

**U.A. LOCAL NO. 393**  
**DEFINED BENEFIT PENSION PLAN**

**FORMAL PLAN TEXT**  
**REVISED AS OF NOVEMBER 1, 2021**



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**U. A. LOCAL NO. 393 DEFINED BENEFIT PENSION PLAN "PART A"**  
(As Amended and Restated Effective November 1, 2021)

**FORMAL PLAN TEXT**

**ARTICLE I - DEFINITIONS**

1. **Actuarial Equivalent:** unless otherwise specified for a particular benefit, means the present value of a payment or series of payments to a person or persons that has the same present value as another payment or series of payments, based upon the UP 1984 Table of Mortality with interest at the rate of eight (8%) percent per annum.
2. **Annuity Commencement Date means:**
  - (a) The first day of the first period for which an amount is payable as an annuity; or
  - (b) The first day on which a benefit is payable in a form other than an annuity when all events have occurred which entitle the Participant to the benefit; or
  - (c) The first day of the first period for which a benefit is payable by reason of disability, but only if the benefit is not an auxiliary benefit.
3. **Employee:** means any person in one of the following categories, if that person has performed sufficient Credited Service in a Plan Year to accrue Vesting Credit and not thereafter suffered a one-year break in service:
  - (a) Any person who performs or has performed employment in a classification covered by a Collective Bargaining Agreement which requires contributions to be made to this Plan for such employment; or
  - (b) Any person who is employed in a paid position for U. A. Local No. 393, for the U. A. Local No. 393 apprentice training program, or for any related entity approved by the Trustees, for which position the Employee's employer has agreed to make contributions to this Plan. The total number of non-bargaining unit employees participating pursuant to this Section may not exceed the maximum number permitted under Treasury Regulation Section 1.410(b)-6(d)(2)(ii) or any successor rule. To comply with this limitation, the Trustees may decline to accept contributions tendered for non-bargaining unit employees and/or may retroactively refund such contributions. In

accordance with applicable Department of Labor regulations, any such refund shall not include interest.

4. **Employer:** means any individual who, or entity which, has executed a Collective Bargaining Agreement requiring contributions to be made to this Plan. Employer also means U. A. Local No. 393, the U. A. Local No. 393 apprentice training program, or a related entity approved by the Trustees.

5. **Compensation:** means the total amount of all payments made by the Employer to an Employee for services rendered to the Employer, including commissions, overtime pay, bonuses, but compensation shall not include director's fees, contributions made by the Employer under the Plan, payments made by the Employer for group insurance, hospitalization and like benefits, nor contributions made by the Employer under any other employee benefit plan it maintains. Furthermore, for purposes of a contribution or an allocation under the Plan based on compensation, compensation shall only include amounts actually paid an Employee during the period he or she is a Participant in the Plan.

Effective July 1, 2002, the annual compensation of each Participant taken into account under the Plan for any year shall not exceed Two Hundred Thousand Dollars (\$200,000), as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. Annual compensation means compensation during the Plan Year or such other consecutive 12 month period over which compensation is otherwise determined under the Plan (the determination period). 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. Until July 1, 2002, the annual compensation of each Participant taken into account under the Plan shall not exceed One Hundred Fifty Thousand Dollars (\$150,000).

6. **Contiguous service:** means employment by an Employer maintaining the plan, in a position not covered by a Collective Bargaining Agreement with U. A. Local No. 393, which immediately precedes or follows covered employment without a quit, retirement or discharge between the covered and non-covered employment.

7. **Credited Service:** except where specifically defined for a particular purpose, means employment in a position for which contributions are required to be made to this Plan.

8. **Industry Service:** and "Employment in the Plumbing and Pipefitting Industry" means Industry Service [Section 202(a)(3)(B) Service] as that term is used in 29 C.F.R. § 2530.203-3(c)(2) and any paid employment for U. A. Local No. 393 or a related entity in a position for which contributions are made to this Plan, except that it shall not include any employment as the following:

- (a) An inspector for any public agency (including plumbing or mechanical inspector), in a position not involving the use of the tools of the trade, whether employed directly or indirectly by the public agency; or
- (b) Employment for a retail store in a position not involving the installation of plumbing facilities.

9. **Normal Retirement Age:** means age 65, or if later, the age of the Participant on the fifth anniversary of his participation. Participation before a permanent break in service and participation before a temporary break in service in the case of a former Participant who has not returned to Covered Employment and reestablished participation shall not be counted.

10. **Normal Retirement Benefit:** means the monthly benefit payable under a Single Life Annuity under the Plan, for a single Participant who retires under Normal Retirement upon reaching Normal Retirement Age.

11. **Gender:** Whenever one of the pronouns "he" or "she," or one of the possessive pronouns "his" or "her" is used alone in the Plan, it shall be understood as including persons of any gender, to the end that the same rights under the Plan shall be enjoyed by covered Employees and beneficiaries of any gender.

12. **Collective Bargaining Agreement:** means the Master Labor Agreement of U. A. Local No. 393, any other labor agreement or project agreement of U. A. Local No. 393, or any labor agreement or project agreement providing for payment of contributions to this Plan.

13. **Plan Year:** For all years starting on or after January 1, 1980, Plan Year means the calendar year. For the Plan Year Ending December 31, 1979, Plan Year means the period from July 1, 1978, through December 31, 1979. For all years prior to that, Plan Years means the twelve-month period commencing on July 1st of a calendar year and ending on June 30 of the next calendar year. Any reference to a Plan Year by a calendar year means the Plan Year ending during that calendar year.

14. **Hour:**

- (a) For purposes of Vesting Credits, an Hour means any actual hour of employment, or time treated as employment, under Article IV, Section 1.
- (b) For purposes of meeting the minimum allowable hours of Credited Service under Article IX only, an Hour of Credited Service means an hour of employment for which contributions were required to be made to this Plan.

- (c) For purposes of Benefit Credit, Hour means an hour of employment for which contributions were made to this Plan, or after July 1, 1969, for which contributions were required to be made to this Plan, or other time which is treated as employment under Article V, Section 2, except as follows. If an Employee worked under a collective bargaining agreement other than the Master Labor Agreement, the number of Hours with which an Employee shall be credited shall be adjusted proportionally to reflect the difference between the contribution rates of the two agreements.

15. **Domestic Partner:** means: Pursuant to Section 297 of the California Family Code, two adults who established a domestic partnership in California by filing a Declaration of Domestic Partnership with the Secretary of State. At the time of filing, all of the following requirements must be met:

- (a) Both persons have a common residence;
- (b) Neither person is married to someone else or is a member of another domestic partnership;
- (c) The two persons are not related by blood in a way that would prevent them from being married to each other in this state;
- (d) Both persons are capable of consenting to the domestic partnership; and
- (e) Either of the following must be true:
  - (i) Both persons are members of the same sex, or
  - (ii) If they are of opposite sex, at least one person is over the age of 62 and qualifies for certain Medicare and Social Security benefits.

A Participant's Domestic Partner will not be eligible for Domestic Partner benefits until the Administration Office has been provided with a copy of the official Certificate of Registration of Domestic Partnership.

16. **Participant:** Any Employee or former Employee who is or may become eligible to receive a benefit from this plan or whose beneficiaries may be eligible to receive a benefit.

17. **Related Plan:** Any Plan that is signatory to a reciprocity agreement to which this Plan is also signatory, including the United Association Pension Fund

Reciprocal Agreement and the Plumbers and Pipefitters National Pension Fund Optional Pro Rata/Partial Pension Addendum. By resolution duly adopted the Board of Trustees may recognize any other Plan as a related Plan.

18. **Spouse:** means the person to whom the Participant is legally married. Notwithstanding any other Plan provision to the contrary, effective as of June 26, 2013, a Spouse shall include the same-sex spouse of a Participant, provided the marriage was validly entered into in a state whose laws authorize the marriage of two individuals of the same sex and regardless of whether the individuals are domiciled in a state that does not recognize the validity of same-sex marriages.

19. All other terms not defined in this Plan shall have the meaning ascribed to that term in the Trust Agreement, or in an applicable Collective Bargaining Agreement.

## **ARTICLE II - RETIREMENT PLANS NOS. 1 AND 2**

1. Retirement Plan No. 1. All retired Employees who were age 65 before July 1, 1956 retired under Plan No. 1.

2. Retirement Plan No. 2. All other Employees who did not retire under Plan No. 1 are Participants in Plan No. 2. The remaining provisions of this Plan constitute Plan No. 2.

## **ARTICLE III - ELIGIBILITY FOR PARTICIPATION**

1. **Eligibility:** All Employees of all Employers, as those terms are defined herein, are eligible to participate in this Plan, except that an Employee who has an ownership interest in an Employer may continue to participate in this Plan only if the following criteria are met:

- (a) The Employer is incorporated;
- (b) The Employer is a signatory to a collective bargaining agreement with U.A. Local 393;
- (c) The Employer signs a written participation agreement;
- (d) The Employer's participation is approved by the Trustees or a designated committee of Trustees;
- (e) The Employee has earned at least 10 Vesting Credits in this Plan;

(f) The Employer contributes on behalf of all Employees who are eligible to participate in this Plan; and

(g) The Employee's participation is otherwise in accordance with applicable law.

#### **ARTICLE IV - VESTING**

1. **Vesting Credit.** Credited Service for purposes of Vesting shall include the following:

- (a) All Prior Service, Past or Future, based on hours credited during the period July 1, 1956, to June 30, 1976, by reason of employment by an Individual Employer as defined in the Trust Agreement under a Collective Bargaining Agreement of either U. A. Local Nos. 393 or 467.
- (b) All Future Service on or after July 1, 1976, based on the following:
  - (i) Each hour for which the Employee is paid or entitled to be paid under a Collective Bargaining Agreement with U. A. Local No. 393 by an Individual Employer, for work actually performed, for paid vacations, paid holidays, or paid leaves of absence, or for awards of back pay for such work or absences; and
  - (ii) Each hour of employment as a full-time representative of the Union, as Coordinator, Director, or full-time paid instructor of the U. A. Local No. 393 Apprentice Training Program, or as Executive Secretary of the Santa Clara Building and Construction Trades Council, for work actually performed, for paid vacations, paid holidays, or paid leaves of absence, or for awards of back pay for such work or absences during any period when contributions were required to be made to this Plan for employment in those positions; and
  - (iii) Each hour of contiguous employment for an Individual Employer upon work not covered under a Collective Bargaining Agreement; and
  - (iv) Each hour of credit recognized under a pro-rata reciprocal agreement with another pension trust fund affiliated with the U. A.; or
  - (v) Any combination of the above.

Such hours shall be credited as provided in Department of Labor Regulation § 2530.200b-2.



- (c) All Vesting Credit conferred under Article V, Section 2(c) for qualifying military service.
- (d) Additional Vesting Credit for Newly-Organized Employees
  - (i) Notwithstanding the above, a new Employee who becomes a Participant in this Plan because of organizing by U.A. Local No. 393 shall be granted an additional 50 hours of Vesting Credit in accordance with the following rules. An Employee shall be eligible for this additional 50 hours of Vesting Credit immediately upon notice to the Trust Fund by the Union that, as a part of an organizing effort by the U.A. Local 393 the Employee left employment with a non-contributing employer for employment by a contributing Employer or the Employee's Employer is newly contributing.

2. **Years of Vesting Credit.**

- (a) For all purposes other than application of Section 3(e) of this Article, the following rules apply: Prior to January 1, 1998, each Employee shall receive one-tenth of a Year credit for each 100 hours of Future Service, up to a maximum of one (1.0) Year of Vesting Credit per Plan Year, except for Plan Year 1979. For the Plan Year 1979, each Employee shall receive one-tenth of a Year credit for each 100 hours of Future Service from July 1, 1978, through June 30, 1979, up to a maximum of one (1.0) Year of Vesting Credit for that period, and one-tenth of a Year credit for each 100 hours of Future Service from July 1, 1979, through December 30, 1979, up to a maximum of one (1.0) Year of Vesting Credit for that period. Effective January 1, 1998 through December 31, 2007, each Employee shall receive three-tenths of a Year credit for 300 hours of Future Service, and one-tenth of a Year additional credit for each additional 100 hours, up to a maximum of one (1.0) Year of Vesting Credit per Plan Year. Effective January 1, 2008, each Employee shall receive one-tenth of a Year credit for 100 hours of Future Service up to a maximum of one (1.0) Year of Vesting Credit per Plan Year.
- (b) For purposes of application of Section 3(e) of this Article only, each Employee shall be entitled to one Year of Vesting Credit for any Plan Year in which the Employee performs 1000 or more hours of Future Service, with no credit for less than 1000 hours.

3. **Vesting.** An Employee's interest under Retirement Plan No. 2 shall vest when:

- (a) The Employee has ten (10) Years of Vesting Credit, regardless of age; or
- (b) Effective January 1, 1989, the Employee has 5 Years of Vesting Credit for employment as an Employee under the Plan in a position not covered under a Collective Bargaining Agreement with U. A. Local No. 393, or Future Service contiguous thereto, regardless of age; or
- (c) The Employee has attained age 70 on or after July 1, 1969, and has not less than seven (7) Years of Vesting Credit; or
- (d) The Employee has, regardless of the number of Years of Vesting Credit, attained age 65 and reached the tenth (10th) anniversary of his or her employment without a break in service in effect as provided in Section 5 of this Article, or, effective January 1, 1989, for Employees who have one or more hours of covered employment after that date, he or she has attained age 65 and the fifth (5th) anniversary of his or her employment without a break in service in effect; or
- (e) Effective January 1, 1999, the Employee has accrued five Years of Vesting Credit, counting only Years of 1000 Hours under Section 2(b) of this Article, and the Employee has satisfied one of the following tests:
  - (i) The Employee performed 300 hours of Covered Employment in the Plan Year commencing January 1, 1998, and at least one hour of Covered Employment in the Plan Year commencing on January 1, 1999, or
  - (ii) The Employee performed at least 300 hours of Covered Employment in the Plan Year commencing January 1, 1999, or any Plan Year thereafter.

4. **Disability.** Any Employee with five (5) or more Years of Vesting Credit, who has become totally disabled by reason of illness or injury, whether temporarily or permanently, from performing work of the type covered under a Collective Bargaining Agreement shall earn one-quarter (1/4) Year of Vesting Credit for each full year of disability, or proportional fractions thereof for partial years of disability. Such Vesting Credit shall count only toward vesting under any of Sections 3(a)-(d) of this Article and not toward vesting under Section 3(e) or toward accrual of benefits, and may not exceed the total number of Years of Vesting Credit which, when added to those years already credited prior to the onset of disability, are now or hereafter may be required for vesting. If an Employee returns to Industry Service, his or her accrual of credits under this Section shall cease at that time. Effective October 17, 1989, if an Employee who has returned to Industry Service becomes disabled again, the Employee may accrue

credits under this Section at that time if his or her Industry Service immediately preceding such later disability was either as an Employee or Employer under this Plan.

**5. Breaks In Service.**

(a) (i) Breaks in service commencing on or before July 1, 1976, shall be determined by the break in service rule in effect when the Employee last worked in Credited Service, except for temporary breaks in service in effect on July 1, 1976, if the Employee returned to Credited Service on or after July 1, 1976, but before the temporary break in service became permanent under the rules in effect when the break in service began.

(ii) Breaks in service for any Employee who performed at least one hour of Credited Service on or after July 1, 1976, shall be determined by the following rules, except for breaks in service commencing on or before July 1, 1976, which, when the Employee returned to Credited Service, were already permanent breaks in service under the break in service rules in effect when the break in service began.

(A) An Employee whose interest has not vested and who fails to be credited with at least one hundred (100) hours of Vesting Credit during a Plan Year commencing prior to January 1, 1998, or at least three hundred (300) hours of Vesting Credit during a Plan Year commencing on or after January 1, 1998, shall suffer a one-year break in service.

(B) For any Employee whose first year of a break in service commenced on or after July 1, 1977, but before December 31, 1990, such break in service shall become permanent if the number of consecutive one-year breaks in service equals or exceeds the greater of seven (7) Plan Years or the number of Plan Years equal to the number of Years of Vesting Credit accumulated by the Employee prior to the break in service. For any Employee whose first year of a break in service is 1991 or later, such break in service shall become permanent if the number of consecutive one-year breaks in service equals or exceeds the greater of five (5) Plan Years or the number of Plan Years equal to the number of Years of Vesting Credit accumulated by the Employee prior to the break in service.

(iii) No person's Vesting and Benefit Credits accrued before a break in service shall be counted unless, before the break in service becomes permanent, the person returns to Covered

Employment and performs sufficient hours of Covered Employment in a Plan Year to accrue at least the minimum amount of Vesting Credit then allowed. No person's Vesting and Benefit Credits accrued before a permanent break in service began shall be counted for any purposes under this Plan.

- (b) Years of service lost by reason of any prior break in service shall not be taken into account in determining any break in service occurring thereafter.
- (c) The Plan Years during which a break in service would otherwise occur will be extended by any Plan Year during which the Employee is:
  - (i) Continuously incapacitated by sickness or injury from working at the Plumbing and Pipe Fitting trade;
  - (ii) Employed within the counties of Santa Clara or San Benito, on the type of work covered by a Collective Bargaining Agreement with U. A. Local No. 393, either by a public agency which does not contribute to the Pension Fund or by an Individual Employer whose Collective Bargaining Agreement with U. A. Local No. 393 does not require payment into the Pension Fund; or
  - (iii) In military service, provided that, in one of the two years following his or her discharge, the Employee returns to covered employment and earns the then-applicable minimum Vesting Credit under Section 2(a) of this Article.
  - (iv) For calendar years 2009-2011, was employed by Stanford University in the type of work covered by a Collective Bargaining Agreement.

The Board of Trustees may at any time require any Employee claiming the benefit of the above exemptions to submit proof in support of his or her claim, and the Board shall be the final judge of the sufficiency thereof.

- (d) No break in service shall occur during any Plan Year in which the Employee is unable, by reason of pregnancy, birth of a child, adoption of a child, or caring for such child for a period immediately after the birth or placement, to perform the minimum Credited Service to receive any Vesting Credit for that Plan Year. Time so credited shall be counted in the Plan Year in which the absence from

work begins only when necessary to prevent a break in service in that Plan Year, otherwise in the Plan Year next following.

- (e) Time credited in Subsections (c) and (d) shall be counted only for purposes of preventing a break in service and not for any other purpose.

## **ARTICLE V - ACCRUAL OF BENEFITS**

1. **Prior Service.** Benefit Credit shall be allowed for all service previously credited to an Employee in accordance with the U. A. Locals Nos. 393 and 467 Combined Pension Plan, in effect prior to July 1, 1976, including:

- (a) Past Service as provided in said prior Combined Pension Plan, and
- (b) Future Service, by reason of all employment during the period from July 1, 1956 to June 30, 1976, under a Collective Bargaining contract with U. A. Local Union No. 393 or U. A. Local Union No. 467, requiring payment into this Trust Fund in accordance with the following schedule:

- (i) For all hours worked prior to July 1, 1972:

| <b>Hours Credited</b> | <b>Benefit Credit</b> |
|-----------------------|-----------------------|
| 1500 or more          | 1.0 Year              |
| 1100 through 1499     | 0.75 Year             |
| 700 through 1099      | 0.50 Year             |
| 300 through 699       | 0.25 Year             |

- (ii) For all hours worked on or after July 1, 1972, but prior to July 1, 1976:

(A) Hours worked during any Plan Year prior to attainment of age 55:

| <b>Hours Credited</b> | <b>Benefit Credit</b> |
|-----------------------|-----------------------|
| 120 but less than 240 | .1                    |
| 240 but less than 360 | .2                    |
| 360 but less than 480 | .3                    |
| 480 but less than 600 | .4                    |
| 600 but less than 720 | .5                    |

| <b>Hours Credited</b>   | <b>Benefit Credit</b> |
|-------------------------|-----------------------|
| 720 but less than 840   | .6                    |
| 840 but less than 960   | .7                    |
| 960 but less than 1080  | .8                    |
| 1080 but less than 1200 | .9                    |
| 1200 and over           | 1.0                   |

(B) Hours worked during any Plan Year on or after attainment of age 55:

| <b>Hours Credited</b>  | <b>Benefit Credit</b> |
|------------------------|-----------------------|
| 100 but less than 200  | .1                    |
| 200 but less than 300  | .2                    |
| 300 but less than 400  | .3                    |
| 400 but less than 500  | .4                    |
| 500 but less than 600  | .5                    |
| 600 but less than 700  | .6                    |
| 700 but less than 800  | .7                    |
| 800 but less than 900  | .8                    |
| 900 but less than 1000 | .9                    |
| 1000 or more           | 1.0                   |

## 2. **Future Service.**

(a) Except as provided in Subsection (b) of this Section, effective July 1, 1976, for all Employees thereafter retiring, Benefit Credit shall be granted in the following amounts for all hours worked for work as an Employee under the Plan or for paid vacation, paid holiday, or paid leaves of absence, in association with work as an Employee, or for which an award of back pay has been made, in accordance with the following schedule, such hours to be credited as provided in Department of Labor Regulation 2530.200b-2(a)(1), (2) and (3), (b) and (c):

(i) Prior to January 1, 1998, except the Plan Year ending December 31, 1979:

| <b>Hours Credited</b>  | <b>Benefit Credit</b> |
|------------------------|-----------------------|
| 100 but less than 200  | .1                    |
| 200 but less than 300  | .2                    |
| 300 but less than 400  | .3                    |
| 400 but less than 500  | .4                    |
| 500 but less than 600  | .5                    |
| 600 but less than 700  | .6                    |
| 700 but less than 800  | .7                    |
| 800 but less than 900  | .8                    |
| 900 but less than 1000 | .9                    |
| 1000 or more           | 1.0                   |

- (ii) For the Plan Year ending December 31, 1979, the table in subsection (i) shall apply independently to the following periods, as if they were separate Plan Years: (A) from July 1, 1978, through June 30, 1979; and (B) from July 1, 1979 through December 30, 1979.

- (iii) Between January 1, 1998 and December 31, 2007:

| <b>Hours Credited</b>  | <b>Benefit Credit</b> |
|------------------------|-----------------------|
| less than 300          | .0                    |
| 300 but less than 400  | .3                    |
| 400 but less than 500  | .4                    |
| 500 but less than 600  | .5                    |
| 600 but less than 700  | .6                    |
| 700 but less than 800  | .7                    |
| 800 but less than 900  | .8                    |
| 900 but less than 1000 | .9                    |
| 1000 or more           | 1.0                   |

- (iv) On or After January 1, 2008:

| <b>Hours Credited</b> | <b>Benefit Credit</b> |
|-----------------------|-----------------------|
| 100 but less than 200 | .1                    |
| 200 but less than 300 | .2                    |
| 300 but less than 400 | .3                    |
| 400 but less than 500 | .4                    |

| <b>Hours Credited</b>  | <b>Benefit Credit</b> |
|------------------------|-----------------------|
| 500 but less than 600  | .5                    |
| 600 but less than 700  | .6                    |
| 700 but less than 800  | .7                    |
| 800 but less than 900  | .8                    |
| 900 but less than 1000 | .9                    |
| 1000 or more           | 1.0                   |

- (b) Future Service Credit shall not be allowed under the foregoing schedule, however, for hours worked prior to July 1, 1969, unless payment has been actually received by this Trust Fund for the same, but will be allowed for hours worked thereafter, whether such payment has been received or not, provided the Board of Trustees has been given timely notice of the hours worked and given reasonable opportunity to enforce the liability of the Individual Employer resulting therefrom.
- (c) An Employee who qualifies for pension credit under the Veterans Reemployment Rights Act, 38 U.S.C. § 2021 et seq., or the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. § 4301 et seq., shall be granted one year (1000 hours) of Benefit Credit and of Vesting Credit for each year of qualifying military service, and proportional fractions thereof for service greater or less than a year. An Employee shall be deemed to qualify if the Employee was employed in, or available for, covered employment under this Plan immediately before entering qualifying military service, and the Employee became available for covered employment within 90 days after a qualifying release or discharge.
- (d) No Future Service Credit, for the purposes of accrual of benefits, shall be allowed for credits recognized under a pro-rata vesting agreement with another pension trust fund affiliated with the U. A.

## **ARTICLE VI - QUALIFICATION FOR RETIREMENT**

1. **Normal Retirement.** An Employee who qualifies under any of the following tests, and who is not already receiving a pension, shall qualify for a pension under Normal Retirement on the first day of the calendar month following the later of the qualification of the Employee for benefits, or the submission of an application for benefits:

- (a) The Employee reaches Normal Retirement Age and retires under the Plan; or



(b) The Employee reaches the required beginning date, April 1 of the calendar year following the calendar year he attains age 70 1/2. Effective January 1, 2020, the above rule shall apply when the Employee attains age 72.

2. **Early Retirement.** An Employee shall qualify for a pension under Early Retirement, with a reduced benefit if so indicated, on the first day of the calendar month following the calendar month in which the Employee meets one of the following tests, retires from the Plumbing and Pipefitting Industry, and applies for a pension:

(a) For a reduced monthly benefit:

(i) **Only for Employees Whose First Hour of Credited Service under this Plan Occurred Prior to May 1, 2017:** For a reduced monthly benefit for Employees whose first hour of Credited Service under this Plan occurred prior to May 1, 2017, the Employee attains age 55 with either:

(A) At least ten (10) years of Vesting Credit, or

(B) Effective December 1, 2000, if the Employee was employed by a public agency within the counties of Santa Clara or San Benito, performing plumbing and/or pipefitting work covered under a memorandum of understanding between the agency and the local building and construction industry trades council, and the Employee is receiving a pension from the public agency: a total period of service of at least ten (10) years, counting the Employee's years of Vesting Credit and the number of full years of full-time employment by the public agency;

(ii) **Only for Employees Whose First Hour of Credited Service under this Plan Occurs on or after May 1, 2017:** For a reduced monthly benefit for Employees whose first hour of Credited Service under this Plan occurs on or after May 1, 2017, the Employee attains age 57 with either:

(A) At least fifteen (15) years of Benefit Credit; or

(B) if the Employee was employed by a public agency within the Counties of Santa Clara or San Benito, performing plumbing and/or pipefitting work covered under a memorandum of understanding between the agency and the local building and construction industry trades council, and the Employee is receiving a pension from the public agency: a total period of service of at least fifteen (15)

years, counting the Employee's years of Benefit Credit and the number of full years of full-time employment by the public agency.

(b) For an unreduced monthly benefit:

(i) **Only for Employees Whose First Hour of Credited Service under this Plan Occurred Prior to May 1, 2017:** For an unreduced monthly benefit for Employees whose first hour of Credited Service under this Plan occurred prior to May 1, 2017, the Employee attains age 55 with at least twenty-five (25) years of Benefit Credit.

(ii) **Only for Employees Whose First Hour of Credited Service under this Plan Occurs on or after May 1, 2017:** For an unreduced monthly benefit for Employees whose first hour of Credited Service is on or after May 1, 2017, the Employee attains age 60 with twenty-five (25) years of Benefit Credit.

(c) **Only for Employees Whose First Hour of Credited Service under this Plan Occurred Prior to May 1, 2017:** For an unreduced monthly benefit for Employees whose first hour of Credited Service under this Plan was prior to May 1, 2017, the Employee attains age 62 with either:

(i) At least ten (10) years of Vesting Credit, or

(ii) Effective December 1, 2000, if the Employee was employed by a public agency within the counties of Santa Clara or San Benito, performing plumbing and/or pipefitting work covered under a memorandum of understanding between the agency and the local building and construction industry trades council, and the Employee is receiving a pension from the public agency: a total period of service of at least ten (10) years counting the Employee's years of Vesting Credit and the number of full years of full-time employment by the public agency.

(d) For a reduced monthly benefit:

(i) **Only for Employees Whose First Hour of Credited Service under this Plan Occurred Prior to May 1, 2017:** For a reduced monthly benefit for Employees whose first hour of Credited Service under this Plan occurred prior to May 1, 2017, the Employee attains age 52 with at least twenty-five (25) years of Benefit Credit.

(ii) **Only for Employees Whose First Hour of Credited Service under this Plan Occurs on or after May 1, 2017:** For a reduced monthly benefit for Employees whose first hour of Credited Service under this Plan occurred on or after May

1, 2017, the Employee attains age 57 with twenty-five (25) years of Benefit Credit.

No Employee, although otherwise qualified, shall be eligible for Early Retirement if at any time he or she has accepted employment in Industry Service in the Plumbing and Pipe Fitting Industry in any capacity by or with an employer, or as an employer, who was not signatory or otherwise party to a Collective Bargaining Agreement with the United Association or any of its affiliated Local Unions.

Notwithstanding the above, an Employee, otherwise qualified, shall not be deemed ineligible for Early Retirement because he or she was employed in Industry Service for an employer not signatory to a collective bargaining agreement with the United Association or any of its affiliated Local Unions if such employment is with a general contractor who is signatory to a collective bargaining agreement for another building trade and such employment is pursuant to an approved general contractor agreement. The general contractor agreement must be approved by U.A. Local 393 and by the Co-Chairmen of U.A. Local 393 Defined Benefit Plan.

**3. Disability Retirement.**

- (a) An Employee with ten (10) or more years of Benefit Credit, who is permanently incapacitated through sickness or injury so as to be unable to do a day's work as a Journeyman in the Plumbing and Pipe Fitting Trade, and who is not already receiving a pension, shall qualify for a pension under Disability Retirement on the first day of the calendar month next following the month of filing an application for retirement. Such pension shall be without reduction if age fifty-five (55) or more at time of application, but with reduction if less than age fifty-five (55).
- (b) A qualified Employee so electing to retire shall be required to prove such incapacity to the Board of Trustees, whose decision shall be final and binding. The Trustees may, in their sole and absolute judgment and discretion, require or accept as proof a social security disability award or equivalent medical proof confirmed by the Plan's medical consultant. The Board of Trustees may require any Employee so retired to submit evidence of continued incapacity from time to time, but no more often than twice in any calendar year.

**4. Early Retirement Converted to a Disability Retirement.** An Employee who has elected early retirement shall be eligible to convert his early retirement pension to a disability pension if the following criteria are met:

- (a) The Employee was eligible for an early retirement pension at the time he applied,
- (b) At the time early retirement was elected disability retirement was simultaneously elected,
- (c) At the time early retirement was elected an application for Social Security disability benefits was pending,
- (d) The election to change from early retirement to disability retirement upon receipt of an award of Social Security disability is irrevocable, and
- (e) The Employee notifies the Plan within ninety (90) days of receiving a Social Security disability award certificate.
- (f) An Employee who elects to change from early retirement to disability retirement shall receive a one-time lump sum payment equivalent to the difference between the monthly early retirement benefits he has received and the monthly disability benefits he would have received had he elected disability retirement at the time he retired.

5. **Application for Benefits.** Any Employee who becomes eligible for retirement prior to age 65, but fails to actually retire shall be presumed to have deferred retirement to age 65. However, if an Employee was unable to apply for a pension by reason of sickness, injury, or other good cause beyond his or her control, late application may be made by the Employee, or if necessary, by his or her duly appointed guardian or conservator for payment of benefits retroactively to the first day of the calendar month following the month in which the Employee was otherwise eligible and could have filed an application.

## **ARTICLE VII - FORM OF BENEFIT**

1. **Single Life Annuity Benefit.** The form of benefit for any Employee who is not married or, if married, has waived the Joint and Survivor Annuity Benefit for his or her spouse with the written consent of the spouse as provided in Section 3 of this Article, shall be a Single Life Annuity for the Employee's life alone. This benefit shall consist of monthly benefit payments for the lifetime of the Employee. This benefit shall terminate at the later of the death of the Employee, or at the end of the Post-Retirement Plan Death Benefit, as provided in Section 1 of Article XII, if applicable.

2. **Survivor Annuity Forms of Benefit.** The following forms of benefit shall be available in accordance with the election procedures of the Plan:

- (a) **50% Joint and Survivor Annuity:** monthly payments to the Employee for life, actuarially reduced from the Normal Retirement Benefit, followed by monthly payments to the spouse in an amount equal to 50% of the Employee's payments, payable to the spouse if surviving the Employee by at least 30 days, the whole of which benefit is the actuarial equivalent of the Single Life Annuity Benefit;
- (b) **75% Joint and Survivor Annuity:** monthly payments to the Employee for life, actuarially further reduced from the Normal Retirement Benefit, followed by monthly payment to the spouse in an amount equal to 75% of the Employee's payments, payable to the spouse if surviving the Employee by at least 30 days, the whole of which benefit is the actuarial equivalent of the Single Life Annuity Benefit.
- (c) **100% Joint and Survivor Annuity:** monthly payments to the Employee for life, actuarially further reduced from the Normal Retirement Benefit, followed by monthly payment to the spouse in an amount equal to the Employee's payments, payable to the spouse if surviving the Employee by at least 30 days, the whole of which benefit is the actuarial equivalent of the Single Life Annuity Benefit;
- (d) **Pop-Up Options, effective for retirements on or after January 1, 1988:** either the 50%, 75%, 100% Joint and Survivor Annuity Benefit, with the proviso that if the spouse predeceases the Employee, or, effective January 1, 1997, if the marriage of the Employee and spouse is dissolved and the beneficiary's right to a survivor benefit is extinguished by a Qualified Domestic Relations Order, then the benefit will be restored to a Single Life Annuity for the life of the Participant, subject to the actuarial reduction provided in Section 5 of Article VIII; and
- (e) **Contingent Annuitant Options, effective for retirements on or after September 1, 1997:** any of the options available to spouses under subsections (a) or (c) of this section, with pop-up options for those benefits as described in section (d), except that the survivor benefits are paid to a beneficiary, other than the spouse, designated by the Employee. The 100% Joint and Survivor Annuity is available to a Participant and a non-spouse beneficiary only if such beneficiary is no more than 10 years younger than the Participant. However, if the Participant begins receiving benefits prior to attaining age 70, the age difference between the non-spouse beneficiary and Participant

is reduced by the number of years the Participant is younger than age 70 on his Annuity Commencement Date. If, as a result of this adjustment, the age difference between the Participant and the non-spouse beneficiary is 10 years or less, the Participant may elect the 100% Joint and Survivor benefit option. No person may be designated if the survivor benefit would be less than \$25 per month, or if the designation of that person would result in a benefit the value of which, determined at retirement, is greater to the beneficiary than to the Participant. For purposes of the Pop-Up Options: (i) the death of the designated beneficiary shall be treated as the equivalent of the death of the spouse; and (ii) either a written disclaimer by the beneficiary or a court order extinguishing the beneficiary's rights shall be treated as the equivalent of the dissolution of the marriage of the Employee and the entry of a QDRO.

3. **Election Procedures.** The form of benefit for a married Employee, unless waived by the Employee with the written consent of his or her spouse, shall be a 50% Joint and Survivor Annuity Benefit. The Administration Office of the Plan shall, within a reasonable period of time prior to the Employee's Annuity Commencement Date, supply the Employee and spouse with a full explanation of the Joint and Survivor Annuity Benefit, their rights with respect thereto, the rights of the Employee to waive the benefit with the spouse's consent, the effect of the Employee's exercise or failure to exercise that right, and the effect of spouse's refusal to give consent and a general description of the material features, and an explanation of the relative values of, the optional forms of benefit available under the Plan in a manner that would satisfy the notice requirements of Code section 417(a)(3) and Treas. Reg. 1.417(a)(3)-1. The Employee and spouse may thereafter, within the 180- day period next prior to Annuity Commencement Date waive or reinstate the benefit any number of times, but no such waiver shall be effective unless finally consented to by the spouse in writing, witnessed by a Plan representative or a Notary Public acknowledging the spouse's understanding of the benefit, the effect of the waiver and the right to consent or refusal to consent thereto.

If the Employee waives the 50% Joint and Survivor Annuity with the proper consent of his or her spouse, the Employee may then elect any other form of benefit available under the Plan, and/or designate a beneficiary other than the spouse. However, no election of a benefit other than the 50% Joint and Survivor Annuity, and no designation of beneficiary other than the Employee's spouse, shall be effective unless the spouse gives consent as described in the previous paragraph.

Exception to Spousal Consent Requirement. Notwithstanding the consent requirement above, a Participant may establish to the satisfaction of the Board of Trustees that the consent of a lawful spouse may not be obtained because there is no lawful spouse or such spouse cannot be located despite reasonable efforts to do so. Upon such determination, a waiver by the Participant shall be deemed a qualified election. The Board shall have total discretion in making such determinations.

4. **Limitation on Election of Form of Benefit.** After an Employee receives the first electronic deposit for any form of benefit, or after the Annuity Commencement Date for such benefit if later, the Employee or the beneficiary may not elect a different form of benefit or designate a different beneficiary.

5. **Commencement of Benefit Payments.**

- (a) Except as provided elsewhere in this Section 5, payments of benefits to each Employee shall commence only after the Employee qualifies for retirement under Normal, Early or Disability Retirement, and applies therefor. However, notwithstanding anything herein to the contrary, unless the Employee elects otherwise in writing, payment of benefits to each Employee shall commence not later than the 60th day following the close of the Plan Year in which the latest of the following has occurred: (i) the Employee's attainment of Normal Retirement Age or (ii) the Employee's termination of employment in Plumbing and Pipefitting Industry Service. Failure of a Participant to apply for benefits is an election to defer commencement of benefits beyond the date such benefits would otherwise begin, provided that no such election may postpone the commencement of benefits to a date later than the Participant's Required Beginning Date.

Payments to Employees retiring on or after age 65 shall commence on the first day of the month following the later of the month in which the Employee attained Normal Retirement Age or the month in which the Employee qualified for a pension. If the pension commencement 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 pension commencement date for which benefits were not suspended.

Payments to Employees retiring before age 65 shall commence on the latest of the following:

- (i) The first day of the month following the month in which the Employee qualifies for a pension;
  - (ii) The first day of the month following the month in which the Employee applies for a pension, if the Employee completes the required forms within the next month; or
  - (iii) The first day of the month in which the Employee completes the required forms, if not completed in the month following his or her application.
- (b) Notwithstanding any other provision of this Plan:
- (i) Notwithstanding any other provisions of this Plan, all distributions will be determined and made in accordance with the Section 401(a)(9) of the Internal Revenue Code and the applicable regulations, including the requirements of Treas. Reg. 1.401(a)(9)-2 through 1.401(a)(9)-9 and the incidental benefit requirements of IRC 401(a)(9)(G).
  - (ii) TEFRA Section 242 (b)(2) Elections. Notwithstanding the other provisions of this subsection (b), 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.
  - (iii) Payment of an Employee's interest must commence no later than April 1 of the calendar year following the calendar year the Employee attains 70 1/2. Effective January 1, 2020, the above rule shall apply when the Employee attains age 72.
  - (iv) Death of an Employee Before Required Beginning Date:
    - (A) If the Employee's surviving spouse is the Employee's sole designated beneficiary, then distributions to the surviving designated beneficiary will begin by December 31 of the calendar year in which the Employee dies, or by the date on which the Employee would have attained age 70 1/2, if later. Effective January 1, 2020, the above rule shall apply when the Employee would have attained age 72.



(B) If the Employee's surviving spouse is not the Employee's sole designated beneficiary and survivor benefits are paid in the form of a lifetime annuity, then distributions to the designated beneficiary (including a Domestic Partner) will begin by December 31 of the calendar year immediately following the calendar year in which the Employee died. If benefits are paid to the beneficiary in a form other than a life annuity, distribution of the Employee's entire interest shall be completed by the end of the calendar year which contains the fifth anniversary of the Employee's death.

(C) If there is no designated beneficiary as of September 30 of the year following the year of the Employee's death, the Employee's entire interest will be distributed by the end of the calendar year which contains the fifth anniversary of the Employee's death.

(D) If the surviving spouse is the Employee's sole designated beneficiary and dies after the Employee, but before distributions to the surviving spouse have begun, then distributions shall be paid as if the surviving spouse were the Employee except that (A) of this subsection (v) shall not apply.

- (v) Death of Employee After Required Beginning Date: If the Employee dies after his required beginning date and before his entire interest has been distributed to him, the remaining portion of such interest must be distributed at least as rapidly as under the distribution method being used as of the date of the Employee's death.
- (vi) Distributions of the Employee's entire interest must be paid in the form of periodic annuity payments for the Employee's life (or the joint lives of the Employee and beneficiary) or over a period certain that does not exceed the maximum length of the period certain determined in accordance with Section 1.401(a)(9)-6, A-3 of the Treasury Regulation. The interval between payments for the annuity must be uniform over the entire distribution period and must not exceed one year. The first payment, which must be made on or before the Employee's required beginning date, must be 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 Employee'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 Employee's required beginning date. Payments must be non-increasing 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 401(a)(9)(A)(ii) of the Code 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 allow a beneficiary to convert the survivor portion of a joint annuity into a single sum distribution upon the Employee's death.

(D) To pay increased benefits that result from a Plan amendment.

- (vii) Period Certain Annuities Where Distributions Commence During Employee's Lifetime. The period certain for an annuity distribution commencing during the Employee's lifetime generally may not exceed the applicable distribution period set forth in Section 1.401(a)(9)-9 of the Treasury Regulations for the calendar year that contains the annuity starting date.
- (viii) Period Certain Annuities for Distributions Commencing After the Employee's Death. If the Employee dies before the date distribution of his or her interest begins and there is a designated beneficiary, the Employee's interest will be distributed over the life of the designated beneficiary or over a period not exceeding:

(A) 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 Employee's death.

(B) 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.

(ix) Definitions

(A) Distribution Calendar Year: A calendar year for which a minimum distribution is required.

(B) Life expectancy: Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury Regulations.

6. **Distribution on Severance from Employment.** Whenever an Employee has terminated participation in the Plan prior to retirement, the Trustees may order distribution of the Employee's entire nonforfeitable interest in the Plan if it has never exceeded \$1,000 in value, effective January 1, 2000 (\$3,500 prior to January 1, 2000). For purposes of this rule, present value shall be determined using the mortality table prescribed by Secretary of the Treasury under Section 417(e)(3)(A)(ii)(I) of the Internal Revenue Code, and the applicable interest rate under Section 417(e)(3)(A)(ii)(II) of the Code. If the Employee receives a distribution under this Section, the service credited to the Employee with respect thereto shall thereafter be disregarded. However, if an Employee has received a distribution which was ordered without his or her consent, the Employee shall have the right to restore that service by repaying the amount with interest calculated in accordance with Internal Revenue Code § 411(c)(2)(C).

After the Annuity Commencement Date, the distribution, whether partial or total, regardless of amount, may be ordered only with the consent of the Employee and, if married, the consent of his or her spouse.

Whenever an Employee has terminated participation in the Plan prior to retirement, the Employee may elect to receive a distribution of the Employee's entire nonforfeitable accrued benefit in a single lump sum, provided the value of the Employee's Total Accrued benefit does not exceed \$5,000. For purposes of

this rule, present value shall be determined using the mortality table prescribed by Secretary of the Treasury under Section 417(e)(3)(A)(ii)(I) of the Internal Revenue Code, and the applicable interest rate under Section 417(e)(3)(A)(ii)(II) of the Code. If the Employee receives a distribution under this Section, the service credited to the Employee with respect thereto shall thereafter be disregarded. Spousal consent is not required for the lump sum distribution on severance from employment as proved in this Section 6.

7. **Optional Lump-Sum Benefit.** If an Employee is age 55 or older when benefits commence, and the Employee will receive a Single Life Annuity Benefit, or the Employee and spouse who will receive any type of Joint and Survivor Annuity Benefit, the Employee may elect to receive a lump-sum payment of up to \$3500 upon retirement, if the value of the Employee's accrued benefit is equal to, or greater than \$3500. This election must be made in writing and signed by the Employee, or by the Employee and spouse if the Employee is married, and the signature(s) must be properly witnessed or notarized. If an Employee, or an Employee and spouse, elect this benefit, the monthly benefit amount that he, she or they shall receive shall be reduced actuarially to reflect the receipt of the Optional Lump-Sum Benefit.

For a lump-sum determination as of any annuity starting date that is on or after January 1, 2008, the applicable interest rate means the adjusted first, second, and third segment rates applied under rules similar to the rules of Code Section 430(h)(2)(C) for the month before the date of distribution or such other time as the Secretary may by regulations prescribe. For this purpose, the segment rates shall be subject to the conditions set forth in Code Section 417(e)(3)(D).

For a lump-sum determination as of any annuity starting date that is on or after January 1, 2008, any reference in the Plan to the applicable mortality table or the mortality table set forth in Revenue Ruling 95-6 or 2001-62 shall be construed as a reference to 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).

## 8. **Rollovers of Distributions.**

(a) This Section 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 Section, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) **Definitions.**

- (i) **Eligible Rollover Distribution:** means 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:
- (A) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary; or for a specified period of ten years or more;
  - (B) Any distribution to the extent that such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and
  - (C) The portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).
  - (D) Any distribution made on account of hardship.
- (ii) **Eligible Retirement Plan:** means an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, an annuity contract described in Section 403(b) of the Code, an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution.
- (iii) **Distributee:** includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a 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.
- (iv) **Direct Rollover:** means a payment by the plan to the eligible retirement plan specified by the distributee.

- (c) **Non-spouse Rollovers.** If an Employee dies leaving a benefit to a designated beneficiary who is not his spouse, the designated beneficiary may roll over the benefit to an inherited Individual Retirement Account in accordance with the following rules:
- (i) The distribution meets all the requirements of an eligible rollover distribution except that the distributee may be a non-spouse beneficiary.
  - (ii) The rollover must be accomplished by a direct trustee-to-trustee transfer.
  - (iii) The Individual Retirement Account must be established as an inherited Individual Retirement Account, meaning that the IRA must be established in a form that identifies it as an IRA with respect to the deceased individual and also identifies the deceased individual and the beneficiary, for example, "Tom Smith as beneficiary of John Smith."
  - (iv) The rollover must comply with the minimum distribution rules found in Section 401(a)(9) of the Internal Revenue Code. If the Employee dies before his required beginning date, the rollover must be made in accordance with either the five-year rule described in Section 401(a)(9)(B)(ii) or the life expectancy rule described in Section 401(a)(9)(B)(iii). Rollovers made in accordance with the five-year rule must be completed by the end of the calendar year which contains the fifth anniversary of the date of the Employee's death. Rollovers made in accordance with the life expectancy rule must be made by the end of the calendar year following the year of the Employee's death.
  - (v) The plan may make a direct rollover to an inherited IRA on behalf of a trust in accordance with these rules where the trust is the named beneficiary of the Employee, provided the beneficiaries of the trust meet the requirements to be a designated beneficiary under the plan.
  - (vi) The rollover must otherwise be in accordance with law.
- (d) **Direct Rollovers to Roth Individual Retirement Accounts.** Effective January 1, 2008, an Employee or spouse beneficiary with an adjusted gross income of less than \$100,000, who is not married or

who has filed a joint tax return with his or her spouse, will be permitted to rollover all or a portion of an eligible rollover distribution to a Roth Individual Retirement Account established under Section 408 (A) of the Internal Revenue Code via a direct trustee-to-trustee transfer. Effective January 1, 2010 an Employee or spouse beneficiary will be permitted to rollover all or a portion of an eligible rollover distribution to a Roth Individual Retirement Account via a direct trustee-to-trustee transfer regardless of his or her adjusted gross income and regardless of his or her tax filing status.

9. **Benefits Accrued After Retirement.** Any benefits which an Employee accrues after retirement shall be payable to the Employee effective January 1 of the year following the year in which they were accrued, subject to a reasonable delay for processing employer contribution reports for the entire year. If the Employee had initially retired on reduced Early Retirement, any newly accrued benefits shall be subject to a reduction for age based on his or her age (and total Credited Service, if applicable) on the effective date of the newly accrued benefits. An Employee shall make a new election of form of benefit for each year's new accruals, until the Employee has made at least one election after his or her Normal Retirement Age, which election shall apply to all benefits accrued thereafter.

10. **Compliance with IRS Minimum Distribution Rules.** All distributions made from this plan shall be made in accordance with the minimum distributions rule prescribed by IRS Code Section 401(a)(9) and the regulations thereunder, notwithstanding any plan provisions to the contrary.

## **ARTICLE VIII - REDUCTION FACTORS**

1. **Normal Retirement.** A qualified Employee, who retires under Normal Retirement, and applies for and receives a Single Life Annuity Benefit, shall receive the Normal Retirement Benefit of 100% of the amount described in Article IX.

2. **Early Retirement (Non-Disability).** A qualified Employee who retires under Early Retirement, and applies for and receives a Single Life Annuity Benefit, shall be entitled to a monthly benefit calculated under Article IX. If the Employee is entitled to an unreduced benefit, the amount of the benefit shall be equal to the Normal Retirement Benefit. If the Employee does not qualify for an unreduced benefit, his or her benefit shall be subject to actuarial reduction, as follows:

- (a) (i) If the Employee has qualified for benefits under Article VI, Section 2(a)(i), the amount of such reduction shall be 5/12ths of 1% for each

month, or part of a month, his or her retirement precedes his or her 62nd birthday.

(ii) If the Employee has qualified for benefits under Article VI, Section 2(a)(ii), the amount of such reduction shall be  $\frac{1}{2}$  of 1% for each month, or part of a month, his or her retirement precedes his or her 65<sup>th</sup> birthday.

(b) (i) If the Employee has qualified for benefits under Article VI, Section 2(d)(i), the amount of such reduction shall be  $\frac{8}{12}$ th of 1% for each month that his or her retirement precedes his or her 55th birthday.

(ii) If the Employee has qualified for benefits under Article VI, Section 2(d)(ii), the amount of such reduction shall be  $\frac{1}{2}$  of 1% for each month that his or her retirement precedes his or her 60th birthday.

3. **Disability Retirement.** A qualified Employee, who retires under Disability Retirement, and applies for and receives a Single Life Annuity Benefit, shall be entitled to a monthly benefit calculated under Article IX. If the Employee is 55 years of age or more at time of retirement, the amount of the benefit shall be the Normal Retirement Benefit; but, if less than age 55, the monthly benefit shall be reduced from that 100% amount by  $\frac{5}{12}$ th of 1% for each month or part of a month the Employee's retirement date precedes his or her 62nd birthday.

4. **Joint and Survivor Annuities.** If the form of benefit which an Employee and spouse shall receive is a Joint and Survivor Annuity Benefit, the monthly benefit distributed during the life of the Employee's spouse shall be reduced from the amount described in Sections 1, 2, or 3 of this Article, so that the monthly benefit shall be the actuarial equivalent of a Single Life Annuity for the life of the Employee. The actuarial reduction shall be in accordance with the tables included in Appendix A.

5. **Pop-Up Option.** If an Employee and spouse properly elect the Pop-Up Option for a 50%, 75%, and 100% Joint and Survivor Annuity Benefit, the amount of the monthly benefit payable during their joint lives shall be further reduced from the amount described in Section 4 in accordance with the tables included in Appendix A.

6. **Qualified Pre-Retirement Survivor Annuity.** If an Employee and Spouse do not elect to waive the 50% Qualified Pre-Retirement Survivor Annuity, the Employee's benefit on retirement shall not be reduced from the benefit the Employee would have received if they had waived the Qualified Pre-Retirement Survivor Annuity in favor of the Plan Death Benefit. However, if the Employee and Spouse elect to have the 100% Qualified Pre-Retirement Survivor Annuity option in



effect, the Employee's benefit shall be further reduced by 1/4 of 1% for every year, and fractional part thereof, the 100% Qualified Pre-Retirement Survivor Annuity is in effect before the Employee has attained age 55, and 1/2 of 1% for every year, and fractional part thereof, that option is in effect after the Employee has attained age 55. The Employee's benefit shall not be reduced for the 4-year waiting period referenced in Article XII, Section 2 (b).

#### **ARTICLE IX - AMOUNT OF NORMAL RETIREMENT BENEFIT**

1. (a) Except as provided in Section 2 of this Article IX, effective July 1, 1976 for Plan Years ending before that date, and effective each year thereafter through December 31, 1979, the Normal Retirement Benefit of all persons retiring on or after the applicable effective date shall be as follows:
  - (i) \$17.00 for each full Year of Benefit Credit accrued prior to July 1, 1956;
  - (ii) \$20.00 for each full Year of Benefit Credit accrued from July 1, 1956 to June 30, 1961;
  - (iii) \$21.00 for each full Year of Benefit Credit accrued from July 1, 1961 to June 30, 1966;
  - (iv) \$22.00 for each full Year of Benefit Credit accrued from July 1, 1966 to December 31, 1979.
- (b) If a person accrued less than a full Year of Benefit Credit in any Plan Year through December 31, 1978, or less a full Year of Benefit Credit in either period treated as a Plan Year during Plan Year 1979 under Article V, Section 2(a)(ii), his or her Normal Retirement Benefit for that Plan Year (or deemed Plan Year) shall be the amount stated in subsection (a) of this Section 1, times the amount of Benefit Credit he or she accrued. If, through the Plan Year 1979, a person performed more hours of covered employment in a Plan Year than necessary to accrue the maximum number of Years of Benefit Credit allowed for that Plan Year (or deemed Plan Year), no additional benefit shall be paid.

2. Notwithstanding the above, the Normal Retirement Benefit of any qualified Employee, retiring on or after July 1, 1974, who has failed to earn the then-effective minimum allowable Credited Service during any two consecutive Plan Years after so qualifying, shall be at the rate in effect at the beginning of such two consecutive Plan Years, but in no event less than \$17.00 per year of Benefit Credit. If such Employee shall again return to Covered Employment prior to retirement, his or her monthly benefit rate for all service credits thereafter shall be determined

at the rates then in effect as the same may have been increased in the interim by action of the Board of Trustees.

3. For the Plan Years after 1979, the following amounts of benefits shall be payable.

- (a) Effective January 1, 1985, for Plan Years 1980 through 1985, the Normal Retirement Benefit shall be \$4.50 for each 100 Hours of Credited Service, with no benefit paid for less than 100 Hours of Credited Service, and a maximum benefit of \$90 per Plan Year for 2000 or more Hours of Credited Service.
- (b) Effective January 1, 1989, for Plan Years 1986 through 1988, the monthly Normal Retirement Benefit shall be \$6.00 for each 100 Hours of Credited Service, with no benefit paid for less than 100 Hours of Credited Service, and no maximum benefit.
- (c) Effective July 1, 1989, for the Plan Year 1989, the monthly Normal Retirement Benefit for Credited Service accrued before July 1, 1989, shall be \$4.50 for each 100 Hours of Credited Service, and for Credited Service accrued on or after July 1, 1989, shall be \$6.00 for each 100 Hours of Credited Service, with no benefit paid if the Employee accrued less than 100 Hours of Credited Service in 1989, and no maximum benefit.
- (d) Effective July 1, 1989, for the Plan Years 1990 through 2000, the monthly Normal Retirement Benefit shall be \$6.00 for each 100 Hours of Credited Service, with no benefit paid for any Plan Year if the Employee accrued less than the then-effective minimum Credited Service, and no maximum benefit.
- (e) Effective January 1, 2001 through August 31, 2006, the Normal Retirement Benefit for any Employee for Credited Service on or after January 1, 2001, shall be \$0.06 for each Hour of Credited Service in any Plan Year in which the Employee performed the then-effective minimum allowable Credited Service.
- (f) Effective September 1, 2006 through December 31, 2006, the Normal Retirement Benefit for any Employee for Credited Service on or after September 1, 2006 shall be \$0.07 for each Hour of Credited Service in any Plan Year in which the Employee performed the then-effective minimum allowable Credited Service.
- (g) Effective January 1, 2007 through June 30, 2007, the Normal Retirement Benefit for any Employee for Credited Service shall be \$0.08 for each Hour of Credited Service in any Plan Year in which the

Employee performed the then-effective minimum allowable Credited Service.

- (h) Effective July 1, 2007 through June 30, 2008, the Normal Retirement Benefit for any Employee for Credited Service shall be \$0.09 for each Hour of Credited Service in any Plan Year in which the Employee performed the then-effective minimum allowable Credited Service.
- (i) Effective July 1, 2008 through June 30, 2015, the Normal Retirement Benefit for any Employee for Credited Service shall be \$0.10 for each Hour of Credited Service in any Plan Year in which the Employee performed the then-effective minimum allowable Credited Service.
- (j) Effective July 1, 2015 through the present, the Normal Retirement Benefit for any Employee for Credited Service shall be \$0.11 for each Hour of Credited Service in any Plan Year in which the Employee performed the then-effective minimum allowable Credited Service.

4. Notwithstanding the above, if a Participant elects to defer commencement of benefits past April 1 of the calendar year following the year in which the Participant attains age 70 1/2, then the amount of benefits which the Participant shall receive shall be the amount otherwise provided under this Article, actuarially adjusted to reflect the period of the delay in commencement of benefits.

5. In addition to the amounts provided herein, the Board of Trustees may, from time to time, provide for the payment of additional benefits to retirees on a one-time basis, subject to any limitations in the collective bargaining agreement or Trust Agreement, but otherwise at their exclusive discretion, with the Minutes of such actions deemed a part of this Plan.

## **ARTICLE X - LIMITATION OF BENEFITS**

Notwithstanding any other provision of the Plan, contributions and benefits under this Plan shall comply with the limitations set forth in Section 415 of the Internal Revenue Code and regulations promulgated pursuant thereto, which limitations are hereby incorporated by reference. The following language describes some of the applicable definitions and limitations:

### **1. General Limit.**

- (a) Notwithstanding any other provision of this Plan, the annual benefit payable with respect to any Participant shall not exceed One Hundred Sixty Thousand Dollars (\$160,000), as adjusted, effective January 1 of each year, under Section 415(d) of the Code in such

manner as the Secretary shall prescribe. A limitation as adjusted under Section 415(d) of the Code will apply to limitation years ending with or within the calendar year for which the adjustment applies.

Benefit increases resulting from the increase in the limitations of Section 415(b) of the Code will be provided to all Employees participating in the Plan who have one hour of service on or after the first day of the first limitation year ending after December 31, 2001.

- (b) This limit shall not apply to any pension that does not exceed One Thousand Dollars (\$1,000) a year for each year of service with an employer, including years before the employer adopted this Plan, up to a maximum of Ten Thousand Dollars (\$10,000), unless the Participant has also been covered by an individual account plan to which an employer contributed on the behalf of the Participant. The special \$10,000 exception set forth in this subsection (b) applies to a Participant without regard to whether that Participant ever participated in one or more other plans maintained by an employer who also maintains this Plan, provided that none of such other plans were maintained as a result of collective bargaining involving the same employee representative as the multiemployer plan.

2. **Optional Forms of Benefits.** "Annual benefit" means the Participant's accrued benefit paid annually in the form of a single-life annuity. If the Participant's benefit is paid in a form other than a single-life annuity or a qualified Joint and Survivor Annuity (as defined in Section 417 (b) of the Code), the limitation in Article X, Section 1, is applied to the annual benefit before it is converted to the alternative payment form, so that the amount payable under the payment form selected will be the actuarial equivalent of the annual benefit as limited by Article X, Section 1. Actuarial Equivalence is determined using the applicable mortality table and interest rate assumption prescribed by 1.415(b)-1(c) of the Treasury Regulations. Notwithstanding the above, for purposes of applying the limitation in this Article 10, in limitation years beginning on or after July 1, 2007, a benefit that is payable in any form other than a single-life annuity and that is not subject to Section 417(e)(3) of the Code must be adjusted to an actuarially equivalent single-life annuity that equals the greater of the annual amount of the single-life annuity (if any) payable under the Plan at the same annuity starting date, and the annual amount of a single-life annuity commencing at the same annuity starting date that has the same actuarial present value as the Participant's form of benefit computed using an interest rate

of 5 percent and the applicable mortality table under Section 417(e)(3) of the Code.

For purposes of adjusting any benefit under this Plan that is subject to Section 417(e)(3) of the Code, for distributions made on or after January 1, 2004, the computation of actuarial equivalent shall be based on the applicable mortality table, as determined under the Plan, and the greater of the rate specified in the Plan or five and one-half percent (5.5%); and for distributions made on or after January 1, 2006, the computation of actuarial equivalent shall be based on the applicable mortality table, and the greatest of (i) 5.5%, (ii) the rate that provides a benefit of not more than 105% of the benefit that would be provided if the "applicable interest rate" as defined in Code Section 417(e)(3) were the interest rate assumption, or (iii) the rate specified in the Plan.

### **3. Adjustment of Dollar Limit for Early or Late Retirement.**

- (a) If the benefit of a Participant begins prior to age 62, the defined benefit dollar limitation applicable to the Participant at such earlier age is:
  - (i) If the annuity starting date is in a limitation year beginning before July 1, 2007, the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's annuity starting date that is the actuarial equivalent of the dollar limitation under Section 415(b)(1)(A) (as adjusted under Section 415(d)), with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate and mortality table or other tabular factor specified in the Plan for determining actuarial equivalence for early retirement purposes; or (2) a 5 percent interest rate assumption and the applicable mortality table.
  - (ii) If the annuity starting date in a limitation year beginning on or after July 1 2007, and the Plan does not have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's annuity starting date that is the actuarial equivalent of the dollar limitation under Section 415(b)(1)(A) (as adjusted under Section 415(d)), with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table and expressing

the Participant's age based on completed calendar months as of the annuity starting date.

- (iii) If the annuity starting date is in a limitation year beginning on or after July 1, 2007, and the Plan has an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the lesser of (1) the adjusted dollar limitation determined in accordance with (ii); and (2) the product of the dollar limitation under Section 415(b)(1)(A) (as adjusted under Section 415(d)) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the Plan to the Participant's annuity starting date to the annual amount of the immediately commencing straight life annuity under the Plan at age 62, both determined without applying the limitations of Section 415.
- (b) If the benefit of a Participant begins after the Participant attains age 65, the defined benefit dollar limitation:
  - (i) If the annuity starting date is in a limitation year beginning before July 1, 2007, the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's annuity starting date this is the actuarial equivalent of the dollar limitation under Section 415(b)(1)(A) (as adjusted under Section 415(d)), with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate and mortality table or other tabular factor specified in the Plan for determining actuarial equivalence for delayed retirement purposes; or (2) a 5 percent interest rate assumptions and the applicable mortality table.
  - (ii) If the annuity starting date is in a limitation year beginning on or after July 1, 2007, and the Plan does not have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's annuity starting date that is the actuarial equivalent of the dollar limitation under Section 415(b)(1)(A) (as adjusted under Section 415(d)), with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table and

expressing the Participant's age based on completed calendar months as of the annuity starting date.

- (iii) If the annuity starting date is in a limitation year beginning on or after July 1, 2007, and the Plan has an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the lesser of (1) the adjusted dollar limitation determined in accordance with (ii); and (2) the product of the dollar limitation under Section 415(b)(1)(A) (as adjusted under Section 415(d)) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the Plan at the Participant's annuity starting date to the annual amount of the immediately commencing straight life annuity under the Plan at age 65, both determined without applying the limitations of Section 415.

The applicable mortality table is the mortality table prescribed by Section 415(b)(2)(E)(v) of the Code.

4. **Protection of Prior Benefits.** The application of the provisions of this Article X shall not cause the maximum permissible benefit for any Participant to be less than the Participant's accrued benefit under all the defined benefit plans of the employer or a predecessor employer as of the end of the last limitation year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, Regulations, and other published guidance relating to Code Section 415 in effect as of the end of the last limitation year beginning before July 1, 2007, as described in Section 1.415(a)-1(g)(4) of the Treasury Regulations.

## **ARTICLE XI - SUSPENSION OF PENSION RULES FOR WORKING AFTER RETIREMENT**

1. **Suspension After Attainment of Normal Retirement Age.** Except as provided in Section 5 of this Article XI, for benefit accruals earned on or before April 30, 2008, the benefits of any Employee on retirement after attainment of age sixty-five (65) who is employed in Industry Service in the Plumbing and Pipe Fitting Industry anywhere in the State of California, whether as an Employee or in a managerial, supervisory, proprietary or any other capacity for a participating or nonparticipating employer, or as a self-employed person, shall be suspended during any month in which the Employee was so employed for forty hours or more.

For benefit accruals earned on or after May 1, 2008, except as provided in Section 5 of this Article XI, the benefits of any Employee on retirement after attainment of age sixty-five (65) who is employed in Industry Service in the Plumbing and Pipe Fitting Industry anywhere in the geographic jurisdiction of this Plan, whether as an Employee or in a managerial, supervisory, proprietary or any other capacity for a participating or non-participating employer, or as a self-employed person, shall be suspended during any month in which the Employee was so employed for forty hours or more. The geographic jurisdiction of this Plan shall include California and the geographic jurisdiction of any Related Plan with which this Plan had a reciprocity agreement in effect as of the date benefits commenced or would have commenced if the Employee had not remained in Industry Service.

2. **Notification of Employment in Industry Service.** The Employee shall give notice in writing to the Administration Office, prior to acceptance of such employment, of the intent to be so employed, giving the name of the employer, the address of the jobsite and the probable length of employment. In the event of the Employee's failure to do so it shall be presumed that, in any month in which it is found that the Employee accepted such employment, he or she worked forty or more hours, and that if employed on a construction site, he or she was so employed for forty or more hours in each month his or her employer was performing that work at the construction site.

3. **Notification of Termination of Industry Service.** The Employee shall give notice to the Administration Office when he or she ceases such employment at which time the benefit payments shall be resumed as of the first day of the first calendar month following the month in which he or she was last so employed, or following the month in which he or she gives the required notice, whichever is later. Any payments made by the Plan during such periods of employment shall be deducted from further benefit payments but not in excess of twenty-five percent (25%) of any one monthly payment, after the first such payment, which may be offset in full. Upon resumption of payments, the initial payment must include any amounts due by reason of any delay in the resumption of payments following the return to retirement status, less any amounts subject to offset.

4. **Suspension Before Normal Retirement Age.** Except as provided in Section 5 of this Article XI, the benefits of any Employee on Early Retirement or Early Disability Retirement before the attainment of age 65, who is employed in Industry Service in the Plumbing and Pipe Fitting Industry anywhere in jurisdiction of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, whether as an employee or in a managerial, supervisory, proprietary or any other capacity for a participating or nonparticipating employer, or as a self-employed person, shall be suspended. Benefits shall be resumed only as follows:



- (a) **Early or Disability Retirement When Employee Has Taken a Total or Partial Lump Sum Distribution (including any distribution that is not an annuity) from his or her Defined Contribution Plan Account.** If the Employee accepts employment by or as an employer not signatory to a collective bargaining agreement, benefits shall resume only when the Employee qualifies for and commences Normal Retirement, or age 70, if earlier.
- (b) **Early or Disability Retirement When Employee Has Not Taken a Total or Partial Lump Sum Distribution (including any distribution that is not an annuity) from his or her Defined Contribution Plan Account.** If, after commencement of such retirement, the Employee resumes employment within 12 months for or as an Employer signatory to a Collective Bargaining Agreement, benefits shall resume immediately after cessation of such employment and resumption of retirement status, or age 70, if earlier.
- (c) The twelve month limitation shall not apply to Employees on Disability Retirement who recover from their disability at any time after its commencement, who then return to employment as described in paragraph (b).
- (d) If benefits are suspended under either (a) or (b) above, the benefits thereafter payable to him upon commencement of Normal Retirement shall be his or her normal pension, actuarially reduced only as necessary to adjust for benefits actually paid to the Participant.
- (e) If an Employee's Early Retirement benefits are suspended because he has been employed in Industry Service in the Plumbing and Pipefitting Industry for an Employer signatory to a Collective Bargaining Agreement, the Employee may thereafter retire on an Early Disability Retirement if the Board of Trustees determines that the Employee has become permanently disabled from working in the Plumbing and Pipefitting Industry and the Employee otherwise meets the eligibility criteria under the Plan.

## 5. **Relief from Suspension:**

- (a) **Certified Shortage of Journeymen.** When the Business Manager of the Local Union has certified to the Board of Trustees that there is a shortage of journeymen generally in any classification covered by the Collective Bargaining Agreements of the Local Union, the benefits of any Early Retiree who is duly dispatched for employment through the employment office of the Local Union shall be

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suspended only for any month in which he or she actually worked forty hours or more, provided the Retiree returns to retirement status immediately upon notification by the Board that such shortage no longer exists. The retirement benefits of any such Retiree accepting employment in accordance herewith shall be suspended as of the first day of the month following the month in which he or she is so employed and shall be resumed as provided in Section 3 hereof. When the Business Manager of the Local Union has certified to the Board of Trustees that there is a shortage of employees in any classification covered by a participation agreement with the Plan, and the shortage has been approved by the Board of Trustees or a designated committee of Trustees, the Local Union may employ up to two (2) Early Retirees, whose benefits shall not be suspended during the certified shortage.

- (b) **Employment in Non-Bargaining Unit Position for Participating Employer.** If a Retiree is (1) employed by a participating employer as a project manager, marketing representative, field superintendent, estimator, purchasing agent, expeditor, or detailer, or (2) employed by a participating employer in any position that is a non-bargaining position for work performed through December 31, 2023 only, or (3) employed by an employer obligated by a collective bargaining agreement to contribute to the U.A. Local No. 447 Trust Funds in any position that is a non-bargaining unit position for work performed through December 31, 2023 only, suspension of benefits shall not apply under the following conditions:

- (i) If no participating employer has ever made contributions to the Plan on the Employee's behalf while working in such a position, and the employer does not make contributions to the Plan on behalf of other Employees in the same or similar position, then the benefits of the Retiree shall not be suspended.
- (ii) (A) If the Retiree does not qualify for relief from suspension under subsection (i), the benefits of the Retiree shall not be suspended because of work in any month ("a work month") with respect to which the following conditions are satisfied:

- (1) The Retiree worked, or is deemed to have worked, not more than 80 hours in the work month; and

(2) The Retiree files a monthly report during the following month, stating the number of hours during which he or she worked in the work month; and

(3) No contributions are tendered to any trust fund affiliated with U. A. Local No. 393 for hours worked by the Retiree during that work month.

(B) For purposes of this subsection (ii), a Retiree who is paid a salary shall be deemed to have worked 4 hours in any day in which he or she worked, or was paid for working, any amount of time up to four hours, and shall be deemed to have worked 8 hours in any day in which he or she worked, or was paid for working, any amount of time over 4 hours.

(C) If the Retiree satisfies conditions (2) and (3) of subsection (A), but worked (or was deemed to have worked) more than 80 hours in any calendar month, his or her benefits shall be suspended only one month for each month in which the Retiree worked (or was deemed to have worked) more than 80 hours, and Section 4 of this Article XI shall not apply.

Notwithstanding the above, effective January 1, 2012, the relief from the suspension of benefits under this Section 5(b) shall not apply to any Employee on Early Disability Retirement to the extent that the disability benefit exceeds a benefit otherwise payable, and such excess disability benefit shall be suspended in accordance with Section 4 hereof.

(c) **Ownership of a Corporate Signatory Employer:** If a Retiree is an owner of a company which is signatory to a collective bargaining agreement with U. A. Local No. 393 and regularly employs Employees in covered employment, benefits shall not be suspended if all of the following apply to the Retiree:

- (i) The Retiree is no longer actively involved in the management of the company on a full-time basis;
- (ii) The Retiree performs no work of the type covered under the collective bargaining agreement; and
- (iii) The Retiree is over age 65 and does not receive wages or salary from the company for no more than 80 hours of employment per month.

- (d) **Employment as Instructor for the Loyd E. Williams Pipe Trades Training Center.** The benefits of a Retiree employed as an instructor for the Loyd E. Williams Pipe Trades Training Center shall not be suspended, provided the Retiree provides notification in writing to the Administrative Office prior to the acceptance of such employment and receives confirmation from the Administrative Office that such employment will not result in suspension of his/her benefits.
- (e) **Employment for Approved Non-Signatory General Contractor.** The benefits of a Retiree employed for an employer that is a general contractor and not signatory to a collective bargaining agreement with the United Association or any of its affiliated Local unions will not have his/her benefit suspended if all the following requirements are met:
  - (i) The employer is signatory to a collective bargaining agreement for another building trade; and
  - (ii) Such employment is pursuant to an approved general contractor agreement. The general contractor agreement must be approved by the U.A. Local 393 and by the Co-Chairmen of U.A. Local 393 Defined Benefit Plan.

6. **Rehabilitation Program of Disability Retiree.** The benefits of any Disability retiree, who returns to employment as part of any rehabilitation program, or as a result of temporary recovery, and who applies for resumption of disability retirement upon proof of recurrent disability, shall be suspended only for any month in which the retiree actually worked forty hours or more. The retirement benefits of any such retiree accepting employment in accordance herewith shall be suspended as of the first day of the month following the month in which the retiree is so employed and shall be resumed as provided in Section 3 hereof.

7. **Prior Determination of Plan.** An Employee may, prior to acceptance of any employment, request a determination by the Administration Office as to whether any intended employment will result in suspension of his or her benefits as herein provided.

8. **Appeal to Board of Trustees.** In the event of a dispute as to the application of any of the provisions of this Article, an Employee may, within (60) days of notification of any ruling by the Administration Office or the Board of Trustees, appeal from the same in accordance with the provisions of Article XIII hereof, including without limitation, the right to rebut any presumptions arising under Section 3 hereof.

9. **Verification Requirements.** The Plan may, at reasonable intervals, request from any Employee information to verify that he or she is not employed, or if employed not on work of the sort described in Sections 1 and 2 hereof, and may withhold benefit payments until he or she has complied. Reasonable information may include W-2 forms and any other reasonable pertinent information.

## **ARTICLE XII - DEATH BENEFITS**

### **1. Post-Retirement Plan Death Benefit.**

- (a) In the event of the death after retirement of an Employee who has elected the Single Life Annuity Benefit, there shall be paid a monthly benefit to the Employee's beneficiary or beneficiaries. The amount of the monthly benefit shall be the same amount as the Employee was receiving. This benefit shall commence as soon as the Plan can reasonably determine the identity of the beneficiary or beneficiaries, and shall be payable retroactively to the death of the Participant. Effective January 21, 1986, this benefit shall terminate after the total amount of money distributed to the Participant and to the beneficiary or beneficiaries combined is equal to the amount of contributions made on behalf of the Participant, except as provided in Section 5 of this Article. However, beneficiaries of Participants who were retired or vested on January 21, 1986, shall be entitled to benefits for the greater of the following periods: a) 36 months, less the number of months of benefits actually paid to the Participant; or b) the number of months necessary so that the total amount of money distributed to the Participant and to the beneficiary or beneficiaries combined is equal to the amount of contributions made on behalf of the Participant.
- (b) The Employee shall designate a beneficiary or beneficiaries to receive the Post-Retirement Plan Death Benefit on his or her application for retirement, with spousal consent, if married, in accordance with Section 3 of Article VII. The Employee may change his or her designation of beneficiary or beneficiaries for the Post-Retirement Plan Death Benefit at any time by executing a new form of designation and lodging it with the Administration Office, but for an Employee who was married at retirement, no designation of any person other than the Employee's spouse at retirement shall be effective unless consented to by that spouse, in accordance with Section 3 of Article VII. An Employee's designation of his or her spouse at retirement as beneficiary for the Post-Retirement Plan Death Benefit is not automatically revoked if they divorce, except as provided in a Qualified Domestic Relations Order. If an Employee dies with no valid designation of beneficiary for the Post-Retirement Plan Death Benefit in effect, or if a beneficiary predeceases the Employee or dies within 30 days of the Employee's death, any remaining benefits shall be payable to the Employee's other surviving designated beneficiary or beneficiaries, if any, or if none, as provided in Section 5 below.
- (c) If a Participant dies while performing qualified military service on or after January 1, 2007, the survivors of the Participant are entitled to

any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the plan had the Participant resumed employment and then terminated employment on account of death.

2. **Qualified Pre-Retirement Survivor Annuity Benefit.**

- (a) When a married Employee with a vested interest dies prior to Annuity Commencement Date, there shall be paid to his or her spouse, if surviving the Employee by at least 30 days, a Survivor Annuity equal to fifty (50%) percent of the monthly benefit payable to the Employee on the basis of his or her accrued benefits computed as of the date of his death, unless waived by the Employee and spouse in accordance with the rules described in Section 3 of Article VII. Such benefits shall be payable on application of the spouse, at any time after the date upon which the Employee if living would have become eligible for Early Retirement, and had retired on the next day thereafter, or, if already eligible, had retired on the day before his or her death.

Notwithstanding the above, if a Participant, who is eligible and qualified for benefits and who has elected a 100% Joint and Survivor Annuity, dies within seven days of commencing monthly pension benefits in accordance of with Article VII, Section 5(a), his or her spouse shall receive a 100% pre-retirement survivor annuity (equivalent to the 100% joint and survivor annuity under Article VII, Section 2(c)) commencing as of the date pension benefits would have commenced if the Participant had lived to retirement.

- (b) Any Employee and spouse who waive the 50% Qualified Pre-Retirement Survivor annuity may elect the Optional Pre-Retirement Death Benefit. If the Employee is not receiving Social Security Disability benefits, the Employee and spouse may elect a 100% Survivor Annuity. The election of the 100% Survivor Annuity shall not be effective until four years after the Employee and spouse submit the properly completed form electing that benefit, during which time the Employee and spouse may freely elect any other pre-retirement death benefit. The election of the 100% Survivor Annuity shall be subject to a charge described in Article VIII, Section 6, for every year, and fractional part thereof, that it is in effect. The charge will be applied to the Employee's monthly retirement benefit, if the Employee lives to retire, or to the spouse's monthly survivor benefit, if the Employee dies before his or her retirement.
- (c) An Employee and spouse shall have the same rights to waive or reinstate the 50% Survivor Annuity Benefit, and elect the 100% Survivor Annuity Benefit, if qualified, or the Pre-Retirement Plan Death Benefit,

as permitted for the election or rejection of the Joint and Survivor Annuity Benefit in Section 3 of Article VII, until the Employee's death. An Employee's spouse may also elect the Pre-Retirement Plan Death Benefit at the time of the Employee's death.

- (d) Within the period beginning with the first day of the Plan Year when the Employee attains age 32 and ending with the close of the Plan Year when he or she attains age 35, or within a reasonable period after he becomes a Plan Participant, the Administration Office shall provide each Employee and spouse with an explanation of the benefit comparable to that required under Section 3 of Article VII. The Employee thereafter may, with the written consent of his or her spouse as above provided, waive or reinstate the benefit any number of times within the applicable period of time, or within a reasonable period thereafter, ending with his or her retirement or death, whichever first occurs, or within a reasonable period after separation from the Plan if the Employee separates from service before age 35.

3. **Optional Pre-Retirement Death Benefit.** In the event of the death before retirement of an Employee with a vested interest, who is single, or who is married and has waived the Qualified Pre-Retirement Survivor Annuity Benefit with the proper spousal consent, there shall be paid a monthly benefit to the Employee's beneficiary, as defined under Section 4 of this Article. This benefit is also available to a surviving spouse or domestic partner as an alternative to the Qualified Pre-Retirement Survivor Annuity or 50% Pre-Retirement Domestic Partner Death Benefit. The amount of the monthly benefit shall be computed as though the Employee was receiving the benefit and had retired on an unreduced Early Retirement at age 55. Effective January 21, 1986, this benefit shall terminate after the total amount of money distributed to the beneficiary is equal to the amount of the employer contributions paid into the Plan on behalf of the Employee. However, beneficiaries of Participants who were retired or vested on January 21, 1986, shall be entitled to benefits for 36 months, if greater than the number of months of benefits required to equal the contributions described above. A beneficiary may also elect, in lieu of monthly benefits, to receive the total amount of employer contributions in an actuarially-equivalent lump sum.

4. **Designation of Beneficiary for Pre-Retirement Death Benefits.** The designation of any beneficiary to receive the pre-retirement death benefits of Sections 2 and 3 above must be made upon a form to be supplied for that purpose by the Administration Office and lodged with the Administration Office, with spousal consent, if married, in accordance with Section 3 of Article VII. An Employee may change his or her designation of beneficiary for pre-retirement death benefits by executing a new form of designation and lodging it with the Administration Office, but for married Employees, no designation of any person other than the Employee's spouse shall be effective unless consented to by the



spouse, in accordance with Section 3 of Article VII. No designation of a beneficiary for either pre-retirement death benefit shall be effective if the Employee dies within thirty (30) days of the date of executing the designation. Any designation of beneficiary for a pre-retirement death benefit made before a marriage of the Employee is invalidated at the time of the marriage, and shall not be revived if that marriage is dissolved. The designation of the spouse of an Employee as beneficiary for a pre-retirement death benefit is automatically revoked if they divorce, unless the Plan is served with a qualified domestic relations order preserving the spouse's status as beneficiary, or unless renewed in writing by the Employee after the divorce. If an Employee dies before retirement with no valid designation in effect, or if a beneficiary predeceases the Employee or dies within 30 days of the Employee's death, the benefits shall be payable to his or her spouse if the Employee is married, or if not, pursuant to Section 5 below.

5. **Payments if No Validly Designated Beneficiary.** If there is no validly designated beneficiary who has survived an Employee by at least thirty (30) days, or there are benefits to be distributed after the death of both an Employee and the Employee's spouse or other designated beneficiary, distribution shall be made to the following persons in the order mentioned, within a period of five (5) years following the death of the Employee, the member(s) of each class to take to the exclusion of the member(s) of each succeeding class:

- (i) Children, if any are living, natural (and acknowledged) or adopted, in equal shares; or
- (ii) Father and/or mother, if either is living, in equal shares; or
- (iii) Sisters and/or brothers, if any are living, in equal shares; or
- (iv) If none of the above have survived, the Employee's estate.

Any monthly benefits due under these Sections at the end of the five-year period shall be paid in one lump sum amount which is actuarially equivalent to the present value of the remaining benefits. An individual or the representative of an Employee's estate entitled to benefits under this Section 5 may also elect to receive an actuarially equivalent lump sum amount in lieu of the monthly benefits described above.

6. **Secondary Death Benefit.** Notwithstanding any other rule herein, when an Employee's spouse or designated beneficiary is entitled to a death benefit under this Article, and the Employee's spouse or designated beneficiary dies before the full amount of the death benefit has been paid, the remaining benefit, up to the amount of contributions made to the Plan on behalf of the Employee, shall be payable as a secondary death benefit, if there is a qualified beneficiary. For purposes of this benefit, qualified beneficiary means any of the Employee's children who have not reached age 21 at the time the benefits become payable. Benefits shall be paid in equal amounts among the qualified beneficiaries until

the benefit is paid in full, even if one or more of the children subsequently reaches age 21 before all benefits have been paid. Children receiving this benefit shall have the option of receiving either monthly installments or an actuarially-equivalent lump sum.

7. **Domestic Partner Pre-Retirement Death Benefit:** This section shall only apply if the Employee has designated his or her Domestic Partner as a beneficiary. When an Employee with a vested interest dies prior to Annuity Commencement Date, there shall be payable to his or her Domestic Partner, if surviving the Employee by at least 30 days, a survivor annuity equal to 50% of the monthly benefit payable to the Employee on the basis of his or her accrued benefits computed as of the date of his death. This benefit will become payable on approval of the application of the Domestic Partner, but in no event shall benefits commence later than December 31st of the Calendar Year immediately following the year of the Employee's death. An Employee who has designated his or her Domestic Partner as a beneficiary may at any time waive the Domestic Partner Pre-retirement Death Benefit and select any other pre-retirement death benefit available to single Participants.

### **ARTICLE XIII - APPEALS TO THE BOARD OF TRUSTEES**

1. No Employee, beneficiary, alternate payee named in a domestic relations order, or any other person shall have any right or claim to benefits under this Trust except as specified in the rules of the Trust or Plan. The procedures specified in this Article shall be the sole and exclusive procedures available to any such individual who is dissatisfied with an eligibility determination or benefit award, or who is adversely affected by any action of the Trustees, the Plan Administrator or any other Plan fiduciary. The Board of Trustees shall have full discretionary authority to interpret Plan language and to decide all claims or disputes regarding right, type, amount, duration of benefits, or claim to any payment from this Trust, and the Board's decision shall be final and binding on all parties.

2. Any person whose claim for benefits is wholly or partially denied, shall be notified in writing by the Administrator within a reasonable period of time, but not later than 90 days after receipt of the claim by the plan, unless the plan administrator determines that special circumstances require an extension of time for processing the claim. If an extension of time is necessary, written notice of the extension shall be furnished before the end of the 90-day period. The extension notice shall indicate the special circumstance requiring an extension of time and the date by which the plan expects to render a benefit determination.

3. The notice of claim denial shall tell the claimant the reason for the denial and the section of the Trust or Plan on which the denial is based. If applicable, the notice shall request any additional information needed together with an explanation as to why the additional information is necessary. The notice will also

explain the right to appeal the denial of the claim, including a statement of the right to bring a civil action under Section 502(a) of ERISA following an adverse benefit determination on review.

4. The claimant may then file an appeal in writing. This appeal shall be filed with the Plan Administrator not more than 60 days after the claimant has received written notice of the denial of his or her claim. Failure to file an appeal within 60 days will be a complete waiver of the claimant's right to appeal, and the initial decision of the Trust or Trustees will be final and binding.

5. The written appeal shall state in clear words, each reason why the claimant feels that the denial was in error. Documents supporting the appeal should be sent at the same time. The claimant may examine any documents in possession of the Trust or Trustees which are pertinent and relevant to the appeal.

6. Time Limits. After receipt of a timely filed appeal, the Board of Trustees will render a decision on appeal at the meeting immediately following the filing of the appeal, unless the appeal is filed within 30 days of the meeting, in which case the decision may be made at the second meeting following the appeal. If special circumstances require further extension, the decision will be made no later than the third meeting following the filing of the appeal. In such cases, the Plan will notify the claimant in writing of the extension, describing the special circumstances and the date the determination will be made, before the extension begins.

7. The plan administrator shall notify the claimant of the benefit determination as soon as possible, but not later than 5 days after the benefit determination is made.

8. The decision of the Trustees or its committee shall be in writing, and shall state the specific reasons for the decision with specific references to the Trust or Plan on which the decision is based.

9. Claims and appeals for Disability Retirement benefits filed on or after January 1, 2002 shall be governed by the Special Claims and Appeals Procedures for Disability Retirement Benefits, set out in Article XIII, subsection 10.

10. **Special Claims and Appeal Procedures for Disability Retirement Benefits.** These special claims and appeals procedures shall apply to all claims and appeals for Disability Retirement benefits filed on or after January 1, 2002. All claims and appeals pertaining to disability benefits shall be adjudicated in a manner designed to ensure independence and impartiality of the persons involved in making the determination. Decisions covered by the authority of the Plan regarding hiring, compensation, termination, promotion, or other similar matters with respect to any individual (such as a claims adjudicator or medical or

vocational expert) making determinations with respect to disability benefits of the Plan will not be made based upon the likelihood that the individual will support the denial of benefits.

(a) **Filing a Claim for Disability Retirement Benefits.**

- (i) To file a claim for Disability Retirement benefits, the Participant must submit a completed application form, with proof of disability, to the Trust Fund Office. Along with the claim form, the claimant may submit written comments, documents, records or other information relating to his or her claim. The Plan will provide access to and/or copies of all documents, records and other information relevant to the claim, upon request and free of charge. An authorized representative may act on behalf of the claimant in filing a claim for Disability Retirement benefits under this Plan.

(b) **Notification Rules if The Claim For Benefits is Denied.**

- (i) **Time Limits and Requests for Additional Information.** If a claim for Disability Retirement benefits is denied, the Plan will notify the claimant as soon as reasonably possible, but no later than 45 days after the Plan received the claim. That time period may be extended for up to two additional 30-day periods, but only due to matters beyond the Plan's control. If the Plan needs a 30-day extension, it will notify the claimant, within 45 days of receiving the claim, of the following:
  - (A) The reason for the delay,
  - (B) The expected date of decision,
  - (C) The basis on which the decision will be made,
  - (D) Any unresolved issues preventing a decision now, and
  - (E) Any additional information the Plan needs to make the decision.

The claimant will then have up to 45 days to provide the specified information. The Plan's response period will be extended by any additional time it takes for the claimant to provide the requested information.

- (ii) **Contents of Notice.** The Plan will provide the claimant with written notice if his or her claim for disability benefits is denied. The notice will include the following information:
- (A) A statement of the specific reason(s) for the denial;
  - (B) Reference to the specific Plan provision(s) on which the denial was based;
  - (C) Either a copy of the specific internal rules, guidelines, protocols, standards or similar criteria of the Plan relied upon in making the decision or, alternatively, a statement that such rules, guidelines, protocols, standards or other similar criteria of the Plan do not exist;
  - (D) A discussion of the decision including an explanation of the basis for disagreeing with or not following the views of:
    - 1. a healthcare professional or vocation professional who treated or evaluated claimant;
    - 2. the views of healthcare professional or vocation professional consulted by the Plan during the claim determination; or
    - 3. any disability determination made by the Social Security Administration.
  - (E) If the determination is based on a medical necessity or experimental treatment or similar exclusion or limit, either an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to claimant's medical circumstances, or a statement that such explanation will be provided free of charge upon request;
  - (F) A description of any additional information or documents that the claimant will need to submit if he or she wants the claim to be reconsidered, and an explanation of why that information is necessary;

- (G) A statement that 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 claimant's claim for benefits;
- (H) A description of the Plan's appeal procedures. These will be found in a separate document, and must be followed in appealing the denial of benefits; and
- (I) A statement of the claimant's right to bring a civil action under ERISA § 502(a), if the appeal is unsuccessful.

(c) **Appeal Procedures.**

- (i) If a claim for Disability Retirement benefits has been denied, the claimant may appeal the denial to the Board of Trustees. Appeals must be in writing, and state in detail the matter or matters involved. To submit an appeal, the claimant must send a letter with any documents and information that he or she wants the Board to consider, to:

U. A. Local No. 393 Defined Benefit Plan  
c/o BeneSys Administrators ,  
1731 Technology Drive, Suite 570  
San Jose, California 95110

Claimants must submit their appeals within 180 days of receiving a denial of benefits. If a claimant does not submit an appeal within 180 days of receiving a denial, he or she will be deemed to have waived any objection to the denial.

- (ii) The Board of Trustees has full discretionary authority to decide upon Plan benefits, to interpret the Plan language conclusively and to make a final determination of the rights of any Participant, beneficiary, assignee, or other person with respect to Plan benefits.
- (iii) **Standard for Review.** In deciding the appeal, the Board of Trustees will take into account everything that the claimant submitted, even material that was submitted or considered in the initial benefit determination. The Board of Trustees will not give deference to the initial determination. Neither a person

who made the initial determination nor such a person's subordinate shall have a vote in the decision on appeal.

- (iv) 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 who has appropriate training and experience in the field of medicine involved in the medical judgment. The Board of Trustees will identify to the claimant any medical or vocational experts whose advice was obtained by the Plan in connection with the decision, whether or not the advice was relied upon in making the decision. The health care professional consulted on appeal will not be an individual who was consulted in connection with the initial benefit denial, or such a person's subordinate.

**(d) Notification of the Board's Decision on Appeal.**

- (i) **Time Limits.** The Board of Trustees will render a decision on appeal at the meeting immediately following the filing of the appeal, unless the appeal is filed within 30 days of the meeting, in which case the decision may be made at the second meeting following the appeal.
- (ii) If special circumstances require further extension, the decision will be made no later than the third meeting following the filing of the appeal. In such cases, the Plan will notify the claimant in writing of the extension, describing the special circumstances and the date the determination will be made, before the extension begins.
- (iii) The Plan will notify the claimant of the decision as soon as possible, but no later than 5 days after the decision is made. The Plan's response period will be extended by any additional time it takes for the claimant to provide the requested information.
- (iv) **Contents of Notice.** The Plan will send the claimant written notice of the Board of Trustees' decision on appeal. If the appeal has been denied, the notice will include the following information:

(A) The specific reason(s) for the denial;

- (B) Reference to the specific Plan provision(s) on which the denial is based;
  - (C) Either a copy of the specific internal rules, guidelines, protocols, standards or similar criteria of the Plan relied upon in making the decision or, alternatively, a statement that such rules, guidelines, protocols, standards or other similar criteria of the Plan do not exist;
  - (D) A discussion of the decision including an explanation of the basis for disagreeing with or not following the views of:
    - 1. a healthcare professional or vocation professional who treated or evaluated claimant;
    - 2. the views of healthcare professional or vocation professional consulted by the Plan during the claim determination; or
    - 3. any disability determination made by the Social Security Administration.
  - (E) If the determination is based on a medical necessity or experimental treatment or similar exclusion or limit, either an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to claimant's medical circumstances, or a statement that such explanation will be provided free of charge upon request;
  - (F) A statement that the claimant may view and receive copies of documents, records or other information relevant to the claim, upon request and free of charge; and
  - (G) The claimant's right to bring a civil action under ERISA § 502(a) within two (2) years after the denial and the calendar date on which the period to bring a civil action expires.
- (e) The Trust Fund Office shall automatically provide to claimant, free of charge, any new evidence or rationales, if any, as soon as possible and sufficiently in advance of the date on which the appeal determination is to be made in order to give claimant a reasonable opportunity to address the new evidence or rationale prior to that



date. Claimant shall have the right to review and respond to new evidence or rationales considered, relied upon or generated by the Plan in connection with claimant's claim during the pendency of any appeal.

- (f) All notices and disclosures under this section 10 shall be provided in a culturally and linguistically appropriate manner. The Trust Fund Office will also provide customer service with oral language services in any Applicable Non-English language and provide written notices in any Applicable Non-English language upon request. With respect to an address in any United States county to which a notice is sent, a non-English language is an Applicable Non-English language if ten percent or more of the population residing in the county is literate only in the same non-English language, as determined in guidance published by the Secretary.
- (g) No lawsuit may be filed without first exhausting the appeals procedures in this section 10 or showing that the Plan was not compliant with the above procedures, unless the Plan's actions qualify as (i) de minimis; (ii) non-prejudicial; (iii) attributable to good cause or matters beyond the Plan's control; (iv) in context of an ongoing good-faith exchange of information; and (v) not reflective of a pattern or practice of non-compliance.
- (h) The procedures specified in this section shall be the sole and exclusive procedures available to any such individual who is dissatisfied with an eligibility determination or benefit award, or who is adversely affected by any action of the Trustees, the Trust Fund Office or any other Plan fiduciary. The Board of Trustees reserves full discretionary authority to interpret Plan language and to decide all claims or disputes regarding right, type, amount or duration of benefits, or claim to any payment from this Trust. The decision of the Board of Trustees on any matter within its discretion shall be final and binding on all parties.

11. **Time Limit for Bringing a Lawsuit.** No legal action may be commenced or maintained against the Trust or the Plan more than two (2) years after an appeal for benefits has been denied. The determinations of the Board of Trustees are subject to judicial review only for abuse of discretion

#### **ARTICLE XIV - QUALIFIED DOMESTIC RELATIONS ORDERS**

1. **Rights of Alternate Payees.** The benefits provided by this Plan are subject to any qualified domestic relations order which creates or recognizes the

existence of an alternate payee's right to, or assigns to an alternate payee the right, to receive all or a portion of the benefits payable with respect to a Participant under the Plan. A qualified domestic relations order means any judgment, decree, or order (including approval of a property settlement agreement) which relates to the provision of child support, alimony or marital property rights to a spouse, child or other dependent of a Participant and is made pursuant to a State Domestic Relations law (including a community property law). The Plan's model Qualified Domestic Relations Order and a copy of the Plan's procedures for Qualified Domestic Relations Orders may be obtained from the Administration Office.

2. **Notification of Order.** In the event that the Plan should be served with an order, the Plan shall promptly notify the Participant and any other alternate payee of the order and of the Plan Administrator's procedures for determining the qualified or unqualified status of the order.

## **ARTICLE XV - MISCELLANEOUS PROVISIONS**

1. **Continuity of the Plan.** It is intended that the Plan shall continue indefinitely, but the Trustees reserve the right to amend the Plan at any time, provided no such amendment shall be allowed which would reduce the interest of any Employee which is then vested, or divert any portion of the Fund to any purpose other than the payment of retirement benefits to retired Employees or their beneficiaries.

Effective for Plan amendments adopted after August 9, 2006, no amendment to the Plan (including a change in the actuarial basis for determining optional or early retirement benefits) shall be effective to the extent that it has the effect of decreasing a Participant's accrued benefit. For purposes of this Section, a Plan amendment that has the effect of (1) eliminating or reducing an early retirement benefit or a retirement-type subsidy, or (2) eliminating an optional form of benefit, with respect to benefits attributable to service before the amendment shall be treated as reducing accrued benefits. In the case of a retirement-type subsidy, the preceding sentence shall apply only with respect to a Participant who satisfies (either before or after the amendment) the preamendment conditions for the subsidy. Notwithstanding the preceding sentences, a Participant's accrued benefit, early retirement benefit, retirement-type subsidy, or optional form of benefit may be reduced to the extent permitted under Sections 1.411(d)-3 and 1.411(d)-4 of the Treasury Regulations.

2. **Merger of the Plan.** No merger of the Plan with any other Plan, or transfer of its assets, shall be permitted which would result in any Employee receiving a benefit immediately after the merger or transfer less than the benefit to which he or she would have been entitled if the Plan had been terminated immediately prior thereto.

3. **Pension on Termination of Plan.** In the event of the termination of the Plan, whether partial or complete, the assets then remaining shall be distributed in accordance with the provisions of § 4041A of the Employee Retirement Income Security Act of 1974. Upon such termination the interests of all Employees shall be regarded as 100% vested and nonforfeitable to the extent funded.

4. **Addition of Covered Employees.** If, under a Collective Bargaining Agreement, payment is required to be made into this Fund with respect to classifications of Employees other than those now covered, the provisions of this Plan shall, if necessary, be adjusted as to such persons affected so as to make equitable and actuarially sound, provisions for all covered Employees.

5. **Assignments of Benefits.** Benefits under this Plan may not be assigned or alienated.

6. **Plan Year.** The Plan Year shall commence on the 1st day of January and end on the 31st day of December.

7. **Waiver of Class, Collective, and Representative Actions.** By participating in the Plan, current and former Participants, Employees, Retirees, Dependents, and eligible individuals waive, to the fullest extent permitted by law, whether or not in court, any right to commence, be a party in any way, or be an actual or putative class member of any class, collective, or representative action arising out of or relating to any dispute, claim or controversy relating to the Plan, and current and former Participants, Retirees, Employees, Dependents, and eligible individuals agree that any dispute, claim or controversy may only be initiated or maintained and decided on an individual basis.

8. **APPLICABLE VENUE.** A Participant or beneficiary shall only bring an action in connection with the Plan in the United States District Court for the Northern District of California.

9. **Contingent Top Heavy Rules**

(a) **General Rules.** If the Plan is determined to be Top-Heavy (as defined in Article XV Section 9 (b) for any Plan Year, then for any such year the special vesting and minimum benefits of Article XV, Section 9 shall apply to any Employee who is not included in a unit of collectively-bargained employees or employed by the Union. Notwithstanding the foregoing, this Article XV Section 9 shall also not apply to any Employee entitled by law to be excluded from the special top-heavy rules of 26 U.S.C. § 416.

(b) **Determination of Top-Heavy Status**

- (i) **Determination Date.** The determination date for any Plan Year is the last day of the preceding Plan Year.
- (ii) **Top-Heavy Status.** The Plan is Top-Heavy for any Plan 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. The Plan shall not be considered a Top-Heavy Plan for any Plan Year in which the Plan is part of a Required or Permissive Aggregation group which is not top-heavy. For purposes of determining whether the Plan shall be considered a Top-Heavy Plan, accrued benefits shall be calculated in accordance with Code Section 416, and regulations thereunder, as amended from time to time.
- (iii) **Key Employees.** Whether or not a Participant is a Key Employee depends on his or her status with the Contributing Employer that employs the Participant. Key employee means any employee or former employee (including any deceased employee) who at any time during the plan year that includes the determination date was an officer of the employer having annual compensation greater than \$185,000 (as adjusted under section 416(i)(1) of the Code for plan 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 section 415(c)(3) of the Code. The determination of who is a key employee will be made in accordance with section 416(i)(1) of the Code and the applicable regulations and other guidance of general applicability issued thereunder.
- (iv) **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.
- (v) **Special Rules.**

- (A) 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 section 416(g)(2) of the Code during the 1-year period ending on the determination date. The preceding sentence shall also apply to distributions under a terminated plan which, had it not been terminated, would have been aggregated with the plan under section 416(g)(2)(A)(i) of the Code. In the case of a distribution made for a reason other than severance from employment, death, or disability, this provision shall be applied by substituting 5-year period for 1-year period.
- (B) If an individual is not a Key Employee for any Plan Year but was a Key Employee for any prior Plan Year, any accrued benefit for such Employee shall not be taken into account for purposes of determining if the Plan is Top-Heavy.
- (C) For purposes of this Article XV Section 9 "Compensation" for a Plan Year means the amount required to be included in the Employee's Form W-2 for the calendar year that ends within that Plan Year.
- (D) Top-Heavy valuation date means the Plan's most recent valuation date for computing Plan costs for minimum funding purposes that occurs during the twelve-month period ending on the Determination Date.
- (E) The Plan shall include nondeductible employee contributions for purposes of determining the present value of the accrued benefit and for the five-year distribution, in accordance with Sections 416(g)(3) of the Internal Revenue Code and I.T. Regs. 1.416-1, T-28 and T-30.
- (F) The accrued benefits and accounts of any individual who has not performed services for the

Employer during the 1-year period ending on the determination date shall not be taken into account.

(G) Except to the extent provided in regulations, any rollover contribution (or similar transfer) initiated by the Employee and made after 1983 to the plan shall not be taken into account with respect to the transferee plan for purposes of determining whether such plan is a top-heavy plan (or whether any aggregation group which includes such plan is a top-heavy group).

(H) 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.

(c) **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 Contributions to this Plan and not employed by the Union and only if the Plan as a whole becomes Top-Heavy. Such Employees are referred to herein as Top-Heavy Employees.

(i) **Vesting.**

(A) **Applicability.** If the Plan becomes Top-Heavy the vesting schedule set forth in Article XV, Section (9) (c)(i)(B) below shall apply to the accrued benefit of every Top-Heavy Employee who has at least one Hour of Work while the Plan is Top-Heavy. Participants who do not have an Hour of Work 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.

(B) **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 Article XV, Section 9(c)(i)(A):

Years of Vesting Service Percentage

|           |     |
|-----------|-----|
| 2         | 20  |
| 3         | 40  |
| 4         | 60  |
| 5 or more | 100 |

(C) **End of Top-Heavy Status.** If, after being determined to be Top-Heavy, the Plan ceases to be Top-Heavy, then:

- (1) The non-forfeitable percentage of a Participant's accrued benefit before the Plan ceased to be Top-Heavy will not be reduced;
- (2) Any Top-Heavy Employee with three (3) or more Years of Credited Service at the time the Plan ceased to be Top-Heavy shall be given a reasonable period of time in which to elect to have the previously applicable vesting schedule continue to apply to him or her.
- (3) Any Top-Heavy Employee with less than five 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.

(ii) **Special Minimum Benefit Rules.**

(A) **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 Article XV, Section 9 (c) (ii) (B) below shall apply to all Top-Heavy Employees (other than Key Employees) who have a Year of Credited Service during any such Plan Year.


(B) **Special Minimum Benefit.** If the Plan becomes Top-Heavy, the minimum pension benefit for Top-Heavy Employees (other than Key Employees) shall be the greater of (a) the Plan's Basic Regular Pension benefit or (b) two percent of the Participant's Average Top-Heavy

Compensation for each Year of Credited Service beginning after May 31, 1984 during which the Plan was Top-Heavy, up to a maximum of 10 such years. To determine compliance with the foregoing minimum benefit limitation, the Participant's Basic Regular Pension Benefit shall be calculated as an annual retirement benefit payable in the form of a single life annuity commencing at the Participant's Normal Retirement Date, or as the actuarial equivalent thereof.

(C) 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 Plan Years beginning on or after June 1, 1984 for which the Plan is determined to be Top-Heavy.

(D) For purposes of satisfying the minimum benefit requirements of Section 416(c)(1) of the Code and the Plan, in determining years of service with the employer, any service with the employer shall be disregarded to the extent that such service occurs during a plan year when the plan benefits (within the meaning of Section 410(b) of the Code) no key employee or former key employee.

IN WITNESS of the adoption of this Restated Plan, the Chairman and Co-Chairman hereby affix their signature, on the date indicated.

  
Chairman

01-09-2022

Date

  
Co-Chairman

1/18/2022

Date



## **Appendix**

### **Ad Hoc Benefit Payments**

All retirees in pay status as of September 1, 2014 who met all of the following criteria received a one- time ad hoc benefit payment of \$1,749.60:

1. Either (1) the retiree had nine (9) benefit credits within ten (10) years prior to his or her pension effective date or (2) the retiree was permanently disabled as evidenced by a Social Security Disability Award; and
2. As of September 1, 2014, the retiree had been a dues paying member in good standing with U.A. Local 393 for at least twelve (12) consecutive months.

Any retiree who failed to meet the criteria in 1 above solely because he or she was working in a position identified in Article 1, Section 7 (a) of the Plan also received a one-time ad hoc benefit payment in 2014 if he or she was otherwise eligible.

Any retiree who failed to meet the criteria in 1 above solely because he or she was working for an approved general contractor who is not signatory to a collective bargaining agreement with U.A. Local 393 but is signatory to a collective bargaining agreement for another building trade also received a one-time ad hoc benefit payment in 2014 if he or she was otherwise eligible.

Any retiree who failed to meet the criteria in 1 above solely because of unemployment in 2009 also received a one-time ad hoc benefit payment if all the following criteria were met and he or she was otherwise eligible: (a) he or she must have received nine (9) benefit credits within eleven (11) years prior his or her pension effective date and (b) must have been signed on the UA 393 Building Trades Joint Hiring Hall out of work list and available for work in 2009.

Any retiree who failed to meet the criteria in 1 above solely because of unemployment in 2010 also received a one-time ad hoc benefit payment if all the following criteria were met and he or she was otherwise eligible: (a) he or she must have received nine (9) benefit credits within eleven (11) years prior his or her pension effective date and (b) must have been signed on the UA 393 Building Trades Joint Hiring Hall out of work list and available for work in 2010.

Surviving Spouses in pay status as of September 1, 2014 who met all of the following criteria received a one-time ad hoc benefit payment of \$1,749.60:

1. The retiree to whom the surviving Spouse was married passed away in calendar year 2014; and
2. But for his or her death, the retiree to whom the surviving Spouse was married would have been eligible to receive an Ad Hoc Benefit Payment in 2014.

### 2015 Ad Hoc Benefit Payments

All retirees in pay status as of September 1, 2015 who met all of the following criteria received a one- time ad hoc benefit payment of \$2,092.06.

1. Either (1) the retiree had nine (9) benefit credits within ten (10) years prior to his or her pension effective date or (2) the retiree was permanently disabled as evidenced by a Social Security Disability Award; and
2. As of September 1, 2015, the retiree had been a dues paying member in good standing with U.A. Local 393 for at least twelve (12) consecutive months.

Any retiree who failed to meet the criteria in 1 above solely because he or she was working in a position identified in Article 1, Section 7 (a) of the Plan also received a one-time ad hoc benefit payment in 2015 of \$2,092.06 if he or she was otherwise eligible.

Any retiree who failed to meet the criteria in 1 above solely because he or she was working for an approved general contractor who is not signatory to a collective bargaining agreement with U.A. Local 393, but is signatory to a collective bargaining agreement for another building trade, also received a one-time ad hoc benefit payment of \$2,092.06 in 2015 if he or she was otherwise eligible.

Any retiree who failed to meet the criteria in 1 above solely because of unemployment in 2009 also received a one-time ad hoc benefit payment of \$2,092.06 in 2015 if all the following criteria were met and he or she was otherwise eligible: (a) he or she must have received nine (9) benefit credits within eleven (11) years prior his or her pension effective date and (b) must have been signed on the UA 393 Building Trades Joint Hiring Hall out of work list and available for work in 2009.

Any retiree who failed to meet the criteria in 1 above solely because of unemployment in 2010 also received a one-time ad hoc benefit payment of \$2,092.06 in 2015 if all the following criteria were met and he or she was otherwise

eligible: (a) he or she must have received nine (9) benefit credits within eleven (11) years prior his or her pension effective date and (b) must have been signed on the UA 393 Building Trades Joint Hiring Hall out of work list and available for work in 2010.

Any retiree who failed to meet the criteria in 1 above solely because of disability also received a one-time ad hoc benefit of \$2,092.06 in 2015 if all the following criteria were met and he or she was otherwise eligible: (a) he or she must have received nine (9) benefit credits within ten (10) years prior to his or her pension effective date, for purposes of determining whether the retiree met this requirement the retiree was considered to have earned 0.1 benefit credit for every month the retiree was eligible for benefits from the U.A. Local 393 Health and Welfare Plan due to his or her disability (Rule 10 of the U.A. Local 393 Health and Welfare Plan) and (b) must have at least twenty-five (25) benefit credits.

Surviving Spouses in pay status as of September 1, 2015 who met all of the following criteria received a one-time ad hoc benefit payment in 2015 of \$2,092.06.

1. The retiree to whom the surviving Spouse was married passed away in calendar year 2015; and
2. But for his or her death, the retiree to whom the surviving Spouse was married would have been eligible to receive an Ad Hoc Benefit Payment in 2015.

#### 2016 Ad Hoc Benefit Payments

All retirees in pay status as of September 1, 2016 who met all of the following criteria received a one- time ad hoc benefit payment of \$2,749.01.

1. Either (1) the retiree had nine (9) benefit credits within ten (10) years prior to his or her pension effective date or (2) the retiree was permanently disabled as evidenced by a Social Security Disability Award; and
2. As of September 1, 2016, the retiree had been a dues paying member in good standing with U.A. Local 393 for at least twelve (12) consecutive months.

Any retiree who failed to meet the criteria in 1 above solely because he or she was working in a position identified in Article 1, Section 7 (a) of the Plan also received a one-time ad hoc benefit payment in 2016 of \$2,749.01 if he or she was otherwise eligible.

Any retiree who failed to meet the criteria in 1 above solely because he or she was working for an approved general contractor who is not signatory to a collective bargaining agreement with U.A. Local 393, but is signatory to a collective bargaining agreement for another building trade, also received a one-time ad hoc benefit payment of \$2,749.01 in 2016 if he or she was otherwise eligible.

Any retiree who failed to meet the criteria in 1 above solely because of unemployment in 2009 also received a one-time ad hoc benefit payment of \$2,749.01 in 2016 if all the following criteria were met and he or she was otherwise eligible: (a) he or she must have received nine (9) benefit credits within eleven (11) years prior his or her pension effective date and (b) must have been signed on the UA 393 Building Trades Joint Hiring Hall out of work list and available for work in 2009.

Any retiree who failed to meet the criteria in 1 above solely because of unemployment in 2010 also received a one-time ad hoc benefit payment of \$2,749.01 in 2016 if all the following criteria were met and he or she was otherwise eligible: (a) he or she must have received nine (9) benefit credits within eleven (11) years prior his or her pension effective date and (b) must have been signed on the UA 393 Building Trades Joint Hiring Hall out of work list and available for work in 2010.

Any retiree who failed to meet the criteria in 1 above solely because of disability also received a one-time ad hoc benefit of \$2,749.01 in 2016 if all the following criteria were met and he or she was otherwise eligible: (a) he or she must have received nine (9) benefit credits within ten (10) years prior to his or her pension effective date, for purposes of determining whether the retiree met this requirement the retiree was considered to have earned 0.1 benefit credit for every month the retiree was eligible for benefits from the U.A. Local 393 Health and Welfare Plan due to his or her disability (Rule 10 of the U.A. Local 393 Health and Welfare Plan) and (b) must have at least twenty-five (25) benefit credits.

Surviving Spouses in pay status as of September 1, 2016 who met all of the following criteria received a one-time ad hoc benefit payment in 2016 of \$2,749.01

1. The retiree to whom the surviving Spouse was married passed away in calendar year 2016; and
2. But for his or her death, the retiree to whom the surviving Spouse was married would have been eligible to receive an Ad Hoc Benefit Payment in 2016.

## 2017 Ad Hoc Benefit Payments

All retirees in pay status as of September 1, 2017 who met all of the following criteria received a one-time ad hoc benefit payment of \$2,630.19.

1. Either (1) the retiree had nine (9) benefit credits within ten (10) years prior to his or her pension effective date or (2) the retiree was permanently disabled as evidenced by a Social Security Disability Award; and
2. As of September 1, 2017, the retiree had been a dues paying member in good standing with U.A. Local 393 for at least twelve (12) consecutive months.

Any retiree who failed to meet the criteria in 1 above solely because he or she was working in a position identified in Article 1, Section 7 (a) of the Plan also received a one-time ad hoc benefit payment in 2017 of \$2,630.19 if he or she was otherwise eligible.

Any retiree who failed to meet the criteria in 1 above solely because he or she was working for an approved general contractor who is not signatory to a collective bargaining agreement with U.A. Local 393, but is signatory to a collective bargaining agreement for another building trade, also received a one-time ad hoc benefit payment of \$2,630.19 in 2017 if he or she was otherwise eligible.

Any retiree who failed to meet the criteria in 1 above solely because of unemployment in 2009 also received a one-time ad hoc benefit payment of \$2,630.19 in 2017 if all the following criteria were met and he or she was otherwise eligible: (a) he or she must have received nine (9) benefit credits within eleven (11) years prior his or her pension effective date and (b) must have been signed on the UA 393 Building Trades Joint Hiring Hall out of work list and available for work in 2009.

Any retiree who failed to meet the criteria in 1 above solely because of unemployment in 2010 also received a one-time ad hoc benefit payment of \$2,630.19 in 2017 if all the following criteria were met and he or she was otherwise eligible: (a) he or she must have received nine (9) benefit credits within eleven (11) years prior his or her pension effective date and (b) must have been signed on the UA 393 Building Trades Joint Hiring Hall out of work list and available for work in 2010.

Any retiree who failed to meet the criteria in 1 above solely because of disability also received a one-time ad hoc benefit of \$2,630.19 in 2017 if all the following criteria were met and he or she was otherwise eligible: (a) he or she must have received nine (9) benefit credits within ten (10) years prior to his or her pension effective date, for purposes of determining whether the retiree met this requirement the retiree was considered to have earned 0.1 benefit credit for every month the retiree was eligible for benefits from the U.A. Local 393 Health and Welfare Plan due to his or her disability (Rule 10 of the U.A. Local 393 Health and Welfare Plan) and (b) must have at least twenty-five (25) benefit credits.

Surviving Spouses in pay status as of September 1, 2017 who met all of the following criteria received a one-time ad hoc benefit payment in 2017 of \$2,630.19.

1. The retiree to whom the surviving Spouse was married passed away in calendar year 2017; and
2. But for his or her death, the retiree to whom the surviving Spouse was married would have been eligible to receive an Ad Hoc Benefit Payment in 2017.

#### 2018 Ad Hoc Benefit Payments

All retirees in pay status as of September 1, 2018 who met all of the following criteria received a one-time ad hoc benefit payment of \$2,554.51.

1. Either (1) the retiree had nine (9) benefit credits within ten (10) years prior to his or her pension effective date or (2) the retiree was permanently disabled as evidenced by a Social Security Disability Award; and
2. As of September 1, 2018, the retiree had been a dues-paying member in good standing with U.A. Local No. 393 for at least twelve (12) consecutive months.

Any retiree who failed to meet the criteria in 1 above solely because he or she was working in a position identified in Article 1, Section 7 (a) of the Plan also received a one-time ad hoc benefit payment in 2018 of \$2,554.51 if he or she was otherwise eligible.

Any retiree who failed to meet the criteria in 1 above solely because he or she was working for an approved general contractor who is not signatory to a collective bargaining agreement with U.A. Local No. 393, but is signatory to a collective bargaining agreement for another building trade, also received a one-

time ad hoc benefit payment of \$2,554.41 in 2018 if he or she was otherwise eligible.

Any retiree who failed to meet the criteria in 1 above solely because of unemployment in 2009 also received a one-time ad hoc benefit payment of \$2,554.51 in 2018 if all the following criteria were met and he or she was otherwise eligible: (a) he or she must have received nine (9) benefit credits within eleven (11) years prior his or her pension effective date and (b) must have been signed on the UA 393 Building Trades Joint Hiring Hall out of work list and available for work in 2009.

Any retiree who failed to meet the criteria in 1 above solely because of unemployment in 2010 also received a one-time ad hoc benefit payment of \$2,554.51 in 2018 if all the following criteria were met and he or she was otherwise eligible: (a) he or she must have received nine (9) benefit credits within eleven (11) years prior his or her pension effective date and (b) must have been signed on the UA 393 Building Trades Joint Hiring Hall out of work list and available for work in 2010.

Any retiree who failed to meet the criteria in 1 above solely because of disability also received a one-time ad hoc benefit of \$2,554.51 in 2018 if all the following criteria were met and he or she was otherwise eligible: (a) he or she must have received nine (9) benefit credits within ten (10) years prior to his or her pension effective date, for purposes of determining whether the retiree met this requirement the retiree was considered to have earned 0.1 benefit credit for every month the retiree was eligible for benefits from the U.A. Local No. 393 Health and Welfare Plan due to his or her disability (Rule 10 of the U.A. Local No. 393 Health and Welfare Plan) and (b) must have at least twenty-five (25) benefit credits.

Surviving Spouses in pay status as of September 1, 2018 who met all of the following criteria received a one-time ad hoc benefit payment in 2018 of \$2,554.51.

1. The retiree to whom the surviving Spouse was married passed away in calendar year 2018; and
2. But for his or her death, the retiree to whom the surviving Spouse was married would have been eligible to receive an Ad Hoc Benefit Payment in 2018.

## 2019 Ad Hoc Benefit Payments

All retirees in pay status as of September 1, 2019 who met all of the following criteria received a one-time ad hoc benefit payment of \$2,701.76.

1. Either (1) the retiree had nine (9) benefit credits within ten (10) years prior to his or her pension effective date or (2) the retiree was permanently disabled as evidenced by a Social Security Disability Award or by currently receiving long-term disability payments from the U.A. Local No. 393 Welfare Plan ; and
2. As of September 1, 2019, the retiree had been a dues-paying member in good standing with U.A. Local No. 393 for at least twelve (12) consecutive months.

Any retiree who failed to meet the criteria in 1 above solely because he or she was working in a position identified in Article 1, Section 7 (a) of the Plan also received a one-time ad hoc benefit payment in 2019 of \$2,701.76 if he or she was otherwise eligible.

Any retiree who failed to meet the criteria in 1 above solely because he or she was working for an approved general contractor who is not signatory to a collective bargaining agreement with U.A. Local No. 393, but is signatory to a collective bargaining agreement for another building trade, also received a one-time ad hoc benefit payment of \$2,701.76 in 2019 if he or she was otherwise eligible.

Any retiree who failed to meet the criteria in 1 above solely because of unemployment in 2009 also received a one-time ad hoc benefit payment of \$2,701.76 in 2019 if all the following criteria were met and he or she was otherwise eligible: (a) he or she must have received nine (9) benefit credits within eleven (11) years prior his or her pension effective date and (b) must have been signed on the UA 393 Building Trades Joint Hiring Hall out of work list and available for work in 2009.

Any retiree who failed to meet the criteria in 1 above solely because of unemployment in 2010 also received a one-time ad hoc benefit payment of \$2,701.76 in 2019 if all the following criteria were met and he or she was otherwise eligible: (a) he or she must have received nine (9) benefit credits within eleven (11) years prior his or her pension effective date and (b) must have been signed on the UA 393 Building Trades Joint Hiring Hall out of work list and available for work in 2010.



Any retiree who failed to meet the criteria in 1 above solely because of disability also received a one-time ad hoc benefit of \$2,701.76 in 2019 if all the following criteria were met and he or she was otherwise eligible: (a) he or she must have received nine (9) benefit credits within ten (10) years prior to his or her pension effective date, for purposes of determining whether the retiree met this requirement the retiree was considered to have earned 0.1 benefit credit for every month the retiree was eligible for benefits from the U.A. Local No. 393 Health and Welfare Plan due to his or her disability (Rule 10 of the U.A. Local No. 393 Health and Welfare Plan) and (b) must have at least twenty-five (25) benefit credits.

Surviving Spouses in pay status as of September 1, 2019 who met all of the following criteria received a one-time ad hoc benefit payment in 2019 of \$2,701.76.

1. The retiree to whom the surviving Spouse was married passed away in calendar year 2019; and
2. But for his or her death, the retiree to whom the surviving Spouse was married would have been eligible to receive an Ad Hoc Benefit Payment in 2019.

Notwithstanding the above, a retiree who has reached his or her Required Beginning Date but is still actively employed in Industry Service is not eligible for the 2019 Ad Hoc benefit. Participants who worked fewer than 100 hours of covered employment during the calendar year of 2019 and who were not employed in Industry Service as of September 1<sup>st</sup> of 2019 will not be considered actively employed.

#### 2020 Ad Hoc Benefit Payments

All retirees in pay status as of September 1, 2020 who met all of the following criteria received a one-time ad hoc benefit payment of \$2,465.91.

1. Either (1) the retiree had nine (9) benefit credits within ten (10) years prior to his or her pension effective date or (2) the retiree was permanently disabled as evidenced by a Social Security Disability Award or by currently receiving long-term disability payments from the U.A. Local No. 393 Welfare Plan ; and
2. As of September 1, 2020, the retiree had been a dues-paying member in good standing with U.A. Local No. 393 for at least twelve (12) consecutive months.

Any retiree who failed to meet the criteria in 1 above solely because he or she was working in a position identified in Article 1, Section 7 (a) of the Plan also received a one-time ad hoc benefit payment in 2020 of \$2,465.91 if he or she was otherwise eligible.

Any retiree who failed to meet the criteria in 1 above solely because he or she was working for an approved general contractor who is not signatory to a collective bargaining agreement with U.A. Local No. 393, but is signatory to a collective bargaining agreement for another building trade, also received a one-time ad hoc benefit payment of \$2,465.91 in 2020 if he or she was otherwise eligible.

Any retiree who failed to meet the criteria in 1 above solely because of unemployment in 2009 also received a one-time ad hoc benefit payment of \$2,465.91 in 2020 if all the following criteria were met and he or she was otherwise eligible: (a) he or she must have received nine (9) benefit credits within eleven (11) years prior his or her pension effective date and (b) must have been signed on the UA 393 Building Trades Joint Hiring Hall out of work list and available for work in 2009.

Any retiree who failed to meet the criteria in 1 above solely because of unemployment in 2010 also received a one-time ad hoc benefit payment of \$2,465.91 in 2020 if all the following criteria were met and he or she was otherwise eligible: (a) he or she must have received nine (9) benefit credits within eleven (11) years prior his or her pension effective date and (b) must have been signed on the UA 393 Building Trades Joint Hiring Hall out of work list and available for work in 2010.

Any retiree who failed to meet the criteria in 1 above solely because of disability also received a one-time ad hoc benefit of \$2,465.91 in 2020 if all the following criteria were met and he or she was otherwise eligible: (a) he or she must have received nine (9) benefit credits within ten (10) years prior to his or her pension effective date, for purposes of determining whether the retiree met this requirement the retiree was considered to have earned 0.1 benefit credit for every month the retiree was eligible for benefits from the U.A. Local No. 393 Health and Welfare Plan due to his or her disability (Rule 10 of the U.A. Local No. 393 Health and Welfare Plan) and (b) must have at least twenty-five (25) benefit credits.

Surviving Spouses in pay status as of September 1, 2020 who met all of the following criteria received a one-time ad hoc benefit payment in 2020 of \$2,465.91.

1. The retiree to whom the surviving Spouse was married passed away in calendar year 2020; and
2. But for his or her death, the retiree to whom the surviving Spouse was married would have been eligible to receive an Ad Hoc Benefit Payment in 2020.

Notwithstanding the above, a retiree who has reached his or her Required Beginning Date but is still actively employed in Industry Service is not eligible for the 2020 Ad Hoc benefit. Participants who worked fewer than 100 hours of covered employment during the calendar year of 2020 and who were not employed in Industry Service as of September 1<sup>st</sup> of 2020 will not be considered actively employed.