of Continuous Employment).	3.5% of Employer Contributions for work in Covered Employment in Calendar Year.
5) January 1, 2000 through December 31, 2002	At least 400 Hours of Service in Covered Employment in Calendar Year or Year of Credited Service (counting any hours of Continuous Employment).	3.0% of Employer Contributions for work in Covered Employment in Calendar Year.
6) January 1, 2003 through December 31, 2003	At least 400 Hours of Service in Covered Employment in Calendar Year or Year of Credited Service (counting any hours of Continuous Employment).	3.0% of Employer Contributions for work in Covered Employment from January 1, 2003 through June 30, 2003 and 1.0% of Employer Contributions for work in Covered Employment from July 1, 2003 through December 31, 2003.
7) January 1, 2004 and later	At least 400 Hours of Service in Covered Employment in Calendar Year or Year of Credited Service (counting any hours of Continuous Employment).	1.0% of Employer Contributions for work in Covered Employment in Calendar Year.
<p>Exceptions:</p> <ul style="list-style-type: none"> ▪ Benefits for periods prior to January 1, 1994 as described in (1) and (2) above, shall be in lieu of any benefit determined under Section 3.03.a. of the Plan in effect prior to January 1, 1994. However, in no event shall the current formula covering that time period produce a benefit that is less than that which would have been determined under Section 3.03.a. of the Plan in effect prior to January 1, 1994 for that same time period. ▪ Benefits for the period January 1, 1987 through December 31, 1993 as described in (2) above shall be in lieu of any benefit determined under Section 3.03.a. in effect prior to January 1, 1998 for that time period. However, in no event shall the current formula covering that time period produce a benefit that is less than that which would have been determined under Section 3.03.a. of the Plan in effect prior to January 1, 1998 for that same time period. 		

Regular Pension Example

This is an example of how a Regular Pension is calculated. It does not represent any Participant's actual benefit. For the sake of simplicity, we have used an hourly rate of \$1.72. In reality, contribution rates have varied over the years and portions of hourly contribution rates (often referred to as "off-benefit contributions") may have been used to improve the funding of the Pension Plan and not to calculate the benefit for the calendar year in question.

Assume that you are age 65 and retire on January 1, 2015. You first began working in Covered Employment on January 1, 1986 and have worked 1,200 in each Calendar Year between then and your retirement. Again, for the sake of simplicity we have used a constant hourly contribution rate of \$1.72

Portion of Regular Pension earned prior to January 1, 1987				
Plan Year	Hours of Work	1 Benefit Unit @ \$83.33		Benefit
Jan. 1, 1986 – Dec. 31, 1986	1,200	\$83.33		\$83.33
Portion of Regular Pension earned on or after January 1, 1987				
Plan Year	Hours of Work	Hourly Contribution Rate	Percentage Factor	Benefit
Jan. 1, 1987 – Dec. 31, 1987	1,200	\$1.72	4.3%	\$88.75
Jan. 1, 1988 – Dec. 31, 1988	1,200	\$1.72	4.3%	\$88.75
Jan. 1, 1989 – Dec. 31, 1989	1,200	\$1.72	4.3%	\$88.75
Jan. 1, 1990 – Dec. 31, 1990	1,200	\$1.72	4.3%	\$88.75
Jan. 1, 1991 – Dec. 31, 1991	1,200	\$1.72	4.3%	\$88.75
Jan. 1, 1992 – Dec. 31, 1992	1,200	\$1.72	4.3%	\$88.75
Jan. 1, 1993 – Dec. 31, 1993	1,200	\$1.72	4.3%	\$88.75
Jan. 1, 1994 – Dec. 31, 1994	1,200	\$1.72	4.3%	\$88.75
Jan. 1, 1995 – Dec. 31, 1995	1,200	\$1.72	4.3%	\$88.75
Jan. 1, 1996 – Dec. 31, 1996	1,200	\$1.72	4.3%	\$88.75
Jan. 1, 1997—Dec. 31, 1997	1,200	\$1.72	4.3%	\$88.75
Jan. 1, 1998 – Dec. 31, 1998	1,200	\$1.72	4.3%	\$88.75
Jan. 1, 1999 – Dec. 31, 1999	1,200	\$1.72	3.5%	\$72.24
Jan. 1, 2000 – Dec. 31, 2000	1,200	\$1.72	3.0%	\$61.92
Jan. 1, 2001 – Dec. 31, 2001	1,200	\$1.72	3.0%	\$61.92
Jan. 1, 2002 – Dec. 31, 2002	1,200	\$1.72	3.0%	\$61.92
Jan. 1, 2003 – Dec. 31, 2003				
▪ Jan. 1, 2003 – Jun. 30, 2003	600	\$1.72	3.0%	\$30.96
▪ July 1, 2003 – Dec. 31, 2003	600	\$1.72	1.0%	\$10.32
Jan. 1, 2004 – Dec. 31, 2004	1,200	\$1.72	1.0%	\$20.64
Jan. 1, 2005 – Dec. 31, 2005	1,200	\$1.72	1.0%	\$20.64
Jan. 1, 2006 – Dec. 31, 2006	1,200	\$1.72	1.0%	\$20.64

Jan. 1, 2007 – Dec. 31, 2007	1,200	\$1.72	1.0%	\$20.64
Jan. 1, 2008 – Dec. 31, 2008	1,200	\$1.72	1.0%	\$20.64
Jan. 1, 2009 – Dec. 31, 2009	1,200	\$1.72	1.0%	\$20.64
Jan. 1, 2010 – Dec. 31, 2010	1,200	\$1.72	1.0%	\$20.64
Jan. 1, 2011 – Dec. 31, 2011	1,200	\$1.72	1.0%	\$20.64
Jan. 1, 2012 – Dec. 31, 2012	1,200	\$1.72	1.0%	\$20.64
Jan. 1, 2013 – Dec. 31, 2013	1,200	\$1.72	1.0%	\$20.64
Jan. 1, 2014 – Dec. 31, 2014	1,200	\$1.72	1.0%	\$20.64
Jan. 1, 2015 – Dec. 31, 2015	1,200	\$1.72	1.0%	\$20.64
Jan. 1, 2016 – Dec. 31, 2016	1,200	\$1.72	1.0%	\$20.64
Jan. 1, 2017 – Dec. 31, 2017	1,200	\$1.72	1.0%	\$20.64
Total Regular Pension Payable January 1, 2018				\$1,736.57
Total Regular Pension Payable January 1, 2018 (Rounded)				\$1,737.00

An Early Retirement Pension (Refer to Section 3.04 and 3.05)

Eligibility³

You are eligible for an Early Retirement Pension if when you retire:

1. You are at least age 55, but not yet age 65; and
2. You have earned 10 Years of Credited Service (excluding Years of Credited Service lost due to a Permanent Break-in-Service and any Credited Current Service earned as a result of Continuous Non-Covered Employment).

Pension Amount

The amount of your Early Retirement Pension is reduced from the amount of the Regular Pension because you are younger when your pension begins. This means, of course, that you will be paid a pension for a longer period of time than if you had waited until you met the age requirements for a Regular Pension.

In order to calculate the amount of the Early Retirement Pension, the first step is to determine the amount of the Regular Pension you would receive if you were age 65 when your pension starts.

³ **Special Note on Penalties for Engaging in Non-Covered Employment (Refer to Section 11.06):** If you have worked for a Non-Contributing Employer in the painting or drywall taping industry (except for a governmental agency), your entitlement to an Early Retirement Pension will be postponed six months for each calendar quarter you worked in such employment (but not beyond age 65). However, your Annuity Starting Date will not be postponed if you meet all of the following requirements:

- You have earned at least 20 Benefit Units before you became employed with non-contributing employer in the painting and/or drywall industry; and
- Your non-contributing employer subsequently becomes a Contributing Employer; and
- You have no termination in employment with the Contributing Employer in question between periods of Covered and Non-Covered Employment; and
- After the non-contributing employer becomes a Contributing Employer, you have earned at least five Benefit Units based solely on service with that Employer. (Refer to Section 11.06)

This amount is multiplied by an actuarial factor based on your age on the effective date of your Early Retirement Pension. The table below shows selected factors for Early Retirement Pensions with Annuity Starting Dates on and after January 1, 2010 and are based on even ages (for example, age 55 years and 0 months).⁴ The actual amount of your Early Retirement Pension will be adjusted based on your actual age in years and months.

Age	Percentage of Regular Pension Amount
65	100% - Eligible for Regular Pension
64	90.2%
63	81.5%
62	73.9%
61	67.1%
60	61.0%
59	55.6%
58	50.8%
57	46.4%
56	42.5%
55	39.0%

A Service Pension (Refer to Sections 3.13 and 3.14)⁵

Eligibility⁶

If you are younger than age 65 and have retired, you are eligible for a Service Pension provided you meet any one of the following requirements:

⁴ A different adjustment formula was applied to calculate Early Retirement Pensions with Annuity Starting Dates prior to January 1, 2010. For a description of that formula, please refer to the Pension Plan's rules and regulations in effect prior to January 1, 2010.

⁵ Different rules pertaining to eligibility and benefit amounts applied to Service Pensions with Annuity Starting Dates prior to January 1, 2010. For a description of those rules, please refer to the Pension Plan's rules and regulations in effect prior to January 1, 2010.

⁶ **Special Note on Penalties for Engaging in Non-Covered Employment:** If you have worked for a Non-Contributing Employer in the painting or drywall taping industry (except for a governmental agency), your entitlement to a Service Pension will be postponed six months for each calendar quarter you worked in such employment. However, your Annuity Starting Date will not be postponed if you meet all of the following requirements:

- You have earned at least 20 Benefit Units before you became employed with non-contributing employer in the painting and/or drywall industry; and
- Your non-contributing employer subsequently becomes a Contributing Employer; and
- You have no termination in employment with the Contributing Employer in question between periods of Covered and Non-Covered Employment; and
- After the non-contributing employer becomes a Contributing Employer, you have earned at least five Benefit Units based solely on service with that Employer. (Refer to Section 11.06)

Minimum Age	Hours of Contributions Requirement (Hourly contribution rate must include additional \$.54 per hour earmarked to fund the Service Pension on and after August 1, 1997)
62	45,000 hours of Contributions
55	54,000 hours of Contributions
No Minimum Age	60,000 hours of Contributions

For purposes of determining eligibility for a Service Pension, any credits earned under a Related Plan (Refer to Article 4) are not counted. However, credits earned under a pension plan that is signatory to the Reciprocal Agreement for Joint Industry Pension Funds of all District Councils and Local Unions Affiliated with the International Brotherhood of Painters and Allied Trades are counted (Refer to Article 5). No more than one year of Total Pension Credit from all signatory plans will be counted for any twelve consecutive calendar months.

Pension Amount

The amount of the Service Pension is determined in the same way as the Regular Pension (i.e., without reduction for early retirement).

A Pro Rata Pension (Refer to Article 4)

If you have worked under this Plan and under one or more pension plans related to it through a reciprocal agreement between the Bay Area Painters and Tapers Pension Trust Fund and the other plan(s), you may be entitled to a Pro Rata Pension. A Pro Rata Pension provides a benefit (other than a Service Pension) to those who may not be eligible for benefits under any one pension plan because their working time was divided between two or more plans.

Eligibility

You are eligible for a Pro Rata Pension if:

1. You would be entitled to a pension (other than a Service Pension) if your Combined Credited Service (service actually earned under this Plan added to service earned under a Related Plan) were treated as “Bay Area” Credited Service, excluding any Credited Service earned in Non-Covered Employment; and
2. You have earned at least one Contributory Benefit Unit under the Bay Area Painters and Tapers Pension Plan and one year of contributory service with a Related Plan (i.e., a plan whose hours of employment and credit is recognized by the Board of Trustees for purposes of determining eligibility for certain benefits under the Bay Area Painters and Tapers Pension Plan).

Pension Amount

A Pro Rata Pension is determined in the same way as the Regular, Early Retirement or Disability Pension - depending on the type of Pro Rata Pension for which you are eligible. Only Benefit Units and Contributions earned under the Bay Area Painters and Tapers Pension Plan are used to figure the amount of a Pro Rata Pension.

The other Related Plans will also pay Pro Rata Pensions based on your service with each plan and the level of benefits available under those plans. Your total pension is the sum of all the Pro Rata Pensions.

Additional information concerning Pro Rata Pensions including the use of Related Plan Credits to determine whether you incur a Break in Service or Separation in Covered Employment may be obtained by referring to Article 4 of the Plan or by contacting the Administrative Office.

A Partial Pension (Refer to Article 5)

A Partial pension is similar to a Pro Rata Pension in that it provides benefits if you lack sufficient credits to qualify for any pension (or if your pension would be less than the full amount) because your years of employment are divided among plans which are signatory to the “Reciprocal Agreement for Joint Industry Pension Funds of all District Councils and Local Unions Affiliated with the International Brotherhood of Painters and Allied Trades.” Plans who have signed the Agreement agree to recognize the pension credits of other such plans. In calculating pension credit, you will receive no more than one year of credit from all plans combined during any twelve calendar months.

Eligibility

You are eligible for a Partial Pension if:

1. You would be eligible for any type of pension under this plan if your total pension credit under all signatory plans were treated as service under this Plan; and
2. You have earned under each of the signatory plans, in which you have credited service, at least one (1) year of pension credit; and
3. If you are applying for a pension based on disability, you are able to meet the definition of “total disability” under this Plan; and
4. If you are applying for a pension based on age, you meet the minimum age requirements under this Plan.

Pension Amount

The benefit payable under this Plan is calculated in the same manner as other pensions under this Plan and is subject to the Separation from Covered Employment provisions.

Additional information concerning Partial Pensions including the use of signatory plan credits to determine whether you incur a Break in Service may be obtained by referring to Article 5 of the Plan, or by contacting the Administrative Office.

Pensions Deferred Beyond Normal Retirement Age (Refer to Sections 1.28, 11.08, 11.10 and 11.13.c.)

Although the Plan's Normal Retirement Age is generally age 65 and pensions that commence at that age are not subject to adjustment for early retirement, there is no requirement that you must retire or begin receiving your pension at age 65. However, it must begin by your Required Beginning Date.

After Normal Retirement Age

If you continue to work in the painting and taping industry after reaching Normal Retirement Age, your pension benefits will be subject to suspension under the Plan provisions described on page 41. As a result, you will not be entitled to any pension benefits (including any actuarial increased benefits or retroactive lump sum payments) for months during which your pension was subject to suspension. However, if your work was in Covered Employment, you may accrue additional benefits on the same basis as any other Plan Participant working in Covered Employment until you retire.

If your pension commences after you attain Normal Retirement Age, your benefit will consist of one of the following:

- Your accrued benefit at Normal Retirement Age actuarially increased by .75% for each full calendar month between Normal Retirement Age and your Annuity Starting Date; or
- A retroactive one-time lump sum payment consisting of missed monthly payments of your accrued benefit between Normal Retirement Age and your Annuity Starting Date with interest. Thereafter, you receive a monthly benefit equal to your accrued benefit at Normal Retirement Age, adjusted to include any additional benefits to which you became entitled after your Normal Retirement Age.

The following rules apply to your election of one of the preceding benefits:

- You may elect one or the other payment, but not both. If you are married and wish to elect the retroactive one-time lump sum payment instead of the actuarially increased benefit, your spouse must consent to your election.
- If you earn any additional benefits after Normal Retirement Age, the actuarial increase or retroactive payment with interest will start on the additional benefits when they first would be payable and not from Normal Retirement Age.
- No actuarial increases or retroactive payments with interest are due for months during which your benefits would have been subject to suspension.

Example: A Participant had an accrued benefit of \$1,000 that was payable at his age 65 Normal Retirement Age. While he did not work after Normal Retirement Age, he did not apply to receive his pension until he attained age 66 (12 months later). Here is how his benefit would look under each option.

	Actuarially Increased Benefit	Retroactive Lump Sum
Benefit at Age 65	\$1,000	\$1,000
Number of Months Between Ages 65 and 66	12	12
Retroactive Lump Sum	N/A	\$12,000
Interest on Lump Sum	N/A	\$260
Actuarial Increase (.75% x 12 months)	9.00%	N/A
Amount Owed and Payable through 12 th month	N/A	\$12,260
Amount of First Payment beginning 13 th month and beyond	\$1,090	\$1,000

Required Beginning Date

While you may defer payment of your Regular Pension beyond your Normal Retirement Age, payment of your pension must begin no later than your Required Beginning Date. Your Required Beginning Date is the April 1 of the calendar year following the calendar year that you attain age 70 ½.

Example: If you were born on September 1, 1940, you attained age 70 on September 1, 2010 and age 70 ½ on March 1, 2011. Since you attained age 70 ½ in calendar year 2011, your Required Beginning Date is April 1, 2012 which is the April 1 of the calendar year (2012) following the calendar year in which you attained age 70 ½ (2011).

It is very important that you keep the Administrative Office informed of your current address and telephone number and, if you have not already retired, contact the Administrative Office when you attain age 70 to ensure that your benefit will start no later than your Required Beginning Date.

Important: In addition to the Plan rules that apply to your Required Beginning Date, the Internal Revenue Service (IRS) has similar required minimum distribution rules. These rules require that you receive payment by one of the following dates.

- If you are a 5% owner, the IRS requires that your pension commence no later than the April 1 of the calendar year following the calendar year in which you reach age 70 ½.
- If you are not a 5% owner, the IRS requires that you pension commence no later than the April 1 of the calendar year following the calendar year in which you reach 70 ½ or, if later, retire.

If your pension has not begun by the applicable date, you may be assessed a 50% tax penalty on any late required minimum distribution payments. While the Administrative Office will do everything that it can so that you benefit commences prior to the IRS' Required Beginning Date, it is ultimately your responsibility to make sure that the Administrative Office has your current address on file and to contact the Administrative Office well in advance of your Required Beginning Date so that the payment of your pension will be timely and not subject to IRS penalty taxes.

APPLYING FOR PENSION BENEFITS

Pension Application (Sections 11.01, 11.02 and 11.03)

In addition to satisfying the age and service requirements for a pension, you must file an application form obtained from the Administrative Office before any benefits become payable from the Plan. This is also true of your spouse who may be entitled to survivor benefits upon your death.

Upon request, an application, with instructions for completing it, will be mailed to you. You will also receive information explaining your right to defer payment of your pension to a later date. This is strictly for your information and is not intended to suggest that you should or should not delay payment of your pension.

Be sure to send a completed application, and any other documents needed (such as proof of age and/or marriage), to the Administrative Office so that it arrives at least 60 days before the month in which you want your pension to start.

Your application will not be considered complete until all the information required by that application is received by the Administrative Office. Your claim will be considered filed when your application is received by the Administrative Office, without regard to whether all information necessary to make a benefit determination accompanies your application. If all necessary information does not accompany your application, the Administrative Office will notify you, in writing, of the:

- Standards on which entitlement to benefits is based;
- Unresolved issues that prevent a decision on the claim; and
- Additional information needed to resolve those issues.

If you fail to provide the requested information or documentation within 180 days of the Plan's request, your application will be cancelled.

Annuity Starting Date (Refer to Section 1.03)

Your Annuity Starting Date is the effective date of your pension benefit. It is based on you fulfilling all of the conditions to receive your pension and is the later of:

- The first day of the month after you have filed your application for benefits; or
- 30 days after the Administrative Office provides you with information concerning the Plan's available payment forms.

Your Annuity Starting Date may occur sooner than the 30 days described above under the following circumstances:

- The actuarial present value of your benefit is \$1,000 or less; or
- You and your spouse consent in writing to the commencement of payments before the end of the 30-day period and the actual distribution begins more than 7 days after the written explanation has been provided to you and your spouse.
- Your Annuity Starting Date cannot be later than your Required Beginning Date.
- Your benefit was previously paid because of an election after your Normal Retirement Age.

**Retroactive Annuity Starting Date
(Refer to Section 1.32)**

Based on the timing of your filed application and/or when information necessary to calculate your pension becomes available, it may not be possible to provide you with a written explanation of your available payment forms prior your earliest possible Annuity Starting Date. Under these circumstances, you may elect a Retroactive Annuity Starting Date or a later prospective Annuity Starting Date.

If you elect a Retroactive Annuity Starting Date, the following will apply:

- Your pension will be subject to your situation and the terms and conditions of the Plan in effect on your Retroactive Annuity Starting Date.
- Your initial payment will consist of a one-time lump sum payment to cover the number of months between your Retroactive Annuity Starting Date and when your first check is issued. The payment will include interest.
- Thereafter, the amount of your pension will be that calculated as of your Retroactive Annuity Starting Date.
- Amounts payable under the Retroactive Annuity Starting Date provisions of the Plan are subject to adjustment for any elected optional payment form.
- If you are married, the election of a Retroactive Annuity Starting Date requires the consent of your spouse.

If you instead elect a prospective Annuity Starting Date, the following will apply:

- In lieu of the retroactive lump sum payment, your pension will be subject to your situation and the terms and conditions of the Plan in effect on your prospective Annuity Starting Date and will be paid going forward as of your prospective Annuity Starting Date.

- Amounts payable are subject to adjustment for any elected optional payment form.
- Election of a prospective Annuity Starting Date does not by itself require spousal consent, although the election of a specific payment form will require written consent.

Example: You have an accrued benefit of \$1,000.00, are unmarried and file an application for retirement on May 31, 2018 with a requested June 1, 2018 Annuity Starting Date. On that date, you are age 64 years and 9 months old. You receive payment form information sometime after that date. Due to the time needed to process your application, your first check will be released on September 1, 2018. Under these circumstances, you have the following two options:

- Waive the 30-day waiting period and elect a June 1, 2018 Retroactive Annuity Starting Date. On that date, you are eligible for an Early Retirement Pension based on you being age 64 years and 9 months old and your \$1,000 accrued benefit is reduced to \$976.00. Your September 1, 2018 benefit will consist of a lump sum covering the three-month period of June, July and August at \$976.00 each or \$2,928.00 plus \$19.52 in interest for a one-time payment of \$2,947.52. Effective September 1, 2018 and thereafter, you will receive \$976.00 per month.
- Elect a prospective September 1, 2018 Annuity Starting Date. On that date, you are age 65 and eligible for a Regular Pension with no early retirement reduction. Therefore, while you receive no retroactive payment, beginning September 1, 2018, you begin receiving \$1,000.00 per month for the rest of your life.

HOW YOUR PENSION WILL BE PAID

When you make a decision to retire, you will be asked to choose the way you want your pension to be paid beginning on your pension effective date (also called “Annuity Starting Date”). The forms of payment available are described in this Section. Prior to your making a decision concerning how you wish to have your pension paid, the Administrative Office can provide comparisons of benefits payable under the various available options.

Standard Form If You Are Single (Refer to Section 7.03)

If you are unmarried when your pension begins, you will receive equal monthly payments for your lifetime (life annuity) with no further payment due any party after your death.

If you are married, you may receive benefits under this payment form if both you and your spouse waive payment under the 50% Spousal Pension as described below.

Standard Form If You Are Married (Refer to Sections 7.03, 7.04, 7.06 and 7.07)

If you are married when your pension begins, the standard form of payment will be a 50% Spousal Pension. This payment form provides you with a reduced monthly pension during your lifetime; then, if you die prior to your spouse, your spouse will receive 50% of the pension you were receiving at the time of your death. The amount of the reduction in your benefit depends upon the difference in age between you and your spouse.

For example: Let’s assume that you are retiring at age 65. Your spouse is also 65 years old. Your Regular Pension is \$1,000 a month. This amount is reduced, however, to provide a potential survivor benefit to your spouse. You will receive \$890 for as long as you live. If you die prior to your spouse, your spouse will receive 50% of your pension, or \$445 for as long as your spouse lives. If your spouse dies prior to you, your Regular Pension remains at \$890 – even though there will no longer be any survivor benefit.

Some Important Facts Concerning the Spousal Pension

- The Spousal Pension may be rejected in favor of another payment form. In order to reject the Spousal Pension, both you and your spouse must receive payment form information from the Plan and sign waiver forms provided by the Administrative Office no earlier the 180-day period preceding your Annuity Starting Date. The signatures must be witnessed by a Notary Public. Your spouse’s consent is not required if you select the 100% or 75% Survivor Options, described further below.

You will receive information at the time of retirement that will include a document showing a comparison of the relative actuarial values of the Plan’s available payment forms. You and/or your spouse may elect or reject the Spousal Pension any number of times during the 180 day period preceding your Annuity Starting Date. In any event, you will have at least 30 days after the Administrative Office provides you with this document to make your decision.

- The Spousal Pension will not be paid to your surviving spouse if you were not married on your Annuity Starting Date and if you have not been married to each other for at least one year at the time of your death.
- Once benefit payments begin, the Spousal Pension cannot be cancelled or your benefits increased because of a subsequent divorce or your spouse predeceasing you.
- The rights of a former spouse or other family member as outlined in a Qualified Domestic Relations Order (commonly called a “QDRO”) may reduce or eliminate benefits due to the current spouse.

The Spousal Pension is not payable if you and your spouse have rejected it in favor of the life annuity, 100% or 75% Survivor Options.

Your retirement pension will be paid according to the standard form that applies to you unless you and your spouse (if applicable) decide otherwise and file the appropriate election/rejection form(s) prior to your Annuity Starting Date.

100% and 75% Survivor Options (Refer to Section 8.05)

The Pension Plan also has 75% and 100% Survivor Options. These payment forms operate in the same manner as the Plan’s Spousal Pension, except that your surviving spouse will receive 75% or 100% (whichever is applicable) of your adjusted monthly benefit for the rest of her life. Because the percentage continuation is higher than under the Spousal Pension, there will be a greater reduction in the amount of pension that you will receive while you are alive.

For example: Let’s assume that you are retiring at age 65. Your spouse is also 65 years old. Your Regular Pension is \$1,000 a month. This amount is reduced, however, to provide protection for your spouse. If you elect the 75% Survivor Option, you will receive \$845 for as long as you live. If you die prior to your spouse, your spouse will receive \$634.00 (rounded up) for the rest of your spouse’s life. If you die prior to your spouse, your Regular Pension remains at \$845 – even though there will no longer be any survivor benefit.

If you instead elected the 100% Survivor Option, you would receive \$800 while alive and, if you are survived by your spouse, your spouse would receive the same \$800 for your spouse’s lifetime. Again, if you die prior to your spouse, your Regular Pension remains at \$800 – even though there will no longer be any survivor benefit.

The rules below that apply to the 100% and 75% Survivor Options are similar to those associated with the Spousal Pension.

Some Important Facts Concerning the 100% and 75% Survivor Options

- The 100% and 75% Survivor Options are available only if you are married and you and your spouse reject the Spousal Pension in favor of one of these two payment forms. You will receive information at the time of retirement that will include a document showing a comparison of the relative actuarial values of the Plan’s available payment forms.
- Neither the 100% nor 75% Survivor Options will be paid to your surviving spouse if you were not married on your Annuity Starting Date and if you have not been married to each other for at least one year at the time of your death.

- Once benefit payments begin, the 100% or 75% Survivor Options cannot be cancelled or your benefits increased because of a subsequent divorce or your spouse predeceasing you.
- The rights of a former spouse or other family member as outlined in a Qualified Domestic Relations Order (commonly called a “QDRO”) may reduce or eliminate benefits due to the current spouse.

**Lump Sum Payment of Benefits - “Cashout”
(Refer to Section 11.11)**

If you, your spouse or other payee are entitled to pension benefits whose actuarial present value is \$1,000 or less, the Board of Trustees shall pay the benefit in a single lump sum payment.

If the present value of the benefit is at least \$1,000, but not greater than \$5,000, the Board of Trustees shall pay the benefit in a single lump sum payment only if you and your spouse (if you are married) consent to payment in this form. Such payment would represent your full entitlement to benefits under the Plan and you will cease to be a Participant at that time.

**HOW ARE YOUR SURVIVORS PROTECTED IF
YOU SHOULD DIE BEFORE YOU RETIRE?**

**Survivor's Pension
(Refer to Sections 7.05 and 7.07)**

If you should die after you are vested but prior to receiving a pension benefit, the Survivor's Pension protects your spouse provided you have been married throughout the year prior to your death.

Your surviving spouse will receive 50% of your earned Regular Pension benefit, adjusted as though you had retired on the day before your death and had elected the Spousal Pension. If you have not attained the age of 55 at the time of your death, the amount payable to your surviving spouse will be determined as if you were age 55 when you died. However, payments to your spouse would be deferred until you would have attained age 55. This benefit is payable for your spouse's lifetime.

**Lump Sum Payment of Benefits - "Cashout"
(Refer to Section 7.05)**

If you, your spouse or other payee are entitled to pension benefits whose actuarial present value is \$5,000 or less, the Board of Trustees shall pay the benefit in a single lump sum payment. Such payment would represent your full entitlement to benefits under the Plan and you will cease to be a Participant at that time.

QUALIFIED DOMESTIC RELATIONS ORDERS (QDROs)
(Refer to Section 11.18)

If you become divorced, your pension may be divided between you and your spouse in some fashion as part of your marital settlement. Dividing your pension with a former spouse requires a special court order called a Qualified Domestic Relations Order (QDRO). It is recommended that you contact the Administrative Office regarding the Plan's procedures for processing QDROs.

A QDRO is a judgment, decree or order pursuant to state law relating to child support, alimony, or marital property rights directing that all or part of a Participant's benefit be paid to an "alternate payee." A QDRO must meet the requirements of the Retirement Equity Act as set forth in 26 USC §414(p) and 29 USC §1056(d).

The QDRO must be delivered to the Plan before payments can be made to an alternate payee and the Plan will approve the Order if it clearly specifies:

- The name and mailing addresses of the Participant and each alternate payee covered by the order;
- The amount or formula for determining the amount payable to each alternate payee;
- The number of payments or period to which the order applies; and
- The name of the Plan to which the order applies.

The order cannot require the Plan to:

- Provide any type or form of benefit not otherwise provided under the Plan;
- Provide an increased benefit determined on the basis of actuarial equivalence;
- Pay benefits in conflict with a previously issued QDRO; and
- Begin payment of benefits before the Participant is eligible for a pension.

You may request a copy of the Plan's QDRO procedures from the Administrative Office. It will be provided to you without charge.

CLAIMS AND APPEAL PROCEDURES (Refer to Section 11.05)

Applying for Benefits

The initial application process is described beginning on page 26. Once your claim has been filed, the Administrative Office will make the initial determination of benefits within the time periods described below.

Determining Initial Claim

Benefits Other Than Disability Benefits Under Subsections 6.05.b.(3)⁷ and 6.06.f.(1)(a)⁸ of the Plan

The initial determination of benefits will be made within a reasonable period of time but not longer than 90 calendar days after the Administrative Office receives your application for benefits and all required information. (If all the required information is not received with your application, the 90-day period for making the initial determination will be suspended during the time you are obtaining the additional information.)

If the Administrative Office determines that special circumstances require an extension of time for processing the claim, the Administrative Office will notify you, in writing, prior to the expiration of the 90 days of the circumstances requiring the extension of time and the date by which the Plan expects to make a determination. The extension cannot be more than 90 calendar days from the end of the initial 90-day period.

Disability-Related Benefits under Subsections 6.05.b.(3) and 6.06.f.(1)(a) of the Plan

The initial determination of benefits will be made within a reasonable period of time but not longer than 45 calendar days after the Administrative Office receives your application for benefits and all required information. (If all the required information is not received with your application, the 45-day period for making the initial determination will be suspended during the time you are obtaining the additional information.)

⁷ Subsection 6.05.b.(3) of the Plan provides for the granting of credit for occupational or non-occupational disabilities that prevent an Employee from working in Covered Employment. A Participant shall be entitled to credit for up to 26 weeks (or 130 days if credited on a daily basis) for each separate and distinct disability. In order to secure credit for such periods of disability, a Participant must give written notice to the Board and must furnish such information and proof concerning such disability as the Board may, in its sole discretion, determine.

⁸ Subsection 6.06.f.(1)(a) of the Plan allows for grace periods after the Contribution Date to prevent a One-Year Break in Service. A Participant who is absent from Covered Employment shall be allowed a grace period provided that prior to January 1, 1976, he failed to earn at least one quarter of Credited Service in any period of two consecutive Calendar Years due to (a) disability; (b) involuntary unemployment; (c) employment with a public agency in the type or kind of work covered by a Collective Bargaining Agreement where work was performed in the geographical area covered by the Plan; or (d) employment as a painter in the geographic area covered by the Plan, with an employer, approved by the Trustees, who do not contribute to the Pension Trust Fund. With the exception of (c) above, such grace period shall not exceed three years.

The initial 45-day period may be extended for up to 30 calendar days, to a total of 75 calendar days, if an extension of time is necessary due to matters beyond the Plan's control. The Administrative Office will notify you, in writing, prior to the expiration of the initial 45-day period of the circumstances requiring the extension of time and the date by which the Plan expects to make a determination.

If the Plan needs a second extension of time to make a determination due to circumstances beyond its control, you will be notified of an extension of up to 30 calendar days, or a maximum of 105 calendar days after the initial receipt of your application. Before the end of the first 30-day extension period, the Administrative Office will notify you, in writing, of the circumstances requiring the extension and will give you the new date by which a determination will be made.

If your application for benefits is not acted on within these time periods, you may proceed to the appeal procedures as if the claim had been denied.

Notice of Claim Denial

If the Plan denies your application for benefits, in whole or in part, you will be notified in writing of the determination and be given the opportunity for a full and fair review of the benefit decision. The written notice of denial will include:

1. The specific reason(s) for the denial;
2. The specific reference to pertinent Plan provision(s) on which the denial is based;
3. A description of any additional material or information necessary for you to perfect your claim and an explanation of why such material or information is necessary;
4. A description of the Plan's review procedures and the time limits applicable to such procedures, including a statement of your rights to bring civil action under §502(a) of ERISA following an adverse benefit determination on review; and
5. For a claim under Subsections 3.06.c., 6.05.b.(3) and 6.06.f.(1)(a) of the Plan, the basis for a discussion of the decision, including the basis for disagreeing with or not following the views of the treating physician or vocational professional who evaluated you, the views of medical experts obtained by the Plan, or, if applicable, the reason the Plan disagreed with the disability determination of the Social Security Administration. If the denial is based on medical necessity, experimental treatment or similar exclusion or limitation, a statement that an explanation of the scientific clinical judgment for the determination as applied to your medical circumstances will be provided free of charge upon request. Also included are the internal rules, guidelines, protocols, standards or other similar criterion that was relied upon in making the adverse determination, and that a copy of all relevant documents will be provided to you free of charge upon request. If you reside in a county in which 10% or more of the population is literate only in a language other than English, then the notice of denial will state that your notice will be provided upon request in that other language.

Right to Appeal

If you apply for benefits and your claim is denied, or if you believe that you did not receive the full amount of benefits to which you are entitled, you have the right to petition the Board of Trustees for reconsideration of its decision. Your petition for reconsideration:

1. Must be in writing; and
2. Must state in clear and concise terms the reason(s) for your disagreement with the decision of the Administrative Office; and
3. May include documents, records, and other information related to the claim for benefits; and
4. Must be filed by you or your authorized representative with the Administrative Office within 60 days after you received notice of denial.

In the case of a claim based on disability Subsections 3.06.c., 6.05.b.(3) and 6.06.f.(1)(a) of the Plan, your petition for reconsideration must be filed with the Administrative Office within 180 days after you received notice of denial. Failure to file an appeal within these time limits will constitute a waiver of your rights to a review of the denial of your claim. A late application may be considered if the Board of Trustees finds that the delay in filing was for reasonable causes.

Upon request, you will be provided, free of charge, reasonable access to and copies of all documents, records, and other information relevant to your claim for benefits. In the case of a claim for disability-related benefits under Subsections 3.06.c., 6.05.b.(3) and 6.06.f.(1)(a) of the Plan, the notification will include the basis for a discussion of the decision, including the basis for disagreeing with or not following the views of the treating physician or vocational professional who evaluated you, the views of medical experts obtained by the Plan, or, if applicable, the reason the Plan disagreed with the disability determination of the Social Security Administration. If the denial is based on medical necessity, experimental treatment or similar exclusion or limitation, a statement that an explanation of the scientific clinical judgment for the determination as applied to your medical circumstances will be provided free of charge upon request. If you reside in a county in which 10% or more of the population is literate only in a language other than English, then the notice of denial will state that your notice will be provided upon request in that other language.

Review of Appeal

A properly filed appeal will be reviewed by the Board of Trustees at its next regularly scheduled quarterly meeting. However, if the appeal is received within 30 days prior to such meeting, the appeal may be reviewed at the second quarterly meeting following the receipt of your appeal. If special circumstances require an extension of time, the Board of Trustees will render a decision at the third scheduled quarterly meeting following the receipt of your appeal. The Administrative Office will notify you, in writing, before the beginning of the extension of the special circumstances and the date that the Board of Trustees will make its decision.

The Board of Trustees will review all submitted comments, documents, records and other information related to your claim, regardless of whether the information was submitted or

considered in the initial benefit determination. The Board of Trustees will not give deference to the initial adverse benefit determination.

In deciding an appeal that is based in whole or in part on a medical judgment, the Board of Trustees will consult with a health care professional with appropriate training and experience in the field of medicine involved in the medical judgment. Such health care professional shall not be an individual who was consulted in connection with the initial adverse benefit determination, nor with the subordinate of that individual.

You will receive written notification of the benefit determination on an appeal no later than five calendar days after the benefit determination is made.

In the case of an adverse benefit determination on the appeal, the written denial will include the reason(s) for the determination including references to the specific Plan provisions on which the determination is based. The written denial will also include a statement that you are entitled to receive, upon request and free of charge, reasonable access to and copies of all documents, records and other information relevant to your claim for benefits. The written notification of an adverse benefit determination concerning disability benefits will also include the specific rule, guideline, protocol or other similar criterion relied upon in making the adverse determination.

The denial of a claim to which the right to review has been waived, or a decision of the Board of Trustees or its designated committee with respect to a petition for review, is final and binding upon all parties, subject only to any civil action you may bring under ERISA. Following issuance of the written decision of the Board of Trustees on an appeal, there is no further right of appeal to the Board of Trustees or right to arbitration.

FEDERAL AND STATE INCOME TAX WITHHOLDING, ROLLOVER DISTRIBUTIONS AND NOTICE OF EARLY DISTRIBUTION PENALTIES

Federal Income Tax Withholding

Federal Income Taxes will be automatically withheld from any benefits paid by the Plan (which exceed the no withholding limits established by the IRS) unless you elect not to have income taxes withheld. You will be given complete information and the opportunity to elect or reject withholding when you apply for benefits.

Rollover Distributions

In addition, the Unemployment Compensation Amendments of 1992 as amended, requires that if you, your spouse or non-spouses beneficiary are receiving certain types of benefits from the Plan (called “eligible rollovers”), 20% must be withheld for income tax purposes. These types of benefits include lump sums or installment payments over a period of less than 10 years. However, these types of benefits are also eligible for direct “rollover” into an Individual Retirement Account (IRA) or other tax-exempt retirement plan. If you rollover your benefits directly into an IRA or another retirement plan, the 20% withholding is not mandatory. You will be provided with information concerning your rollover rights at the time of your retirement.

State Income Tax Withholding

State Income Taxes will be automatically withheld from any benefits paid by the Plan, which exceed the limits established by the California Franchise Tax Board, unless you elect not to have income taxes withheld. You will be given complete information and the opportunity to elect or reject withholding when you apply for benefits.

Notice of Early Distribution Penalty

Federal law known as the “Tax Reform Act of 1986” imposes a 10% excise tax penalty upon early distributions from the Pension Plan. This amount is in addition to any ordinary income tax due. Unless you satisfy one of the exceptions shown below, payment of your pension following a separation from service that occurs before you reach age 59½ will be subject to this additional 10% tax.

- Payment in the form of a life annuity (including a joint and survivor annuity) following separation from service;
- Payment to a Participant who is at least age 55 made in accordance with the Plan’s early retirement provisions;
- Payment made due to a Participant’s death or disability, or to an alternate payee as decreed by a qualified domestic relations order (commonly called a “QDRO”); or

- Payment made to a Participant used to pay medical expenses otherwise deductible under Internal Revenue Code Section 213.

IMPORTANT

In order to determine which tax laws apply to your individual situation, it is best to seek the advice of a tax professional. The Administrative Office cannot provide professional tax advice.

WORKING AFTER RETIREMENT **(Refer to Sections 11.13 through 11.15)**

In order to begin to receive your pension, you must be retired. Generally, this means that you have actually separated from service with your employer and do not have an explicit understanding that you will return to work for that employer in the future.

Once you have started to receive your pension (you are a Pensioner), you must remain retired in order to continue to receive your pension. If you have retired and later return to work in certain types of employment, you will cease to be considered “retired” and your pension benefits will be suspended under the conditions described below. Although your pension will be suspended, if you return to work in Covered Employment and work sufficient hours to earn additional benefits, your benefit will be adjusted when you again start collecting your pension.

Before Normal Retirement Age **(Refer to Sections 11.13.a. and 11.14.a.)**

If you retire before Normal Retirement Age (generally age 65), your pension will be suspended if you return to work and receive more than one day’s pay in a calendar month – whether due to employment or self-employment – by working:

- In an industry in which Employees were employed and earned benefits under this Plan as a result of such employment at the time your pension originally commenced; and
- In a trade or craft in which you were employed at any time under the Plan.

Exception:

- If you are receiving an Early Retirement or Service Pension and become employed by a Contributing Employer in work covered by a Collective Bargaining Agreement, you shall be considered “retired” for any month prior to the month in which the cumulative amount of your wages or profit exceeds twelve days’ pay (as set forth in the Collective Bargaining Agreement) in a calendar year.
- If you are receiving a Service Pension and perform work solely as an estimator for a Contributing Employer, your pension payments shall not be suspended.

Before Normal Retirement Age, your pension will be suspended for the period of time you work in one of these kinds of jobs, plus an additional three months (the three month penalty will not apply if you received a Disability Pension prior to your employment). If you work one of these kinds of jobs for a Non-Contributing Employer, your pension will be suspended for the period of time you work, plus an additional six months (the additional six month suspension will not apply to any portion of your pension accrued prior to January 1, 1987). You must inform the Administrative Office when you start working for either a Contributing or Non-Contributing Employer, otherwise there will be a suspension of your pension for an additional six months after you stop working and retire again.

Once your pension is suspended, you must inform the Administrative Office when you stop working in order to have your pension start again.

**After Normal Retirement Age and Prior to Your Required Beginning Date
(Refer to Sections 11.13.b. and 11.14.b.)**

You will not be considered “retired” after Normal Retirement Age if you return to work – whether employed or self-employed – 40 hours or more during a calendar month:

- In an industry in which Employees were employed and accrued benefits under the Plan as a result of such employment at the time that the payment of benefits to the Pensioner commenced or would have commenced if the pensioner had not remained in or returned to employment; and
- In a trade or craft in which the Pensioner was employed at any time under the Plan; and
- In the geographical jurisdiction of the Fund.

**After Your Required Beginning Date
(Refer to Section 11.13.c.)**

Your “Required Beginning Date” is the April 1 following the Calendar Year in which you become age 70½. Under provisions of the Plan, your benefits must commence at that time - whether or not you are still working. After your Required Beginning Date, your benefit cannot be suspended, regardless of the number of hours worked or the type of work performed in a month.

It is important that your benefit commence by your Required Beginning Date, not only because it is a Plan rule, but also because the failure to do so may expose you to significant tax penalties.

**Working After Retirement and Earning Additional Benefits
(Refer to Sections 1.03 and 11.09)**

If you retire, begin receiving your pension and then return to work in Covered Employment, you will accrue additional benefits on the same basis as any other Participant working in Covered Employment.

When you again retire, your prior benefit will remain payable in the same form that you previously elected – even if your life circumstances may have changed in the meantime (e.g., you may have gotten married, re-married, divorced or widowed). If your previous Annuity Starting Date was prior to your attainment of Normal Retirement Age, you have the opportunity to make an independent payment form election with respect to your new post-retirement benefit accruals. If your previous Annuity Starting Date was after your attainment of Normal Retirement Age, your new post-retirement benefit accrual will be paid under the same payment form applicable to the prior benefit accrual – again, even if your life circumstances may have changed in the meantime (e.g., you may have gotten married, re-married, divorced or widowed).

Working After Retirement Notice Requirements (Refer to Section 11.14.c.)

Notices from the Plan

- **When You Retire** – When you retire, you will receive information concerning the types of employment and conditions under which your pension may be suspended. You should read this material closely as it is an important part of your decision whether or not to retire. As part of the application process, you will be asked to sign a statement indicating that you understand the Plan’s return to work and suspension of benefits provisions.
- **After You Retire** – After you retire, you will receive annual notices reminding you of the Plan’s return to work and suspension rules.
- **Participants Who Have Not Yet Retired** – If you have attained Vested Status and are approaching Normal Retirement Age, but have not yet retired, you will receive a notice informing you that as a vested Participant, you have a right to receive payment of your pension benefits at Normal Retirement Age. However, if you work in the type of employment and under conditions described in the notice, your benefits will be treated as if they are suspended and you will forfeit the payment of any benefits for this period.

Notices Required Upon Your Return to Work

- As a Pensioner, you are required to notify the Administrative Office in writing within 31 days of starting any work that may be prohibited – regardless of the number of hours being worked. If you work in prohibited employment and fail to notify the Administrative Office, the Plan will presume that you are working at least 40 hours in a month until such time that you provide information proving that this is not the case.
- The Administrative Office shall inform you of any suspension of your benefits by notice given by personal delivery or first class mail during the first calendar month in which your benefits are withheld. Such notice shall include a description of the specific reasons for the suspension, copy of the relevant provisions of the Plan, reference to the applicable regulation of the U.S. Department of Labor, and a statement of the procedure for securing a review of the suspension. In addition, the notice shall describe the procedure for you to notify the Plan when your prohibited employment ends. If the Plan intends to recover prior overpayment by offset, the suspension notice shall explain the offset procedure and identify the amount expected to be recovered, and the periods of employment to which they relate.

Review of Work

You may request in writing an advance determination as to whether working in a specific job is prohibited. The Administrative Office will provide you a response in writing.

If your pension benefits are suspended, you have the right to a review of the determination by filing a written request within 180 days of receiving the suspension notice.

Recovery of Overpayments **(Refer to Section 11.14.e.(2))**

There are a number of situations that may result in the overpayment of benefits to you or or Spouse. For example, pension payments continued to you if you failed to notify the Plan that you have returned to work in suspendible employment. Another instance is when pension payments continue to you after your death because your survivors fail to notify the Plan of your death.

Under federal law, the Trustees have an obligation to stop overpayments and to restore the Plan by recovering any overpayments and interest. If not otherwise recovered, deductions will be made from future pension payments. If the overpayment is not recovered during your lifetime, deductions may be made from any payments due your surviving spouse.

Exception: If you have attained Normal Retirement Age, a deduction from your monthly check shall not exceed twenty-five percent, except for the first check issued to you upon resumption after a suspension.

**ADDITIONAL INFORMATION REQUIRED BY THE EMPLOYEE
RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)**

1. The Plan is administered and maintained by the Joint Board of Trustees.

The Board of Trustees is the Plan Administrator. This means that the Board of Trustees is responsible for seeing that information regarding the Plan is reported to government agencies and disclosed to Plan Participants and beneficiaries in accordance with the Employee Retirement Income Security Act of 1974 (ERISA). The Board of Trustees employs Health Services & Benefit Administrators, Inc. to provide day-to-day administrative services to the Plan.

The Administrative Office is located at:

Board of Trustees
Bay Area Painters and Tapers Pension Trust
c/o Health Services & Benefit Administrators, Inc.
4160 Dublin Blvd., Suite 400
Dublin, California 94568-7756
Phone: (866) 894-3705
Fax: (925) 833-7301

2. The Administrative Office will provide any Plan Participant or beneficiary, upon written request, information as to whether a particular employer is contributing to this Fund with respect to the work of Participants in the Fund and if the employer is a contributor, the employer's address.
3. The Employer Identification Number (EIN) issued to the Board of Trustees by the Internal Revenue Service is 94-6276501. The Plan number is 001.
4. This is a defined benefit pension plan.
5. The designated agent for service of legal process is:

Ms. Coleen Christophersen
Health Services & Benefit Administrators, Inc.
4160 Dublin Blvd., Suite 400
Dublin, California 94568-7756

Service of legal process may also be made on the Board of Trustees at the address shown above.

6. The names, titles, and addresses of the Trustees are shown below:

Employer Trustees	Employee Trustees
Marian Bourboulis c/o Bay Area Painters and Tapers Trust Funds 4160 Dublin Blvd., Suite 400 Dublin, California 94568-7756	Steve Caster c/o Bay Area Painters and Tapers Trust Funds 4160 Dublin Blvd., Suite 400 Dublin, California 94568-7756
Steve Eckstrom c/o Bay Area Painters and Tapers Trust Funds 4160 Dublin Blvd., Suite 400 Dublin, California 94568-7756	Chris Christophersen c/o Bay Area Painters and Tapers Trust Funds 4160 Dublin Blvd., Suite 400 Dublin, California 94568-7756
Chris Harris c/o Bay Area Painters and Tapers Trust Funds 4160 Dublin Blvd., Suite 400 Dublin, California 94568-7756	Matt Egan c/o Bay Area Painters and Tapers Trust Funds 4160 Dublin Blvd., Suite 400 Dublin, California 94568-7756
Frank Nunes c/o Bay Area Painters and Tapers Trust Funds 4160 Dublin Blvd., Suite 400 Dublin, California 94568-7756	James Hewett c/o Bay Area Painters and Tapers Trust Funds 4160 Dublin Blvd., Suite 400 Dublin, California 94568-7756
Jordan Satrap c/o Bay Area Painters and Tapers Trust Funds 4160 Dublin Blvd., Suite 400 Dublin, California 94568-7756	John Papa c/o Bay Area Painters and Tapers Trust Funds 4160 Dublin Blvd., Suite 400 Dublin, California 94568-7756
Jeannie Simpelo (Alternate) c/o Bay Area Painters and Tapers Trust Funds 4160 Dublin Blvd., Suite 400 Dublin, California 94568-7756	Robert Williams c/o Bay Area Painters and Tapers Trust Funds 4160 Dublin Blvd., Suite 400 Dublin, California 94568-7756

7. The Plan is maintained pursuant to various Collective Bargaining Agreements. Copies of the Collective Bargaining Agreements are available for inspection at the Administrative Office during regular business hours (Monday-Friday 9:00 a.m. to 4:00 p.m.) and, upon written request, will be furnished by mail. A copy of any Collective Bargaining Agreement that provides for contributions to this Plan will also be available for inspection within 10 calendar days after written request at any of the Local Union Offices

or at the office of any Contributing Employer to which at least 50 Plan Participants report each day.

8. All contributions to the Fund are made by Contributing Employers in accordance with Collective Bargaining Agreements in force with Local Unions affiliated with District Council No. 16 of the International Brotherhood of Painters and Allied Trades at fixed rates per hour.

The Trust Agreement provides that Contributing Employers shall not be required to make any further payments or contributions to the cost of operating the Fund or the Plan, except as may be provided in the Collective Bargaining Agreements, subscriber agreements or the Trust Agreement.

9. Benefits are provided directly from the Fund's assets that are accumulated under the Trust Agreement and held in custody by the corporate co-trustee.
10. The date of the end of the Fund's fiscal year is December 31.
11. The Plan's Normal Retirement Age is the later of age 65, or the age of the Participant on the fifth anniversary of his participation, disregarding participation before January 1, 1988; or the later of age 65 or the age of the Participant on the tenth anniversary of his participation.
12. The procedures for applying for benefits and for appealing the denial of benefit claims are set forth on pages 26 and 34 of this booklet.

13. **Guaranty of Benefits Under Federal Law**

Your pension benefits under this multiemployer plan are insured by the Pension Benefit Guaranty Corporation (PBGC), a federal insurance agency. A multiemployer plan is a collectively bargained pension arrangement involving two or more unrelated employers, usually in a common industry.

Under the multiemployer plan program, the PBGC provides financial assistance through loans to plans that are insolvent. A multiemployer plan is considered insolvent if the plan is unable to pay benefits (at least equal to the PBGC's guaranteed benefit limit) when due.

The maximum benefit that the PBGC guarantees is set by law. Under the multiemployer program, the PBGC guarantee equals a Participant's years of service multiplied by (1) 100% of the first \$11.00 of the monthly benefit accrual rate and (2) 75% of the next \$33.00. The PBGC's maximum guarantee limit is \$35.75 per month times a Participant's years of service. For example, the maximum annual guarantee for a retiree with 30 years of service would be \$12,870.

The PBGC guarantee generally covers: (1) Normal and early retirement benefits; (2) disability benefits if you become disabled before the plan becomes insolvent; and (3) certain benefits for your survivors.

The PBGC guarantee generally does not cover: (1) Benefits greater than the maximum guaranteed amount set by law; (2) benefit increases and new benefits based on plan

provisions that have been in place for fewer than 5 years at the earlier of: (i) The date the plan terminates or (ii) the time the plan becomes insolvent; (3) benefits that are not vested because you have not worked long enough; (4) benefits for which you have not met all of the requirements at the time the plan becomes insolvent; and (5) non- pension benefits, such as health insurance, life insurance, certain death benefits, vacation pay, and severance pay.

For more information about the PBGC and the benefits it guarantees, ask your plan administrator or contact the PBGC's Technical Assistance Division, 1200 K Street, N.W., Suite 930, Washington, D.C. 20005-4026 or call 202-326-4000 (not a toll-free number). TTY/TDD users may call the federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4000. Additional information about the PBGC's pension insurance program is available through the PBGC's website on the Internet at <http://www.pbgc.gov>.

14. **Statement of ERISA Rights**

As a Participant in the Bay Area Painters and Tapers Pension Trust Fund, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all Plan Participants shall be entitled to:

Receive Information About Your Plan and Benefits

Examine, without charge, at the Administrative Office and at other specified locations, such as worksites and union halls, all documents governing the Plan, including insurance contracts and collective bargaining agreements, and a copy of the latest annual report (Form 5500 Series) filed by the Plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Employee Benefits Security Administration (formerly the Pension and Welfare Benefits Administration).

Obtain, upon written request to the Administrative Office, copies of documents governing the operation of the Plan, including insurance contracts and collective bargaining agreements, and copies of the latest annual report (Form 5500 Series) and updated Summary Plan Description. The Administrative Office may make a reasonable charge for the copies.

Receive a summary of the Plan's annual financial report. The Administrative Office is required by law to furnish each Participant with a copy of this summary annual report.

Obtain a statement telling you whether you have a right to receive a pension at Normal Retirement Age (65) and if so, what your benefits would be at Normal Retirement Age if you stop working under the Plan now. If you do not have a right to a pension, the statement will tell you how many more years you have to work to get a right to a pension. This statement must be requested in writing and is not required to be given more than once every twelve (12) months. The Plan must provide the statement free of charge.

Prudent Actions by Plan Fiduciaries

In addition to creating rights for Plan Participants ERISA imposes duties upon the people who are responsible for the operation of the employee benefit Plan. The people who

operate your Plan, called “fiduciaries” of the Plan, have a duty to do so prudently and in the interest of you and other Plan Participants and Beneficiaries. No one, including your employer, your union, or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a pension benefit or exercising your rights under ERISA.

Enforce Your Rights

If your claim for a pension benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of Plan documents or the latest annual report from the Plan and do not receive them within 30 days, you may file suit in a Federal court. In such a case, the court may require the Administrator to provide the materials and pay you up to \$110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the administrator. If you have a claim for benefits that is denied or ignored, in whole or in part, you may file suit in a state or Federal court. In addition, if you disagree with the Plan's decision or lack thereof concerning the qualified status of a domestic relations order or a medical child support order, you may file suit in Federal court. If it should happen that Plan fiduciaries misuse the Plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a Federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

Assistance with Your Questions

If you have any questions about your Plan, you should contact the Administrative Office. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the Administrative Office, you should contact the nearest office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in your telephone directory or:

The Division of Technical Assistance and Inquiries
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue N.W.
Washington, D.C. 20210

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**TEXT OF THE
REVISED PENSION PLAN
for the
BAY AREA PAINTERS AND TAPERS PENSION TRUST FUND
Ninth Revision
(with subsequent Amendment Nos. 1 and 4)
Effective January 1, 2019**

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PENSION PLAN
for the
BAY AREA PAINTERS AND TAPERS PENSION TRUST FUND
RESTATED PLAN
(NINTH RESTATEMENT)
(Restated Effective January 1, 2019)

**PENSION PLAN
for the
BAY AREA PAINTERS AND TAPERS PENSION TRUST FUND
(NINTH RESTATEMENT)
(Restated Effective January 1, 2019)**

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ARTICLE 1. DEFINITIONS

Section 1.01. “Actuarial Present Value” unless otherwise specified in the Plan means:

- a. For determinations of present value as of any Annuity Starting Date that is on or after January 1, 2008, a benefit has the same actuarial value as another benefit based on the Applicable Mortality Table and the Applicable Interest Rate under Code § 417(e) as specified below:
 - (1) The “Applicable Mortality Table” is the mortality table specified for the calendar year under subparagraph (A) of Code Section 430(h)(3) (without regard to subparagraph (C) or (D) of such Section).
 - (2) The “Applicable Interest Rate” shall mean the adjusted first, second, and third segment rates applied under rules similar to the rules of Internal Revenue Code Section 430(h)(2)(C) for the month of November (as published in December) immediately preceding the calendar year (which serves as the stability period) that contains the Annuity Starting Date. For this purpose, the segment rates shall be subject to the conditions set forth in Code Section 417(e)(3)(D).
- b. For determinations of present value as of any Annuity Starting Date that is on or after July 1, 1999 and before January 1, 2008, a benefit that has the same actuarial value as another benefit as of a specified date based on the “Applicable Mortality Table” and the “Applicable Interest Rate” under Code § 417(e). For this purpose:
 - (1) The “Applicable Mortality Table” is the table prescribed for use in the calendar year in Regulations under Code Section 417(e), and which until modified or superseded, is the table set forth in Revenue Ruling 95-6. Effective January 1, 2003, the reference to the mortality table prescribed in Revenue Ruling 95-6 shall be construed as a reference to the mortality table prescribed in Revenue Ruling 2001-62; and
 - (2) The “Applicable Interest Rate” is the annual rate of interest on 30-year Treasury securities as specified by the commissioner of Internal Revenue for the month of November (as published in December) immediately preceding the calendar year that contains the Annuity Starting Date.
- c. For all other purposes:
 - (1) The interest rate assumption shall be seven percent (7%) per year.
 - (2) Where the Participant is not disabled per Section 3.08, the mortality assumption shall be the 1971 Group Annuity Mortality Table weighted as follows:
 - (a) for a Participant’s benefit, 100% male and 0% female;
 - (b) for the benefit of a Participant’s Spouse or former Spouse, 0% male and 100% female,
 - (c) in any other case, 50% male and 50% female

- (3) Where the Participant is disabled per Section 3.08 the PBGC Mortality Tables for Disabled Lives Eligible for Social Security Disability Benefits weighted according to (2) above. For payment to the Spouse or former Spouse of the disabled Participant, the mortality assumption shall be according to (2) above.
- d. For Annuity Starting Dates prior to July 1, 1999, a benefit that has the same actuarial value as another benefit determined on the following basis:
- (1) The interest rate assumption shall be the interest rate prescribed by the Pension Benefit Guaranty Corporation for valuing annuities under single employer plans that terminate after November 30, 1980, without Notice of Sufficiency during the first day of the Calendar Year in which the benefit is valued.
 - (2) For payment where the Participant is not disabled per Section 3.08, the mortality assumption shall be that prescribed in Section 1.01.c.(2) above.
 - (3) For payment where the Participant is disabled per Section 3.08, the mortality assumption shall be that prescribed in Section 1.01.c.(3) above.
- e. “Actuarial Equivalent” means two benefits of equal Actuarial Present Value based on the actuarial factors and assumptions specified in the provision in which that phrase is used or, if not otherwise specified, based on the assumptions described in this Section.

Section 1.02. An “Alumni” is a Non-Bargained Employee who benefits under the Plan and is treated as a Collectively Bargained Employee for purposes of meeting federal rules on minimum participation and anti-discrimination. To be an Alumni, the employee must have accrued a benefit under this Plan while being a Collectively Bargained Employee, must be employed by an Employer having a Collective Bargaining Agreement requiring contributions to this Plan, or the Union or the Plan and must participate in the Plan pursuant to a written subscription agreement which provides for the employee to benefit under the Plan.

Section 1.03. “Annuity Starting Date”

- a. “Annuity Starting Date” for a Participant means the first day of the first calendar month starting after the Participant has fulfilled all of the conditions for entitlement to benefits and after the later of:
- (1) The first day of the month after submission by the Participant of a completed application for benefits, or
 - (2) 30 days after the Plan advises the Participant of the available benefit payment options.
- b. Notwithstanding Subsection a. above, the Annuity Starting Date may occur and benefits may begin before the end of the 30-day period, provided:
- (1) The Participant’s benefit was previously being paid because of an election after the Normal Retirement Age, or

- (2) The benefit is being paid out automatically as a lump sum under Section 11.11, or
 - (3) The Participant and legal spouse (if any) consent in writing to the commencement of payments before the end of the 30-day period and distribution of the pension begins more than 7 days after the written explanation was provided to the Participant and spouse.
- c. Notwithstanding Subsection a. above, a Participant who has attained Normal Retirement Age and consented to waive the 30-day period in accordance with Subsection b.(3), may, as set forth in the delayed retirement provisions in Section 11.10, elect an Annuity Starting Date that is retroactive to the first day of any month following the date he had both attained Normal Retirement Age and fulfilled all of the conditions for entitlement to benefits except for the filing of an application.
 - d. The Annuity Starting Date will not be later than the Participant's Required Beginning Date.
 - e. The Annuity Starting Date for a Beneficiary or alternate payee designated under a Qualified Domestic Relations Order will be determined under this Section, except that references to the Spousal Pension and spousal consent do not apply
 - f. A Participant who retires before his Normal Retirement Age and then earns additional benefit accruals under the Plan through reemployment will have a separate Annuity Starting Date determined under this Section with respect to those additional accruals, except that an Annuity Starting Date that is on or after Normal Retirement Age shall apply for any additional benefits accrued through reemployment after that date.

Section 1.04. "Association" means the Northern California Painting and Finishing Contractors Association/ FCA Affiliate.

Section 1.05. "Bargaining Group" means any group of Employees (a) covered by a Collective Bargaining Agreement which has the same terms and conditions, or (b) employed by a Local Union, District Council or the Board of Trustees. The Bargaining Group applicable to each Participant is the Bargaining Group in which the Participant was employed when the first Contribution was made to the Fund on his behalf.

Section 1.06. "Calendar Year" means the period from January 1 to the next December 31. For purposes of ERISA regulations, the calendar year shall serve as the vesting computation period and benefit accrual computation period, and after the initial period of employment, the computation period for eligibility to participate in the Plan.

Section 1.07. "Collective Bargaining Agreement" means any contract by and between the Association or any Employer, and any Local Union or District Council, including any and all extensions, amendments or renewals thereof.

Section 1.08. "Contributions" means the payments made or required to be made to the Pension Fund by a Contributing Employer with respect to work performed in Covered Employment.

"Contributions" shall also include or exclude any other amounts as determined or specified by Board resolution (for example excluding the \$.54 per hour used to fund the Service Pension as described in Subsection 3.13.b. and the deficit reduction contributions

or the off-benefit contributions required under a Collective Bargaining Agreement or the Rehabilitation Plan).

For purposes of determining the amount of pension benefits under Article 3, a Participant shall be credited with Contributions for periods of Qualified Military Service based on the Employer Contribution rate that would have otherwise applied if the Participant had not entered Qualified Military Service, but continued to work in Covered Employment. The hours for such Contributions shall be credited in accordance with Section 6.05. Contributions for Qualified Military Service shall be required to be an expense of the Plan and no additional Employer Contributions shall be required.

Section 1.09. “Contribution Date” means January 1, 1960 or such later date as may be fixed by the Board of Trustees for a Bargaining Group. The Contribution Date to be applied to each Participant is the date applicable to the Bargaining Group in which the Participant was employed when the first Contribution to the Fund was made on his behalf.

Section 1.10. “Contribution Period” means, with respect to a category of employment, the period during which an Employer is obligated by a Collective Bargaining Agreement to contribute to the Fund with respect to the category of employment, or the period for which Contributions are in fact made to the Fund if the employment is not covered by a Collective Bargaining Agreement.

Section 1.11. “Contributory Hours” means (a) compensable hours of Covered Employment for which Contributions are made to the Fund, or (b) hours credited for certain absences from Covered Employment pursuant to Section 6.05.

Section 1.12. “Covered Employment” means work as an Employee as defined in Section 1.14.

“Continuous Non-Covered Employment” means employment for a Contributing Employer in a job not covered by this Plan which is continuous with a Participant’s Covered Employment with the same Contributing Employer. A period of Non-Covered Employment will be considered to be continuous with Covered Employment only if there is no termination of employment between the periods of Covered and Non-Covered Employment.

Section 1.13. “District Council” means District Council 16 of the International Union of Painters and Allied Trades.

Section 1.14. “Employee” means (a) any person who performs work covered by a Collective Bargaining Agreement between the District Councilor Local Union and the Association or other employers, and for whom the Employer is obligated to make Contributions to the Pension Trust Fund and any person who has previously performed work covered by a Collective Bargaining Agreement between an Employer and a Local Union or District Council and who satisfies the definition of Alumni contained in Section 1.02 and the requirements of Section 2.05; (b) any full-time salaried officer or representative of a District Councilor Local Union which extends pension coverage to such officers or representatives pursuant to regulations adopted by the Trustees; (c) any employee of the Board of Trustees who, pursuant to resolution of the Board of Trustees, is included under the Pension Plan; (d) any other persons who, pursuant to resolution of the Board of Trustees, are included under the Pension Plan. The term “Employee” does not include any self-employed person, whether a sole proprietor or a partner.

The term “Employee” includes a leased employee of a Contributing Employer, within the meaning of Section 414(n) of the Internal Revenue Code, who otherwise meets the conditions for participation, vesting and/or benefit accrual under the Fund.

For purposes of participation, nondiscrimination, vesting and benefit limits, all leased employees as defined in Code Section 414(n) or 414(o) who have performed services for a Contributing Employer on a substantially full-time basis for a period of at least one year shall be treated as employed by a Contributing Employer except to the extent such leased employees are excluded under the safe harbor exemption of Code Section 414(n)(5).

Section 1.15. “Employer” or Contributing Employer” means any corporation, individual or partnership which has presently in force or hereafter executes, or is a member of a chapter of the Association or is a member of any employer association, which has executed on its behalf, or is otherwise bound by, a Collective Bargaining Agreement with a Local Union or District Council, which Agreement provides for Contributions into the Pension Trust Fund, and shall also include any employer who may be authorized by the Trustees to make payments into the Pension Trust Fund on behalf of particular employees, and any District Council or Local Union which extends pension coverage to its full-time salaried officers and representatives pursuant to regulations adopted by the Board of Trustees, and also the Board of Trustees.

An employer shall not be deemed a Contributing Employer simply because it is part of a controlled group of corporations (within the meaning of Section 1563(a) of the Internal Revenue Code, determined without regard to Section 1563(a)(4) and (e)(3)(C)), or of a trade or business under common control (within the meaning of Section 414(c) of the Internal Revenue Code), some other part of which is a Contributing Employer.

For purposes of identifying Highly Compensated Employees and applying the rules on participation, vesting and statutory limits on benefits under the Fund but not for determining Covered Employment, the term “Employer” includes all members of an affiliated service group with the Employer within the meaning of Internal Revenue Code §414(m) and all other businesses aggregated with the Employer under Internal Revenue Code §414(o).

Section 1.16. “Highly Compensated Employee” means each highly compensated active employee and highly compensated former employee of a Contributing Employer. Whether an individual is a highly compensated employee is determined separately with respect to each Contributing Employer, based solely on that individual’s compensation from or status with respect to that Contributing Employer.

A highly compensated active employee is an employee of the Contributing Employer who performs service for the Contributing Employer during the determination year and who:

- a. During the look-back year received compensation from the Contributing Employer in excess of \$80,000 (as adjusted under Section 414(q) of the Internal Revenue Code) and was one of the top 20 percent (20%) of the employees of the Contributing Employer during the look-back year when ranked on the basis of the compensation during that year.
- b. Is a five percent (5%) owner at any time during the look-back year or the determination year.

- c. The “determination year” is the Plan Year for which the test is being applied, and the “look-back year” is the 12-month period immediately preceding that Plan Year.

A “highly compensated former employee” is an employee who was a Highly Compensated Employee when he or she separated from service or was a Highly Compensated Employee at any time after attaining age 55. The determination of who is Highly Compensated Employee will be made in accordance with Section 414(q) of the Internal Revenue Code and the regulations there under.

Section 1.17. “Hours of Service” means each hour for which an Employee is paid or entitled to payment by a Contributing Employer after the Contribution Date, directly or indirectly, but excluding any time compensated under a workers’ compensation law (except if contributions are made during such period in accordance with the Collective Bargaining Agreement) or an unemployment compensation law or a plan pursuant to a mandatory disability benefits law, and excluding any hours of non work time in excess of 501 hours in any continuous period. “Hours of Service” shall also include hours for which back pay, irrespective of mitigation of damages, is awarded or agreed to by an Employer, to the extent that such award or agreement is intended to compensate an Employee for periods during which the Employee would have been engaged in the performance of duties for the Employer. Two periods of paid non-work time shall be deemed continuous if they are compensated for the same reason and are not separated by at least 90 days. Furthermore, whenever it is necessary to compute Hours of Service in situations where no work is performed or where pay is computed on other than an hourly basis, or to determine the computation periods to which Hours of Service will be credited, Hours of Service shall be credited in accordance with DOL Regulations § 2530.200b-2(b). Hours shall be credited to the applicable computation period in accordance with DOL Regulations § 2530.200b-2(c).

Section 1.18. “Local Union” means any Local Union affiliated with District Council No. 16 of the International Brotherhood of Painters and Allied Trades, which Local Union is a party to a Collective Bargaining Agreement requiring Contributions to this Pension Fund.

Section 1.19. “Non-Bargained Employee” means a Participant whose participation is not covered by a Collective Bargaining Agreement.

Section 1.20. “Normal Retirement Age” means the later of:

- a. Age 65 or
- b. The earlier of:
 - (1) The age of the Participant on the fifth anniversary of his participation in the Plan, disregarding Plan participation before January 1, 1988, or
 - (2) The age of the Participant on the tenth anniversary of his participation in the Plan.

Participation before a Permanent Break in Service shall not be counted.

Section 1.21. “Participant” means a Pensioner, Beneficiary, or an Employee who meets the requirements for participation in this Plan as set forth in Article 2, or a former Employee who has attained Vested Status under this Plan. A “Beneficiary” is a person

(other than an Employee or a Pensioner) who is receiving benefits under this Plan because of his or her designation for such benefits by a deceased Pensioner or Participant.

Section 1.22. “Pension Fund” or “Fund” means this Trust and this Fund and shall include all Contributions to the Trust Fund created under the Trust Agreement received by the Trustees under the said Collective Bargaining Agreements and any additional Contributions thereto that may hereafter be agreed upon by the parties under these said Collective Bargaining Agreements, or other collective bargaining agreements between the parties, or any modification, amendment, or revision or extension thereof, together with all income, increments, earnings and profits therefrom, and all other funds (as defined in the Trust Agreement) received by the Trustees for the uses, purposes and trusts set forth in the Trust Agreement. The terms “Pension Fund” or “Fund” shall also be interchangeable with the term “Pension Trust” and with the term “Trust Fund”.

Section 1.23. “Pensioner” means a person to whom a pension is being paid under this Plan or to whom a pension would be paid but for the time required for administrative processing.

Section 1.24. “Plan” means this Pension Plan and any modification, amendment, extension or renewal thereof.

Section 1.25. “Plan Year” means the Pension Fund’s fiscal year, the twelve-month period from January 1 through December 31 of the same year.

Section 1.26. “Prior Plan” means the Pension Plan as amended January 1, 1964 and all revisions or amendments and modifications thereto, effective prior to January 1, 2003.

Section 1.27. “Qualified Military Service” means a Participant's qualified military or other uniformed service period under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 USC Chapter 43, as amended, and Section 414(u) of the Internal Revenue Code.

a. Notwithstanding any provision in the Plan to the contrary, vesting, benefits, and service credit with respect to Qualified Military Service will be provided in accordance with USERRA and Section 414(u) of the Internal Revenue Code. Qualified Military Service will count for purposes of earning Credited Current Service, benefit accruals, avoiding a Break in Service or Separation in Covered Employment provided the following conditions are satisfied.

(a) A Participant must have re-employment rights under USERRA; and

(b) A Participant must not have incurred a One-Year Break in Service at the time he entered Qualified Military Service.

Exception: However, no accrual of benefits and earning Credited Service, Hours of Service for vesting, avoiding a Break in Service or avoiding a Separation from Covered Employment will be provided under the circumstances described in Subsection b. unless expressly provided for in that Subsection.

b. If a Participant dies on or after January 1, 2007 while performing Qualified Military Service, the deceased Participant's beneficiaries shall be entitled to any additional benefits (other than benefit accruals relating to the period of Qualified Military Service) that would have been provided under the Plan if such Participant had resumed Covered Employment and then terminated Covered Employment on account

of death. In addition, the period of such Participant's Qualified Military Service shall be treated as vesting service under the Plan.

Section 1.28. “Required Beginning Date” means with respect to any Participant who attains age 70½ on or after January 1, 1988, the April 1 of the calendar year following the calendar year in which the Participant attains age 70½.

Section 1.29. “Trust Agreement” means the Trust Agreement dated January 1, 1960 establishing the Bay Area Painters Pension Trust Fund and any modification, amendment, extension or renewal thereof.

Section 1.30. “Trustees” or “Board of Trustees” or “Board” means the Board of Trustees established by the Trust Agreement.

Section 1.31. “Vested Participant” means an Employee who has attained Vested Status in accordance with the provisions of Section 6.07.

Section 1.32. “Retroactive Annuity Starting Date”

- a. A Retroactive Annuity Starting Date is an Annuity Starting Date that is affirmatively elected by a Participant that occurs on or before the date the written explanation of benefit payment options described in Section 1.03 and Article 7 is provided to the Participant.
- b. Benefits payable under a Retroactive Annuity Starting Date shall consist of an initial single sum payment of benefits attributable to the period beginning on the Participant’s Retroactive Annuity Starting Date and ending prior to the first of the month benefit payments commence. Such single sum shall include interest at an appropriate rate from the date the missed payment or payments would have been made to the date of the actual make-up payment. The Board of Trustees has determined the interest rate to be 4% simple interest which shall remain in effect until such time as changed by a motion adopted by the Board. Monthly payments made subsequent to the lump sum payment shall be in the amount that would have been paid to the Participant had payments actually commenced on the Participant’s Retroactive Annuity Starting Date.
- c. A Participant who otherwise satisfies the conditions of Subsection a., but who does not affirmatively elect a Retroactive Annuity Starting Date shall have his benefit calculated under the terms, conditions and circumstances applicable to his Annuity Starting Date as determined under Section 1.03 in lieu of benefit payments described in Subsection b. above. In the case of a Participant who retires after Normal Retirement Age, the benefit shall be actuarially increased based on the provisions contained in Section 11.10.
- d. The calculation of benefits – whether under Subsection b. or c., above – shall not include periods during which the Participant was not retired or benefits were otherwise subject to suspension under Sections 11.06, 11.13 and 11.14.
- e. Any election of the benefit under Subsection b. in lieu of that in Subsection c., shall be subject to the notice and consent requirements including but not limited to those of Code §§401(a)(11) and 417 and regulations issued thereunder, including requirements specific to the election of retroactive payments under Treas. Reg. §1.417(e)-1.

- f. For purposes of satisfying the 30-day waiver requirement under Section 1.03 and the consent requirements under Section 7.03 the Annuity Starting Date defined in Section 1.03 shall be used instead of the Retroactive Annuity Starting Date.

Notwithstanding any other provision contained herein, this Section 1.32 shall be interpreted with the intent of complying with the retroactive annuity starting date requirements of Treas. Reg. §§1.417(e)-1(b)(3)(iv), 1.417(e)-1(b)(3)(v) and 1.417(e)-1(b)(3)(vi).

Section 1.33. Other selected terms are specifically defined as follows:

<u>Term</u>	<u>Section(s)</u>
a. ERISA	2.01
b. Regular Pension	3.02 and 3.03
c. Early Retirement Pension	3.04 and 3.05
d. Disability Pension	3.06 and 3.07
e. Service Pension	3.13 and 3.14
f. Pro Rata Pension	4.08 and 4.09
g. Partial Pension	5.05 and 5.08
h. Years of Credited Service	
Credited Past Service	6.02
Credited Current Service	6.03
i. Benefit Units	6.04
j. Break in Service (One-Year Break in Service, Permanent Break in Service)	6.06
k. Separation from Covered Employment	6.08
l. Spousal Pension	7.01
m. Level Income Option	10.01
n. Retired or Retirement	11.13

ARTICLE 2. PARTICIPATION

Section 2.01. Purpose. This Article contains definitions to meet certain requirements of the Employee Retirement Income Security Act of 1974 (otherwise referred to as ERISA). Once an Employee (as defined in Section 1.14) has become a Participant, he receives Credited Service and Benefit Units for employment before he became a Participant in accordance with the provisions of Article 6.

Section 2.02. Participation. An Employee who works in Covered Employment shall become a Participant in the Plan on the July 1 or January 1 next following a twelve-consecutive-month period (which includes his first Hour of Service in Covered Employment) during which he accumulates at least 400 Hours of Service in Covered Employment. The 400-hour requirement may also be completed with Hours of Service in Continuous Non-Covered Employment with a Contributing Employer.

Section 2.03. Termination of Participation. A Participant who incurs a One-Year Break in Service (defined in Section 6.06) shall cease to be a Participant as of the last day of the Calendar Year which constituted the One-Year Break in Service, unless he is a Pensioner or Vested Participant.

Section 2.04. Reinstatement of Participation. An Employee who has lost his status as a Participant in accordance with Section 2.03 shall again become a Participant at such time as he accumulates at least 400 Hours of Service in Covered Employment during a twelve-consecutive-month period (which includes his first Hour of Service in Covered Employment) after the Plan Year during which participation terminated. The 400-hour requirement may also be completed with Hours of Service in Continuous Non-Covered Employment with a Contributing Employer.

Section 2.05. Alumni Participation. An Alumni's Hours of Service will be treated as Hours of Service in Covered Employment for all purposes of Plan in accordance with the following rules:

- a. An Alumni who works for one or more Employers, for the Plan, or for the Union, both, under a Collective Bargaining Agreement and as a Non-Bargained Employee during a Plan Year will be treated as working under a Collective Bargaining Agreement for the entire Plan Year if at least half of the Alumni's Hours of Service during the Plan Year were performed under a Collective Bargaining Agreement if the subscription agreement between the Employer and the Plan covering the Alumni, so provides.
- b. An Alumni who worked under a Collective Bargaining Agreement during a Plan Year (or was treated as such under Section 2.05.a.) will be treated as having worked under a Collective Bargaining Agreement with respect to all his Hours of Service for the duration of the Collective Bargaining Agreement in effect during the Plan Year, or if later, until the end of the following Plan Year if the subscription agreement between the Employer and the Plan covering the Alumni, so provides.
- c. An Alumni who was treated as having worked under a Collective Bargaining Agreement pursuant to Section 2.05.b., above, will be treated as working under a Collective Bargaining Agreement, providing the Alumni is working for an Employer, the Plan or the Union, and the subscription agreement between the Plan and his Employer, so provides.

- d. Section 2.05.c. will not apply if more than five percent of the Employees Covered by the Plan are Non-Bargained Employees determined without application of Section 2.05.c. Employees treated as working under a Collective Bargaining Agreement under Sections 2.05.a. and b. will be deemed to not be Non-Bargaining Employees for purposes of this Section 205.d.

ARTICLE 3. PENSION ELIGIBILITY AND AMOUNTS

Section 3.01. General. This Article sets forth the eligibility conditions and amounts payable for the pensions provided by the Plan. The accumulation and retention of Benefit Units and Credited Service for eligibility are subject to the provisions of Article 6. The pension amounts are subject to reduction on account of the Spousal Pension (Article 7) or optional payment forms (Articles 8 and 9). Entitlement of an eligible Participant to receive pension benefits is subject to his retirement and application for benefits, as provided in Article 11.

Eligibility depends in most instances upon Credited Service, which is defined in Sections 6.02 and 6.03 and takes into account creditable employment both before and after the Contribution Period began. Pension amounts (and in some instances, eligibility) are based on accumulated Benefit Units as defined in Section 6.04 which also take into account creditable employment both before and after the Contribution Period began. Pension amounts attributable to certain time periods are based upon a percentage of Contributions formula.

Section 3.02. Regular Pension - Eligibility. A Participant who has Retired shall be entitled to receive a Regular Pension if he meets the following requirements:

- a. He is at least age 65 and has achieved Vested Status in accordance with Section 6.07;
or
- b. He has attained Normal Retirement Age as defined in Section 1.20.

In addition to the above, the Participant must have filed a formal application for benefits in accordance with Section 11.01. The Participant's Annuity Starting Date shall be established in accordance with Section 1.03.

Section 3.03. Amount of Regular Pension. Effective for pensions with Annuity Starting Dates on or after January 1, 2003, the amount of a Regular Pension shall be determined in accordance with the provisions of this Section 3.03.

- a. If there has been no Separation from Covered Employment, the amount of the Regular Pension shall be a monthly amount equal to the sum of (1), (2), (3), (4), (5), (6), (7) and (8) below:
 - (1) \$10.00 for each Non-Contributory Benefit Unit (not to exceed a maximum of 23 Non-Contributory Benefit Units) earned by the Participant.
 - (2) \$10.00 for each Contributory Benefit Unit or a proportionate amount for any fraction thereof earned by the Participant on or after January 1, 1960 through December 31, 1969.
 - (3) \$83.33 for each Contributory Benefit Unit or a proportionate amount for any fraction thereof (not to exceed a maximum of 17 Contributory Benefit Units for this period) earned by the Participant on or after January 1, 1970 through December 31, 1986.
 - (4) With respect to work in Covered Employment on or after January 1, 1987 (or his Contribution Date if later) through December 31, 1998, whenever a Participant has (i) at least 400 Hours of Service in Covered Employment during a Calendar Year, or (ii) has earned a Year of Credited Service

including hours of Continuous Non-Covered Employment during a Calendar Year, the monthly amount shall be 4.3% of Contributions required to be made for the particular Calendar Year.

- (5) With respect to work in Covered Employment on or after January 1, 1999 (or his Contribution Date if later) through December 31, 1999, whenever a Participant has (i) at least 400 Hours of Service in Covered Employment during a Calendar Year, or (ii) has earned a Year of Credited Service including hours of Continuous Non-Covered Employment during a Calendar Year, the monthly amount shall be 3.5% of Contributions required to be made for the particular Calendar Year.
- (6) With respect to work in Covered Employment on or after January 1, 2000 (or his Contribution Date if later) through December 31, 2002, whenever a Participant has (i) at least 400 Hours of Service in Covered Employment during a Calendar Year or (ii) has earned a Year of Credited Service including hours of Continuous Non-Covered Employment during a Calendar Year, the monthly amount shall be 3.0% of Contributions required to be made for the particular Calendar Year.
- (7) With respect to work in Covered Employment on or after January 1, 2003 (or his Contribution Date if later) through December 31, 2003, whenever a Participant has (i) at least 400 Hours of Service in Covered Employment during a Calendar Year or (ii) has earned a Year of Credited Service including hours of Continuous Non-Covered Employment during a Calendar Year, the monthly amount shall be as follows:
 - (a) 3.0% of Contributions required to be made on or after January 1, 2003 through June 30, 2003,
 - (b) 1.0% of Contributions required to be made on or after July 1, 2003 through December 31, 2003.
- (8) With respect to work to Covered Employment on or after January 1, 2004 (or his Contribution Date if later), whenever a Participant has (i) at least 400 Hours of Service in Covered Employment during a Calendar Year or (ii) has earned a Year of Credited Service including hours of Continuous Non-Covered Employment during a Calendar Year, the monthly amount shall be 1.0% of Contributions required to be made for the particular Calendar Year.
- (9) Exceptions.
 - (a) Benefits for periods prior to January 1, 1994 as described in (2) and (3) above, shall be in lieu of any benefit determined under Section 3.03.a. of the Plan in effect prior to January 1, 1994. However, in no event shall the current formula covering that time period produce a benefit that is less than that which would have been determined under Section 3.03.a. of the Plan in effect prior to January 1, 1994 for that same time period.
 - (b) Benefits for the period January 1, 1987 through December 31, 1993 as described in (3) above shall be in lieu of any benefit determined under Section 3.03.a. in effect prior to January 1, 1998

for that time period. However, in no event shall the current formula covering that time period produce a benefit that is less than that which would have been determined under Section 3.03.a. of the Plan in effect prior to January 1, 1998 for that same time period.

- b. If there has been a Separation from Covered Employment, the Regular Pension shall be a monthly amount equal to the sum of (1) and (2) below:
 - (1) For work in Covered Employment which follows the most recent Separation from Covered Employment, the Regular Pension shall be a monthly amount determined in accordance with a. above; and
 - (2) For work in Covered Employment, which precedes the most recent or any prior Separation from Covered Employment, a monthly amount determined in accordance with the terms of the Plan at the end of the period, which caused the Separation from Covered Employment.

Section 3.04. Early Retirement Pension - Eligibility. A Participant who has Retired shall be entitled to receive an Early Retirement Pension if he meets the following requirements:

- a. He has become age 55, but not yet become age 65; and
- b. He has 10 Years of Credited Service (excluding any Credited Service cancelled due to a Permanent Break in Service and any Credited Current Service earned as a result of work in Continuous Non-Covered Employment).

In addition to the above, the Participant must have filed a formal application for benefits in accordance with Section 11.01. The Participant's Annuity Starting Date shall be established in accordance with Section 1.03.

Section 3.05. Amount of the Early Retirement Pension. The Early Retirement Pension shall be a monthly amount determined as follows:

- a. For Pensions with an Annuity Starting Date prior to January 1, 2010, the first step is to determine the amount of the Regular Pension to which the Participant would be entitled if he were 65 years of age at the time his Early Retirement Pension is to be effective. The second step, to take account of the fact that the Participant is younger than 65, is to reduce the first amount by 1/2 of 1% for each month that the Participant is younger than 65 on the effective date of his Early Retirement Pension
- b. For Pensions with an Annuity Starting Date on or after January 1, 2010, the first step is to determine the amount of the Regular Pension to which the Participant would be entitled if he were 65 years of age at the time his Early Retirement Pension is to be effective. The second step, to take account of the fact that the Participant is younger than 65, is to reduce the first amount using actuarial factors based on the RP-2000 Male Combined Healthy Mortality Table and 7.00% interest.

The provisions of Section 3.05.b. shall also apply to a Participant with an Annuity Starting Date on or after May 1, 2009 and prior to January 1, 2010 if the Participant ceases to remain Retired by returning to work in suspendible employment as defined in Section 11.13.

Section 3.06. Disability Pension - Eligibility. A Participant whose onset of Total Disability is determined by the Social Security Administration under Section 3.08 to have occurred prior to January 1, 2010 shall be entitled to receive a Disability Pension if he meets the following requirements:

- a. He has not yet become age 65; and
- b. He has accumulated (1) at least 15 Years of Credited Service, or (2) 10 Years of Credited Current Service; exclusive in each case of any Credited Current Service cancelled due to a Permanent Break in Service and any Credited Service earned as a result of work in Continuous Non-Covered Employment; and
- c. He has as a result of actual work in Covered Employment (1) earned at least two quarters of Credited Current Service in the two-consecutive-Calendar Year period immediately prior to the Calendar Year in which he became Totally Disabled, or (2) worked for the San Francisco Housing Authority as a painter or taper at least 500 hours in one of two-consecutive-Calendar Years immediately prior to the Calendar Year in which he became Totally Disabled.

Exception: The Board of Trustees in its sole discretion may waive the requirement set forth in c.(1) above if on the basis of such competent medical evidence as they may require to be shown, the Participant demonstrates that he was continuously disabled and thereby prevented from working in Covered Employment or engaging in any work of the type performed by an Employee.

In addition to the above, the Participant must have filed a formal application for benefits in accordance with Section 11.01. The Participant's Annuity Starting Date and commencement of Disability Pension payments shall be established in accordance with Sections 1.03 and 3.09.

A Disability Pension shall not be available to a Participant whose onset of Total Disability is determined by the Social Security Administration under Section 3.08 to have occurred on or after January 1, 2010.

Section 3.07. Amount of the Disability Pension. Effective January 1, 1999, the monthly amount of a Disability Pension is the same as the monthly amount of a Regular Pension.

Section 3.08. Total Disability Defined. A Participant shall be deemed totally disabled upon his receipt of a determination of entitlement to a Social Security Disability Benefit. The Board may at any time, or from time to time, require evidence of continued entitlement to such Social Security Disability Benefit.

Section 3.09. Disability Pension Payments.

- a. Payment of the Disability Pension shall not commence until the sixth month of Total Disability or until the requirement for advance application has been met, whichever is the later date; payment of the Disability Pension will continue as long as the disabled Pensioner remains Totally Disabled as herein defined provided he does not engage in any gainful employment. Upon becoming age 65, a disabled Pensioner shall have his benefits continued regardless of whether he remains Totally Disabled, provided, however, that he remains Retired as defined in Section 11.13.b. and c.

- b. If the Annuity Starting Date for a Participant who is Totally Disabled, as defined in Section 3.08, is more than two months after the date payment would have begun in accordance with Subsection a., the Participant will be entitled, should he so elect, to a one-time cash payment equal to the monthly amount of his Disability Pension (in the payment form elected) multiplied by the number of calendar months between the date determined in accordance with paragraph a. and the Annuity Starting Date.

Section 3.10. Total Disablement of an Early Retirement Pensioner. If any Early Retirement Pensioner is or becomes totally disabled, he shall be entitled (if he meets all of the requirements for a Disability Pension per Section 3.06) should he so elect to convert to a Disability Pension effective as of the date described in Section 3.09.a.

Section 3.11. Recovery of a Pensioner on a Disability Pension. If a Pensioner receiving a Disability Pension loses entitlement to a Social Security Disability Benefit, such fact shall be reported by him in writing to the Board of Trustees within 15 days of the date he received notice from the Social Security Administration indicating that his benefit shall cease.

If such written notice is not provided, he will, upon his subsequent retirement before Normal Retirement Age, not be eligible for benefits for a period of twelve months following his Annuity Starting Date. This is in addition to a suspension equal to the number of months, which elapsed after he received notice of the termination of the Social Security Disability Benefit and for which he received Disability Pension payments from the Fund in error of fact. The suspension described in this Section 3.11 is subject to the provisions of Section 11.14.b.

Section 3.12. Re-employment of a Pensioner on a Disability Pension. A Pensioner on a Disability Pension who is no longer totally disabled may re-enter Covered Employment and may resume the accrual of Credited Service and Benefit Units. If applicable, the Separation from Covered Employment provisions will be applied to the portion of the Participant's benefit accrued prior to his Disability Pension.

Section 3.13. Service Pension - Eligibility. A Participant who has retired shall be entitled to a Service Pension if he had not yet attained age 65 and meets the requirements of either a. or b. below:

- a. For Participants with an Annuity Starting Date prior to January 1, 2010:
 - (1) He is at least age 62 and has accumulated, without a Permanent Break in Service, at least 25 Years of Credited Service, of which at least 15 years are Credited Current Service; or
 - (2) Regardless of age, he has accumulated, without a Permanent Break in Service, at least 30 Years of Credited Service of which at least 15 years are Credited Current Service; or
 - (3) Effective August 1, 1997, regardless of age, he has accumulated, without a Permanent Break in Service, at least 25 Years of Credited Service of which at least 15 years are Credited Current Service. In order to be eligible for a Service Pension under this Subsection a.(3), a Participant must also satisfy (A) and (B) below:
 - (A) The Participant must have at least 1,000 hours of Contributions - each of which includes an amount (currently an additional \$.54 per

hour) earmarked for the Service Pension under this Section 3.13.a.(3) - made or required to be made on his behalf on or after August 1, 1997; and

- (B) Once a Participant satisfies the 1,000-hour requirement of (1) above, all subsequent hours must be contributed at an hourly rate which includes Contributions (currently an additional \$.54 per hour) earmarked for the Service Pension under this Section 3.13.a.(3) or at least 8,000 hours (including the first 1,000 hours) must be contributed at an hourly rate which includes Contributions (currently an additional \$.54 per hour) earmarked for the Service Pension under this Section 3.13.a.(3).

Credit for periods of disability in accordance with Section 6.05.b.(3) shall be counted in determining if a Participant has satisfied the 1,000-hour requirement.

b. For Participants with an Annuity Starting Date on or after January 1, 2010:

- (1) He is at least age 62 with at least 45,000 hours of Contributions - each of which includes an amount (currently an additional \$.54 per hour) earmarked for the Service Pension under this Section 3.13.b. - made or required to be made on his behalf on or after August 1, 1997; or
- (2) He is at least age 55 with at least 54,000 hours of Contributions - each of which includes an amount (currently an additional \$.54 per hour) earmarked for the Service Pension under this Section 3.13.b. - made or required to be made on his behalf on or after August 1, 1997; or
- (3) Regardless of age, he has at least 60,000 hours of Contributions- each of which includes an amount (currently an additional \$.54 per hour) earmarked for the Service Pension under this Section 3.13.b. - made or required to be made on his behalf on or after August 1, 1997.
- (4) Notwithstanding anything to the contrary, pension credits earned pursuant to Article 5 shall be counted for purposes of meeting the hours requirement set forth in the preceding Section 3.13.b. In the event contributions have been paid to multiple plans for the same hour worked, no more than one (1) hour of pension credit will be counted.

c. In addition to the above, the Participant must have filed a formal application for benefits in accordance with Section 11.01. The Participant's Annuity Starting Date shall be established in accordance with Section 1.03.

The provisions of Section 3.13.b. shall also apply to a Participant with an Annuity Starting Date on or after May 1, 2009 and prior to January 1, 2010 if the Participant ceases to remain Retired by returning to work in suspendible employment as defined in Section 11.13.

Section 3.14. Amount of the Service Pension. The monthly amount of a Service Pension is the same as the monthly amount of the Regular Pension.

Section 3.15. Non-Duplication of Pensions. A person shall not be entitled to the payment of more than one type of pension under this Plan at any one time.

ARTICLE 4. PRO RATA PENSIONS

Section 4.01. Purpose. Pro Rata Pensions are provided under this Plan for Employees who would otherwise be ineligible for a pension because their years of employment have been divided between employment creditable under this Plan and employment creditable under another pension plan or whose pension would otherwise be in less than the full amount because of such division of employment.

Section 4.02. Related Plans. By resolution duly adopted, the Board of Trustees may recognize another pension plan as a Related Plan.

Section 4.03. Related Hours. The term “Related Hours” means hours of employment which are creditable under a Related Plan.

Section 4.04. Related Credit. The term “Related Credit” means years of service, or portions thereof, creditable to an Employee under a Related Plan, excluding however, any Related Credit based on work of the type which had it been performed under this Plan, would be Continuous Non-Covered Employment.

Section 4.05. Combined Credited Service. The term “Combined Credited Service” means the total of an Employee’s Related Credit plus the Credited Service accumulated under the Bay Area Painters and Tapers Pension Trust Fund (hereinafter referred to as “Bay Area Credited Service”), excluding any Credited Service earned in Continuous Non-Covered Employment.

Section 4.06. Combined Benefit Units. The term “Combined Benefit Units” means the total of an Employee’s Related Credit, plus Benefit Units accumulated under this Plan (hereinafter referred to as “Bay Area Benefit Units”).

Section 4.07. Non-Duplication. An Employee shall not receive double credit under this Plan and a Related Plan for the same period of employment.

Section 4.08. Pro Rata Pension - Eligibility.

a. An Employee who is Retired shall be eligible for a Pro Rata Pension if he meets the following requirements:

- (1) He would be eligible for a Pension (other than a Service Pension) under this Plan was his Combined Credited Service treated as Bay Area Credited Service.
- (2) He has accumulated one Bay Area Contributory Benefit Unit and at least one year of contributory service credit with a Related Plan.

In addition to the above, the Participant must have filed a formal application for benefits in accordance with Section 11.01. The Participant’s Annuity Starting Date shall be established in accordance with Section 1.03.

b. Related Hours shall be considered in determining whether an Employee has incurred a Break in Service, as defined in Section 6.06, or a Separation from Employment as defined in Section 6.08.

However, once an Employee has left employment for which contributions are made to this or a Related Plan, the determination as to whether he has had a Permanent Break in Service under this Plan shall be based solely on his Credited Service earned during this Plan and not upon his Combined Credited Service.

- c. Related Credits shall be considered to determine eligibility for monthly payments to the survivor of an Employee under Section 7.05.

Section 4.09. Amount of the Pro Rata Pension. A Pro Rata Pension effective on or after January 1, 1976, shall be a monthly amount determined in the same way as the Regular Pension (or Disability Pension, if applicable) based only on the Bay Area Benefit Units. The benefit amount so obtained is reduced in accordance with Section 3.05 if the Employee is qualified for a Pro Rata Early Retirement Pension.

Section 4.10. Payment. Payment of a Pro Rata Pension shall be subject to all of the conditions applicable to the other types of pensions under this Plan.

ARTICLE 5. PARTIAL PENSIONS

Section 5.01. Purpose. Partial Pensions are provided under this Plan for employees who would otherwise lack sufficient service credit to be eligible for any pension because their years of employment were divided between different pension plans or, if eligible, whose pensions would be less than the full amount because of such division of employment. To provide such partial pensions, this Plan is signatory to the “Reciprocal Agreement for Joint Industry Pension Funds of all District Councils and Local Unions Affiliated with the International Brotherhood of Painters and Allied Trades.” Wherever referred to in this Article, “signatory plans” shall mean plans that are signatory to that Agreement.

Section 5.02. Recognized Pension Credits. For purposes of this Plan, the term “pension credits” shall mean those periods of service during which credit is granted for benefit accrual purposes. Pension credits shall not necessarily cover periods for which a plan grants credit for vesting purposes under ERISA. Pension credits accumulated and maintained by an employee under this Plan shall be recognized by the other signatory plans. Pension credits under each plan shall be based on the rules in effect in that plan at the time the employment occurred.

Section 5.03. Total Pension Credit. The Pension credit granted under this Plan and the other signatory plans together comprise the employee’s total pension credit. In no case will more than one (1) year of pension credit be counted for any twelve (12) consecutive calendar months.

Section 5.04. Combined Service Credit. If an employee has, in a calendar year, worked under two (2) or more plans and accumulated fractional years of pension credit which together add up to more than one (1) year of credit for that Calendar Year, then the pension credit recognized under all plans shall be limited to one (1) year. Pension credit will first be counted under the plan to provide the highest benefit level. The other plan(s) shall count as pension credit the necessary fractional year(s), in a declining benefit level order, which will bring the total to exactly one (1) year of pension credit for the employee.

Section 5.05. Eligibility. An employee shall be eligible for a Partial Pension under this Plan if he satisfies all of the following requirements:

- a. He would be eligible for any type of pension under this Plan if his total pension credit were treated as service under this Plan; and
- b. He has, under each of the signatory plans in which he has credited service, at least one (1) year of pension credit; and
- c. In the case of an employee applying for a pension based on disability, he is able to meet the definition of Total Disability in this Plan; and
- d. In the case of an employee applying for a pension based on age, he meets the minimum age requirements in this Plan.

In addition to the above, the Participant must have filed a formal application for benefits in accordance with Section 11.01. The Participant’s Annuity Starting Date shall be established in accordance with Section 1.03.

Section 5.06. Breaks in Service. In applying the rules of this Plan with respect to cancellation of pension credits, any pension credit earned during a period in which the employee worked in the jurisdiction of another signatory plan, shall be considered in determining whether there has been a permanent break in service. However, once an employee has left the coverage of all the signatory plans, the determination as to whether he has a permanent break in service under each signatory plan shall be determined by each plan based solely on the vesting service earned under that plan, not on the combined pension credit.

Section 5.07. Election of Pensions. If an employee is eligible for more than one type of pension under this Plan, he shall be entitled to select the type of pension he is to receive.

Section 5.08. Partial Pension Amount. The amount of the Partial Pension payable under this Plan for which an employee qualified shall be the benefit amount he accrued under this Plan during the period he earned the pension credit.

Section 5.09. Payment of Partial Pensions. The payment of a Partial Pension shall be subject to all of the conditions contained in this Plan applicable to other types of pensions.

Section 5.10. Other Benefits. The obligation of each of the signatory plans is limited to pension benefits, including survivor's pensions after retirement payable as a result of election of a Spousal Pension or guaranteed period payments. This "partial pensions" provision shall not apply to any pre-retirement death or survivor's benefits. Other benefits provided by any of the plans, after retirement, such as lump sum death benefits, level income or lump sum options, health benefits, etc., are not covered by this provision. However, nothing in this provision shall prohibit any plan(s) from providing such benefits in accordance with its own rules and regulations.

Section 5.11. Benefit Increases. If an employee leaves the jurisdiction of one of the signatory plans and the benefit level in that plan is later increased, benefits from that plan shall be computed at the benefit level in effect at the time the employee last earned pension credits under that plan.

Section 5.12. Application Procedure. The plan under which an employee first makes application for the benefits shall initiate the processing of a partial pension with the other signatory plans based upon information supplied by the employee as to where he worked. Each plan agrees to provide the other plans with complete data, certified by an authorized administrator or plan employee, in order to process partial pensions promptly.

**ARTICLE 6. ACCUMULATION OF BENEFIT UNITS AND
YEARS OF CREDITED SERVICE**

Section 6.01. General. The purpose of this Article is to define the basis on which Participants accumulate Benefit Units and Years of Credited Service. This Article also defines the basis on which accumulated Benefit Units and Years of Credited Service may be cancelled.

Section 6.02. Years of Credited Service Prior to the Contribution Date.

- a. A Participant shall be entitled to Credited Past Service for each Calendar Year or portion thereof, he was employed in the geographical jurisdiction of a Local Union during the twenty-three-year period prior to his Contribution Date in employment of the type for which Contributions are made to the Pension Fund, except that employment covered by a pension program of a public agency shall not count toward Credited Past Service. A Participant shall receive Credited Past Service for such employment in accordance with the following schedule:

Hours Worked in Calendar Year	Credited Past Service
Less than 250 hours	None
250 to 499 hours	One Quarter
500 to 749 hours	Two Quarters
750 to 999 hours	Three Quarters
1,000 hours or more	One Year

A Participant whose Contribution Date is on or after January 1, 1976, shall not be entitled to Credited Past Service unless he has 500 Contributory Hours in the Calendar Year in which his Contribution Date occurs, or in the next Calendar Year.

- b. It is recognized that it may be difficult, because of changes in employment, to produce evidence of past years of service in the type to employment referred to in a. above. A presumption is therefore established that a Participant was engaged in creditable employment during the entire calendar year in which he first established his membership in a Local Union (or its predecessors) and throughout the period of his membership.
- c. A Participant shall also be entitled to Credited Past Service for periods of service in the Armed Forces of the United States between January 1, 1940 and his Contribution Date during time of war, national emergency or pursuant to a national conscription law, provided the Participant was employed as a painter in the jurisdiction of a Local Union immediately prior to such service and was reemployed as a painter or taper in the jurisdiction of a Local Union within 90 days after his release from active duty or recovery from a disability continuing after his release from active duty. A Participant shall be entitled to a year of Credited Past Service for each full year of such military service and one quarter of Credited Past Service for each additional full three-month period of such service.

Section 6.03. Years of Credited Service After the Contribution Date.

- a. A Participant shall receive Credited Current Service for Hours of Service in Covered Employment after the Contribution Date and before January 1, 1976 in accordance with the following schedule:

- (1) In any Calendar Year in which a Participant was younger than 50 years of age, he will receive Credited Current Service for Hours of Service in Covered Employment according to the following schedule:

Hours of Service in Calendar Year	Credited Current Service
Less than 250 hours	None
250 to 599 hours	One Quarter
600 to 899 hours	Two Quarters
900 to 999 hours	Three Quarters
1,000 or more hours	One Year

- (2) In any Calendar Year in which a Participant was or became 50 through 59 years of age, he will receive Credited Current Service for Hours of Service in Covered Employment in accordance with the following schedule:

Hours of Service in Calendar Year	Credited Current Service
Less than 250 hours	None
250 to 499 hours	One Quarter
500 to 749 hours	Two Quarters
750 to 999 hours	Three Quarters
1,000 or more hours	One Year

- (3) In any Calendar Year in which a Participant was or became 60 or more years of age, he will receive Credited Current Service for Hours of Service in Covered Employment in accordance with the following schedule:

Hours of Service in Calendar Year	Credited Current Service
Less than 200 hours	None
200 to 399 hours	One Quarter
400 to 599 hours	Two Quarters
600 to 799 hours	Three Quarters
800 hours or more	One Year

- b. A Participant shall receive Credited Current Service for Hours of Service in Covered Employment after January 1, 1976 in accordance with the following schedule:

Hours of Service in Calendar Year	Credited Current Service
Less than 400 hours	None
400 to 699 hours	Two Quarters
700 to 999 hours	Three Quarters
1,000 hours or more	One Year

If a Participant works for a Contributing Employer in Continuous Non-Covered Employment, his Hours of Service in such Continuous Non-Covered Employment after December 31, 1975 are counted toward a Year of Credited Service. If a Participant does not work sufficient combined Hours of Service in Covered Employment and Continuous Non-Covered Employment for a Contributing Employer(s) to earn a full Year of Credited Service in a Calendar Year, he shall not

be entitled to any Credited Service for his Hours of Service in Continuous Non-Covered Employment.

- c. A Participant will be entitled to Credited Current Service for any period after his Contribution Date during which he was employed in work for which Participants with a later Contribution Date are granted Credited Past Service. The amount of Credited Current Service granted on this basis will be determined in accordance with Section 6.02.
- d. **Exception:** A Participant shall not be entitled to Credited Service for the following periods:
 - (1) Years preceding a Permanent Break in Service as defined in Section 6.06.a. for periods prior to January 1, 1976.
 - (2) Years preceding a Permanent Break in Service as defined in Sections 6.06.c. and 6.06.d. for periods on or after January 1, 1976 except as may be required by Regulation 2530 of the Department of Labor.

Section 6.04. Benefit Units.

- a. **Benefit Units Earned Before the Contribution Date.** A Participant will receive one Non-Contributory Benefit Unit (or a portion thereof) for every Year of Credited Past Service (or portion thereof) to which he is entitled under Section 6.02.
- b. **Benefit Units Earned After the Contribution Date and Before January 1, 1976.** Participants will receive one Contributory Benefit Unit (or a portion thereof) for Contributory Hours after the Contribution Date and before January 1, 1976, in accordance with the following schedules:
 - (1) In any Calendar Year in which a Participant was younger than 50 years of age, he will receive Benefit Units for Contributory Hours according to the following schedule:

Contributory Hours in Calendar Year	Contributory Benefit Units
Less than 250 hours	None
250 to 599 hours	One Quarter
600 to 899 hours	Two Quarters
900 to 1,199 hours	Three Quarters
1,200 or more hours	One

- (2) In any Calendar Year in which a Participant was or became 50 through 59 years of age, he will receive Benefit Units for Contributory Hours in accordance with the following schedule:

Contributory Hours in Calendar Year	Contributory Benefit Units
Less than 250 hours	None
250 to 499 hours	One Quarter
500 to 749 hours	Two Quarters
750 to 999 hours	Three Quarters
1,000 or more hours	One

- (3) In any Calendar Year in which a Participant was or became 60 or more years of age, he will receive Benefit Units for Contributory Hours in accordance with the following schedule:

Contributory Hours in Calendar Year	Contributory Benefit Units
Less than 200 hours	None
200 to 399 hours	One Quarter
400 to 599 hours	Two Quarters
600 to 799 hours	Three Quarters
800 or more hours	One

- c. **Benefit Units Earned After December 31, 1975 and Before January 1, 1982.** A Participant will receive Contributory Benefit Units (or portions thereof) for Contributory Hours After December 31, 1975 and before January 1, 1982, according to the following schedule:

Contributory Hours in Calendar Year	Contributory Benefit Units
Less than 400 hours	None
400 to 499 hours	4/12
500 to 599 hours	5/12
600 to 699 hours	6/12
700 to 799 hours	7/12
800 to 899 hours	8/12
900 to 999 hours	9/12
1,000 to 1,099 hours	10/12
1,100 to 1,199 hours	11/12
1,200 hours or more	One

- d. **Benefit Units Earned After January 1, 1982.** A Participant will receive Contributory Benefit Units (or portions thereof) for Contributory Hours on or after January 1, 1982, according to the following schedule:

Contributory Hours in Calendar Year	Contributory Benefit Units
Less than 400 hours	None
400 to 499 hours	4/12
500 to 599 hours	5/12
600 to 699 hours	6/12
700 to 799 hours	7/12
800 to 899 hours	8/12
900 to 999 hours	9/12
1,000 to 1,099 hours	10/12
1,100 to 1,199 hours	11/12
1,200 to 1,299 hours	One
1,300 to 1,399 hours	13/12
1,400 to 1,499 hours	14/12
1,500 hours or more	15/12

- e. **Other Benefit Units Earned After the Contribution Date.** A Participant will be entitled to Benefit Units for any period after his Contribution Date during which he was employed in work for which Participants with a later Contribution Date are granted Non-Contributory Benefit Units. The number of Benefit Units granted on this basis will be determined in accordance with Section 6.04.a.
- f. **Exception:** A Participant shall not be entitled to Benefit Units for the following periods:
 - (1) For the period preceding a Permanent Break in Service as defined in Section 6.06.a. for periods prior to January 1, 1976.
 - (2) For periods preceding a Permanent Break in Service as defined in Section 6.06.c. for periods after December 31, 1975 and before January 1, 1985.
 - (3) For periods preceding a Permanent Break in Service as defined in Section 6.06.d. for periods on or after January 1, 1985.
- g. **Carry-Over of Hours After December 31, 1980 and Before January 1, 1982.** With respect to periods after December 31, 1980 and before January 1, 1982, if a Participant works more Contributory Hours in a Calendar Year than are required for one Contributory Benefit Unit, excess Contributory Hours will be credited to the Participant in the next following Calendar Year (but only the next following Calendar Year) if he does not work sufficient hours in the next following Calendar Year to earn one Contributory Benefit Unit. This provision is applicable with respect to excess hours earned in the Calendar Year 1980.
- h. **Carry-Over Hours After December 31, 1981 and Before January 1, 1986.**

With respect to periods after December 31, 1981 and before January 1, 1986, if a Participant works more Contributory Hours in a Calendar Year than is required for 15/12 of a Contributory Benefit Unit, excess Contributory Hours will be credited to the Participant in the next following Calendar Year (but only the next following Calendar Year) if he does not work sufficient hours in the next following Calendar Year to earn one Contributory Benefit Unit. This provision is last applicable with respect to excess hours earned in the Calendar Year 1985.
- i. **Prorated Benefit Units After December 31, 1975.** If a Participant earns a Year of Credited Service (based on Continuing Non-Covered Employment) in a Calendar Year after December 31, 1975, but works less than 400 Contributory Hours, he shall be credited with a prorated portion of a full Benefit Unit, in the ratio which his Contributory Hours of work bear to 2,000 hours.

Section 6.05. Credited Service and Benefit Accruals for Non-Working Periods After the Contribution Date. Periods of absence from Covered Employment will be credited toward the accumulation of Credited Service and accrual of benefits if they were due to any of the circumstances listed in Subsection b. below.

- a. Such periods of absence are to be credited at the rate of:
 - (1) **For periods before January 1, 1976:**
 - (a) 30 hours per week if the Participant was younger than 50 years of age;

(b) 20 hours per week if the Participant was 50 through 59 years of age; and

(c) 16 hours per week if the Participant was 60 or more years of age.

(2) **For periods after January 1, 1976:**

25 hours per week (or 5 hours per day if credited on a daily basis), regardless of the age of the Participant.

b. Such circumstances are as follows:

- (1) **Service in the Armed Forces.** Prior to December 12, 1994, a Participant shall be entitled to credit for service in any of the Armed Forces of the United States during the period that the Participant retains reemployment rights under federal law provided he makes himself available for Covered Employment within 90 days after release from active duty, or within 90 days after recovery from a disability continuing after his release from active duty.

In order to secure credit for periods of service in any of the Armed Forces of the United States, the Participant must give written notice to the Board of his availability for Covered Employment and must furnish in writing, such information and proof concerning such service as the Board may, in its sole discretion determine.

- (2) **Qualified Military Service.** Effective December 12, 1994, a Participant shall be entitled to Credited Service and benefit accruals for service in any of the Armed Forces of the United States, provided he makes himself available for Covered Employment within the period during which he retains reemployment rights under the Uniformed Services Employment and Reemployment Rights Act of 1994 (“USERRA”).

Credited Service and benefit accruals will be credited for such Qualified Military Service based on the average number of hours worked in a week by the Participant during the twelve-month period immediately preceding such military service, but not less than the hours per week indicated in this Section 6.05. Contributions for Qualified Military Service shall be required to be an expense of the Plan and no additional Employer Contributions shall be required.

- (3) **Occupational or Non-Occupational Disabilities That Prevent an Employee from Working in Covered Employment.** A Participant shall be entitled to credit for up to 26 weeks (or 130 days if credited on a daily basis) for each separate and distinct disability. In order to secure credit for such periods of disability, a Participant must give written notice to the Board and must furnish such information and proof concerning such disability as the Board may, in its sole discretion, determine.

Section 6.06. Breaks in Service. General. If a Participant has a Break in Service before he has become a Vested Participant, it has the effect of canceling his participation, previous Years of Credited Service, Benefit Units and accrued benefit. However, a Break in Service may be temporary, subject to repair by a sufficient amount of subsequent

Credited Service. A longer Break in Service may be permanent. The Break in Service rule does not apply to a Pensioner or a Vested Participant.

- a. **Permanent Breaks in Service Before January 1, 1976.** After December 31, 1962 and before January 1, 1976, a Participant shall have incurred a Permanent Break in Service and his Credited Service and accrued benefits cancelled, if he failed to earn at least one quarter of Credited Current Service as a result of Contributory Hours of work in a period of two consecutive Calendar Years after (i) December 31, 1962, or (ii) the December 31 following his Contribution Date, whichever is later.

Exception: A Participant who had incurred a Permanent Break in Service prior to January 1, 1976, will have the Credited Current Service and Contributory Benefit Units cancelled prior to that date reinstated, provided he returns to Covered Employment and earns at least five Contributory Benefit Units, without a Separation from Covered Employment.

- b. **One-Year Break in Service After December 31, 1975.**

- (1) A Participant has a One-Year Break in Service in any Calendar Year after December 31, 1975 in which he fails to complete 400 Hours of Service.
- (2) Hours of Service in Continuous Non-Covered Employment after December 31, 1975 shall be counted in determining whether a Break in Service has been incurred.
- (3) A One-Year Break in Service is repairable, in the sense that its effects are eliminated if, before incurring a Permanent Break in Service, the Employee subsequently earns two quarters of Credited Service. More specifically, participation, previously earned Years of Credited Service, Benefit Units and accrued benefits are restored. Nothing in this paragraph (3) shall change the effect of a Permanent Break in Service.

- c. **Permanent Break in Service After December 31, 1975 and Before January 1, 1985.** A Participant shall have a Permanent Break in Service if he had consecutive One-Year Breaks in Service, including at least one after December 31, 1975, that equal or exceed the number of full Years of Credited Service which he had previously accumulated.

- d. **Permanent Break in Service After December 31, 1984.** A Participant shall have a Permanent Break in Service if he has consecutive One-Year Breaks in Service, including at least one after December 31, 1984, that equal the greater of five or the aggregate number of full Years of Credited Service which were previously accumulated.

- e. **Effect of a Permanent Break in Service.** If a person who has not achieved status as a Vested Participant has a Permanent Break in Service:

- (1) His previous Years of Credited Service, Benefit Units, and accrued benefits are cancelled, and
- (2) His participation is cancelled; new participation is subject to the provisions of Section 2.04.

f. **Grace Periods After the Contribution Date.** A Participant who is absent from Covered Employment shall be allowed a grace period to prevent a One-Year Break in Service under the following conditions:

- (1) Prior to January 1, 1976. If he was absent from Covered Employment, a Participant may be allowed a grace period, if he failed to earn at least one quarter of Credited Service in any period of two consecutive Calendar Years before January 1, 1976 if he:
 - (a) Was disabled;
 - (b) Was involuntarily unemployed;
 - (c) Was employed with a public agency in the type or kind of work covered by a Collective Bargaining Agreement and such work was performed in the geographical area covered by the Plan; or
 - (d) Was employed as a painter or taper in the geographic area covered by the Plan, with an employer, approved by the Trustees, who does not contribute to the Pension Trust Fund.

With the exception of (c) above, such grace period shall not exceed three years.

- (2) After December 31, 1975. If he is absent from Covered Employment and fails to complete at least 400 Hours of Service in a Calendar Year after December 31, 1975, a Participant may be allowed a grace period to prevent a One-Year Break in Service during that Calendar Year if, with the consent of the Union, he is employed with a public agency in a position covered by an agreement negotiated between the Union and that public agency.
- (3) After December 31, 1984. If a Participant is absent from Covered Employment after December 31, 1984, because of Maternity or Paternity Leave, a Participant shall be credited the hours of service in accordance with Internal Revenue Code § 410(a)(5)(E)(ii). Hours shall be credited to the applicable Computation Period only in the year in which the absence from work begins, if a participant would be prevented from incurring a 1-year break in service in such year solely because the period of absence is treated as hours of service as provided in clause or in any other case, in the immediately following year in accordance Internal Revenue Code § 410(a)(5)(E)(iii).

“Maternity/Paternity Leave” Defined. A Participant shall be deemed to be on Maternity or Paternity Leave if the Participant is absent from work by reason of the pregnancy of the Participant, by reason of the birth of a child of the Participant, by reason of the placement of a child with the Participant in connection with the adoption of the child by such Participant, or for the purpose of caring for such child during the period immediately following such birth or placement in accordance with Internal Revenue Code § 410(a)(5)(E)(i).

A grace period does not add to a Participant’s Credited Service, Benefit Units or accrued benefit; it is a period that is to be disregarded in determining whether the

Participant has worked sufficient hours in Covered Employment necessary to prevent one or more One-Year Breaks in Service leading to a Permanent Break in Service.

In order to secure the benefits of a grace period, a Participant must give written notice to the Board and must present such written evidence as the Board, in its sole discretion, determines.

Section 6.07. Vested Status. Subject to the provisions of Section 14.05, a Participant shall achieve Vested Status under the circumstances described below:

- a. On and after July 1, 1996, a Participant who is a bargaining unit Employee and has at least one Hour of Service after June 30, 1996 shall achieve Vested Status if he has accumulated at least five Years of Credited Service without a Permanent Break in Service. If the Participant has not completed at least one Hour of Service after June 30, 1996, his Vested Status shall be determined in accordance with the applicable provisions of Subsection c., d., or e.

Exception. An Employee who has received a grace period under Section 6.06.f.(2) shall also be deemed to satisfy the requirements for this Subsection 6.07.a. provided he has completed at least one Hour of Service after June 30, 1996.

- b. On and after January 1, 1989, a Participant who is a Non-Bargained Employee and has at least one Hour of Service after December 31, 1988 shall attain Vested Status after he has accumulated either five Years of Credited Service based exclusively on Credited Service as a Non-Bargained Participant or a total of ten Years of Credited Service (excluding any Credited Service earned prior to a Permanent Break in Service). If the Participant has not completed at least one Hour of Service after December 31, 1988, his Vested Status shall be determined in accordance with the applicable provisions of Subsection c., d., or e.

For purposes of this Subsection b., a Year of Credited Service (or proportionate fraction thereof) shall be deemed to count towards the five years of non-bargained Credited Service if either all of the Hours of Service earned during the Plan Year are attributable to work as a Non-Bargained Employee or at least 1,000 Hours of Service earned during the Plan Year are attributed to work as a Non-Bargained Employee.

- c. Except as noted in Subsections a. and b., between January 1, 1976 and January 1, 1989 or July 1, 1996 depending on whether Subsection a. or b. above applies (five-year vesting provisions), a Participant shall achieve Vested Status if he has accumulated at least ten Years of Credited Service, without a Permanent Break in Service.
- d. Between January 1, 1969 and January 1, 1976, a Participant achieved Vested Status if he had accumulated, without a Permanent Break in Service, at least:
 - (1) 15 Benefit Units, of which at least 10 were Contributory Benefit Units; or
 - (2) 25 Benefit Units; or
 - (3) 20 Benefit Units at a time when he was at least 45 years of age; or
 - (4) 15 Benefit Units at a time when he was at least 50 years of age; or
 - (5) 10 Benefit Units at a time when he was at least 55 years of age.

- e. Between the commencement date of the Plan and January 1, 1969, a Participant achieved Vested Status if he had accumulated, without a Permanent Break in Service, at least:
 - (1) 25 Benefit Units; or
 - (2) 20 Benefit Units at a time when he was at least 45 years of age; or
 - (3) 15 Benefit Units at a time when he was at least 50 years of age; or
 - (4) 10 Benefit Units at a time when he was at least 55 years of age.

Section 6.08. Separation from Covered Employment. A Participant shall be deemed to have incurred a Separation from Covered Employment under the circumstances described below. Unless otherwise indicated, benefits accrued prior to a Separation from Covered Employment shall be subject to the Plan provisions in effect immediately prior to the Separation from Covered Employment. Benefits accrued after a Separation from Covered Employment shall be subject to the Plan provisions under the most recently amended Plan.

- a. A Participant will be deemed Separated from Covered Employment after December 31, 1975, at the end of any two consecutive Calendar Year period in which he does not work at least 400 Contributory Hours in either one of the two Calendar Years.
- b. A Participant will be deemed to have Separated from Covered Employment before January 1, 1976, if he failed to earn one-quarter year of Credited Service in a period of two consecutive Calendar Years as a result of Contributory Hours of work.

Exception: If a Separation from Covered Employment is incurred, the Separation will be waived if the Participant returns to Covered Employment and earns an additional 5 Benefit Units.

ARTICLE 7. SPOUSAL PENSION

Section 7.01. General. Upon retirement, the Spousal Pension provides a lifetime pension for a married Pensioner who meets the eligibility requirements for any type of pension under the provisions of Articles 3, 4, or 5, plus a lifetime pension for the surviving legal spouse, starting after the death of the Pensioner. In the event of death before retirement, the Spousal Pension provides a lifetime pension to the surviving legal spouse of a married Participant who is vested in accordance with 6.07.

The monthly amount to be paid to the surviving legal spouse is one-half the monthly amount which was payable or would have been payable to the deceased Pensioner or Participant. When a Spousal Pension is in effect, the monthly amount of the Participant's pension is reduced in accordance with the provisions of Section 7.06 from the full amount.

Section 7.02. Effective Date. The provisions of this Article do not apply:

- a. To a Pensioner, whose Annuity Starting Date was before January 1, 1985; or
- b. To a Vested Participant who has not earned one Hour of Service after August 22, 1984.

Section 7.03. Upon Retirement. Pensions of all married Participants shall be paid in the form of a Spousal Pension, unless the Participant has filed with the Board, in writing, a timely rejection of that form of pension, subject to all of the conditions of this Section.

- a. No rejection shall be effective unless the legal spouse of the Participant has consented in writing to such rejection, and acknowledged the effect thereof, and such rejection is witnessed by a Notary Public. No consent shall be required if it has been established to the satisfaction of the Board that there is no legal spouse or the legal spouse cannot be located or if such consent cannot be obtained for extenuating reasons satisfactory to the Board.
- b. The Board shall provide to each Participant, no less than 30 days and not more than 180 days before the Annuity Starting Date, a written explanation of the terms and conditions of the Spousal Pension and the effect of the rejection of such pension. A Participant (with any applicable spousal consent) may waive the requirement that the written explanation be provided at least 30 days before the Annuity Starting Date if the Participant's pension commences more than 7 days after the written explanation is provided.
- c. A Participant and his legal spouse may reject the Spousal Pension (or revoke a previous rejection) at any time not more than 180 days before the Annuity Starting Date; that is, before the first day of the first month for which a pension is payable. However, the rejection period shall end on the 30th day after the date on which the written explanation is provided, if the written explanation is provided after the Annuity Starting Date.
- d. The 50% Spousal Pension may be waived, without consent of the legal spouse, in favor of any other form of pension for which the Participant qualifies under the Plan if it would provide the Participant's spouse with a lifetime pension for the period, if any, that the spouse survives the Participant, no additional conditions are imposed on the spouse's right to the benefit, and the amount of such survivor pension would be greater than the amount that would be payable as a 50% Spousal Pension.

Section 7.04. Retirement on a Disability or Service Pension Before Age 55. If the Annuity Starting Date of a married Participant's Spousal Pension occurs before the Participant attains 55, payment to the surviving legal spouse, if any, will start on the later of (a) the first of the month following the death of the Pensioner, or (b) the first of the month following the date when the Pensioner would have attained age 55 had the Pensioner lived.

Section 7.05. Death of an Eligible Participant Before Retirement.

- a. If the Participant's death occurs after attaining age 55, the surviving legal spouse shall be paid a survivor's pension as if the Participant had retired on a Spousal Pension on the day before death. If the Participant's death occurs before attaining age 55, the surviving spouse shall be paid a survivor's pension commencing with the month following the month in which the Participant would have attained age 55 had the Participant lived, and the amount of such pension shall be determined as if the Participant had left Covered Employment on the date of death (or the date the Participant last worked in Covered Employment if earlier), retired on a Spousal Pension upon attaining age 55 and died on the last day of the month in which his earliest retirement age was reached.

This Section shall also apply to an inactive Participant who has achieved Vested Status, had one or more Hours of Service on or after September 2, 1974 and dies after August 22, 1984.

- b. Notwithstanding any other provision of this Article, a survivor's pension shall not be paid in the form, manner or amount described above if one of the alternatives set forth in this Subsection apply.
 - (1) If the Actuarial Present Value of the benefit is \$5,000 or less, the Board shall make a single-sum payment to the legal spouse in an amount equal to that Actuarial Present Value in full discharge of the pre-retirement survivor's pension.
 - (2) The Spouse may elect in writing, filed with the Board, and on whatever form it may prescribe, to defer commencement of the survivor's pension until a specified date that is no later than the first of the month on or immediately following the date the Participant would have attained Normal Retirement Age. The amount payable at that time shall be determined as described in Subsection a. above, except that the benefit shall be paid in accordance with the terms of the Plan in effect when the Participant last worked in Covered Employment, as if the Participant had retired with a Spousal Pension on the day before the legal spouse's payments are scheduled to start, and died the next day.
 - (3) Payment of the survivor's pension must start no later than December 1 of the Calendar Year in which the Participant would have reached age 70½ or, if later, December 1 of the Calendar Year following the year of the Participant's death. If the Board confirms the identity and whereabouts of a surviving spouse who has not applied for benefits by that time, payments to that surviving Spouse in the form of a single life annuity (subject to the provisions of paragraph 1) will begin automatically as of that date.
- c. Notwithstanding any other provisions of the Plan, if the Annuity Starting Date for the survivor's pension is after the Participant's earliest retirement date, the benefit shall

be determined as if the Participant had died on the spouse's Annuity Starting Date after retiring with a Spousal Pension the day before, taking into account any actuarial adjustments to the Participant's accrued benefit that would have applied as of that date.

- d. If a surviving spouse dies before the Annuity Starting Date of the survivor's pension, that benefit will be forfeited and there will be no payments to any other party.
- e. A surviving legal spouse who is the Participant's Beneficiary under Section 8.01 may elect to receive the death benefits as provided in that Section. In that case, the Actuarial Present Value of the survivor's pension shall be reduced (but not below zero) by the Actuarial Present Value of those death benefits, and any remaining value of the survivor's pension shall be paid in a single sum as the sixty-first payment.

Section 7.06. Adjustment of Pension Amount.

- a. For a Participant who is eligible for a Regular, Early or Service Pension, the Spousal Pension shall be 89% of the amount determined from Section 3.03, 3.05, or 3.14, whichever is appropriate, if the Participant and spouse are the same age. The factor is increased by 0.4 percentage points for each full year the spouse is older than the Participant, subject to a maximum factor of 99%, or decreased by 0.4 percentage points for each full year that the spouse is younger than the Participant.

For a Participant who has not yet attained age 55 on his Annuity Starting Date and is eligible for a Service Pension, the factor determined in the paragraph immediately above shall be increased by 5.0 percentage points if the Participant is age 45. These 5.0 percentage points are reduced by 0.5 percentage points for each full year the Participant is older than age 45; or increased by 0.5 percentage points for each full year younger than age 45. For example, a Participant that is age 46 will have 4.5 percentage points added to the factor in the paragraph immediately above. Such increase thus determined when added to the first adjustment factor in the paragraph immediately above shall not exceed 99%.

- b. For a Participant who is eligible for a Disability Pension, the Spousal Pension shall be 79% of the amount determined from Section 3.07, if the Participant and spouse are the same age. The factor is increased by .4 percentage points for each full year the spouse is older than the Participant, subject to a maximum factor of 99%, or decreased by .4 percentage points for each full year that the spouse is younger than the Participant.

The factor determined in the paragraph above shall be increased by 2.5 percentage points if the Participant is age 45. The factor is reduced by .25 percentage points for each full year the Participant is older than age 45; or increased by .75 percentage points for each full year younger than age 45. Such increase when added to the adjustment factor above shall not exceed 99%.

Section 7.07. Additional Conditions. A Spousal Pension is not effective under any of the following circumstances:

- a. A Spousal Pension shall not be effective in the case of the surviving legal spouse of a Participant who is not a Pensioner (i.e. a pre-retirement death situation) unless the spouse was married to the Participant throughout the year preceding the Participant's death.

- b. A Spousal Pension (i.e. post-retirement situation) shall not be effective in the case of the surviving legal spouse of a Pensioner unless the Pensioner and spouse were married to each other on the Annuity Starting Date of the Participant's pension, and for at least a one-year period of time before the Pensioner's death.
- c. Subject to the requirements for documentation described in Section 7.03, above, the Participant must file, before his Annuity Starting Date, a written representation, on which the Board is entitled to rely, concerning that Participant's marital status which, if false, gives the Board the discretionary right to adjust the dollar amount of the pension payments made to the Participant or "surviving spouse" so as to recoup any excess benefits which may have been erroneously paid.
- d. An election or revocation of a Spousal Pension must be:
 - (1) made (or revoked) prior to the Annuity Starting Date;
 - (2) made on forms furnished by the Administrative Office; and
 - (3) filed with the Administrative Office.
- e. A Spousal Pension, once payable, may not be revoked or the Pensioner's benefits increased, by reason of the subsequent divorce of the spouse from the Pensioner or the spouse predeceasing the Pensioner.
- f. The rights of a prior spouse or other family member to any share of a Participant's pension, as set forth under a qualified domestic relations order, shall take precedence over any claims of the Participant's surviving legal spouse at the time of retirement or death.

Section 7.08. Notice to Participants

Within a period of no more than 90 days and no less than 30 days before the "Annuity Starting Date" (and consistent with Treasury regulations), the Trustees shall provide the Participant and his Spouse, if any, with a written explanation of:

- a. the terms and conditions of the 50% Spousal Pension and the optional 75% Spousal Pension;
- b. the Participant's right to make and the effect of an election to waive the 50% Spousal Pension;
- c. the right of the Participant's Spouse to consent to any election to waive the 50% Spousal Pension;
- d. the right of the Participant to revoke such election during the election period that ends on the Annuity Starting Date, and the effect of such revocation;
- e. the relative values of the various optional forms of benefit under the Plan; and
- f. the right to defer any distribution and the consequences of failing to defer distribution of benefits including a description of how much larger benefits will be if the commencement of distributions is deferred.

ARTICLE 8. DEATH BENEFITS

Section 8.01. Pre-Retirement Death Benefit.

a. If a Participant dies before his Annuity Starting Date and before January 1, 2010, 60 monthly payments in a monthly amount determined in the same manner as the Regular Pension shall be made to individuals described in Subsection b. below, payable the first of the month following date of death, provided the Participant meets the following requirements:

- (1) He had, as a result of actual work in Covered Employment, earned two quarters of Credited Current Service in the two-consecutive-Calendar-Year period immediately prior to the Calendar Year in which he died, and
- (2) He had earned 10 Years of Credited Service, excluding any Credited Service cancelled due to a Permanent Break in Service, Credited Current Service earned in Continuous Non-Covered Employment, or he was eligible for an Early Retirement Pension.

b. The Pre-Retirement Death Benefit shall be payable to individuals in the following order of preference:

- (1) The Participant's surviving legal spouse.
- (2) If upon the death of a Participant, there is no surviving legal spouse, or if the Participant's legal spouse dies before the receipt of 60 monthly payments, then the 60 monthly payments or any remainder thereof shall become payable in equal shares to the Participant's surviving children who were younger than age 19 (or under age 23 if full-time students at an accredited educational institution and dependent upon the Participant for 50% of their financial support) on the date of the Participant's death.
- (3) If, upon the death of a Participant, there is no surviving legal spouse or surviving children or if they die before the receipt of 60 monthly payments, then the 60 monthly payments or any remainder thereof shall become payable to the Participant's designated Beneficiary.

Beneficiary. A Participant may designate a Beneficiary to receive payments not otherwise due a surviving legal spouse or surviving children under this Section 8.01 by forwarding such designation on a form acceptable to the Trustees. A Participant shall have the right to change his designation of Beneficiary without the consent of the Beneficiary, but no change shall be effective or binding on the Trustees unless it is received by the Trustees prior to the time any payments are made to the Beneficiary whose designation is on file with the Trustees.

- (4) If, upon the death of the Participant, there is no surviving legal spouse, surviving children or designated Beneficiary or if they die before the receipt of 60 monthly payments, then the 60 monthly payments or any remainder thereof shall become payable to any person who is an object of natural bounty of the Participant or to his estate, as the Board of Trustees in its sole discretion, may designate.

- c. In no event will the benefit under this Section 8.01 exceed the aggregate of 60 payments made to any and all parties described in Subsection b. In addition, the total value of any pension payments received by the deceased Participant during a previous period of retirement shall be deducted from the value of the 60 monthly payments otherwise due the deceased Participant's surviving legal spouse, children, Beneficiary or estate.
- d. The benefits provided by this Section shall not be payable if payments are due under the Spousal Pension. However, if the beneficiary under this Section is the Participant's surviving legal spouse, and is entitled to a pre-retirement survivor's pension under Section 7.05, no death benefits shall be payable under this Section unless the surviving legal spouse so elects, in accordance with Section 7.05.c.
- e. The benefits provided by the Section shall not be payable in the event that a Participant's death occurs on or after January 1, 2010.

Section 8.02. Pre-Retirement Lump Sum Death Benefit. If a Participant dies on or after April 1, 1981 but before January 1, 2010, and before his Annuity Starting Date, a Lump Sum Death Benefit will be paid to the Participant's surviving legal spouse in an amount equal to \$100 for each full year of Credited Current Service, not to exceed \$3,500, provided the following requirements are met:

- a. He had earned 10 years of Credited Current Service excluding any Years of Credited Service cancelled due to a Permanent Break in Service, and
- b. The surviving legal spouse is not entitled to benefits under any other provision of this Pension Plan.

If upon the death of a Participant, there is no legal spouse then living, then the Lump Sum Benefit shall become payable to the Participant's surviving children younger than age 19. If there is no surviving legal spouse or no surviving children younger than age 19, no Lump Sum Benefit shall be paid.

The benefits provided by the Section shall not be payable in the event that a Participant's death occurs on or after January 1, 2010.

Section 8.03. Pensioners' Benefits Guaranteed for Thirty-Six Months. If a Pensioner whose Annuity Starting Date is prior to January 1, 2010 dies prior to receiving thirty-six monthly payments, then the monthly benefit to which he was entitled shall be continued to his Beneficiary until an aggregate of 36 payments have been made to the Pensioner and his Beneficiary.

a. Exception.

- (1) This benefit shall not be payable if payments were due under the Spousal Pension or the Five-Year Guarantee Option, or Ten-Year Guarantee Option, 75% Survivor Option or 100% Survivor Option.
- (2) This benefit shall be payable in the amount, if any, by which payments on a Level Income Option total less than 36 times the monthly amount to which the Pensioner would have been entitled to under this Section 8.03 had he not elected the Level Income Option. This benefit shall be payable

in monthly installments equal to the amount to which the Pensioner would have been entitled if he had not elected such Option.

b. Beneficiary.

- (1) A Pensioner may designate the Beneficiary to receive any payments due under this Section by forwarding such designation on a form acceptable to the Trustees. A Pensioner shall have the right to change his designation of Beneficiary without the consent of the Beneficiary, but no such change shall be effective or binding on the Trustees unless it is received by the Trustees prior to the time any payments are made to the beneficiary whose designation is on file with the Trustees.
- (2) If the designated Beneficiary is not alive at the time any payment under this Section is due, benefits provided under this Section shall be paid to any person who is an object of natural bounty of the Pensioner; or to his estate, as the Board of Trustees, in its sole discretion, may designate.
- (3) A married Pensioner who designates anyone other than his spouse as Beneficiary shall be required to obtain his spouse's consent to such designation or any change in such designation as provided in Article 7.
- (4) Any designation of a spouse as Beneficiary is automatically revoked upon entry of a final decree of marital dissolution, unless a Qualified Domestic Relations Order provides otherwise.

The benefits provided by this Section shall not be payable in the case of a Participant with an Annuity Starting Date or after January 1, 2010. Regardless of any prior payment form election made, the benefits provided by this Section shall also not be payable with respect to a Participant with an Annuity Starting Date on or after May 1, 2009 and prior to January 1, 2010 if the Participant ceases to remain Retired by returning to work in suspendible employment as defined in Section 11.13.

Section 8.04. Five- or Ten-Year Guarantee Option. In lieu of the pension otherwise available to him, a Participant with an Annuity Starting Date prior to January 1, 2010 may elect to receive a lifetime pension with payments guaranteed for five or ten years.

The amount of the monthly pension to a Participant selecting the Five-Year Guarantee Option shall be 98% of the amount determined from Sections 3.03, 3.05 or 3.14, whichever is appropriate, if he is age 65. This factor is increased by .2 percentage point for each full year the Participant is younger than age 65, subject to a maximum factor of 99%, or decreased by .7 percentage points for each full year the Participant is older than age 65.

The amount of the monthly pension to a Participant selecting the Ten-Year Guarantee Option shall be 92% of the amount determined from Sections 3.03, 3.05 or 3.14, whichever is appropriate, if he is age 65. This factor is increased by 1.1 percentage points for each full year the Participant is younger than age 65, subject to a maximum factor of 99%, or decreased by 2.5 percentage points for each full year the Participant is older than age 65.

If the Participant dies before receiving 60 or 120 pension payments, as the case may be, payments will continue to his Beneficiary until an aggregate of 60 or 120 payments have been made to the Pensioner and his Beneficiary.

This Option is not available to a Participant who is retiring on a Disability Pension or who has an Annuity Starting Date that is on or after May 1, 2009. Regardless of any prior payment form election made, the benefits of this Section 8.04. shall also not be payable with respect to a Participant with an Annuity Starting Date on or after May 1, 2009 and prior to January 1, 2010 if the Participant ceases to remain Retired by returning to work in suspendible employment as defined in Section 11.13.

a. Election and Revocation.

- (1) Election of either Guarantee Option must be made in writing in a form prescribed by the Trustees and filed with the Trustees prior to the date the first pension payment is made. However, for those who retired prior to January 1, 2004 the Ten-Year Guarantee Option will not take effect for 24 months after it is elected, if the Participant's Pension is effective on or after January 1, 1981. Unless and until the Option takes effect, benefits shall be payable in the normal form, as if the Option had not been elected. Otherwise, the Ten-Year Guarantee will begin with the twenty-fifth month after the Participants pension is effective.
- (2) A Guarantee Option may be revoked if the revocation is made in writing on a form prescribed by the Trustees and filed with the Trustees prior to the date the first pension payment is made

b. Beneficiary.

- (1) A Pensioner may designate the Beneficiary to receive any payments due under this Option by forwarding such designation on a form acceptable to the Trustees. A Pensioner shall have the right to change his designation of Beneficiary without the consent of the Beneficiary, but no such change shall be effective or binding on the Trustees unless it is received by the Trustees prior to the time any payments are made to the Beneficiary whose designation is on file with the Trustees.
- (2) If the designated Beneficiary is not alive at the time any payment under this Option is due, benefits provided under this Option shall be paid to any person who is an object of natural bounty of the Pensioner; or to his estate, as the Board of Trustees, in its sole discretion, may designate.
- (3) A married Pensioner who designates anyone other than his spouse as Beneficiary shall be required to obtain his spouse's consent to such designation or any change in such designation as provided in Article 7.
- (4) Any designation of a spouse as Beneficiary is automatically revoked upon entry of a final decree of marital dissolution, unless a Qualified Domestic Relations Order provides otherwise.

Section 8.05. Optional Survivor's Benefit. In lieu of any other form of Pension otherwise payable to him, a Participant entitled to a Regular, Early Retirement or Service Pension may elect to receive an optional survivors' benefit, in accordance with which he will receive a lower monthly amount with the provision that 100% or 75% of that lower amount (whichever the Participant elects) is continued after his death for the lifetime of the surviving legal spouse. The amount payable to the Pensioner who has elected this Option shall be determined as follows:

- a. **100% Survivor Option.** The pension amount shall be 80% of the amount determined from Section 3.03, 3.05 or 3.14, whichever is appropriate, if the Participant and legal spouse are the same age. The factor is increased by 0.6 percentage points for each full year the legal spouse is older than the Participant, subject to a maximum factor of 99%; or decreased by 0.6 percentage points for each full year the legal spouse is younger than the Participant.

For a Participant who has not yet attained age 55 as of his Annuity Starting Date and is eligible for a Service Pension, the factor determined in the paragraph above shall be increased by 10.0 percentage points if the Participant is age 45. These 10.0 percentage points are reduced by 1.0 percentage points for each full year the Participant is older than age 45; or increased by 1.0 percentage points for each full year younger than age 45. For example, a Participant that is age 46 will have 9 percentage points added to the factor in the paragraph above. Such increase thus determined when added to the first adjustment factor in the paragraph above shall not exceed 99%.

- b. **75% Survivor Option.** The pension amount shall be 84.5% of the amount determined from Section 3.03, 3.05 or 3.14, whichever is appropriate, if the Participant and legal spouse are the same age. The factor is increased by 0.5 percentage points for each full year the legal spouse is older than the Participant, subject to a maximum factor of 99%; or decreased by 0.5 percentage points for each full year the legal spouse is younger than the Participant.

For a Participant who has not yet attained age 55 on his Annuity Starting Date and is eligible for a Service Pension, the factor determined in the paragraph above shall be increased by 8.0 percentage points if the Participant is age 45. These 8.0 percentage points are reduced by 0.8 percentage points for each full year the Participant is older than age 45; or increased by 0.8 percentage points for each full year younger than age 45. For example, a Participant that is age 46 will have 7.2 percentage points added to the factor in the paragraph above. Such increase thus determined when added to the first adjustment factor in the paragraph above shall not exceed 99%.

Election of the Optional Survivors' Benefit must be made in writing in the form prescribed by the Trustees and filed with the Trustees prior to the date the first Pension payment is made. The Optional Survivors' Benefit shall take effect only if the Pensioner and his surviving legal spouse are both alive on the date when it is otherwise to take effect.

Once elected, the Optional Survivors' Benefit may not be revoked, unless the revocation is made in writing in a form prescribed by the Trustees and filed with the Trustees prior to the date the first Pension payment is made.

The Optional Survivors' Benefit shall not be available if it would result in a monthly benefit of less than \$20 to the Pensioner or surviving legal spouse.

Except for the amount of benefit, the conditions applicable to the Spousal Pension as described in Section 7.07 shall apply to the Optional Survivor's Benefit.

ARTICLE 9. SUPPLEMENTAL LONGEVITY BENEFITS

Section 9.01. Eligibility. A Participant who has retired with an Annuity Starting Date prior to January 1, 2010 shall be entitled to receive a Supplemental Longevity Benefit providing he has earned at least 16 Contributory Benefit Units. For purposes of determining eligibility, credits earned under a Related Plan as provided for under Article 4 or under a signatory plan as provided for under Article 5 shall not be counted. This benefit is not available unless the Participant's accrued benefit is calculated under Section 3.03.a.(9)(a).

The benefits provided by this Section shall not be payable in the case of a Participant with an Annuity Starting Date or after January 1, 2010. The benefits provided by this Section shall also not be payable with respect to a Participant with an Annuity Starting Date on or after May 1, 2009 and prior to January 1, 2010 if the Participant ceases to remain Retired by returning to work in suspendible employment as defined in Section 11.13.

Section 9.02. Amount of Supplemental Longevity Benefit. The amount of the Supplemental Longevity Benefit shall be a monthly amount determined as follows:

- a. \$10 for the first 16 Contributory Benefit Units earned; plus
- b. \$10 for each Contributory Benefit Unit earned thereafter, up to a maximum of \$150.

Section 9.03. Death Benefit. In the event of the death of a Participant who meets the requirements of Section 9.01, and who dies prior to retirement, his surviving legal spouse shall receive an amount calculated in accordance with Section 9.02 for a period of 60 consecutive months.

Section 9.04. Benefits payable under this Article 9 shall be subject to all of the conditions applicable to the other types of pensions and benefits under this Plan, including reduction on account of the Spousal Pension as described in Article 7 or any optional form of benefit payments elected under Articles 8 and 10. Such selection of a payment option shall be consistent with any pension payable under Article 3. However, the reduction for an Early Retirement Pension as described in Section 3.05 shall not be applicable.

ARTICLE 10. LEVEL INCOME OPTION

Section 10.01. Purpose. In lieu of the payment option otherwise payable to him, a Participant entitled to a Service Pension (effective on or after January 1, 2005), Early Retirement Pension, , Pro Rata Early Retirement Pension or a Partial Early Retirement Pension with at least 10 Years of Bay Area Credited Service may elect a Level Income Option in accordance with which he will receive a higher monthly amount for each month before he attains age 65 and a lower monthly amount beginning with the first of the month coincident with or following for life thereafter. The general purpose of this Option is to provide a Pensioner on an Early Retirement Pension, Service Pension, Pro Rata Early Retirement Pension or a Partial Early Retirement Pension with a more level income for life, taking account of his likely receipt of his Social Security benefit after he attains age 65.

The Level Income Option is not available to a Pensioner in receipt of a Spousal Pension or any payment form described in Article 8.

Section 10.02. Amount of the Level Income Option.

- a. The higher monthly amount payable under this option before attainment of age 65 shall be determined by adding the following monthly amount to the Early Retirement benefit normally otherwise payable (before rounding) under the Plan, according to the age of the Pensioner when benefit payments in the optional form commence:

Attained Age at Commencement of Optional Benefits	Monthly Amount
55	\$ 64.74
56	69.71
57	75.20
58	81.28
59	88.04
60	95.57
61	104.00
62	113.47
63	124.15
64	136.24

If the first month for which the Level Income Option is payable does not coincide with the Pensioner’s birthday, the benefit amount shall be determined from the above table on a pro rata basis, taking into account the number of completed months since his last birthday.

- b. After the Pensioner reaches age 65, the monthly benefit amount determined above shall be reduced by \$150.

Section 10.03. Payment. Payment of the Level Income Option shall be subject to the following conditions:

- a. The Participant must have elected the Level Income Option in writing, on a form prescribed by the Trustees before the first month in which a pension is paid to him.

- b. The Option may not be revoked once benefit payments in the optional form have commenced.
- c. If the adjustment described in Section 10.02.a. above would reduce the monthly amount payable after age 65 to less than \$20 a month, it shall not be applied, and in such event, the benefit amount payable before age 65 shall be adjusted on the basis of lifetime actuarial equivalence so that the benefit payable to the Participant on and after attainment of age 65 shall be at least \$20 a month.
- d. The Level Income Option shall in no event result in a benefit that is less than the Actuarial Present Value of a straight life annuity.

ARTICLE 11. APPLICATIONS, BENEFIT PAYMENTS, RETIREMENT, RIGHTS OF APPEAL AND SUSPENSION

Section 11.01. Applications. A pension must be applied for in writing and filed with the Trustees at the Administrative Office of the Fund in advance of its Annuity Starting Date. Except as provided in Sections 11.06 or 11.07, a pension shall be first payable on the first day of the month after the month in which the pension application is filed.

An application for a Disability Pension shall be considered timely if the Social Security Disability Benefit entitlement notice is filed with the Administrative Office of the Fund within 12 months after the date of the determination by the Social Security Administration that the applicant is entitled to a Social Security Disability Benefit.

Section 11.02. Information and Proof. Every Participant, Pensioner or Beneficiary shall furnish, at the request of the Trustees, any information or proof reasonably required to determine his benefit rights. If the claimant willfully makes a false statement material to an application or furnishes fraudulent information or proof material to his claim, or fails to provide the notifications required, benefits under this Plan may be denied, suspended, or discontinued. The Trustees shall have the right to recover any benefit payments made (1) in reliance on any willfully made false or fraudulent statement, information or proof submitted by a Participant, Pensioner or Beneficiary or (2) prior to the receipt of any required notifications.

Section 11.03. Cancellation of Applications. Except with respect to a Participant applying for a Disability Pension, a Participant who fails to furnish any information or proof necessary to the determination of his benefit rights under the Plan within 180 days of request by the Trustees shall have his application cancelled.

Section 11.04. Action of Trustees. The Trustees shall, subject to the requirements of the law, be the sole judges of the standard of proof required in any case and the application and interpretation of this Plan and decisions of the Trustees shall be final and binding on all parties.

Wherever in the Plan the Trustees are given discretionary powers, the Trustees shall exercise such powers in a uniform and non-discriminatory manner.

Section 11.05. Right of Appeal and Determination of Disputes.

- a. No Participant, Pensioner, Beneficiary or other person shall have any right or claim to benefits under the Pension Plan, other than as specified in the Pension Plan. If any person shall have a dispute with the Board of Trustees as to eligibility, type, amount or duration of such benefits, the dispute shall be resolved by the Board of Trustees under and pursuant to the Pension Plan, and its decision of the dispute shall be final and binding upon all parties thereto.
- b. Except as noted below, any person whose application for benefits under the Plan has been denied in whole or in part, or whose claim to benefits or against the Fund is otherwise denied, must be notified of such denial, in writing of the denial, within 90 days after receipt of the application or claim. An extension of time not to exceed an additional 90 days may be required by special circumstances. If so, notice of the extension, indicating what special circumstances exist and the date by which a final decision is expected to be made available, must be furnished to the claimant prior to the expiration of the 90-day period.

If an application for disability benefits under Subsections 3.06.c., 6.05.b.(3) and 6.06.f.(1)(a) is denied, the applicant will be notified of the denial, in writing 45 days after receipt of the application or claim for such disability benefits. This 45-day period may be extended for up to an additional 30 days if it is determined that such an extension is necessary due to matters beyond the control of the Plan and the applicant is notified prior to the end of the initial 45-day period, in writing, of such extension and the circumstances requiring the extension of time and the date by which the Plan expects to render a decision. If prior to the end of the first 30-day extension period, it is determined that, due to matters beyond the control of the Plan, a decision cannot be made within the extension period, the period for making the decision may be extended for up to an additional 30 days, provided that the applicant is notified, prior to the end of the first 30-day extension period, of the circumstances requiring the extension and the date as of which the Plan expects to make a decision. This notice will be in writing and will specifically explain the Plan provisions on which the entitlement to such disability benefits is based, the unresolved issues that prevent a decision, and the additional information needed to resolve those issues; and the applicant will be given at least 45 days within which to provide the specified information.

The period of time within which a benefit determination is required to be made will begin at the time an application for benefits is filed with the Fund Office without regard to whether all the information necessary to make a benefit determination accompanies the filing. In the event that a period of time is extended, as permitted above, due to an applicant's failure to submit information necessary to make a determination, the period for making the benefit determination will be tolled from the date on which the notification of the extension is sent to the applicant until the date on which the applicant responds to the request for additional information.

The notice of denial must be set forth in a manner calculated to be understood by the claimant (1) the specific reason or reasons for the denial; (2) specific reference to pertinent Plan provisions on which the denial is based; (3) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why that material or information is necessary; and (4) appropriate information as to the steps to be taken if the claimant wishes to submit his or her claim for review, and (5) a statement of the claimant's right to bring civil action under §502(a) of ERISA.

In addition to the above, for a claim for disability benefits under Subsections 3.06.c., 6.05.b.(3) and 6.06.f.(1)(a) only, the written notification of the benefit denial will include (1) a discussion of decision, including the basis for disagreeing with or not following the views of a treating physician or vocational professional who evaluated the claimant, the views of medical or vocational experts obtained by the plan, or if applicable why the Plan disagreed with the disability determination of the Social Security Administration; (2) if the denial is based on a medical necessity or experimental treatment or similar exclusion or limit, a statement that an explanation of the scientific or clinical judgment for the determination as applied to the Claimant's medical circumstances, will be provided free of charge upon request; (3) the internal rules, guidelines, protocols, standards, or other similar criteria the Plan relied on in denying the claim or a statement that none exist; (4) a statement that the Claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the Claimant's claim for benefits; and (5) if ten-percent or more the population residing in the county to which an adverse benefit determination is being sent is literate only in a language other than English (as determined in guidance published by the federal

government) then the notice of adverse benefit determination must prominently state that the notice of adverse benefit determination will be provided upon request in that other language.

- c. Any person may petition the Board for a review of the denial of his claim. A petition for review must be in writing, must state in clear and concise terms the reason or reasons for disputing the denial, must be accompanied by any pertinent documentary material not already furnished to the Fund, and must be filed by the petitioner or his duly authorized representative with the Secretary of the Board within 60 days after the petitioner received notice of the denial. In the case of a claim for disability benefits under whose application for benefits under Subsections 3.06.c., 6.05.b.(3) and 6.06.f.(1)(a), the petitioner or the petitioner's duly authorized representative must file his or her petition for reconsideration within 180 days. The petitioner or his duly authorized representative will be permitted to review pertinent documents and submit issues and comments in writing.
- d. Upon good cause shown, the Board may permit the petition to be amended or supplemented and may grant a hearing on the petition before a hearing panel consisting of at least one Employer Trustee and one Employee Trustee to receive and hear any evidence or argument which cannot be presented satisfactorily by correspondence. The petitioner or his duly authorized representative will be permitted to review pertinent documents. The failure to file a petition for review within the 60-day period (180-day period for disability benefits under Subsections 3.06.c., 6.05.b.(3) and 6.06.f.(1)(a)), or the failure to appear and participate in any hearing, will constitute a waiver of the claimant's right to review of the denial, provided that the Board may relieve a claimant of any waiver for good cause if application for relief is made within one year after the date shown on the notice of denial.
- e. Upon request, the petitioner or the petitioner's duly authorized representative will be provided, free of charge, reasonable access to, and copies of, all documents, records and other information relevant to the petitioner's claim for benefits. A document, record or other information shall be considered relevant to a petitioner's claim if it was relied upon in making the benefit determination; was submitted, considered or generated in the course of making the benefit determination, without regard to whether it was relied upon in making the benefit determination; demonstrates that the benefit determination was made in accordance with the Plan provisions and that such provisions have been applied consistently with respect to similarly situated claims; and, in regards to disability benefits under Subsections 3.06.c., 6.05.b.(3) and 6.06.f.(1)(a), the Plan's policy or guidance with respect to the benefit denial (whether or not it was relied upon in making the benefit determination) and other relevant information. Relevant information also includes identification of any medical or vocational expert whose advice was obtained on behalf of the Plan in connection with the adverse benefit determination, without regard to whether the advice was relied upon in making the benefit decision.

The review of the determination will take into account all comments, documents, records, and other information submitted by the claimant relating to the claim without regard to whether such information was submitted or considered in the initial benefit determination.

In the case of a Subsections 3.06.c., 6.05.b.(3) and 6.06.f.(1)(a) disability determination, the petitioner shall have access to relevant documents, records and other information relevant to the petitioner's claim, including any statement of policy or guidance with respect to the Plan concerning the denial of such disability benefits,

without regard to whether such advice or statement was relied upon in making the benefit determination. The Board of Trustees will not afford any deference to the initial benefit determination. If the adverse benefit determination is based in whole or in part on a medical judgment, the Board of Trustees shall consult with a health care professional with appropriate training and experience in the field of medicine involved in the medical judgment. Such consultant shall be different from any individual consulted in connection with the initial determination and shall not be the subordinate of any such person.

- f. A decision by the Board shall be made at the first regularly scheduled quarterly Trust meeting after the Trust's receipt of the petition for review, except that an extension of time until the next meeting may be required if the appeal was received within thirty (30) days of the Trust meeting. If special circumstances require a further extension of time for processing, a benefit determination will be rendered no later than the third meeting following the Trust's receipt of the petition for review and the Trustees will provide the petitioner with a written notice of the extension, describing the special circumstances and the date as of which the benefit determination will be made prior to the commencement of the extension. The Trustees will notify the petitioner of the benefit determination as soon as possible but not later than 5 days after the benefit determination is made.

The petitioner will be advised of the Board's decision in writing. The decision must include specific reasons for the decision, written in a manner calculated to be understood by the petitioner and specific references to the pertinent Plan provisions on which the decision is based. It will also include a statement that the petitioner is entitled to receive, upon request and free of charge, reasonable access to, and copies of all documents, records and other information relevant to the claim for benefits.

The notification of a benefit determination in regards to a Subsections 3.06.c., 6.05.b.(3) and 6.06.f.(1)(a) disability benefit will include the above information, and in addition will include (1) a discussion of decision, including the basis for disagreeing with or not following the views of a treating physician or vocational professional who evaluated the Claimant, the views of medical or vocational experts obtained by the Plan, or if applicable why the Plan disagreed with the disability determination of the Social Security Administration; (2) if the denial is based on a medical necessity or experimental treatment or similar exclusion or limit, a statement that an explanation of the scientific or clinical judgement for the determination as applied to the Claimant's medical circumstances will be provided free of charge upon request; (3) the internal rules, guidelines, protocols, standards or similar criteria the plan relied on in denying the claim or a statement that none exist; and (4) if ten-percent or more the population residing in the county to which an adverse benefit determination is being sent is literate only in a language other than English (as determined in guidance published by the federal government) then the notice of adverse benefit determination must prominently state that the notice of adverse benefit determination will be provided upon request in that other language.

- g. The denial of an application or claim to which the right to review has been waived, or the decision of the Board with respect to a petition for review, will be final and binding upon all parties, including applicant, claimant or petitioner and any person claiming under the applicant, claimant or petitioner, subject only to judicial review as provided in Subsection a. The provisions of this Section will apply to and include any and every claim to benefits from the Fund, and any claim or right asserted under the Plan or against the Fund, regardless of the basis asserted for the claim, regardless of when the act or omission upon which the claim is based occurred, and regardless of

whether or not the claimant is a “Participant” or “Beneficiary” of the Plan within the meaning of those terms as defined in ERISA.

Section 11.06. Postponement of Annuity Starting Date. Effective January 1, 1987, a Participant who is or becomes employed in any capacity with a non-contributing employer in the painting and/or drywall taping industries, excepting a governmental agency, shall have his pension benefits curtailed in the following manner:

- a. For each Calendar Year quarter on or after January 1, 1987 in which he has worked one or more hours for a non-contributing employer, a Participant who has not Retired and has not yet attained his Normal Retirement Age shall have his earliest Annuity Starting Date (except for the filing of an application) for an Early Retirement Pension (per Section 3.04) or Service Pension (per Section 3.13)) postponed for six months.
- b. A Participant who has not retired will not be eligible for a Disability Pension (per Section 3.06) if he worked for a non-contributing employer during the Plan Year he became disabled or the two preceding Plan Years.
- c. **Exception:** Effective September 1, 2001, a Participant shall not have his Annuity Starting Date postponed as described in Subsection a. provided he satisfies all of the following requirements:
 - (1) The Participant must have earned at least 20 Benefit Units prior to the date that he became employed with the non-contributing employer in the painting and/or drywall taping industries; and
 - (2) The non-contributing employer must have subsequently become a Contributing Employer; and
 - (3) The Participant must have no termination in employment with the Contributing Employer in question between the periods of covered and non-covered employment. (i.e., work while the Employer was not a Contributing Employer).
 - (4) The Participant must – after the non-contributing employer becomes a Contributing Employer – have earned at least five Benefit Units based solely on service with that Employer.
- d. Notwithstanding any other provision hereof to the contrary, Subsections a. and b. of this Section 11.06 will not apply to any benefits accrued prior to January 1, 1987. If such benefits that were accrued prior to January 1, 1987 were postponed pursuant to Subsection 11.06.a., on or after June, 2004, then such benefits will be paid to the Pensioner before January 1, 2006, including interest at the rate set forth in Section 1.32.b.

Section 11.07. Benefit Payments Generally. A Participant who is eligible to receive benefits under this Plan and makes application in accordance with the rules of this Pension Plan shall be entitled upon Retirement to receive the monthly benefits provided for the remainder of his life, subject to the provisions of this Plan. Benefit payments shall be payable commencing with the first day of the month following the month in which the Participant has fulfilled all the conditions of entitlement to benefits including the filing of an application. Such first day is the meaning of the term, the “Annuity Starting Date” of the Participant’s pension.

However, in no event, unless the Participant elects otherwise, shall the payment of benefits begin later than the 60th day after the later of the close of the plan year in which:

- a. The Participant attains Normal Retirement Age, or
- b. The Participant terminates his Covered Employment and retires, as that term is defined in Section 11.13.

A Participant may, however, elect in writing filed with the Board, to receive benefits first payable for a later month, provided that no such election filed on or after December 31, 1984, may postpone the commencement of benefits to a date no later than the Required Beginning Date.

If a Participant's beneficiary is not his surviving legal spouse, the payment of any benefits under the Plan that become payable on account of the Participant's death shall begin no later than one year from the date of such death or, if later, as soon as practicable after the Board learns of the death.

Pension payments to the Pensioner shall not be made in a form other than equal monthly installments for the Pensioner's lifetime, except as provided to effect (1) retroactive adjustments or (2) increases in the monthly pension amount applicable to all Pensioners in a specified class.

Pension payments to the Pensioner shall not be made in a form other than equal monthly installments for the Pensioner's lifetime, except as to effect (1) retroactive adjustments or (2) increases in the monthly pension amount applicable to all Pensioners in a specified class.

Pension payments shall end with the payment for the month in which the death of the Pensioner occurs except as provided in accordance with a Spousal Pension, Optional Survivor's Benefit or if applicable, upon the completion of the guaranteed payments provided for in Sections 8.03 and 8.04.

Except for an involuntary cashout permitted under Section 11.11, distribution of a Participant's accrued benefit shall not be involuntarily made or commence before the Participant attains Normal Retirement Age.

Section 11.08. Reserved.

Section 11.09. Benefits Accrued After Retirement.

- a. **Before Normal Retirement Age.** Additional benefits earned by a Participant in Covered Employment before Normal Retirement Age will be determined as of the Participant's new Annuity Starting Date, unaffected by previously suspended pension benefits, which may be resumed in accordance with Section 11.14.
- b. **After Normal Retirement Age.** Additional benefits earned by a Participant in Covered Employment after Normal Retirement Age will be determined at the end of each Calendar Year and will be payable as of January 1 following the end of the Calendar Year in which they accrued, provided payment of benefits at that time is not suspended pursuant to Section 11.14 or postponed due to the Participant's continued employment.

Additional accrued benefits that are not suspended or postponed will be paid in the payment form in effect for the Participant as of the Annuity Starting Date most recently preceding the date the additional benefits become payable; provided such Annuity Starting Date had been established after Normal Retirement Age. Otherwise, the additional benefits shall be determined as of the Participant's new Annuity Starting Date.

Section 11.10. Actuarial Adjustment for Delayed Retirement.

- a. If the Annuity Starting Date is after the Participant's Normal Retirement Age, the monthly benefit will be the accrued benefit at Normal Retirement Age, actuarially increased for each complete calendar month between Normal Retirement Age and the Annuity Starting Date for which benefits were not subject to suspension, and then converted as of the Annuity Starting Date to the benefit payment form elected in the pension application of the Participant or to the automatic form of Spousal Pension if the Participant is married.
- b. If a Participant first becomes entitled to additional benefits after Normal Retirement Age, whether through additional service or because of a benefit increase, the actuarial increase in those benefits will start from the date they would first have been paid rather than Normal Retirement Age.
- c. The actuarial increase will be .75% per month for each month after Normal Retirement Age (or such later date as may be determined in b. above).
- d. Notwithstanding the above, instead of an actuarially increased benefit, a Participant may choose to receive at his Annuity Starting Date:
 - (1) a monthly benefit equal to his accrued benefit at Normal Retirement Age, adjusted to include any additional benefits to which he becomes entitled after his Normal Retirement Age and before his Annuity Starting Date as described in b. above, plus
 - (2) a one-time cash payment equal to the total of the amounts payable for the months between his Normal Retirement Age and his Annuity Starting Date for which benefits are not subject to suspension.

Section 11.11. Lump-Sum Payment in Lieu of Monthly Benefit. Effective March 28, 2005, if at the time a monthly benefit becomes payable to a Participant or surviving legal spouse or Beneficiary, the Actuarial Present Value of the benefit is no more than \$1,000, the Board shall pay to the Participant or surviving legal spouse or Beneficiary a lump-sum payment in lieu of the monthly benefit otherwise payable. If the Actuarial Present Value of the benefit is more than \$1,000, but not greater than \$5,000, the Board shall pay to the Participant or surviving legal spouse or Beneficiary a lump-sum payment in lieu of the monthly benefit otherwise payable only upon obtaining the consent of the Participant and legal spouse (if applicable) pursuant to Article 7.

For purposes of this Section, the Actuarial Present Value shall be determined in accordance with Section 1.01, except that the following procedure shall apply to benefits payable to a Participant on his Annuity Starting Date if it results in a larger lump-sum amount.

- a. For a Participant who is eligible for a Regular, Early, Service or Deferred Vested Pension, the lump-sum amount shall be \$118.00 for each \$1.00 of monthly pension

benefit if the Participant is age 60. The factor is increased by \$.18 for each month the Participant is younger than age 60; or decreased by \$.23 for each month the Participant is older than age 60.

- b. For a Participant who is eligible for a Disability Pension, the lump-sum amount shall be \$99.00 for each \$1.00 of monthly pension benefit if the Participant is age 45. The factor is increased by \$.04 for each month the Participant is younger than age 45; or decreased by \$.11 for each month the Participant is older than age 45.

Section 11.12. Rounding of Benefit Amounts. If the amount of any monthly benefit payable under the Plan is not a multiple of \$.50, the amount shall be rounded up to the next multiple of \$.50.

Section 11.13. Retirement.

- a. **Retirement Before Normal Retirement Age.** To be deemed Retired before he has attained Normal Retirement Age, a Pensioner must withdraw completely and refrain from employment or self-employment for wages or profit anywhere for which he receives an amount in excess of one day's pay (as set forth in the Collective Bargaining Agreement) in a calendar month:

- (1) In an industry in which Employees were employed and accrued benefits under the Plan as a result of such employment at the time that the payment of benefits to the Pensioner commenced if the Pensioner had not remained in or returned to employment; and

- (2) In a trade or craft in which the Pensioner was employed at any time under the Plan.

- (3) **Exception:**

- (a) If a Pensioner receiving an Early Retirement or Service Pension becomes employed by a Contributing Employer in work covered by a Collective Bargaining Agreement, he shall be considered "retired" for any month prior to the month in which the cumulative amount of his wages or profit exceeds twelve days' pay (as set forth in the Collective Bargaining Agreement) in a calendar year.

- (b) If a Pensioner receiving a Service Pension becomes employed – performing work solely as an estimator – by a Contributing Employer, his pension payments shall not be suspended for any calendar month in which he is so employed.

- b. **After Normal Retirement Age and Before the Required Beginning Date.** To be deemed Retired after he has attained Normal Retirement Age, a Pensioner must refrain from employment or self-employment of 40 hours or more during any calendar month:

- (1) In an industry in which Employees were employed and accrued benefits under the Plan as a result of such employment at the time that the payment of benefits to the Pensioner commenced or would have commenced if the pensioner had not remained in or returned to employment; and

- (2) In a trade or craft in which the Pensioner was employed at any time under the Plan; and
 - (3) In the geographical jurisdiction of the Fund.
- c. **After Required Beginning Date.** A Pensioner shall be deemed Retired upon attainment of his Required Beginning Date (as defined in Section 1.28) irrespective of the type of employment performed.

For purposes of this Section, prohibited employment shall include any work of the type now covered by a Collective Bargaining Agreement between parties who participate in this pension Fund or which may be covered by such a Collective Bargaining Agreement in the future as an employee of public, private, charitable or non-profit employers, or as a self-employed person, whether performed as a management level employee or otherwise and shall include such jobs as superintendent.

Exception: Notwithstanding the above, if a Pensioner receiving a Service Pension becomes employed - performing work solely as an estimator - by a Contributing Employer, his pension payments shall not be suspended for any calendar month in which he is so employed.

Section 11.14. Suspension of Pension Payments.

- a. **Before Normal Retirement Age.** If a Pensioner is employed as described in Subsection 11.13.a., his pension payments shall be suspended for a period equal to the number of months during which he was so employed. Pension payments shall also be suspended for the following additional periods, which immediately follow the foregoing period:
- (1) Three months, except with respect to a person who received a Disability Pension prior to such Employment.
 - (2) Six months in addition to the months under (1) if the Pensioner fails to satisfy the notice requirements set forth in Subsection c. below.
 - (3) In addition to the periods of suspension described in this Subsection a., a Pensioner shall have his pension benefits suspended six months for each calendar quarter in which he has worked one hour or more for a non-contributing employer. Notwithstanding any other provision hereof to the contrary, such additional suspension shall not apply to any benefits accrued before January 1, 1987. If any benefits that were accrued before January 1, 1987 were subjected to such additional suspension for the month of June, 2004 or any month thereafter, such suspended benefits will be paid to the Pensioner before January 1, 2006, including interest at the rate set forth in Section 1.32.b.

In no event may the total period of the suspension under this Section extend past the Pensioner's Normal Retirement Age.

- b. **After Normal Retirement Age.** If a Pensioner subsequently becomes employed in work of the type described in Subsection 11.13.b, his pension payments shall be suspended for any calendar month of such employment. After he ceases such employment, his pension shall commence with the first month following the cessation of employment of the type described in Section 11.13.b.

c. **Notices.**

- (1) Upon commencement of pension payments, the Trustees shall notify the Pensioner of the Plan rules governing suspension of benefits, including identity of the industries and area covered by the Plan. If benefits have been suspended and payment resumed, new notification shall, upon resumption, be given to the Pensioner if there has been any material change in the suspension rules or the identity of the industries or area covered by the Plan.
- (2) A Pensioner shall notify the Plan in writing within 31 days after starting any work of a type that is or may be prohibited under the provisions of Section 11.13. and without regard to the number of hours of such work.

If a Pensioner has worked in prohibited employment in any month after Normal Retirement Age, and has failed to give timely notice to the Plan of such employment, the Trustees shall presume that he worked for at least 40 hours in such month and any subsequent month before the Pensioner gives notice that he has ceased prohibited employment. The Pensioner shall have the right to overcome such presumption by establishing that his work was not in fact an appropriate basis, under the Plan, for suspension of his benefits.

The Trustees shall inform all Pensioners at least once every 12 months of the reemployment notification requirements and the presumptions set forth in this paragraph.

- (3) A Pensioner whose pension has been suspended shall notify the Plan when prohibited employment has ended. The Trustees shall have right to hold back benefit payments until such notice is filed with the Plan.
 - (4) A Pensioner may ask the Plan whether a particular employment will be prohibited. The Plan shall provide the Pensioner with its determination.
 - (5) The Plan shall inform a Pensioner of any suspension of his benefits by notice given by personal delivery or first class mail during the first calendar month in which his benefits are withheld. Such notice shall include a description of the specific reasons for the suspension, copy of the relevant provisions of the Plan, reference to the applicable regulation of the U.S. Department of Labor, and a statement of the procedure for securing a review of the suspension. In addition, the notice shall describe the procedure for the Pensioner to notify the Plan when his prohibited employment ends. If the Plan intends to recover prior overpayment by offset under Subsection e.(2), the suspension notice shall explain the offset procedure and identify the amount expected to be recovered, and the periods of employment to which they relate.
- d. **Review.** A Pensioner shall be entitled to a review of a determination suspending his benefits by written request filed with the Trustees within 180 days of the notice of suspension.

The same right of review shall apply, under the same terms, to a determination by or made on behalf of the Trustees that contemplated employment will be prohibited.

e. **Resumption of Benefit Payments.**

- (1) Benefits shall be resumed for months after the last month for which benefits were suspended, with payments beginning no later than the third month after the last calendar month for which the Pensioner's benefit was suspended, provided the Pensioner has complied with the notification requirements of paragraph c.(2) above.
- (2) Overpayment attributable to payments made for any month or months for which the Pensioner had prohibited employment shall be deducted from pension payments otherwise paid or payable subsequent to the period of suspension.

Exception: A deduction from a monthly benefit for a month after the Pensioner attained Normal Retirement Age shall not exceed 25 percent of the pension amount, except for the first pension payment made upon resumption after a suspension. If a Pensioner dies before recoupment of overpayment has been completed deductions shall be made from the benefits payable to his surviving legal spouse, Beneficiaries or any other party, if any, subject to the 25 percent limitation on the rate of deduction.

Section 11.15. Benefit Payments Following Suspension.

- a. A Pensioner who returns to Covered Employment shall not be entitled to elect a new optional form of payment with respect to any portion of the pension in effect immediately prior to the suspension of benefits; the monthly amount and type of pension in effect prior to suspension shall be in the same form and amount received when resumed. Additional benefits earned during the period of suspension are subject to the provisions set forth in Section 11.09.
- b. Suspension of pension payments before Normal Retirement Age in accordance with Subsection 11.14.a., because of employment of the type for which a pension would not be suspended after Normal Retirement Age, shall not reduce the value of the Pensioner's pension below the Actuarial Equivalent of the pension payable at his Normal Retirement Age; to the extent necessary to avoid such reduction, the monthly amount of the pension shall be adjusted so as not to deprive the Pensioner of the value of the pension payable to him at his Normal Retirement Age.
- c. Any payments provided under the form of pension in effect immediately prior to suspension of benefits shall remain effective if the Pensioner's death occurs while his benefits are in suspension.

Section 11.16. Non-forfeatability.

- a. The Employee Retirement Income Security Act of 1974 requires that certain of the benefits under this Plan be non-forfeitable.
- b. A Participant acquires a non-forfeitable right to a Regular Pension at Normal Retirement Age.

A Participant's right to his Regular Pension is non-forfeitable upon his attainment of Normal Retirement Age, except to the extent that benefits are cancelled pursuant to Section 14.05 because the Employer has ceased to contribute to the Plan with respect to the employment unit in which the Participant was employed.

- c. ERISA also provides certain limitations on any plan amendment that may change the plan's vesting schedule. In accordance with those legal limitations, no amendment of this Plan may take away a Participant's non-forfeitable right to a Regular Pension at Normal Retirement Age, if he has already earned it at the time of the amendment. Also, an amendment may not change the schedule on the basis of which a Participant acquires such a right, unless each Participant who has at least three Years of Service at the time the amendment is adopted or effective (whichever is later) is given the option of achieving such a non-forfeitable right on the basis of the pre-amendment schedule.

That option may be exercised within 60 days after the latest of the following dates:

- (1) When the amendment was adopted,
- (2) When the amendment became effective, or
- (3) When the Participant was given written notice of the amendment.

Section 11.17. Incompetence or Incapacity of a Pensioner or Beneficiary. In the event it is determined to the satisfaction of the Trustees that a Pensioner or Beneficiary is unable to care for his affairs because of mental or physical incapacity, any payment due may be applied, in the discretion of the Trustees, to the maintenance and support of such Pensioner or Beneficiary or to such person as the Trustees in their sole discretion find to be an object of the natural bounty of the Pensioner or Beneficiary in the manner decided by the Trustees, unless, prior to such payment, claim shall have been made for such payment by a legally-appointed guardian, committee, or other legal representative appropriate to receive such payments on behalf of the Pensioner or Beneficiary.

Section 11.18. Non-Assignment of Benefits. No Participant, Pensioner or Beneficiary entitled to any benefits under this Pension Plan shall have the right to assign, alienate, transfer, encumber, pledge, mortgage, hypothecate, anticipate, or impair in any manner his legal or beneficial interest, or any interest in assets of the Pension Fund, or benefits of this Pension Plan. Neither the Pension Fund nor any of the assets thereof, shall be liable for the debts of any Participant, Pensioner or Beneficiary entitled to any benefits under this Plan, nor be subject to attachment or execution of process in any court of action or proceeding.

Notwithstanding the foregoing, benefits shall be paid in accordance with the applicable requirements of any "qualified domestic relations order" as defined by Section 206(d)(3) of ERISA.

Section 11.19. No Right to Assets. No person other than the Trustees of the Pension Fund shall have any right, title or interest in any of the income, or property of any funds received or held by or for the account of the Pension Fund, and no person shall have any vested right to benefits provided by the Pension Plan except as expressly provided herein.

ARTICLE 12. LIMITATIONS ON BENEFITS UNDER SECTION 415

In addition to any other limitations set forth in the Plan and notwithstanding any other provisions of the Plan, effective for Limitation Years beginning on and after January 1, 2008, benefits under the Plan shall be limited in accordance with Section 415 of the Code and the Treasury Regulations thereunder, in accordance with this Article. This Article 12 is intended to incorporate the requirements of Section 415 of the Code by reference except as otherwise specified herein.

Section 12.01. Definitions. For purposes of this Article 12, the following terms shall have the following meanings.

- a. **Compensation.** “Compensation” for purposes of this Article 12, as well as Section 1.16 regarding “Highly Compensated Employee” and Article 17 regarding “Contingent Top Heavy Rules” means remuneration received from the Employer during the calendar year, as defined in Treasury Regulation § 1.415(c)-2(d)(4).
 - (1) “Compensation” shall also be subject to the following rules:
 - (A) 415 Compensation must be paid within the calendar year, and paid or treated as paid before Severance from Employment in accordance with the general timing rule of § 1.415(c)-2(e)(1) and in accordance with §1.415(c)-2(e)(2) regarding certain minor timing differences.
 - (B) 415 Compensation must include amounts paid by the later of 2½ months after Severance from Employment or the end of the Limitation Year that includes the Severance from Employment date in accordance with §1.415(c)-2(e)(3)(i). Such post-severance compensation includes regular pay as defined in §1.415(c)-2(e)(3)(ii), leave cashouts and deferred compensation as defined in §1.415(c)-2(e)(3)(iii), salary continuation payments for military service and disabled participants in accordance with §1.415(c)-2(e)(4)], deemed Section 125 compensation as defined in §1.415(c)-2(g)(6)], but not other post-severance payments as defined in §1.415(c)-2(e)(3)(iv).
 - (2) The annual compensation of each Participant taken into account in determining benefit accruals in any Plan Year beginning after December 31, 2001 shall not exceed \$200,000. For this purpose, annual compensation means compensation during the Plan Year or such other consecutive 12-month period over which compensation is determined under the Plan (the “determination period”).

The \$200,000 limit on annual compensation in Subsection a., above, shall be adjusted for cost-of-living increases in accordance with IRC §401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

In determining benefit accruals in Plan Years beginning after December 31, 2001, the annual compensation limit in Subsection a., above, for determination periods beginning before January 1, 2002, shall be \$200,000.

- (3) Effective for Plan Years beginning after December 31, 2008, Compensation shall include military differential wage payments as defined in Section 3401 (h) of the Code.
- b. Limitation Year. “Limitation Year” means the calendar year.
- c. Plan Benefit. “Plan Benefit” means, as of any date, the amount of a Participant’s benefit as determined under the applicable provisions of the Plan before the application of the limits in Article 12.
- d. Severance From Employment. “Severance From Employment” has occurred when a Participant is no longer an employee of any Employer maintaining the Plan.

Section 12.02. Limit on Accrued Benefits.

For Limitation Years beginning on or after January 1, 2008, in no event shall a Participant’s benefit accrued under the Plan for a Limitation Year exceed the annual dollar limit determined in accordance with Section 415 of the Code and the Treasury Regulations thereunder (the “annual dollar limit”) for that Limitation Year. If a Participant’s Plan Benefit for a Limitation Year beginning on or after January 1, 2008 would exceed the annual dollar limit for that Limitation Year, the accrued benefit, but not the Plan Benefit, shall be frozen or reduced so that the accrued benefit does not exceed the annual dollar limit for that Limitation Year.

Section 12.03. Limits on Benefits Distributed or Paid.

For Limitation Years beginning on or after January 1, 2008, in no event shall the annual amount of benefit distributed or otherwise payable to or with respect to a Participant under the Plan in a Limitation Year exceed the annual dollar limit for that Limitation Year. If the benefit distributable or otherwise payable in a Limitation Year would exceed the annual dollar limit for that Limitation Year, the benefit shall be reduced so that the benefit distributed or otherwise payable does not exceed the annual dollar limit for that Limitation Year.

Section 12.04. Protection of Prior Benefits.

- a. To the extent permitted by law, the application of the provisions of this Article 12 shall not cause the benefit that is accrued, distributed or otherwise payable for any Participant, including the Participant’s annual benefit accrued under the Plan as separately determined for each Individual Employer, to be less than the Participant’s accrued benefit as of December 31, 2007 under the provisions of the Plan that were both adopted and in effect before April 5, 2007 and that satisfied the limitations under Section 415 of the Code and the Treasury Regulations thereunder as in effect as of December 31, 2007.
- b. For any year before 1983, the limitations prescribed by Section 415 of the Code as in effect before enactment of the Tax Equity and Fiscal Responsibility Act of 1982 shall apply, and no benefit earned under this Plan shall be reduced on account of the provisions of this Section if it would have satisfied those limitations under the prior law.
- c. For any year before 1992, the limitations prescribed by Section 415 of the Code as in effect before enactment of the Tax Reform Act of 1986 shall apply, and no benefit earned under this Plan as of the close of the last Limitation Year beginning

before January 1, 1987 shall be reduced on account of the provisions of this Section if it would have satisfied those limitations under the prior law.

Section 12.05. Section 415 Cost of Living Adjustments.

To the extent permitted by law, benefits accrued, distributed or otherwise payable with respect to any Participant while in Covered Employment, and after such Participant's Severance From Employment or the Participant's Annuity Starting Date, if earlier, that are limited by this Article 12 shall be increased annually pursuant to cost of living increases in the annual dollar limit under Section 415(d)(1)(A) of the Code and the Treasury Regulations thereunder; provided, however, that in no event shall any increase under this Section 12.05 cause the amount of a Participant's accrued, distributed or otherwise payable benefit to exceed the amount of the Participant's Plan Benefit.

Section 12.06. Order in Which Limits Are Applied.

Joint and survivor annuities. To the extent permitted by law, a Participant's qualified joint and survivor annuity form of payment and the survivor annuity portion of such form of payment are computed by applying a reduction factor or factors to a Participant's Plan Benefit before the limits under this Article 12 are applied; provided however that the survivor annuity may not exceed the benefit that would have been payable to the Participant after application of the limits in this Article 12.

Section 12.07. Aggregation of Plans.

- a. In the event that the aggregate benefit accrued in any Plan Year by a Participant exceeds the limits under Section 415 of the Code and the Treasury Regulations thereunder as a result of the mandatory aggregation of the benefits under this Plan with the benefits under another plan maintained by the Employer, the benefits of such other plan shall be reduced to the extent necessary to comply with Section 415 of the Code and the Treasury Regulations thereunder. If necessary to observe these limits, benefits under any other defined benefit plans will be reduced before benefits under this plan, but benefits under this plan will be reduced to the extent necessary if benefit under the other plans cannot be reduced.
- b. For purposes of applying the limits of this Section 12.07, if a Participant also participates in another tax-qualified defined benefit plan of the Employer that is not a multiemployer plan, only the benefits under this Plan that are provided by the Employer are aggregated with the benefits under the other plan.

Section 12.08. General.

- a. To the extent that a Participant's benefit is subject to provisions of Section 415 of the Code and the Treasury Regulations thereunder that have not been set forth in the Plan, such provisions are hereby incorporated by reference into this plan and for all purposes shall be deemed a part of the Plan.
- b. This Article 12 is intended to satisfy the requirements imposed by Section 415 of the Code and the Treasury Regulations thereunder and shall be construed in a manner that will effectuate this intent. This Article 12 shall not be construed in a manner that would impose limitations that are more stringent than those required by Section 415 of the Code and the Treasury Regulations thereunder.

- c. If and to the extent that the rules set forth in this Article 12 are no longer required for qualification of the Plan under Section 401(a) and related provisions of the Code and the Treasury Regulations thereunder, they shall cease to apply without the necessity of an amendment to the Plan.

Section 12.09. Interpretation or Definition of Other Terms.

The terms used in this Article 12 that are not otherwise expressly defined for this Article, shall be defined as provided in the Plan, or if not defined in the Plan, shall be defined interpreted and applied for purposes of this Article 12 as prescribed in Section 415 of the Code and the Treasury Regulations thereunder.

ARTICLE 13. SPECIAL PROVISIONS FOR ELIGIBLE ROLLOVER DISTRIBUTIONS

Section 13.01. Purpose. This Article applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Article, a distributee may elect, at the time and in the manner prescribed by the Board to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover (all terms as defined below).

Section 13.02. Definitions.

- a. An "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:
 - (1) Any distribution that is one of a series of substantially equal periodic payments (not less frequent than annually) made for the life (or life expectancy) of the distributee, or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten years or more; or
 - (2) Any distribution to the extent such distribution is required under §401(a)(9) of the Internal Revenue Code; or
 - (3) any hardship distribution; or
 - (4) The portion of any distribution that is not includible in gross income.
- b. An "eligible retirement plan" is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified defined contribution plan described in Section 401(a) of the Code, that accepts the Distributee's Eligible Rollover Distribution. Effective for distributions made after December 31, 2001, an Eligible Retirement Plan also includes an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. Effective for distributions made after December 31, 2007, an Eligible Retirement Plan shall also include a Roth IRA described in Code Section 408A, subject to the restrictions that currently apply to rollovers from a traditional IRA into a Roth IRA.
- c. A. "distributee" includes any Participant or former Participant. In addition, the surviving spouse of a Participant or former Participant and a former spouse of a Participant or former Participant who is the alternate payee under a Qualified Domestic Relations Order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. Effective for distributions after December 31, 2008, a Distributee also includes the Participant's nonspouse designated beneficiary. In the case of a nonspouse beneficiary, the direct rollover may be made only to an individual retirement account or annuity described in Code Section 408(a) or Section 408(b) ("IRA") or a Roth individual retirement account or annuity ("Roth IRA") that is established on behalf of the designated beneficiary and

that will be treated as an inherited IRA pursuant to the provisions of Code Section 402(c)(11).

- d. A “direct rollover” is a payment by the Plan to the eligible retirement plan specified by the distributee.

ARTICLE 14. MISCELLANEOUS

Section 14.01. Non-Reversion. It is expressly understood that in no event shall any of the corpus or assets of the Pension Trust revert to the Employers or be subject to any claims of any kind or nature by the Employers, except for the return of an erroneous contribution due to mistake of fact, which may be returned within six months after the plan administrator determines that the contribution was made by a mistake of fact or law in accordance with Internal Revenue Code § 401(a)(2).

Section 14.02. Gender. Wherever any words are used in this Pension Plan in the masculine gender, they should be construed as though they were also used in the feminine gender in all situations where they would so apply; wherever any words are used in this Pension Plan in the singular form, they should be construed as though they were also in the plural form in all situations where they would so apply, and vice versa.

Section 14.03. Limitation of Liability. This Pension Plan has been established on the basis of an actuarial calculation, which has established, to the extent possible, that the contributions will, if continued, be sufficient to maintain the Plan on a permanent basis, fulfilling the funding requirements of ERISA. Except for liabilities which may result from provisions of ERISA, nothing in this Plan shall be construed to impose any obligation to contribute beyond the obligation of the Employer to make contributions as stipulated in its collective bargaining agreement with the Union.

There shall be no liability upon the Trustees individually, or collectively, or upon the Union to provide the benefits established by this Pension Plan, if the Pension Trust does not have assets to make such payments.

Section 14.04. Addition of New Groups of Employees. The Trustees shall review the relevant actuarial data with respect to any group of employees added to the coverage of this Pension Fund. If the Trustees conclude that modification of previously adopted funding assumptions or changes in the amounts of pension benefits hereunder would result from the inclusion of such group, the appropriate provisions of the Pension Plan shall be modified with respect to the group involved so that the Trust will not be adversely affected by the inclusion of such group for coverage hereunder.

Section 14.05. Termination of a Contributing Employer's Participation.

- a. The provisions of this Section establish the respective obligations of the Fund and of the Employer in the event that an Employer ceases to participate in the Fund as a Contributing Employer with respect to a Bargaining Group.
- b. An Employer ceases to participate in the Fund with respect to a bargaining unit if it is determined by the Trustees to be terminated because it no longer has a Collective Bargaining Agreement for the Bargaining Group requiring contributions to the Fund.
- c. Upon the termination of the participation of an Employer Bargaining Group, the Trustees may, in the interest of preserving the actuarial soundness of the Fund, limit the liability of the Fund so that it is not liable for benefits accrued as a result of service within a Bargaining Group before the Employer participated or after the Employer ceases to participate in the Plan and, moreover, is not liable for benefits that cannot be paid out of "net contributions." "Net contributions" shall be the contributions received from the Employer with respect to the terminated unit, less the sum of benefits paid attributable to services in the terminated unit, each adjusted for

administration expenses and investment yield as determined by the Trustees on a reasonable basis.

Any benefits payable pursuant to the terms of this Plan but for which the Fund is not liable shall be the liability of the Employer.

- d. The Trustees may discharge the liability of the Fund under this Section by allocating assets sufficient to meet their liability for benefits, as defined under Subsection c., and by transferring such assets to a successor plan, if one has been established or maintained by the Employer or to the Pension Benefit Guaranty Corporation or to a Trustee appointed pursuant to Title IV of ERISA.
- e. The Trustees may amend this Section if, and to the extent, necessary to retain the status of the Plan as a “multiemployer” pension plan under ERISA.

Section 14.06. Termination or Partial Termination. The Trustees shall have the right to discontinue or terminate this Plan in whole or in part. In the event of a termination or partial termination of this Plan, the rights of all affected Participants to benefits then accrued, to the extent then funded, shall thereupon become 100% vested and nonforfeitable. Upon a termination or partial termination of the Plan, the Trustees shall take such steps, as they deem necessary or desirable to comply with §§4041A and 4281 of ERISA.

Section 14.07. Mergers, Etc. Subject only to the extent determined by the Pension Benefit Guaranty Corporation, the following shall apply: In the case of any merger or consolidation of the Plan with, or transfer, in whole or in part, of the assets and liabilities of the Pension Fund, to any other pension fund, after September 2, 1974, each Participant shall (if the Plan then terminated) receive a benefit immediately after the merger, consolidation or transfer which is at least equal to the benefit he would be entitled to receive immediately before such merger, consolidation or transfer as if the Plan had then terminated.

ARTICLE 15. AMENDMENT

Section 15.01. Amendment. This Plan may be amended at any time by the Board of Trustees consistent with the provisions of the Trust Agreement. However, no amendment may decrease the accrued benefit of any Participant except:

- a. As necessary to establish or maintain the qualification of the Plan or the Pension Trust Fund under the Internal Revenue Code and to maintain compliance of the Plan with the requirements of ERISA, or
- b. If the amendment meets the requirements of Section 302(c)(8) of ERISA and Section 412(d)(2) of the Internal Revenue Code and the Secretary of Labor has been notified of such amendment and has either approved it, or within 90 days after the date on which such notice was filed, the Secretary of Labor has failed to disapprove it.

ARTICLE 16. MINIMUM DISTRIBUTION REQUIREMENTS

Section 16.01. General Rules.

- a. Effective Date. The provisions of this Article will apply for purposes of determining required minimum distributions for calendar years beginning after December 31, 2005. For purposes of determining minimum required distributions for calendar years 2003, 2004, and 2005, a good faith interpretation of the requirements of Section 401(a)(9) of the Code shall apply.
- b. Precedence.
 - (1) The requirements of this Article will take precedence over any inconsistent provisions of the Plan.
 - (2) This Article does not authorize any distribution options not otherwise provided under the Plan.
- c. Requirements of Treasury Regulations Incorporated. All distributions required under this Article will be determined and made in accordance with the Treasury regulations under Section 401(a)(9) of the Internal Revenue Code.
- d. TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this Article, other than Section 15.01(c), distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.

Section 16.02. Time and Manner of Distribution.

- a. Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.
- b. Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
 - (1) If the Participant's surviving spouse is the Participant's sole designated beneficiary, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
 - (2) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
 - (3) If there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

- (4) If the Participant's surviving spouse is the Participant's sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 16.02.b., other than Section 16.02.b.(1), will apply as if the surviving spouse were the Participant.

For purposes of this Section 16.02 and Section 16.05, distributions are considered to begin on the Participant's Required Beginning Date (or, if Section 16.02.b.(4) applies, the date distributions are required to begin to the surviving spouse under Section 16.02.b.(1)). If annuity payments irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 16.02.b.(1)), the date distributions are considered to begin is the date distributions actually commence.

- c. Form of Distribution. Unless the Participant's interest is distributed in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with Sections 16.03, 16.04 and 16.05 of this Article.

Section 16.03. Determination of Amount to be Distributed Each Year.

- a. General Annuity Requirements. If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:
 - (1) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;
 - (2) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in Section 16.04 or 16.05;
 - (3) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
 - (4) payments will either be nonincreasing or increase only as follows:
 - (a) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
 - (b) to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in Section 16.04 dies or is no longer the Participant's beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p);
 - (c) to provide cash refunds of employee contributions upon the Participant's death; or
 - (d) to pay increased benefits that result from a Plan amendment.

- b. Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Participant's required beginning date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Section 16.02.b(1) or (2)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's required beginning date.
- c. Additional Accruals after First Distribution Calendar Year. Any additional benefits accruing to the Participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

Section 16.04. Requirements for Annuity Distributions that Commence During Participant's Lifetime.

- a. Joint Life Annuities Where the Beneficiary is not the Participant's Spouse. If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a nonspouse beneficiary, annuity payments to be made on or after the Participant's required beginning date to the designated beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6 of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a nonspouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.
- b. Period Certain Annuities. Unless the Participant's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the annuity starting date. If the Participant's spouse is the Participant's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this Section 16.04.b, or the joint life and last survivor expectancy of the Participant and the Participant's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the calendar year that contains the annuity starting date.

Section 16.05. Requirements for Minimum Distributions Where Participant Dies Before Date Distributions Begin.

- a. Participant Survived by Designated Beneficiary. If the Participant dies before the date distribution of his or her interest begins and there is a designated beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in Section 16.02.b.(1) or (2), over the life of the designated beneficiary or over a period certain not exceeding:
 - (1) unless the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or
 - (2) if the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.
- b. No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- c. Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving spouse is the Participant's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Section 16.05 will apply as if the surviving spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Section 16.02.b.(1).

Section 16.06. Definitions.

- a. Designated beneficiary. The individual who is designated as the beneficiary under Section 8.03 of the Plan and is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-4 of the Treasury regulations.
- b. Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Section 16.02.b.
- c. Life expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.
- d. Required Beginning Date. The date specified in Section 1.28 of the Plan.

ARTICLE 17. CONTINGENT TOP HEAVY RULES

Section 17.01 General Rules

If the Plan is determined to be Top-Heavy (as defined in Section 17.02) for any Calendar Year, then for any such year the special vesting, minimum benefit and compensation limitations of Section 17.03 shall apply to any Employee not included in a unit of Employees covered by a Collective Bargaining Agreement between the Union and one or more Employers.

Section 17.02 Determination of Top-Heavy Status

a. Determination Date.

The determination date for any Calendar Year is the last day of the preceding Calendar Year.

b. Top-Heavy Status.

The Plan is Top-Heavy for any Calendar Year if, as of the determination date, the present value of the cumulative accrued benefits under the Plan for Key Employees exceeds 60 percent of the present value of the cumulative accrued benefits under the Plan for all Employees. For this purpose, the Actuarial Equivalent of the cumulative accrued benefits will be determined on the basis of five percent (5%) interest and the 1971 Group Annuity Mortality table.

c. Key Employees.

A Key Employee means any Employee or former Employee (including any deceased Employee) who at any time during the Calendar Year that includes the determination date was an officer of the Employer having annual compensation greater than \$130,000 (as adjusted under IRC Section 416(i)(1) for Calendar Years beginning after December 31, 2002), a 5-percent owner of the Employer, or a 1-percent owner of the Employer having annual compensation of more than \$150,000. For this purpose, annual compensation means compensation within the meaning of IRC Section 415(c)(3). The determination of who is a Key Employee will be made in accordance with IRC Section 416(i)(1) and the applicable regulations and other guidance of general applicability issued thereunder.

d. Aggregation Rules.

In determining if the Plan is Top-Heavy, the Plan shall be aggregated with each other plan in the required aggregation group as defined in Section 416(g)(2)(A)(i) of the Internal Revenue Code and may, in the Trustees' discretion, be aggregated with any other plan in the permissive aggregation group as defined in Section 416 (g)(2)(A)(ii) of the Internal Revenue Code. Required aggregation group means each plan of an employer in which a key Employee is a Participant and each other plan of that employer which enables each said plan to meet the requirements of Internal Revenue Code Sections 401(a)(4) of 410. Permissive aggregation group means each plan of an employer not within the required aggregation group of the employer which if included with such group would allow such group to meet the requirements of Internal Revenue Code Sections 401(a)(4) or 410.

e. Special Rules.

- (1) Distributions During Year Ending on the Determination Date. The present values of accrued benefits and the amounts of account balances of an Employee as of the determination date shall be increased by the distributions made with respect to the Employee under the Plan and any plan aggregated with the Plan under IRC Section 416(g)(2) during the one-year period ending on the determination date. The preceding sentence also shall apply to distributions under a terminated plan which, had it not been terminated, would have been aggregated with the Plan under IRC Section 416(g)(2)(A)(i). In the case of a distribution made for a reason other than severance of employment, death, or disability, this provision shall be applied by substituting “five-year period” for “one-year period.”
- (2) If an individual is not a Key Employee for any Calendar Year but was a Key Employee for any prior Calendar Year, any accrued benefit for such Employee shall not be taken into account for purposes of determining if the Plan is Top-Heavy.
- (3) For purposes of this Article 17, “Compensation” for a Calendar Year means the amount required to be included in the Employee’s Form W-2 for the Calendar Year.
- (4) The Board is authorized to adopt any other rules or regulations necessary to insure that the Plan complies in all respects with the Top-Heavy rules of the Internal Revenue Code.

Section 17.03 Special Vesting, Minimum Benefit, and Compensation Rules

The following rules will apply only to Employees not included in a unit of Employees covered by a Collective Bargaining Agreement requiring Contribution to this Plan, and only if the Plan as a whole becomes Top-Heavy. Such Employees are referred to herein as Top-Heavy Employees.

a. Vesting.

- (1) Applicability. If the Plan becomes Top-Heavy the vesting schedule set forth in paragraph a.(2) below shall apply to the accrued benefit of every Top-Heavy Employee who has at least one Hour of Service while the Plan is Top-Heavy. Participants who do not have an Hour of Service while the Plan is Top-Heavy will have their vesting determined under the regular vesting schedule. Any accrued benefits which were forfeited before the Plan became Top-Heavy will remain forfeited.
- (2) Special Vesting Schedule. If the Plan becomes Top-Heavy, the following vesting schedule shall apply instead of the Plan’s regular vesting schedule to the Participants defined in paragraph (1):

<u>Years of Vesting Service</u>	<u>Percentage</u>
2	20
3	40
4	60
5 or more	100

- (3) End of Top-Heavy Status. If, after being determined to be Top-Heavy, the Plan ceases to be Top-Heavy, then
 - (a) The non-forfeitable percentage of a Participant's accrued benefit before the Plan ceased to be Top-Heavy will not be reduced;
 - (b) Any Top-Heavy Employee with three or more Years of Credited Service at the time the Plan ceased to be Top-Heavy will have the vesting schedule of paragraph (2) above applied to his accrued benefits whenever earned; and
 - (c) Any Top-Heavy Employee with less than three Years of Credited Service at the time the Plan ceased to be Top-Heavy will have the Plan's regular vesting provisions apply to all benefits accrued after the Plan ceased to be Top-Heavy.

b. Special Minimum Benefit Rules.

- (1) Applicability. If the Plan becomes Top-Heavy, then for the first year that the Plan is Top-Heavy, and for all subsequent years during which it is Top-Heavy, the minimum benefit set forth in paragraph b.(2) below shall apply to all Top-Heavy Employees (other than Key Employees) who have a Year of Credited Service during any such Calendar Year.
- (2) Special Minimum Benefit. If the Plan becomes Top-Heavy, the minimum Regular Pension benefit for Top-Heavy Employees (other than Key Employees) shall be the greater of (a) the Plan's basic Regular Pension benefit determined under Section 3.03, or (b) two percent of the Participant's Average Top-Heavy Compensation for each Year of Credited Service beginning after December 31, 1983 during which the Plan was Top-Heavy, up to a maximum of 10 such years.
- (3) Average Top-Heavy Compensation shall mean the average Compensation for work performed while a Participant in this Plan for the period of consecutive Top-Heavy Years, not exceeding five, during which the Participant had the greatest aggregate Compensation. Top-Heavy Years are those Calendar Years beginning on or after January 1, 1984 for which the Plan is determined to be Top-Heavy.

c. Compensation Limitation.

If the Plan is Top-Heavy for any Calendar Year beginning on or after January 1, 1984, the amount of any Top-Heavy Employee's Compensation for all purposes of the Plan other than determining Key Employee status shall not exceed the limits established under Section 401(a)(17) of the Internal Revenue Code.

APPENDIX A

NON-RECURRING RETIREE BENEFIT SUPPLEMENTS

Section 1. General. Unless stated to the contrary, non-recurring retiree benefit supplements are subject to the following provisions:

- a. Non-recurring retiree benefit supplements are one-time lump sum payments granted to Eligible Pensioners and Beneficiaries. For purposes of this Appendix A, "Eligible Pensioners and Beneficiaries" are those whose benefits are based upon at least 10 Years of Credited Service with the Bay Area Painters and Tapers Pension Plan (exclusive of any credits earned under a Related or Signatory Plan as provided for under Articles 4 and 5). "Eligible Pensioners and Beneficiaries" shall not include alternate payees receiving benefits pursuant to a qualified domestic relations order.
- b. Non-recurring retiree benefit supplements shall be payable as follows:
 - (1) 100% of the non-recurring retiree benefit supplement for Pensioners.
 - (2) 100% of the non-recurring retiree benefit supplement for Beneficiaries in receipt of benefits under Sections 8.01, 8.03, 8.04 or 8.05.a.
 - (3) 75% of the non-recurring retiree benefit supplement for Beneficiaries in receipt of benefits under Section 8.05.b.
 - (4) 50% of the non-recurring retiree benefit supplement for Beneficiaries in receipt of benefits under Article 7.
- c. Notwithstanding any other provision of this Section 1, the issuance of a non-recurring retiree benefit supplement in no way implies that future non-recurring retiree benefit supplements will be issued or that any particular set of rules shall be used to determine eligibility for any such future benefit supplements.

Section 2. Eligible Pensioners and Beneficiaries whose pensions were effective prior to January 1, 1994 and who qualify for a benefit payment during the month of December 1994 will be entitled to a one-time supplemental check based upon a principal amount of \$500.

Section 3. Eligible Pensioners and Beneficiaries whose pensions were effective prior to January 1, 1994 and who qualify for a benefit payment during the month of December 1994 will be entitled to a one-time supplemental check based upon a principal amount of \$1,000.

Section 4. Eligible Pensioners and Beneficiaries whose pensions were effective prior to January 1, 1998 and who qualify for a benefit payment during the month of November 1998 will be entitled to a one-time supplemental check based upon a principal amount of \$1,250.

Section 5. Eligible Pensioners and Beneficiaries whose pensions were effective prior to January 1, 1999 and who qualify for a benefit payment during the month of November 1999 will be entitled to a one-time supplemental check based upon the amount of their regular monthly benefit.

Section 6. Eligible Pensioners and Beneficiaries whose pensions were effective prior to January 1, 2000 and who qualify for a benefit payment during the month of November 2000 will be entitled to a one-time supplemental check based upon the amount of their regular monthly benefit.

APPENDIX B

RECURRING RETIREE BENEFIT SUPPLEMENTS

Section 1. General. Unless stated to the contrary, recurring retiree benefit supplements are subject to the following provisions:

- a. Recurring retiree benefit supplements are one-time lump sum payments granted to Eligible Pensioners and Beneficiaries. For purposes of this Appendix B, "Eligible Pensioners and Beneficiaries" are those whose benefits are based upon at least 10 Years of Credited Service with the Bay Area Painters and Tapers Pension Plan (exclusive of any credits earned under a Related or Signatory Plan as provided for under Articles 4 and 5). "Eligible Pensioners and Beneficiaries" shall not include alternate payees receiving benefits pursuant to a qualified domestic relations order.
- b. If the recurring retiree benefit supplement is described as a percentage increase, all Eligible Pensioners and Beneficiaries shall have their monthly benefits increased by the stated percentage. If the recurring retiree benefit supplement is described as a principal dollar amount, it shall be payable as follows:
 - (1) 100% of the non-recurring retiree benefit supplement for Pensioners.
 - (2) 100% of the non-recurring retiree benefit supplement for Beneficiaries in receipt of benefits under Sections 8.01, 8.03, 8.04 or 8.05.a.
 - (3) 75% of the non-recurring retiree benefit supplement for Beneficiaries in receipt of benefits under Section 8.05.b.
 - (4) 50% of the non-recurring retiree benefit supplement for Beneficiaries in receipt of benefits under Article 7.

Section 2. Eligible Pensioners and Beneficiaries on the rolls as of December 31, 1993 shall have their monthly benefits increased based upon a principal amount of \$40.

Section 3. Eligible Pensioners and Beneficiaries on the rolls as of December 31, 1996 shall have their monthly benefits increased based upon a principal amount of \$20.

Section 4. Eligible Pensioners and Beneficiaries on the rolls as of December 31, 1997 shall have their monthly benefits increased by 2% effective January 1, 1999.

Section 5. Eligible Pensioners and Beneficiaries on the rolls as of December 31, 1998 shall have their monthly benefits increased by 2% effective January 1, 1999.

APPENDIX C

MERGER RULES FOR SAN JOAQUIN COUNTY PAINTERS PENSION PLAN

The following special rules will be applied to effectuate the merger of the Pension Plan for the San Joaquin County Painters Pension Trust Fund into the Plan effective June 1, 2008.

1. Assumption of Liabilities. This Plan assumes the Pension Plan for the San Joaquin County Painters Pension Trust Fund's obligations to pay its benefits which were accrued prior to June 1, 2008, in accordance with the terms of that plan in effect on May 31, 2008. No benefits will accrue under that plan after May 31, 2008, but benefits already accrued will continue to vest as provided in that plan.
2. Power to Amend. If after May 31, 2008, it is necessary to amend the terms of the Pension Plan for the San Joaquin County Painters Pension Trust Fund to retain this Plan's tax qualified status, this Plan shall have full authority to make such amendments.
3. Benefits Preserved. To the extent required by law or Internal Revenue Service regulations, the merger shall not eliminate or reduce the accrued benefit of any participant or beneficiary under the Pension Plan for the San Joaquin County Painters Pension Trust Fund as of May 31, 2008, specifically including any early retirement benefit or retirement-type subsidy or optional forms of benefits applicable to such accrued benefits.
4. Vesting of Benefits Accrued Under San Joaquin County Painters Pension Plan. With respect to benefits accrued under the Pension Plan for the San Joaquin County Painters Pension Trust Fund through May 31, 2008, the vesting schedule of that plan in effect on May 31, 2008, shall continue to apply to those benefits. However, effective June 1, 2008, all Covered Employment under this Plan shall be considered Covered Employment under the Pension Plan for the San Joaquin County Painters Pension Trust Fund for vesting and break in service purposes. The vesting provisions of any reciprocity agreement between the plans will continue to be applied to benefits accrued prior to June 1, 2008, the same as if the merger had not occurred.
5. Incorporation By Reference. In order to assure that all benefits earned under the Pension Plan for the San Joaquin County Painters Pension Trust Fund prior to June 1, 2008, are maintained, that plan, as it exists on May 31, 2008, is hereby incorporated into this Plan by reference to the extent necessary to preserve those benefits.
6. Merger with San Joaquin County Painters Pension Plan. In accordance with the regulations of the Pension Benefit Guaranty Corporation the following withdrawal liability provisions will apply after merger of the Pension Plan for the San Joaquin County Painters Pension Trust Fund into this Plan:
 - (a) The statutory allocation method shall be the presumptive allocation method of ERISA Section 4211(b) as prescribed in PBGC Regulations § 4211.31.
 - (b) If an Employer withdraws from the Plan on or after June 1, 2008 and before January 1, 2010, in accordance with PBGC Regulation § 4211.37, the amount of unfunded vested benefits allocatable to the Employer shall be determined as if each of the plans had remained separate plans, each using the presumptive allocation method of ERISA Section 4211(b).

- (c) If an Employer withdraws from the Plan on or after January 1, 2010, in accordance with Regulation § 4211.32, the amount of unfunded vested benefits allocatable to the Employer shall be the sum of the following:
- (i) the Employer's proportional share of the unamortized amount of the Plan's unfunded vested benefits for the Plan year beginning January 1, 2009 as determined under PBGC Regulation § 4211.32(b); plus
 - (ii) the Employer's proportional share of the unamortized amount of the change in the plan's unfunded vested benefits for Plan years ending after January 1, 2010, as determined under PBGC Regulation § 4211.32(c); plus
 - (iii) the Employer's proportional share of the unamortized amounts of the reallocated unfunded vested benefits as determined under PBGC Regulation § 4211.32(d), for each Plan Year ending before one Plan Year in which the Employer withdrawal from the Plan.
- (d) On and after the effective date of the merger, the Board of Trustees of this Plan shall have full power and authority to make all withdrawal liability assessments with respect to the Pension Plan for the San Joaquin County Painters Pension Trust Fund whether the withdrawal happened before or after the effective date of the merger.

APPENDIX D

MERGER RULES FOR NON-BARGAINING EMPLOYEES RETIREMENT PLAN

The following special rules will be applied to effectuate the merger of the Non-Bargaining Employees Retirement Plan into the Plan effective March 5, 2009.

1. Assumption of Liabilities. The Plan assumes the Non-Bargaining Employees Retirement Plan's obligation to pay its benefits which were accrued prior to March 5, 2009 in accordance with the terms of that plan in effect on March 5, 2009. No benefits have accrued under that plan since 2003 when the Employer ceased having employees. Benefits already accrued will continue to be 100% vested.
2. Power to Amend. If after March 5, 2009, it is necessary to amend the terms of the Non-Bargaining Employees Retirement Plan to retain this Plan's tax qualified status, this Plan shall have full authority to make such amendments.
3. Benefits Preserved. To the extent required by law or Internal Revenue Service regulations, the merger shall not eliminate or reduce the accrued benefit of any participant or beneficiary under the Non-Bargaining Employees Retirement Plan as of March 5, 2009, specifically including any early retirement benefit or retirement-type subsidy or optional forms of benefits applicable to such accrued benefits, except as permitted by law.
4. Incorporation By Reference. In order to assure that all benefits earned under the Non-Bargaining Employees Retirement Plan prior to March 5, 2009, are maintained, that plan as it exists on March 5, 2009, is hereby incorporated into this Plan by reference to the extent necessary to preserve those benefits.

PENSION PLAN
for the
BAY AREA PAINTERS AND TAPERS PENSION TRUST FUND
RESTATED PLAN
(NINTH RESTATEMENT)
(Restated Effective January 1, 2019)

In accordance with Section 15.01 of the Bay Area Painters and Tapers Pension Plan, the Board of Trustees of the Bay Area Painters and Tapers Pension Trust Fund does hereby adopt the Ninth Restatement of the Pension Plan.

Bay Area Painters and Tapers Pension Trust Fund

Chairman

Secretary

Date

Date