

Robert J. Posak

TOWN COUNCIL AGENDA
TOWN COUNCIL CHAMBERS
740 MAIN STREET
EAST HARTFORD, CONNECTICUT
APRIL 16, 2013

2013 APR 12 A 9: 25
TOWN CLERK
EAST HARTFORD

6:30 P.M. Executive Session

=====

Announcement of Exit Locations (C.G.S. § 29-381)

Pledge of Allegiance

7:30 p.m.

1. CALL TO ORDER
2. AMENDMENTS TO AGENDA
3. RECOGNITIONS AND AWARDS
4. OPPORTUNITY FOR RESIDENTS TO ADDRESS THE COUNCIL ON AGENDA ITEMS
 - A. Other Elected Officials
 - B. Other Residents
 - C. Mayor
5. APPROVAL OF MINUTES
 - A. April 2, 2013 Regular Meeting
6. COMMUNICATIONS AND PETITIONS
 - A. East Hartford Hockanum River Race
 - B. East Hartford Hornets Youth Football/Cheerleading 2013 Season
 - C. Resignation of Cathie Condio from the Property Maintenance Code Board of Appeals
7. OLD BUSINESS
8. NEW BUSINESS
 - A. East Hartford Police Officers' Association Arbitration Award re: Successor Pension Agreement
 - B. Referral to the Personnel & Pensions Subcommittee re:
 1. Economic Development Services Coordinator – Revised Job Description
 2. Reference Librarian /Cultural Assets Manager – Revised Job Description
 3. Project Administrator – Public Works Department – New Position
 4. Contract Negotiations Specialist – New Position
 - C. Municipal Tax Exempt Lease Purchase Agreements with TD Equipment Finance, Inc.:
 1. Energy Savings Performance Contract re: Johnson Controls (Bank of America)
 2. Board of Education: Solid Waste Collection (Chase)
 3. Town of East Hartford: 5-yr Capital Improvement Plan FY 2012-2016 (Chase)
 4. Town of East Hartford: 5-yr Capital Improvement Plan FY 2013-2017 (Chase)
 - D. Municipal Tax Exempt Lease Purchase Agreement: Town of East Hartford's 5-yr Capital Improvement Plan FY 2014-2018
 - E. State of Connecticut Local Capital Improvement Program (LoCIP)
 - F. Refund of Taxes

- G. Appointments to the Zoning Board of Appeals:
 - 1. Richard DeCrescenzo; term to expire December 2018
 - 2. Eddie Camejo – Alternate; term to expire December 2013
- H. Outdoor Amusement Permit Applications:
 - 1. 8th Annual Abelon Memorial Walk
 - a. Approval of Application
 - b. Waiver of Associated Permit Fee
 - 2. Riverfront Summer Pops
 - 3. Gengras Harley-Davidson Spring Open House
- 9. OPPORTUNITY FOR COUNCILLORS TO DIRECT QUESTIONS TO THE ADMINISTRATION
- 10. COUNCIL ACTION ON EXECUTIVE SESSION MATTERS
 - A. Alice LLC v Town of East Hartford – Tax Appeal
 - B. Eric Garcia v. Town of East Hartford, et al – Superior Court Case
- 11. OPPORTUNITY FOR RESIDENTS TO SPEAK
 - A. Other Elected Officials
 - B. Other Residents
 - C. Mayor
- 12. ADJOURNMENT (next meeting: May 7, 2013)

Robert J. Rossi

EAST HARTFORD TOWN COUNCIL

2013 APR -8 A 9:41

TOWN COUNCIL CHAMBERS

TOWN CLERK
EAST HARTFORD

APRIL 2, 2013

PRESENT Chair Richard F. Kehoe, Vice Chair William P. Horan, Jr., Majority Leader Barbara-Ann Rossi, Minority Leader Eric A. Thompson, Councillors Marc I. Weinberg, Linda A. Russo, Ram Aberasturia, Patricia Harmon and Esther B. Clarke

CALL TO ORDER

Chair Kehoe called the meeting to order at 7:44 p.m. The Chair announced the exit locations in accordance with Connecticut General Statutes §29-381, after which the Council joined him in the pledge of allegiance.

Chair Kehoe called for a moment of silence to honor the life of Marjorie "Marge" Hyde, the former Town Council Clerk, who had recently passed away. Mrs. Hyde performed her duties as Council Clerk expertly for over twenty years – her attention to detail was unmatched. She will be missed.

AMENDMENTS TO THE AGENDA

MOTION By Barbara Rossi
seconded by Marc Weinberg
to **amend** the agenda as follows:

Under New Business, add item 8. D. Tax Lien Sales – RFP and
Item 8. E. Recommendation from Fees Committee re: Metro PCS

Motion carried 9/0.

OPPORTUNITY FOR RESIDENTS TO ADDRESS THE COUNCIL ON AGENDA ITEMS

Susan Kniep, 50 Olde Roberts Street, (1) inquired if the town will retain Barnes School as a town school and not a magnet school; (2) asked to have the questions she raised at the last Town Council meeting regarding the East Hartford Golf Course answered – specifically if there are performance bonds on file and audited financial statements; (3) stated that the Corporation Counsel's office said that any financial revisions to the Golf Course contract must first be approved by the Town Council; and (4) asked that residents be informed of any revisions to the Golf Course contract through a public hearing.

Mayor Leclerc (1) announced that April is "Donate Life" month and the town shows its support by flying the organ donor flag in front of town hall; and (2) stated that the fire apparatus pumper truck for which the Town Council approved a bid waiver at its March 19th meeting, passed the inspection of the Fire Chief and the purchase order was signed.

APPROVAL OF MINUTES

March 19, 2013 Regular Meeting

MOTION By Barbara Rossi
seconded by Eric Thompson
to **approve** the minutes of the March 19, 2013 Regular Meeting.
Motion carried 9/0.

COMMUNICATIONS AND PETITIONS

Resignation: Paula Saaf from the Hockanum River Commission

Chair Kehoe thanked Ms. Saaf for her service on the Hockanum River Commission and wished her well. He noted that anyone interested in serving on this – or any – Commission, should contact either the Mayor's Office or Town Council Office for an application.

NEW BUSINESS

Authorization for Board of Education to Apply for State Building Grant re: Asbestos Floor Tile Removal from Barnes School

MOTION By Barbara Rossi
seconded by Linda Russo
to (1) **authorize** the East Hartford Public Schools to apply to the State Department of Education for a school construction grant and to accept or reject the construction grant regarding the removal of asbestos floor tiles from the Barnes School; (2) to **approve** the release of up to \$50,000 from the Board of Education's Capital Reserve Account for this project which shall serve as the local share of the construction costs; (3) **establish** a School Building Committee that shall consist of the Public Building Commission and two members of the Board of Education, not more than one from the same political party, appointed by the Chair of the East Hartford Board of Education as the School Building Committee, for the purposes of complying with the provisions of Chapter 173 of the Connecticut General Statutes; and (4) to **authorize** the Board of Education to prepare schematic drawings and outline specifications for the proposed project.

MOTION By Barbara Rossi
seconded by Linda Russo
to **amend** the motion as follows:
“...to **approve** the release of up to ~~\$50,000~~ **\$60,000** from the Board of Education's Capital Reserve Account...”
Motion carried 9/0.

On call of the vote of the amended motion, motion carried 9/0.

Refund of Taxes

MOTION By Marc Weinberg
 seconded by Eric Thompson
 to refund taxes in the amount of \$9,690.43
 pursuant to Section 12-129 of the Connecticut General Statutes.
 Motion carried 9/0.

Bill	Name	Property Loc/Vehicle Info	Over Paid
2011-01-0002022	BURZAWA EUGENE & ELIZABETH MARIA	96 DAVIS RD	\$ (9.00)
2011-01-0007684	CORELOGIC	97 PENDELTON DR	\$(1,019.68)
2011-02-0040534	DINARDO ANTHONY D DMD PC	PPD03050	\$ (792.14)
2011-03-0059964	DOAK ALMA C	2006/2G1WT58K069308457	\$ (55.20)
2011-01-0010381	DOVENMUEHLE MORTGAGE	622 OAK ST	\$(2,887.69)
2011-03-0060501	DUNCAN LINDA K	2006/JTDKB20UX63175297	\$ (210.10)
2011-03-0060733	EAN HOLDINGS LLC	2010/1C3CC4FB4AN211439	\$ (118.32)
2011-03-0060744	EAN HOLDINGS LLC	2011/1C3BC4FB3BN521627	\$ (45.14)
2011-03-0060745	EAN HOLDINGS LLC	2011/1C3BC1FB7BN521628	\$ (47.48)
2011-03-0060770	EAN HOLDINGS LLC	2011/1J4RR4GG5BC640207	\$ (76.24)
2011-03-0060806	EAN HOLDINGS LLC	2010/1B3CB4HA4AD652157	\$ (40.26)
2011-03-0060842	EAN HOLDINGS LLC	2012/1C4RDJDG7CC110796	\$ (72.10)
2011-03-0060874	EAN HOLDINGS LLC	2011/2G1WF5EK3B1307176	\$ (46.90)
2011-03-0060878	EAN HOLDINGS LLC	2011/1B3BD4FB0BN578457	\$ (47.84)
2011-03-0060886	EAN HOLDINGS LLC	2011/1D4RE4GG9BC705015	\$ (77.06)
2011-03-0060898	EAN HOLDINGS LLC	2011/4T1BF3EK4BU739236	\$ (49.80)
2011-03-0060906	EAN HOLDINGS LLC	2011/4T1BF3EK5BU218638	\$ (49.80)
2011-03-0060915	EAN HOLDINGS LLC	2011/3GNBABFW2BS653901	\$ (43.18)
2011-03-0061861	FERREIRA ARLINDO OR DIORIO ELIANE M	2007/2T1BR32E17C772046	\$ (20.00)
2011-02-0042197	FMI PAINT & CHEMICAL INC	PPF01364	\$ (17.61)
2011-04-0083073	GONZALEZ GRISELLE	1998/2T1BR12E3WC004197	\$ (121.95)
2011-01-0006127	GRECO PETER A	168 ANDOVER RD	\$ (30.00)
2011-01-0007412	GUILIETTI JESSICA Y	36-38 BIDWELL AVE	\$ (338.86)
2011-03-0067538	INTERIOR DRYWALL SYSTEM	2002/YV1SZ58DX21051001	\$ (20.15)
2011-01-0008460	LEONARD JOHN W & MARGARET H	172 FOREST ST	\$ (456.36)
2011-01-0008461	LEONARD JOHN W & MARGARET H	172 FOREST ST	\$ (198.98)
2011-01-0009129	MARKS ANNETTE S & ALLAN S	48 CRESTWOOD TR	\$ (179.09)
2011-03-0072497	MARTINEZ CARMEN M	2007/WBAWV53547P077274	\$ (30.00)
2011-03-0075148	MURPHY JAMES J OR MURPHY JANE	2003/2MEFM75W93X679016	\$ (211.38)
2011-01-0011521	PHAM TANH CONG & LE THAI	21 JOHN ST	\$ (18.00)

2011-03-0081718	ROWE LINDA A	1996/1N4BU31D8TC153766	\$ (28.50)
2011-01-0013839	SPRING KENNETH M & RITA K	62 BRITT RD	\$ (7.87)
2011-04-0087651	TENNANT KELLY L	2012/JTDBU4EE8C9179347	\$ (60.81)
2011-01-0013095	TOCE DOMINIC C & LINDA E	80 SKYLINE DR	\$ (35.00)
2011-01-0008322	WELLS FARGO REAL ESTATE TAX	41-43 WELLS AVE	\$(2,087.94)
2011-03-0088822	WILLIAMS JULIET	2007/1HGCM56707A205519	\$ (40.00)
2011-03-0088987	WILSON JAMES H OR MARY F	2009/2G1WU57M591293960	\$ (100.00)
		TOTAL	\$(9,690.43)

Outdoor Amusement Permit Applications

Great River Park Car Show

MOTION By Bill Horan
seconded by Barbara Rossi
to **approve** the outdoor amusement permit application, entitled Great River Park Car Show, submitted by Ted Fravel, Director of the East Hartford Parks and Recreation Department, to conduct a car show for viewing with awards and live musical entertainment at Great River Park on Thursday, May 9, 2013 between 3:30PM and 8:30PM with music between 6PM and 8PM at the Great River Park Amphitheater, with a rain date of Thursday, May 16th, subject to compliance with adopted codes and regulations of the State of Connecticut, the Town of East Hartford, and any other stipulations required by the Town of East Hartford or its agencies.
Motion carried 9/0.

Memorial Day Parade

MOTION By Linda Russo
seconded by Marc Weinberg
to **approve** the outdoor amusement permit application entitled, Memorial Day Parade – 2013, submitted by the East Hartford Patriotic Commission to conduct the town’s annual Memorial Day Parade on Monday, May 27, 2013 from 9:30 AM to approximately 12:00 Noon, subject to compliance with adopted codes and regulations of the State of Connecticut, the Town of East Hartford, and any other stipulations required by the Town of East Hartford or its agencies.
Motion carried 9/0.

Town of East Hartford Wellness Fair

MOTION By Marc Weinberg
seconded by Eric Thompson
to **approve** the outdoor amusement permit application, entitled

Town of East Hartford Wellness Fair, submitted by Eliza Kearse-Westberry, owner of Eliza's Energy Source, to conduct a wellness fair on the Town Green located on Main Street – or in the event of inclement weather inside at the Community Cultural Center – on Saturday June 1, 2013 from 10AM to 2PM with music during those hours; subject to compliance with adopted codes and regulations of the State of Connecticut, the Town of East Hartford, and any other stipulations required by the Town of East Hartford or its agencies. Motion carried 9/0.

Head of the Riverfront Rowing Regatta

MOTION By Ram Aberasturia
seconded by Barbara Rossi
to **approve** the outdoor amusement permit application submitted by Jessica Leone, Public Events Manger, for Riverfront Recapture, Inc. to conduct a rowing regatta on the Connecticut River beginning at the Charter Oak Landing in Hartford on Sunday, October 6, 2013 from 6AM to 5PM, with a flood and rain date of Sunday, November 3, 2013 during the same hours; subject to compliance with adopted codes and regulations of the State of Connecticut, the Town of East Hartford, and any other stipulations required by the Town of East Hartford or its agencies. Motion carried 9/0.

24th Annual Fall Fest

MOTION By Linda Russo
seconded by Barbara Rossi
to **approve** the outdoor amusement permit application submitted by Ted Fravel, Director, East Hartford Parks & Recreation Department for the purpose of conducting the 24th Annual Fall Fest on the Town Green, Saturday, October 12, 2013 from 10AM to 5PM with music on the same date and time – which will include children's activities such as arts and crafts, pumpkin painting, games, pony rides and a petting zoo. In the event of inclement weather, the activities will be held inside the East Hartford Community Cultural Center; subject to compliance with adopted codes and regulations of the State of Connecticut, the Town of East Hartford, and any other stipulations required by the Town of East Hartford or its agencies. Motion carried 9/0.

22nd Annual Aselton Memorial Snow Dash

MOTION By Ram Aberasturia
seconded by Linda Russo
to **approve** the outdoor amusement permit application entitled "Brian Aselton Memorial 5K Snow Dash", filed jointly by the East Hartford Parks and Recreation Department and the East Hartford Police Department to conduct the town's annual 5K road race (Snow Dash), to be held in the vicinity of the Langford School area

– 61 Alps Drive – and surrounding streets on Sunday, January 5, 2014 between the hours of 11:00AM and 4:00PM, with the use of public streets occurring between the hours of 1:30PM and approximately 2:15PM, subject to compliance with adopted codes and regulations of the State of Connecticut, the Town of East Hartford, and any other stipulations required by the Town of East Hartford or its agencies.
Motion carried 9/0.

Request for Proposal re: Tax Lien Sales

MOTION By Bill Horan
seconded by Marc Weinberg
to authorize the administration to conduct a tax lien sale by way of a request for proposal (RFP) and to seek and receive sealed bids pursuant to an invitation to bid on a number of tax liens held by the town on specific real property as listed on a "delinquent report" produced by Finance Director Mike Walsh originally dated January 18, 2013 and attached to a memorandum from Mayor Marcia Leclerc to Rich Kehoe, Town Council Chair, dated January 22, 2013, and amended as of April 2, 2013, subject to the following four conditions:

1. The Collector of Revenue shall notify the record owner of each property subject to a tax lien that is to be included in the tax lien sale, by certified mail, that the lien is being included in the request for proposal and invitation to bid, and that the owner should contact the Town immediately to pay the taxes or seek a payment plan if they wish to keep the Town's tax liens on their property from being sold;
2. In order to qualify for a payment plan, the property owner must meet the following three criteria:
 - They must remit 25% of the outstanding amount due
 - They cannot have defaulted on a prior payment arrangement
 - Their property must not have active property code violations;
3. The letters from the Collector of Revenue to each property owner shall notify the property owner that the purchaser of the tax lien on their property shall have the right to foreclose on that property; and
4. The Administration shall return to the Town Council with the results of the request for proposal and that the proposal for each tax lien must be approved by the Town Council before it is sold.

Motion carried 9/0.

Recommendation from Fees Committee re: Metro PCS

MOTION By Marc Weinberg
seconded by Ram Aberasturia

to recommend that the Town Council **approve** the lease of an additional 9'X10' area at Veteran's Memorial Clubhouse, 100 Sunset Ridge Drive, to Metro PCS, successor in interest to Youghiogeny Communications, at a rent of \$100 per month – with an annual rent escalation – pursuant to the terms of Amendment No. 1 to the existing lease. (see attached)
Motion carried 9/0.

OPPORTUNITY FOR COUNCILLORS TO DIRECT QUESTIONS TO THE ADMINISTRATION

Esther Clarke noted an excess number of vehicles parking on sidewalks and/or islands in residential neighborhoods and asked the Mayor if the police still issue tickets for this infraction. *The Mayor noted that the police still respond to this issue on their 'down' time, focusing first on more serious matters.*

Bill Horan invited the Mayor to throw out the first pitch at the start of the East Hartford Little League season – April 27th.

OPPORTUNITY FOR RESIDENTS TO SPEAK

Mayor Leclerc displayed the new informational brochure that Public Works will distribute to residents to detail why something is not being picked up from their curbside and gives directions on how to get the item removed. Also, the Mayor announced that the town-wide clean up is Saturday, April 27th at 9AM from the Town Green and invited the Council to join her.

Barbara Rossi attended the East Hartford High School Music Department's production of "The Pajama Game" and praised the cast and crew for a wonderful performance. Councillor Rossi especially noted the talents of the star leads in the musical – Jordan Maragnano and Andrew Secker.

Marc Weinberg noted the passing of Erin Handel, a participant in the Special Olympics.

ADJOURNMENT

MOTION By Eric Thompson
 seconded by Bill Horan
 to **adjourn** (9:00 p.m.).
 Motion carried 9/0.

The Chair announced that the next meeting of the Town Council would be on April 16, 2013.

Attest Angela M. Attenello
Angela M. Attenello
TOWN COUNCIL CLERK

Site No: HFC0610
Site Name: 100 Sunset Ridge

DRAFT
AMENDMENT NO. 1

This First Amendment to the Lease Agreement (the "Amendment") is made this ____ day of _____, 2013, by and between the Town of East Hartford ("Licensor") and MetroPCS Massachusetts, LLC, a Delaware limited liability company, as successor in interest to Youghioghney Communications Northeast, LLC ("Lessee").

WITNESSETH

WHEREAS, Owner and Lessee's predecessor entered into a Lease Agreement on August 7, 2009 (the "Agreement") for the placement ground equipment for a wireless communications facility within Lessor's Real Property located at: 100 Sunset Ridge Drive, East Hartford, CT

WHEREAS, Lessor and Lessee desire and intend to amend and supplement the Agreement as provided for herein.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant, agree and bind themselves to the following modifications to the Agreement:

1) Whereas, Lessee will be increasing the dimensions of the Premises in order to accommodate additional cabinet(s) and related equipment within a 9' x 10' area, as noted in the site plan attached hereto as Schedule I (the "Cabinet Expansion"). Any reference in the Agreement to Lessee's Premises shall be amended and revised to include the Cabinet Expansion area.

2) In consideration of the Cabinet Expansion, effective on the date that Lessee commences construction or placement of its cabinet(s) and related equipment within the Premises and payable with the next Rent payment due under the Agreement, current Rent will increase by One Hundred and 00/100 Dollars (\$100) per month ("Revised Rent"). The Revised Rent shall escalate in accordance with the terms of the Agreement and shall be considered as "Rent". Lessee shall promptly deliver written notice to the Lessor of the date that Lessee commences construction or placement of its cabinet(s) and related equipment within the Cabinet Expansion area.

3) This Amendment may be executed in counterparts, each of which shall be deemed an original document, but all of which will constitute a single document.

4) This Amendment shall not be binding on or constitute evidence of a contract between the parties hereto until such time as a counterpart of this document has been executed by each party and a copy thereof delivered to each other party of this Amendment.

5) Except as specifically amended herein, the remaining terms of the Agreement shall remain unmodified, binding upon Lessor and Lessee and remain in full force and effect.

6) No future amendment or modification to the Agreement shall be valid unless made in writing and agreed to and signed by the appropriate parties who have attested and executed the amendment or modification.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed on this day of _____, 2013.

Site No: HFC0610
Site Name: 100 Sunset Ridge

DRAFT

LICENSOR: Town of East Hartford

LESSEE:
MetroPCS Massachusetts, LLC, a
Delaware limited liability company

By: _____

By: Bruce Martin

Title: _____

Title: VP and General Manager

Date: _____

Date: _____

Site No: HFC0610
Site Name: 100 Sunset Ridge

DRAFT

Schedule I

Cabinet Expansion

Current Lease

SITE LICENSE AGREEMENT

THIS SITE LICENSE AGREEMENT (hereinafter "this License") is made binding this ^{7th} day of ~~Aug~~, 2009 (hereinafter "Effective Date"), by and between The Town of East Hartford, 740 Main St., East Hartford, CT 06108, (hereinafter "Licensor") and YOUGHIOGENY COMMUNICATIONS - NORTHEAST, LLC d/b/a Pocket Communications, a Delaware limited liability company (hereinafter "Tenant"). Licensor and Tenant shall be collectively referred to herein as the "the Parties".

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

TERMS AND CONDITIONS

1. Description of Licensed Premises; Grant of License. Licensor is the owner or authorized licensor of real property, with said real property being described in Exhibit A, attached hereto and incorporated herein (hereinafter "Property"), and the tower located thereon (the "Tower") and hereby grants to Tenant a nonexclusive license to use certain ground space and such other space for the mounting of antennas on the Tower as is more specifically described in Exhibit B, attached hereto and incorporated herein (hereinafter "Premises"), together with non-exclusive rights of ingress, egress (over the Property, as may exist from time to time, which rights of ingress and egress lead to a public road,) and access to, in Tenant's reasonable discretion and subject to the terms of paragraph 16 (b) hereof, the existing source of electrical and telephone facilities. Nothing herein shall be deemed to require Licensor to: relocate, upgrade or otherwise improve existing utilities; or to provide Tenant with access to utilities other than those currently serving the Property. The Premises will be used by Tenant for the purpose of installing, removing, replacing, maintaining, modifying and operating, at its expense, a communications facility, related antennas, equipment, cable, wiring and fixtures as is more specifically described in Exhibit C, attached hereto and incorporated herein. Approval for changes to the communication facility as described in Exhibit C shall be obtained in accordance with the requirements of Section 4(B) of this License. Tenant shall be responsible at its sole cost and expense for obtaining any and all license, permits and approvals necessary for the operation of its equipment as specified on Exhibit C, including any approvals required by the Connecticut Siting Council.

The Premises are located at the following geographic coordinates:

N. Latitude 41° 46' 19.1" (NAD 83)
W. Longitude -72° 35' 25.2" (NAD 83)

This geographic description describes the following street address of the structure, a portion of which is the Premises:

Street: 100 Sunset Ridge Dr.
City: East Hartford
State: Connecticut
County: Hartford
Licensor's Site ID:
Tenant's Site ID: HFCT0610E

2. Effective Date / Due Diligence Period. This Agreement shall be effective on the date of full execution hereof ("Effective Date"). Beginning on the Effective Date and continuing until the Term Commencement Date as defined in Paragraph 3 below ("Due Diligence Period"), Tenant shall only be permitted to enter the Property for the limited purpose of making appropriate engineering and boundary surveys, inspections, and other reasonably necessary investigations and signal, topographical, geotechnical, structural and environmental tests (collectively, "Investigations and Tests") that Tenant may deem necessary or desirable to determine the physical condition, feasibility and suitability of the Premises. In the event that Tenant determines, during the Due Diligence Period, that the Premises are not appropriate for Tenant's intended use, or if for any other reason, or no reason, Tenant decides not to commence its tenancy of the Premises, then Tenant shall have the right to terminate this Agreement without penalty upon written notice to Landlord at any time during the Due Diligence Period and prior to the Term Commencement Date. Landlord and Tenant expressly acknowledge and agree that Tenant's access to the Property during this Due Diligence Period shall be solely for the limited purpose of performing the Investigations and Tests, and that Tenant shall not be considered an owner or operator of any portion of the Property, and shall have no ownership or control of any portion of the Property (except as expressly provided in this Paragraph 2), prior to the Term Commencement Date.

3. Term. This Agreement is deemed binding upon the date of execution by both Parties, provided however, this License shall become effective on the date Tenant obtains a permit for the construction of telecommunications equipment upon the Premises or one hundred eighty days (180) whichever is sooner (hereinafter "Commencement Date"), and this License shall continue in effect for a term (hereinafter "Initial Term") of five (5) years subject to early termination or extension as provided herein. This License shall be automatically renewed upon the same terms and conditions as set forth herein for two (2) successive terms of five (5) years each (each, referred to hereinafter as a "Renewal Term"), unless written notification of Tenant's intent not to renew this License is received by Licensor at least ninety (90) days but not more than one hundred eighty (180) days prior to the date of expiration of the Initial Term or any Renewal Term.

4. Maintenance of Equipment by Tenant.

(A) Tenant shall, at its own expense, maintain its equipment on or attached to the Premises in a safe condition, in good repair, and in a manner reasonably acceptable to Licensor so as not to conflict with the use of the Premises by Licensor or by any other tenant lawfully using the Premises as of the Commencement Date. All repair and maintenance of Tenant's equipment shall be performed by qualified technicians, authorized to enter the Premises as Tenant's agents, contractors or employees. Tenant shall make reasonable attempts to notify Licensor (to Licensor's designee responsible for the management of the Premises) prior to making entry to the Premises (each occurrence).

(B) Any and all machinery, equipment and trade fixtures, except the electrical service installed by Tenant, shall remain Tenant's property notwithstanding the fact that it may be affixed or attached to the Property or the Premises, and shall, during the Initial Term or any Renewal Term, and upon termination or expiration thereof, belong to and be removable by Tenant. Tenant agrees that the Property and the Premises shall not be damaged by Tenant's occupancy. Tenant shall have the right to replace the equipment specified in Exhibit C with other "similar equipment", in which case, Tenant shall submit to Licensor a replacement Exhibit C for Licensor's written approval. "Similar equipment" shall include only equipment which operates on the same frequency(ies), is of substantially equal size, does not increase the number of antennas upon the Tower, does not materially increase windload upon the Tower, and does not occupy additional space within the equipment building.

(C) All transmitters operated by Tenant upon the Premises shall include the use of, for example, a single stage isolator or a single bandpass cavity or such other devices which may reasonably prevent or deter the creation of harmful electrical interference. Licensor may determine, from time to time and as is reasonable and necessary, other similar requirements for safe, interference free operation of Tenant's equipment upon the Premises and Tenant shall comply with all such additional requirements provided Tenant has prior written notice thereof and such compliance is reasonably feasible and not cost prohibitive, in Licensor's reasonable discretion.

(D) Tenant's equipment shall be installed and maintained in accord with the requirements specified in Exhibit D, attached hereto and incorporated herein.

5. Access. Tenant shall have non-exclusive access (ingress and egress 24 hours per day, 7 days per week) to the Premises during the Initial Term or any Renewal Term of this License for its purposes hereunder. Licensor warrants that it has the right to grant such access to Tenant under this License; however, the access granted hereunder will not be interpreted as a guarantee of Tenant's ability to enter or exit the Premises when weather conditions, road conditions and other elements outside of Licensor's control adversely affect Tenant's ability to enter the Premises. Tenant, including its agents, contractors and employees, shall be liable for all damages resulting from their use of the driveway and/or roadway extension as a result of damages stemming from Tenant's use, and Tenant agrees to pay to Licensor the cost of such repairs within ten (10) business days following written notification from Licensor of the cost.

6. Maintenance and Operation of Premises.

(A) Licensor shall maintain the Premises and operate the telecommunications facilities thereon in such a manner as will best enable each tenant or operator thereon to fulfill its own requirements, but in accord with the covenants contained herein, including Licensor's agreement to maintain the Premises in a safe condition. Licensor shall not be liable to Tenant for any interruption of Tenant's service or for interference, including but not limited to electrical interference and interference created by intermodulation, with the operation of Tenant's equipment arising from Tenant's use of the Premises. Under no circumstances shall Licensor be liable for consequential damages to any party, including, but not limited to third parties, arising out of interruption of Tenant's service.

(B) Licensor shall be solely responsible for compliance with all painting and lighting requirements arising out of operation of the Tower, in accord with the existing rules and regulations adopted or which might be adopted by the Federal Aviation Administration ("FAA") or the Federal Communications Commission ("FCC"). Licensor shall indemnify Tenant for all fines levied against Tenant for Licensor's failure to comply with such FAA and FCC rules and regulations. Notwithstanding any provision in this License to the contrary, Tenant shall be responsible for any painting, lighting, or maintenance requirements which arise out of or in connection with Tenant's particular use of the Premises. Any material alterations to Tenant's improvements must have Licensor's prior written approval; provided however, that Tenant's site plans are approved to the extent contained in Exhibit B.

(C) Tenant agrees to cooperate fully in Licensor's efforts to maintain the peaceful occupation of the structure of which the Premises are a portion. Tenant's duty of cooperation shall include, without limitation: (i) maintaining the cleanliness of the Premises; (ii) constructing its equipment in a safe, reasonably quiet, and non-disruptive manner; (iii) assisting in maintaining the security of the Premises by reasonably limiting the number of persons with access to the Premises; and (iv) directing its employees to treat all other tenants with civility and courtesy.

(D) Tenant shall perform or cause to have performed an intermodulation study to determine the potential for any harmful interference, and Tenant shall present to Licensor such study prior to commencing any installation at the Premises.

(E) To the best of Licensor's knowledge the Tower has been constructed in accordance with all laws, rules, statutes, and regulations of all applicable governmental bodies. Licensor will operate and maintain the Tower (excluding any equipment from third parties located thereon) in accordance with all laws, rules, statutes, and regulations adopted or to be adopted by all applicable governmental bodies.

(F) As stated in Paragraph 17 hereof, Tenant shall have full and complete responsibility to correct within twenty-four (24) hours any electrical interference caused to other communications equipment operated on or at the Premises, which interference is caused by operation of Tenant's equipment and which cause is a result of a defect in Tenant's equipment. The term "defect" shall include any operation of Tenant's equipment which is not in accord with the technical parameters of any license issued by the FCC for operation of Tenant's facilities; any operation in variance with any equipment authorization granted by the FCC; any circumstance or condition which causes Tenant's equipment to operate in variance with the equipment manufacturer's guidelines or any Exhibit attached to this License; any operation of Tenant's equipment which does not conform with generally accepted practices of telecommunications engineering, including but not limited to, applicable ANSI standards which exist or come to exist; and any operation of Tenant's equipment which causes interference with the equipment of Licensor or any of Licensor's tenants. If Tenant fails to employ reasonable industry standards to investigate and terminate the cause of the electrical interference within twenty-four hours,, Licensor may disconnect electrical power to Tenant's equipment without liability for damages. Notwithstanding the foregoing, Licensor will use its commercially reasonable efforts under the circumstances to contact Pocket's Representative by telephone prior to any actions involving Tenant's telecommunications equipment.

7. Rent.

(A) Tenant shall pay to Licensor in equal installments of Two Thousand One Hundred and no/100's Dollars (\$2,100.00) (until increased as set forth in this License) per month, commencing on the Commencement Date of the License as provided in Paragraph 3, partial months to be prorated, with each subsequent payment due on the first calendar day of each month during the term of this License. The rent due hereunder will be increased on each anniversary of the Commencement Date to an amount equal to the amount of the monthly installment of rent payable during the preceding year increased by three percent (3%). All rental payments will be made to Licensor or its designee at its address provided herein. Tenant agrees to pay a late fee for all rent payments not timely made (more than ten (10) days past due) in an amount equal to ten and no/100's Dollars (\$10.00) per day or the greatest amount allowed under law, whichever is greater. Rental payments shall be due and owed in accord with this Paragraph 6 regardless of whether Licensor tenders an invoice to Tenant for same.

(B) If Tenant fails to pay its rent following ten (10) days written notification from Licensor, and, and if Tenant's failure continues for an additional fifteen (15) days after Tenant's receipt of a second written notice from Licensor (which second notice may be given at any time after the expiration of the original 10-day period), Tenant shall be deemed to have materially breached this License. Notwithstanding all other remedies available at law or equity or contained herein, Licensor shall have the right to accelerate all rents and charges due to Licensor from Tenant for the remainder of the then-current Term of this License, discounted to present value using the Prime Rate, and Tenant shall pay same upon

demand. The term "Prime Rate" shall mean the rate published as such in The Wall Street Journal (or any comparable publication selected by Licensor in its reasonable discretion if The Wall Street Journal ceases to publish such index). In the event that Tenant fails to perform such that Licensor accelerates charges under this Paragraph 6(B), Tenant shall be deemed to have waived its right to renew this License.

(C) All rental payments made to Licensor shall be deemed the sole and exclusive property of Licensor and shall not be subject to delay, offset, refund or placement in escrow for any reason or purpose, except such refunds or abatements as are specifically expressed herein.

8. Indemnification and Insurance.

(A) Tenant shall indemnify Licensor against any and all claims and demands for damages to property and injury or death to persons, to the extent arising out of Tenant's activities under, or a breach of, this License or caused by the installation, maintenance, presence, use or removal of Tenant's equipment on the Premises, except to the proportional extent caused by the negligence or willful misconduct of Licensor, its employees, agents, and contractors. The indemnity obligations under this Paragraph 7 shall survive the expiration or earlier termination of this License.

(B) Tenant shall obtain and maintain commercial general liability insurance in an amount equal to One Million Dollars (\$1,000,000.00) combined single limit per occurrence for bodily injury and property damage liability during the Initial Term of this License and any Renewal Term, covering Tenant's use of the Premises. Such insurance policy shall name Licensor as an additionally insured person. Tenant shall also maintain workers' compensation insurance covering all of Tenant's employees, and automobile insurance covering all of Tenant's vehicles in such amounts as are required by law. Upon request by Licensor, Tenant shall furnish Licensor certificates evidencing such insurance which shall provide that such insurance cannot be cancelled or altered without thirty (30) days prior written notice to Licensor.

(C) Tenant and Licensor shall each be responsible for maintaining any insurance covering: (i) their own improvements, structures, property and equipment on the Premises; (ii) the lives and health of their respective agents, employees and invitees; (iii) damage or injury to other persons or other persons' property caused by the acts or omissions of their own agents, employees, or invitees; and (iv) any other business or liability insurance which each may deem necessary to protect their own interests.

9. Default.

(A) If either party is in default under this License: (i) with respect to Tenant for a period of ten (10) days following receipt of notice from Licensor with respect to a monetary default, or (ii) with respect to either party within thirty (30) days following receipt of notice from the non-defaulting party with respect to a default which may not be cured solely by the payment of money, then, in either event, the non-defaulting party may pursue any remedies available to it against the defaulting party under applicable law, including, but not limited to, the right to terminate this License. If the non-monetary default may not reasonably be cured within a thirty (30) day period, this License may not be terminated if the defaulting party commences action to cure the default within such thirty (30) day period and proceeds with due diligence to fully cure the default, which cure is effective within an additional twenty (20) days beyond the period for cure. Tenant's right to cure a default provided in this Paragraph 8 shall not apply to the timely payment of rents, as to which the cure periods of Paragraph 6, above, shall apply. In no event shall Licensor be responsible for consequential damages hereunder.

(B) Tenant shall be deemed to be in default if Tenant causes to be placed upon the Premises any un-bonded lien or encumbrance, which lien has not been discharged or bonded over within thirty (30) days after receipt of notice for payment thereof and which placement delays, prevents or impedes Licensor's or third parties' use of the Property. Notwithstanding the foregoing, Licensor acknowledges that Tenant may have entered into a financing arrangement, including promissory notes and financial and security agreements, for the financing of Tenant's telecommunications facilities and the operation thereof. Accordingly, Licensor hereby consents to Tenant's installation and operation of Tenant's equipment, which is deemed collateral under the aforementioned financing agreement(s), and Licensor agrees that: (i) it disclaims any interest in the collateral, as fixtures or otherwise; and (ii) it shall hold as exempt such collateral from execution, foreclosure, sale, levy, attachment, or distress for any rent due or to become due and that such collateral may be removed by Tenant or pursuant to the terms of such financial arrangement(s) at any time without recourse to legal proceedings. Licensor's consent provided under this Paragraph 8(B) shall not be employed for the purpose of reducing any obligation of Tenant's created hereunder for the timely payment of rents.

(C) Licensor will not, except in an emergency as shall be interpreted in Licensor's sole but reasonable discretion, cure any alleged default by Tenant until after the expiration of thirty (30) days following Tenant's receipt of notice provided for herein (or such longer time as may be necessary to cure the default as provided in this Paragraph 8) and then, only if Tenant has failed, during such period, to cure such default. Any and all reasonable costs that Licensor incurs as a result of curing such default (including reasonable attorney's fees) shall be due and payable by Tenant as additional rent to Licensor within thirty (30) days of Licensor's invoicing therefore.

10. Assignment of License.

(A) Tenant shall not assign this License without the prior written consent of Licensor, which consent will not be unreasonably withheld, conditioned or delayed; provided, however, Tenant may, without Licensor's consent, assign its interest in this License to any of its subsidiaries or affiliates ("Related Entities") or successor legal entities or to any entity acquiring substantially all of the assets of Tenant, which entity is deemed to be credit worthy in Licensor's reasonable discretion. Under no circumstances shall this License be assigned by Tenant to any party who does not agree to be bound by all terms and conditions contained herein and any such assignment shall be deemed void. Licensor reserves the right to demand and receive written confirmation from any assignee of Tenant's interest created herein that such assignee agrees to be bound to the terms and conditions of this License.

(B) Intentionally omitted..

(C) Tenant covenants that it shall notify Licensor in writing of its assignment of this License within ten (10) days following such assignment. Following Licensor's receipt of notification of assignment and written confirmation of assignee's agreement to be bound hereunder, unless the assignment has been made to a Related Entity, Licensor shall look exclusively to assignee for all further performance hereunder and shall waive all claims against Tenant arising out of assignee's performance or non-performance hereunder.

12. Manner of Giving Notice. All notices and other communications hereunder shall be in writing and shall be deemed given (i) the same day if delivered personally; (ii) the next business day if sent by overnight delivery via a reliable express delivery service; or (iii) after five (5) business days if sent by certified mail, return receipt requested, postage prepaid; or (iv) the day receipt of notice is refused. All notices shall be delivered to the Parties at the following addresses (or at such other address for a party as

shall be specified by like notice, provided that notice of address change shall be effective only upon receipt thereof);

Licensor: Town of East Hartford
740 Main St.
East Hartford, CT 06108
Attention: Mayor
Phone: 860-291-7200
Facsimile: 860-282-2978

Tenant: Youghioghney Communications – Northeast, LLC
1 Federal Street
Bldg 111-1
Springfield, MA 01105
Attention: Site Development

With a copy (not to constitute notice) to:

Youghioghney Communications – Northeast, LLC
2819 NW Loop 410
San Antonio, TX 78230-5105
Attention: General Counsel
Phone: 210-878-0527

East Hartford Police Department
Manager- Sunset Ridge Tower Site
31 School St.
East Hartford, CT 06108
Attn: Jeffrey Vannais
860-291-7568

13. Quiet Enjoyment. Licensor represents and agrees that Tenant is entitled to access to the Premises at all times and to the quiet non exclusive possession of the Premises throughout the Initial Term and each Renewal Term so long as Tenant is not in default beyond the expiration of any cure period. Licensor covenants and agrees that upon Tenant's paying the rent and other applicable charges and performing in accordance with the terms and conditions stated herein, Tenant may peacefully and quietly enjoy the Premises, subject to the terms and conditions of this License and subject to the rights of Omnipoint Communication, and other tenants, in and to the Tower and the Premises.

14. Compliance with Statutes and Regulations. Antennas, wires, equipment, and appliances of Tenant shall be erected, operated, and maintained in substantial accord with the requirements and specifications of the safety codes of the State where the Premises are located or any applicable jurisdiction or any amendments or revisions thereof, and in substantial compliance with any rules or orders now in effect, or that hereafter may be issued by the FCC or the Occupational Safety and Health Administration ("OSHA"). Tenant shall supply a copy to the Licensor of the Tenant's FCC license to operate at the Premises of the Licensor prior to commencing operation at the Premises.

15. Termination.

(A) Tenant may terminate this License at any time by delivery of written notice to Licensor (the date of any such written notice of termination being hereinafter referred to as the "Termination Date") without further liability if: (i) despite Tenant's reasonable best efforts, Tenant does not obtain all permits or other approvals (collectively hereinafter, "Approval") required from any local or state governmental authority or any easements required from any third party to access or operate Tenant's equipment through no fault of Tenant; (ii) if any such Approval is canceled or terminated by and through no fault or delay by Tenant; or (iii) Licensor's authority to enter into this License and perform under this License is canceled or terminated.

(B) Licensor may terminate this License immediately upon written notice to Tenant if any of the following occurs: (i) Tenant is declared bankrupt or files for bankruptcy protection or becomes the defendant in a suit for involuntary bankruptcy and such suit is not dismissed within sixty (60) days following filing thereof; (ii) Tenant causes any un-bonded lien to be placed on or against the Property or Premises, or the structures or appurtenances located thereon which is not satisfied and removed within thirty (30) days of written notice to Tenant thereof; (iii) Tenant is adjudged insolvent and a receiver is appointed to manage Tenant and/or its assets and such receiver is not dismissed within sixty (60) days thereafter; (iv) Tenant is found by a court of competent jurisdiction to have engaged in felonious activity in the operation of equipment at the Premises (v) Tenant remains in rental or other monetary default of this License for a period exceeding thirty (30) days from the applicable due date of such monetary obligation; or (vi) Tenant shall be in default of this Agreement as set forth in Paragraph 9 hereof.. Termination by Licensor for the causes listed above shall not create a reduction, offset, or relief from liability of all charges due and owing Licensor which have accrued up to the time when termination is elected. If Licensor's authority to enter into this License and perform under this License is canceled or terminated, Licensor shall have the right to terminate this License.

(C) Upon expiration or termination of this License, Tenant shall remove its equipment and improvements and restore the Premises to substantially the condition existing on the Commencement Date, except for ordinary wear and tear and damage from casualty or condemnation. Tenant's failure to remove its equipment within thirty (30) days following the expiration or termination of this License shall entitle Licensor to receive from Tenant storage fees in an amount equal to One Hundred Dollars (\$100.00) per day beyond such thirty (30)-day period, which amount is in addition to rents due hereunder. Any of Tenant's equipment stored at the Premises after said thirty (30) day period shall not be entitled to receive electrical power during such period of storage and Licensor shall have the right to discontinue power to all stored equipment from and after said period. Licensor shall also have the right, subject to and subordinate to the rights of all creditors, to remove Tenant's equipment and sell the same to satisfy unpaid monies due hereunder. Such disconnection by Licensor shall be without liability to Licensor.

16. Taxes and Utilities.

(A) Tenant will be responsible for payment of all personal property taxes assessed directly upon and arising solely from its use of the Premises. Tenant will pay to Licensor any increase in real property taxes attributable solely to any improvements to the Premises made by Tenant within sixty (60) days after receipt of satisfactory documentation indicating calculation of Tenant's share of such real estate taxes and payment of the real estate taxes by Licensor. Licensor shall employ reasonable best efforts to provide to Tenant prior written notification of all such taxes or assessments which are to be charged, so as to provide Tenant the opportunity to appear before the taxing authority and contest any such assessment. Licensor will pay when due all other real estate taxes and assessments attributable to the Property of which the Premises is a part.

(B) Tenant will pay for all utilities used by it at the Premises, and will install a separate meter for such purposes. Licensor will cooperate with Tenant in Tenant's efforts to obtain utilities from any reasonable location.

17. Compliance With Law Regarding Authority To Operate. Tenant will comply with all applicable laws directly relating to Tenant's operation of and the improvements constructed by Tenant on the Premises. Except as specifically provided herein, the Parties shall be responsible for compliance with all laws, statutes and regulations for which their authority to operate radio equipment or operate the Tower or the Premises, as applicable to Tenant, is dependent.

18. Interference. Tenant will resolve electrical or RF interference problems with other equipment located at the Premises on the Commencement Date or any equipment that becomes attached to the Premises at any future date when Tenant desires to add additional equipment to the Premises upon renegotiations of rent. In the event Tenant's equipment causes such interference, Licensor, except in an emergency as shall be interpreted in Licensor's sole but reasonable discretion, shall notify Tenant in writing of such interference and Tenant will promptly take all steps necessary to correct and eliminate the interference. If such interference is determined by the Licensor to constitute a Public Safety emergency, Licensor may discontinue operation of Tenant's equipment immediately. Licensor shall make immediate notification to Tenant should this occur. If the Licensor deems that the interference does not constitute a Public Safety emergency, then Tenant shall have 24 hours following notification by Licensor to correct any problems. If such interference is not corrected within twenty-four (24) hours following notification (which notification may be by telephone) from Licensor to Tenant of the existence of such interference, Tenant agrees to cease its operations on the Premises, provided, however, Tenant shall have an additional thirty (30) days solely for the purpose of conducting intermittent tests of its equipment. Likewise, Licensor will not permit the installation of any future equipment which results in electrical interference problems with Tenant's then-existing equipment. Tenant shall promptly notify Licensor in writing if Tenant experiences any interference with its equipment. Notwithstanding anything to the contrary contained in this License, in the event additional equipment installed by Licensor or a third party creates unacceptable interference problems with Tenant's then-existing equipment and pursuant to this Paragraph 17 the interference problem cannot be resolved, Tenant may, as its sole remedy, terminate this License. If Tenant so terminates this License, Licensor shall not be entitled to any termination penalty or to retain any prepaid rent or any other, additional amounts as set forth herein.

19. Environmental Laws/Condition of the Premises.

(A) As of the Commencement Date of this License: (i) Tenant hereby represents and warrants that it shall not use, generate, handle, store or dispose of any "Hazardous Material" (as defined below) in, on, under, upon or affecting the Property in violation of any "Environmental Law" (as defined below), and (ii) the Mayor hereby represents and warrants that: it has received no notice of the presence of any Hazardous Material located in, on, under, upon or affecting the Property in violation of any Environmental Law. and (iii) Licensor will not knowingly permit itself or any third party to use, generate, handle, store or dispose of any Hazardous Material in, on, under, upon, or affecting the Property in violation of any Environmental Law. Notwithstanding the foregoing Tenant acknowledges that it has examined the Premises and the Tower hereby accepts the condition of the Premises and the Tower "as is", "where is" in all respects.

(B) Without limitation of Paragraph 7, Tenant shall indemnify, defend and hold the Licensor harmless from and against all losses arising from (i) any breach of any representation or warranty made in this Paragraph 18; and/or (ii) environmental conditions or noncompliance with any Environmental Law

that result from operations in or about the Property by Tenant or Tenant's agents, employees or contractors. The duties described in this Paragraph 18 shall apply as of the Commencement Date of this License and survive termination of this License.

(C) "Hazardous Material" means any solid, gaseous or liquid wastes (including hazardous wastes), regulated substances, pollutants or contaminants or terms of similar import, as such terms are defined in any Environmental Law, and shall include, without limitation, any petroleum or petroleum products or by-products, flammable explosives, radioactive materials, asbestos in any form, polychlorinated biphenyls and any other substance or material which constitutes a threat to health, safety, property or the environment or which has been or is in the future determined by any governmental entity to be prohibited, limited, or regulated by any Environmental Law.

(D) "Environmental Law" means any and all federal, state or local laws, rules, regulations, codes, ordinances, or by-laws, and any judicial or administrative interpretations thereof, including orders, decrees, judgments, rulings, directives or notices of violation, that create duties, obligations or liabilities with respect to: (i) human health; or (ii) environmental pollution, impairment or disruption, including, without limitation, laws governing the existence, use, storage, treatment, discharge, release, containment, transportation, generation, manufacture, refinement, handling, production, disposal, or management of any Hazardous Material, or otherwise regulating or providing for the protection of the environment.

20. Casualty and Condemnation.

(A) If any governmental, public body or other condemning authority takes, all or part of the Property thereby making it physically or financially infeasible for the Property or the Premises to be used in the manner intended by this License, either party may elect to terminate this License as of the date of such taking by giving notice to the other within forty-five (45) days. If neither party elects to terminate this License, rent shall be abated in proportion to the actual reduction or abatement of use of the Premises.

(B) In the event that the Tower is damaged or destroyed by any casualty such that Tenant is unable to operate its equipment thereon, Licensor shall make an election within twenty (20) days following such event as to whether Licensor shall (i) make repairs or reconstruct the damaged portion of the Premises to enable Tenant to operate upon the Premises in substantially the same manner as Tenant enjoyed prior to the event of destruction; (ii) repair or replace the Tower only to the extent that it will accommodate Licensor's antenna and related communications equipment and terminate this Agreement with no further liability to Licensor hereunder; (iii) not make any repairs or replacement to the Tower and terminate this Agreement with no further liability to Licensor. Any election to reconstruct the Tower to enable Tenant to operate thereon, shall only be effective if Licensor is willing and able to make such repair or reconstruction within ninety (90) days following the making of the election; If Licensor elects to repair or reconstruct the Premises within the aforementioned ninety (90) day period, this License shall continue to bind the Parties, providing however, Licensor shall not be entitled to receive rents during the period commencing on the date of destruction and extending to the date of completion of the repairs or reconstruction such that Tenant can operate its equipment at the Premises. Licensor's failure to make an election during the thirty (30) day period following damage or destruction of the Premises shall be deemed an election by Licensor not to repair or reconstruct the Premises. Nothing contained herein shall be deemed a guarantee by Licensor to repair or reconstruct the Premises following destruction. Notwithstanding the foregoing, Licensor shall have no obligation to make repairs to Tenant's equipment or any portion of the Premises which is constructed for the sole use and enjoyment of Tenant (e.g. an enclosure constructed upon the Property by Tenant) and the destruction of same shall not result in any liability to Licensor or cause any abatement of rent, unless such destruction is due to the negligence or

willful misconduct of Licensor.

21. Force Majeure Events. Neither party shall be liable to the other for any failure of performance under this License due to causes beyond its control following a party's reasonable, commercial or regulatory diligence, including but not limited to, acts of God, fire, flood or other catastrophes, any law, order, regulation, direction, action or request of the United States Government, or of any other government, including state and local governments having or claiming jurisdiction over such party, or of any department, agency, commission, bureau, corporation or other instrumentality of any one or more of these federal, state or local governments, or of any civil or military authority; national emergencies, unavailability of materials or rights-of-way, insurrections, riots, wars, or strikes, lock-outs, work stoppages or other labor difficulties (collectively, "force majeure events"). In no event shall force majeure events excuse delay in the payment of rent or monetary obligation hereunder unless the force majeure events cause impossibility or impracticality of performance. In the event of any delay or inability to perform resulting from such causes, upon notice to the other party promptly following the occurrence of the event giving rise to the delay or nonperformance, the time for performance hereunder shall be extended for a period of time reasonably necessary to overcome the effects of such delays. Except as otherwise specifically provided herein, this shall constitute the sole remedy in the event of such delays.

22. Entire Agreement, Severability. This License embodies the entire agreement between the Parties. It may not be modified or terminated except as provided herein or by other written agreements between the Parties. If any provision herein is held by a court of competent jurisdiction to be invalid, it shall be considered deleted from this License, however, the remainder of this License shall survive and be deemed enforceable.

23. Recordable Memorandum of License. If requested by Tenant, Licensor agrees to promptly execute and deliver to Tenant a recordable Memorandum of this License. All costs associated with the preparation and filing of a Memorandum of this License shall be borne by Tenant.

24. Parties Bound by Agreement. Subject to the provisions hereof, this License shall extend to and bind the Parties and their heirs, executors, administrators, successors and assigns.

25. Governing Law. This License shall be interpreted and governed in accord with the laws of the State where the Premises are located, to which the Parties agree to submit for all jurisdiction, including without limitation personal jurisdiction.

26. Headings. The headings included herein are merely a matter of convenience and shall not be employed for the purpose of interpretation of the language contained herein.

27. Warranty of Signatories. The persons signing below warrant that they possess all actual and apparent authority to bind legally the party which they claim to represent, for all purposes related to performance in accord with the terms contained herein. The signing persons agree that they possess all authority, both actual and implied, to cause the party they represent to enter into and perform under this License for all purposes.

28. Counterparts. This License may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument. Facsimile transmission of any signed original document or retransmission of any signed facsimile transmission shall be deemed the same as delivery of an original. At the request of either party, the

Parties shall confirm facsimile transmission by signing a duplicate copy.

29. Capacity to Perform. Licensor warrants that it is an entity in good standing, authorized to do business within the state where the Premises are located and that it knows of no reason why it would lack the capacity to enter into this License and perform hereunder, including reasons arising under any statute, law, rule, regulation, contractual obligation, decision of any applicable government agency or forum, articles of incorporation, by-law, or pending or threatened litigation. Tenant warrants that it is an entity in good standing and that it is authorized to do business within the state where the Premises are located and that it possesses all authority, both actual and implied, to enter into and perform under this License. Tenant warrants that it knows of no reason why it cannot perform hereunder, including reasons arising under any statute, law, rule, regulation, contractual obligation, decision of any applicable government agency or forum, articles of incorporation, by-law, or pending or threatened litigation. Nothing in this Paragraph 29 should be construed as a representation by Licensor as to the legality of Tenant's use hereunder, the determination of which is the sole responsibility of Tenant, its representatives and or Tenant's counsel.

30. Financing Agreement. Tenant may, upon written notice to Licensor, mortgage or grant a security interest in the equipment to any such mortgagees or holders of security interests including their successors and assigns (hereinafter collectively referred to as "Secured Parties"). No such security interest shall extend to, affect or encumber in any way the interests or property of Licensor or the Tower nor shall any such agreement allow auctioning or other sale of the Equipment on the Property.

IN WITNESS WHEREOF, the Parties have executed this License intending to be legally bound to the terms and conditions contained herein.

LICENSOR:

WITNESS:

By: Melody A. Currey
Name: MAYOR MELODY A. CURREY
Its: MAYOR
Date: 8/7/09

By: Tatia Lewis
Name: Tatia Lewis

TENANT:

WITNESS:

Youghiogheny Communications – Northeast, LLC

By: Paul Posner

By: Andy Moon

Name: Paul Posner

Name: ANDY MOON

Its: President

Date: 6.30.09

HFCT0610E

STATE OF CONNECTICUT

: ss: East Hartford

2009

COUNTY OF HARTFORD

On August 7, 2009, before me, Tatia Lewis, Notary Public, personally appeared Melodi A. Currey, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity as Mayor, and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

Tatia Lewis (SEAL)
Notary Public

TATIA L. LEWIS
NOTARY PUBLIC

My commission expires: 3-31-2013 MY COMMISSION EXPIRES MAR. 31, 2013

STATE OF TEXAS

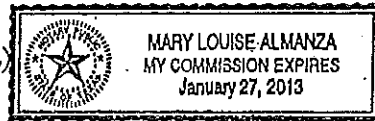
: ss: San Antonio

2009

COUNTY OF BEXAR

On JUNE 30, 2009, before me, MARY LOUISE ALMANZA, Notary Public, personally appeared, PAUL POSNER personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity as President, and that by his/her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

Mary Louise Almanza (SEAL)
Notary Public



My commission expires: 1-27-2013

EXHIBIT A
LEGAL DESCRIPTION OF THE REAL PROPERTY

100 SUNSET RIDGE, EAST HARTFORD, CT

Beginning at an iron pipe set at the northeasterly corner of a one acre plot of land owned by Ethel C. Molumphy, thence northerly $3^{\circ}10'40''$ east four hundred fifteen and one one-hundredth (415.01) feet to land of Ansel Arnold, thence northerly $82^{\circ}49'20''$ west one hundred eighty-four and forty one-hundredths 184.40 feet, thence southerly $67^{\circ}10'40''$ west twenty five (25) feet, more or less, to a point, thence southerly in a line parallel to the easterly line of said parcel of land three hundred seventy-five (375) feet, more or less, to an iron pipe at the northwesterly corner of land of said Molumphy, thence easterly along the northerly line of said Molumphy land two hundred twenty (220) feet to the point or place of beginning. Said Parcel of land is bounded as follows:

NORTHERLY and

EASTERLY by land now or formerly of Ansel Arnold;

SOUTHERLY by land now or formally of Ethel C. Molumphy; and

WESTERLY by land now or formerly of Levi P. M. Hickey, Trustee

Together With a right of way easement over Sunset Ridge Drive, a private roadway, and the right to use the pumping station equipment at the foot of Sunset Ridge Drive, and connect with all public utilities.

Licensor's Initials

JMC

Tenant's Initials

Pave

EXHIBIT B

SITE PLAN AND SKETCH OF ANTENNAS LOCATED ON THE TOWER OWNED BY
LICENSOR

Licensor's Initials

Mac

Tenant's Initials

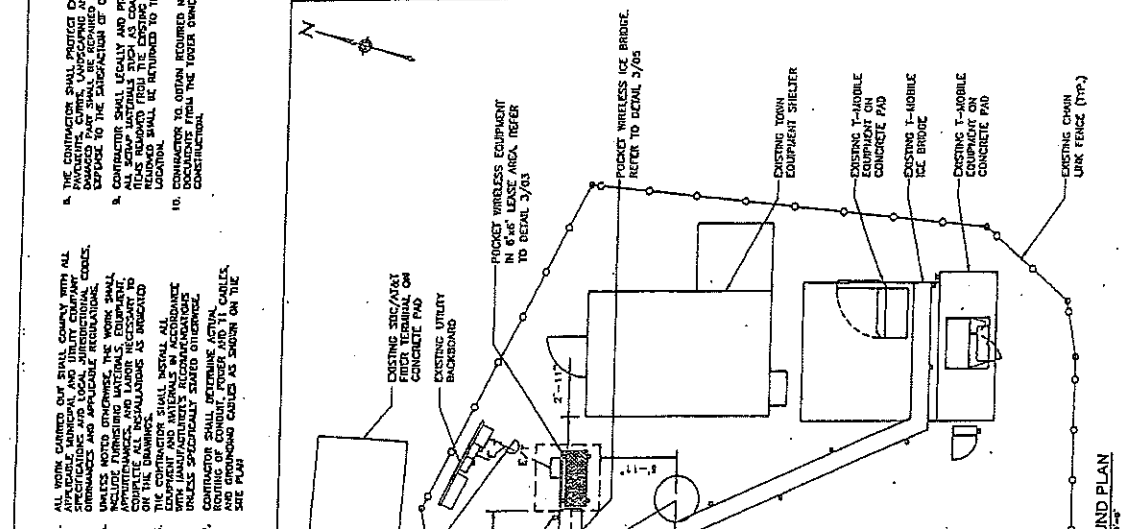
Ken

CONSTRUCTION NOTES
 1. FIELD VERIFICATION CONDUCTED BY URS TO VERIFY SCOPE OF WORK. POCKET COMMUNICATIONS EQUIPMENT MOUNTING LOCATION AND ANTENNAS TO BE INSTALLED. COORDINATION OF WORK BY CONTRACTOR SHALL BE REQUIRED FOR ALL POCKET COMMUNICATIONS.
 2. GRAVEL SURFACE IN AREAS OF COMPOUND THAT ARE NOT TO BE REPLACED SHALL BE REPLACED TO ORIGINAL CONDITION BY CONTRACTOR.

GENERAL NOTES
 1. FOR THE PURPOSE OF CONSTRUCTION DRAWING, CONTRACTOR AND DESIGNER SHALL APPLY: OTHER - POCKET COMMUNICATIONS (CONSTRUCTION)
 OTHER - ORIGINAL EQUIPMENT MANUFACTURER
 2. PRIOR TO THE SUBMISSION OF BIDS, THE BIDDING CONTRACTOR SHALL BE RESPONSIBLE TO THE ENGINEER TO VERIFY THE WORK WILL BE ACCORDING TO THE SUBMITTALS AND THE BIDDING CONDITIONS AND TO THE DEGREE OF ACCURACY FOUND SHALL BE PRESENT TO THE ENGINEER. THE BIDDING CONTRACTOR SHALL VERIFY WITH MANUFACTURER'S RECOMMENDATIONS UNLESS SPECIFICALLY STATED OTHERWISE.
 3. ALL MATERIALS FURNISHED AND INSTALLED SHALL BE IN ACCORDANCE WITH ALL APPLICABLE CODES, ORDINANCES AND REGULATIONS. THE BIDDING CONTRACTOR SHALL VERIFY ALL APPLICABLE LOCAL, STATE AND FEDERAL REGULATIONS AND ORDINANCES WITH THE ENGINEER PRIOR TO THE SUBMISSION OF BIDS. THE BIDDING CONTRACTOR SHALL BE RESPONSIBLE TO THE ENGINEER FOR THE PERFORMANCE OF THE WORK.

SITE PLAN INFORMATION
 THIS SITE PLAN DRAWING WAS COURTESY FROM DATA PROVIDED BY GRAPHIC SOLUTIONS AND AVAILABLE EXISTING DRAWINGS OF THE SUBJECT AREA.

NOTE: IS DRAWING 06 FOR ADDITIONAL UTILITY INFORMATION

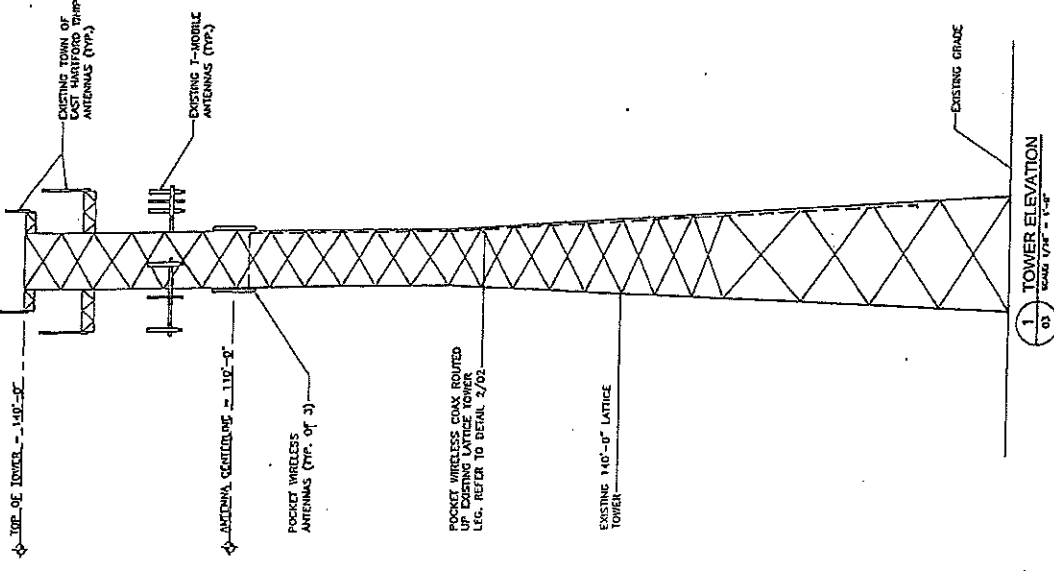


GENERAL NOTES
 1. ALL WORK CARRIED OUT SHALL COMPLY WITH ALL APPLICABLE MUNICIPAL AND UTILITY CHARTERS AND ORDINANCES AND WITH ALL LOCAL JURISDICTIONAL CODES.
 2. UNLESS NOTED OTHERWISE, THE MANUFACTURER'S RECOMMENDATIONS SHALL BE APPLIED. ALL EQUIPMENT SHALL INCLUDE FURNISHING MATERIALS, EQUIPMENT AND LABOR NECESSARY TO COMPLETE ALL INSTALLATIONS AS INDICATED ON THE DRAWINGS.
 3. CONSTRUCTION SHALL BE CONDUCTED IN ACCORDANCE WITH MANUFACTURER'S RECOMMENDATIONS UNLESS SPECIFICALLY STATED OTHERWISE.
 4. CONTRACTOR SHALL DETERMINE ACTUAL LOCATION OF ALL UTILITIES (ELECTRIC, GAS, WATER, AND SEWER) PRIOR TO THE SUBMISSION OF BIDS AND SHALL BE RESPONSIBLE FOR THE PERFORMANCE OF THE WORK.

SITE PLAN INFORMATION
 THIS SITE PLAN DRAWING WAS COURTESY FROM DATA PROVIDED BY GRAPHIC SOLUTIONS AND AVAILABLE EXISTING DRAWINGS OF THE SUBJECT AREA.

NOTE: IS DRAWING 06 FOR ADDITIONAL UTILITY INFORMATION

FOR ADDITIONAL TOWER AND FOUNDATION INFORMATION REFER TO QUALIFIED STRUCTURAL ANALYSIS AND EVALUATION OF AN EXISTING 140' SELF SUPPORT LATTICE TOWER FOR PROPOSED ANTENNA ARRANGEMENT AND FOUNDATION REINFORCEMENT, DATED JUNE 9, 2009. ALL REINFORCEMENT (IF REQUIRED) SHALL BE PERFORMED PRIOR TO ANY WORK UNDER THIS CONTRACT BEING PERFORMED.

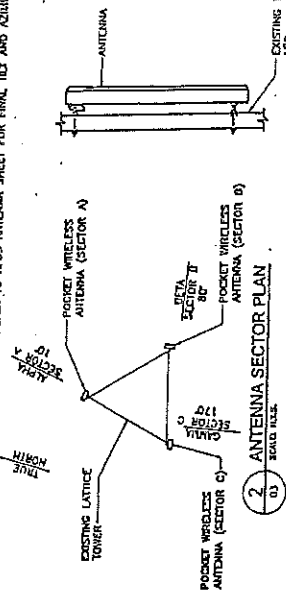


1 TOWER ELEVATION
SCALE 1/8" = 1'-0"

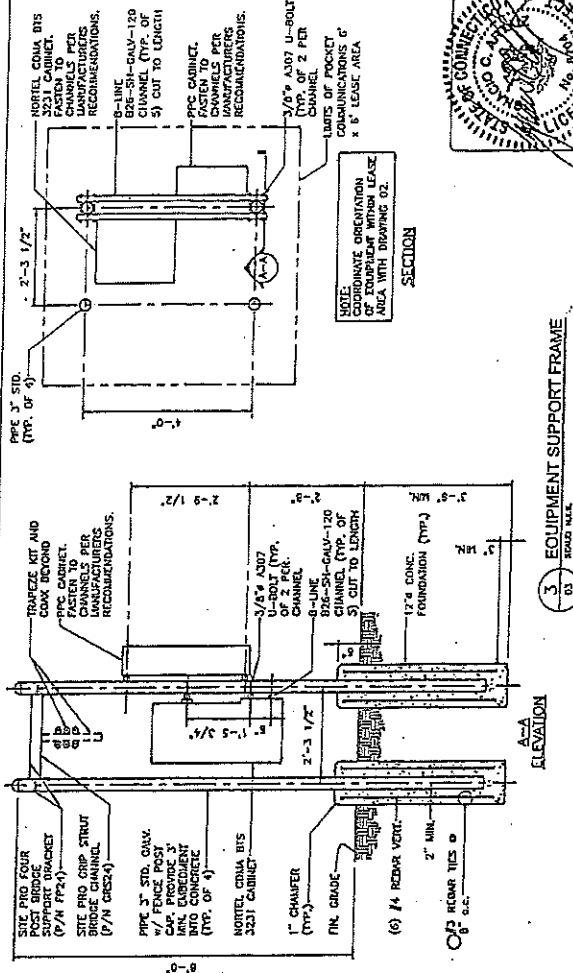
ANTENNA KEY

ANTENNA PER SECTOR	ANTENNA NUMBER	ANTENNA VENDOR	COAX COLOR CODE	MODEL NUMBER	AZIMUTH	ELEVATION	ELECTRONIC DOWN-TILT	COAX SIZE	CABLES PER ANTENNA	COAX MANUFACTURER
ALPHA	A-1	RFS	(1) RED DAND	APXV18-2065175-C	10°	110°-0'	0'	1 5/8"	2 @ 145'	RFS
BETA	B-1	RFS	(1) BLUE DAND	APXV18-2065175-C	80°	110°-0'	0'	1 5/8"	2 @ 125'	RFS
CAPIA	C-1	RFS	(1) GREEN DAND	APXV18-2065175-C	170°	110°-0'	0'	1 5/8"	2 @ 135'	RFS
GPS	1	MICROTEK	YELLOW			10°-0'		1/2"	1 @ 15'	ANDREW

- TOWER NOTES:**
- FOR DETAILED TOWER INFORMATION, REFER TO THE TOWER SHEET PROVIDED BY OTHERS. THE TOWER SHOWN ON THIS SHEET IS SHOWN FOR GENERAL COORDINATION PURPOSES ONLY.
 - ANTENNA COORDINATION SHALL BE SUBJECT TO CHANGE. VERIFY WITH PROJECT MANAGER PRIOR TO CONSTRUCTION.
 - ANTENNA COORDINATION SHALL BE COORDINATED WITH THE CONTRACTOR RESPONSIBLE FOR THE CONSTRUCTION OF THE ANTENNA AND ALL EQUIPMENT CABINETS.
 - COLOR DANDS DENOTES TRANSPARENT, OPAQUE AND OPAQUE WITH REFLECTIVE SURFACE. CONTRACTOR SHALL OBTAIN APPROVAL FROM THE PROJECT MANAGER AND OBTAIN APPROVAL FROM THE CONTRACTOR RESPONSIBLE FOR THE CONSTRUCTION OF THE ANTENNA AND ALL EQUIPMENT CABINETS.
- RESPONSIBLE FOR THIS COORDINATION:**



2 ANTENNA SECTOR PLAN
SCALE 1/8" = 1'-0"



A-A ELEVATION
SCALE 1/8" = 1'-0"

URS

POCKET WIRELESS

HFC10810E, 100 SUNSET RIDGE ROAD

TOWER ELEVATION, ANTENNA PLAN AND DETAILS

DATE: 06/05/09

PROJECT NO: 03

SCALE: 1/8" = 1'-0"

03

EXHIBIT C
DESCRIPTION OF TENANT'S EQUIPMENT
LOCATION ON TOWER AND WITHIN COMPOUND

Tower (owned by Licensor):	140' - Lattice
Type:	Pirod
Number of antennas:	Three (3) total, one (1) per sector
Mounting:	Leg Mount
Location of Antenna(s):	<u>110'</u> feet AGL
Direction of Radiation:	10/80/170
Operating Frequencies:	
(Rx)	1730.000 - 1739.950 MHz
(Tx)	2130.950 - 2139.950 MHz
Output Power per Channel:	18 watts
ERP per Channel:	1850 watts
Coax Cable Width:	1-5/8" (2 lines per antenna)
Coax Cable Length:	<u>130'</u> feet

Nortel 3231 Cabinet(s) located in a 6 foot by 6 foot lease area

Licensor's Initials

MA

Tenant's Initials

PC

May 5, 2013



Start & Registration:

Labor Field in East Hartford at 9 a.m.

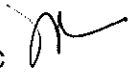
Race starts at 11 a.m.

\$10 per paddler

Finish: Goodwin College

For more information - PaulaJFlack@yahoo.com

T O W N O F E A S T H A R T F O R D
O F F I C E O F T H E M A Y O R

DATE: April 11, 2013
TO: Richard Kehoe, Chair
FROM: Mayor Marcia A. Leclerc 
RE: COMMUNICATIONS: Resignation Boards and Commissions

Attached is a copy of a resignation from Cathie Condio from the Property Maintenance Code Board of Appeals Commission. Due to constraints and other obligations she will not be able to serve on this Commission.

Please place this communication on the Town Council agenda for April 16, 2013.

Thank you.

Orzolek, Mary

From: Marcia [marcialeclerc@comcast.net]
Sent: Wednesday, April 10, 2013 6:24 PM
To: Orzolek, Mary
Subject: Fwd: Property Maintenance Board of Appeals

Please see the email below and send it to the council for communication.

Sent from my iPad

Begin forwarded message:

From: donaldc073@aol.com
Date: April 10, 2013, 11:52:41 AM EDT
To: "Pat Sirois" <pasirois@comcast.net>
Cc: "Marcia Leclerc" <marcialeclerc@comcast.net>
Subject: Fw: Property Maintenance Board of Appeals
Reply-To: donaldc073@aol.com

See below email from Cathie indicating that she is submitting her resignation. We will add vacancy to chairs agenda.

Sent from my Verizon Wireless BlackBerry

From: "Cathie Condio" <c.condio@comcast.net>
Date: Wed, 10 Apr 2013 10:56:10 -0400
To: <donaldc073@aol.com>
Subject: Re: Property Maintenance Board of Appeals

Thank You for your e-mail Don - At this time I am notifying you of my resignation on the East Hartford Property Maintenance Code of Appeals Commission. Do to time constraints and obligations I feel the position should be offered to an interested Democrat with invested interest in the Town of East Hartford - Best Regards - Cathie Condio

----- Original Message -----

From: donaldc073@aol.com
To: c.condio@comcast.net
Sent: Wednesday, April 10, 2013 10:31 AM
Subject: Property Maintenance Board of Appeals

Cathie,

It has come to my attention that you have not attended scheduled meetings of the board. Please advise.

Don

T O W N O F E A S T H A R T F O R D
O F F I C E O F T H E M A Y O R

DATE: 4/5/2013
TO: RICHARD F. KEHOE, TOWN COUNCIL CHAIRMAN
FROM: MAYOR MARCIA A. LECLERC
RE: EAST HARTFORD POLICE OFFICERS ASSOCIATION ARBITRATION
AWARD

On March 27, 2013 the Town of East Hartford and the East Hartford Police Officers Association (hereinafter "Police Union") after reaching impasse entered into mandatory binding arbitration for a successor Pension Agreement, with a term of January 2011 through December, 2021. There were nine issues presented to the panel by the Town and Police Union. The following is a summary of each issue.

Issue 4, Subject: Final Average Salary

The Town's last best offer was selected by the arbitration panel. The Town's language will bring the police retirement plan in line with every other Town retirement plan. The method of calculating employee's final average salary will be based on the final thirty six (36) consecutive months of service with the Town.

Issue 5, Subject: Final Average Salary – Sick Leave Payment

The Union's last best offer was selected. The final average salary for employees will continue to include overtime, holiday, longevity payments, vacation *and any lump sum payment resulting from unused accrued terminal/ sick leave.*

Issue 6, Subject: Definition of Regular Compensation – Sick Leave Payment

The Union's last best offer was selected. The definition of Regular Compensation for employees will continue to include overtime, holiday, longevity payments, vacation pay *and lump sum payments resulting from unused terminal/ sick leave.*

Issue 7, Subject: Pension Eligibility for Employees Hired After January 1, 2013.

The Union's last best offer was selected. New Police Union members will continue to be part of the Town's Defined Benefit Pension Plan.

Issue 8, Subject: Exemption from Cap on Service Connected Disability

The Town's last best offer was selected. The Town's new language will allow it to cap disability benefits so that no retiree gets a pension and other benefits which exceeds his/her final average salary.

Issue 9, Subject: Vesting Period:

The Town's last best offer was selected. The vesting period for Police Union members will remain at 15 years.

Issue 10, Subject: Annual Report Due Date

The Town's last best offer was selected. The Town preserves the right to submit the pension annual report every year by March 31.

Issue 11, Subject: Arbitration Clause

The Town's last best offer was selected. The Town's Retirement and Pension Board maintains its status as the sole authority to interpret the Pension Agreement regarding any misunderstanding and ambiguity concerning the meaning of any of the provisions of the Town's Retirement System.

Issue 12, Subject: Deferred Retirement Option Plan – COLA Waiting Period

The Town's last best offer was selected. The cost of living waiting period for D.R.O.P. participants shall commence on the date that the employee separates from the Town and not the date the employee's D.R.O.P. period commences.

The Arbitration Award issued by the State Board of Mediation and Arbitration Panel was received by the Town on Thursday, March 27, 2013. According to Section 7-473 c (10) and (12) of the General Statutes of the State of Connecticut, within twenty-five days of receipt of the arbitration award, the Town Council may reject the award by a two-thirds majority vote.

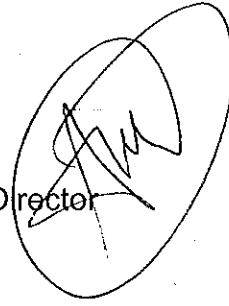
The Town's Finance and Human Resources Directors will be present at the meeting scheduled for Tuesday, April 15, 2013 should there be any questions or concerns regarding the Arbitration Award.

Please place this item on the Town Council agenda for April 16, 2013

Thank you.

OFFICE OF HUMAN RESOURCES

Date : April 5, 2013
To : Marcia A. Leclerc, Mayor
From : Santiago Malave, Human Resources Director
Re : Police Pension Arbitration Award



Attached for your review and submission to the Town Council for the next Council meeting are the following:

A transmittal letter from you to Richard F. Kehoe, Town Council Chairman.
A copy of the Police Pension Arbitration Award.

The Arbitration Award issued by the State Board of Mediation and Arbitration Panel was received by the Town on Thursday, March 27, 2013. According to Section 7-473 c (10) and (12) of the General Statutes of the State of Connecticut, within twenty-five days of receipt of the arbitration award, the Town Council may reject the award by a two-thirds majority vote.

Wednesday, March 27, 2013

TRANSMITTAL MEMORANDUM

Town of East Hartford
- and -
East Hartford Police Officers Association

Case No. 2012-MBA-376

AWARD OF THE ARBITRATION PANEL

J. Larry Foy, Esquire—Chair Panel Member
John Romanow, Esquire—Management Panel Member
James Ferguson, Esquire—Union Panel Member

Representatives of the parties:

John Byrne, LR Manager – Town - certified return receipt requested
Stephen McEleney, Esquire - Union – certified return receipt
requested

cc: File
Justin M. Richardson, Municipal Labor Relations Analyst-CCM
John W. Olsen, President
Town Clerk – certified return receipt requested

/sk
Enclosure

CONNECTICUT STATE BOARD OF MEDIATION AND ARBITRATION

In the Matter of the Arbitration Between

Town of East Hartford

-and-

East Hartford Police Officers Association

Re: Successor Pension Agreement

Case No. 2012-MBA-376

J. Larry Foy, Esq., Panel Chair

James Ferguson, Esq., Labor Representative

John M. Romanow, Esq., Municipal Representative

March 26, 2013

Appearances

Office of Corporation Counsel
 By: Attorney Frank N. Cassetta
 For the Town

McEleney & McGrail, LLC
 By: Attorney Stephen F. McEleney
 For the Association

Arbitration Award

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III.	Evaluation of Statutory Factors.....	5
IV.	Last Best Offers, Discussion and Award on Disputed Issues	18

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I. The Proceedings

The Town of East Hartford (Town) and the East Hartford Police Officers Association (Association or Union) are parties to a collective bargaining agreement which expired on June 30, 2012 (Contract or CBA) and a pension agreement which expired on December 31, 2010 (Pension Agreement). Negotiations for a successor Pension Agreement, with a term of January 1, 2011 through December 31, 2021, commenced and subsequently reached impasse. As a result the above named arbitration panel was selected and the parties proceeded to interest arbitration in accordance with Municipal Employee Relations Act's interest arbitration provisions, Connecticut General Statutes Section 7-473c.

An initial hearing was held on the matter on December 1, 2011 at the Town Hall in East Hartford. At that hearing the parties made the panel aware of an arbitrability issue. On January 26, 2012 the Association electronically transmitted to the panel, on behalf of both parties, a stipulated statement of the arbitrability issue in dispute, a stipulated statement of facts in twenty five (25) numbered paragraphs and joint exhibits. After the filing of briefs and the panel meeting in Executive Session, the panel issued a ruling on the arbitrability of Issues 5 and 6 on March 5, 2012. That decision found the Issues 5 and 6 arbitrable.

The parties appeared before the panel for hearings on the merits on March 15, April 16, June 7, September 21 and September 28, 2012, at the Town's public safety complex. The parties have waived all statutory time limits and procedural requirements applicable to this case. The parties were accorded a full opportunity to adduce evidence, examine and cross examine witnesses, and present argument. At the

hearings the parties submitted extensive witness testimony and documentary evidence in multiple exhibit binders which addressed the statutory factors, including the Town's financial capability and pension benefits of comparable groups of employees.

The Arbitration Statement was issued by the panel on November 5, 2012, which included a listing of the nine (9) issues in dispute and the parties' Agreed Language (Appendix A) on all undisputed terms of the new pension agreement which will cover the period January 1, 2011 through December 31, 2021. On November 21, 2012 the parties presented their respective Last Best Offers on the disputed issues. Written post-hearing briefs from both parties were sent to the panel on January 4, 2012. The arbitration panel met in executive session on February 19 and March 25, 2013 to deliberate the disputed issues. By agreement of the parties the award is to be issued by April 2, 2013.

II. Statutory Factors

Subsection (c) (2) of Section 7-473C of the Connecticut General Statutes sets forth factors to be considered by the arbitration panel in selecting between the parties' last best offers. That subsection provides in pertinent part as follows:

In arriving at a decision, the arbitration panel shall give priority to the public interest and the financial capability of the municipal employer, including consideration of other demands on the financial capability of the municipal employer. The panel shall further consider the following factors in light of such financial capability: (A) The negotiations between the parties prior to arbitration; (B) the interests and welfare of the employee group; (C) changes in the cost of living; (D) the existing conditions of employment of the employee group and those of similar groups; and (E) the wages, salaries, fringe benefits, and other conditions of employment prevailing in the labor market, including developments in private sector wages and benefits.

Section III of this award sets forth the "Evaluation of Statutory Factors" and Section IV sets forth the "Last Best Offers, Discussion and Award on Disputed Issues."

III. Evaluation of Statutory Factors

A. Priority Factors: Public Interest and Financial Capability of Town

The binding interest arbitration provisions of the Municipal Employee Relations Act (MERA) require arbitrators in evaluating and analyzing the evidence and deciding between the last best offers of the parties to give priority "to the public interest and the financial capability of the municipal employer, including consideration of other demands on the financial capability of the municipal employer." By its nature, the concept of "public interest" is a more amorphous concept than the financial capability of the municipality and the other demands on the municipal purse. As a result, in most such proceedings, the parties' arguments focus on the financial facts directly impacting the municipality.

In this case a successor collective bargaining agreement which addresses the full range of wages, hours and conditions of employment is not in issue. Instead, presented here for resolution is the more limited issue of a successor ten year pension agreement. This both narrows the scope of the applicable statutory factors and puts greater emphasis on a long range view of the statutory factors. This is so for two primary reasons: 1) pension changes often have long term impacts which may have small current annual fiscal impacts on municipal budgets but very large fiscal impacts many years in the future when the affected employees retire, and 2) the Pension Agreement has a term of ten (10) years, ending on December 21, 2021, which is a significantly longer term than most collective bargaining contracts. The longer term horizon also affects individual employees. The changes in their pension rights today will have a lapsed affect and may not affect them for 20 years or more in the future. Nevertheless, prudent financial planning may require employees to adjust their saving and spending habits to account for pension changes that affect them many years from now.

1. Public Interest

The Town frames the public interest statutory factor in the context of this case as being largely a financial capability factor:

As discussed above, the budgetary pressures on East Hartford is reaching critical mass. The Town respectfully submits that the public interest supports all concrete and responsible measures to control rising costs, including but not limited to controlling pension costs.

(Town brief, p. 8)

The Union addresses this statutory factors as applied to specific issues and also makes statements of general applicability concerning pension benefits and the public interest. In responding to the Town's proposal to reduce its costs by excluding accrued sick time from the pension benefit calculation the Union addresses the concern of Town taxpayers who may receive considerably less in pension benefits than police officers. Under the heading of "Public Interest" the Union states in its brief:

We will nonetheless recognize that many in the private sector are jealous of public sector pensions. Jealousy is not a legitimate "public interest."... The public has no interest in "sand-bagging" those who serve and protect them from harm. That is exactly what this proposal does.

(Emphasis in original, Union brief, p. 10)

On the same issue the Union characterizes any attempt to effect municipal taxpayer savings by reducing *existing* employee benefits as "cheating" and contrary to the public interest:

[T]he legislature, in utilizing the phrase "public interest," did not intend to prioritize treacherous conduct. It is not in the interest of the public, and most particularly the citizens of East Hartford, to cheat their police force out of a benefit upon which they relied:

(Union brief, pp. 10-11)

Another definition of the public interest is provided by the Union in addressing attempted municipal cost savings which affect only new employees, in this case a change from a defined benefit (DB) pension plan to a defined contribution (DC) plan, which the Union claims will save no money for the Town:

[I]t is not in the "public interest" for the citizens of East Hartford to be duped into thinking conversion from a DB to a DC plan is fair or will solve any perceived financial problems. This proposal represents nothing more then (sic) an effort on the part of public officials to appear to take a strong stance against organized public sector employees. Such a stance is both not in the "public interest" and is contrary to establish public policy.

(Union brief, p. 23)

On the same issue the Union says the public interest is impacted by its effect on the morale of the officers who would be faced with differential pension benefits:

Additionally, it is not in the public interest to create a significant morale problem in the East Hartford Police Department...The impact of this proposal on a paramilitary organization is obvious. These men and women face dangers everyday which require an esprit de corps beyond

anything required in an office environment. It is demoralizing, at best, to know the officer standing beside you is earning a significantly better retirement benefit which, for reasons of political expediency and callus (sic) disregard for employees, you have lost.

(Union brief, p. 24)

The Union also sees the public interest furthered by its proposal to receive a more prompt and impartial annual pension report removed from political influence:

The Union desires to have the actuarial report in sufficient time before commencement of negotiations of the collective bargaining agreement in order to factor that cost into the negotiations. Further, the Union desires to do something to remove the political process from the calculation of the Town's contribution to maintain solvency of the plan. The public should have the same interest.

(Union brief, p. 47)

The last context in which the Union marshals the public interest statutory factor is in opposition to the Town proposal to delay the pension cost of living adjustment for one group of employees who elect to participate in a voluntary program to continue employment after their full pension eligibility has been established. In this context the Union believes the public interest is furthered by providing continued incentives to stay on the job:

The public certainly has an interest in retaining talented employees with extensive institutional knowledge and in planning for the loss of such employees.

(Union brief, p. 57)

The Union in the above excerpts often uses the "public interest" in a rhetorical sense and the statements often assume contested facts (e.g. conversion to a defined contribution plan does not save the Town money). Moreover, some of its claims of having the public interest on its side mock the legitimate interests of taxpayers and the Town to employee benefits in reasonable proportion to the taxpayers own pensions (e.g. "many in the private sector are jealous of public sector pensions. Jealousy is not a legitimate 'public interest.'") These are not legitimate uses of the public interest statutory factor. The Union, however, uses the public interest statutory factor appropriately when it points out concerns about changing benefit rules which incumbent employees have relied upon for decades, the problems created by differential benefits among employees or the affect on recruitment of officers from substantially diminishing benefits, at least where the salary benefits are only marginally competitive.

These aspects of the public interest will be considered, evaluated and weighed along with the other statutory factors in deciding the individual issues under consideration.

2. National and State Economic and Budgetary Conditions

The state and national economic conditions affect individual and corporate taxpayers which in turn affect government tax revenues and the financial condition and budgets of federal, state and local governments. The state and national economic conditions and the state and national budgetary conditions are thus regularly considered in municipal binding arbitrations in order to fully evaluate the priority statutory factors (the public interest and the financial capability of the municipality) and other economic and budget related statutory factors (e.g. cost of living and interests and welfare of the employee group). In interest arbitrations confined to pension issues the state and national economic and budgetary conditions are still be relevant to the statutory factors. Municipalities must still fund pensions out of tax revenues and have the financial capability to do so. And the value of pensions to employees may be greatly affected by economic conditions, especially inflation.

What is changed when pensions are the focus of interest arbitration analysis rather than collective bargaining contracts is the time period appropriate for economic and financial analysis, the appropriate factors in that analysis and the more speculative nature of the analysis. It is hard enough for arbitrators to make judgments about the financial capability of a municipality when the time horizon is three years, a common term of collective bargaining contracts. Making judgments about a municipality's financial capability and the impact of other statutory factors more than 20 years in the future involves completely different considerations.

Take, for instance, the statutory factor of the cost of living. The relevant statutory factor mandates the panel to consider "changes in the cost of living," which suggests an examination of the most recent changes in the cost of living and its impact on the proposed new collective bargaining contract (e.g. whether employees have lost purchasing power during the previous period and whether the proposed wage increase will keep up with the rate of inflation). To properly apply the cost of living statutory factor to pension matters the proper analysis would look at the inflation likely during the time

period the employees will be collecting their pension, rather than the current period. That is a very extended time period, for new employees a period probably 25 years to 30 years from now.

Government policies directed at keeping inflation very low during a current period, say the Federal Reserve's current policy of increasing the money supply ("printing money" and buying bonds), may in future periods create the exact opposite of the intended short term effect (e.g. extended high inflation). Historically high levels of the Federal Reserve adding to the money supply and/or the failure of the national government to control its historically high levels of debt may create an inflationary momentum which could significantly reduce the buying power of pension benefits to much lower levels than the recipients currently anticipate.

In examining the likelihood of future economic growth and its effect on federal, state and municipal budgets, pension matters also require a longer range view. Economic and budgetary booms and busts regularly occur, and a close examination of these cycles is a regular topic of interest arbitration advocacy, with unions usually arguing that the economic sun is about to shine and municipal advocates arguing that dark clouds still dominate the weather. In evaluating economic and budgetary matters relevant to pensions these periodic transient economic and budget cycles are largely irrelevant. What may be more important are matters such as large government debts and unfunded government pension and benefit liabilities. These matters will have long term implications for government budgets and their ability to pay, the time horizon appropriate for an evaluation of pension matters.

In this proceeding there was very little evidence introduced as to either current or future economic or budgetary conditions of national and state governments. The Union in its Exhibit 52 presented news articles from 2012 on the state and national economy suggesting the respective economies were turning the corner in a favorable direction (e.g., "Data Show State Stabilizing," "Home Sales Keep Rising," "Indexes Rise on Good News For Housing and Earnings,") The parties in their briefs also did not address the effect of state or national economic or budgetary conditions in discussing the statutory factors relevant to pensions. The paucity of evidence and lack of argument on these difficult, but important, issues requires the panel to ignore these matters in this proceeding.

2. The Financial Capability of and Demands on the Town of East Hartford

The parties disagree about the financial condition of the Town of East Hartford and its impact on these proceedings. For ease of understanding we have broken down their arguments and the data marshaled in behalf of those arguments into discrete parts and then conclude with an evaluation of the arguments and data taken as a whole.

A. Comparisons of Relative Wealth

The Town presents considerable evidence that the Town of East Hartford is one of the poorer municipalities in Connecticut as measured by objective standards. In its brief the Town offers the following relevant information and argument:

In this case, the financial capability analysis reveals that East Hartford is a historically impoverished community with continuing economic woes. With respect to traditional wealth indicators, East Hartford fares poorly compared to other Connecticut communities. For example, the 1999 median household income in East Hartford was \$41,424 annually, which is 24% below the state median of \$53,935 and the eleventh lowest in the entire state. Town Ex. 47, p. C-9. The 1999 per capita income for East Hartford was \$21,763 annually, which means the Town ranks 147th out of the 169 municipalities in Connecticut. Town Ex. 47, p. C-5. Moreover, East Hartford's median household and per capita income levels are below every municipality in Hartford County, except Hartford and New Britain. Town Ex. 47, pp C-5, C-11.

The percentage of families living in poverty is greater in East Hartford than in Hartford County or in Connecticut. In a 5-year survey conducted from 2006 through 2010, the U.S. Census Bureau determined that 12.6% of families in East Hartford were living below the poverty line. During the same period, the poverty rate for Hartford County was only 8.0% and the rate for Connecticut was 6.5%. Town Ex. 28, 29 and 30.

Given the high percentage of impoverished families, it is unsurprising that as of November 2010, East Hartford also ranks *third* in Hartford County and *tenth* in Connecticut with respect to the percentage of its population that receives Temporary Assistance for Needy Families ("TANF") relief. Town Ex. 47, p. C-11.

To further complicate matters, the Connecticut Department of Labor calculated East Hartford's unemployment rate at 12.3% as of July 2012, which is the highest in the Hartford Labor Market Area, except for New Britain and Hartford. Town Ex. 48.

East Hartford's continuing economic woes relative to other communities can be most succinctly illustrated by the decline in its position on the *Education Cost Sharing* ("ECS") and *Adjusted Equalized Net Grand List per Capita* ("AENGLC") rankings published annually by the Department of Education. East Hartford's position on the ECS ranking fell from 145 in 2002 to 162 in 2011-12. Town Ex. 27. East Hartford's position on the AENGLC ranking declined from 140 to 160 from 2002-2010, with only a slight up tick to 153 by 2012. This means that, even taking into account the modest increase in ranking in 2012, East Hartford lost a net total of

thirteen places on the AENGLC scale since 2002 and currently ranks sixteenth from the bottom of Connecticut's 169 municipalities. Town Ex. 26.

(Town brief, pp. 3-4)

Anticipating the Town's reliance on its poor economic condition, the Union in its brief seeks to minimize the impact of these objective measures:

The Town will point to East Hartford's rankings in indexes such as AENGLIC, Educational Cost Sharing and unemployment (Town Exhibits 26-29). What the Town refuses to recognize is that, relative to the vast majority of the other towns in this State, it enjoys Pratt & Whitney Aircraft and significant other commercial and industrial taxpayers which carry the brunt of the tax burden, to the relief of the residents.

(Union brief, p. 70)

B. Level of Revenues Received

The Town presented an exhibit showing that since the Great Recession of 2008-2009 the Town has lost a lot of the revenue it previously received. Town Exhibit 19 shows that from the period 2008-07 to 2010-11 that East Hartford has lost substantial revenues from building permits, State transfer payments (e.g. state grants, PILOT and Pequot funds), interest revenues and even recording fees, amounting to almost \$3.5 million a year.

The Union replies that whatever revenues have been lost the net result on the Town's budget has still been a healthy fund balance:

Mr. Walsh agreed that Moody's recommends a budget to fund balance ratio of 5% (Testimony of Mr. Walsh, p. 688). Mr. Walsh characterized the projected fund balance of 12.4 million for June 30, 2012 as a "fairly substantial fund balance" in "light of the economic situation" (Union Exhibit 46 p.5; Testimony of Mr. Walsh p. 677). Mr. Walsh indicated the Town has done well with the fund balance over the years (Testimony of Mr. Walsh p. 686).

(Union brief, p. 64)

The Union also argues that the one of the major sources of revenue, residential taxpayers, faced a relatively light burden because taxes have been levied disproportionately on commercial and industrial property owners:

The residents of the Town of East Hartford carry only 56.4% of the tax burden on residential property, as opposed to a 71.3% average for the rest of the State. (Municipal Fiscal Indicators, Town Exhibit 47 p. b22-b24) Examination of this exhibit shows East

Hartford among the lowest residential taxpayers and among the highest for commercial and industrial contribution.

(Union brief, p. 65)

C. Capital and Operating Expenditure Demands

The financial capability statutory factor requires arbitrators to consider all of the financial demands on the financial capability of the Town, not just the amounts to fund employee wages and benefits. The Town argues the results of those demands are shown in the poor economic condition of the Town and its residents. The Union argues that the burdens created by employee benefits, especially pensions, are not the problem:

In reality, pension cost for FY '12-'13 increased by only 1.6% as compared to a health insurance increase of 40.7% (Town Exhibit 46, p.13).

For FY '11-'12 the Town's health insurance costs increased by 14.7% while the pension cost increase was only 8.2%.

The testimony also reveals the increase in pension cost in the two prior years was attributable largely to the crash in the stock market (Ms. Riley, Tr. 9/21, p. 536-7). Now that the market value has largely returned, we will not be seeing those types of increases in the ARC

(Union brief, p. 61)

The actuarial return on investment was only "slightly lower" than the assumption and the market return was dramatically higher (Town Exhibit, 18 p. i 3). As of the latest evaluation the actuarially smoothed value of assets were essentially equal to the market value (Town Exhibit 18, p. i 3). The latest report shows the fully funded ratio increased from 66.52% to 67.73% (Town Exhibit 18, p. ii).

(Union brief, p. 62)

The Town appears to be turning its ire on the wrong party. The more favorable actuarial experience was as a result of retiree mortality (Town Exhibit 18 p. i 2).

(Union brief, p. 63)

Mr. Walsh then complained about contributions towards OPEB liability (Tr. 9/21, p. 627-632). The Town has never made an OPEB contribution. The Town will claim OPEB liability reflects poorly on bond ratings. However, the Town's bond rating is Aa2, which places it second to only Glastonbury and Manchester in the comparison group used by the Town in reporting the Town's condition to its citizens (Town Exhibit 46 p. 5).

(Union brief, pp. 67-68)

D. The Pension Fund

Among the important cost drivers for the Town are the requirements to fund pension benefits for Town employees. The Town's Comprehensive Annual Financial Report for the year ended June 30, 2011 reports that the annual required contribution to the pension fund was \$8,434,000, which represented a contribution of 20.6% of covered payroll costs (Town Exhibit 1, pp. 45-46. The most recent annual pension report on the record updates those figures to an annual required contribution of \$9,330, 687, with a contribution rate of 21.19% of payroll. (Union Exhibit 18 and Town Exhibit 37 are the Segal Company annual pension report and actuarial evaluation submitted in early 2012). The police bargaining unit contributed significantly to the Town's required contributions to the pension fund, with the highest required contribution rate of 30% of payroll.¹

The Town's annual required contribution to the pension fund and the contribution rate as a percentage of payroll are likely to significantly increase in future years for two reasons. The Town's pension fund is significantly underfunded and the assumed rate of return on invested funds is higher than the average public sector investment return assumption and higher than the Town's actuaries recommended. The trend in the pension fund's funding percentage of the Town's contractual pension obligations is particularly disturbing. As shown by the chart below the financial solvency of the Town's pension system had deteriorate from a 97% funded percentage to 67% in a decade, with its unfunded actuarial liability as a percentage of payroll growing from 15% to 206% :

EXHIBIT III
Supplementary Information Required by the GASB – Schedule of Funding Progress

Actuarial Valuation Date	Actuarial Value of Assets (a)	Actuarial Accrued Liability (AAL) (b)	Unfunded AAL (UAAL) (b) - (a)	Funded Ratio (a) / (b)	Covered Payroll (c)	UAAL as a Percentage of Covered Payroll [(b) - (a)] / (c)
07/01/2002	\$163,018,860	\$163,372,009	\$55,353,269	96.82%	\$15,317,201	15.90%
07/01/2003	134,459,879	180,464,416	26,013,537	85.59%	37,511,465	69.35%
07/01/2004	155,111,636	190,131,569	34,689,933	81.75%	39,383,401	88.05%
07/01/2005	160,101,612	205,159,113	45,057,501	78.04%	42,313,564	106.48%
07/01/2006	166,599,013	217,516,261	50,947,248	76.76%	41,608,682	121.48%
07/01/2007	178,166,743	227,288,386	48,823,643	78.52%	41,758,739	116.94%
07/01/2008	183,322,948	238,147,168	55,124,160	76.88%	41,599,715	131.25%
07/01/2009	170,922,522	250,681,501	79,759,379	68.18%	41,055,511	194.27%
07/01/2010	173,764,391	261,293,500	87,430,009	66.52%	41,104,010	211.15%
07/01/2011	181,910,021	269,016,695	87,086,674	67.63%	42,373,777	205.52%

¹ The firefighters bargaining unit has a contribution rate of 26% and the next closest is Board of Education employees at 17.7%.

This trend in reduced funding of pension obligations is likely the a result of a combination of deteriorating financial capability of the Town and a reduced political will to fully fund future obligations.² Whatever the cause, it has arrived at such a low funding percentage that if the fund was a private sector fund remedial actions and a rehabilitation plan would soon be required by the federal government.³ The current funding percentage is unsustainable by definition, the Town is obligated to pay 100% of the contractual benefits, not 67%.

The pension fund is also underfunded on a current basis as a result of a higher than prudent actuarial assumption of investment return on plan assets. This fact was flagged by the actuaries in their December 20, 2011 letter to the Town:

Effective July 1, 2009, the assumed discount rate used to project liabilities and project net investment return was lowered from 8.50% to 8.25%, with the intention of moving to 8.00% as of July 1, 2012. Due to the Town's budgetary constraints, the 8.25% rate was maintained last year. We again recommend that the interest rate be reduced from 8.25% to 8.00% effective July 1, 2011. An 8.00% assumption falls within the mainstream of assumptions currently in use for public sector plans....⁴

(Union Exhibit 8)

The Town actuary's recommendation of an 8% investment return assumption would have required a Town contribution to the pension fund of over \$10 million, so the Town again stuck with the higher investment return assumption of 8.25%, thereby "saving" approximately \$680,000. Eventually the Town will have to get realistic about the earnings of its invested pension funds. And when it does, it will further strain the Town's financial capability.

E. The Panel's Evaluation of the Financial Capability of the Town of East Hartford

East Hartford, like most other Connecticut towns, has been buffeted by the steep 2008-2009 recession and the excruciatingly weak recovery that has followed. It has lost tax, real estate conveyance

² Some may claim that the Great Recession was the cause of the decreased pension funding level, but the stock market has rebounded to levels existing before the Great Recession, and the numbers show that even if the rebound did not occur that only 10% of the 30% fall in funding levels could be attributed to that cause (i.e., the drop from the high 70s to high 60s after 2008)

³ Under the federal Pension Protection Act of 2006 a multi-employer pension plan that is less than 80 percent funded is in endangered status. A plan less than 65 percent funded is in critical status. Pub. L. No. 109-280, Bill §§202, 212; ERISA §305; I.R.C. §432.

⁴ Today, 8% is still the most popular (median) public sector investment return assumption, but the average (mean) assumption is 7.8% and the largest public sector pension fund, the California fund, CALPERS, last year lowered their assumption to 7.5% See e.g. May 27, 2012 *New York Times* article, "Public Pensions Faulted for Bets on Rosy Returns."

and interest revenues as a result of the recession and sluggish recovery while inflation and personnel costs have increased its operating costs and the inexorable demands for maintenance and replacement of its physical plant continue unabated. Already financially weak, the Great Recession made East Hartford weaker and it has still not rebounded to the pre-recession levels. Most significantly, East Hartford is in the bottom tier of ability to pay (financial capability) in terms of standard measures of wealth of Connecticut municipalities. East Hartford ranks 153 out of 169 on the State's Adjusted Equalized Net Grand List Per Capita (AENGLC) (Town Ex 26, December 2011 ranking). Its unemployment rate of 12.3% as of July 2012 is among the worst in the State.

The Union argues that the tax burden falls more heavily on commercial interests rather than residential taxpayers in East Hartford compared to other municipalities. While that is true, it does not change the underlying financial capability of the Town. That tax policy favoring residential taxpayers also has its limitations. Businesses can move to more friendly tax venues when the burden becomes too onerous, thereby creating a death spiral of diminished grand list and municipal tax revenues. Indeed, the historic shift of the retail trade away from Hartford to the creation of vast suburban retail malls in Manchester and West Hartford in the last 30 years is a demonstration of that economic phenomenon.

East Hartford's economic base and demographics gives it a relatively weak starting point as evidenced by its relative wealth rankings and it has many burdens to overcome. Because of the underfunded pension fund (by about \$87 million) and unrealistically high investment return assumption on pension funds, the costs of funding employee pensions will continue to be a drag on municipal finances. Other post employment benefit obligations amounting to about \$130 million will also be a problem. Many municipalities have taken steps to remedy these obligations through annual contributions toward reducing that liability, but East Hartford has not done so.⁵ Making progress toward funding these obligations and also meeting its myriad financial obligations to fund its ongoing operational and maintenance obligations will put a severe strain on the Town's finances.

Overall, the priority financial capability statutory factor weighs in favor of the Town's proposals.

⁵ See Town Brief, p. 6, Tr. 9/28/12, pp 627-632; Town Exhibit 38, p. 6 and Town Exhibit. 39, p. 9.

B. The Negotiating History

The negotiating history is rarely determinative of the issues in interest arbitration. The negotiating history, however, can be important where the parties have made substantial valuable benefit improvements or concessions prior to the interest arbitration proceeding that are incorporated into the Agreed Upon Language. That does not appear to be the case here. The Union, however, argues that the negotiating history is relevant to Issue 7, and that contention will be evaluated in the discussion of that issue, *infra*.

C. Interests of Employee Group

The statute requires the panel to consider "the interests and welfare of the employee group." On the surface, any increase in employee pension benefits would appear to serve those interests and welfare. However, when the costs of those benefits become burdensome or unsustainable to a municipality, other statutory factors are affected and the interests and welfare of the employee group are also impacted. The costs of pensions could become a factor in the ability of the Town to hire police officers in the future and to pay competitive wages and other non-pension benefits. One of the direct ways it affects the employee group is financial pressure to create a separate and less costly pension program for new employees or restrict the pension benefits of existing employees. That pressure has manifested itself in this proceeding and it is a reflection of the trends that have been occurring in the private sector for decades.

D. Changes in the Cost of Living

Neither party has produced evidence of the cost of living over any relevant time period. This statutory factor will thus play no role in this proceeding.

E. Comparisons to the public and private sector labor markets

The statutory factors relevant to this section requires arbitrators to consider:

D) the existing conditions of employment of the employee group and those of similar groups; and E) the wages, salaries, fringe benefits, and other conditions of employment prevailing in the labor market, including developments in private sector wages and benefits.

The above statutory factors D) and E) require interest arbitrators to evaluate the parties' proposals against how the remainder of the public and private sector employee groups are doing in wages, benefits and other conditions of employment. The most important and first evaluation is a comparison to other Town employees. As other interest arbitration decisions have noted, "settlements and awards concerning the municipality's own employees...unlike other public and private sector comparability data, take into account all the statutory factors relevant to the subject municipality."⁶ Here that priority for municipal comparison is clearly appropriate because East Hartford has a pension fund and administration through the Retirement Board that covers all Town employees. The pension issues in issue in this proceeding are narrow and specific and the comparisons offered by the parties in support of their positions can only be discussed in the specific context of the contested issues which we discuss below, *infra*.

⁶ *City of Meriden and Meriden Firefighters Local 1148* (2012-MBA-234, August 20, 2012) at p. 26. There are clearly cases and issues, however, where the most appropriate comparisons are to the relevant occupational groups in other municipalities.

IV. Last Best Offers, Discussion and Award on Disputed Issues

Issue 4

Contract Provisions: Article I, Section 6, paragraph 15

Subject: Final Average Salary - Plan Year Definition

Town's Last Best Offer:

based on the Plan Year, which gave the highest average or the employee's final thirty-six (36) consecutive months of service with the Employer, whichever produces the highest average

Union's Last Best Offer:

which gave the highest average.

DISCUSSION

The Town proposes to modify the method by which an employee's Final Average Salary is calculated for pension purposes. The Union proposes no change from current language. The Town says that its new language limits the calculation period to the final 36 month period versus the use of any 36 month period which results in the highest final average salary:

The thirty-six consecutive month period has been calculated in one of two ways. First, the employee may use the final thirty six consecutive months of his or her employment. In other words, thirty six consecutive months counting back from the month of the employee's retirement. Tr. 4/16/12, p.120. Using the final thirty-six consecutive months of employment is a practice that is not expressly referenced in the definition of Final Average Salary and the Town's last best offer would, in part, codify that practice without changing it. Joint Ex. A-1, p.2.

Second, the employee may choose any other thirty-six consecutive month period, without regard to plan year. Tr. 4/16/12, p.120. A plan year is July 1st through June 30th. Joint Ex. A-1, p.2. It is this option that the Town proposes to change in its last best offer on issue number 4. In particular, the Town would add language to Article I, Section 6 requiring employees who do not use the last thirty-six months of employment to use thirty-six consecutive months "based on the plan year." In other words, the employee would be restricted to using three consecutive plan years rather than any 36 consecutive months.

(Town brief, p. 10)

The Town in its brief argues that this method of calculating the final average salary is consistent with the method used in other Town bargaining units:

The Town's last best offer on this issue is consistent with the existing conditions of employment of other bargaining units within East Hartford. The police retirement plan as currently written is an aberration in the sense that it is the only retirement plan in East Hartford that permits members to manipulate the thirty-six consecutive month FAS period to increase

their pension benefit. Ms. Franklin testified that every other retirement plan in the Town permits employees to choose only the final thirty-six consecutive six months of service or any thirty-six consecutive months *based on the Plan Year*. Tr. 4/16/12, p. 121. Thus, the Town's proposal simply would bring the police retirement plan in line with every other Town retirement plan.

(Town brief, p. 10)

The Union proposes current language which permits selection of any consecutive 36 months.

The Union asserts that there is no cost to the Town from its proposal because the Town could not determine the cost:

The Union requested the Town's calculation as to the savings to be obtained by the Town's proposal. The Town responded by letter dated April 2, 2012 (Union Exhibit 13). There are no savings. (Tr. 416, p.140; Union Exhibit 13)

(Union brief, pp. 3-4)

The Union thus argues that the "financial capability" of the Town and public interest are irrelevant because "there are no savings to be gained from this proposal." (Union brief, p. 4) Nevertheless, the Union asserts that despite the dearth of financial benefits there are important psychological benefits to bargaining unit members by giving them a choice of time period to calculate their pension benefit:

The Union respectfully submits it is important both to employees and the Town that employees feel included in the process of calculating the benefit earned over at least 25 years. The highest 36 consecutive months is easily accessed in this computer age. There is no downside to the Town, and certainly an upside for the employee, to retain the current language.

(Union brief, p. 4)

The Union also contradicts the Town's testimony on comparability to other Town bargaining units, claiming the Town is violating the rights of other bargaining units by calculating their pension benefits different from the Union's proposal:

The evidence shows the current language is consistent with the language in the other Town pension plans. The fact that the Town chooses to ignore the legal rights of its employees, including non-bargaining unit employees, is irrelevant to the statutory criteria. The entitlement of other Town employees is the same as this group.

(Union brief, p. 5)

The Town's proposal is rational, reasonable and consistent with pension calculation methods employed in other Town bargaining units. It is also consistent with the typical pension calculation methods in the public sector in Connecticut. The Union was not able to produce any evidence of harm to its members from this reasonable change. The Union's assertion that the theoretical choice between 36 month periods currently available to members provides tangible benefits because it makes them "feel included in the process of calculating the benefit" is too speculative and unconvincing. The Town's LBO proposal on this issue is more consistent with the statutory factors than the Union's

Award

For the reasons discussed above and based upon the statutory factors set forth on page 4 of this award:

The Town's last best offer is selected on Issue 4.

The Town's appointed panel member concurs in the selection of the Town's last best offer based upon the same statutory factors cited above.

The Union appointed panel member dissents from the selection of the Town's last best offer based upon the same statutory factors cited above.

Issue 5

Contract Provisions: Article I, Section 6, paragraph 15

Subject: Final Average Salary - Sick Leave Payment

Town's Last Best Offer:

The term "Final Average Salary" shall mean the employee's average annual pay, including overtime, holiday, longevity payments and vacation pay, but not including any lump sum payments resulting from unused accrued terminal/sick leave,

Union's Last Best Offer:

The term "Final Average Salary" shall mean the employee's average annual pay, including overtime, holiday, longevity payments, vacation pay, and any lump sum payments resulting from unused accrued terminal/sick leave

DISCUSSION

Issues 5 and 6 are closely related, they both concern whether accumulated sick time will be included in the calculation of bargaining unit pension benefits. Both issues (5 and 6) are discussed together in the parties' brief and will be discussed together in this Arbitration Award under this heading. The Town proposes that "unused accrued terminal/sick leave" be excluded from the pension benefit calculations and the Union proposes no change in existing language. The Town in its brief relies primarily on its weak financial capability in seeking to reduce the cost of pension benefits:

The financial capability factor supports awarding the Town's last best offer on issues 5 and 6. During the September 21, 2012 arbitration hearing, the Town produced Kathy Riley, who is a Senior Vice President and actuary for the Segal Company. The Segal Company is an employee benefits actuarial consulting firm that has been retained by East Hartford to handle its retirement plans. Tr. 9/21/12, pp 436-439. The Segal Company estimates that removing bargaining unit members' lump sum payout for accrued unused sick leave from the calculation of Final Average Salary and Regular Compensation for pension purposes will save the Town \$270,000 annually, with an annual increase in those projected savings of four percent. Tr. 9/21/12, pp 447, 449; Union Ex. 21, p. 2.

(Town brief, p. 14)

The Town also relies on comparability data to support its proposal:

Moreover, the Town's last best offer on this issue is consistent with the existing conditions of employment of similar groups; specifically, other bargaining units within East Hartford and a comparison group of nine similarly situated municipalities.

- East Hartford firefighters receive a lump sum payout for sick leave upon retirement, but that payout is not included in the pension calculation of any bargaining unit member hired after January 1, 1995. Town Ex. 6.
- The pension plan for Teamsters members does not include the sick leave lump sum payout in members' pension benefit calculations for any member hired after December 1, 1996. Town Ex. 6.
- Paraprofessionals have not received a lump sum payout for sick leave since July 1, 2007. Town Ex. 6. However, Ms. Franklin testified that, prior to that date, the sick leave payout was not included in their pension calculation. Tr. 3/15/12, p.53.
- With respect to other Board of Education units, members of Local #818, Local #1933, Local #2727 and the school nurses unit hired after December 1, 1996 do not have the lump sum payment included in their pension calculation. Town Ex. 6.
- Finally, members of Town units Local #818, Local #1174, Local #2001, and non-bargaining unit employees in the defined benefit plan for general employees, hired after December 1, 1996, do not have the lump sum payment included in their pension calculation. Town Ex. 6.

Town Exhibit 7 establishes that one of the nine listed municipalities, West Haven, does not pay police bargaining unit members for their unused sick leave upon retirement. Six of the remaining eight municipalities (Enfield, Manchester, Meriden, Middletown, Norwich and Torrington) pay their police bargaining unit members for unused sick leave upon retirement, but do not include that payment in the calculation of final Average Salary.

(Town brief, pp. 14 & 16)

The Union in its brief emphasizes that, "If the Town's LBO is accepted, it will reduce the pension of all Union members, regardless of the date of hire." (Union brief, p. 6) The Union also reiterates the arguments it made in the arbitrability proceeding⁷ concerning Issues 5 and 6 which were rejected by this panel:

The Union respectfully submits any LBO which directly contradicts an enforceable collective bargaining agreement is defective. Hence, based on the Town's LBO and regardless of whether the issue was theoretically arbitrable, the Town's LBO's on issues 5 & 6 must be rejected as defective.

(Union brief, p. 7)

On the merits the Union argues in its brief notes the impact of the Town's proposal of a 30 year police employee who retires at age 62:

⁷ See, "Ruling on Arbitrability of Issues 5 and 6," Case No. 2012-MBA-376, March 5, 2012.

The prospects, at age 62, of entering another meaningful career with the skill set of a Patrol Officer are slim to none. Yet, the Town proposal would reduce this Patrol Officer's pension by \$6,850 (10.6%) from \$64,578 to \$57,728. While this may not make a significant difference in the \$168 million budget of the Town, it makes a huge difference in the life of a 62 year old. Remember current members of this bargaining unit do not pay into Social Security and will not for the remainder of their career. The pension is all they have for their retirement.

(Union brief, pp. 8-9)

The Union also points to Town Exhibit 5 which shows the impact of the Town's proposal on a police officer with 15.5 years of service who retires on a service connected disability pension:

The difference in pension benefit is \$39,600 per annum versus \$50,767 per annum. This is a 22% cut in the benefit of an Officer who lost his or her livelihood in the service of the Town after 15.5 years.

(Union brief, p. 9)

In its brief on the statutory criteria relevant to this issue, the Union first rebuts the argument that in considering the "public interest" the panel should consider that police pensions are much higher than the pensions (including social security) received by most East Hartford taxpayers:

The Union maintains it is unfair and illegal for this panel to be considering evidence that is not on the record. We will nonetheless recognize that many in the private sector are jealous of public sector pensions. Jealousy is not a legitimate "public interest." Even if it were, it is respectfully submitted if individual members of the "public" were to be provided the "facts," they would not back this proposal....It is respectfully submitted the legislature, in utilizing the phrase "public interest," did not intend to prioritize treacherous conduct. It is not in the interest of the public, and most particularly the citizens of East Hartford, to cheat their police force out of a benefit upon which they relied.

(Union brief, pp. 10-11)

As to the financial impact on the Town of East Hartford, the Union in its brief questions the Town's calculations of impact and characterizes them as being speculative and incomplete. See, Union brief, pp. 12-15 and their summary statement on p. 15:

In conclusion, the Town's claim of a \$270,000 annual savings is speculative and inaccurate. Even if true, \$270,000 is 16 one hundredths of one percent of the Town's annual budget. This alleged "savings" is hardly worth the cost to the Town in credibility, employee morale, overtime costs, and the other fallout associated with this proposal. (Emphasis in original)

On the question of comparability the Union does not rebut the Town's claims that accrued sick leave has been eliminated from the pension benefit calculation for other East Hartford employees, but emphasizes instead the impact of those changes on existing employees:

First, the Union and non-Union employee groups in the Town of East Hartford employed on the date sick leave was eliminated retained sick leave in their pension calculation (Testimony of Ms. Franklin; Tr. 3/15, p. 71-72; Town Exhibit 6; Union Exhibit 15). Hence, all other employees of the Town of East Hartford took the job on with the full understanding that sick leave would not be included in their pension calculation... No one in the Town of East Hartford has been subjected to retroactive reduction in pension benefits for current employees. With good reason.

(Emphasis in original, Union brief, p. 17)

The last point the Union raises above is the most important point. When the Town implemented the elimination of accrued sick time from pension calculations for other bargaining units it did so by applying it to new employees and grandfathering the existing employees with substantial service. Employees who had placed financial reliance on the existing pension benefit were thus not harmed. That is an implementation model the Town recognized as wise and which was capable of acceptance by reasonable employees. Had it continued that policy in this proceeding by exempting those employees with substantial service and reliance on the existing benefit the Town probably would have been awarded this issue.

The Union's claims that the Town's saving from eliminating accrued sick time from the pension calculation are "speculative and inaccurate" but we find that the Town proved that they would have saved a significant amount of money from their proposal. The Town's proposal is supported by the "financial capability" statutory factor.

The public interest factor is a closer question. The public interest is furthered by a more solvent and sustainable pension system which the Town's proposal would further. On the other hand the public interest is also furthered by the recruitment and retention of highly qualified police officers. Here the evidence shows the Town offers salaries that are not as competitive as some neighboring municipalities, so the very favorable pension system may act to both attract and keep highly qualified police officers. And while the Union overstates the matter, the public interest is also served by being fair to public employees who have spent many years relying on a benefit. The Union's position on the public interest was nevertheless overstated (e.g. "treacherous conduct....to cheat their police force out of a benefit.") because police employees, even without the accrued sick time added to their pensions, still would have

an objectively "fair" pension, one that the Union recognizes is the envy of the Town's private sector taxpayers and most other Town employees.

The comparability factors are mixed. A minority of public employees and almost no private sector employees have such a lucrative sick time accrual benefit added to their pension calculations. No other bargaining units in the Town will have such a benefit for new employees. The equation leading to the decision on Issues 5 and 6 would have been dramatically different on many statutory factors if the Town had merely proposed to apply its proposal only to those who have placed less reliance on the existing benefit. In view of the hand dealt to the panel by the Town's LBO, the Union's last best offer is more consistent with the statutory factors.

Award

For the reasons discussed above and based upon the statutory factors set forth on page 4 of this award:

The Union's last best offer is selected on Issue 5.

The Union's appointed panel member concurs in the selection of the Union's last best offer based upon the same statutory factors cited above.

The Town appointed panel member dissents from the selection of the Union's last best offer based upon the same statutory factors cited above.

Issue 6

Contract Provisions: Article I, Section 15, Paragraph 28

Subject: Definition of Regular Compensation - Sick Leave Accrual

Town's Last Best Offer:

Section 15. The term "Regular Compensation" shall mean the annual salary or wages of an Employee for services with the Town, including overtime, holiday, longevity payments, and vacation pay, but not including any lump sum payments resulting from unused accrued terminal/sick leave. It will also include any deferred salary or deferred wages that are considered annual salary or pay/wages during the period used to determine Final Average Salary.

Union's Last Best Offer:

Section 15. The term "Regular Compensation" shall mean the annual salary or wages of an Employee for services with the Town, including overtime, holiday, longevity payments, vacation pay and any lump sum payments resulting from unused accrued terminal/sick leave. It will also include any deferred salary or deferred wages that are considered annual salary or pay/wages during the period used to determine Final Average Salary.

DISCUSSION

This issue was discussed under the heading of Issue 5 and that discussion is incorporated herein by reference.

Award

For the reasons discussed under the heading of Issue 5 and based upon the statutory factors set forth on page 4 of this award:

The Union last best offer is selected on Issue 6.

The Union's appointed panel member concurs in the selection of the Union's last best offer based upon the same statutory factors cited above.

The Town's appointed panel member dissents from the selection of the Union's last best offer based upon the same statutory factors cited above

Issue 7

Contract Provisions: Article III, Sections 2-3, Paragraphs 53-57, 148

Subject: Pension Eligibility for Employees Hired After January 1, 2013

Town's Last Best Offer:

Section 2. An Employee who enters the service of the Employer on or after October 1, 1972 and before January 1, 2013 will become an eligible Employee if the following conditions are met:

- (a) Under age 45 -- as a condition of employment, it is mandatory that an Employee becomes covered under the Retirement System within 3 months after his or her employment commences.
- (b) He or she has reached his or her 45th birthday -- as a condition of employment, it is not mandatory that an Employee becomes covered under the Retirement System; however, he or she must apply within 3 months of entering the service of the Town. If such Employee does not apply then, he or she must do so within 2 years of his or her employment date, and in order to be credited with such service, he or she must pay all back contributions with Interest thereon.
- (c) All Employees must make their Employee contributions while eligible to do so. No credit will be granted during any period when the Employee does not make the necessary contributions to the Retirement System.

Section 3. Employees who enter the service of the Employer on or after January 1, 2013 will become a member of the Defined Contribution Plan for Full-Time Employees of the Police Department of the Town of East Hartford (the "Defined Contribution Plan") attached hereto as Appendix A. However, such employees will be eligible to receive benefits equal to the disability benefit and service connected death benefit set forth in Article V and Article VIII, Section 1, respectively, of this Agreement, in accordance with the rules of those articles and sections. Any disability benefits awarded in accordance with this paragraph will be reduced by the value of the Employer's contribution to the Defined Contribution Plan, including investment earnings, through the date of disability and reduced by disability benefits awarded to the Employee under social security, if any.

The Town's last best offer (Issue 7, paragraph 148):

APPENDIX A

DEFINED CONTRIBUTION PLAN FOR FULL-TIME EMPLOYEES OF THE POLICE DEPARTMENT OF THE TOWN OF EAST HARTFORD

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**DEFINED CONTRIBUTION PLAN
FOR FULL-TIME EMPLOYEES OF THE TOWN OF EAST HARTFORD**

WITNESSETH:

WHEREAS, the Town of East Hartford (herein referred to as the "Employer") wishes to establish a Profit Sharing Plan effective January 1, 2013, (hereinafter called the "Effective Date") known as Defined Contribution Plan for Full-Time Employees of the Police Department of the Town of East Hartford (herein referred to as the "Plan") in recognition of the contribution made to its successful operation by its Employees and for the exclusive benefit of its Eligible Employees; and

WHEREAS, the Plan is a "governmental Plan" within the meaning of the Code Section 414(d) and any provisions in this volume submitter specimen Plan which are inapplicable to a governmental Plan shall be disregarded.

NOW THEREFORE, effective January 1, 2013, the Employer hereby establishes the Plan for the exclusive benefit of the Participants and their beneficiaries, to provide as follows::

**ARTICLE I
DEFINITIONS**

1.1 "Account" means any separate notational account established and maintained by the Administrator for each Participant under the Plan. The term "Participant's Account" or "Participant's Account Balance" generally means the sum of all Accounts being maintained for the Participant, which represents the Participant's total interest in the Plan. Section 6.8 contains a definition of "Participant's Account Balance" for purposes of that Section. To the extent applicable, a Participant may have any (or all) of the following notational Accounts:

- (a) the Employee Mandatory Contribution Account
- (b) the Employer Contribution Account
- (c) the Rollover Account
- (d) the Transfer Account
- (e) any other account, including an overlapping account or sub-account, necessary for the administration of the Plan

1.2 [THIS SECTION IS RESERVED FOR FUTURE USE]

1.3 [THIS SECTION IS RESERVED FOR FUTURE USE]

1.4 [THIS SECTION IS RESERVED FOR FUTURE USE]

1.5 "Administrator" means the Employer unless another person or entity has been designated by the Employer pursuant to Section 2.2 to administer the Plan on behalf of the Employer.

1.6 "Affiliated Employer" means any corporation which is a member of a controlled group of corporations (as defined in Code Section 414(b)) which includes the Employer; any trade or business (whether or not incorporated) which is under common control (as defined in Code Section 414(c)) with the Employer; any organization (whether or not incorporated) which is a member of an affiliated service group (as defined in Code Section 414(m)) which includes the Employer; and any other entity required to be aggregated with the Employer pursuant to Regulations under Code Section 414(o).

1.7 "Anniversary Date" means the last day of the Plan Year.

1.8 "Annual Additions" means, for purposes of applying the limitations of Code Section 415, the sum credited to a Participant's Accounts for any Limitation Year of (1) Employer contributions, (2) employee after-tax contributions, (3) forfeitures, (4) amounts allocated to an individual medical account, as defined in Code Section 415(l)(2) which is part of a pension or annuity plan maintained by the Employer, (5) amounts derived from contributions paid or accrued which are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Code Section 419A(d)(3)) under a welfare benefit plan (as defined in Code Section 419(e)) maintained by the Employer and (6) allocations under a simplified employee pension plan.

Annual Additions do not include the transfers of funds from one plan to another. In addition, the following are not Annual Additions for the purposes of this definition: (1) rollover contributions as defined in Code Sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3) and 457(e)(16); (2) repayments of loans made to a Participant from the Plan; (3) repayment of distributions received by an Employee pursuant to Code Section 411(a)(7)(B) (cash-outs); (4) repayment of distributions received by an Employee pursuant to Code Section 411(a)(3)(D) (mandatory contributions); and (5) employee contributions to a simplified employee pension excludable from gross income under Code Section 408(k)(6).

1.9 "Beneficiary" means the person (or entity) to whom the share of a deceased Participant's interest in the Plan is payable. Section 6.8 contains a definition of "designated Beneficiary" for purposes of that Section.

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

1.11 "Compensation" means, with respect to any Participant and except as otherwise provided herein, such Participant's base salary, including overtime payments.

For purposes of this Section, the determination of Compensation shall be made by:

(a) including amounts which are contributed by the Employer pursuant to a salary reduction agreement and which are not includible in the gross income of the Participant under Code Sections 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 403(b) or 457(b), and employee contributions described in Code Section 414(l)(2) that are treated as Employer contributions. For this purpose, effective January 1, 1998, amounts not includible in gross income under Code Section 125 shall be deemed to include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that the Participant has other health coverage, provided the Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

(b) excluding pre-participation Compensation paid during the Plan Year while not a Participant.

(c) excluding lump sum sick leave and accrued vacation paid at the separation of employment.

For Plan Years beginning on or after January 1, 2002, Compensation in excess of \$200,000 (or such other amount provided in the Code) shall be disregarded for all purposes. Such amount shall be adjusted for increases in the cost-of-living in accordance with Code Section 401(a)(17)(B), except that the dollar increase in effect on January 1 of any calendar year shall be effective for the Plan Year beginning with or within such calendar year. For any "determination period" of less than twelve (12) months, the Compensation limit shall be an amount equal to the Compensation limit for the calendar year in which the "determination period" begins multiplied by the ratio obtained by dividing the number of full months in the short "determination period" by twelve (12). A "determination period" is not less than twelve (12) months solely because a Participant's Compensation does not include Compensation paid during a "determination period" while the Participant was not a Participant in the Plan.

If any Employees are excluded from the Plan, then Compensation for any such Employees who become eligible or cease to be eligible to participate in the Plan during a Plan Year shall only include Compensation while such Employees are Eligible Employees of the Plan.

For purposes of this Section, if the Plan is a plan described in Code Section 413(c) or 414(f) (a plan maintained by more than one Employer), the limitation applies separately with respect to the Compensation of any Participant from each Employer maintaining the Plan.

If, in connection with the adoption of any amendment, the definition of Compensation has been modified, then, except as otherwise provided herein, for Plan Years prior to the Plan Year which includes the adoption date of such amendment, Compensation means compensation determined pursuant to the terms of the Plan then in effect.

1.12 "Contract" or "Policy" means any life insurance policy, retirement income policy or annuity contract (group or individual) issued pursuant to the terms of the Plan. In the event of any conflict between the terms of this Plan and the terms of any contract purchased hereunder, the Plan provisions shall control.

1.13 [THIS SECTION IS RESERVED FOR FUTURE USE]

1.14 "Custodian" means a person or entity that has custody of all or any portion of the Plan assets.

1.15 "Designated Investment Alternative" means a specific investment identified by name by the Employer (or such other Fiduciary who has been given the authority to select investment options) as an available investment under the Plan to which Plan assets may be invested by the Trustee pursuant to the investment direction of a Participant.

1.16 **"Directed Account"** means that portion of a Participant's interest in the Plan with respect to which the Participant has directed the investment in accordance with the Participant Direction Procedures.

1.17 **"Directed Investment Option"** means a Designated Investment Alternative and any other investment permitted by the Plan and the Participant Direction Procedures to which Plan assets may be invested by the Trustee pursuant to the investment direction of a Participant.

1.18 **"Early Retirement Date,"** This Plan does not provide for a retirement date prior to Normal Retirement Date.

1.19 **"Earned Income"** means with respect to a Self-Employed Individual, the net earnings from self-employment in the trade or business with respect to which the Plan is established, for which the personal services of the individual are a material income-producing factor. Net earnings will be determined without regard to items not included in gross income and the deductions allocable to such items. Net earnings are reduced by contributions by the Self-Employed Individual to a qualified Plan to the extent deductible under Code Section 404. In addition, net earnings shall be determined with regard to the deduction allowed to the Self-Employed Individual by Code Section 164(f).

If any combination of bonuses, commissions, tips, overtime, moving expenses, fringe benefits, or any other element of compensation is excluded from Compensation for the purpose of determining any contribution, then for the purpose of determining the amount of such contribution on behalf of any Self-Employed Individual, such person's Earned Income will be reduced in the same proportion that the "includible compensation" of "common law participants" bears to the "total compensation" of all "common law participants."

For purposes of the preceding paragraph, "common law participant" means a Participant who is neither a Highly Compensated Employee nor a Self-Employed Individual, "includible compensation" means the amount of Compensation taken into account in determining the amount of such contribution for "common law participants," and "total compensation" means the amount of Compensation that would have been taken into account in determining such contribution for "common law participants" if (1) no element of Compensation had been excluded in determining such contribution, and (2) all of the following are included in Compensation: any amount which is contributed by the Employer at the election of the Participant pursuant to a salary reduction agreement and which is not includible in the gross income of the Participant by reason of Code Sections 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 403(b) or 457(b), and employee contributions described in Code Section 414(h)(2) that are treated as Employer contributions.

However, to the extent that the amount of "includible compensation" for "common law participants" includes any amount which is contributed by the Employer at the election of the Participant pursuant to a salary reduction agreement and which is not includible in the gross income of the Participant by reason of Code Sections 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 403(b) or 457(b), and employee contributions described in Code Section 414(h)(2) that are treated as Employer contributions, then those amounts shall be added back to Earned Income after making the adjustment described in the preceding paragraph.

1.20 **"Eligible Employee"** means any full-time active Employee who is in the uniformed or investigatory service of the East Hartford Police Department with the authority to exercise police powers, except as provided in any other particular provision for the limited purposes of that provision, who is either (i) hired on or after January 1, 2013, or (ii) was hired prior to January 1, 2013 but elected to transfer his account balance under the Retirement Plan to this Plan, in accordance with Section 3.1.

1.21 **"Employee"** means any common law employee, Self-Employed Individual, Leased Employee or other person to the extent that the Code treats such an individual as an employee of the Employer for purposes of the Plan, such as (for certain purposes) any person who is employed by an Affiliated Employer.

1.22 **"Employee Contribution"** means the amount a Participant is required to contribute to the Plan pursuant to Section 4.10.

1.23 **"Employee Contribution Account"** means the account established by the Administrator for each Participant with respect to the Participant's total interest in the Plan resulting from the Participant's mandatory contributions made pursuant to Section 4.10 of the Plan.

1.24 **"Employee Mandatory Contribution"** means any Employee contribution that is required as a condition of participation and that is made to the Plan by the Participant pursuant to Section 4.10.

1.25 **"Employee Mandatory Contribution Account"** means the separate account established and maintained by the Administrator for each Participant with respect to the Participant's total interest in the Plan resulting from Employee Mandatory Contributions.

1.26 "Employer" or "Town" means Town of East Hartford. The Employer is a municipal government organization, with principal offices in the State of Connecticut.

1.27 "Employer Contribution" means any Employer contribution that is made to the Plan pursuant to Section 4.1.

1.27(a) "Employer Contribution Account" means the separate account established and maintained by the Administrator for each Participant with respect to the Participant's total interest in the Plan resulting from Employer Contributions.

1.28 "Fiduciary" means any person who (a) exercises any discretionary authority or discretionary control respecting management of the Plan or exercises any authority or control respecting management or disposition of its assets, (b) renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or other property of the Plan or has any authority or responsibility to do so, or (c) has any discretionary authority or discretionary responsibility in the administration of the Plan.

1.29 "Fiscal Year" means the Employer's accounting year of 12 months commencing on July 1 of each year and ending the following June 30.

1.30 "Forfeiture" means that portion of a Participant's Account that is not Vested, and which becomes a Forfeiture at the time described below:

The earlier of:

- (a) the distribution of the entire Vested portion of the Participant's Account of a former Participant who has severed employment with the Employer, or
- (b) the last day of the Plan Year in which a former Participant who has severed employment with the Employer incurs a number of consecutive 1-Year Breaks in Service in excess of his or her pre-break Period of Service.

In addition, the term "Forfeiture" shall also include amounts deemed to be Forfeitures pursuant to any other provisions of this Plan.

Regardless of the preceding provisions, if a Participant is eligible to share in the allocation of Forfeitures in the year in which the Forfeiture would otherwise occur, then the Forfeiture will not occur until the end of the subsequent Plan Year.

For purposes of this Plan, any Forfeiture will be disposed of in the Plan Year in which the Forfeiture arises.

1.31 "Former Employee" means an Employee who had a severance from employment with the Employer or an Affiliated Employer.

1.32 "415 Compensation" with respect to any Participant means such Participant's wages as defined in Code Section 3401(a) and all other payments of compensation by the Employer (in the course of the Employer's trade or business) for a Plan Year for which the Employer is required to furnish the Participant a written statement under Code Sections 6041(d), 6051(a)(3) and 6052. 415 Compensation must be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)). 415 Compensation for any Self-Employed Individual shall be equal to such individual's Earned Income.

Notwithstanding the above, the determination of 415 Compensation shall be made by:

- (a) including any amount which is contributed by the Employer at the election of the Participant pursuant to a salary reduction agreement and which is not includible in the gross income of the Participant by reason of Code Sections 125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 403(b) or 457(b), and employee contributions described in Code Section 414(h)(2) that are treated as Employer contributions. For this purpose, effective January 1, 1998, amounts not includible in gross income under Code Section 125 shall be deemed to include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that the Participant has other health coverage, provided the Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.
- (b) including Post-Severance Compensation.

1.33 "414(s) Compensation" means 415 Compensation or any other definition of compensation that satisfies the nondiscrimination requirements of Code Section 414(s) and the Regulations thereunder. The period for determining 414(s) Compensation must be either the Plan Year or the calendar year ending with or within the Plan Year. An Employer may further limit the period taken into account to that part of the Plan Year or calendar year in which an Employee was a Participant. The period used to determine 414(s) Compensation must be applied uniformly to all Participants for the Plan Year.

1.34 [THIS SECTION IS RESERVED FOR FUTURE USE]

1.35 [THIS SECTION IS RESERVED FOR FUTURE USE]

1.36 "Hour of Service" means (1) each hour for which an Employee is directly or indirectly compensated or entitled to Compensation by the Employer for the performance of duties (these hours will be credited to the Employee for the computation period in which the duties are performed); (2) each hour for which an Employee is directly or indirectly compensated or entitled to compensation by the Employer (irrespective of whether the employment relationship has terminated) for reasons other than performance of duties (such as vacation, holidays, sickness, jury duty, disability, lay-off, military duty or leave of absence) during the applicable computation period (these hours will be calculated and credited pursuant to Department of Labor regulation 2530.200b-2, which is incorporated herein by reference); (3) each hour for which back pay is awarded or agreed to by the Employer without regard to mitigation of damages (these hours will be credited to the Employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement or payment is made). The same Hours of Service shall not be credited both under (1) or (2), as the case may be, and under (3).

Notwithstanding (2) above, (i) no more than 501 Hours of Service are required to be credited to an Employee on account of any single continuous period during which the Employee performs no duties (whether or not such period occurs in a single computation period); (ii) an hour for which an Employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed is not required to be credited to the Employee if such payment is made or due under a plan maintained solely for the purpose of complying with applicable worker's compensation, or unemployment compensation or disability insurance laws; and (iii) Hours of Service are not required to be credited for a payment which solely reimburses an Employee for medical or medically related expenses incurred by the Employee.

For purposes of (2) above, a payment shall be deemed to be made by or due from the Employer regardless of whether such payment is made by or due from the Employer directly, or indirectly through, among others, a trust fund, or insurer, to which the Employer contributes or pays premiums and regardless of whether contributions made or due to the trust fund, insurer, or other entity are for the benefit of particular Employees or are on behalf of a group of Employees in the aggregate.

Each Employee shall be credited with such Employee's actual Hours of Service.

For purposes of this Section, Hours of Service will be credited for employment with any Affiliated Employers. The provisions of Department of Labor regulations 2530.200b-2(b) and (c) are incorporated herein by reference.

1.37 [THIS SECTION IS RESERVED FOR FUTURE USE]

1.38 "Investment Manager" means any Fiduciary described in Act Section 3(38).

1.39 "Late Retirement Date" means a Participant's actual Retirement Date after having reached Normal Retirement Date.

1.40 "Leased Employee" means any person (other than an Employee of the recipient Employer) who, pursuant to an agreement between the recipient Employer and any other person or entity ("leasing organization"), has performed services for the recipient (or for the recipient and related persons determined in accordance with Code Section 414(n)(6)) on a substantially full time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient Employer. Contributions or benefits provided a Leased Employee by the leasing organization which are attributable to services performed for the recipient Employer shall be treated as provided by the recipient Employer. Furthermore, Compensation for a Leased Employee shall only include Compensation from the leasing organization that is attributable to services performed for the recipient Employer.

A Leased Employee shall not be considered an employee of the recipient Employer if: (a) such employee is covered by a money purchase pension plan providing: (1) a non-integrated employer contribution rate of at least ten percent (10%) of compensation, as defined in Code Section 415(c)(3), (2) immediate participation, and (3) full and immediate vesting; and (b) leased employees do not constitute more than twenty percent (20%) of the recipient Employer's nonhighly compensated work force.

1.41 "Limitation Year" means the Plan Year. However, the Employer may elect a different Limitation Year by amending the Plan: All qualified plans maintained by the Employer must use the same Limitation Year. Furthermore, unless there is a change

to a new Limitation Year, the Limitation Year will be a twelve (12) consecutive month period. In the case of an initial Limitation Year, the Limitation Year will be the twelve (12) consecutive month period ending on the last day of the initial Plan Year. If the Limitation Year is amended to a different twelve (12) consecutive month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made.

1.42 [THIS SECTION IS RESERVED FOR FUTURE USE]

1.43 [THIS SECTION IS RESERVED FOR FUTURE USE]

1.44 [THIS SECTION IS RESERVED FOR FUTURE USE]

1.45 "Normal Retirement Age" means the later of a Participant's 50th birthday and completion of a five-year Period of Service.

1.46 "Normal Retirement Date" means the date a Participant attains Normal Retirement Age.

1.47 "1-Year Break in Service" means, for purposes of vesting, a Period of Severance of at least 12 consecutive months.

1.48 [THIS SECTION IS RESERVED FOR FUTURE USE]

1.49 "Participant" means any Employee or Former Employee who has satisfied the requirements of Sections 3.1 and 3.2 and entered the Plan and is eligible to accrue benefits under the Plan. In addition, the term "Participant" also includes any individual who was a Participant (as defined in the preceding sentence) and who must continue to be taken into account under a particular provision of the Plan (e.g., because the Participant has an Account Balance in the Plan).

1.50 "Participant Direction Procedures" means such instructions, guidelines or policies, the terms of which are incorporated herein, as shall be established pursuant to Section 4.11 and observed by the Administrator and applied and provided to Participants who have Participant Directed Accounts.

1.51 "Participating Employer" means an Employer who adopts the Plan pursuant to Section 9.1.

1.52 "Period of Service" means each twelve (12) month period of service commencing with the Employee's first day of employment or reemployment with the Employer or Affiliated Employer and ending on the date a 1-Year Break in Service begins. The first day of employment or reemployment is the first day the Employee performs an Hour of Service. An Employee who incurs a Period of Severance of twelve (12) months or less will also receive service-spanning credit for all such Periods of Severance. Fractional periods of a year will be expressed in terms of days. A Participant's whole year Periods of Service is equal to the sum of all full and partial periods of service, whether or not such service is continuous or contiguous, and whether or not such service is actual service or imputed service (under the service-spanning rule above), expressed in the number of whole years represented by such sum.

Periods of Service with any Affiliated Employer shall be recognized. Furthermore, Periods of Service with any predecessor employer that maintained this Plan shall be recognized.

In the event the method of crediting service is amended from the hour-of-service method to the elapsed-time method, an Employee will receive credit for a Period of Service consisting of:

(a) A number of years equal to the number of Years of Service credited to the Employee before the computation period during which the amendment occurs; and

(b) The greater of (1) the Periods of Service that would be credited to the Employee under the elapsed-time method for service during the entire computation period in which the amendment occurs or (2) the service taken into account under the hour-of-service method as of the date of the amendment.

In addition, the Employee will receive credit for service subsequent to the amendment commencing on the day after the last day of the computation period in which the amendment occurs.

1.53 "Period of Severance" means a continuous period of time during which an Employee is not employed by the Employer. Such period begins on the date the Employee retires, quits or is discharged, or if earlier, the twelve (12) month anniversary of the date on which the Employee was otherwise first absent from service.

In the case of an individual who is absent from work for maternity or paternity reasons, the twelve (12) consecutive month period beginning on the first anniversary of the first day of such absence shall not constitute a 1-Year Break in Service. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence (a) by reason of the pregnancy of the individual, (b) by reason of the birth of a child of the individual, (c) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (d) for purposes of caring for such child for a period beginning immediately following such birth or placement.

1.54 "Plan" means this instrument, including all amendments thereto.

1.55 "Plan Year" means the Plan's accounting year of twelve (12) months commencing on January 1 of each year and ending the following December 31.

1.56 "Post-Severance Compensation" means payments made within 2 1/2 months after severance from employment (within the meaning of Code Section 401(k)(2)(B)(i)(I)) if they are payments that, absent a severance from employment, would have been paid to the Employee while the Employee continued in employment with the Employer and are regular compensation for services during the Employee's regular working hours, compensation for services outside the Employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar compensation, and payments for accrued bona fide sick, vacation or other leave, but only if the Employee would have been able to use the leave if employment had continued. Any payments not described above are not considered compensation if paid after severance from employment, even if they are paid within 2 1/2 months following severance from employment, except for payments to an individual who does not currently perform services for the Employer by reason of qualified military service (within the meaning of Code Section 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

1.57 [THIS SECTION IS RESERVED FOR FUTURE USE]

1.58 [THIS SECTION IS RESERVED FOR FUTURE USE]

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

1.60 "Retirement Date" means the date as of which a Participant retires whether such retirement occurs on a Participant's Normal Retirement Date or Late Retirement Date.

1.61 "Rollover Account" means the separate account established and maintained by the Administrator for each Participant with respect to such Participant's interest in the Plan resulting from amounts that are rolled over from another plan or Individual Retirement Account in accordance with Section 4.9. Amounts in the Rollover Account are nonforfeitable when made.

A separate accounting shall be maintained with respect to any portion of the Rollover Account that is attributable to after-tax employee contributions.

1.62 "Self-Employed Individual" means an individual, other than an independent contractor, who has Earned Income for the taxable year from the trade or business for which the Plan is established, and, also, an individual who would have had Earned Income but for the fact that the trade or business had no net profits for the taxable year. A Self-Employed Individual shall be treated as an Employee.

1.63 [THIS SECTION IS RESERVED FOR FUTURE USE]

1.64 "Terminated Participant" means a person who has been a Participant, but whose employment has been terminated other than by death or retirement.

1.65 "Total Vested Benefit" means the total Participant's Vested Account balances derived from Employer and Employee Mandatory Contributions, including rollover contributions, whether Vested before or upon death.

1.66 "Transfer Account" means the separate account established and maintained by the Administrator for each Participant with respect to the Participant's total interest in the Plan resulting from amounts transferred to this Plan from a direct plan-to-plan transfer in accordance with Section 4.8. To the extent that the Plan is a direct or indirect transferee of a defined benefit or defined contribution pension plan, then the funds transferred to this Plan from such other plan shall be treated as funds that are subject to a life annuity form of payment as well as the survivor annuity requirements of Code Sections 401(a)(11) and 417 (and are part of the Participant's Qualified Pre-Retirement Survivor Annuity Account). The preceding sentence does not apply to amounts rolled over into a Participant's Rollover Account, even if from a pension plan.

1.67 "Trustee" means the person or entity named as trustee herein or in any separate trust forming a part of this Plan, and any successors, effective upon the written acceptance of such person or entity to serve as Trustee.

1.68 "Trust Fund" means the assets of the Plan and Trust as the same shall exist from time to time.

1.69 "Valuation Date" means the Anniversary Date and may include any other date or dates deemed necessary or appropriate by the Administrator for the valuation of the Participants' Accounts during the Plan Year, which may include any day that the Trustee, any transfer agent appointed by the Trustee or the Employer or any stock exchange used by such agent, is open for business. Nothing in this Plan requires or implies a uniform Valuation Date for all Accounts; thus certain valuation provisions that apply to an Account that is not valued on each business day will have no application, in operation, to an Account that is valued on each business day.

1.70 "Vested" means the nonforfeitable portion of any account maintained on behalf of a Participant.

ARTICLE II ADMINISTRATION

2.1 POWERS AND RESPONSIBILITIES OF THE EMPLOYER

- (a) **Appointment of Trustee and Administrator.** In addition to the general powers and responsibilities otherwise provided for in this Plan, the Employer shall be empowered to appoint and remove the Trustee and the Administrator from time to time as it deems necessary for the proper administration of the Plan to ensure that the Plan is being operated for the exclusive benefit of the Participants and their Beneficiaries in accordance with the terms of the Plan and the Code. The Employer may appoint counsel, specialists, advisers, agents (including any nonfiduciary agent) and other persons as the Employer deems necessary or desirable in connection with the exercise of its fiduciary duties under this Plan. The Employer may compensate such agents or advisers from the assets of the Plan as fiduciary expenses (but not including any business (settlor) expenses of the Employer), to the extent not paid by the Employer.
- (b) The Employer shall establish a "funding policy and method," i.e., it shall determine whether the Plan has a short run need for liquidity (e.g., to pay benefits) or whether liquidity is a long run goal and investment growth (and stability of same) is a more current need, or shall appoint a qualified person to do so. The Employer or its delegate shall communicate such needs and goals to the Trustee, who shall coordinate such Plan needs with its investment policy. The communication of such a "funding policy and method" shall not, however, constitute a directive to the Trustee as to the investment of the Trust Funds. Such "funding policy and method" shall be consistent with the objectives of the Plan.
- (c) The Employer shall periodically review the performance of any Fiduciary or other person to whom duties have been delegated or allocated by it under the provisions of this Plan or pursuant to procedures established hereunder. This requirement may be satisfied by formal periodic review by the Employer or by a qualified person specifically designated by the Employer, through day-to-day conduct and evaluation, or through other appropriate ways.
- (d) The Employer shall establish a procedure by which mandatory Employee Contributions are to be made to the Trustee pursuant to the Plan. Such procedure may be by payroll deduction or such other method as determined by the Employer.

2.2 DESIGNATION OF ADMINISTRATIVE AUTHORITY

The Employer shall be the Administrator. The Employer may appoint any person, including, but not limited to, the Employees of the Employer, to perform the duties of the Administrator. Any person so appointed shall signify acceptance by filing written acceptance with the Employer. Upon the resignation or removal of any individual performing the duties of the Administrator, the Employer may designate a successor.

2.3 ALLOCATION AND DELEGATION OF RESPONSIBILITIES

If more than one person is serving as Administrator, the responsibilities of each Administrator may be specified by the Employer and accepted in writing by each Administrator. In the event that no such delegation is made by the Employer, the Administrators may allocate the responsibilities among themselves, in which event the Administrators shall notify the Employer and the Trustee in writing of such action and specify the responsibilities of each Administrator. The Trustee thereafter shall accept and rely upon any documents executed by the appropriate Administrator until such time as the Employer or the Administrators file with the Trustee a written revocation of such designation.

2.4 POWERS AND DUTIES OF THE ADMINISTRATOR

The primary responsibility of the Administrator is to administer the Plan for the exclusive benefit of the Participants and their Beneficiaries, subject to the specific terms of the Plan. The Administrator shall administer the Plan in accordance with its terms and shall have the power and discretion to construe the terms of the Plan and to determine all questions arising in connection with the administration, interpretation, and application of the Plan. Benefits under this Plan will be paid only if the Administrator decides in its discretion that the applicant is entitled to them. Any such determination by the Administrator shall be conclusive and binding upon all persons. The Administrator may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of the Plan; provided, however, that any procedure, discretionary act, interpretation or construction shall be done in a nondiscriminatory manner based upon uniform principles consistently applied and shall be consistent with the intent that the Plan shall continue to be deemed a qualified plan under the terms of Code Section 401(a). The Administrator shall have all powers necessary or appropriate to accomplish the Administrator's duties under the Plan.

The Administrator shall be charged with the duties of the general administration of the Plan as set forth under the terms of the Plan, including, but not limited to, the following:

- (a) the discretion to determine all questions relating to the eligibility of Employees to participate or remain a Participant hereunder and to receive benefits under the Plan;
- (b) the authority to review and settle all claims against the Plan, including claims where the settlement amount cannot be calculated or is not calculated in accordance with the Plan's benefit formula. This authority specifically permits the Administrator to settle disputed claims for benefits and any other disputed claims made against the Plan;
- (c) to compute, certify, and direct the Trustee with respect to the amount and the kind of benefits to which any Participant shall be entitled hereunder;
- (d) to authorize and direct the Trustee with respect to all discretionary or otherwise directed disbursements from the Trust;
- (e) to maintain all necessary records for the administration of the Plan;
- (f) to interpret the provisions of the Plan and to make and publish such rules for regulation of the Plan as are consistent with the terms hereof;
- (g) to determine the size and type of any Contract to be purchased from any insurer, and to designate the insurer from which such Contract shall be purchased;
- (h) to compute and certify to the Employer and to the Trustee from time to time the sums of money necessary or desirable to be contributed to the Plan;
- (i) to consult with the Employer and the Trustee regarding the short and long-term liquidity needs of the Plan in order that the Trustee can exercise any investment discretion (if the Trustee has such discretion) in a manner designed to accomplish specific objectives;
- (j) to prepare and implement a procedure for notifying prospective Eligible Employees of their requirement to make Employee Mandatory Contributions to the Plan as a condition of eligibility;
- (k) to determine the validity of, and take appropriate action with respect to, any qualified domestic relations order received by it; and
- (l) to assist any Participant regarding the Participant's rights, benefits, or elections available under the Plan.

2.5 RECORDS AND REPORTS

The Administrator shall keep a record of all actions taken and shall keep all other books of account, records, policies, and other data that may be necessary for proper administration of the Plan.

2.6 APPOINTMENT OF ADVISERS

The Administrator, or the Trustee with the consent of the Administrator, may appoint counsel, specialists, advisers, agents (including nonfiduciary agents) and other persons as the Administrator or the Trustee deems necessary or desirable in connection with the administration of this Plan, including but not limited to agents and advisers to assist with the administration and

management of the Plan, and thereby to provide, among such other duties as the Administrator may appoint, assistance with maintaining Plan records and the providing of investment information to the Plan's investment fiduciaries and to Plan Participants.

2.7 PAYMENT OF EXPENSES

All reasonable expenses of administration may be paid out of the Plan assets unless paid by the Employer. Such expenses shall include any expenses incident to the functioning of the Administrator, or any person or persons retained or appointed by any named Fiduciary incident to the exercise of their duties under the Plan, including, but not limited to, fees of accountants, counsel, Investment Managers, agents (including nonfiduciary agents) appointed for the purpose of assisting the Administrator or the Trustee in carrying out the instructions of Participants as to the directed investment of their accounts (if permitted) and other specialists and their agents, and other costs of administering the Plan. Until paid, the expenses shall constitute a liability of the Trust Fund. In addition, unless specifically prohibited under statute, regulation or other guidance of general applicability, the Administrator may charge to the Account of an individual Participant a reasonable charge to offset the cost of making a distribution to the Participant, Beneficiary, or alternate payee under a qualified domestic relation order, as defined in Code Section 414(p). If liquid assets of the Plan are insufficient to cover the fees of the Trustee or the Plan Administrator, then Plan assets shall be liquidated to the extent necessary for such fees. In the event any part of the Plan assets becomes subject to tax, all taxes incurred will be paid from the Plan assets. Until paid, the expenses shall constitute a liability of the Trust Fund.

ARTICLE III ELIGIBILITY

3.1 CONDITIONS OF ELIGIBILITY

Eligibility.

(a) An Eligible Employee who was hired on or after January 1, 2013 shall be eligible to participate hereunder on the date such Employee completes an Hour of Service.

(b) An Eligible Employee who was hired before January 1, 2013 shall only be eligible to participate hereunder if he makes an irrevocable election to transfer his account under the Retirement Plan to this Plan in accordance with procedures established by the Administrator for that purpose.

3.2 EFFECTIVE DATE OF PARTICIPATION

An Eligible Employee shall become a Participant effective as of the date on which such Employee satisfies the eligibility requirements of Section 3.1.

3.3 DETERMINATION OF ELIGIBILITY

The Administrator shall determine the eligibility of each Employee for participation in the Plan based upon information furnished by the Employer. Such determination shall be conclusive and binding upon all persons, as long as the same is made pursuant to the Plan.

3.4 TERMINATION OF ELIGIBILITY

In the event a Participant shall go from a classification of an Eligible Employee to an ineligible Employee with respect to the Plan, then such Participant shall continue to Vest in the Plan for each Period of Service completed while an ineligible Employee, until such time as the Participant's Account is forfeited or distributed pursuant to the terms of the Plan. Additionally, the Participant's interest in the Plan shall continue to share in the earnings of the Trust Fund.

3.5 [THIS SECTION IS RESERVED FOR FUTURE USE]

3.6 [THIS SECTION IS RESERVED FOR FUTURE USE]

3.7 [THIS SECTION IS RESERVED FOR FUTURE USE]

3.8 OMISSION OF ELIGIBLE EMPLOYEE; INCLUSION OF INELIGIBLE EMPLOYEE

If, in any Plan Year, any Employee who should be included as a Participant in the Plan is erroneously omitted and discovery of such omission is not made until after a contribution by the Employer for the year has been made and allocated, or any person who should not have been included as a Participant in the Plan is erroneously included, then the Employer shall apply the principles described by, and take corrective actions consistent with, the IRS Employee Plans Compliance Resolution System.

**ARTICLE IV
CONTRIBUTION AND ALLOCATION**

4.1 FORMULA FOR DETERMINING EMPLOYER CONTRIBUTION

For each Plan Year, the Employer shall contribute to the Plan:

- (a) **Employer Contribution.** The Employer shall contribute to the Plan an amount equal to 4% of a Participant's Compensation each payroll period. The Employer shall not contribute on behalf of any Participant who does not make their Employee Mandatory Contribution.
- (b) **Form of contribution.** All contributions by the Employer shall be made in cash.

4.2 TIME OF PAYMENT OF EMPLOYER CONTRIBUTION

Unless otherwise provided by contract or law, the Employer may make its contribution to the Plan for a particular Plan Year at such time as the Employer, in its sole discretion, determines. If the Employer makes a contribution for a particular Plan Year after the close of that Plan Year, then the Employer will designate to the Administrator the Plan Year for which the Employer is making its contribution.

4.3 ALLOCATION OF CONTRIBUTION AND USAGE OF FORFEITURES AND EARNINGS

- (a) **Separate accounting.** The Administrator shall establish and maintain an account in the name of each Participant to which the Administrator shall credit as of each Anniversary Date, or other Valuation Date, all amounts allocated to a particular Account of each such Participant as set forth herein.
- (b) **Allocation of contributions.** The Employer shall provide the Administrator with all information required by the Administrator to make a proper allocation of the Employer contributions for each Plan Year. Within a reasonable period of time after the date of receipt by the Administrator of such information, the Administrator shall allocate such contribution as follows:
 - (1) **Employer Contributions.** The Administrator shall allocate such contribution to each Participant's Employer Contribution Account in accordance with Section 4.1(a).
 - (2) **Entitlement to Employer Contribution.** Any Participant employed during the Plan Year shall be eligible to share in the Employer Contribution for the year.
- (c) **Usage of Forfeitures.** On or before each Anniversary Date, any Forfeitures may be made available to reinstate previously forfeited Account balances of Participants, if any, in accordance with Section 3.5(d), and any remaining Forfeitures may be used to satisfy any contribution that may be required pursuant to Section 3.8 or 6.10, or be used to pay any administrative expenses of the Plan. The remaining Forfeitures, if any, shall be allocated in the following manner:
 - (1) Forfeitures shall be used to reduce the Employer contribution for the Plan Year.
- (d) **Allocation of earnings.** As of each Valuation Date, before the current valuation period allocation of Employer contributions, any earnings or losses (net appreciation or net depreciation) of the Trust Fund shall be allocated in the same proportion that each Participant's nonsegregated accounts bear to the total of all Participants' nonsegregated accounts as of such date. Earnings or losses with respect to a Participant's Directed Account shall be allocated in accordance with Section 4.11.
- (e) **Incoming transfers and rollovers.** Participants' transfers from other qualified plans and rollovers deposited in the general Trust Fund shall share in any earnings and losses (net appreciation or net depreciation) of the Trust Fund in the same manner provided above. Each segregated account maintained on behalf of a Participant shall be credited or charged with its separate earnings and losses.
- (f) **Delay in processing transactions.** Notwithstanding anything in this Section to the contrary, all information necessary to properly reflect a given transaction may not be available until after the date specified herein for processing such transaction, in which case the transaction will be reflected when such information is received and processed. Subject to express limits that may be imposed under the Code, the processing of any contribution, distribution or other transaction may be delayed for any legitimate business reason or force majeure (including, but not limited to, failure of systems or computer programs, failure of the means of the transmission of data, the failure of a service provider to timely receive values or prices,

and the correction for errors or omissions or the errors or omissions of any service provider). The processing date of a transaction will be binding for all purposes of the Plan.

4.4 [THIS SECTION IS RESERVED FOR FUTURE USE]

4.5 [THIS SECTION IS RESERVED FOR FUTURE USE]

4.6 MAXIMUM ANNUAL ADDITIONS

(a) **Maximum permissible amount.** Notwithstanding the foregoing, for Limitation Years beginning after December 31, 2001, the maximum Annual Additions credited to a Participant's Accounts for any Limitation Year shall equal the lesser of:

- (1) \$40,000 adjusted annually as provided in Code Section 415(d) pursuant to the Regulations, or
- (2) one-hundred percent (100%) of the Participant's 415 Compensation for such Limitation Year.

The percentage limitation in paragraph (2) above shall not apply to: (1) any contribution for medical benefits (within the meaning of Code Section 419A(f)(2)) after separation from service which is otherwise treated as an annual addition, or (2) any amount otherwise treated as an annual addition under Code Section 415(l)(1).

For any short Limitation Year, the dollar limitation in paragraph (1) above shall be reduced by a fraction, the numerator of which is the number of full months in the short Limitation Year and the denominator of which is twelve (12).

(b) **Reasonable estimate permissible.** Prior to determining the Participant's actual 415 Compensation for the Limitation Year, the Employer may determine the maximum permissible amount for a Participant on the basis of a reasonable estimation of the Participant's 415 Compensation for the Limitation Year, uniformly determined for all Participants similarly situated. As soon as is administratively feasible after the end of the Limitation Year, the maximum permissible amount for the Limitation Year will be determined on the basis of the Participant's actual 415 Compensation for the Limitation Year.

(c) **Excess Annual Additions defined.** For purposes of this Article, the term "Excess Annual Additions" for any Participant for a Limitation Year means a Participant's Annual Additions under this Plan and such other plans of the Employer or Affiliated Employer that are in excess of the maximum permissible amount of Section 4.6 for a Limitation Year. The Excess Annual Additions will be deemed to consist of the Annual Additions last allocated, except that Annual Additions attributable to a simplified employee pension will be deemed to have been allocated first, followed by Annual Additions to a welfare benefit fund or individual medical account, and then by Annual Additions to a plan subject to Code Section 412, regardless of the actual allocation date.

(d) **Annual Additions can cease when maximum permissible amount reached.** If the Employer contribution that would otherwise be contributed or allocated to the Participant's Accounts would cause the Annual Additions for the Limitation Year to exceed the maximum permissible amount, then the amount that would otherwise be contributed or allocated will be reduced so that the Annual Additions for the Limitation Year will equal the maximum permissible amount, and any such amounts which would have been allocated to such Participant may be allocated to other Participants.

(e) **All DC plans treated as one plan.** For the purpose of this Section, all qualified defined contribution plans (regardless of whether such plan has terminated) maintained by the Employer during a Limitation Year shall be treated as one defined contribution plan.

(f) **All Employees of Related Employers treated as employed by one Employer.** For the purpose of this Section, if the Employer is a member of a controlled group of corporations, trades or businesses under common control (as defined by Code Section 1563(a) or Code Section 414(b) and (c) as modified by Code Section 415(h)), is a member of an affiliated service group (as defined by Code Section 414(m)), or is a member of a group of entities required to be aggregated pursuant to Regulations under Code Section 414(o), then all Employees of such Employers shall be considered to be employed by a single Employer.

(g) **413(c) Plan.** If this is a plan described in Code Section 413(c) (other than a plan described in Code Section 414(f)), then all of the benefits or contributions attributable to a Participant from all of the Employers maintaining this Plan shall be taken into account in applying the limits of this Section with respect to such Participant. Furthermore, in applying the limitations of this Section with respect to such a Participant, the total 415 Compensation received by the Participant from all of the Employers maintaining the Plan shall be taken into account.

(h)(1) **DC Plans with same/different Anniversary Dates.** If a Participant participates in more than one defined contribution plan maintained by the Employer that have different Anniversary Dates, then the maximum permissible amount under this

Plan shall equal the maximum permissible amount for the Limitation Year minus any Annual Additions previously credited to such Participant's Accounts during the Limitation Year.

(2) If a Participant participates in both a defined contribution plan subject to Code Section 412 and a defined contribution plan not subject to Code Section 412 maintained by the Employer which have the same Anniversary Date, then Annual Additions will be credited to the Participant's Accounts under the defined contribution plan subject to Code Section 412 prior to crediting Annual Additions to the Participant's Accounts under the defined contribution plan not subject to Code Section 412.

(3) If a Participant participates in more than one defined contribution plan not subject to Code Section 412 maintained by the Employer which have the same Anniversary Date, then the maximum permissible amount under this Plan shall equal the product of (A) the maximum permissible amount for the Limitation Year minus any Annual Additions previously credited under subparagraphs (1) or (2) above, multiplied by (B) a fraction (i) the numerator of which is the Annual Additions which would be credited to such Participant's Accounts under this Plan without regard to the limitations of Code Section 415 and (ii) the denominator of which is such Annual Additions for all plans described in this subparagraph.

4.7 ADJUSTMENT FOR EXCESS ANNUAL ADDITIONS

(a) **Disposal of Excess Annual Additions.** Allocation of Annual Additions to a Participant's Account for a Limitation Year generally will cease in accordance with Section 4.6(d) once the maximum permissible amount of Section 4.6 has been reached for such Limitation Year. However, if, as a result of a reasonable error in estimating a Participant's Compensation, a reasonable error in determining the amount of elective deferrals (to some other plan) (within the meaning of Code Section 402(g)(3)) that may be made with respect to any Participant with respect to the maximum permissible amount of Section 4.6 or other facts and circumstances to which Regulation 1.415-6(b)(6) shall be applicable, the Annual Additions under this Plan would cause Excess Annual Additions for any Participant, then the Excess Annual Additions will be disposed of in one of the following ways, as uniformly determined by the Administrator for all Participants similarly situated.

(1) Any Employee mandatory contributions made pursuant to Section 4.10 and Employer contributions which relate to such Employee mandatory contributions, will be proportionately reduced to the extent they would reduce the "excess amount." The Employee mandatory contributions (and any gains attributable to such Employee Mandatory Contributions) will be distributed to the Participant and the Employer Contributions (and any gains attributable to such Employer contributions) will be used to reduce any Employer contribution in the next "limitation year";

(2) If the Participant is covered by the Plan at the end of the Limitation Year, then the Excess Annual Additions will be used to reduce the Employer contribution for such Participant in the next Limitation Year, and each succeeding Limitation Year if necessary;

(3) If the Participant is not covered by the Plan at the end of the Limitation Year, then the Excess Annual Additions will be held unallocated in a "Section 415 suspense account." The "Section 415 suspense account" will be applied to reduce future Employer contributions for all remaining Participants in the next Limitation Year, and each succeeding Limitation Year if necessary;

(4) If a "Section 415 suspense account" is in existence at any time during the Limitation Year pursuant to this Section, then the "Section 415 suspense account" will not participate in the allocation of investment gains and losses of the Trust Fund. If a "Section 415 suspense account" is in existence at any time during a particular Limitation Year, then all amounts in the "Section 415 suspense account" must be allocated and reallocated to Participants' Accounts before any Employer contributions or any Employee contributions may be made to the Plan for that Limitation Year. Except as provided above, Excess Annual Additions may not be distributed to Participants.

(b) **Section 415 suspense account defined.** For purposes of this Section, the term "Section 415 suspense account" means an unallocated account equal to the sum of Excess Annual Additions for all Participants in the Plan during the Limitation Year.

4.8 PLAN-TO-PLAN TRANSFERS (OTHER THAN ROLLOVERS) FROM QUALIFIED PLANS

(a) **Transfers into this Plan.** With the consent of the Administrator (such consent must be exercised in a nondiscriminatory manner and applied uniformly to all Participants), amounts may be transferred (within the meaning of Code Section 414(l)) to this Plan from other tax qualified plans under Code Section 401(a), provided that the plan from which such funds are transferred permits the transfer to be made, the funds are not subject to the notice and consent requirements of Code Section 417 (i.e., qualified joint and survivor annuity requirements), and the transfer will not

jeopardize the tax exempt status of the Plan or Trust or create adverse tax consequences for the Employer. Prior to accepting any transfers to which this Section applies, the Administrator may require satisfactory evidence that the amounts to be transferred meet the requirements of this Section. The transferred amounts shall be allocated to the Transfer Account of the Participant.

Except as permitted by Regulations (including Regulation 1.411(d)-4), amounts attributable to elective contributions (as defined in Regulation 1.401(k)-6), including amounts treated as elective contributions, which are transferred from another qualified plan in a plan-to-plan transfer (other than a direct rollover) shall be subject to the distribution limitations provided for in Regulation 1.401(k)-1(d).

At the time of the transfer, the nonforfeitable percentage of the funds under the transferor plan shall apply, but thereafter shall increase (if applicable) for each Period of Service that the Participant completes after such transfer in accordance with the Vesting provisions of this Plan applicable to the type of Account represented by the transferred funds (e.g., transferred nonelective funds will be subject to the vesting schedule applicable to Nonelective Contributions under this Plan). If the vesting schedule applicable to a Transferred Account changes as a result of this paragraph, such change will be treated as an amendment to the vesting schedule for each affected Participant.

(b) **Accounting of transfers.** The Transfer Account of a Participant shall be held by the Trustee pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as provided in paragraph (c) of this Section. The Trustee shall have no duty or responsibility to inquire as to the propriety of the amount, value or type of assets transferred, nor to conduct any due diligence with respect to such assets; provided, however, that such assets are otherwise eligible to be held by the Trustee under the terms of this Plan.

(c) **Distribution of Transfer Account.** At Normal Retirement Date, or such other date when the Participant or the Participant's Beneficiary shall be entitled to receive benefits, the Transfer Account of a Participant shall be used to provide additional benefits to the Participant or the Participant's Beneficiary. Any distributions of amounts held in the Transfer Account shall be made in a manner which is consistent with and satisfies the provisions of Sections 6.5 and 6.6, including, but not limited to, all notice and consent requirements of Code Section 411(a)(11) and the Regulations thereunder. Furthermore, the Transfer Account shall be considered as part of a Participant's benefit in determining whether an involuntary cash-out of benefits may be made without Participant consent.

(d) **Segregation.** The Administrator may direct that Employee transfers made after a Valuation Date be segregated into a separate account for each Participant until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated or be invested as part of the general Trust Fund or be directed by the Participant pursuant to Section 4.11.

(e) **Protected benefits.** Notwithstanding anything herein to the contrary, a transfer directly to this Plan from another qualified plan (or a transaction having the effect of such a transfer) shall only be permitted if it will not result in the elimination or reduction of any "Section 411(d)(6) protected benefit" as described in Section 7.1(e).

(f) **Separate Accounts.** With respect to each Participant's Transfer Account, separate sub-accounts shall be maintained to the extent necessary to carry out the provisions of this Plan.

4.9 ROLLOVERS FROM OTHER PLANS

(a) **Acceptance of rollovers into the Plan.** This Section applies to a rollover from an eligible retirement plan into this Plan made on or after January 1, 2002. With the consent of the Administrator (such consent must be exercised in a nondiscriminatory manner and applied uniformly to all Participants), the Plan may accept a rollover by Participants, excluding Participants who are no longer employed as an Employee and including Eligible Employees, provided the rollover will not jeopardize the tax-exempt status of the Plan or create adverse tax consequences for the Employer. The rollover amounts shall be allocated to the Rollover Account of the Participant. The Rollover Account of a Participant shall be 100% Vested at all times and shall not be subject to Forfeiture for any reason.

(b) **Treatment of Rollover Account in the Plan.** The Rollover Account shall be held by the Trustee pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as provided in paragraph (c) of this Section. The Trustee shall have no duty or responsibility to inquire as to the propriety of the amount, value or type of assets transferred, nor to conduct any due diligence with respect to such assets; provided, however, that such assets are otherwise eligible to be held by the Trustee under the terms of this Plan.

(c) **Distribution of rollovers.** At such date when the Participant or the Participant's Beneficiary shall be entitled to receive benefits, the Rollover Account of a Participant shall be used to provide additional benefits to the Participant or the Participant's Beneficiary. Furthermore, amounts in the Participant's Rollover Account shall be considered as part of a

Participant's benefit in determining whether the \$5,000 threshold has been exceeded for purposes of the timing or form of payments under the Plan as well as for the Participant consent requirements. Any distributions of amounts that are held in the Rollover Account shall be made in a manner which is consistent with and satisfies the provisions of Sections 6.5 and 6.6, including, but not limited to, all notice and consent requirements of Code Section 411(a)(11) and the Regulations thereunder.

(d) **Limits on accepting rollovers.** Prior to accepting any rollovers to which this Section applies, the Administrator may require the Employee to provide evidence that the amounts to be rolled over to this Plan meet the requirements of this Section. The Employer may instruct the Administrator, operationally and on a nondiscriminatory basis, to limit the source of rollovers that may be accepted by the Plan.

(e) **Rollovers maintained in a separate account.** The Administrator may direct that rollovers received after a Valuation Date be segregated into a separate account for each Participant until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated or be invested as part of the general Trust Fund or be directed by the Participant pursuant to Section 4.11.

(f) **Definitions.** For purposes of this Section, the following definitions shall apply:

(1) The term "rollover" means: (i) amounts transferred to this Plan directly from another "eligible retirement plan;" (ii) distributions received by an Employee from other "eligible retirement plans" which are eligible for tax-free rollover to an "eligible retirement plan" and which are transferred by the Employee to this Plan within sixty (60) days following receipt thereof; and (iii) any other amounts which are eligible to be rolled over to this Plan pursuant to the Code.

(2) The term "eligible retirement plan" means an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b) (other than an endowment contract), a qualified trust (an employees' trust described in Code Section 401(a) which is exempt from tax under Code Section 501(a)), an annuity plan described in Code Section 403(a), an eligible deferred compensation plan described in Code Section 457(b) which is maintained by an eligible employer described in Code Section 457(e)(1)(A), and an annuity contract described in Code Section 403(b).

4.10 EMPLOYEE MANDATORY CONTRIBUTIONS

(a) **Employee Mandatory Contributions Requirement.** As a condition for sharing in Employer Contributions, each Participant shall agree to contribute 4% of Compensation to the Trustee. Such contribution shall be credited to the Participant's Employee Contribution Account and shall share in Trust Fund earnings and losses.

(b) Participant contributions made pursuant to subsection (a) of this Section 4.2 shall be picked-up by the Employer within the meaning of Code Section 414(h)(2). Employer picked-up contributions shall be credited to a Participant's Account and shall share in Trust Fund earnings and losses. In no event, however, shall any Participant have the option to receive such amounts in cash. Employer picked-up contributions shall not be included in the gross income of the Participant, but shall be taxable to the Participant at the time of distribution from the Plan.

(c) **100% vesting.** The Employee Contribution Account shall be fully Vested at all times.

(d) **No Employee Mandatory Contribution distributions permitted prior to termination of employment.** Withdrawals of Employee Contributions are not permitted prior to termination of employment.

(e) **Employee Mandatory Contribution Account used for additional benefits.** At Normal Retirement, or such other date when the Participant or the Participant's Beneficiary shall be entitled to receive benefits, the fair market value of the Employee Contribution Account shall be used to provide additional benefits to the Participant or the Participant's Beneficiary.

4.11 PARTICIPANT DIRECTED INVESTMENTS

(a) **Directed Investments allowed.** Participants may, subject to a procedure established by the Administrator (the Participant Direction Procedures) and applied in a uniform nondiscriminatory manner, direct the Trustee, in writing (or in such other form which is acceptable to the Trustee), to invest their entire Accounts in specific assets, specific funds or other investments permitted under the Plan and the Participant Direction Procedures. That portion of the interest of any Participant so directing will thereupon be considered a Participant's Directed Account.

(b) **Establishment of Participant Direction Procedures.** The Administrator will establish Participant Direction Procedures, to be applied in a uniform and nondiscriminatory manner, setting forth the permissible investment options under

this Section, how often changes between investments may be made, and any other limitations and provisions that the Administrator may impose on a Participant's right to direct investments.

(c) **Administrative discretion.** The Administrator may, in its discretion, include or exclude by amendment or other action from the Participant Direction Procedures such instructions, guidelines or policies as it deems necessary or appropriate to ensure proper administration of the Plan, and may interpret the same accordingly.

(d) **Allocation of earnings.** As of each Valuation Date, all Participant Directed Accounts shall be charged or credited with the net earnings, gains, losses and expenses as well as any appreciation or depreciation in the market value using publicly listed fair market values when available or appropriate as follows:

(1) to the extent that the assets in a Participant's Directed Account are accounted for as pooled assets or investments, the allocation of earnings, gains and losses of each Participant's Directed Account shall be based upon the total amount of funds so invested in a manner proportionate to the Participant's share of such pooled investment; and

(2) to the extent that the assets in the Participant's Directed Account are accounted for as segregated assets, the allocation of earnings, gains and losses from such assets shall be made on a separate and distinct basis.

(e) **Plan will follow investment directions.** Investment directions will be processed as soon as administratively practicable after proper investment directions are received from the Participant. No guarantee is made by the Plan, Employer, Administrator or Trustee that investment directions will be processed on a daily basis, and no guarantee is made in any respect regarding the processing time of an investment direction. Notwithstanding any other provision of the Plan, the Employer, Administrator or Trustee reserves the right to not value an investment option on any given Valuation Date for any reason deemed appropriate by the Employer, Administrator or Trustee. Furthermore, the processing of any investment transaction may be delayed for any legitimate business reason or force majeure (including, but not limited to, failure of systems or computer programs, failure of the means of the transmission of data, the failure of a service provider to timely receive values or prices, and correction for errors or omissions or the errors or omissions of any service provider). The processing date of a transaction will be binding for all purposes of the Plan and considered the applicable Valuation Date for an investment transaction.

(f) **Investment disclosure provisions.** The Participant Direction Procedures shall provide an explanation of the circumstances under which Participants and their Beneficiaries may give investment instructions, including, but not limited to, the following to the extent required under the Department of Labor regulations or guidance:

(1) the conveyance of instructions by the Participants and their Beneficiaries to invest Participant Directed Accounts in Directed Investment Options;

(2) the name, address and phone number of the Fiduciary (and, if applicable, the person or persons designated by the Fiduciary to act on its behalf) responsible for providing information to the Participant or a Beneficiary upon request relating to the Directed Investment Options;

(3) applicable restrictions on transfers to and from any Designated Investment Alternative;

(4) any restrictions on the exercise of voting, tender and similar rights related to a Directed Investment Option by the Participants or their Beneficiaries;

(5) a description of any transaction fees and expenses which affect the balances in Participant Directed Accounts in connection with the purchase or sale of Directed Investment Options; and

(6) general procedures for the dissemination of investment and other information relating to the Designated Investment Alternatives as deemed necessary or appropriate, including but not limited to a description of the following:

(i) the investment vehicles available under the Plan, including specific information regarding any Designated Investment Alternative;

(ii) any designated Investment Managers; and

(iii) a description of the additional information which may be obtained upon request from the Fiduciary designated to provide such information.

(g) **Other documents.** Any information regarding investments available under the Plan, to the extent not required to be described in the Participant Direction Procedures, may be provided to the Participant in one or more written documents (or

in any other form including, but not limited to, electronic media) which are separate from the Participant Direction Procedures and are not thereby incorporated by reference into this Plan.

(h) **Instructions, guidelines or policies.** The Administrator may, in its discretion, include or exclude by amendment or other action from the Participant Direction Procedures such instructions, guidelines or policies as it deems necessary or appropriate to ensure proper administration of the Plan, and may interpret the same accordingly.

4.12 QUALIFIED MILITARY SERVICE

Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service will be provided in accordance with Code Section 414(u).

ARTICLE V VALUATIONS

5.1 VALUATION OF THE TRUST FUND

The Administrator shall direct the Trustee, as of each Valuation Date, to determine the net worth of the assets comprising the Trust Fund as it exists on the Valuation Date. In determining such net worth, the Trustee shall value the assets comprising the Trust Fund at their fair market value as of the Valuation Date and shall deduct all expenses for which the Trustee has not yet obtained reimbursement from the Employer or the Trust Fund. The Trustee may update the value of any shares held in the Participant Directed Account by reference to the number of shares held by that Participant, priced at the market value as of the Valuation Date.

5.2 METHOD OF VALUATION

In determining the fair market value of securities held in the Trust Fund which are listed on a registered stock exchange, the Administrator shall direct the Trustee to value the same at the prices they were last traded on such exchange preceding the close of business on the Valuation Date. If such securities were not traded on the Valuation Date, or if the exchange on which they are traded was not open for business on the Valuation Date, then the securities shall be valued at the prices at which they were last traded prior to the Valuation Date. Any unlisted security held in the Trust Fund shall be valued at its bid price next preceding the close of business on the Valuation Date, which bid price shall be obtained from a registered broker or an investment banker. In determining the fair market value of assets other than securities for which trading or bid prices can be obtained, the Trustee may appraise such assets itself, or in its discretion, employ one or more appraisers for that purpose and rely on the values established by such appraiser or appraisers.

ARTICLE VI DETERMINATION AND DISTRIBUTION OF BENEFITS

6.1 DETERMINATION OF BENEFITS UPON RETIREMENT

Every Participant may terminate employment with the Employer and retire for the purposes hereof on the Participant's Normal Retirement Date. However, a Participant may postpone the termination of employment with the Employer to a later date, in which event the participation of such Participant in the Plan, including the right to receive allocations pursuant to Section 4.3, shall continue until such Participant's Late Retirement Date. Upon a Participant's Retirement Date, or as soon thereafter as is practicable, the Administrator shall direct the distribution, at the election of the Participant, of the Participant's entire Vested interest in the Plan (or any portion thereof), in accordance with Section 6.5.

6.2 DETERMINATION OF BENEFITS UPON DEATH

(a) **100% Vesting on death.** Upon the death of a Participant before the Participant's Retirement Date or other termination of employment, all amounts credited to such Participant's Account shall become fully Vested.

(b) **Distribution upon death.** Upon the death of a Participant, the Administrator shall direct, in accordance with the provisions of Sections 6.6 and 6.7, the distribution of any remaining amounts credited to the accounts of the deceased Participant to such Participant's Beneficiary.

(c) **Determination of death benefit by Administrator.** The Administrator may require such proper proof of death and such evidence of the right of any person to receive payment of the value of the account of a deceased Participant as the Administrator may deem desirable. The Administrator's determination of death and of the right of any person to receive payment shall be conclusive.

(d) **Beneficiary designation.** The Beneficiary of the death benefit payable pursuant to this Section shall be the Participant's surviving spouse. Except, however, the Participant may designate a Beneficiary other than the spouse. In such event, the designation of a Beneficiary shall be made on a form satisfactory to the Administrator. A Participant may at any time revoke a designation of a Beneficiary or change a Beneficiary by filing written notice (or in such other form as permitted by the Internal Revenue Service) of such revocation or change with the Administrator.

(e) **Beneficiary if no beneficiary elected by Participant.** In the event no valid designation of Beneficiary exists with respect to all or a portion of the death benefit, or if the Beneficiary of such death benefit is not alive at the time of the Participant's death and no contingent Beneficiary has been designated, then such death benefit will be paid in the following order of priority to:

- (1) the Participant's surviving spouse;
- (2) the Participant's children, including adopted children, per stirpes;
- (3) the Participant's surviving parents, in equal shares; or
- (4) the Participant's estate.

If the Beneficiary does not predecease the Participant, but dies prior to distribution of the death benefit, the death benefit will be paid to the Beneficiary's designated Beneficiary (or there is no designated Beneficiary, to the Beneficiary's estate).

(f) **Divorce revokes spousal beneficiary designation.** Notwithstanding anything in this Section to the contrary, if a Participant has designated the spouse as a Beneficiary, then a divorce decree or a legal separation that relates to such spouse shall revoke the Participant's designation of the spouse as a Beneficiary unless the decree or a qualified domestic relations order (within the meaning of Code Section 414(p)) provides otherwise or a subsequent beneficiary designation is made.

(g) **Additional death benefits.** The distribution of the remaining account balance of a deceased Participant in accordance with this Section 6.2 is the sole death benefit payable under the Plan. Additional pre-retirement death benefits, if any, may be provided under the Retirement Plan for Full-Time Employees of the Police Department of the Town of East Hartford.

6.3 DISABILITY RETIREMENT BENEFITS

No disability benefits, other than those payable upon termination of employment, are provided in this Plan. Disability retirement benefits, if any, may be provided under the Retirement Plan for Full-Time Employees of the Police Department of the Town of East Hartford.

6.4 DETERMINATION OF BENEFITS UPON TERMINATION

(a) **Payment on termination of employment.** If a Participant's employment with the Employer is terminated for any reason other than death or retirement, then such Participant shall be entitled to such benefits as are provided hereinafter pursuant to this Section 6.4.

Distribution of the funds due to a Terminated Participant shall be made on the occurrence of an event which would result in a distributable event had the Terminated Participant remained in the employ of the Employer (upon the Participant's death or Normal Retirement). However, at the election of the Participant, the Administrator shall direct the distribution of the entire Vested portion of the Terminated Participant's Account be payable to such Terminated Participant as soon as administratively feasible after termination of employment. Any distribution under this paragraph shall be made in a manner which is consistent with and satisfies the provisions of Section 6.5, including, but not limited to, all notice and consent requirements of Code Section 411(a)(11) and the Regulations thereunder.

If the value of a Terminated Participant's Total Vested Benefit does not exceed \$5,000, then the Participant's Vested benefit shall be paid to such Participant in a single lump sum as soon as administratively feasible after termination of employment.

For purposes of this Section 6.4, if the value of a Terminated Participant's Vested benefit is zero, the Terminated Participant shall be deemed to have received a distribution of such Vested benefit.

(b) **Vesting schedule.** The Vested portion of the Account of any Participant attributable to Employer contributions shall be a percentage of the total amount credited to the Participant's Accounts determined on the basis of the Participant's number of whole year Periods of Service according to the following schedule(s):

The Vested portion of the Employer Contribution Account shall be determined in accordance with the following vesting schedule:

Vesting Schedule	
Periods of Service	Percentage
Less than 5	0 %
5 or more	100 %

(c) **No reduction in Vested percentage due to change in vesting schedule.** Notwithstanding the vesting schedule above, the Vested percentage of a Participant's Account shall not be less than the Vested percentage attained as of the later of the effective date or adoption date of this amendment and restatement.

(d) **Time of application of vesting schedule liberalization.** In the absence of any provision to the contrary, any direct or indirect increase to a Participant's Vested percentage (at any point on a vesting schedule) will not apply to a Participant unless and until such Participant completes an Hour of Service after the effective date of such amendment.

(e) **100% Vesting on partial or full Plan termination.** Notwithstanding the vesting schedule above, upon the complete discontinuance of the Employer contributions to the Plan or upon any full or partial termination of the Plan, all amounts then credited to the account of any affected Participant shall become 100% Vested and shall not thereafter be subject to Forfeiture.

(f) **Continuation of old schedule upon subsequent amendment if 3 years of service.** The computation of a Participant's nonforfeitable percentage of such Participant's interest in the Plan shall not be reduced as the result of any direct or indirect amendment to this Plan. In the event that the Plan is amended to change or modify any vesting schedule, or if the Plan is amended in any way that directly or indirectly affects the computation of the Participant's nonforfeitable percentage, then each Participant with an Hour of Service after such change and who has at least three (3) whole year Periods of Service as of the expiration date of the election period may elect to have such Participant's nonforfeitable percentage computed under the Plan without regard to such amendment or change. If such a Participant fails to make such election, then such Participant shall be subject to the new vesting schedule. The Participant's election period shall commence on the date the amendment is adopted or deemed to be made and shall end sixty (60) days after the latest of:

- (1) the adoption date of the amendment,
- (2) the effective date of the amendment, or
- (3) the date the Participant receives written notice of the amendment from the Employer or Administrator.

6.5 DISTRIBUTION OF BENEFITS

(a) The Administrator, pursuant to the election of the Participant, shall direct the Trustee to distribute to a Participant or such Participant's Beneficiary the amount (if any) to which the Participant (or Beneficiary) has become entitled under the Plan in one lump-sum payment in cash.

(b) Any distribution to a Participant who has a Total Vested Benefit which exceeds \$5,000 shall require such Participant's written consent (or in such other form as permitted by the Internal Revenue Service) if such distribution occurs during the time the benefit is "immediately distributable." A benefit is "immediately distributable" if any part of the benefit could be distributed to the Participant (or surviving spouse) before the Participant attains (or would have attained if not deceased) the later of the Participant's Normal Retirement Age or age 62.

(c) Effective with respect to distributions made on or after January 1, 2006, if a mandatory distribution greater than \$1,000 is made in accordance with the provisions of the Plan providing for an automatic distribution to a Participant without the Participant's consent, and the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover (in accordance with the direct rollover provisions of the Plan) or to receive the distribution directly, then the Administrator shall direct that the distribution be made in a direct rollover to an Individual Retirement Account described in Code Section 408(a) or an Individual Retirement Annuity described in Code Section 408(b), as designated by the Administrator. The Administrator may operationally implement this provision with respect to distributions that are \$1,000 or less.

(d) If a distribution is made to a Participant who has not severed employment and who is not fully Vested in the Participant's Account and the Participant may increase the Vested percentage in such account, then, at any relevant time the Participant's Vested portion of the account will be equal to an amount ("X") determined by the formula:

$$X \text{ equals } P(\text{AB plus D}) - D$$

For purposes of applying the formula: P is the Vested percentage at the relevant time, AB is the account balance at the relevant time, and D is the amount of distribution, and the relevant time is the time at which, under the Plan, the Vested percentage in the account cannot increase.

(e) Required minimum distributions (Code Section 401(a)(9)). Notwithstanding any provision in the Plan to the contrary, the distribution of a Participant's benefits shall be made in accordance with the requirements of Section 6.8.

6.6 DISTRIBUTION OF BENEFITS UPON DEATH

- (a) The death benefit payable pursuant to Section 6.2 shall be paid to the Participant's Beneficiary in one lump-sum payment in cash subject to the rules of Section 6.8.
- (b) Notwithstanding any provision in the Plan to the contrary, distributions upon the death of a Participant shall comply with the requirements of Section 6.8.
- (c) In the event that less than 100% of a Participant's interest in the Plan is distributed to such Participant's spouse, the portion of the distribution attributable to the Participant's Employee Mandatory Contribution Account shall be in the same proportion that the Participant's Employee Mandatory Contribution Account bears to the Participant's total interest in the Plan.

6.7 TIME OF DISTRIBUTION

Except as limited by Section 6.8, whenever a distribution is to be made, or a series of payments are to commence, the distribution or series of payments may be made or begun as soon as practicable. However, unless a Participant elects in writing to defer the receipt of benefits (such election may not result in a death benefit that is more than incidental), the payment of benefits shall begin not later than the sixtieth (60th) day after the close of the Plan Year in which the latest of the following events occurs: (a) the date on which the Participant attains the earlier of age 65 or the Normal Retirement Age specified herein; (b) the tenth (10th) anniversary of the year in which the Participant commenced participation in the Plan; or (c) the date the Participant terminates service with the Employer.

Notwithstanding the foregoing, the failure of a Participant and, if applicable, the Participant's spouse, to consent to a distribution that is immediately distributable (within the meaning of Section 6.5), shall be deemed to be an election to defer the commencement of payment of any benefit sufficient to satisfy this Section.

6.8 REQUIRED MINIMUM DISTRIBUTIONS

(a) General Rules

- (1) **Effective Date.** Unless otherwise specified, the provisions of this Section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2002 calendar year.
- (2) **Precedence.** The requirements of this Section shall apply to any distribution of a Participant's interest in the Plan and take precedence over any inconsistent provisions of the Plan.
- (3) **Requirements of Treasury Regulations Incorporated.** All distributions required under this Section will be determined and made in accordance with the Regulations under Code Section 401(a)(9) and the minimum distribution incidental benefit requirement of Code Section 401(a)(9)(G).

(b) Time and manner of distribution

- (1) **Required beginning date.** The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.

(2) **Death of Participant before distributions begin.** If the Participant dies before distributions begin, the Participant's entire death benefit will be distributed, or begin to be distributed, as follows:

(i) Distribution of the Participant's death benefit shall be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death, or, if the Participant's surviving spouse is the Participant's designated beneficiary, will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later, and be payable over the life (or over a period not exceeding the life expectancy) of such surviving spouse.

(ii) If the Participant's surviving spouse is the Participant's sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 6.8(b), other than this paragraph, will apply as if the surviving spouse were the Participant. Thus, in all such cases, the time at which distributions must commence (or be completed by) shall be determined solely by reference to the year that the Participant died, and not the year in which the Participant would have attained age 70 1/2.

For purposes of this Section 6.8(b), unless a surviving spouse is electing to commence benefits based upon the date that the Participant would have attained age 70 1/2, distributions are considered to begin on the Participant's required beginning date. If the surviving-spouse election applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 6.8(b).

(3) **Forms of distribution.** Unless the Participant's interest is distributed in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Sections 6.8(c) and 6.8(d). All distributions under this Section shall be made in a manner which is consistent with and satisfies the provisions of Section 6.5, including, but not limited to, all notice and consent requirements of Code Section 411(a)(11) and the Regulations thereunder.

(c) **Required minimum distributions during Participant's lifetime**

(1) **Amount of required minimum distribution for each distribution calendar year.** During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

(i) the quotient obtained by dividing the Participant's Account balance by the distribution period in the Uniform Lifetime Table set forth in Regulation Section 1.401(a)(9)-9, using the Participant's age as of the Participant's birthday in the distribution calendar year; or

(ii) if the Participant's sole designated beneficiary for the distribution calendar year is the Participant's spouse and the spouse is more than 10 years younger than the Participant, the quotient obtained by dividing the Participant's Account balance by the number in the Joint and Last Survivor Table set forth in Regulation Section 1.401(a)(9)-9, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(2) **Lifetime required minimum distributions continue through year of Participant's death.** Required minimum distributions will be determined under this Section 6.8(c) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(d) **Required minimum distributions after Participant's death**

(1) **Death on or after date distributions begin.**

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

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

(B) If the Participant's surviving spouse is the Participant's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the

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

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

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

(2) **Death before date distributions begin.**

(i) **Participant survived by designated beneficiary.** Except as provided in Section 6.8(b)(3), if the Participant dies before the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account balance by the remaining life expectancy of the Participant's designated beneficiary, determined as provided in Section 6.8(d)(1).

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

(iii) **Death of surviving spouse before distributions to surviving spouse are required to begin.** If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 6.8(b), this Section 6.8(d)(2) will apply as if the surviving spouse were the Participant.

(e) **Definitions.** For purposes of this Section, the following definitions apply:

(1) "Designated beneficiary" means the individual who is designated as the Beneficiary under the Plan and is the designated beneficiary under Code Section 401(a)(9) and Regulation Section 1.401(a)(9)-4, Q&A-4.

(2) "Distribution calendar year" means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's "required beginning date." For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 6.8(b). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's "required beginning date." The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's "required beginning date" occurs, will be made on or before December 31 of that distribution calendar year.

(3) "Life expectancy" means the life expectancy as computed by use of the Single Life Table in Regulation Section 1.401(a)(9)-9, Q&A-1.

(4) "Participant's account balance" means the "Participant's account balance" as of the last Valuation Date in the calendar year immediately preceding the Distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or Forfeitures allocated to the account balance as of dates in the valuation calendar year after the Valuation Date and decreased by distributions made in the valuation calendar year after the Valuation Date. For this purpose, the Administrator may exclude contributions that are allocated to the account balance as of dates in the valuation calendar year after the Valuation Date, but that are not actually made during the valuation calendar year. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the Distribution calendar year if distributed or transferred in the valuation calendar year.

(5) "Required beginning date" means, with respect to any Participant, April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70 1/2 or the calendar year in which the Participant retires,

except that benefit distributions to a 5-percent owner must commence by April 1 of the calendar year following the calendar year in which the Participant attains age 70 1/2.

(6) "5-percent owner" means a Participant who is a 5-percent owner as defined in Code Section 416 at any time during the Plan Year ending with or within the calendar year in which such owner attains age 70 1/2. Once distributions have begun to a 5-percent owner under this Section they must continue to be distributed, even if the Participant ceases to be a 5-percent owner in a subsequent year.

(f) Transition rules

(1) **Rules for plans in existence before 1997.** Any required minimum distribution rights conferred on participants in order to comply with (or as a means of complying with) the changes to Code Section 401(a)(9) made by the Small Business Jobs Protection Act of 1996 that were still in effect immediately prior to this restatement shall be preserved.

(2) **Applicable regulations.** Notwithstanding any Plan provision to the contrary, required minimum distributions before 2003 were made as follows:

(i) **2001.** Required minimum distributions for calendar year 2001 were made pursuant to the proposed Regulations under Code Section 401(a)(9) published in the Federal Register on January 17, 2001 (the "2001 Proposed Regulations"). If distributions were made in 2001 under the 1987 Proposed Regulations prior to the date in 2001 the plan began operating under the 2001 Proposed Regulations, the special transition rule in Announcement 2001-82, 2001-2 C.B. 123, applied.

(ii) **2002.** Required minimum distributions for calendar year 2002 were made pursuant to the Final and Temporary Regulations under Code Section 401(a)(9) published in the Federal Register on April 17, 2002, (the "2002 Final and Temporary Regulations") which are described in Sections (b) through (f) of this Section. If distributions were made in 2002 under either the 1987 Proposed Regulations or the 2001 Proposed Regulations prior to the date in 2002 the Plan began operating under the 2002 Final and Temporary Regulations, the special transition rule in Section 1.2 of the model amendment in Revenue Procedure 2002-29, 2002-1 C.B. 1176, applied.

(g) Statutory (TEFRA) Transition Rules

(1) Notwithstanding the other provisions of this Section, other than the spouse's right of consent afforded under the Plan, distributions may be made on behalf of any Participant, including a five percent (5%) owner, who has made a designation in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and in accordance with all of the following requirements (regardless of when such distribution commences):

(i) The distribution by the Plan is one which would not have disqualified such plan under Code Section 401(a)(9) as in effect prior to amendment by the Deficit Reduction Act of 1984.

(ii) The distribution is in accordance with a method of distribution designated by the Participant whose interest in the plan is being distributed or, if the Participant is deceased, by a Beneficiary of such Participant.

(iii) Such designation was in writing, was signed by the Participant or the Beneficiary, and was made before January 1, 1984.

(iv) The Participant had accrued a benefit under the Plan as of December 31, 1983.

(v) The method of distribution designated by the Participant or the Beneficiary specifies the time at which distribution will commence, the period over which distributions will be made, and in the case of any distribution upon the Participant's death, the Beneficiaries of the Participant listed in order of priority.

(2) A distribution upon death will not be covered by the transitional rule of this subsection unless the information in the designation contains the required information described above with respect to the distributions to be made upon the death of the Participant.

(3) For any distribution which commences before January 1, 1984, but continues after December 31, 1983, the Participant, or the Beneficiary, to whom such distribution is being made, will be presumed to have designated the method of distribution under which the distribution is being made if the method of distribution was specified in writing and the distribution satisfies the requirements in (1)(i) and (1)(v) of this subsection.

(4) If a designation is revoked, any subsequent distribution must satisfy the requirements of Code Section 401(a)(9) and the Regulations thereunder. If a designation is revoked subsequent to the date distributions are required to begin, the Plan must distribute by the end of the calendar year following the calendar year in which the revocation occurs the total amount not yet distributed which would have been required to have been distributed to satisfy Code Section 401(a)(9) and the Regulations thereunder, but for the Section 242(b)(2) election. For calendar years beginning after December 31, 1988, such distributions must meet the minimum distribution incidental benefit requirements. Any changes in the designation will be considered to be a revocation of the designation. However, the mere substitution or addition of another Beneficiary (one not named in the designation) under the designation will not be considered to be a revocation of the designation, so long as such substitution or addition does not alter the period over which distributions are to be made under the designation, directly or indirectly (for example, by altering the relevant measuring life).

(5) In the case in which an amount is transferred or rolled over from one plan to another plan, the rules in Regulation Section 1.401(a)(9)-8, Q&A-14 and Q&A-15, shall apply.

6.9 DISTRIBUTION FOR MINOR OR INCOMPETENT INDIVIDUAL

In the event a distribution is to be made to a minor or incompetent individual, then the Administrator may direct that such distribution be paid to the court-appointed legal guardian or any other person authorized under state law to receive such distribution, or if none, then in the case of a minor Beneficiary, to a parent of such Beneficiary, or to the custodian for such Beneficiary under the Uniform Gift to Minors Act or Gift to Minors Act, if such is permitted by the laws of the state in which said Beneficiary resides. Such a payment to the guardian, custodian or parent of a minor or incompetent individual shall fully discharge the Trustee, Employer, and Plan from further liability on account thereof.

6.10 LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN

In the event that all, or any portion, of the distribution payable to a Participant or Beneficiary hereunder shall, at the later of the Participant's attainment of age 62 or Normal Retirement Age, remain unpaid solely by reason of the inability of the Administrator, after sending a registered letter, return receipt requested, to the last known address, and after further diligent effort, to ascertain the whereabouts of such Participant or Beneficiary, the amount so distributable shall be treated as a Forfeiture pursuant to the Plan. Notwithstanding the foregoing, effective with respect to distributions made after March 28, 2005, if the Plan provides for mandatory distributions and the amount to be distributed to a Participant or Beneficiary does not exceed \$1,000, then the amount distributable may, in the sole discretion of the Administrator, either be treated as a Forfeiture, or be paid directly to an individual retirement account described in Code Section 408(a) or an individual retirement annuity described in Code Section 408(b) at the time it is determined that the whereabouts of the Participant or the Participant's Beneficiary cannot be ascertained. In the event a Participant or Beneficiary is located subsequent to the Forfeiture, such benefit shall be restored, first from Forfeitures, if any, and then from an additional Employer contribution if necessary. Upon Plan termination, the portion of the distributable amount that is an eligible rollover distribution as defined in Plan Section 6.12 may be paid directly to an individual retirement account described in Code Section 408(a) or an individual retirement annuity described in Code Section 408(b). However, regardless of the preceding, a benefit that is lost by reason of escheat under applicable state law is not treated as a Forfeiture for purposes of this Section nor as an impermissible forfeiture under the Code.

6.11 QUALIFIED DOMESTIC RELATIONS ORDER DISTRIBUTION

All rights and benefits, including elections, provided to a Participant in this Plan shall be subject to the rights afforded to any alternate payee under a qualified domestic relations order. Furthermore, a distribution to an alternate payee shall be permitted if such distribution is authorized by a qualified domestic relations order, even if the affected Participant has not separated from service and has not reached the earliest retirement age. For the purposes of this Section, the terms "alternate payee," "qualified domestic relations order" and "earliest retirement age" shall have the meaning set forth under Code Section 414(p).

6.12 DIRECT ROLLOVER

(a) **Right to direct partial rollover.** Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, effective for Plan Years beginning on or after January 1, 2002, a distributee may elect, at the time and in the manner prescribed by the Administrator, to have only a portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. However, the minimum partial rollover must equal at least \$500.

(b) For purposes of this Section the following definitions shall apply:

(1) An "eligible rollover distribution" means any distribution described in Code Section 402(c)(4) and generally includes 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: 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 (10) years or more; any distribution to the extent such distribution is required under Code Section 401(a)(9); the portion of any other distribution(s) that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any other distribution reasonably expected to total less than \$200 during a year. Any amount that is distributed on account of hardship shall not be an eligible rollover distribution and the distributee may not elect to have any portion of such a distribution paid directly to an eligible retirement plan.

Notwithstanding the above, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of Employee Contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Code Section 408(a) or (b), or to a qualified defined contribution plan described in Code Section 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(2) An "eligible retirement plan" is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), (other than an endowment contract), a qualified trust (an employees' trust) described in Code Section 401(a) which is exempt from tax under Code Section 501(a) and which agrees to separately account for amounts transferred into such plan from this Plan, an annuity plan described in Code Section 403(a), an eligible deferred compensation plan described in Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality thereof which agrees to separately account for amounts transferred into such plan from this Plan, and an annuity contract described in Code Section 403(b) that accepts the distributee's eligible rollover distribution. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p).

(3) A "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 Code Section 414(p), are distributees with regard to the interest of the spouse or former spouse.

(4) A "direct rollover" is a payment by the Plan to the "eligible retirement plan" specified by the distributee.

(e) **Participant Notice.** A Participant entitled to an eligible rollover distribution must receive a written explanation of his/her right to a direct rollover, the tax consequences of not making a direct rollover, and, if applicable, any available special income tax elections. The notice must be provided within the same 30-to-90 day timeframe applicable to the Participant consent notice. The direct rollover notice must be provided to all Participants, unless the total amount the Participant will receive as a distribution during the calendar year is expected to be less than \$200.

6.13 TRANSFER OF ASSETS FROM A MONEY PURCHASE PLAN

Notwithstanding any provision of this Plan to the contrary, to the extent that any optional form of benefit under this Plan permits a distribution prior to the Employee's attainment of Normal Retirement Age, death, disability, or severance from employment, and prior to Plan termination, the optional form of benefit is not available with respect to benefits attributable to assets (including the post-transfer earnings thereon) and liabilities that are transferred, within the meaning of Code Section 414(l), to this Plan from a money purchase pension plan qualified under Code Section 401(a) (other than any portion of those assets and liabilities attributable to after-tax voluntary employee contributions or to a direct or indirect rollover contribution).

6.14 CORRECTIVE DISTRIBUTIONS

Nothing in this Article shall preclude the Administrator from making a distribution to a Participant, to the extent such distribution is made to correct a qualification defect in accordance with the corrective procedures under any voluntary compliance program.

ARTICLE VII AMENDMENT, TERMINATION AND MERGERS

7.1 AMENDMENT

(a) **General rule on Employer amendment.** The Employer shall have the right at any time to amend this Plan, subject to the limitations of this Section. However, any amendment which affects the rights, duties or responsibilities of the Trustee or

Administrator may only be made with the Trustee's or Administrator's written consent. Any such amendment shall become effective as provided therein upon its execution. The Trustee shall not be required to execute any such amendment unless the amendment affects the duties of the Trustee hereunder.

(b) **Permissible amendments without affecting reliance.** The Employer may make the modifications described below without affecting reliance on the terms of the Plan. An Employer that amends the Plan for any other reason may not rely on the advisory letter that the terms of the Plan meet the qualification requirements of the Code. Permitted changes include: adding options permitted by the Plan; adding or deleting provisions that are optional under the volume submitter specimen plan; changing effective dates within the parameters of the volume submitter specimen plan; correcting obvious and unambiguous typographical errors; correcting cross-references that do not in any way change the original intended meaning of the provisions; adding a list of benefits that must be preserved as protected benefits within the meaning of Code Section 411(d)(6) and the regulations thereunder; amending provisions dealing with the administration of the Trust; a change to the name of the Plan, Employer, Trustee, custodian, Plan Administrator or any other fiduciary, the Plan Year; and any sample or model amendment published by the IRS (or other required good-faith amendments) which specifically provide that their adoption will not cause the plan to be treated as an individually designed plan.

(c) **Sponsoring practitioner amendments.** Effective March 31, 2008, the Employer (and every Participating Employer) expressly delegates authority to the sponsoring organization of this Volume Submitter Plan the right to amend the Plan by submitting a copy of the amendment to each Employer (and Participating Employer) who has adopted this Volume Submitter Plan, after first having received a ruling or favorable determination from the Internal Revenue Service that the Volume Submitter Plan as amended qualifies under Code Section 401(a) (unless a ruling or determination is not required by the IRS). However, the volume submitter practitioner shall cease to have the authority to amend on behalf of an Employer that adopts an impermissible plan type or impermissible plan provision (as described in IRS Announcement 2005-37 and any subsequent guidance). The volume submitter practitioner will maintain a record of the Employers that have adopted the Plan, and the practitioner will make reasonable and diligent efforts to ensure that adopting Employers adopt new documents when necessary. This subsection supersedes other provisions of the Plan to the extent those other provisions are inconsistent with this subsection.

(d) **Impermissible amendments.** No amendment to the Plan shall be effective if it authorizes or permits any part of the Trust Fund (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries or estates, or causes any reduction in the amount credited to the account of any Participant, or causes or permits any portion of the Trust Fund to revert to or become property of the Employer.

7.2 TERMINATION

(a) **Termination of Plan.** The Employer shall have the right at any time to terminate the Plan by delivering to the Trustee and Administrator written notice of such termination. Upon any full or partial termination, all amounts credited to the affected Participants' Accounts shall become 100% Vested as provided in Section 6.4 and shall not thereafter be subject to forfeiture.

(b) **Distribution of assets.** Upon the full termination of the Plan, the Employer shall direct the distribution of the assets of the Plan to Participants in a manner which is consistent with the provisions of Section 6.5 except that no Participant or spousal consent is required. Distributions to a Participant shall be made in cash or through the purchase of irrevocable nontransferable deferred commitments from an insurer.

7.3 MERGER, CONSOLIDATION OR TRANSFER OF ASSETS

This Plan may be merged or consolidated with, or its assets and/or liabilities may be transferred to any other plan and trust, only if the benefits which would be received by a Participant of this Plan, in the event of a termination of the Plan immediately after such transfer, merger or consolidation, are at least equal to the benefits the Participant would have received if the Plan had terminated immediately before the transfer, merger or consolidation.

ARTICLE VIII MISCELLANEOUS

8.1 PARTICIPANT'S RIGHTS

This Plan shall not be deemed to constitute a contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any

Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon the Employee as a Participant of this Plan.

8.2 ALIENATION OF BENEFITS

(a) **General rule.** Subject to the exceptions provided below, and as otherwise permitted by the Code, no benefit which shall be payable to any person (including a Participant or the Participant's Beneficiary) shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, and the same shall not be recognized, except to such extent as may be required by law.

(b) **Exception for QDRO.** Subsection (a) shall not apply to a qualified domestic relations order defined in Code Section 414(p), and those other domestic relations orders permitted to be so treated by the Administrator under the provisions of the Retirement Equity Act of 1984. The Administrator shall establish a written procedure to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders. Further, to the extent provided under a qualified domestic relations order, a former spouse of a Participant shall be treated as the spouse or surviving spouse for all purposes under the Plan.

(c) **Exception for certain debts to Plan.** Subsection (a) shall not apply to an offset to a Participant's accrued benefit against an amount that the Participant is ordered or required to pay the Plan with respect to a judgment, order, or decree issued, or a settlement entered into in accordance with Code Sections 401(a)(13)(C) and (D).

8.3 CONSTRUCTION AND INTERPRETATION OF PLAN

(a) **Applicable state laws.** This Plan shall be construed and enforced according to the Code and the laws of the State of Connecticut, other than its laws respecting choice of law, to the extent not pre-empted by Federal law.

(b) **Single subsections.** This Plan may contain single subsections. The existence of such single subsections shall not constitute scrivener's errors.

(c) **Separate Accounts.** Unless otherwise specified by a particular provision, the term "separate account" does not require a separate fund, only a notational entry in a recordkeeping system.

8.4 GENDER AND NUMBER

(a) **Masculine and feminine.** Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply.

(b) **Singular and plural.** Whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

8.5 LEGAL ACTION

In the event any claim, suit, or proceeding is brought regarding the Trust and/or Plan established hereunder to which the Trustee, the Employer or the Administrator may be a party, and such claim, suit, or proceeding is resolved in favor of the Trustee, the Employer or the Administrator, they shall be entitled to be reimbursed from the Trust Fund for any and all costs, attorney's fees, and other expenses pertaining thereto incurred by them for which they shall have become liable.

8.6 PROHIBITION AGAINST DIVERSION OF FUNDS

(a) **General rule.** Except as provided below and otherwise specifically permitted by law, it shall be impossible by operation of the Plan or of the Trust, by termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by any other means, for any part of the corpus or income of any Trust Fund

maintained pursuant to the Plan or any funds contributed thereto to be used for, or diverted to, purposes other than the exclusive benefit of Participants or their Beneficiaries.

(b) **Mistake of fact.** In the event the Employer shall make an excessive contribution under a mistake of fact, the Employer may demand repayment of such excessive contribution at any time within one (1) year following the time of payment and the Trustees shall return such amount to the Employer within the one (1) year period. Earnings of the Plan attributable to the contributions may not be returned to the Employer but any losses attributable thereto must reduce the amount so returned.

8.7 EMPLOYER'S AND TRUSTEE'S PROTECTIVE CLAUSE

The Employer, Administrator and Trustee, and their successors, shall not be responsible for the validity of any Contract issued hereunder or for the failure on the part of the insurer to make payments provided by any such Contract, or for the action of any person which may delay payment or render a Contract null and void or unenforceable in whole or in part.

8.8 INSURER'S PROTECTIVE CLAUSE

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

8.9 RECEIPT AND RELEASE FOR PAYMENTS

Any payment to any Participant, the Participant's legal representative, Beneficiary, or to any guardian or committee appointed for such Participant or Beneficiary in accordance with the provisions of the Plan, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Trustee and the Employer.

8.10 ACTION BY THE EMPLOYER

Whenever the Employer under the terms of the Plan is permitted or required to do or perform any act or matter or thing, it shall be done and performed by a person duly authorized by its legally constituted authority.

8.11 HEADINGS

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

8.12 APPROVAL BY INTERNAL REVENUE SERVICE

Notwithstanding anything herein to the contrary, if, pursuant to an application for qualification filed by or on behalf of the Plan by the time prescribed by law for filing the Employer's return for the taxable year in which the Plan is adopted, or such later date that the Secretary of the Treasury may prescribe, the Commissioner of Internal Revenue Service or the Commissioner's delegate should determine that the Plan does not initially qualify as a tax-exempt plan under Code Sections 401 and 501, and such determination is not contested, or if contested, is finally upheld, then if the Plan is a new plan, it shall be void ab initio and all amounts contributed to the Plan by the Employer, less expenses paid, shall be returned within one (1) year after the date the initial qualification is denied, and the Plan shall terminate, and the Trustee shall be discharged from all further obligations. If the disqualification relates to an amended plan, then the Plan shall operate as if it had not been amended.

8.13 ELECTRONIC MEDIA

The Administrator may use telephonic or electronic media to satisfy any notice requirements required by this Plan, to the extent permissible under regulations (or other generally applicable guidance). In addition, a Participant's consent to an immediate distribution may be provided through telephonic or electronic means, to the extent permissible under regulations (or other generally applicable guidance). The Administrator also may use telephonic or electronic media to conduct plan transactions such as enrolling Participants, electing (and changing) investment allocations, applying for Plan loans, and other transactions, to the extent permissible under regulations (or other generally applicable guidance).

8.14 PLAN CORRECTION

The Administrator in conjunction with the Employer may undertake such correction of Plan errors as the Administrator deems necessary, including correction to preserve tax qualification of the Plan under Code Section 401(a) or to correct a fiduciary breach. Without limiting the Administrator's authority under the prior sentence, the Administrator, as it determines to be reasonable and appropriate, may undertake correction of Plan document, operational, demographic and employer eligibility failures under a method described in the Plan or under the IRS Employee Plans Compliance Resolution System ("EPCRS") or any successor program to EPCRS. The Administrator, as it determines to be reasonable and appropriate, also may undertake or assist the appropriate Fiduciary or Plan official in undertaking correction of a fiduciary breach.

8.15 UNIFORMITY

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

ARTICLE IX PARTICIPATING EMPLOYERS

9.1 ADOPTION BY OTHER EMPLOYERS

Notwithstanding anything herein to the contrary, with the consent of the Employer and Trustee, any other corporation or entity, whether an Affiliated Employer or not, may adopt this Plan and all of the provisions hereof, and participate herein and be known as a Participating Employer, by a properly executed document evidencing said intent and will of such Participating Employer.

9.2 REQUIREMENTS OF PARTICIPATING EMPLOYERS

- (a) **Same Trustee for all.** Each such Participating Employer shall be required to use the same Trustee as provided in this Plan.
- (b) **Holding and investing assets.** The Trustee may, but shall not be required to, commingle, hold and invest as one Trust Fund all contributions made by Participating Employers, as well as all increments thereof.
- (c) **Payment of expenses.** Unless the Employer otherwise directs, any expenses of the Plan which are to be paid by the Employer or borne by the Trust Fund shall be paid by each Participating Employer in the same proportion that the total amount standing to the credit of all Participants employed by such Employer bears to the total standing to the credit of all Participants.

9.3 DESIGNATION OF AGENT

Each Participating Employer shall be deemed to be a party to this Plan; provided, however, that with respect to all of its relations with the Trustee and Administrator for the purpose of this Plan, each Participating Employer shall be deemed to have designated irrevocably the Employer as its agent. Unless the context of the Plan clearly indicates the contrary, the word "Employer" shall be deemed to include each Participating Employer as related to its adoption of the Plan.

9.4 EMPLOYEE TRANSFERS

In the event an Employee is transferred between Participating Employers, accumulated service and eligibility shall be carried with the Employee involved. No such transfer shall effect a termination of employment hereunder, and the Participating Employer to which the Employee is transferred shall thereupon become obligated hereunder with respect to such Employee in the same manner as was the Participating Employer from whom the Employee was transferred.

9.5 PARTICIPATING EMPLOYER CONTRIBUTION AND FORFEITURES

Any contribution or Forfeiture subject to allocation during each Plan Year shall be determined and allocated separately by each Participating Employer, and shall be allocated only among the Participants eligible to share of the Employer or Participating Employer making the contribution or by which the forfeiting Participant was employed. On the basis of the information furnished by the Administrator, the Trustee shall keep separate books and records concerning the affairs of each Participating Employer hereunder and as to the accounts and credits of the Employees of each Participating Employer. The Trustee may, but need not, register Contracts so as to evidence that a particular Participating Employer is the interested Employer hereunder, but in the event of an Employee transfer from one Participating Employer to another, the employing Employer shall immediately notify the Trustee thereof.

9.6 AMENDMENT

Any Participating Employer that is an Affiliated Employer hereby authorizes the Employer to make amendments on its behalf, unless otherwise agreed among all affected parties. If a Participating Employer is not an Affiliated Employer, then amendment of this Plan by the Employer at any time when there shall be a Participating Employer shall, unless otherwise agreed to by the affected parties, only be by the written action of each and every Participating Employer and with the consent of the Trustee where such consent is necessary in accordance with the terms of this Plan.

9.7 DISCONTINUANCE OF PARTICIPATION

Any Participating Employer shall be permitted to discontinue or revoke its participation in the Plan at any time. At the time of any such discontinuance or revocation, satisfactory evidence thereof and of any applicable conditions imposed shall be delivered to the Trustee. The Employer shall have the right to discontinue or revoke the participation in the Plan of any Participating Employer by providing 45 days notice to such Participating Employer. The Trustee shall thereafter transfer, deliver and assign Contracts and other Trust Fund assets allocable to the Participants of such Participating Employer to such new Trustee as shall have been designated by such Participating Employer, in the event that it has established a separate qualified retirement plan for its employees provided, however, that no such transfer shall be made if the result is the elimination or reduction of any Section 411(d)(6) protected benefits as described in Section 7.1(e). If a separate plan has not been established, at the time of such continuance or revocation for whatever reason, the assets and liabilities, Contracts and other Trust Fund assets allocable to such Participating Employer's participation in this Plan shall be spun off pursuant to Code Section 414(l) and such spun off assets shall constitute a retirement plan of the Participating Employer with such Participating Employer becoming sponsor and the individual who has signed the Supplemental Participation Agreement on behalf of the Participating Employer becoming Trustee for this purpose. Such individual shall agree to this appointment by virtue of signing the Supplemental Participation Agreement. If such individual is no longer an Employee of the Participating Employer, then the Participating Employer shall appoint a Trustee. If no successor is designated, the Trustee shall retain such assets for the Employees of said Participating Employer pursuant to the provisions of the Trust. In no such event shall any part of the corpus or income of the Trust Fund as it relates to such Participating Employer be used for or diverted for purposes other than for the exclusive benefit of the Employees of such Participating Employer.

9.8 ADMINISTRATOR'S AUTHORITY

The Administrator shall have authority to make any and all necessary rules or regulations, binding upon all Participating Employers and all Participants, to effectuate the purpose of this Article.

9.9 [THIS SECTION IS RESERVED FOR FUTURE USE]

9.10 [THIS SECTION IS RESERVED FOR FUTURE USE]

9.11 SERVICE

An Employee's service includes all Hours of Service and Years of Service with any and all Participating Employers and their Affiliated Employers. An Employee who terminates employment with one Participating Employer and immediately commences employment with another Participating Employer has not separated from service and has not had a severance from employment.

9.12 REQUIRED MINIMUM DISTRIBUTIONS

If a Participant is a 5-percent owner (under Section 6.8(e)(6)) of any Participating Employer for which the Participant is an Employee in the Plan Year the Participant attains age 70 1/2, then the Participant's required beginning date under Section 6.8 shall be the April 1 of the calendar year following the close of the calendar year in which the Participant attains age 70 1/2.

IN WITNESS WHEREOF, this Plan has been executed this _____ day of _____, by Town of East Hartford.

Signed and delivered
in the presence of:

Town of East Hartford

WITNESS

EMPLOYER

This Agreement represents part of the Arbitration Panel's Award in Case No. 2012-MBA-376.

Union's Last Best Offer:

- 53 Section 2. An Employee who enters the service of the Employer on or after October 1, 1972, will become an eligible Employee if the following conditions are met:
- 54 (a) Under age 45 -- as a condition of employment, it is mandatory that an Employee becomes covered under the Retirement System within 3 months after his or her employment commences.
- 55 (b) He or she has reached his or her 45th birthday -- as a condition of employment, it is not mandatory that an Employee becomes covered under the Retirement System; however, he or she must apply within 3 months of entering the service of the Town. If such Employee does not apply then, he or she must do so within 2 years of his or her employment date, and in order to be credited with such service, he or she must pay all back contributions with Interest thereon.
- 56 (c) All Employees must make their Employee contributions while eligible to do so. No credit will be granted during any period when the Employee does not make the necessary contributions to the Retirement System.
- 57 No Such Language or new Section
- 148 No Such Language, new Section(s) or Document(s).

DISCUSSION

The Town in Issue 7 proposes to change the pension plan for employees hired after January 1, 2013 to a defined contribution plan from the existing defined benefit plan which is incorporated into the existing Pension Agreement. The Town's Last Best Offer is lengthy

because to implement its proposal it must exclude the new employees from the existing defined benefit plan and create a new and complete "Defined Contribution Plan For Full-Time Employees of the Police Department of the Town of East Hartford." Under the terms of the defined contribution plan employees would contribute 4% of their pay and the Town would make a matching 4% contribution. After the five year vesting period employees covered by the defined contribution plan would be entitled to their own contributions as well as that of the Town. Unlike most public and private sector defined benefit plans, the Town's proposed defined contribution plan includes some unique and more beneficial provisions to police employees:

Unlike with most Defined Contribution Plans, the Town's last best offer provides participants in the plan with disability coverage and service connected death benefits. Participants in the Defined Contribution Plan will receive benefits equal to the disability benefit and service connected death benefit set forth in Article V and Article VIII, Section 1, respectively, of the Retirement Plan, in accordance with the rules of those articles and sections. Any disability benefits would be reduced by the value of the Employer's contribution to the Defined Contribution Plan, including investment earnings, through the date of disability and reduced by any disability benefits awarded to the employee under social security. Tr. 6/7/12, pp. 210-212.

(Town brief, p. 72)

The purpose of the Town's proposal, like most employers who transition to defined contribution pension plans, is to save money and reduce financial risk, including the risk of lower than anticipated investment returns on pension funds:

Mr. Riley testified that the cost of maintaining the current police Retirement Plan is based on certain assumptions, including but not limited to an 8.25% return on investment. Tr. 9/21/12, p. 456. However, an 8.25% return is far from certain.

Town Exhibit 18 is the latest actuarial valuation of the Town's pension system. Tr. 9/21/12, p. 457. Page nine of Town Exhibit 18 shows, among other things, the Market Value Investment Return for fiscal years 2002 through 2011. The ten year average return for that period was only 5.89%. Town Ex. 18. Ms. Riley testified that the cost to the Town of maintaining the current police Retirement Plan increases if a similar investment return pattern were to emerge over the next ten years. More specifically, the Town's projected annual required contribution to the current plan would increase because investment losses would have to be made up in the future.

(Town brief, p. 72)

The Town acknowledges that defined benefit plans predominate among police department employees, but notes an increasing number of defined contribution plans:

...the Town identifies at least eleven other municipalities that offer defined contribution plans for public safety employees. Those municipalities are Avon, Berlin, Bloomfield, Coventry, East Lyme, New London, Old Lyme, South Windsor, Tolland, Torrington and West Haven. Town Ex. 16.

(Town brief, p. 73)

The Union in its brief attacks the Town proposal on a wide variety of fronts. It first alleges that the text of the Town's proposal is defective, ambiguous and contradictory on a number of key points:

The Town called Ms. Karen McDonough, an attorney with USI, as an expert to testify on the terms of the DC plan (Tr. 6/7/12). In cross examination it was pointed out that Section 1.45 of the DC plan provides for a "Normal Retirement Age" of 50 years and completion of five year of service. Ms. McDonough believes that age 50 does not have any significance after having served for five years (Tr. 6/7/12, p. 282). Ms. McDonough agreed however that section 1.45 of the DCP creates an "ambiguity" in the language (Tr. 6/7/12, p. 291).

Ms. McDonough was asked on how the "value" of the employer's contribution to the DC plan would be calculated (See Town's LBO, §3). She did not know (Tr. 6/7/12, p. 294) and conceded the Town's proposal creates "confusion" in that the disability benefit would be payable over time and the employer's contribution, together with interest, is a lump sum (Tr. 6/7/12, p. 295). Ms McDonough claimed that the set-off "would have to be equitably determined" (Tr. 6/7/12, p. 295). Ultimately, Ms. McDonough conceded "there has to be some clarification here" (Tr. 6/7/12, p. 295).

Ms. McDonough also had no idea how the reduction in the DB plan disability benefit would be accomplished as a result of Social Security entitlement (Tr. 6/7/12, p. 296). She again stated clarification in the DC plan document, was required (Tr. 6/7/12, p. 296).

The Town's witness from Segal, Ms. Riley, also testified on the foregoing subject. When she was asked how one would calculate the offset for the value of the employer's contributions against the DB disability payments, Ms. Riley responded "...and those (calculations) would have to be specified in the plan document..." (Tr. 9/21, p. 479-480). They are not.

In short, the Town's proposal creates ambiguity and debate as to how, on what basis, under what standards, based on what assumptions, etc. the calculation of the

“employer contributions” and Social Security disability benefits would impact the benefit.

(Union brief, pp. 20-21)

The Union in its brief also claims that the Town's conversion to a defined contribution plan is not in the public interest because it would not help the Town financially:

DB plan required contributions have gone through the roof. Won't a DC plan help get costs under control? No. The employer will pay more to shift over to a DC plan (See Union Exhibit 27 p.18-21; also see §B p. 24-26 below).

As the Town's own website attests, it is not in the “public interest” for the citizens of East Hartford to be duped into thinking conversion from a DB to a DC plan is fair or will solve any perceived financial problems.

(Union brief, p. 23)

The Union continues this line of argument in its “financial capability” argument, alleging that the Town's proposal will inflict a significant cost on the Town rather than conferring any savings.

The irrefutable evidence, presented by the Town's own actuaries, is it will cost the Town significantly to switch new employees to a DC plan.

The Union asked for the present value of the aggregate cost over the thirty years reflected in the 6/21/11 letter. (Union Exhibit 21) Segal responded that the present value of the future contributions by the Town for one new hire is \$33,285 for the DB plan and \$57,433 for the DC plan under the first analysis (Union Exhibit, Letter 7/8/11, p. 2).

The new cost analysis by Segal is an aggregate, not individual cost. (Union 25). This analysis reveals it will take the Town 23 years before it starts realizing any savings. Indeed, during those 23 years the Town will have spent an additional \$5,485,000 (yes million) to exit the DB plan and save only \$110,000 24 years hence (Union 25, 5/17/12 letter, p. 2-3; See also testimony of Ms. Riley; Tr. 9/21, p. 456).

(Emphasis in original, Union brief, pp. 25-27)

The Union argues in its brief that the negotiating history largely favors its LBOs because the Town made repeated significant changes to its proposal during the course of the arbitration proceedings. (Union brief, pp. 27-28). Concerning the welfare and interests of the employee group statutory criterion the Union provides a long list of reasons why this criterion weighs against the Town's LBO, including the following:

- The DC plan benefit will not equal the DB plan benefit.
- The employee contribution for new hires toward retirement will increase to pay for a lesser benefit. The current contribution to the DB plan is 8%, tax deferred (Exhibit a-1 II, §1). The employee contribution for new hires will be 6%⁸ to the DC plan and 6.2% to Social Security (Ms. Riley, Tr. 9/21, p. 253,473). This is an increased employee contribution of 4.2%, at least 6.2% of which is not tax deductible.
- The entire risk is shifted to the individual employee who is far less equipped to absorb that risk (e.g., see testimony of Mr. Vernile as to the experience in Avon).
- The DB plan includes lump sum, sick, vacation, comp time and longevity payments in the calculation (Town Exhibits 4 through 6). The DB plan contributions are based only on base salary and overtime (Town LBO Appendix A §1.11).
- This employee group is concerned over the negative impact a DC plan will have on obtaining and retaining highly quality law enforcement personnel to serve alongside current members.

(Emphasis in original, Union brief, pp. 29-30)

On the comparability statutory factors the Union cites exhibits showing that "only 12 police departments serving the 169 municipalities have DC plans." (Union brief, p. 30) As to those twelve municipalities, the Union says all the plans except West Haven were negotiated pension changes rather than imposed by binding arbitration and that West Haven was a unique situation because of its unique extremely poor financial condition and derived substantial financial benefits from the pension change:

West Haven had a five million dollar deficit, no cash reserves, a deplorable bond rating and substantial long term debit. The city borrowed \$66 million in 2002 to fully fund the pension plan. Seven years later it was again under funded by at least \$20 million.

⁸ This reference in the Union's brief to a 6% employee contribution to the DC plan must have been a reference to an earlier proposal by the Town. The Town's LBO calls for a 4% contribution.

For whatever reason, the evidence before the arbitration panel was that "in year one" the city would save \$21,554 and the savings would increase every year thereafter (Union Exhibit 41, p. 58-59). That is not the evidence before this panel.

(Emphasis in original, Union brief, pp. 32-33)

The Union brief also points out that even among the police bargaining units with defined contribution plans the employer in those cases generally make significantly larger contributions to the pension plan than is proposed by East Hartford in its LBO (4%). That is shown in the Union's brief in tabular form through a combination of the data provided in Town Exhibit 16 and Union Exhibit 28:

<u>TOWN</u>	<u>EMPLOYEE CONTRIBUTION</u>	<u>EMPLOYER CONTRIBUTION</u>
Avon	7.5%	7.5%
Berlin	6%	Double EE Contribution
Bloomfield	7%	10%
Canton	6.5%	12%
Coventry	6.5%	7%
East Lyme	Optional	5%
Old Lyme	0%	8%
South Windsor	6%	6%
Suffield	Maximum allowed by law	Maximum 7%
West Haven	8%	8%

(Union brief, p. 34)

The Town's proposed conversion from a defined benefit pension plan for all police employees to a defined contribution pension plan for new employees presents a myriad of difficult issues. In most cases when an employer makes such a change the benefits to the employer are clear, the employer's total costs are reduced, its payments into the pension fund are fixed, the financial risks of changes in investment return and beneficiary mortality are eliminated and the specter of unfunded pension liabilities on its balance sheet are eliminated or greatly reduced. Here however, the employer has proposed a hybrid that involves only the newer employees while retaining for those new employees the current disability pension and pre-retirement death benefits of the existing pension plan. Moreover, the new employees will be covered by Social Security and both the employer and employees will have to make contributions into that system.

That hybrid system which the Town is proposing has two immediate problems. First, the melding of those two disparate pension systems creates language and interpretative problems that we are not convinced create a clear understanding of rights and responsibilities. Of particular concern is how the disability and death benefits of the old plan would be coordinated with the new defined contribution plan. The Union effectively made that point at the June 7, 2012 hearing and in its brief.⁹

The second problem with the hybrid system is that any direct financial benefit to the Town is delayed many years according to the Town's actuary. This is set out in Union Exhibit 25, which is the May 17, 2012 letter from The Segal Company actuary Kathleen A. Riley to the Town's Assistant Corporation Counsel. That document shows over \$5 million in additional costs under the hybrid system before the Town first derives direct savings in 2035. This

⁹ See June 7, 2012 transcript, especially at pp. 295-296. The Town did not engage in redirect examination to clarify the issues raises. See the Union brief at pp. 20-21.

financial result appears counterintuitive, for the Town currently pays 30% of payroll to support the defined benefit plan for police employees and under the proposed defined contribution plan they would pay only 4% into the new fund. But other things complicate matters and increase the Town's costs: the Town will continue to fund the new employees disability and death benefits per the existing plan and will have to contribute 6.2% of payroll to the Social Security System on behalf of the new employees.

The Town does not question its actuary's cost estimates of its last best offer on Issue 7. Instead, it emphasizes the reduction in financial risk from its proposal and suggests that the current investment return assumption of 8.25% is too high and will result in significant new costs of the current system when it is lowered to reflect investment return reality (Town brief, p. 72). As noted above in the analysis of "financial capability" statutory factor, we believe that the Town is correct in this judgment. Moreover, the unfunded pension liability of the Town pension plan is at dangerous levels and that would likely be mitigated by a transition to a defined contribution plan.

But financial considerations are not the only relevant factors. The Union asks us to consider the negotiating history statutory factor, specifically the fact that during the course of this proceeding the Town changed their proposal on this issue a number of times. Each party is at liberty to make changes to its proposals during negotiations and the complexity of this proposal naturally led to adjustments during negotiations. What is troubling, however, is that the final proposal may still not have ironed out all the kinks in the Town's proposal, leading to conflicts between the defined contribution elements and the defined benefit disability and service connected death benefits.

The final relevant statutory factor, comparability, is a critical factor. Most police employees in Connecticut have defined benefit plans. That is not necessarily dispositive of the Town's proposal given the Town's financial condition.¹⁰ But the defined contribution plans which the Town points to as examples of police departments which have converted to defined contribution plans have one notable difference, they each make greater contributions into the pension fund. (Town Exhibit 16)¹¹ The average employer contribution was over 6% while the Town's proposed contribution is only 4%. The Town's 4% contribution would be the lowest among all the cited police bargaining units that have replaced their defined benefit plan with a defined contribution plan.

These are not perfect comparisons. Some of the Towns offer a disability benefit, but others do not. And it is not clear whether those who offer such a benefit are as generous as the East Hartford disability and death benefits. Moreover, a few of the Towns in the comparison group (Torrington and New London) do not make payments into the Social Security system. It is thus hard for the panel to figure out how the new employees under the Town's proposal will fare compared to their peers in other departments with defined contribution plans. But the burden of proof lies with the Town, and from what we can see the great difference in contribution into the pension fund strongly suggests that the Town is proposing an inferior plan to those other defined contribution plans.

In summary, the cost savings of the Town's proposal are marginal for the next 20+ years, there are troubling ambiguities in the application of disability and death benefits under the new plan, and the comparability statutory factors weigh against the Town's proposal. Considering all

¹⁰ See, e.g. interest arbitration decision concerning West Haven. Union Exhibit 41.

¹¹ The West Haven plan has the employer making a contribution of 1% to 8% depending upon the matching contribution made by the employee, e.g., if the employee contributes 6% the Town of West Haven must contribute 6%.

the statutory factors it is the panel's judgment that the statutory factors weigh more heavily in favor of the Union's last best offer.

Award

For the reasons discussed above and based upon the statutory factors set forth on page 4 of this award:

The Union's last best offer is selected on Issue 7.

The Union's appointed panel member concurs in the selection of the Union's last best offer based upon the same statutory factors cited above.

The Town's appointed panel member dissents from the selection of the Union's last best offer based upon the same statutory factors cited above

Issue 8

Contract Provisions: Article V, Section 3, Paragraph 69

Subject: Exemption from Cap on Service Connected Disability

Town's Last Best Offer:

Section 3. Service Connected Disability -- Any Employee covered under this Retirement System who becomes Permanently and Totally Disabled during the performance of essential duties pertaining to his or her employment shall be eligible to retire and receive a Service Connected Disability Pension equal to fifty percent (50%) of the disabled Employee's Final Average Salary or his or her annual rate of Regular Compensation at the time of such disability (whichever is greater) if the Employee has completed less than 20 years of Credited Service. If the Employee has completed 20 or more years of Credited Service at his or her date of disability, the amount of the Service Connected Disability Pension shall be determined in the same manner as his or her Normal Pension as described in Article IV, Section 1 hereof using Credited Service and Final Average Salary or Regular Compensation as of the date of disability. In no event shall payments under this section, together with any regular benefits awarded under the Connecticut Workers' Compensation Act, exceed one hundred percent (100%) of the Final Average Salary or the Regular Compensation being paid to the disabled Employee at the time of his or her disability.

Union's Last Best Offer:

69 Section 3. Service Connected Disability -- Any Employee covered under this Retirement System who becomes Permanently and Totally Disabled during the performance of essential duties pertaining to his or her employment shall be eligible to retire and receive a Service Connected Disability Pension equal to fifty percent (50%) of the disabled Employee's Final Average Salary or his or her annual rate of Regular Compensation at the time of such disability (whichever is greater) if the Employee has completed less than 20 years of Credited Service. If the Employee has completed 20 or more years of Credited Service at his or her date of disability, the amount of the Service Connected Disability Pension shall be determined in the same manner as his or her Normal Pension as described in Article IV, Section 1 hereof using Credited Service and Final Average Salary or Regular Compensation as of the date of disability. In no event shall payments under this section, together with any regular benefits awarded under the Connecticut Workers' Compensation Act, (excluding any special awards such as loss of limb, eye, etc., provided for in Section 31-308 and 31-308a of the Connecticut General Statutes) exceed one hundred percent (100%) of the Final Average Salary or the Regular Compensation being paid to the disabled Employee at the time of his or her disability.

DISCUSSION

The Town proposes changes to the Pension Agreement which would cap benefits in a manner so as to assure that no employee gets a pension and other benefits which exceeds his/her final average salary. The specific issue involves language in the Pension Agreement that currently exempts certain workers' compensation awards from being considered in pension calculations for those employees with a service connected disability pension. In its brief, the Town explains what and why they are proposing changes:

Article V, Section 3, contains a built-in "cap" where workers' compensation benefits are involved. Pursuant to this cap, a member's retirement benefit together with any regular benefits awarded under the Connecticut workers' compensation statutes may not exceed one hundred percent of the member's Final Average salary or Regular Compensation. However, certain types of workers' compensation are excluded from the cap. In particular, "special awards such as loss of limb, eye, etc., provided for in Section 31-308 and [31-308a] of the Connecticut General Statutes" are not included when calculating whether a member's benefit triggers the cap. Joint Ex. A-1, p.8.

Section 31-308 benefits compensate a workers' compensation claimant for permanent loss of a body part or organ attributable to a compensable injury. Town Ex. 13. Section 31-308a provides additional benefits for partial permanent disability, based upon wage loss attributable to the injury; specifically, a portion of the difference between the earnings of an employee in a position that is comparable to the position held by the injured employee prior to his injury and the weekly amount that the injured employee earns thereafter. Town Ex. 13.

The Town's last best offer on this issue number 8 proposes to strike the language that exempts such special awards under Sections 31-308 and 31-308a from the cap. The Town's last best offer is consistent with the purpose of the retirement system, which is to provide retirees with a percentage of the income that they earned as active employees. There should be no circumstances under which a retiree earns greater than 100% of his or her final Average Salary or Regular Compensation.

(Town brief, pp. 75-76)

Eliminating this "loophole" has been a bargaining objective of the Town for a number of years, as noted by the Town in its brief:

In 2005, the Town negotiated the Section 31-308 and Section 31-308a exemptions out of the cap in the firefighters plan. Tr. 4/16/12, p. 162. If the Town is successful on this

issue, the only the retirement plan for general employees, which expires on June 30, 2015 will still contain the Section 31-308 and Section 31-308a exemptions. Union Ex. 15.

(Town brief, p. 76)

The Union in its brief provides an extensive explanation of the workers' compensation system and the specific statutory benefits provided for loss of full use of one's body as a result of an injury (Union brief, pp. 36-38). It appears to rely most, however, on the lack of clear savings to the Town from the proposed change in language:

The Town was asked for its calculation as to the savings to be derived from this proposal. In response, the Town produced Union Exhibit 13. After examining all disability pensions since the existing pension plan was put in place, the Town could find not a single instance where an employee exceeded the cap because of 308(b) or 308a benefits. The Town conceded this proposal would not result in any cost savings. The Town is simply attempting to avoid the possibility, however remote, "that an employee might receive more than 100% of FAS or Regular Compensation" (Union Exhibit 13, p. 2).

(Union brief, p. 38)

The Union, however, did provide a scenario where a current member would be harmed by the Town's proposal in Issue 8:

Union Exhibit 16 III-b provides the same calculation assuming the sick leave pay-out is eliminated from the pension calculation under Town LBO #6. In this instance, Officer Lentocha's pension benefit would be reduced by \$2,222 per year.

(Union brief, p. 40)

This Union argument, however is moot, because the panel did not award the Town's LBO on Issue 6. The Union also argues that it is mathematically impossible for an employee to get a combination of pension and workers' compensation benefits which exceed his/her final average salary:

Once one subtracts the pension benefit in calculating the amount of the 308a benefit, there is literally no chance of reaching 100% of Regular Compensation. Almost 50% of Regular Compensation has already been subtracted from the 308a benefit.

(Footnotes omitted, emphasis in original, Union brief, p. 40)

The theoretical financial benefit of the Town's proposal is fairly clear and it is consistent with the current treatment of other Workers' Compensation payments. This proposal has been an important bargaining priority for the Town and they were successful in implementing the change with the firefighters union in 2005 and they intend to negotiate/arbitrate the change for general Town employees in the next negotiations cycle.

The Union in its presentation of evidence and argument was not able to point to a single employee who would have been harmed by this Town proposal. Indeed the Union seems to focus its argument on the fact that they believe there will be no savings to the Town, implicitly based on the fact that no bargaining unit member will have his/her pension reduced by the Town's proposal.¹² Yet it spends a large amount of time in its brief vigorously arguing against the Town's proposal. No convincing external comparability evidence was presented by the Union to show that the Town's proposal is unusual among either police bargaining units or other municipal bargaining units.

It is enough that the Town's proposal protects it against a potential financial harm given the poor state of its finances. The Town's proposal on its face is also a reasonable one. For these reasons we believe the Town's proposal is more consistent with the statutory factors.

Award

For the reasons discussed above and based upon the statutory factors set forth on page 4 of this award:

The Town's last best offer is selected on Issue 8.

¹² See, e.g., pp. 39-40 of the Union's brief: "Based on the current language in the contract, there would be no reduction in pension benefit under current language as a result of the Town's proposal. This calculation is thus consistent with all of the Town's research, i.e. the Town cannot point to a single example where its proposal or save any money."

The Town's appointed panel member concurs in the selection of the Town's last best offer based upon the same statutory factors cited above.

The Union's appointed panel member dissents from the selection of the Town's last best offer based upon the same statutory factors cited above.

Issue 9

Contract Provisions: Article VII, Sections 1-2, Paragraphs 80, 81, 83

Subject: Vesting Period

Town's Last Best Offer:

The Town's last best offer (Paragraph 80):

15

The Town's last best offer (Paragraph 81):

15

The Town's last best offer (Paragraph 83):

No New Language

Union's Last Best Offer:

80 5 (five)

81 5 (five)

83 An employee may not receive both the Non-Service Connected Disability Benefit and the Normal Retirement Benefit.

DISCUSSION

The Union proposes to reduce the vesting period for normal retirement from 15 years to 5 years. The Town proposes no change in the vesting period provided in the current Pension Agreement. The Union points out in its brief that if an employee leaves Town employment before the pension benefit has vested that the benefits is limited to the employee's pension contribution plus 4% interest. The Union proposal has no impact on disability or death benefits.

The Union proposal in part relies upon comparability information:

Town Exhibit 18, the annual actuarial report, shows vesting for other Town employees as follows:

General Employees	10 Years
Paraprofessionals	10 Years
Dispatchers	5 Years
Fire	5 Years

The Town's comparison groups of 10 Towns shows every Town but East Hartford has a vesting period of 10 years.

In the Union's comparison group, Hartford County, 6 of the 19 Towns where data was presented have a 5 year vesting and the rest 10 years.

(Union brief, pp. 42-43)

The Union brief also relies on what they believe to be the minimal cost of this benefit improvement:

The Town's actuaries, Segal Company, were asked to cost this proposal. Segal estimates the cost to the Town at \$4,000 per year. Ms. Riley conceded this cost represents one and one half tenth of one percent of the annual required contribution (Tr. 7/21, p. 442). Ms. Riley characterized this cost as "pretty minimal" and "insignificant" (Tr. 7/21, p. 469,470).

Thomas P. Dawidowicz is the signature actuary to the East Hartford pension actuarial reports (Testimony Ms. Riley Tr. 7/21, p. 461). Mr. Dawidowicz is on the East Hartford "team," Ms. Riley is not (Tr. 7/21, p. 461-462). Mr. Dawidowicz prepared all of the costing for the Town in this arbitration (Union Exhibit 7, 21).

In his costing of this proposal, Mr. Dawidowicz opined that the cost of vesting before 15 years is limited to the period when the present value of the employee contribution, plus interest, exceeds the Town's cost of the benefit (see Union 7). Mr. Dawidowicz's letter of 6/3/11 indicates the "cost" of the DB plan to the Town starts at the 12th year of service (Union Exhibit 21, p. 4). Not until the 13th year does the Town incur a cost of \$189.

(Union brief, p. 43)

Based on the above cited evidence, the Union in its brief contends that the "public interest" is irrelevant to this issue:

It is respectfully submitted the public has no interest in this proposal. This proposal will obviously have no real impact on the Town's budget, it's ARC, or anything else.

(Union brief, p. 44)

In an unusual turn, the Union in its brief cites private pension standards on behalf of its proposal:

Ms. McDonough also testified that private sector plans are subject to ERISA. ERISA requires a minimum vesting period of either 100% or 60% at five years. Hence, the conditions for the private sector (which is certainly dissimilar) mitigates in favor of the Union's proposal.

(Union brief, p. 45)

The Town in its brief argues that the financial capability statutory factor weighs against the Union proposal:

The financial capability factor favors awarding the Town's last best offer on this issue. First, the Town's actuaries calculated the annual cost of the Union's proposal at \$4,000. Union Ex. 7. Second, there is an additional significant hidden cost associated with the Union's proposal; specifically, the cost of health insurance for retirees.

At age 65, the Town pays 100% of the cost of a Medicare Parts A and B supplemental coverage plan. Joint Ex. A-1, pp. 24-25. Under current language, an employee would be required to work for 15 years before being eligible to "retire" under the Retirement Plan, and, therefore, to be eligible for the contractual health insurance benefits available to retirees. Lowering the vesting period from fifteen years to five years introduces a whole new class of vested terminated employees (those who leave Town service with 5 to 14 years) who would be eligible for such benefits upon their retirement date.

As of the July 1, 2009 valuation by the Milliman Company, the Town's OPEB liability is projected to be nearly \$130 million. Town Ex. 39, p. 9. There is simply no basis for awarding a proposal that will increase that liability.

(Town brief, p. 78)

The Town also argues that comparability factors weigh against the Union proposal:

Finally, reducing the vesting period to five years is out of sync with the benefit offered by comparable municipalities; specifically, the nine municipalities listed in Town Exhibit 7. None of those municipalities offer a five year vesting period.

(Town brief, p. 79)

The Town has the better of the argument on this issue. There is clearly a cost to decreasing the pension vesting period from 15 years to 5 years. While the evidence shows that under all the current actuarial assumptions the cost to the Town will be only \$4,000 per year (Union Exhibit 7), given the Town's financial condition the other statutory factors would have to weigh in favor of the Union for their proposal to succeed. The most relevant other statutory factor, the comparability factor, does not support the Union's position. None of the Town's comparability municipalities had a 5 year vesting period (Town Exhibit 7) and a minority of the Union's Hartford County municipalities have 5 year vesting provisions. It would have been a difficult decision had the Union proposed a 10 year vesting period, but that is not the proposal before us. The Town's last best offer retaining the current pension vesting period is more consistent with the statutory factors.

Award

For the reasons discussed above and based upon the statutory factors set forth on page 4 of this award:

The Town's last best offer is selected on Issue 9.

The Town's appointed panel member concurs in the selection of the Town's last best offer based upon the same statutory factors cited above.

The Union appointed panel member dissents from the selection of the Town's last best offer based upon the same statutory factors cited above.

Issue 10

Contract Provisions: Article X, Section 1, Paragraph 95

Subject: Annual Report Due Date

Town's Last Best Offer:

March 31st

Union's Last Best Offer:

95 December 31st

DISCUSSION

The Union proposes that the pension Annual Report be required to be submitted on December 31st, three months earlier than required by the current Pension Agreement. The Town proposes no change in the due date.

The Union in its brief cites a number of recent examples when the Annual Report was submitted of various dates before and after the due date provided in the Pension Agreement. (Union brief, p. 46) From these different dates and some "preliminary" reports, the Union concludes that the Town Council has influenced the actuaries to modify their conclusions, which affect the Town's contributions to the pension plan:

The public does not have any interest in the Town manipulating the actuarial report by directing actuaries to use a particular interest rate or any other assumption.

(Union brief, p. 47).

The Union also argues that it needs the report earlier to assist in developing its initial proposals for a successor collective bargaining agreement:

Negotiations for a successor collective bargaining agreement are to commence between January 1st and March 5th of each year (Exhibit A-2, II, p. 1). Obviously, the Town's ARC is a factor in the negotiations of the collective bargaining agreement. The parties are

now contractually required to commence these negotiations in the blind as to the Town's ARC.

(Union brief, p. 47)

In its argument on the merits the Union argues that the employee interests and the public interests are the same:

It is respectfully submitted the "public interest" is in having a prompt and impartial report prepared.

The Union desires to have the actuarial report in sufficient time before commencement of negotiations of the collective bargaining agreement in order to factor that cost into the negotiations. Further, the Union desires to do something to remove the political process from the calculation of the Town's contribution to maintain solvency of the plan. The public should have the same interest.

The remainder of the statutory criteria is irrelevant.

(Union brief, p. 47)

The Town argues that the current provisions regarding filing of the Annual Report are consistent with the development and issuance of a professional work product and the time period provided in the Town Charter and necessary for the municipal budgetary process:

After the close of the fiscal year on June 30th, the Finance Department forwards wage data for the Town and the Board of Education to the Town's Actuaries (the Segal Company) for use in preparing the report. Tr. 4/16/12, pp 101-102.

Following submission of the wage data, there is typically a period during which the Town fields questions from the actuaries. The actuaries then issue their preliminary results. In 2011, those preliminary results were set forth in a letter to Michael Walsh dated December 20, 2011. Tr. 4/16/12, p. 102. The December 8, 2011 letter is in the record as Union Exhibit 8.

The actuaries' preliminary results often include variables that can effect the Town's contribution to the pension fund. For example, in the December 20, 2011 letter, the Segal Company suggested changing the discount rate used by the actuaries from 8.25% to 8.00%. Union Ex. 8. That suggested change, if implemented, could mean a change in the Town's annual required contribution of roughly \$680,000. Tr. 4/16/12, p. 106.

Variables, such as the appropriate discount rate, which have can have a significant financial impact are discussed and debated by the Retirement Board, the Mayor and the Town Council. Tr. 4/16/12, p. 106. Those discussions take place as part of the budget-

making process according to a schedule that is dictated by the Town Charter and that continues beyond December 31st of each year. Tr. 4/16/12, p.106.

According to the Town Charter, Town Departments, Boards and Commissions, including the Retirement Board, have until January 5th to make recommendations to the Mayor. Tr. 4/16/12, pp 103-104; Town Ex. 12. The Mayor has until February 23rd discuss the submitted recommendations with each department, board or commission and submit a recommended budget to the Town Council. Tr. 4/16/12, p. 104; Town Ex. 12. The Council has until March 11th to hold public hearings on the proposed budget. One full day of hearings is typically devoted to pension investments and variables. Tr. 4/16/11, pp 105,106-107; Town Ex. 12.

The final actuarial report cannot be produced until the variables are decided upon. Tr. 4/16/12, p. 107. Accordingly, the Town's last best offer on this issue should be awarded.

(Town brief, pp. 81-82)

The Union is correct that some of the additional time to publish the final annual pension report is used by the Town to have influence on the final report, especially the assumed investment return which directly leads to the amount the Town will have to pay into the pension fund. The Town understandably wants to have some influence over their own budget and the difference in investment return assumptions can have a dramatic effect on Town budgets. In the most recent example the difference between the investment return assumption the Pension Board and actuaries originally wanted of 8% and what was finally adopted of 8.25% amounted to a "change in the Town's annual required contribution of roughly \$680,000."

The Union is also correct that this time period for political and budgetary input often results in the Town contributing less to the pension fund than if the Town used a purely objective system, such as using the average of all public sector actuary recommendations of rate of return on investments. It is commonplace in our democratic political system that state and municipal pension system are underfunded by such political and budgetary decisions in the face of competing budgetary demands.

The problem with the Union's proposal is twofold. First, the political and budgetary role played by the Town in the pension funding process is a legitimate and proper role in a democracy. Second, moving the publication date back three months would not prevent the Town budgetary and political officials from exercising exactly the same discretion over the pension funding that they do today. The actuaries would just be required to complete their work quicker and the Town officials would exercise their discretion a few months earlier. The date for publication of the pension annual report is part of an integrated budgetary system which has established timelines and requirements, some of which are enshrined in the Town Charter. There is no compelling statutory factor(s) which argues for the disruption of the current system by changing the publication date for the annual pension report.

The Union mentions the time period for collective bargaining negotiations as a factor in support of their proposal on this issue. Specifically, it wants the pension report to be issued before the formal start of the statutory time period for the start of negotiations for a successor contract. The reality of the collective bargaining process in Connecticut is that the statutory start of negotiations is rarely a critical moment and the meat of the negotiating process is addressed much later in the schedule. The Union has not pointed to any problems in incorporating pension data into their negotiating proposals in past negotiation cycles. The Union will have all the pension information it needs under the current Pension Agreement requirements without changing the deadline for publication of the annual pension actuarial report.

Award

For the reasons discussed above and based upon the statutory factors set forth on page 4 of this award:

The Town's last best offer is selected on Issue 10

The Town's appointed panel member concurs in the selection of the Town's last best offer based upon the same statutory factors cited above.

The Union appointed panel member dissents from the selection of the Town's last best offer based upon the same statutory factors cited above.

Issue 11

Contract Provisions: Article X, Section 2-3, Paragraphs 96, 98

Subject: Arbitration Clause

Town's Last Best Offer:

The Town's last best offer (paragraph 96):

Section 2. If any misunderstanding or ambiguity should arise concerning the meaning of any of the provisions of the Retirement System, the Retirement Board shall have the sole right to construe such provisions, and the Retirement Board's decision shall be final. The Retirement Board may establish such rules and regulations supplementing the Retirement System as it considers desirable.

The Town's last best offer (paragraph 98):

Section 3. The finding of facts by the Retirement Board as to matters relating to an Employee's employment record are binding on him or her for the purposes of the Retirement System. The Retirement System shall confer no right upon any Employee to be retained as an Employee by the Employer.

Union's Last Best Offer:

96 Section 2. (a) Any dispute between the parties concerning the application and/or interpretation of this Retirement Plan agreement, including arbitrability, but excluding the exercise of the Retirement Board's sole and absolute discretion on the basis of medical evidence as described in § 1 of Article V hereof, shall be resolved through the grievance arbitration process set forth in this section.

96 (b) (1) Step 1 – Any Employee, or East Hartford Police Officers Association on behalf of similarly aggrieved Employees, shall, within twenty (20) calendar days of the occurrence or event giving rise to the grievance, reduce the grievance to writing and submit it to the Town Director of Human Resources, or his designee. The grievance shall contain a statement of the pertinent facts involved, allegation of the specific provision of this Retirement Plan document and the remedy requested. The Director of Human Resources, or his designated representative, shall meet with the interested parties: (i) within fifteen (15) calendar days of the receipt of the grievance; or (ii) at such later date as mutually agreed in writing. The Town Director of Human Resources shall render his decision in writing within ten (10) calendar days of the completion of such meeting.

96 (2) Step 2 – If the grievance is not settled at Step 1, it shall be presented in writing to the Town Retirement Board within twenty (20) calendar days after the decision of the Town Director of Human Resources. The Town Retirement Board shall meet with the

interested parties: (i) within thirty (30) calendar days of the receipt of the grievance; or (ii) at such later date as mutually agreed in writing. The Town Retirement Board shall render its decision in writing within forty-five (45) calendar days of the completion of such meeting. If this decision does not resolve the dispute, then the question may be processed to Step 3.

96 (3) Step 3 – Either party may request the State Board of Mediation and Arbitration to provide arbitration services within fifteen (15) calendar days following the written decision of the Town Retirement Board or, if there is no written decision, within the timelines specified (d) below. The Decision of the State Board of Mediation and Arbitration shall be final and binding on both parties. The authority of the arbitrator(s) shall be limited to the application and interpretation of this Retirement Plan agreement. The arbitrator(s) shall have no authority to add to or subtract from said agreement. The cost of the arbitration mutually incurred shall be shared equally by both parties. Costs incurred by the parties as individuals shall be borne by the party incurring the cost.

96 (c) Notwithstanding the foregoing, within ten (10) calendar days following receipt of notice of filing for arbitration, either party may exercise its right to transfer the arbitration proceedings to the American Arbitration Association (AAA). Arbitration(s) transferred to AAA will be administered by and under the rules of the American Arbitration Association. In any case, the party that elects to utilize the services of the American Arbitration Association shall bear 100% of the administrative costs and pay 100% of the arbitrator's fees and expenses in connection with such arbitration.

96 (d) Failure by any representative of the Town of East Hartford to render a written decision within the time limit(s) prescribed in this Grievance procedure shall provide the grievant/Union the option to file to the next successive step of the Grievance Procedure: (i) within forty-five (45) calendar days of the filing of the grievance (if proceeding to Step 2); and/or (ii) within one hundred and five (105) calendar days of the filing of the original grievance (if proceeding to Step 3). Failure by the grievant or the Union to proceed to the next level within the time limits prescribed in sections 2 and 3 of this agreement or, if applicable, as set forth in the preceding sentence, shall constitute a denial of the grievance and acceptance of such denial by the grievant/Union. However, all time limits expressed herein may be waived by an agreement confirmed in writing by both parties.

96 (e) Upon mutual agreement, both parties may request mediation with the State Board of Arbitration and Mediation.

98 Section 3. The Retirement System shall confer no right upon any Employee to be retained as an Employee by the Employer. The Retirement Board may establish such rules and regulations supplementing the Retirement System as it considers desirable, provided said rules and regulations shall not substantively change or reduce any benefits provided for herein.

DISCUSSION

The Union proposes that disputes under the Pension Agreement, which currently are resolved by the Retirement Board, should henceforth be decided by a three step grievance arbitration process. The Town proposes no change in the Pension Agreement on dispute resolution.

The Union states that the Pension Agreement does not specifically address "what happens if the Union disagrees with the decision of the Retirement Board or takes the issue directly to court." (Union brief, p. 48) The Union proposes arbitration language similar to the current collective bargaining Contract with the caveat that it "specifically exempts an appeal concerning medical evidence in regard to the disability pension determination." (Id.)

The Union argues on the merits that the same dispute resolution process that applies to the collective bargaining Contract should apply to the Pension Agreement:

It is rare that any agreement in the public sector involving collective bargaining is not subject to grievance arbitration in the event of a dispute.

Most collective bargaining agreements provide, within the four corners of the document, for pension benefits. Thus, grievance language providing for the resolution of "any dispute" as to the interpretation or application of the agreement (such as this C.B.A.) is subject to arbitration.

The Union produced Exhibit 6 setting forth the appeal process for all of the Towns for which the documentation could be obtained in Hartford County. All of the Towns provided for grievance arbitration in the event of a dispute over pension, except for Rocky Hill and those Towns that are in MERS. By statute, any dispute concerning benefits under MERS is subject to appeal to the Retirement Services Division, and ultimately the courts, under C.G.S. § 4-176 and Connecticut Regulations § 5-155a-1

(Union brief, p. 49)

The Union argues that the public interest is best served by resolution of disputes through arbitration:

[I]t is in the public's interest to have disputes resolved in an expeditious, cost effective and impartial manner. In public sector bargaining particularly, that means by arbitration. Arbitration is faster and less expensive than litigation. As experienced arbitrators, this panel knows that they have far more knowledge of the workings of collective bargaining and public sector pensions than does a Superior Court judge.

Furthermore, the public has an interest in seeing that disputes are resolved through independent dispute resolution, not by fiat.

(Union brief, p. 50)

The Union argues there is no financial impact of its proposal because there have been few disputes about interpretations of the Pension Agreement and none are anticipated because it "has been in place for many years without serious dispute over its interpretation." (Id.) The Union recognizes this statement undermines its need for a change in language, but argues that it is "possible" that such a dispute may occur and if it does it would cost less through arbitration than through court litigation (Union brief, pp. 50-51) As to comparability data, the Union argues that "all the Town's comparison groups have a grievance arbitration process for pension benefits." (Union brief, p. 51, emphasis in original).

The Town in its brief states that under the current language of the Pension Agreement the Retirement Board, not the courts, have the sole authority to interpret the Pension Agreement and cites the relevant provision of the Agreement:

Article X, Section 2 currently provides, in relevant part, "[i]f any misunderstanding or ambiguity should arise concerning the meaning of any of the provisions of the Retirement System, the Retirement Board shall have the sole right to construe such provisions, and the Retirement Board's decision shall be final."

Instead of this one step process the Union proposes a three step process:

The Union proposes a three-tiered grievance-arbitration process in which disputes are first heard by the Director of Human Resources, then by the Retirement Board, and ultimately by a panel of the State Board of Mediation and Arbitration or the American Arbitration Association.

(Town brief, p. 85)

The Town states the Union proposal assumes the current Retirement Board is biased and unfair but there is no evidence supporting this Union claim:

The Town submits that the Retirement Board is entitled to the same presumption of impartiality and that the Union has produced no evidence to rebut this presumption. Indeed, the Union presented no evidence of any problems or dissatisfaction with the current system. Accordingly, there is no basis for compelling the Town to alter the current process.

(Town brief, p. 86)

The Town also argues that the Retirement Board is likely to have more expertise in interpreting East Hartford's Pension Agreement than would most arbitrators:

The Union's proposal also fails to acknowledge that bodies like the Retirement Board, which are devoted to administering a particular plan, gain a certain expertise that an arbitration panel will never have. The Town and its employees should not be deprived of such expertise absent some compelling reason. This is especially true where the complex issues such as disability pensions are involved.

(Town brief, p. 86)

The Union offers no compelling case for changing the current system of the Retirement Board resolving pension disputes. It admits that the interpretations of the Pension Agreement are long standing and well established and it does not anticipate such disputes in the future. It has not shown any abuse of discretion by the Retirement Board or that it is a costly forum to resolve disputes. Moreover, pension disputes for all Town employees, including all the other bargaining units, are resolved by the Retirement Board. It is true that many other jurisdictions have pension disputes resolved by arbitration, but in the absence of an identified problem this panel is reluctant to change the system that apparently has worked well for many years.

The Union urges us to conclude that its proposal has cost savings by asserting that the alternative dispute resolution forums for pension disputes are either its proposed three step grievance arbitration process or court litigation, rather than Retirement Board resolution. That

position is premised on the conclusion that the courts will ignore or somehow circumvent the language of the Pension Agreement that states, "the Retirement Board shall have the sole right to construe such provisions, and the Retirement Board's decision shall be final." This panel offers no opinion on whether the Union's legal position on this matter is correct. Our decision is premised on the lack of existing problems with Retirement Board resolution of disputes and the uniform resort to that forum by all other Town employees.

Award

For the reasons discussed above and based upon the statutory factors set forth on page 4 of this award:

The Town's last best offer is selected on Issue 11.

The Town's appointed panel member concurs in the selection of the Town's last best offer based upon the same statutory factors cited above.

The Union appointed panel member dissents from the selection of the Town's last best offer based upon the same statutory factors cited above.

Issue 12

Contract Provisions: Article XIII, Sections 3 & 6, Paragraphs 126,132

Subject: Deferred Retirement Option Plan - COLA Waiting Period

Town's Last Best Offer:

The Town's last best offer (paragraph 126):

Section 3. Any member electing the D.R.O.P. will be considered retired with respect to the Pension Plan but will not have separated from Town service. Notwithstanding any other provision within the Retirement Plan to the contrary, a member does not need to leave Town Service to qualify for Pension Benefits as long as that member has elected the D.R.O.P. The member who has elected the D.R.O.P may remain in Town Service at their current rank, with all the benefits of the Collective Bargaining Agreement, including promotional opportunities, through and including the completion of their D.R.O.P period.

The Town's last best offer (paragraph 132):

- (c) The C.O.L.A. waiting period shall commence on the date that the employee separates from Town service, and not on the date that the employee's D.R.O.P. period commences.

Union's Last Best Offer:

126 **Section 3.** Any member electing the D.R.O.P. will be considered retired with respect to the Pension Plan but will not have separated from Town service. The commencement of the D.R.O.P. period will be considered the commencement date for the waiting period for the C.O.L.A. Notwithstanding any other provision within the Retirement Plan to the contrary, a member does not need to leave Town Service to qualify for Pension Benefits as long as that member has elected the D.R.O.P. The member who has elected the D.R.O.P may remain in Town Service at their current rank, with all the benefits of the Collective Bargaining Agreement, including promotional opportunities, through and including the completion of their D.R.O.P period.

132 No New Language

DISCUSSION

The Town proposes that employees who exercise the option to join the Deferred Retirement Option Plan (DROP) commence the four year waiting period for the pension cost of living adjustment (COLA) when they actually stop work with the Town and start collecting a pension check rather than when they exercise their DROP option. The Town explains how this is implemented in their proposal:

The DROP provisions currently provide that “[t]he commencement of the D.R.O.P. period will be considered the commencement date for the waiting period for the C.O.L.A.” Union Ex. 4. The Town’s last best offer proposes to remove that sentence and add additional language, which would provide that the COLA waiting period “shall commence on the date that the employee separates from Town service, and not on the date that the employee’s D.R.O.P. period commences.”

(Town brief, p. 88)

The Town's primary rationale for its proposal is that it will save the Town money and thus argues that its proposal is supported by the priority statutory factors:

The Segal Company, which is the Town’s actuaries, estimated that the Town will save \$115,000 annually by commencing the COLA waiting period upon separation of service, rather than upon commencement of DROP. Moreover, that figure is expected to increase by 4% per year. Union Ex. 21.

(Town brief, p. 88)

Moreover, the Town argues that its proposal is supported by comparability data:

Furthermore, the Town’s last best offer, if awarded, would make the police retirement plan consistent with the firefighters’ retirement plan, which is the only other plan offered by the Town that includes a DROP option. The Retirement Plan for Employees of the Fire Department of the Town of East Hartford provides that the COLA begins in the fifth year after actual separation from Town service. Town Ex. 11.

(Town brief, p. 89)

The Union in its brief makes an extended and multi-faceted argument against a change in the commencement date for the pension cost of living adjustment (Union brief, pp. 53-70).

Some of the highlights of Union's arguments directed at the COLA adjustment (rather than the DROP program or the general financial capability of the Town) are excerpted below:

Segal estimated the savings to be realized from this proposal at \$115,000 per anum.

The Union disputes this calculation.... The Town's contention it can save money with this proposal is fatally flawed. There is no question the DROP was negotiated, calculated, and implemented to be cost neutral.

(Footnotes omitted, Union brief, p. 57)

Once the word is spread that entry into the DROP will cost the employee pension benefits, the consequence is obvious. Employees avoid the DROP, and again commence leaving at 25 years, to the detriment of the Town and its citizens.

The Town has failed in its burden to prove to this panel there is in fact a cost savings for this proposal.

(Union brief, p. 58)

Obviously, the East Hartford fire union wanted a DROP because the police got one. The fact that a single Union negotiated a different benefit is insufficient reason to take away the benefit from this bargaining unit.

The waiting period for non-bargaining unit members is five years instead of four (Tr. 3/15, p. 145-146). That the non-bargaining unit members do not have a DROP and is irrelevant to the issue at hand. Under the Town's proposal, this bargaining unit would have to wait up to eight years to receive an increase in a fixed pension benefit whereas non-bargaining unit employees wait only five.

(Union brief, p. 59)

The Town concedes only two of its proposals will allegedly result in savings, i.e. excluding sick leave buyout and extending the COLA waiting period. Even assuming, arguendo, the Town's speculative and inaccurate projected savings are realized, the Town of East Hartford can well afford to maintain a benefit negotiated and promised to the only bargaining unit members who are asked to sacrifice their lives and safety in service the citizens of East Hartford.

(Union brief, p. 70)

The paramount fact of this Town proposal is that it is the only proposal in this proceeding which significantly improves the Town's financial capability in the current decade. The annual savings from this proposal is \$115,000 and such savings escalate at the rate of 4% a year (Union

Exhibit 21). The priority financial capability and public interest statutory factors are advanced by this proposal given our findings on the financial capability of the Town.

The other statutory factors also weigh in favor of the Town's proposal. Only one other Town bargaining unit has the DROP program, the firefighters, and their provision for COLA is more consistent with the Town's proposal. In the wider universe of public sector collective bargaining, such a pension DROP/COLA pension benefit which the Union wants to preserve is very rare. In the private sector it is virtually unknown.

In our discussion of Issue 5 we noted our reluctance to take away a significant benefit upon which employees have relied for a long time. There are two significant differences regarding this issue: 1) the DROP program is of relatively recent vintage, having commenced in 2001, so employee reliance on this benefit in their financial planning is not as great as the accrued sick time benefit; and 2) the employees do not have to join the DROP program, it is an elective feature. There is no change in the applicable rules for COLA for employees who do not join the DROP program.

For all of the above reasons the panel finds that the Town's proposal is more consistent with the relevant statutory factors.

Award

For the reasons discussed above and based upon the statutory factors set forth on page 4 of this award:

The Town's last best offer is selected on Issue 12.

The Town's appointed panel member concurs in the selection of the Town's last best offer based upon the same statutory factors cited above.

The Union appointed panel member dissents from the selection of the Town's last best offer based upon the same statutory factors cited above

V. Arbitration Panel Signature Page

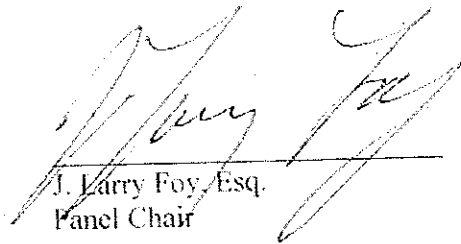
TOWN OF EAST HARTFORD

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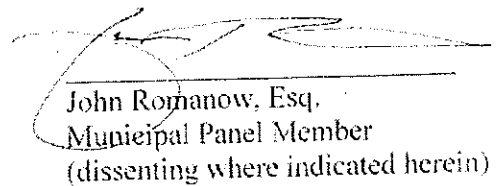
EAST HARTFORD POLICE OFFICERS ASSOCIATION

Re: Successor Pension Agreement

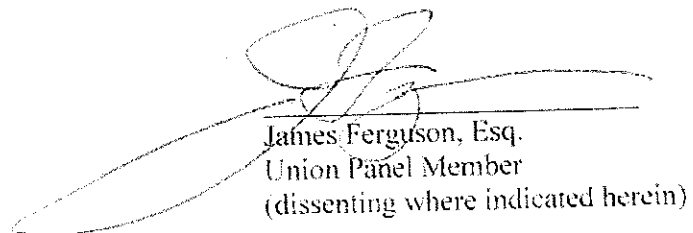
Case No. 2012-MBA-376



J. Larry Foy, Esq.
Panel Chair

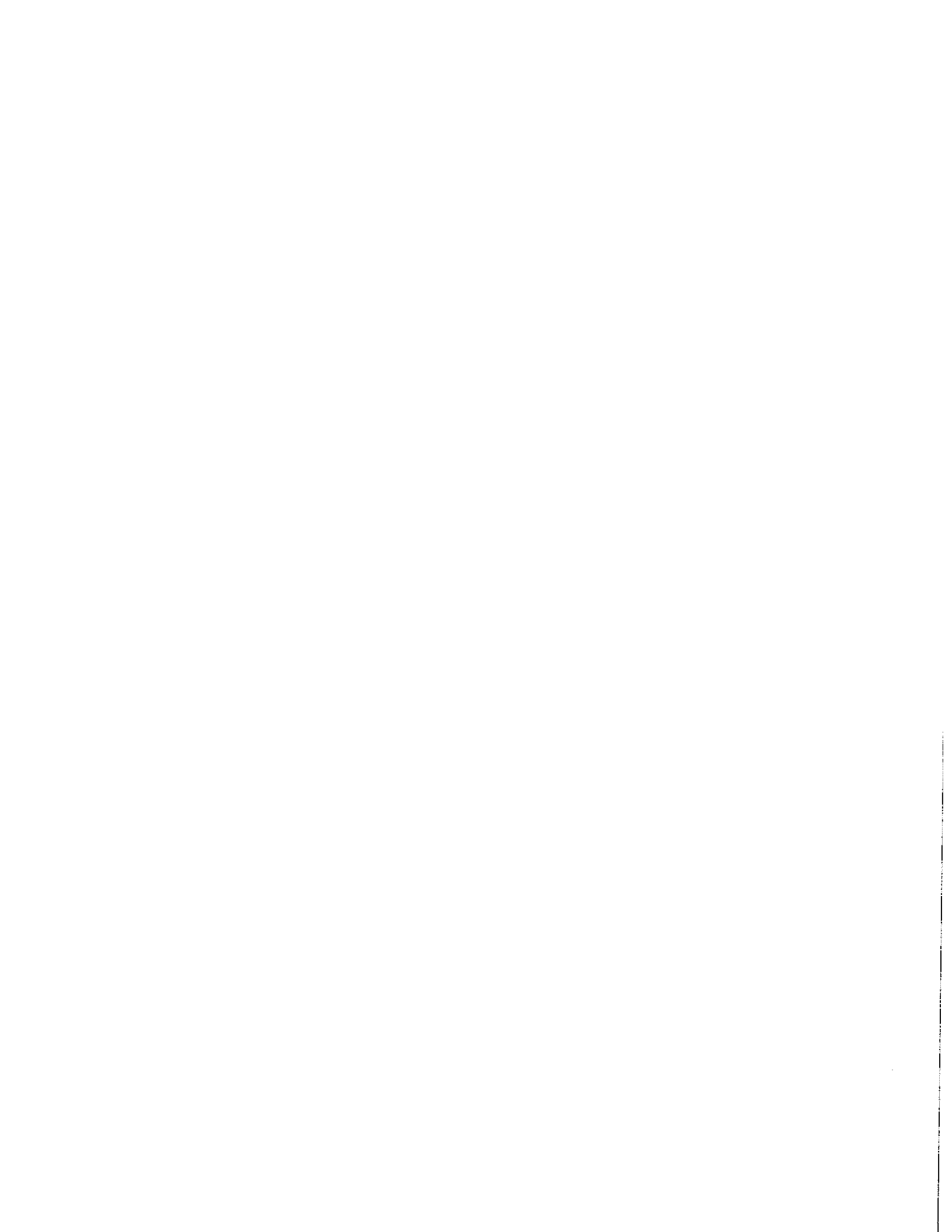


John Romanow, Esq.
Municipal Panel Member
(dissenting where indicated herein)



James Ferguson, Esq.
Union Panel Member
(dissenting where indicated herein)

APPENDIX A
AGREED UPON LANGUAGE



T O W N O F E A S T H A R T F O R D
O F F I C E O F T H E M A Y O R

DATE: 4/5/2013
TO: RICHARD F. KEHOE, TOWN COUNCIL CHAIRMAN
FROM: MAYOR MARCIA A. LECLERC
RE: JOB DESCRIPTIONS

Attached to this letter are four job descriptions that I recommend the Council refer to the Personnel and Pension Subcommittee for their consideration.

Two of the job descriptions, Economic Development Services Coordinator in the Development Services Department and Reference Librarian/Cultural Assets Manager in the Town Library are existing budgeted positions. The both job descriptions have been updated in order to meet the needs of the operations in the departments. The salary grade and range for both positions will remain the same.

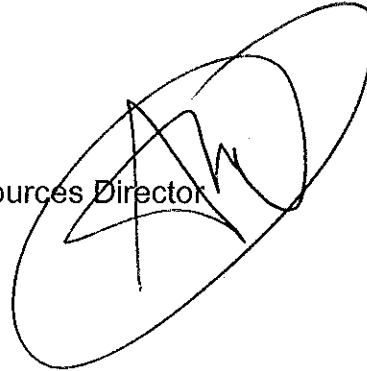
The other two job descriptions are for new positions. The duties of the Project Administrator fall within the nature of work of CSEA Local 2001 Union positions. The position will work out of the Public Works Department reporting directly to the Public Works Director. The intent of the position is to support the director in the day to day functions of the department. The position has been budgeted in the Public Works Department for Fiscal Year 2013-14. The nature of work for the Contract Negotiations Specialist position requires the position to be non-union under the Municipal Employees Relations Act. The position will work out of the Corporation Counsel Office and is intended to be used on an as needed basis to represent the Town in contract negotiations with the Town bargaining units. The cost of having attorneys handle the negotiations processes for the Town is substantially more expensive than the salary grade and range of this new position.

Please place this item on the Town Council agenda for April 16, 2013.

Thank you.

OFFICE OF HUMAN RESOURCES

Date : April 10, 2013
To : Marcia A. Leclerc, Mayor
From : Santiago Malave, Human Resources Director
Re : Job Descriptions



Attached for your review is a suggested transmittal letter to the Council Chairman for the next Council meeting and the following four job description:

1. Economic Development Services Coordinator
2. Reference Librarian/Cultural Assets Manager
3. Project Administrator
4. Contract Negotiations Specialist

Two of the job descriptions, Economic Development Services Coordinator in the Development Services Department and Reference Librarian/Cultural Assets Manager in the Town Library are existing budgeted positions. The both job descriptions have been updated in order to meet the needs of the operations in the departments. The salary grade and range for both positions will remain the same.

The other two job descriptions are for new positions. The duties of the Project Administrator fall within the nature of work of CSEA Local 2001 Union positions. The position will work out of the Public Works Department reporting directly to the Public Works Director. The intent of the position is to support the director in the day to day functions of the department. The position has been budgeted in the Public Works Department for Fiscal Year 2013-14. The nature of work for the Contract Negotiations Specialist position requires the position to be non-union under the Municipal Employees Relations Act. The position will work out of the Corporation Counsel Office and is intended to be used on an as needed basis to represent the Town in contract negotiations with the Town bargaining units. The cost of having attorneys handle the negotiations processes for the Town is substantially more expensive than the salary grade and range of this new position.

TOWN OF EAST HARTFORD

TITLE: Economic Development Services Coordinator **GRADE:** 10

Deleted: Specialist

DEPARTMENT: Development

DATE: 04/02/13

POSITION DEFINITION: Works under the general direction of the Director of Development. Plans, designs, coordinates matters relating to the promotion and development of economic resources of the Town, coordinates services and programs related to economic development of the Town, and handles the administration aspects of the Development Department and related commissions. Assumes administrative responsibilities for researching and recommending procedures to encourage implement and monitor development projects utilizing federal, state and private participation.

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ESSENTIAL JOB FUNCTIONS:

- Plans and directs economic development, activities and programs.
- Actively solicits and negotiates with businesses to encourage their location within the Town, and works with existing businesses to retain their presence and assist with their expansion plans and any problems they may experience.
- Plans and develops brochures and promotional materials for the Town.
- Serves as staff to the Economic Development Commission and participates in other community organizations, including meetings outside the normal working hours and at other locations if necessary.
- Administers and promotes the Town's Enterprise Zone activities and oversees various other local, state, federal incentive programs.
- Maintains economic development data and information on existing businesses and available land and buildings.
- Maintains correspondence and prepares periodic narrative and statistical reports as required by the Development Director and outside agencies.
- Assists public and private entities in the preparation of grant application and contracts for the implementing of federal and state grants.

ADDITIONAL JOB FUNCTIONS:

- Assists in providing technical data and research services to the Town departments, boards, commissions and the public, as required.
- Attends meetings, including night meetings, as needed.
- Participates in professional economic development organizations.
- Conducts site visits.
- Develops and maintains Town of East Hartford Development web site.
- Provides budget support for the Development Department and related commissions.
- Provides administrative support duties including but not limited to assembling Planning and Zoning packages, preparing and processing payroll, letters writing, revenue transmittals and setting up purchase orders.

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KNOWLEDGE, SKILLS AND ABILITIES:

- Ability to establish and maintain cooperative relationships with public officials, business and civic leaders, and employees.
- Ability to make effective verbal and written presentation.
- Knowledge of the State and regional business community.
- Computer literacy, mapping techniques, familiarity with word processing, spreadsheets, databases and GIS.
- Knowledge of research techniques.
- Ability to analyze data and develop alternative solutions to problems.
- Uses a computer terminal to enter and retrieve information.

PHYSICAL AND MENTAL EFFORTS AND ENVIRONMENTAL CONDITIONS:

- Works in office setting subject to continuous interruption and background noise.
- Includes exposure to video display terminals on a daily basis.
- Must be able to work under stress from demanding deadlines and changing priorities and conditions.
- Ability to operate equipment requiring eye and hand coordination.

JOB QUALIFICATIONS:

Bachelor's degree in economics, business, public administration, or a related field is preferred. Three to five years experience in industrial/commercial development or in an economic development organization, or any combination of education and experience which provides a demonstrated ability to perform the duties of the position. Two years experience in industrial/commercial development or in an economic development organization. Wherever possible, appropriate equivalent education and/or experience with provides demonstrated ability to perform the duties of the position will be considered. A Masters degree is preferred.

LICENSING REQUIREMENT:

Valid Driver's License.

The above tasks and responsibilities are illustrative only. The description does not include every task or responsibility.

TOWN OF EAST HARTFORD

TITLE: Reference Librarian/Cultural Assets Manager LEVEL: 7

DEPARTMENT: Library

DATE: 03/13/13

Deleted: 02/06/01

GENERAL DESCRIPTION:

Works under the general supervision of the Library Director. Plans, organizes, and supervises the services and activities of the reference services division, including reference, community outreach programs and interlibrary loans, and overseeing the management of East Hartford's cultural assets.

Deleted:

Deleted: Performs professional library services in assisting library patrons in the selection and use of library materials.

Independently performs a full range of duties involving the interpretation, conservation and exhibition of small and major historical museum collections. Performs professional library services in assisting library patrons in the selection and use of library materials.

ESSENTIAL JOB FUNCTIONS:

- Receives oral or written directions from the Library Director.
- Plans work according to established library schedule or standard procedures.
- Establishes tasks priorities within working unit.
- Assigns regular and daily tasks to library assistants and clerks.
- Assists in near term and long range planning of library services.
- Develops reading, reference, and research materials through selection and purchase of books, materials and equipment.
- Maintains reference collections, periodicals, and coordinates activities with branch librarians to assure currency of materials.
- Coordinates interlibrary loan program.
- Promotes interest in library as a community resource by visiting and speaking to school, civic, cultural and social organizations.
- Oversees and prepares materials to promote library services.
- Plans and organizes special programs involving the use of library resources.
- Prepares brochures, new releases, bulletins, posters and other public relations materials to promote library services
- Recommends the employment, promotion and retention of employees within division.
- Regularly evaluates performance of staff members.
- Provides supervision and training to professional staff, library assistants, clerks, and part-time employees.
- Prepares statistical and narrative reports of some complexity for the Director.
- Recommends policy changes to the Director.
- Opens and closes library building according to security procedures.
- Reports achievement of goals to Director
- Performs research required for exhibition of cultural assets such as preparation of bibliographies or compilation of biographical information;

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- Abstracts or summarizes historical sources materials relating to museum collections or exhibits; determines need for restoration work and prioritizes work, monitoring progress of contractors or preservation specialists engaged in repair or restoration of historic structures and museum artifacts;
- Accessions, registers and catalogs collection items and new acquisitions; organizes public educational programs such as school trips, tours, lectures and workshops to facilitate the public understanding of the collections;
- Prepares correspondence to interested groups and individuals concerning collections or exhibits; speaks before groups concerning museum and its collection;
- Identifies private and public sector grants and prepare grant applications for funding; seeks out individual sponsorships;
- Completes and maintains inventory of historical property and equipment; maintains master log and other computer record systems;
- Plans, designs and oversees collection exhibits;
- Assists in the development of brochures, newsletter, guides and publications; leads fundraising efforts by writing articles and publicity materials or attending civic meetings; oversees the creation and maintenance of the Cultural Assets Website;
- Establishes working relationships with funding sources, community groups, business community, government officials, and donors; networks throughout the local region to build up contacts to share information and resources and possible cost sharing partnerships and multi site exhibitions and events;
- Performs related work as required.

ADDITIONAL JOB FUNCTIONS:

- Assumes responsibility for direction of the library in the absence of the Assistant Director and Director.
- Examines professional publications and other sources for selection of books, periodicals, and other materials.
- Attends meetings and participates in professional library organizations.

KNOWLEDGE, SKILLS, AND ABILITIES:

- Ability to apply principles of library science to solve practical problems in situations where only limited standardization exists.
- Ability to prepare and deliver brief, concise and attractive reports of library services and facilities both orally and in writing.
- A working knowledge of computer applications for library services desirable.
- Ability to work effectively with library staff and library patrons.
- Ability to relate to students.
- Ability to understand and implement modern automated library procedures including Connect circulation and bib maintenance, Internet, on-line and stand-alone CD-ROM products and databases, Request, OCLC products, E-Mail, WP5i, and PC applications.
- Considerable knowledge of American history with particular reference to social, cultural and technological trends as reflected in museum collections and themes;
- Considerable knowledge of methods used in cataloging, preservation, restoration and storage of historic collections;

- Knowledge of basic research materials; substantial interpersonal skills; considerable oral and written communications skills;
- Considerable ability to perform historic research;
- Considerable ability to prepare exhibits of museum collections; ability to utilize computer software;

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PHYSICAL AND MENTAL EFFORT, AND ENVIRONMENTAL CONDITIONS:

- Works in office setting subject to continuous interruptions and background noise.
- Includes exposure to video display terminals on a daily basis.
- Ability to operate equipment requiring eye and hand coordination and mechanical aptitude.

JOB QUALIFICATIONS

- Master's Degree in Library Science, and three years of progressively responsible public Library experience.

LICENSING REQUIREMENTS:

None

NOTE: The above tasks and responsibilities are illustrative only. The description does not include every task or responsibility.

TOWN OF EAST HARTFORD

TITLE: Project Administrator **GRADE:** 14

DEPARTMENT: Public Works **DATE:** 02/04/13

POSITION DEFINITION:

Under administrative direction to assist in the administration of the Public Works program by: directing and coordinating the activities of the operating, engineering, and public building services, of the Department; and to do related work as required.

GENERAL DUTIES:

- Serves as project manager for complex public works and civil engineering projects.
- Determines priority of work tasks.
- Assists the Director of Public Works in all phases of departments operators, in the absence of the Director administers all functions of the department.
- Provides technical support assistance to Public Works employees.
- Coordinates short-long term activities to assure personnel, materials, and equipment necessary for projects and objectives.
- Reviews the work of Department Divisions for policy and technical adequacy in addition to coordinating their work with Federal, State and local agencies.
- Studies operations of any or all services for conformance with departmental standards, policies and statutory provisions.
- Serves as project coordinator in the preparation of plans, specifications, designs, and cost estimates for public works projects in an efficient and timely fashion.
- Performs complex mathematical computations in design and estimating work.
- Oversees Town contracted public works projects for conformity to design, materials and schedule specifications.
- Prepares reports and provides analysis on project status.
- Assists in the preparation of Departmental budget.

KNOWLEDGE, SKILLS, AND ABILITIES

- Considerable knowledge of Civil Engineering, GIS, and Public Works project design principles and practices.
- Knowledge of and ability to apply civil engineering and land surveying principles and practices.
- Extensive knowledge of principles and practices of Public Works.
- Extensive knowledge of principles and practices of municipal organization.
- Ability to apply the principles of construction inspection to solve practical problems.
- Ability to operate calculating, surveying equipment, drafting and other engineering equipment.
- Ability to give clear, concise written and oral instruction and work effectively with staff, superiors and general public.
- Ability to plan and oversee the work of professional and technical staff.

- Ability to interpret plans specifications and a variety of instructions furnished in writing, oral diagrammatic or schedule form.

QUALIFICATIONS

A bachelor's degree from a recognized college or university in Civil Engineering, Civil Engineering Technology, or related field plus 5 years of progressively responsible public works or construction engineering, and project management, experience; Professional Engineer license and Masters degree in Public Administration or related field desirable.

SPECIAL REQUIREMENTS

Must have a valid Connecticut driver's license.

TOOLS AND EQUIPMENT USED

Standard engineering drafting equipment, personal computer, engineering software, motor vehicle.

PHYSICAL AND MENTAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is frequently required to sit and talk and listen. The employee is occasionally required to walk; use hands and fingers when operating computer and calculator; and reach with hands and arms. The employee must occasionally lift and/or move up to 10 pounds. Specific vision abilities required for this job include close vision and the ability to adjust focus. Employee must be able to read, analyze and interpret technical procedures or governmental regulations and to effectively present information and respond to questions from the public on a one-to-one basis and in groups. This position requires the ability to solve technical and practical problems and deal with a variety of concrete variables.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions. The work conducted in typical office working conditions with virtually no disagreeable features. The noise level in the work environment is generally quite. When conducting investigations or inspections in the field the noise level may be moderately loud, and may be required to traverse undeveloped land.

GENERAL GUIDELINES

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

TOWN OF EAST HARTFORD

TITLE: Contract Negotiations Specialist **GRADE:** 12
DEPARTMENT: Office of Corporation Counsel **DATE:** 01/28/13

POSITION DEFINITION:

Receives direction from the Corporation Counsel. This position is accountable for independently performing a full range of contract negotiations activities and other related work as assigned by the Corporations Counsel.

ESSENTIAL JOB FUNCTIONS:

- Receives oral or written direction from the Corporation Counsel.
- Plans work according to established or standard procedures.
- Determines priority of work within assignment.
- Assigns work to secretarial.
- Acts as the Town's chief negotiator as directed by the Mayor and Corporation Counsel.
- Coordinates labor relations contract proposals.
- Assists in recommending economic guidelines for settlements.
- Conducts research into current labor relations issues.
- Prepares information and testimony concerning negotiated contracts.
- Advises Town Officials on matters of contract interpretation.
- Assists in preparing and presenting interest arbitration cases.
- May serve as a witness.
- May conduct grievance conferences with Town and Union officials on behalf of Town employees.
- Attends Board and Commission meetings, as necessary, and provides advice.
- Confers with Town officials, employees, attorneys, State or Federal employees and members of the public in pursuing Town interests.
- Assists Assistant Corporation Counsels as needed and as directed by Corporation Counsel.
- Reports work accomplished to the Corporation Counsel.

KNOWLEDGE, SKILLS AND ABILITIES

- Considerable knowledge of State and federal laws, statutes, regulations and guidelines.
- Considerable knowledge of collective bargaining and labor relations.
- Knowledge of rules of evidence and hearing procedures before administrative bodies.
- Knowledge of employee classification and compensation.
- Knowledge of the principals and practices of employee compensation and benefits.

- Considerable interpersonal skills, oral and written communications skills
- Negotiations skills.
- Skill in writing technical contract provisions
- Ability to interpret and apply Town ordinances and regulations, and State statutes.
- Ability to assist in preparing cases for arbitrations or other administrative hearings.
- General knowledge of municipal law and interrelationships between municipalities and State and Federal governments.
- Ability to make well-reasoned, persuasive legal arguments, orally and in writing.
- Ability to analyze laws, regulations, proposed changes, contracts, and legal issues to determine their legal impact on the Town.
- Ability to meet and deal tactfully and effectively with public officials, employees and the general public.

PHYSICAL AND MENTAL EFFORT AND ENVIRONMENTAL CONDITIONS:

- Works in office setting subject to continuous interruptions and background noise.
- Must be able to work under stress from demanding deadlines and changing priorities and conditions.
- Ability to move throughout the Town Hall and other town buildings and sites.
- Ability to get into and out of an automobile.
- Ability to sit at a desk or stand at an assigned location and work continuously for extended periods of time.
- Attend and participate in numerous extended night meetings during the year.
- Ability to work independently with minimum supervision.
- Ability to hear normal sounds with some background noise and to communicate effectively.
- Ability to attend to task/function for more than 60 minutes at a time.

JOB QUALIFICATIONS


- Graduation from an accredited four year college in Public Administration, Social Sciences or a closely related field.
- Eight years professional experience with some labor relations and labor contract negotiations experience for a municipality.

LICENSING REQUIREMENTS:

- Requires valid Motor Vehicle Operator's License.

Note: The above Tasks and responsibilities are illustrative only. The description does not include every task or responsibility.

T O W N O F E A S T H A R T F O R D
O F F I C E O F T H E M A Y O R

DATE: April 3, 2013
TO: Richard Kehoe, Chairman
FROM: Mayor Marcia A. Leclerc 
RE: REFERRAL: Resolutions to Authorize Four Municipal Tax Exempt Lease Purchase Financings

Attached please find four lease purchase resolutions for authorization by Council. The Four resolutions have been previously authorized with Chase Bank or Bank of America. We are resubmitting these resolutions with TD Equipment Finance, Inc. as our master lease provider.

Please place on the Town Council agenda for the April 16, 2013 meeting.

Thank you


C: M. Walsh, Director Finance Dept.



MEMORANDUM

DATE: April 2, 2013

TO: Marcia A. Leclerc, Mayor

FROM: Michael P. Walsh, Director of Finance 

TELEPHONE: (860) 291-7246

RE: Resolutions to Authorize Two Municipal Tax Exempt Lease Purchase Financings

Attached please find four lease purchase resolutions that need to be authorized by the Town Council.

All four resolutions have been previously authorized by the Council with either Chase Bank or Bank of America as the initial lender. Because we have selected TD Equipment Finance, Inc. as our master lease provider through the RFP process, I am resubmitting these resolutions again for authorization substituting TD Equipment Finance, Inc. for the initial lender.

In the case of the Energy Performance Contract lease purchase, please note that this is a refinancing of an existing lease whereby \$3.6M is still outstanding from the original \$5 million 2007 authorization. The refinancing reduced the 2007 rate from 6.588% to 1.639% saving \$800,000 in interest costs over the remaining 8 year borrowing life.

Should you have any questions on any of the aforementioned, please do not hesitate to let me know.

**RESOLUTION TO AUTHORIZE A MUNICIPAL TAX-EXEMPT
LEASE PURCHASE FINANCING AGREEMENT**

WHEREAS, in May of 2007, the Town of East Hartford purchased various capital equipment under a \$5 million Energy Savings Performance Contract with Johnson Controls, Inc., and

WHEREAS, the outstanding cost of the various capital equipment is approximately \$3.6 million; and

WHEREAS, the Town is expected to save through direct energy savings, utility rebates, or white tag incentives approximately \$7.1 million in total over the next 12 fiscal years and will use those savings to pay principal and interest on the borrowing.

THEREFORE BE IT RESOLVED, that the Mayor of the Town of East Hartford is authorized to enter into a lease purchase agreement and related documents with TD Equipment Finance, Inc. in the principal amount not to exceed \$3.6 million. The interest rate, payment schedule and other details of the financing shall be mutually determined between the company and the Mayor, whose signatures will indicate approval of specific terms and conditions.

BE IT FURTHER RESOLVED, that the Town declares its intent to be reimbursed for any temporary advances from the General Fund to pay for any part of the equipment from proceeds of the lease financing in accordance with Treasury Regulation 26 CFR 1.103-18 and/or 26CFR1.150-2.

I, Angela Attenello, Clerk of the Town Council of the Town of East Hartford, certify that the above resolution was approved at a meeting of the Town Council held on April 16, 2013.

Angela Attenello, Clerk of the Town Council

**RESOLUTION TO AUTHORIZE A MUNICIPAL TAX-EXEMPT
LEASE PURCHASE FINANCING AGREEMENT**

WHEREAS, the Town of East Hartford intends to purchase one refuse truck and dumpsters as part of cooperative agreement with the East Hartford Board of Education to allow the Town to begin picking up solid waste at Board of Education facilities; and

WHEREAS, the cost of the aforementioned capital equipment designated for lease-purchase financing totals \$325,000; and

WHEREAS, the Town will budget \$90,000 in fiscal years 2013-2014 through 2016-2017 in a Special Revenue Fund to pay principal and interest on the purchases.

THEREFORE BE IT RESOLVED, that the Mayor of the Town of East Hartford is authorized to enter into a master lease purchase agreement and related documents with TD Equipment Finance, Inc. in the principal amount not to exceed \$325,000. The interest rate, payment schedule and other details of the financing shall be mutually determined between the company and the Mayor, whose signatures will indicate approval of specific terms and conditions.

BE IT FURTHER RESOLVED, that the Town declares its intent to be reimbursed for any temporary advances from the General Fund to pay for any part of the equipment from proceeds of the lease financing in accordance with Treasury Regulation 26 CFR 1.103-18 and/or 26CFR1.150-2.

I, Angela Attenello, Clerk of the Town Council of the Town of East Hartford, certify that the above resolution was approved at a meeting of the Town Council held on April 16, 2013.

Angela Attenello, Clerk of the Town Council

**RESOLUTION TO AUTHORIZE A MUNICIPAL TAX-EXEMPT
LEASE PURCHASE FINANCING AGREEMENT**

WHEREAS, the Town of East Hartford approved the purchase of a fire engine and bulky waste roll-off truck as part of the Town of East Hartford's Approved 5-Year Capital Improvement Plan for the Years 2011-2012 through 2015-2016; and

WHEREAS, the funding source for the aforementioned capital equipment was from Fund Balance; and

WHEREAS, in an effort to further strengthen the Town's financial position, the Fund Balance transfer for the purchase of the fire engine and bulky waste roll-off truck be cancelled and replaced with a municipal tax-exempt lease purchase financing, and

WHEREAS, because the Town received a \$417,000 bond premium based on an \$11M bond sale, the Town desires to use that funding toward the stabilization of future lease debt service; and

WHEREAS, the Town will budget \$208,000 in fiscal years 2013-2014 through 2016-2017 in the General Operating Fund to pay principal and interest on the aforementioned capital purchases.

THEREFORE BE IT RESOLVED, that the Mayor of the Town of East Hartford is authorized to enter into a master lease purchase agreement and related documents with TD Equipment Finance, Inc. in the principal amount not to exceed \$785,000. The interest rate, payment schedule and other details of the financing shall be mutually determined between the company and the Mayor, whose signatures will indicate approval of specific terms and conditions.

BE IT FURTHER RESOLVED, that the Town declares its intent to be reimbursed for any temporary advances from the General Fund to pay for any part of the equipment from proceeds of the lease financing in accordance with Treasury Regulation 26 CFR 1.103-18 and/or 26CFR1.150-2.

I, Angela Attenello, Clerk of the Town Council of the Town of East Hartford, certify that the above resolution was approved at a meeting of the Town Council held on April 16, 2013.

Angela Attenello, Clerk of the Town Council

**RESOLUTION TO AUTHORIZE A MUNICIPAL TAX-EXEMPT
LEASE PURCHASE FINANCING AGREEMENT**

WHEREAS, the Town of East Hartford intends to purchase various capital equipment as part of the Town of East Hartford's Approved 5-Year Capital Improvement Plan for the Years 2012-2013 through 2016-2017; and

WHEREAS, the cost of the various capital equipment and replacement furniture designated for lease-purchase financing totals \$758,000; and

WHEREAS, the Town will budget \$197,000 in fiscal years 2013-2014 through 2016-2017 in the General Operating Fund to pay principal and interest on the purchases.


THEREFORE BE IT RESOLVED, that the Mayor of the Town of East Hartford is authorized to enter into a master lease purchase agreement and related documents with TD Equipment Finance, Inc. in the principal amount not to exceed \$758,000. The interest rate, payment schedule and other details of the financing shall be mutually determined between the company and the Mayor, whose signatures will indicate approval of specific terms and conditions.

BE IT FURTHER RESOLVED, that the Town declares its intent to be reimbursed for any temporary advances from the General Fund to pay for any part of the equipment from proceeds of the lease financing in accordance with Treasury Regulation 26 CFR 1.103-18 and/or 26CFR1.150-2.

I, Angela Attenello, Clerk of the Town Council of the Town of East Hartford, certify that the above resolution was approved at a meeting of the Town Council held on April 16, 2013.

Angela Attenello, Clerk of the Town Council

T O W N O F E A S T H A R T F O R D
O F F I C E O F T H E M A Y O R

DATE: April 9, 2013
TO: Richard Kehoe, Chair
FROM: Mayor Marcia A. Leclerc 
RE: RESOLUTION: Authorization of Municipal Tax Exempt Lease Purchase Financing

Attached is a memo from the Finance Director on the recent budget process the Council adopted for the Town of East Hartford's 5-year Capital Improvement Plan from 2013-2014 through 2017-2018. This will authorize the municipal tax exempt lease purchase financing to be submitted to secure funding to pay for the plan

Please place this on the Town Council agenda for April 16, 2013 meeting.

Thank you.


C: M. Walsh, Finance Director



MEMORANDUM

DATE: April 8, 2013

TO: Marcia A. Leclerc, Mayor

FROM: Michael P. Walsh, Director of Finance 

TELEPHONE: (860) 291-7246

RE: Resolution to Authorize a Municipal Tax Exempt Lease Purchase Financing

As part of the recent budget process, the Town Council adopted the Town of East Hartford's 5-year Capital Improvement Plan for the years 2013-2014 through 2017-2018 (copy attached).

With the approved plan in place, I now request that the attached municipal tax exempt lease purchase financing resolution be submitted for their approval to secure funding to pay for the plan.

Should you have any questions on any of the aforementioned, please do not hesitate to let me know.

**RESOLUTION TO AUTHORIZE A MUNICIPAL TAX-EXEMPT
LEASE PURCHASE FINANCING AGREEMENT**

WHEREAS, the Town of East Hartford intends to purchase various capital equipment as part of the Town of East Hartford's Approved 5-Year Capital Improvement Plan for the Years 2013-2014 through 2017-2018; and

WHEREAS, the cost of the various capital equipment and replacement furniture designated for lease-purchase financing totals \$750,000; and

WHEREAS, the Town will budget \$192,000 in fiscal years 2014-2015 through 2017-2018 in the General Operating Fund to pay principal and interest on the purchases.

THEREFORE BE IT RESOLVED, that the Mayor of the Town of East Hartford is authorized to enter into a master lease purchase agreement and related documents with TD Equipment Finance, Inc. in the principal amount not to exceed \$750,000. The interest rate, payment schedule and other details of the financing shall be mutually determined between the company and the Mayor, whose signatures will indicate approval of specific terms and conditions.

BE IT FURTHER RESOLVED, that the Town declares its intent to be reimbursed for any temporary advances from the General Fund to pay for any part of the equipment from proceeds of the lease financing in accordance with Treasury Regulation 26 CFR 1.103-18 and/or 26CFR1.150-2.

I, Angela Attenello, Clerk of the Town Council of the Town of East Hartford, certify that the above resolution was approved at a meeting of the Town Council held on April 16, 2013.

Angela Attenello, Clerk of the Town Council

TOWN OF EAST HARTFORD ADOPTED CAPITAL IMPROVEMENT PROGRAM FOR THE FISCAL YEARS 2013-2014 THROUGH 2017-2018

REF. #	Project Description	Funding Source	Adopted	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	TOTAL
	<u>TOWN HALL</u>								
2014-101	Town - furniture replacement	Lease	25,000	25,000	25,000	25,000	25,000	25,000	125,000
2014-102	New Senior Center Renovation		-	-	2,000,000	-	-	-	2,000,000
2014-103	Senior Bus		-	-	25,000	-	-	-	25,000
	TOWN HALL TOTAL		25,000	25,000	2,050,000	25,000	25,000	25,000	2,150,000

TOWN OF EAST HARTFORD ADOPTED CAPITAL IMPROVEMENT PROGRAM FOR THE FISCAL YEARS 2013-2014 THROUGH 2017-2018

REF. #	Project Description	Funding Source	Adopted	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	TOTAL
	PUBLIC WORKS								
2014-201	Automated waste removal truck	Lease	270,000	270,000	280,000	290,000	300,000		1,410,000
2014-202	Masonry repairs - Raymond Library	LOCIP	225,000	-	-	-	-	-	225,000
2014-203	Signage for Route 15 overpass on Silver Lane	Lease	50,000	-	-	-	-	-	100,000
2014-204	Retrofit 6-wheel truck dump bodies	Lease	45,000	-	50,000	-	-	-	140,000
2014-205	Mobile electric vehicle lift	Lease	40,000	-	-	-	-	-	40,000
2014-206	Waste oil heating system - Fleet Garage	Lease	15,000	-	-	-	-	-	15,000
2014-207	Road Improvement Program		-	15,000,000	15,000,000	-	-	-	45,000,000
2014-208	Flood Control System modifications/reconstruction		-	4,640,000	4,800,000	1,875,000	-	-	16,345,000
2014-209	Street lighting retrofit		-	4,000,000	-	-	-	-	4,000,000
2014-210	New Public Works garage and operations facility		-	3,000,000	-	-	-	-	3,000,000
2014-211	New Landfill Monitoring Wells		-	1,208,000	30,000,000	-	-	-	33,000,000
2014-212	Howard/John Street drainage reconstruction- design & construction		-	958,000	-	-	-	-	1,208,000
2014-213	Vehicle wash facility		-	850,000	-	-	-	-	958,000
2014-214	South End Senior Center parking lot		-	470,000	-	-	-	-	850,000
2014-215	Storm drainage repair		-	300,000	300,000	300,000	300,000	-	470,000
2014-216	Firehouse #6 parking lot		-	300,000	-	-	-	-	1,500,000
2014-217	Street Sweeper		-	280,000	-	-	300,000	-	300,000
2014-218	PILOT Program - corrugated metal pipe lining rehab		-	270,000	-	-	-	-	580,000
2014-219	Golf Course Diversion Permit		-	250,000	-	-	-	-	270,000
2014-220	Willowbrook drainage study		-	225,000	-	-	-	-	250,000
2014-221	Burnham Brook drainage study		-	225,000	-	-	-	-	225,000
2014-222	Generator - EHCCC		-	200,000	-	-	-	-	225,000
2014-223	Firehouse #2 parking lot		-	190,000	-	-	-	-	200,000
2014-224	Front-end loader		-	185,000	-	185,000	-	-	190,000
2014-225	Gorman Park dam rehabilitation - design		-	177,000	-	-	-	-	370,000
2014-226	McAuliffe Park culvert replacement- design and construction		-	165,000	585,000	-	-	-	177,000
2014-227	Dike mower		-	160,000	-	-	-	-	750,000
2014-228	McAuliffe Park pedestrian bridge type study		-	135,000	-	-	-	-	160,000
2014-229	Pewterport Brook at Forbes Street culvert - design		-	132,800	-	-	-	-	135,000
2014-230	Backhoe		-	120,000	-	120,000	-	-	132,800
2014-231	Landfill PCB study		-	115,000	-	-	-	-	240,000
2014-232	Generator - McCarlin School		-	100,000	-	-	-	-	115,000
2014-233	Arbutus Street outfall repair- design and construction		-	99,000	-	-	-	-	100,000
2014-234	Pick-up trucks		-	84,000	38,000	39,000	-	-	99,000
2014-235	Outfall repair and stabilization		-	80,000	80,000	80,000	-	-	198,000
2014-236	Various bridges- channel maintenance		-	79,000	-	-	80,000	-	400,000
2014-237	Raymond Library elevator piston replacement		-	75,000	-	-	-	-	79,000
2014-238	Town Hall elevator piston replacement		-	75,000	-	-	-	-	75,000
2014-239	Public Safety Complex duct cleaning		-	75,000	-	-	-	75,000	150,000
2014-240	Porter & Main Streets culverts over Porter Brook- maintenance		-	63,000	-	-	-	-	63,000
2014-241	Small dump trucks		-	60,000	60,000	60,000	60,000	-	300,000
2014-242	Facilities Maintainer Truck HVAC		-	50,000	40,000	40,000	40,000	-	50,000
2014-243	Economy hybrid vehicles		-	40,000	-	-	-	-	200,000
2014-244	Vacant Firehouse #5 demolition		-	40,000	-	-	-	-	40,000
2014-245	Public Works Yard retaining wall replacement- design & construction		-	35,000	67,000	-	-	-	102,000
2014-246	New Landfill Monitoring Wells		-	35,000	-	-	-	-	35,000
2014-247	High Street over Pewterport Brook - culvert cleaning		-	35,000	-	-	-	-	35,000
2014-248	Main Street over Pewterport Brook - bridge repairs		-	35,000	-	-	-	-	35,000
2014-249	Janet Drive replace retaining walls		-	30,000	-	-	-	-	116,000
2014-250	Raymond Library - ductwork clearing		-	30,000	-	-	-	-	30,000
2014-251	Skid steer loader accessories		-	30,000	-	-	-	-	30,000
2014-252	Clam bucket		-	27,000	-	-	-	-	27,000
2014-253	Roll off trash carts (95 gallon) (450)		-	25,000	25,000	25,000	25,000	-	125,000
2014-254	Fire House #6 Window & Door replacement		-	25,000	-	-	-	-	25,000
2014-255	Fleet Services gas pump canopy		-	25,000	-	-	-	-	25,000
2014-256	PSC sidewalk and curb replacement		-	25,000	-	-	-	-	25,000

TOWN OF EAST HARTFORD ADOPTED CAPITAL IMPROVEMENT PROGRAM FOR THE FISCAL YEARS 2013-2014 THROUGH 2017-2018

REF. #	Project Description	Funding Source	Adopted	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	TOTAL
2014-257	Bridge and Culvert Inspection Program		-	25,000	-	-	-	-	25,000
2014-258	Raymond Library exterior ductwork insulation replacement		-	20,000	-	-	-	-	20,000
2014-259	Fire Station # 2 exterior painting		-	20,000	-	-	-	-	20,000
2014-260	Public Safety Complex repaint existing chimney		-	20,000	-	-	-	-	20,000
2014-261	Cemetery all-terrain vehicle		-	20,000	-	-	-	-	20,000
2014-262	Firehouse # 6 generator replacement		-	20,000	-	-	-	-	20,000
2014-263	Off Road Culvert Inspection Program		-	20,000	-	-	-	-	20,000
2014-264	Traffic sign machine		-	18,000	-	-	-	-	18,000
2014-265	Overseas storage containers		-	15,000	-	-	-	-	15,000
2014-266	Transfer Station cardboard compactor		-	12,000	-	-	-	-	12,000
2014-267	Emergency light tower		-	7,000	-	-	-	-	7,000
2014-268	Enclosed trailer		-	7,000	-	-	-	-	7,000
2014-269	GPS Units - 15		-	6,000	-	-	-	-	6,000
2014-270	Enclosed trailer - 16 foot		-	6,000	-	-	-	-	6,000
2014-271	Public Safety Complex Fire Department lobby door replacement		-	5,000	-	-	-	-	5,000
2014-272	Town Hall Council Chambers foyer wall refinsh		-	5,000	-	-	-	-	5,000
2014-273	Landfill PCB remediation		-	5,000	-	-	-	-	5,000
2014-274	Silver Lane Cemetery channel stabilization		-	1,300,000	-	-	-	-	1,300,000
2014-275	Pewterpot Brook at Forbes Street culvert - construction		-	1,100,000	-	-	-	-	1,100,000
2014-276	Gorman Park dam rehabilitation - construction		-	820,000	-	-	-	-	820,000
2014-277	Dump trucks - 10 wheel		-	285,000	-	-	-	-	285,000
2014-278	Connecticut Blvd. median replacement design		-	190,962	-	-	-	-	190,962
2014-279	Tractor/trailer (used)		-	40,000	-	-	-	-	40,000
2014-280	Dump trucks - 6 wheel		-	30,000	-	-	-	-	30,000
2014-281	Connecticut Blvd. median replacement construction		-	167,000	167,000	-	-	167,000	334,000
2014-282	Silver Lane cemetery building- design & construction		-	435,000	435,000	-	-	-	870,000
2014-283	Tractor with over fence mower		-	123,000	123,000	737,000	-	-	880,000
2014-284	Public Safety Complex gas pump canopy		-	100,000	100,000	-	-	-	200,000
2014-285	Pothole patching vehicle		-	25,000	25,000	-	-	-	50,000
2014-286	Public Safety Complex shooting range air conditioning		-	-	-	160,000	-	-	160,000
2014-287	Skid steer loader		-	-	150,000	150,000	-	-	300,000
2014-288	Ecology Drive security cameras		-	-	30,000	30,000	-	-	60,000
2014-289	Stump grinder		-	-	25,000	25,000	-	-	50,000
2014-290	Town Hall alarm system		-	-	10,000	10,000	-	-	20,000
			-	-	7,500	7,500	-	-	15,000
	PUBLIC WORKS TOTAL		645,000	35,798,800	6,815,962	51,523,000	4,453,500	19,577,000	118,168,262


TOWN OF EAST HARTFORD ADOPTED CAPITAL IMPROVEMENT PROGRAM FOR THE FISCAL YEARS 2013-2014 THROUGH 2017-2018

REF. #	Project Description	Funding Source	Adopted	FY-13-14	FY-14-15	FY-15-16	FY-16-17	FY-17-18	TOTAL
PARKS AND RECREATION									
2014-301	Tennis court - repairs	LOCIP	75,000	240,000	-	-	-	75,000	555,000
2014-302	Roof Replacement for Drennan and Lord Bathhouses	LOCIP	75,000	-	-	-	-	-	75,000
2014-303	Great River Park lighting and electrical repairs	LOCIP	25,000	-	-	-	-	-	50,000
2014-304	Terry Pool lockers	LOCIP	20,000	-	-	-	-	-	20,000
2014-305	Zero turn mower with bag system	Lease	17,000	-	-	17,000	-	-	34,000
2014-306	Drennan Pool - replacement		-	-	-	-	-	-	2,000,000
2014-307	Martin Pool - replacement		-	-	-	-	-	-	2,000,000
2014-308	Replace Pool Decks at Drennan, filter and return lines		-	-	-	-	-	-	274,000
2014-310	Repair Dam and roadway at Gorman Park Pond		-	-	-	-	-	-	150,000
2014-311	McAuliffe Park - improvements		-	125,000	125,000	-	-	-	250,000
2014-312	Hockanum River Linear Walkway - Repairs		-	-	25,000	65,000	-	-	90,000
2014-313	Dog Park Construction		-	-	-	-	-	-	103,500
2014-314	Portable Stage (Showmobile) Replacement		-	-	-	-	-	-	94,000
2014-315	Repave Parks Maintenance Parking Lot		-	-	-	-	-	-	89,000
2014-316	Large Dump Truck		-	-	-	-	-	-	75,000
2014-317	Skate park equipment - Second Location		-	100,000	100,000	-	-	-	200,000
2014-318	F550 Dump Truck with Plow		-	78,000	-	-	-	-	150,000
2014-319	Small dump truck with plow		-	-	-	-	-	-	67,000
2014-320	EHCCC Phase III - Sealing Bricks below ground sealant		-	-	-	-	-	-	50,000
2014-321	Playscape replacement program		-	-	-	-	-	-	40,000
2014-322	Martin Park Improvements		-	40,000	40,000	40,000	40,000	-	200,000
2014-323	Hockanum tennis court lights		-	4,000	-	4,000	-	-	8,000
2014-324	3 PT Hitch Tractor		-	-	-	-	-	-	36,000
2014-325	Pick-up truck		-	-	-	-	-	-	35,000
2014-326	VMC Building Repairs		-	-	-	-	-	-	35,000
2014-327	Community Garden		-	15,000	8,000	8,000	8,000	-	35,000
2014-328	Repaving/Crack Sealing Projects		-	-	-	-	-	-	30,000
2014-329	Backstop and Fencing - Replacement Program		-	25,000	25,000	25,000	25,000	-	100,000
2014-330	Garbage Collection Systems		-	24,000	10,000	10,000	10,000	-	64,000
2014-331	Compressor w/ attachments		-	24,000	-	-	-	-	24,000
2014-332	Exterior Repairs for Brewer House		-	23,000	-	-	-	-	23,000
2014-333	Replace Sidewalks		-	20,000	-	-	-	-	20,000
2014-334	Gravelly Tractor with Broom		-	18,000	-	-	-	-	18,000
2014-335	Surge pit hatch replacement and starting blocks at Terry Pool		-	10,100	-	-	-	-	10,100
2014-336	EHCCC - Replacement Equipment (chairs, tables, carpet etc.)		-	8,000	-	-	-	-	8,000
2014-337	Parks Maintenance Office furniture replacement		-	8,000	-	-	-	-	8,000
2014-345	Brush Hog Mower for 3 Pt hitch Tractor		-	7,500	-	-	-	-	7,500
2014-346	Replacement pool vacuums		-	6,500	-	-	-	-	6,500
2014-347	Automatic External Defibrillators - 2-4 units		-	6,000	3,000	3,000	-	-	12,000
2014-348	Various equipment - scheduled replacement		-	3,000	3,000	3,000	-	-	9,000
2014-349	Yarner Property Development		-	150,000	175,000	175,000	200,000	-	700,000
2014-350	Labor Park - improvements		-	125,000	75,000	35,000	35,000	-	270,000
2014-351	John Deere 450 Bulldozer 4-way blade		-	125,000	65,000	25,000	-	-	215,000
2014-352	Leaf Vac		-	95,000	-	-	-	-	95,000
2014-353	Large Rotary Mower		-	-	16,000	-	-	-	16,000
			-	84,000	84,000	-	-	-	16,000
PARKS AND RECREATION TOTAL			212,000	6,174,600	1,141,000	407,000	433,000	8,906,600	

TOWN OF EAST HARTFORD ADOPTED CAPITAL IMPROVEMENT PROGRAM FOR THE FISCAL YEARS 2013-2014 THROUGH 2017-2018

REF. #	Project Description	Funding Source	Adopted	FY 13-14	FY 14-15	FY 15-16	FY 16-17	FY 17-18	TOTAL
FIRE									
2014-401	Life Pack replacements and Suction Units		70,023						100,641
2014-402	Thermal imaging cameras	Lease	36,000					30,618	36,000
2014-403	Wellness/Fitness equipment	Lease	11,000	11,000					33,000
2014-404	Engine 3		605,000						605,000
2014-405	Public Safety utility vehicle		37,750						69,750
2014-406	Rescue Squad 1			625,000				32,000	625,000
2014-407	Apparatus service truck			58,000					58,000
2014-408	Station 2				1,500,000				1,500,000
2014-409	Ladder 2				1,000,000				1,000,000
2014-410	Fire Alarm bucket truck				80,000				80,000
2014-411	Engine 1					606,000			606,000
2014-412	Engine 2					605,000			605,000
2014-413	Public Safety utility vehicle					30,000			30,000
2014-414	Station 1						3,000,000		3,000,000
2014-415	Engine 6						605,000		605,000
2014-416	Engine 5							605,000	605,000
2014-417	Ladder 1								
2014-418	Station 3								
2014-419	Station 5								
2014-420	Station 6								
2014-421	Radio replacement								
FIRE TOTAL			117,023	694,000	2,591,000	1,241,000	3,667,618		8,953,291
POLICE									
2014-501	Police - rolling stock replacement - cars								
2014-502	Animal Control vehicle	Lease	240,000	300,000	300,000	300,000	300,000	300,000	1,500,000
POLICE TOTAL			240,000	300,000	300,000	300,000	300,000	300,000	25,000
LIBRARY									
2014-601	Library								
LIBRARY TOTAL			-	-	-	-	-	-	-
GRAND TOTALS			1,239,023	8,975,962	57,215,000	6,426,500	24,002,618		139,703,253
Less: LOCIP prior years unallocated surplus			6,885						
Less: LOCIP funded - 2013-2014			413,115						
Net Funded by General Fund Lease/Purchase			819,023						
* \$70,000 must be transferred to the Town's Capital Reserve to fund the excess over \$750,000									

T O W N O F E A S T H A R T F O R D
O F F I C E O F T H E M A Y O R

DATE: April 16, 2012
TO: Richard Kehoe, Chairman
FROM: Mayor Marcia A. Leclerc 
RE: REFERRAL: LoCIP Grant Application (\$ 420,000)

Attached is a memo and resolution authorizing the grant application and to execute any documents necessary to utilize the Local Capital Improvement Program (LoCIP) funds from the State of Connecticut that are distributed annually to support projects for municipalities.

Please place on the Town Council agenda for April 16, 2013 meeting.

Thank you

C: M. Walsh, Director Finance Dept.
C. Fravel, Grants Administrator

MARCIA A. LECLERC
MAYOR

TOWN OF EAST HARTFORD

740 Main Street
East Hartford, Connecticut 06108

(860) 291-7364

FAX (860) 289-8394



GRANTS ADMINISTRATION

I, Angela M. Attenello, the duly appointed Clerk of the Town Council of the Town of East Hartford, a corporation organized and existing under the laws of the State of Connecticut, hereby certify that the following is a true copy of a Resolution adopted at a meeting of the East Hartford Town Council of said corporation, duly held on the 16th day of April, 2013.

RESOLVED: That Marcia A. Leclerc, Mayor of the Town of East Hartford, is authorized to make application to, and execute and approve on behalf of this corporation, any and all documents as may be required by the State of Connecticut Office of Policy and Management to secure Local Capital Improvement Program funds (LoCIP) in the amount of \$420,000 for projects listed in the approved 2014 municipal capital improvement plan. The projects will be:

- Raymond Library - Masonry \$225,000
- Tennis Courts - Resurface \$ 75,000
- Roof Replacements for Drennan and Lord Bathhouses \$ 75,000
- Great River Park Lighting & Electrical \$ 25,000
- Terry Pool Lockers \$ 20,000


AND I DO FURTHER CERTIFY that the above resolution has not been in any wise altered, amended, or repealed, and is now in full force and effect.

IN WITNESS WHEREOF, I do hereunto set my hand and affix the corporate seal of said Town of East Hartford this ____ day of April, 2013.

Angela M. Attenello, Town Council Clerk

seal

TO: Mayor Marcia A. Leclerc

FROM: Clare Fravel, Grants Administrator 

SUBJ: Referral to Council – LoCIP Grant Applications (Total \$420,000)

DATE: April 5, 2013

Local Capital Improvement Program (LoCIP) funds from the State of Connecticut are distributed annually to support projects which are included in a municipality's approved Capital Improvement Program (CIP). The following projects have been identified for funding from LoCIP.

I am requesting that these items be placed on the April 16, 2013 agenda of the Town Council. The purpose is to authorize you as Mayor to make application and execute any documents necessary to utilize LoCIP grant funds for these projects. These authorizations may be acted on singly or in a group:

CIP # 2014-	Project Name	Amount	Description
202	Raymond Library - Masonry	\$225,000	Funding for the re-pointing of the exterior brickwork at the Raymond Library in conjunction with the renovation and expansion of the entire facility.
301	Tennis Courts - Resurface	\$75,000	Additional funding for the replacement of tennis court surfaces at East Hartford High School, a park facility maintained by the Town of East Hartford Parks and Recreation Department.
302	Roof Replacements for Drennan and Lord Bathhouses	\$75,000	Funding for the replacement of roofs at two of the Town's summer pool facilities.
303	Great River Park Lighting and Electrical Improvements	\$25,000	Funding for electrical upgrades and lighting improvements at Great River Park; age and condition of fixtures has impeded sustainable operation of system.
304	Terry Pool Lockers	\$20,000	Funding for the replacement of existing lockers at Terry Pool which are worn and may not be safely repaired.

Cc: Michael P. Walsh, Director of Finance
 Ted Fravel, Director of Parks & Recreation
 Timothy A. Bockus, Director of Public Works
 Mary G. Martin, Project Administrator Raymond Library Addition

T O W N O F E A S T H A R T F O R D
O F F I C E O F T H E M A Y O R

DATE: April 1, 2013

TO: Richard Kehoe, Chair

FROM: Mayor Marcia A. Leclerc 

RE: REFUND OF TAXES

I recommend that the Town Council approve a total refund of taxes in the amount of \$11,675.22 as detailed in the attached listing from our Collector of Revenue.

Please place this item on the Town Council agenda for April 16, 2013 meeting.

C: M. Walsh, Director of Finance

I. Laurenza, Tax Collector

INTEROFFICE MEMORANDUM

TO: MARCIA A LECLERC, MAYOR
MICHAEL WALSH, DIRECTOR OF FINANCE

FROM: IRIS LAURENZA, COLLECTOR OF REVENUE
ANNIE KOHLER, ASSISTANT TAX COLLECTOR


SUBJECT: REFUND OF TAXES

DATE: 3/22/2013

Under the provisions of Section 12-129 of the Connecticut General Statutes, the following persons are entitled to the refunds as requested. The total amount to be refunded is \$11,675.22 See attached list.

Bill	Name	Address	Prop Loc/Vehicle Info.	Over Paid
2011-01-0001786	BROWN GORDON R	103 CHIMNEY SWEEP HILL GLASTONBURY CT 06033	454 HILLS ST	\$ (1,020.48)
2011-03-0054692	BURGESS ROCIO	40 CUMBERLAND DR C10 E HARTFORD CT 06118 1112	2008//JTDBT923981210209	\$ (50.00)
2011-03-0054833	BURNS LAWRENCE J JR	211 COLBY DR E HARTFORD CT 06108 1420	2004//1G1YY22G245121034	\$ (15.00)
2011-03-0055771	CARTER JANAY A	572 GOODWIN ST E HARTFORD CT 06108 1207	2010//ZT1BU4EE5AC337568	\$ (7.16)
2011-01-0006700	CLEMONS TERRILL	PO BOX 2331 HARTFORD CT 06146	8-10 BIGELOW ST	\$ (2,512.20)
2011-02-0040450	CORVEL CORP	9030 STONEY POINT PKWY #470 RICHMOND VA 23235	333 EAST RIVER DR	\$ (3,192.56)
2011-03-0061398	ERTEL SHAWN W	99 COUNTRY LA E HARTFORD CT 06118 3511	2006//3VVWSG71K06M752829	\$ (82.08)
2011-01-0006776	HINES JULIE ANN	122 GREENWOOD ST EAST HARTFORD CT 06118	122 GREENWOOD ST	\$ (25.00)
2011-03-0067022	HOP ENERGY LLC	410 BANK ST NEW LONDON CT 06320	2005//1HTMSAAR05J039125	\$ (543.86)
2011-01-0009920	JORDAN DONNA J	10 VILLAGE WAY APT #1107 WETHERSFIELD CT 06109	4 GREENHURST LN	\$ (1,834.62)
2011-01-0008811	LUMAN SANTINA H	97 UNIVERSITY AVE EAST HARTFORD CT 06108	97 UNIVERSITY AVE	\$ (21.00)
2011-01-0010023	MONAHAN FRANCIS K	5 EASTON ST EAST HARTFORD CT 06108	5-7 EASTON ST	\$ (54.00)
2011-03-0082176	SAILER SEAN H	31 YALE RD EAST HARTFORD CT 06108	2006//JH2RC44486M000887	\$ (43.90)
2011-02-0041660	U S SECURITY ASSOCIATES	400 MAIN ST STE 201 STAMFORD CT 06901	99 EAST RIVER DR	\$ (5.92)
2011-01-0001154	ZAHAREVICH THOMAS M	212 OAK ST EAST HARTFORD CT 06118	212 OAK ST	\$ (2,267.44)
TOTAL				\$ (11,675.22)

T O W N O F E A S T H A R T F O R D
O F F I C E O F T H E M A Y O R

DATE: April 2, 2013
TO: Richard Kehoe, Chairman
FROM: Mayor Marcia A. Leclerc 
RE: APPOINTMENT-Boards & Commissions

I am recommending the following appointment to the Town Boards and Commissions.

Zoning Board of Appeals

Term

D	Richard Decrescenzo	64 Hickory Drive	12/18
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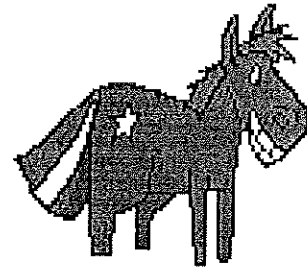
Alternate

D	Eddie Camejo	46 Columbus Street	12/13
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Please place on the Town Council Agenda for April 16, 2013.

Thank you.

**TOWN OF EAST HARTFORD, CT
STATEMENT OF INTEREST IN SERVING ON A
BOARD OR COMMISSION**



The Town of East Hartford, CT is a "Minority Representation" Municipal Government.

This Form is to be used to request nomination to a position by the East Hartford Democratic Town Committee and will be submitted to its Permanent Nominating Committee for consideration.

Democratic Town Committee Chairman, Donald M. Currey

-Please print and complete the following information in full-

1. Eddie Camejo
Your name exactly as it appears on the E. Htfd. Voter Registration List

2. 46 Columbus St 06108
Street Address Zip Code

3. PARTY AFFILIATION DEMOCRAT UNAFFILIATED MINOR PARTY

4. 860 461-0288 5. 860 904-0808 6. ehftdkid1@gmail.com
Home Phone Cell Phone Personal e-mail address

7. Bus Driver 8. First Student
Occupation Employer

9. 67 Alma Lane East Hartford 10. _____
Employed Work Address Work Phone

11. 46 Columbus St. 12. Black 13. 15 yrs
Formal Education Level Achieved Ethnicity (Optional) Years as E. Htfd. Resident

14. Zoning Board of Appeals
Name of Board or Commission you would like to serve on

15. Member of the 1st District
*Community based activities and/or civic/volunteer organizations activities you have participated in

16. I want to serve my community
*Your reason for being interested in serving our Town in this capacity

17. _____
*List any qualifications you believe will be an asset to the board or commission on which you wish to serve

*Please use the back of this page if you need more space or attach a resume if you wish

18. Chj 19. 1/5/13
YOUR SIGNATURE DATE

THIS SPACE FOR USE BY DEMOCRATIC TOWN COMMITTEE

Submitted for consideration by Town Committee Member [Signature]

Voter Registration Information Certified by Voter Registrar [Signature]

At a duly called meeting of the E. Htfd. Democratic Town Committee's Permanent Nominating Committee and by majority vote, the East Hartford Resident described above is hereby nominated for appointment to the:

ALternate Zoning Board Appeals

Catherine F. Condio Please Note: 3.19.13
Catherine F. Condio Secretary Date

Alternate Richard Decrescenzo was
voted to a "Poll Position"

Eddie Camejo
46 Columbus St.
East Hartford, CT 06108
ehftdkid1@gmail.com

RE: East Hartford Zoning Board of Appeals

I am hard working and very determined, able to adapt quickly and efficiently to my working environment. I pick up skills quickly and apply them successfully through both the use of initiative and ability.

My exceptional interpersonal skills have enabled me to integrate with my colleagues to develop valuable friendships and successful working relationships.

I am presently employed at First Student Bus Company as a school bus driver and former steward for two years,

Previously employers were Crowley Ford where I worked as a special finance manager, Gengras Chrysler Dodge Jeep as a sale executive and Aaron's sales and Lease as an asst. sales manager.

My main career was being a member for the New York police department holding the rank of lieutenant.

I have an associate degree from New York University in paralegal studies.

I own my home at 46 Columbus St. East Hartford which I share with my wife Denise and our three sons Christopher, Isaiah, Ej and our dog Golda.

Thank you for your time.



DEMOCRATS
DEMOCRATIC TOWN COMMITTEE
OF EAST HARTFORD

April 1, 2013

Mayor Marcia Leclerc
Town of East Hartford
740 Main St
East Hartford, CT 06108

Dear Mayor Leclerc:

Please be advised that on Thursday, March 14, 2013 at a duly called meeting of the East Hartford Democratic Town Committee Executive Board and District Chairs, who serve as our Party's Permanent Nominating Committee, Robert DeCrescenzo of 64 Hickory Drive, East Hartford, CT 06118 (860.569.3258) was unanimously endorsed to move from the alternate position to a full position on the Zoning Board of Appeals replacing Charles Botts of 19 Tiffany Road, East Hartford, CT 06108 who chose not to be reappointed to the commission in December. At said same meeting Eddie Camejo of 46 Columbus Street, East Hartford, CT 06108 (860.461.0288) was nominated as the Democratic Party's nominee to fill the current alternate vacancy on the Zoning Board of Appeals. Mr. DeCrescenzo and Mr. Camejo were duly elected as Democrats making these appointments available to a Majority Party nominee.

Thank you.

The **East Hartford Democratic Town Committee**

Catherine F. Condio
Secretary

Donald M. Currey – Town Chair → 14 Martin Circle – East Hartford, CT 06118 – 860.568.5584 – donaldc073@aol.com
Joanne S. LeBeau – Vice Chair → 4 Gorman Place – East Hartford, CT 06108 – 860.528.5818 – joannelebeau@gmail.com
Catherine F. Condio – Secretary → 19 Blinn Street – East Hartford, CT 06108 – 860.528.8777 – c.condio@comcast.net
Carol Noel – Treasurer → 102 Christine Drive – East Hartford, CT 06108 – 860.528.6902 – jnoel102@att.net
Theresa Godreau – Deputy Treasurer → 51 Naubuc Avenue – East Hartford, CT 06118 – 860.569.3513 – godreau@comcast.net

MARCIA A. LECLERC
MAYOR

TOWN OF EAST HARTFORD

Police Department

31 School Street
East Hartford, Connecticut 06108

TELEPHONE
(860) 528-4401

FAX (860) 289-1249

MARK J. SIROIS
CHIEF OF POLICE

March 28, 2013

Richard F. Kehoe, Chairman
East Hartford Town Council
740 Main Street
East Hartford, CT 06108

**Re: Outdoor Amusement Permit Application -
"8th Annual Abelon Memorial Walk"**

Dear Chairman Kehoe:

Attached please find the amusement permit application from the **East Hartford Public Schools by Rachel Buck, CIBA Advisor**. The applicant seeks to conduct a walk to raise funds in connection with Pancreatic Cancer. Registration, refreshments, face painting stations and guest speakers will be on the grounds of the **Connecticut IB Academy, 857 Forbes Street on Saturday, May 18, 2013** from approximately **8:00 a.m. to 2:00 p.m.** Registration will begin at **9:00 a.m.** Commencing at **10:00 a.m.**, the walk will begin at CIBA and follows Forbes Street to Sunset Ridge, then turns, retracing its steps back to CIBA.

The applicant respectfully requests a **waiver of the associated permit fee**, under the provisions of (TO) 5-6(c), due to the Town of East Hartford as this is a charitable fund-raising event.

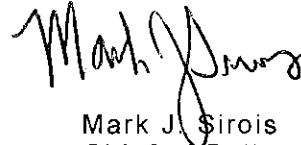
Pursuant to Town Ordinance (TO) 5-3, a review of the application was completed by the Directors of the Fire, Health, Parks & Recreation, and Public Works Departments. The **Parks & Recreation, Health, Public Works and Fire Departments** approve the application as submitted.

The **Police Department** conducted a review of the application and the following comment/recommendation is made:

- The Police Department can provide adequate police protection for this event. The proposed site is suitable for the proposed amusement, the crowd is of a small size, and the area has sufficient parking available.
- This event can be conducted with a minimal impact upon the surrounding neighborhoods and a near-normal flow of traffic on the streets adjacent to the site can be maintained.

- In the event that the police manpower required for this event exceeds the Department's normal patrol complement, some overtime hiring may be necessary.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark J. Sirois". The signature is fluid and cursive, with the first name "Mark" being the most prominent.

Mark J. Sirois
Chief of Police

xc:
Applicant

TOWN OF EAST HARTFORD POLICE DEPARTMENT



Marcia A. Leclerc
Mayor

SUPPORT SERVICES BUREAU
OUTDOOR AMUSEMENT PERMITS
31 SCHOOL STREET
EAST HARTFORD, CT 06108-2638
(860) 528-4401



Mark J. Sirois
Chief of Police

OUTDOOR AMUSEMENT PERMIT APPLICATION

1. Name of Event: **8th Annual Abelou Memorial Walk**
2. Date(s) of Event: **Saturday, May 18, 2013**
3. Applicant's name, home & work phone numbers, home address, and e-mail address:
East Hartford Public Schools
c/o Rachel Buck, H(203)530-1171, W(860-622-5590
40 Meadow Way, Meriden, CT 06450
Please direct all correspondence to the work address:
CIBA, 857 Forbes Street, East Hartford, CT 06118
Buck.rl@easthartford.org
4. If partnership, corporation, club, or association, list names of all partners or officers and business address.
CIBA Student Advisory Board, 857 Forbes Street, East Hartford, CT 06118
Additional advisors: Theresa Godreau
5. List the location of the proposed amusement: (Name of facility and address)
Connecticut IB Academy (CIBA), 857 Forbes Street, East Hartford, CT 06118 → Forbes Street →
Sunset Ridge School, 450 Forbes Street, East Hartford, CT 06118 (and back)
6. List the dates and hours of operation for each day (if locations changes on a particular day, please list):
5/18/2013 8 am – 2 pm
7. Provide a detailed description of the proposed amusement:
Set-up will commence at 8am at CIBA and will include setting up registration tables, breakfast items and refreshments, drawing items, face painting stations, sponsor signs, banners, and water stations. Registration will start at 9 am. Guest speakers will introduce the event at 9:40. The walk will commence at 10 am, proceed down Forbes Street to Sunset Ridge, and then retrace the path back to CIBA. We will have a grand farewell, and walkers will leave. Students and volunteers will remain to help clean up.
8. Will Music or Other Entertainment Be Provided Out-Of-Doors?
 Yes No
 - a. If 'YES,' during what days and hours will music or entertainment be provided (note: this is different from hours of operation)?

9. What is the expected age group(s) of participants?
Mostly 14-18 year olds, but walkers draw from all age groups.
10. What is the expected attendance at the proposed amusement:
 (If more than one performance, indicate time / day / date and anticipated attendance for each.)
100-200 (optimistically)
11. Provide a detailed description of the proposed amusement's anticipated impact on the surrounding community. Please comment on each topic below:
- Crowd Size Impact:**
There is a large amount of pedestrian traffic, as the event consists of a fundraising walk that starts at CIBA, follows Forbes Street to Sunset Ridge School, loops around in the parking lot with a stop at the water station there, and retraces the path back to CIBA. All collective gatherings aside from the walk and water break take place indoors in the lobby, rotunda of CIBA, or in the CIBA parking lot. All walkers are to use designated crosswalks and sidewalks.
 - Traffic Control and Flow Plan at Site & Impact on Surrounding / Supporting Streets:**
All participants use designated crosswalks and sidewalks. As well, participants park their vehicles in the CIBA/EHHS parking lot. This does not create any undue congestion, and the impact on surrounding streets is minimal.
 - Parking Plan On Site & Impact on Surrounding / Supporting Streets:**
All participants park their vehicles in the CIBA/EHHS parking lot. This does not create any undue congestion, and the impact on surrounding streets is minimal.
 - Noise Impact on Neighborhood:**
There is some noise, but this is limited to the casual conversation of the participants as they walk the planned route. There will be music and speeches indoors at CIBA during registration and welcome, but this does not create any noise impact on the surrounding neighborhoods.
 - Trash & Litter Control Plan for the Amusement Site and Surrounding Community During and Immediately After the Proposed Amusement:**
Student cleaning crews man the back of the walk, cleaning up any visible litter as they go. A water station with trash receptacles will be set up at Sunset Ridge School, and student volunteers will be responsible for keeping the area clean and removing the trash and receptacles at the end of the walk. Event supervisors inspect these areas prior to the end of the event.
 - List expected general disruption to neighborhood's normal life and activities:**
Minimal; there will be heavy pedestrian traffic on the road for approx. 1 hour.
 - Other Expected Influence on Surrounding Neighborhood:**
We hope to spread awareness of the devastating statistics that surround pancreatic cancer, raise funds for its treatment and patient support services, as well as raise money to support higher education.
12. Provide a Detailed Plan for the Following:
- Accessibility of Amusement Site to Emergency, Police, Fire & Medical Personnel and Vehicles:**
Full accessibility
 - Provisions for Notification of Proper Authorities in the Case of an Emergency:**
There are functioning landlines at CIBA, the main hub of this event. As well, all three partners listed on this form, as well as other CIBA staff, will have operational cell phones along the entire route.
 - Any Provision for On-Site Emergency Medical Services:**
We will have first aid kits on site and access to telephones in the event that more serious medical treatment is necessary.

- d. Crowd Control Plan:
Our principal helps to lead the walk. CIBA staff are in great attendance at this event, and they help to supervise and enforce crowd control.
- e. If on Town Property, the Plan for the Return of the Amusement Site to Pre-Amusement Condition:
Student volunteers are stationed at key locations along the route. They are responsible for the maintenance of the location, and these conditions are checked by the partners listed on this form prior to the end of the event.
- f. Provision of sanitary facilities:
A custodian is present at CIBA during the hours of the event, making restrooms inside the school available to event participants.

13. Will food be provided, served, or sold on site:

Food available Yes No AND contact has been made with the East Hartford Health

Department Yes No.

14. Does the Proposed Amusement Involve the Sale and/or Provision of Alcoholic Beverages to Amusement Attendees,

Yes No Alcoholic Beverages will be served / provided.

If 'YES', Describe, In Detail, Any and All Arrangements and What Procedures Shall Be Employed:

a. For Such Sale or Provision,

b. To Ensure That Alcohol Is Not Sold or Provided to Minors or Intoxicated Persons.

Check if Copy of the Liquor Permit, as Required by State Law, is included with application.

15. Include any other information which the applicant deems relevant (ie: time waivers and fee waiver requests should go here):

Since this event is non-profit and student-initiated, we would like to request a waiver of any fees.

CGS Sec. 53a-157. False Statement: Class A Misdemeanor.

A person is guilty of False Statement when he intentionally makes a false written statement under oath or pursuant to a form bearing notice, authorized by law, to the effect that false statements made therein are punishable, which he does not believe to be true and which statement is intended to mislead a public servant in the performance of his official duties.

a. False Statement is a Class A Misdemeanor.

b. The penalty for a Class A Misdemeanor is imprisonment for a term not to exceed one (1) year, or a fine not to exceed \$1,000, or both a fine and imprisonment.

I declare, under the penalties of False Statement, that the information provided in this application is true and correct to the best of my knowledge:

Rachel Buck
(Applicant Signature)

Rachel L. Buck
(Printed Name)

3/13/13
(Date Signed)

(Send application electronically to cfrank@easthartfordct.gov)

FOR OFFICE USE

Insurance Certificate Included:

YES

NO

Liquor Permit Included:

YES

NO

Time Waiver Request Included:

YES

NO

Fee Waiver Request Included:

YES

NO

Received By:

Camp Stewart

Employee Number:

9019

Date & Time Signed:

March 13, 2015 2:00 PM

Time remaining before event:

30⁺ days.



Mark J. Sirois
Chief of Police

TOWN OF EAST HARTFORD
POLICE DEPARTMENT
SUPPORT SERVICES BUREAU
Outdoor Amusement Permits
31 School Street
East Hartford, CT 06108
(860) 528-4401



Marcia A. Leclerc
Mayor

Administrative Review of Amusement Permit

Event Date: **May 18, 2013**

Event: **8th Annual Abelon Memorial Walk**

Applicant: **East Hartford Public Schools by Ruth Buck, CIBA Advisor**

Pursuant to Town Ordinance (TO) 5-3, a review of the application was completed and the following recommendation is made:

- 1. the application be approved as submitted.
- 2. the application be revised, approved subject to the condition(s) set forth in the attached comments.
- 3. the application be disapproved for the reason(s) set forth in the attached comments.

- Fire Department
- Health Department
- Parks & Recreation Department
- Public Works Department
- Corporation Counsel

Anticipated Cost(s) if known \$ 0

William Perez, Assistant Fire Chief March 27, 2013

Signature

Date

Comments:



Mark J. Sirois
Chief of Police

TOWN OF EAST HARTFORD
POLICE DEPARTMENT
SUPPORT SERVICES BUREAU
Outdoor Amusement Permits
31 School Street
East Hartford, CT 06108
(860) 528-4401



Marcia A. Leclerc
Mayor

Administrative Review of Amusement Permit

Event Date: May 18, 2013

Event: 8th Annual Abelon Memorial Walk

Applicant: East Hartford Public Schools by Ruth Buck, CIBA Advisor

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- 1. the application be approved as submitted.
- 2. the application be revised, approved subject to the condition(s) set forth in the attached comments.
- 3. the application be disapproved for the reason(s) set forth in the attached comments.

- Fire Department
- Health Department
- Parks & Recreation Department
- Public Works Department
- Corporation Counsel

Anticipated Cost(s) if known \$ 0

Michael J. O'Connell 3/14/13

Signature

Date

Comments:



Mark J. Sirois
Chief of Police

TOWN OF EAST HARTFORD
POLICE DEPARTMENT
SUPPORT SERVICES BUREAU
Outdoor Amusement Permits
31 School Street
East Hartford, CT 06108
(860) 528-4401



Marcia A. Leclerc
Mayor

Administrative Review of Amusement Permit

Event Date: May 18, 2013

Event: 8th Annual Abclon Memorial Walk

Applicant: East Hartford Public Schools by Ruth Buck, CIBA Advisor

Pursuant to Town Ordinance (TO) 5-3, a review of the application was completed and the following recommendation is made:

- 1. the application be approved as submitted.
 - 2. the application be revised, approved subject to the condition(s) set forth in the attached comments.
 - 3. the application be disapproved for the reason(s) set forth in the attached comments.
- Fire Department
 - Health Department
 - Parks & Recreation Department
 - Public Works Department
 - Corporation Counsel

Anticipated Cost(s) if known \$ _____

[Handwritten Signature]

7/27/13

Signature

Date

Comments:

Frank, Carol

From: Bockus, Tim
Sent: Tuesday, March 26, 2013 1:26 PM
To: Frank, Carol
Subject: RE: 8th Annual Abelon Memorial Walk

I have reviewed this application and pursuant to Town Ordinance 5.3, I recommend that the application be approved as submitted.

No anticipated costs to the Department.

Tim Bockus
Director of Public Works
Town of East Hartford
740 Main Street
East Hartford, CT 06108
Phone (860) 291-7361
Fax (860) 291-7370
TBockus@easthartfordct.gov

-----Original Message-----

From: Frank, Carol
Sent: Wednesday, March 13, 2013 14:17
To: Vibberts, Richard; Bockus, Tim; Cordier, James; Fravel, Theodore; Oates, John
Cc: Uhrig, Jim; Bennett, Cindy; Cohen, Bruce; DeMaine, Michael; Gentile, Richard; Grew, Greg; Horan, Denise; Leclerc, Marcia; McConville, Timothy; O'Connell, Michael; Perez, William; Sirois, Mark; Soto, Ricardo; Stokes, Gloria; Thurnauer, Beau
Subject: 8th Annual Abelon Memorial Walk

Good afternoon all.

Attached please find the Outdoor Amusement Permit Application and your Director's Review and Notice in connection with the above captioned event.

Please note the review is attached to the notice and your review can be sent via an e-mail response, through Outlook or print, sign, and interoffice review, TO MY ATTENTION AT THE POLICE DEPARTMENT by Wednesday, March 27, 2013. Thank you.

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

Regards,

Carol A. Frank
East Hartford Police Dept.
Support Services Bureau
31 School St.
East Hartford, CT 06108

Work: 860-291-7631
Fax: 860-291-6290

Frank, Carol

From: Gentile, Richard
Sent: Tuesday, March 26, 2013 1:32 PM
To: Frank, Carol
Subject: RE: 8th Annual Abelon Memorial Walk

I had no comments on this

-----Original Message-----

From: Frank, Carol
Sent: Tuesday, March 26, 2013 10:41
To: Gentile, Richard; Perez, William; Bockus, Tim; Fravel, Theodore
Subject: 8th Annual Abelon Memorial Walk

Good morning Gentlemen.

Just a quick reminder that your review for the above captioned outdoor amusement is due tomorrow. Thank you.

Regards,

Carol

Risk Mgmt

Frank, Carol

From: Bennett, Cindy
Sent: Thursday, March 14, 2013 8:34 AM
To: Frank, Carol
Subject: RE: 8th Annual Abelon Memorial Walk

No certificate needed as this is a Public school sponsored event-thanks

-----Original Message-----

From: Frank, Carol
Sent: Wednesday, March 13, 2013 2:17 PM
To: Vibberts, Richard; Bockus, Tim; Cordier, James; Fravel, Theodore; Oates, John
Cc: Uhrig, Jim; Bennett, Cindy; Cohen, Bruce; DeMaine, Michael; Gentile, Richard; Grew, Greg; Horan, Denise; Leclerc, Marcia; McConville, Timothy; O'Connell, Michael; Perez, William; Sirois, Mark; Soto, Ricardo; Stokes, Gloria; Thurnauer, Beau
Subject: 8th Annual Abelon Memorial Walk

Good afternoon all.

Attached please find the Outdoor Amusement Permit Application and your Director's Review and Notice in connection with the above captioned event.

Please note the review is attached to the notice and your review can be sent via an e-mail response, through Outlook or print, sign, and interoffice review, **TO MY ATTENTION AT THE POLICE DEPARTMENT** by Wednesday, March 27, 2013. Thank you.

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

Regards,

Carol A. Frank
East Hartford Police Dept.
Support Services Bureau
31 School St.
East Hartford, CT 06108

Work: 860-291-7631
Fax: 860-291-6290

MARCIA A. LECLERC
MAYOR

TOWN OF EAST HARTFORD

Police Department

31 School Street

East Hartford, Connecticut 06108

TELEPHONE
(860) 528-4401

FAX (860) 289-1249

MARK J. SIROIS
CHIEF OF POLICE

April 1, 2013

Richard F. Kehoe, Chairman
East Hartford Town Council
740 Main Street
East Hartford, CT 06108

Re: Outdoor Amusement Permit Application -
"Riverfront Summer Pops"

Dear Chairman Kehoe:

Attached please find the amusement application submitted by **Riverfront Recapture by Jessica Leone, its Public Events Manager**. The applicant seeks to conduct 3 summers Pop Concerts with music and beer and wine to be sold in a designated area in **Great River Park**. The concerts are scheduled for the following **dates and times in 2013**:

Saturday, May 25 (Rain date: Sunday, May 26) 7 PM – 9 PM
Saturday, July 13 (Rain date: Sunday, July 14) 7 PM – 9 PM
Saturday, Aug. 10 (Rain date: Sunday, Aug. 11) 7 PM – 9 PM

Pursuant to Town Ordinances (TO) 14-7(b) and (TO) 14-10 (13), the applicant requests authorization to sell or dispense alcoholic beverages in connection with this event, **A CURRENT AND UPDATED LIQUOR PERMIT WILL NEED TO BE PROVIDED TO THE TOWN PRIOR TO THE JULY 13th EVENT DATE.**

As part of Riverfront Recapture's agreement with the Town, the applicant requests this event be considered a Town of East Hartford sponsored event and therefore all fees including those for municipal services be waived.

Pursuant to Town Ordinance (TO) 5-3, a review of the application was completed by the Directors of the Fire, Health, Parks & Recreation, and Public Works Departments. The **Fire, Health, Public Works and Parks & Recreation Departments** approve the application as submitted.


The **Police Department** conducted a review of the application and the following comments/recommendations are made:

- The site is suitable for the proposed amusements, the crowd is of moderate to large size, and the area has sufficient parking available.

- This event can be conducted with a minimal impact upon the surrounding neighborhoods and a near-normal flow of traffic on the streets adjacent to the site can be maintained.
- In the event that the police manpower required for this event exceeds the Department's normal Patrol Complement, some overtime hiring may be necessary.

Respectfully submitted for your information.

Sincerely,



Mark J. Sirois
Chief of Police

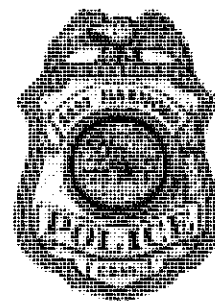
xc:
Applicant

TOWN OF EAST HARTFORD POLICE DEPARTMENT



Marcia A. Leclerc
Mayor

MANAGEMENT SERVICES BUREAU
OUTDOOR AMUSEMENT PERMITS
31 SCHOOL STREET
EAST HARTFORD, CT 06108-2638
(860) 528-4401



Mark J. Sirois
Chief of Police

OUTDOOR AMUSEMENT PERMIT APPLICATION

1. Name of Event: Riverfront Summer Pops
2. Date(s) of Event:
 - a. Saturday, May 25th, 2013/ Rain Date Sunday, May 26th
 - b. Saturday, July 13th, 2013/ Rain Date Sunday, July 14th
 - c. Saturday, August 10th, 2013/ Rain Date Sunday, August 11th
3. Applicant's name, home & work phone numbers, home address, and e-mail address:

Riverfront Recapture, Inc.
50 Columbus Blvd. First Floor
Hartford, CT 06106
860.713.3131
lleonc@riverfront.org
4. If partnership, corporation, club, or association, list names of all partners or officers and business address.

Riverfront Recapture, Inc. Executive Committee
Robert M. Annon, Jr. (At-Large Member)
Jodi Brennan (At-Large Member)
Ranjana Chawla (Vice Chair-Fundraising)
Christopher R. Cloud (At-Large Member)
Thomas P. Cody (Chairman)
James F. Gleason (Vice-Chair Management)
David Klein (Treasurer)
Marcia Leclerc
Joseph R. Marfuggi (President)
Rita Ortiz (Secretary)
Agnes Peelle
Christina B. Ripple (At-Large Member)
David R. Robb (Immediate Past Chair)
Camilo Serna (Vice-Chair-Planning & Dev.)
Chuck Sheehan
Lyle Wray
Riverfront Recapture, Inc. 2012 - 2013 Board of Directors
Paul Alfonso
Robert M. Annon, Jr.
Harold Blinderman
Jodi Brennan
Christopher Byrd
Patrick Caulfield
Ranjana Chawla
Susan B. Clemow
Christopher R. Cloud

Thomas P. Cody
 Frank C. Collins, Jr.
 Melody Currey
 William DiBella
 Paul H. Eddy
 Donna Fritzer
 Donald S. Gershman
 James F. Gleason
 Margaret Gregg
 Astrid T. Hanzatek
 Mary Hobart
 Dave Jenkins
 Raquel Kennedy
 David Klein
 Barry N. Lastra
 Robert G. Lautensack, Jr.
 Marcia Leelere
 Kathy Lilley
 Marjorie Morrissey
 Thomas F. Mullaney, Jr.
 C. Roderick O'Neil
 Rita Ortiz
 David B. Panagore
 Agnes Peelle
 Leslie Perry
 Marilyn Pet
 Kenneth A. Pouch, Jr.
 Michael J. Puckly
 John H. Riege
 Christina B. Ripple
 David R. Robb
 Richard Rodriguez
 Chuck Sheehan
 Camilo Scrna
 Robert R. Simpson
 Joyce Smith
 Margaret V. Tedonc
 Tobin Treichel
 Donald Trinks
 Andrew Wallace
 Marc Weinberg
 Donald K. Wilson, Jr.
 Lyle Wray

5. List the location of the proposed amusement: (Name of facility and address)
Great River Park, 333 East River Drive, East Hartford

6. List the dates and hours of operation for each day (if locations changes on a particular day, please list):
 - a. Saturday, May 25th, 2013/ Rain Date Sunday, May 26th - 7:00pm to 9:00pm
 - b. Saturday, July 13th, 2013/ Rain Date Sunday, July 14th - 7:00pm to 9:00pm
 - c. Saturday, August 10th, 2013/ Rain Date Sunday, August 11th - 7:00pm to 9:00pm

7. Provide a detailed description of the proposed amusement:
A pops concert in the amphitheater at Great River Park

8. Will Music or Other Entertainment Be Provided Out-Of-Doors?
 Yes No

- a. If 'YES,' during what days and hours will music or entertainment be provided (note: this is different from hours of operation)?
 - i. Saturday, May 25th, 2013/ Rain Date Sunday, May 26th - 7:00pm to 9:00pm
 - ii. Saturday, July 13th, 2013/ Rain Date Sunday, July 14th - 7:00pm to 9:00pm
 - iii. Saturday, August 10th, 2013/ Rain Date Sunday, August 11th - 7:00pm to 9:00pm

- 9. What is the expected age group(s) of participants?
Families/ All Ages

- 10. What is the expected attendance at the proposed amusement:
(If more than one performance, indicate time / day / date and anticipated attendance for each.)
 - a. Saturday, May 25th, 2013/ Rain Date Sunday, May 26th - 7:00pm to 9:00pm – 500 people
 - b. Saturday, July 13th, 2013/ Rain Date Sunday, July 14th - 7:00pm to 9:00pm – 500 people
 - c. Saturday, August 10th, 2013/ Rain Date Sunday, August 11th - 7:00pm to 9:00pm – 500 people

- 11. Provide a detailed description of the proposed amusement's anticipated impact on the surrounding community. Please comment on each topic below:
 - a. Crowd Size Impact: Minimal to none
 - b. Traffic Control and Flow Plan at Site & Impact on Surrounding / Supporting Streets: Minimal to none
 - c. Parking Plan On Site & Impact on Surrounding / Supporting Streets: Parking within park system and on East River Drive; Riverfront Rangers will be available to control traffic in and out of the park
 - d. Noise Impact on Neighborhood: Minimal to none
 - e. Trash & Litter Control Plan for the Amusement Site and Surrounding Community During and Immediately After the Proposed Amusement: Riverfront Recapture and the MDC
 - f. List expected general disruption to neighborhood's normal life and activities: Minimal to none
 - g. Other Expected Influence on Surrounding Neighborhood: None

- 12. Provide a Detailed Plan for the Following:
 - a. Accessibility of Amusement Site to Emergency, Police, Fire & Medical Personnel and Vehicles: Regular access into park system and entertainment venue
 - b. Provisions for Notification of Proper Authorities in the Case of an Emergency: Riverfront Rangers and events manager on site
 - c. Any Provision for On-Site Emergency Medical Services: On call
 - d. Crowd Control Plan: N/A
 - e. If on Town Property, the Plan for the Return of the Amusement Site to Pre-Amusement Condition: MDC
 - f. Provision of sanitary facilities: Riverfront Recapture arranges port-o-johns and hand washing stations on-site

- 13. Will food be provided, served, or sold on site:

 Food available Yes No AND contact has been made with the East Hartford Health Department Yes No Contact will be made when a food service provider has been selected

- 14. Does the Proposed Amusement Involve the Sale and/or Provision of Alcoholic Beverages to Amusement Attendees,

Yes No Alcoholic Beverages will be served / provided under Liquor Permit LCT.0000042

If 'YES', Describe, In Detail, Any and All Arrangements and What Procedures Shall Be Employed:

- a. For Such Sale or Provision,
Beer and wine to be sold in a designated area

- b. To Ensure That Alcohol Is Not Sold or Provided to Minors or Intoxicated Persons.
ID check and wristbands issued

Check if Copy of the Liquor Permit, as Required by State Law, is included with application.
Will forward a copy of renewed liquor permit when it is available

15. Include any other information which the applicant deems relevant (ie: time waivers and fee waiver requests should go here):

As part of Riverfront Recapture's agreement with the Town of East Hartford, Riverfront respectfully requests that this event is considered a Town of East Hartford sponsored event and all related fees are waived.

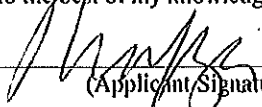
CGS Sec. 53a-157. False Statement: Class A Misdemeanor.

A person is guilty of False Statement when he intentionally makes a false written statement under oath or pursuant to a form bearing notice, authorized by law, to the effect that false statements made therein are punishable, which he does not believe to be true and which statement is intended to mislead a public servant in the performance of his official duties.

- a. False Statement is a Class A Misdemeanor.

- b. The penalty for a Class A Misdemeanor is imprisonment for a term not to exceed one (1) year, or a fine not to exceed \$1,000, or both a fine and imprisonment.

I declare, under the penalties of False Statement, that the information provided in this application is true and correct to the best of my knowledge:



(Applicant Signature)

JUSTIN R. MANFICA 3/13/13

(Printed Name) (Date Signed)

(Send application electronically to cfrank@easthartfordct.gov)

FOR OFFICE USE

Insurance Certificate Included:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
Liquor Permit Included:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
Time Waiver Request Included:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
Fee Waiver Request Included:	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO

Received By: Carol A Frank

Employee Number: 9019

Date & Time Signed: March 11, 2013 11:25 AM

Time remaining before event: 30+ days.

Fire Dept



Mark J. Sirois
Chief of Police

TOWN OF EAST HARTFORD
SUPPORT SERVICES BUREAU
Outdoor Amusement Permits
31 School Street
East Hartford, CT 06108
(860) 528-4401



Marcia A. Leclerc
Mayor

Administrative Review of Amusement Permit

Event Dates: **Saturday, May 25 (Rain date: Sunday, May 26)**
Saturday, July 13 (Rain date: Sunday, July 14)
Saturday, Aug. 10 (Rain date: Sunday, Aug. 11)

Event: **Riverfront Summer Pops**

Applicant: **Riverfront Recapture by Jessica Leone, Public Events Manager**

Pursuant to Town Ordinance (TO) 5-3, a review of the application was completed and the following recommendation is made:

- 1. the application be approved as submitted.
- 2. the application be revised, approved subject to the condition(s) set forth in the attached comments.
- 3. the application be disapproved for the reason(s) set forth in the attached comments.

- Fire Department
- Health Department
- Parks & Recreation Department
- Public Works Department
- Corporation Counsel

Anticipated Cost(s) if known \$ 0

William Perez, Assistant Fire Chief
Signature

March 19, 2013
Date

Comments:



Mark J. Sirois
Chief of Police

TOWN OF EAST HARTFORD
SUPPORT SERVICES BUREAU
Outdoor Amusement Permits
31 School Street
East Hartford, CT 06108
(860) 528-4401



Marcin A. Leclerc
Mayor

Administrative Review of Amusement Permit

Event Dates: Saturday, May 25 (Rain date: Sunday, May 26)
Saturday, July 13 (Rain date: Sunday, July 14)
Saturday, Aug. 10 (Rain date: Sunday, Aug. 11)

Event: Riverfront Summer Pops

Applicant: Riverfront Recapture by Jessica Leone, Public Events Manager

Pursuant to Town Ordinance (TO) 5-3, a review of the application was completed and the following recommendation is made:

- 1. the application be approved as submitted.
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- Fire Department
- Health Department
- Parks & Recreation Department
- Public Works Department
- Corporation Counsel

Anticipated Cost(s) if known \$ _____

Jed [Signature]
Signature

4/11/13
Date

Comments:

Frank, Carol

From: Bockus, Tim
Sent: Thursday, March 28, 2013 1:58 PM
To: Frank, Carol
Subject: RE: Riverfront Summer Pops

I have reviewed this application and pursuant to Town Ordinance 5.3, I recommend that the application be approved as submitted.

There are no anticipated costs to the Department.

Tim Bockus
Director of Public Works
Town of East Hartford
740 Main Street
East Hartford, CT 06108
Phone (860) 291-7361
Fax (860) 291-7370
TBockus@easthartfordct.gov

-----Original Message-----

From: Frank, Carol
Sent: Monday, March 18, 2013 12:00
To: Vibberts, Richard; Bockus, Tim; Cordier, James; Fravel, Theodore; Oates, John
Cc: Uhrig, Jim; Bennett, Cindy; Cohen, Bruce; DeMaine, Michael; Gentile, Richard; Grew, Greg; Horan, Denise; Leclerc, Marcia; McConville, Timothy; O'Connell, Michael; Perez, William; Sirois, Mark; Soto, Ricardo; Stokes, Gloria; Thurnauer, Beau
Subject: Riverfront Summer Pops

Good afternoon all.

Attached please find the Outdoor Amusement Permit Application and your Director's Review and Notice in connection with the above captioned event.

Please note the review is attached to the notice and your review can be sent via an e-mail response, through Outlook or print, sign, and interoffice review, TO MY ATTENTION AT THE POLICE DEPARTMENT by Monday, April 1, 2013. Thank you.

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

Regards,

Carol A. Frank
East Hartford Police Dept.
Support Services Bureau
31 School St.
East Hartford, CT 06108

Work: 860-291-7631
Fax: 860-291-6290

Corp Council
Review

Frank, Carol

From: Gentile, Richard
Sent: Monday, March 25, 2013 8:21 AM
To: Frank, Carol
Subject: RE: Riverfront Summer Pops

No comments.

-----Original Message-----

From: Frank, Carol
Sent: Monday, March 18, 2013 12:00
To: Vibberts, Richard; Bockus, Tim; Cordier, James; Fravel, Theodore; Oates, John
Cc: Uhrig, Jim; Bennett, Cindy; Cohen, Bruce; DeMaine, Michael; Gentile, Richard; Grew, Greg; Horan, Denise; Leclerc, Marcia; McConville, Timothy; O'Connell, Michael; Perez, William; Sirois, Mark; Soto, Ricardo; Stokes, Gloria; Thurnauer, Beau
Subject: Riverfront Summer Pops

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Regards,

Carol A. Frank
East Hartford Police Dept.
Support Services Bureau
31 School St.
East Hartford, CT 06108

Work: 860-291-7631
Fax: 860-291-6290

Frank, Carol

From: Bennett, Cindy
Sent: Monday, March 18, 2013 12:08 PM
To: Frank, Carol
Subject: RE: Riverfront Summer Pops

The insurance for riverfront recapture is good for all events through 12/31/2013-however I note that the liquor permit expires in June 2013 and we will need a copy of the updated liquor permit at some point. thanks

-----Original Message-----

From: Frank, Carol
Sent: Monday, March 18, 2013 12:00 PM
To: Vibberts, Richard; Bockus, Tim; Cordier, James; Fravel, Theodore; Oates, John
Cc: Uhrig, Jim; Bennett, Cindy; Cohen, Bruce; DeMaine, Michael; Gentile, Richard; Grew, Greg; Horan, Denise; Leclerc, Marcia; McConville, Timothy; O'Connell, Michael; Perez, William; Sirois, Mark; Soto, Ricardo; Stokes, Gloria; Thurnauer, Beau
Subject: Riverfront Summer Pops

Good afternoon all.

Attached please find the Outdoor Amusement Permit Application and your Director's Review and Notice in connection with the above captioned event.

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

Regards,

Carol A. Frank
East Hartford Police Dept.
Support Services Bureau
31 School St.
East Hartford, CT 06108

Work: 860-291-7631
Fax: 860-291-6290

MARCIA A. LECLERC
MAYOR

TOWN OF EAST HARTFORD

Police Department

31 School Street
East Hartford, Connecticut 06108

TELEPHONE
(860) 528-4401

FAX (860) 289-1249

MARK J. SIROIS
CHIEF OF POLICE

April 11, 2013

Richard F. Kehoe, Chairman
East Hartford Town Council
740 Main Street
East Hartford, CT 06108

**Re: Outdoor Amusement Permit Application -
"Gengras Harley-Davidson Spring Open House"**

Dear Chairman Kehoe:

Attached please find a copy of the amusement permit application submitted by **Gengras Motor Cars, Inc. by Hannah Gavin, Its Events Coordinator**. The applicant seeks to conduct a Spring Open House featuring music, a BBQ, sales and vendors. The weekend event will be held at **221 Governor Street**, on the following days and times in 2013:

Saturday, May 4	9AM – 5PM	Music 9AM – 5PM
Sunday, May 5	10AM – 3PM	Music 10AM – 3PM

Pursuant to Town Ordinance (TO) 5-3, a review of the application was completed by the Directors of the Fire, Health, Parks & Recreation, Finance and Public Works Departments. The Parks & Recreation, Health, Public Works and Fire Departments approve the application as submitted.

The **Police Department** conducted a review of the application and the following comments/recommendations are made:

- The proposed site is suitable for the amusement, the crowds are of a moderate size, and the area has sufficient parking available.
- This event can be conducted with a minimal impact upon the surrounding neighborhoods and a near-normal flow of traffic on the streets adjacent to the site can be maintained.
- In the event that the police manpower required for this event exceeds the Department's normal Patrol Complement, some overtime hiring may be necessary. As an event that is not Town-sponsored, this expense will have to be borne by the applicant.

Respectfully submitted for your information.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Sirois', written over the printed name.

Mark J. Sirois
Chief of Police

cc:
Mayor Leclerc



**TOWN OF EAST HARTFORD
POLICE DEPARTMENT
Outdoor Amusement Permits
31 School Street
East Hartford, CT 06108
(860) 528-4401**



TO: Distribution
FROM: Carol A. Frank
DATE: April 3, 2013
**SUBJECT: Outdoor Amusement Permit Application –
Gengras Harley-Davidson Spring Open House**

Attached please find a copy of the amusement permit application submitted by Gengras Motor Cars, Inc. by Hannah Gavin, Its Events Coordinator. The applicant seeks to conduct a Spring Open House featuring music, a BBQ, sales and vendors. The weekend event will be held at 221 Governor Street, on the following days and times in 2013:

Saturday, May 4	9AM – 5PM	Music 9AM – 5PM
Sunday, May 5	10AM – 3PM	Music 10AM – 3PM

Town Ordinance (TO) 5-3 requires that certain department heads submit their comments, regarding this amusement application, within two weeks from the date the application was filed. Please send signed reviews, or an e-mail, regarding your comments no later than Thursday, April 11, 2013.

DUE TO THE DATES OF THIS EVENT AND THE DATES OF TOWN COUNCIL MEETINGS, I AM RESPECTFULLY REQUESTING THAT REVIEWS BE COMPLETED AND RETURNED BY THURSDAY, APRIL 11, 2012 IN ORDER TO MAKE THE APRIL 16TH TOWN COUNCIL MEETING. THANK YOU.

Please direct your comments regarding this application to my attention at the Police Department.

Thank you for your cooperation in this matter.

Carol A. Frank

Distribution:
W. Perez - Asst. Fire Chief
T. Bockus – Public Works Director
M. O’Connell – Public Health Supervisor
T. Fravel – Parks & Recreation Director
R. Gentile - Corporation Counsel

Cc’d:
Mayor Marcia Leclerc
J. Oates – Fire Chief
J. Cordier – Health Director

2 Fire / Gengras 05-04-13
05-05-13



Mark J. Sirois
Chief of Police

TOWN OF EAST HARTFORD
POLICE DEPARTMENT
Outdoor Amusement Permits
31 School Street
East Hartford, CT 06108
(860) 528-4401



Marcia A. Leclerc
Mayor

Administrative Review of Amusement Permit

Event Date: **May 4 and May 5, 2013**
Event: **Gengras Harley-Davidson Spring Open House**
Applicant: **Gengras Motor Cars, Inc. by Hannah Gavin, Its Events Coordinator**

Pursuant to Town Ordinance (TO) 5-3, a review of the application was completed and the following recommendation is made:

- 1. the application be approved as submitted.
- 2. the application be revised, approved subject to the condition(s) set forth in the attached comments.
- 3. the application be disapproved for the reason(s) set forth in the attached comments.

- Fire Department
- Health Department
- Parks & Recreation Department
- Public Works Department
- Corporation Counsel

Anticipated cost(s) if known \$ 0

William Perez, Assistant Fire Chief
Signature

April 10, 2013

Date

Comments:

Health Dept / Gengras
05-04-13
05-05-13



Mark J. Sirois
Chief of Police

TOWN OF EAST HARTFORD
POLICE DEPARTMENT
Outdoor Amusement Permits
31 School Street
East Hartford, CT 06108
(860) 528-4401



Marcia A. Leclerc
Mayor

Administrative Review of Amusement Permit

Event Date: **May 4 and May 5, 2013**

Event: **Gengras Harley-Davidson Spring Open House**

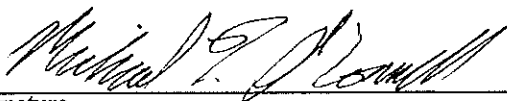
Applicant: **Gengras Motor Cars, Inc. by Hannah Gavin, Its Events Coordinator**

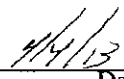
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- 1. the application be approved as submitted.
- 2. the application be revised, approved subject to the condition(s) set forth in the attached comments.
- 3. the application be disapproved for the reason(s) set forth in the attached comments.

- Fire Department
- Health Department
- Parks & Recreation Department
- Public Works Department
- Corporation Counsel

Anticipated cost(s) if known \$ _____


Signature


Date

Comments:

Approval recommended provided that the applicant file for a temporary food service permit no less than 2 weeks prior to the event.



Mark J. Sirois
Chief of Police

TOWN OF EAST HARTFORD
POLICE DEPARTMENT
Outdoor Amusement Permits
31 School Street
East Hartford, CT 06108
(860) 528-4401



Marcia A. Leclerc
Mayor

Administrative Review of Amusement Permit

Event Date: May 4 and May 5, 2013

Event: Gengrns Harley-Davidson Spring Open House

Applicant: Gengrns Motor Cars, Inc. by Hannah Gavin, Its Events Coordinator

Pursuant to Town Ordinance (TO) 5-3, a review of the application was completed and the following recommendation is made:

- 1. the application be approved as submitted.
- 2. the application be revised, approved subject to the condition(s) set forth in the attached comments.
- 3. the application be disapproved for the reason(s) set forth in the attached comments.

- Fire Department
- Health Department
- Parks & Recreation Department
- Public Works Department
- Corporation Counsel

Anticipated cost(s) if known \$ _____

J. Sirois
Signature

9/9/13
Date

Comments:

Public Works / Gengras 05-04-13
05-05-13

McConville, Timothy

From: Litwin, Joshua
Sent: Tuesday, April 09, 2013 12:19 PM
To: McConville, Timothy
Subject: FW: Gengras Harley-Davidson Demo Days

-----Original Message-----

From: Bockus, Tim
Sent: Tuesday, April 09, 2013 12:06
To: Frank, Carol
Subject: RE: Gengras Harley-Davidson Demo Days

I have reviewed this application and pursuant to Town Ordinance 5.3, I recommend that the application be approved as submitted.

There are no anticipated costs to the Department.

Tim Bockus
Director of Public Works
Town of East Hartford
740 Main Street
East Hartford, CT 06108
Phone (860) 291-7361
Fax (860) 291-7370
TBockus@easthartfordct.gov

-----Original Message-----

From: Frank, Carol
Sent: Wednesday, April 03, 2013 11:27
To: Vibberts, Richard; Bockus, Tim; Cordier, James; Fravel, Theodore; Oates, John
Cc: Uhrig, Jim; Bennett, Cindy; Cohen, Bruce; DeMaine, Michael; Gentile, Richard; Grew, Greg; Horan, Denise; Leclerc, Marcia; McConville, Timothy; O'Connell, Michael; Perez, William; Sirois, Mark; Soto, Ricardo; Stokes, Gloria; Thurnauer, Beau
Subject: Gengras Harley-Davidson Demo Days

Good day all.

Attached please find the Outdoor Amusement Permit Application and your Director's Review and Notice in connection with the above captioned event.

DUE TO THE DATES OF THIS EVENT AND THE DATES OF TOWN COUNCIL MEETINGS, I AM RESPECTFULLY REQUESTING THAT REVIEWS BE COMPLETED AND RETURNED BY THURSDAY, APRIL 11, 2012 IN ORDER TO MAKE THE APRIL 16TH TOWN COUNCIL MEETING. THANK YOU.

Please note the review is attached to the notice and your review can be sent via an e-mail response, through Outlook or print, sign, and interoffice review, TO MY ATTENTION AT THE POLICE DEPARTMENT, by Thursday, April 11, 2013. Thank you.

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

Regards,

Carol A. Frank
East Hartford Police Dept.
Support Services Bureau
31 School St.
East Hartford, CT 06108

Frank, Carol

From: Gentile, Richard
Sent: Wednesday, April 03, 2013 11:32 AM
To: Frank, Carol
Subject: RE: Gengras Harley-Davidson Spring Open House

No comments

-----Original Message-----

From: Frank, Carol
Sent: Wednesday, April 03, 2013 11:27
To: Vibberts, Richard; Bockus, Tim; Cordier, James; Fravel, Theodore; Oates, John
Cc: Uhrig, Jim; Bennett, Cindy; Cohen, Bruce; DeMaine, Michael; Gentile, Richard; Grew, Greg; Horan, Denise; Leclerc, Marcia; McConville, Timothy; O'Connell, Michael; Perez, William; Sirois, Mark; Soto, Ricardo; Stokes, Gloria; Thurnauer, Beau
Subject: Gengras Harley-Davidson Spring Open House

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

Regards,

Carol A. Frank
East Hartford Police Dept.
Support Services Bureau
31 School St.
East Hartford, CT 06108

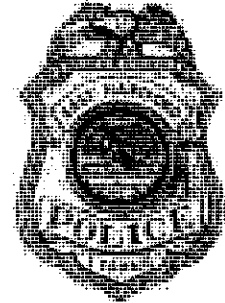
Work: 860-291-7631
Fax: 860-291-6290

TOWN OF EAST HARTFORD POLICE DEPARTMENT



Marcia A. Leclerc
Mayor

MANAGEMENT SERVICES BUREAU
OUTDOOR AMUSEMENT PERMITS
31 SCHOOL STREET
EAST HARTFORD, CT 06108-2638
(860) 528-4401



Mark J. Sirois
Chief of Police

OUTDOOR AMUSEMENT PERMIT APPLICATION

1. Name of Event:
Gengras Harley-Davidson Spring Open House
2. Date(s) of Event:
Saturday May 4th & Sunday May 5th
3. Applicant's name, home & work phone numbers, home address, and e-mail address:
Gengras Motor Cars, Inc.
300 CT Blvd, East Hartford, CT 06108
By: Hannah Gavin, Events Coordinator Home: 860-967-7012 Work: 860-528-7200
1736 Exeter Road Lebanon, CT 06249 hgavin@gengras.com
4. If partnership, corporation, club, or association, list names of all partners or officers and business address.
300 Connecticut Blvd, East Hartford CT 06108
Skip Gengras, Chip Gengras, Jonathon Gengras, Gengras Motorcycles Inc.,
5. List the location of the proposed amusement: (Name of facility and address)
Gengras Harley-Davidson/Gengras Motorcycles, 221 Governor Street, East Hartford CT 06108
6. List the dates and hours of operation for each day (if locations changes on a particular day, please list):
Saturday May 4th 9:00 A.M.-5:00 P.M.
Sunday May 5th 10:00 A.M.-3:00 P.M.
7. Provide a detailed description of the proposed amusement:
Vendors, BBQ, Sales, DJ
8. Will Music or Other Entertainment Be Provided Out-Of-Doors?

YES

- a. If 'YES,' during what days and hours will music or entertainment be provided (note: this is different from hours of operation)?
9. What is the expected age group(s) of participants?
All ages are expected and the event is tailored for participants of all ages
10. What is the expected attendance at the proposed amusement:
(If more than one performance, indicate time / day / date and anticipated attendance for each.)
May 4th 500 people between 9 A.M. and 5 P.M. May 5th 300-400 people between 10 A.M. and 3 P.M.
11. Provide a detailed description of the proposed amusement's anticipated impact on the surrounding community. Please comment on each topic below:
- a. Crowd Size Impact:
Due to Processes in place, crowd impact will be minimal. Gengras Harley-Davidson provides ample car and motorcycle parking on premises and across the street at Gengras Chrysler Dodge & Jeep.
- b. Traffic Control and Flow Plan at Site & Impact on Surrounding / Supporting Streets:
Gengras Harley-Davidson Staff as well as members of Hartford H.O.G. will be assisting with parking operations. We anticipate no impact for local street traffic as we will be immediately directing attendees to the appropriate lots. Also, we are easily accessible from Main Street, Governor Street, Connecticut Blvd, I-84, and Rte. 2. Customers will have several travel options to arrive at the dealership.
- c. Parking Plan On Site & Impact on Surrounding / Supporting Streets:
There will be little to no impact is anticipated for surrounding streets. Staff will be directing traffic to appropriate lots for parking.
- d. Noise Impact on Neighborhood:
Noise impact will be minimal. The music will be kept at an appropriate level. Gengras Motorcycles is located in a commercial building zone where Gengras Motor Group businesses are located. Neighboring businesses or homes will not be affected.
- e. Trash & Litter Control Plan for the Amusement Site and Surrounding Community During and Immediately After the Proposed Amusement:
Gengras Harley-Davidson and Hartford H.O.G. Staff will be responsible for trash disposal.
- f. List expected general disruption to neighborhood's normal life and activities:
None
- g. Other Expected Influence on Surrounding Neighborhood:

None

12. Provide a Detailed Plan for the Following:

- a. Accessibility of Amusement Site to Emergency, Police, Fire & Medical Personnel and Vehicles:

Entrances will be kept clear in case of emergency. Also a fire/emergency lane will remain open throughout the event.

- b. Provisions for Notification of Proper Authorities in the Case of an Emergency:

Multiple on-site phones will be available in case of an emergency.

- c. Any Provision for On-Site Emergency Medical Services:

None

- d. Crowd Control Plan:

Activities are scheduled throughout the day for attendees. Patrons will be entering and leaving the property on a regular basis and no activity scheduled will create a crowd control issue. However, Gengras Harley-Davidson and Hartford H.O.G. members will be directed with crowd control plans.

- e. If on Town Property, the Plan for the Return of the Amusement Site to Pre-Amusement Condition:

N/A

- f. Provision of sanitary facilities:

Several Port-A-Potties will be provided for attendees

13. Will food be provided, served, or sold on site:

Food available **YES AND YES** contact has been made with the East Hartford Health Department

14. Does the Proposed Amusement Involve the Sale and/or Provision of Alcoholic Beverages to Amusement Attendees,

NO Alcoholic Beverages will be served / provided.

If 'YES', Describe, In Detail, Any and All Arrangements and What Procedures Shall Be Employed:

- a. For Such Sale or Provision,

- b. To Ensure That Alcohol Is Not Sold or Provided to Minors or Intoxicated Persons.

Check if Copy of the Liquor Permit, as Required by State Law, is included with application.


15. Include any other information which the applicant deems relevant (ie: time waivers and fee waiver requests should go here):

CGS Sec. 53a-157. False Statement: Class A Misdemeanor.

A person is guilty of False Statement when he intentionally makes a false written statement under oath or pursuant to a form bearing notice, authorized by law, to the effect that false statements made therein are punishable, which he does not believe to be true and which statement is intended to mislead a public servant in the performance of his official duties.

- a. False Statement is a Class A Misdemeanor.
- b. The penalty for a Class A Misdemeanor is imprisonment for a term not to exceed one (1) year, or a fine not to exceed \$1,000, or both a fine and imprisonment.

I declare, under the penalties of False Statement, that the information provided in this application is true and correct to the best of my knowledge:


3/30/13
(Applicant Signature)
Signed)

Hannah Gavin
(Printed Name) (Date

(Send application electronically to cfrank@easthartfordct.gov)

FOR OFFICE USE

Insurance Certificate Included:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
Liquor Permit Included:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
Time Waiver Request Included:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
Fee Waiver Request Included:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO

Received By: Craig A. Stearns

Employee Number: 9019

Date & Time Signed: April 3 2013 10:47 AM ~~PM~~

Time remaining before event: 31 days.

Robert J. Poach

OFFICE OF THE
TOWN COUNCIL

TOWN OF EAST HARTFORD

740 Main Street

East Hartford, Connecticut 06108

2013 APR 12 A 9:25
(860) 291-7208

TOWN CLERK (860) 291-7389
EAST HARTFORD

DATE: April 11, 2013

TO: Town Council Members

FROM: Rich Kehoe, Chair

RE: Tuesday, April 16, 2013 6:30 p.m. Town Council Majority Office

In accordance with Section 3.3 (a) of the Town Charter, a Special Meeting of the Town Council will be held as follows:

Tuesday, April 16, 2013

6:30 p.m.

Town Council Majority Office

The purpose of the meeting is to meet in Executive Session to discuss the following matters:

1. tax appeal case of Alice, LLC v. Town of East Hartford, Docket #CV-12-6016264-S
2. Eric Garcia v. Town of East Hartford, Docket # HHD-CV-10-6014441-S
3. East Hartford Police Officer's Association Arbitration Award regarding the successor Pension Agreement.

cc: Mayor Leclerc
Scott Chadwick, Corporation Counsel
Michael Walsh, Finance Director
Santiago Malave, Human Resources Director
Brian Smith, Assessor