

Agenda Report

AUGUST 8, 2005

TO: City Council

FROM: Cynthia J. Kurtz, City Manager

SUBJECT: Approval of the HART Administrative Services Agreement and Related Documents

RECOMMENDATION:

It is recommended that the City Council approve the HART Administrative Services Agreement with Hartford Life Insurance Company and other related documents in order to implement the Retiree Medical Expense and Insurance Premium Reimbursement Plan previously approved by the City Council for Police Lieutenants, Police Commanders and the Deputy Police Chief.

BACKGROUND:

On February 11, 2002, the City Council approved amendments to the Salary Resolution for Unrepresented classifications. As part of this action, the Council agreed to contribute 3% of the salary for Police Lieutenants, Police Commanders and the Deputy Police Chief into a Post Retirement Medical Trust Fund. The pre-tax dollars would be deposited into individual accounts for the benefit of each participant and/or his/her beneficiary.

Upon retirement, the employee could use these funds to cover medical related expenses such as health care premiums, prescriptions, medical expenses not covered by insurance. This is a similar program provided to other public safety bargaining groups in the City. Lieutenants, commanders and the deputy chief are not part of an official bargaining group. Due to requirements in IRS Code, the only way non-represented employees can be provided this benefit is if it is sponsored by the City. This is a relatively new provision in the IRS Code and has only recently become a solution for these affected employees.

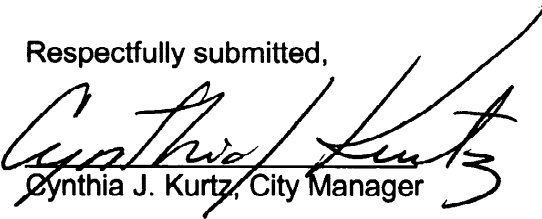
Under this proposal, the City would be the Trustee of the Plan. Similar to the City's 457 Plan, the funds would be transferred to Hartford Life. Each participant would direct the investments of the funds in his/her individual account, and Hartford would handle all of

the administrative activities associated with the reimbursement of qualified medical expenses.

FISCAL IMPACT:

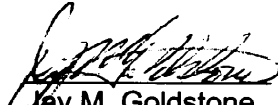
There is no fiscal impact associated with this action. Sufficient funding is available in the fiscal year operating budget for this cost. The City Council previously approved the payment of 3% of the affected employees' salary into a post retirement medical account and approval of staff's recommendation implements this prior decision.

Respectfully submitted,



Cynthia J. Kurtz, City Manager

Approved by:



Jay M. Goldstone
Director of Finance

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA ESTABLISHING THE
CITY OF PASADENA NON-REPRESENTED MANAGEMENT POST EMPLOYMENT HEALTH
PLAN ("THE PLAN")**

WHEREAS, the City of Pasadena desires to establish a Plan, to be called the City of Pasadena Non-represented Management Post Employment Health Plan (PLAN); and

WHEREAS, the primary purpose of the Plan is to provide a means for selected employees to provide funding for post retirement medical expenses,

WHEREAS, the City of Pasadena has selected Hartford Life Insurance Company to provide certain investment management, and nondiscretionary recordkeeping, reporting and processing services to the PLAN; and

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby establishes the PLAN with an effective date of September 1, 2005;

BE IT FURTHER RESOLVED that the City of Pasadena will begin using Hartford Life Insurance Company for investment management, and nondiscretionary recordkeeping, reporting and processing services to the PLAN;

Adopted at the meeting of the City Council on the ___ day of August, 2005 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Jane Rodriguez, City Clerk

APPROVED AS TO FORM:



Michele Beal Bagneris, City Attorney

~~8/8/2005~~
~~Item-3.A.(2)~~

8/15/2005
4.A.



Hartford Life

Hartford Life Insurance Company
P.O. Box 1583
Hartford, CT 06144-1583

HART Administrative Services Agreement

To be signed by Plan Sponsor

1.0 Agreement

1.1 This Administrative Services Agreement (hereinafter the "Agreement") is made and entered into by and between the Plan Sponsor and Hartford Life Insurance Company, a Connecticut corporation (hereinafter "Hartford Life"). It is hereby represented by the Plan Sponsor that the Plan Sponsor has authority to act for the Plan and to contract for services on behalf of the Plan.

1.2 The purpose of this Agreement is to facilitate the maintenance of Individual Accounts and the administration of the Plan with respect to those Investment Options offered by Hartford Life and authorized by the Plan Sponsor as it pertains to accounting for contributions, benefit payments, the withholding of taxes from such benefit payments, and the proper reporting to Participants, and governmental agencies. The Plan Sponsor represents that during the term of this Agreement, and with respect to the services to be provided by Hartford Life for Participant Individual Accounts maintained under this Agreement, that Hartford Life shall be the exclusive provider of such services to the Plan.

2.0 Definitions

2.1 As used herein, the following words and phrases have the meanings set forth as in this Section, unless this Agreement expressly provides otherwise:

"Code" means the Internal Revenue Code of 1986, as amended, including any regulations or rulings thereunder;

"Employer" means City of Pasadena, a state or political subdivision of a state;

"Individual Account" means that portion of the Plan's assets in an Investment Arrangement which is held for the benefit of a Participant pursuant to the terms of the Plan;

"Investment Arrangement" means the arrangement(s) between the Plan Sponsor or Trustee and Hartford Life to fund the Plan;

"Investment Option" means any investment provided under one or more Investment Arrangements;

"Participant" means an employee (or former employee) of the Plan Sponsor participating in the Plan and for whom an account

under the Plan is maintained. As applicable, the term Participant shall also include a spousal or dependent beneficiary.

"Plan" means City of Pasadena Non-Represented Management Post Employment Health Plan, in general, a program established and maintained by the Employer to accumulate funds to reimburse certain health related expenses of retired employees and their eligible dependents, the assets of which are held in a Trust which is an integral part of the Employer;

"Plan Sponsor" means the Employer and its designated representative;

"Plan Sponsor Contact" means

Name and/or Title Jay Goldstone
Director of Finance
Address City of Pasadena
117 E. Colorado, 5th Floor
City, State, Zip Pasadena, CA 91105;

"Trust" means the trust and custodial accounts maintained by the Trustee under the Plan's trust agreement;

"Trustee" means the trustee(s) named in the Plan's trust agreement.

3.0 Participant Individual Account Services

3.1 Hartford Life will establish an Individual Account for each Participant. For each such account, Hartford Life will record and maintain the following information:

- (a) name;
- (b) social security number;
- (c) mailing address;
- (d) date of birth;
- (e) current investment allocation direction;
- (f) contributions allocated and invested;
- (g) investment transfers;
- (h) benefit eligible status;
- (g) benefit payments.

To establish an Individual Account for an employee, the Plan Sponsor, after determining such employee's eligibility under the

Plan, must provide Hartford Life with an enrollment form. To establish an Individual Account for a beneficiary, Hartford Life must be provided a certified copy of the death certificate of the Participant and an application for the beneficiary.

3.2 Hartford Life will provide a toll free telephone service, or voice response unit (VRU), that enables each Plan Participant to perform certain functions which include, but are not limited to:

- a) redirecting the investment of future contributions among the Investment Options;
- b) transferring amounts held in the Participant's Individual Account among the Investment Options;
- c) obtaining the Participant's Individual Account balance in total and on an investment fund basis for the previous valuation day; and
- d) obtaining the accumulation unit value/price for the previous valuation day for each of the Investment Options.

Hartford Life will provide customer representatives to support the utilization of the VRU during normal business hours. Hartford Life may also provide these enumerated services and features through an Internet site(s) available to Plan Participants. Hartford Life will record all activity of the VRU and Internet site(s) in accordance with generally accepted record retention practices. Hartford Life will operate its VRU and Internet services in accordance with reasonable provisions to ensure the security of such services. The VRU and Internet site(s) may occasionally be unavailable to accommodate system maintenance.

Where Hartford Life has been provided with complete and accurate information from the Plan Sponsor or the Participant, an error committed by Hartford Life through VRU, Internet site(s), or in regular processing, shall be corrected at Hartford Life's expense and processed as of the effective date of the original transaction.

Notwithstanding the foregoing, nothing in this Agreement shall prohibit the Plan Sponsor or Hartford Life from restricting or suspending any or all Participants from internet, phone, facsimile or other electronic investment transfer privileges. Any such action taken by the Plan Sponsor or Hartford Life shall be in accordance with the procedures provided in this Agreement.

Plan Sponsor acknowledges the following: The underlying funds, available as Investment Options under the Plan, are not intended as vehicles for short-term trading. Excessive exchange activity may interfere with portfolio management and may have an adverse effect on all shareholders. The underlying funds expressly reserve the right to curtail such short-term trading activity. These policies can be found in the underlying fund prospectuses. Plan Sponsor acknowledges that in the event that excessive or abusive exchange activity in an underlying fund is

detected, Hartford Life may take action, including restricting or suspending any or all Participants from internet, phone, facsimile or other electronic Investment Option transfer privileges.

4.0 Contributions

4.1 The Plan Sponsor shall determine, arrange for, and supply, directly to Hartford Life or its designee, cash proceeds representing Contributions to the Plan and all data necessary to properly allocate Contributions. The cash and allocation data submitted to Hartford Life must be in "good order." Good order means that the allocation data submitted by the Plan Sponsor to Hartford Life reconciles with both the cash remitted to Hartford Life and the Participant Accounts on record with Hartford Life. Good order also means that cash and allocation data are submitted electronically in a layout and format mutually agreed to by both Hartford Life and the Plan Sponsor. For transactions that are not in good order, Hartford Life shall return the cash to the Plan Sponsor within 5 business days, unless directed otherwise. Hartford Life is not responsible for collecting any Contributions that may be due to the Plan but are not deposited with Hartford Life.

4.2 Contributions to the Plan will be allocated among each Participant's Individual Account, according to the instructions filed with Hartford Life by the Plan Sponsor, subject to the terms of the Plan. Contributions will be invested among the Investment Options under the Investment Arrangement in accordance with the terms of the Investment Arrangement and the most current investment direction on file at Hartford Life. Transactions are valued in accordance with the terms of the Investment Arrangement. If the terms of the Investment Arrangement and this paragraph conflict, the terms of the Investment Arrangement will govern.

4.3 Any amounts contributed in error by the Plan Sponsor to the Plan shall be returned to the Plan Sponsor within seven business days of the receipt of a written notice from the Plan Sponsor to Hartford Life which establishes the error, the amount of such error and the intended disposition of such error.

4.4 At the direction of the Trustee, Hartford Life shall transfer amounts under a Participant's Individual Account to a forfeiture account. Amounts held under the forfeiture account shall be invested in accordance with the Trustee's instructions. At the direction of the Trustee, Hartford Life shall reallocate amounts held under the forfeiture account to Participant Individual Accounts subject to the terms of Section 4.1 substituting "forfeitures" for "Contributions." At the direction of the Trustee, Hartford Life shall make payment to such person or persons identified of amounts held in the forfeiture account for reasonable expenses incurred by the Trust.

4.5 For purposes of this Section 4.0, the term "Contributions" shall include amounts under the Plan transferred to the Investment Options from other Plan funding vehicles.

4.6 Notwithstanding the foregoing, no Contributions will be accepted by Hartford Life unless the Trustee provides to Hartford Life a signed copy of the governing Trust Agreement.

5.0 Benefit Payments

5.1 Payments for Health Related Claims - The Plan Sponsor shall notify Hartford Life in writing of each Participant or Beneficiary the Plan Sponsor has determined is entitled to submit health related claims for payment under the terms of the Plan ("benefit eligible"). If applicable, such notice shall instruct Hartford Life as to the form of benefit payment. For purposes of this Section 5.0, a written notice may include an electronic, telephonic instruction conveyed and received in a manner and format acceptable to Hartford Life. For each benefit eligible Participant or Beneficiary, Hartford Life shall process benefit payments upon the request of the Participant or Beneficiary from the Participant's Individual Account provided such requests are received in good order. For purposes of this paragraph, "good order" shall mean that the request includes all information required under the Plan, is submitted in a manner and format acceptable to Hartford Life, and meets or exceeds the minimum amount set forth in Exhibit A. Payments shall be made up to the lesser of the amount requested or the Participant's Individual Account.

6.0 Financial Records

6.1 Hartford Life shall establish and maintain financial records for the purposes of this Agreement in accordance with generally accepted accounting practices and procedures which include:

- a) a record of all notifications from the Plan Sponsor concerning Participants who are benefit eligible per Section 5.0 of this Agreement;
- b) statements of aggregate benefit payments for the Plan under Section 5.0 of this Agreement;
- c) records of all transactions within the Individual Accounts.

7.0 Individual Participant Reports

7.1 Hartford Life shall provide each Participant:

- a) with each benefit check, a statement of gross benefit payment made under Section 5.0 of this Agreement;
- b) a confirmation of investment fund transfers, allocation changes, name and address changes;
- c) a statement of accounts summarizing all financial activity for each calendar quarter. Participants shall be informed by Hartford Life that they must notify Hartford

Life within thirty (30) days of receipt of the statement of account in order to report any errors to Hartford Life. Hartford Life will have no responsibility to report, or account for the accuracy of information applicable to periods prior to the effective date of this Agreement and the Investment Arrangement.

8.0 Plan Sponsor Reports

8.1 Subject to the rules and limitations imposed under the Health Insurance Portability and Accountability Act of 1996, Hartford Life shall furnish to the Plan Sponsor, upon its request, information from its records regarding the provision of services provided under this Agreement.

8.2 If requested by the Plan Sponsor, Hartford Life will provide copies of reports previously provided to the Plan Sponsor. Hartford Life reserves the right to charge a fee for such copies.

9.0 Other Services

9.1 Hartford Life shall assist in the completion of enrollment forms for eligible employees who elect to participate in the Plan. Hartford Life shall provide informational and promotional material regarding the Plan for distribution to employees. The Plan Sponsor agrees to allow and facilitate the periodic distribution of such material to employees.

9.2 Hartford Life shall conduct or arrange to have conducted group presentations to explain the Plan to employees. The Plan Sponsor agrees to facilitate the scheduling of such presentations and to provide facilities at which satisfactory attendance can be expected.

9.3 Hartford Life representatives shall provide, in a manner consistent with insurance and securities law, information to help each employee understand the various Investment Options approved by the Plan Sponsor.

9.4 Forms and materials required to maintain Participant and Plan level records for the Plan shall be provided at no additional cost to the Plan Sponsor.

9.5 All persons and companies authorized to offer investments under the Plan must be duly licensed by the applicable state and federal regulatory agencies. All Hartford Life personnel that have contact with employees, other than of a routine administrative nature, will have any necessary state insurance licenses and will be registered with the NASD, to the extent required by law, and will be trained, licensed, and supervised with respect to the conducting of their business activities hereunder.

10.0 Records Management

10.1 Except as otherwise provided herein, Hartford Life shall retain all financial records and supporting documents, correspondence and other written materials pertaining to the Investment Options, the Plan and all federal and state income taxes withheld for three years following the date of termination of this Agreement, or, if later, the time prescribed by federal law, but only with respect to those items to which the law applies. Hartford Life may retain such records and documents on microfilm, microfiche, optical storage, or any other process that accurately reproduces or forms a curable medium for reproducing the original. The Plan Sponsor has the right to make duplicate copies at Plan Sponsor's expense.

10.2 If an audit of the Plan has begun, but has not been completed at the end of the three-year period, or if audit findings have not been resolved at the end of the three-year period, Hartford Life shall retain the records described in Section 10.1 until the audit findings are resolved.

10.3 If, for any reason, Hartford Life ceases operations prior to the expiration of the records retention period required by this section, all records described in Section 10.1 shall, upon request of the Plan Sponsor, be made available to the Plan Sponsor or its designee.

10.4 Upon reasonable written request and during normal business hours, Hartford Life shall allow the Plan Sponsor or its designee full and complete access to all records required to be retained by Hartford Life.

10.5 The Plan Sponsor shall have the right upon reasonable written notice, exercised directly or through its independent auditors, to examine and audit Hartford Life's records to determine Hartford Life's compliance with the terms and conditions herein.

10.6 The Plan Sponsor acknowledges that Hartford Life is not responsible for auditing Plan Sponsor records or data for the Plan.

10.7 Notwithstanding the foregoing, Hartford Life shall restrict access by the Plan Sponsor to information to the extent necessary to comply with the rules and limitations imposed under the Health Insurance Portability and Accountability Act of 1996.

11.0 Amendment

11.1 Except as otherwise specified below, the provisions of this Agreement may be amended by Hartford Life by providing 60 days written notice of the amendment to the Plan Sponsor.

11.2 If the amendment is necessary in order to comply with a statutory or regulatory requirement or with guidance issued by the Internal Revenue Service, Department of Labor, or U.S. Treasury,

then, unless the Plan Sponsor terminates this Agreement in the manner as set forth in Section 12.0, such amendment shall be deemed accepted by the Plan Sponsor.

11.3 If the amendment makes additional features and/or services available to the Plan Sponsor, Participants and/or beneficiaries, and the Plan Sponsor wishes not to make such features and/or services available, then Plan Sponsor shall notify Hartford Life in writing that it rejects such amendment within 60 day notice period.

11.4 If the Plan Sponsor objects to a proposed amendment not covered by Section 11.2 or 11.3, then it must make such objection known to Hartford Life within the 60 day notice period and the amendment may be effective only by written agreement between Hartford Life and the Plan Sponsor.

12.0 Termination

12.1 This Agreement may be terminated without any further liability of either party for any obligation maturing subsequent to the date of such termination, upon 60 days written notice to the other party.

12.2 Within 90 days of termination of this Agreement, Hartford Life shall deliver to the Plan Sponsor any reports required by this Agreement which have not already been provided.

12.3 This Agreement is contingent upon the existence of an Investment Arrangement. If the Investment Arrangement is discontinued, this Agreement automatically terminates as of the date the Investment Arrangement is discontinued. Discontinuance of the Investment Arrangement will not affect any obligation of Hartford Life under Section 5.0 of this Agreement to Participants who have become entitled to payments under the Investment Arrangement and the Plan prior to such discontinuance.

13.0 General Provisions

13.1 The responsibility of Hartford Life is limited to the terms of this Agreement. Nothing in this Agreement shall be construed to make Hartford Life responsible for the Plan or Plan Trust or to confer responsibilities upon Hartford Life except for those expressly provided for in this Agreement. The Plan Sponsor agrees and acknowledges that no discretionary responsibility is hereby conferred upon or assumed by Hartford Life under this Agreement. The Plan Sponsor hereby acknowledges that Hartford Life does not agree, pursuant to this Agreement or otherwise, to provide tax, legal, or investment advice.

13.2 Hartford Life shall perform its obligations hereunder as agent for the Plan Sponsor and only in accordance with instructions received from those persons authorized to act on behalf of the Plan Sponsor as specified to Hartford Life in writing.

13.3 The Plan Sponsor understands that all services performed and reports prepared pursuant to this Agreement will be based on information provided by the Plan Sponsor and that Hartford Life shall incur no liability and responsibility for the performance of such services and preparation of such reports until and unless such information as Hartford Life shall request is provided. Hartford Life shall be entitled to rely on the information submitted as to accuracy and completeness and assume no obligation or duty to verify such information. The Plan Sponsor understands that all services performed and reports prepared pursuant to this Agreement will be in satisfaction of this Agreement. Where the information provided to Hartford Life by the Plan Sponsor was incorrect, and where services previously provided, based on such incorrect information, must be performed again, Hartford Life reserves the right to charge additional fees. Hartford Life shall have no responsibility or liability for any error, inadequacy, or omission which results from inaccurate information, data documents or other records provided to Hartford Life. The performance of obligations hereunder is subject to force majeure and is excused by fires, power failures, strikes, acts of God, restrictions imposed by government, or delays beyond the control of the delayed party.

13.4 Plan Sponsor hereby agrees that Hartford Life, its officers, employees, brokers, registered representatives, vendors and professional advisors (such as attorneys, accountants and actuaries) may use and disclose Plan and Participant information only to enable or assist it in the performance of its duties hereunder and with other Plan related activities and expressly authorizes Hartford Life to disclose Plan and Participant information to the Plan's agent and/or broker of record on file with Hartford Life. Plan and Participant information may also be used or disclosed by Hartford Life to other third parties pursuant to a written authorization signed by the Plan Sponsor. Notwithstanding anything to the contrary contained herein, it is expressly understood that Hartford Life retains the right to use any and all information in its possession in connection with its defense and/or prosecution of any litigation which may arise in connection with this Agreement, the Investment Arrangement funding the Plan, or the Plan.

13.5 When information needed to perform services under this Agreement is not received in good order, the Plan Sponsor authorizes Hartford Life to contact any employee at his or her home or business address to obtain additional information.

13.6 Hartford Life shall conduct an internal audit from time to time and shall promptly notify the Plan Sponsor of any material irregularities that would affect the operation of the Plan.

13.7 Unless otherwise agreed to in writing by the Plan Sponsor, neither Hartford Life nor its agents shall use information obtained under the Plan to directly or indirectly solicit Participants with respect to any Hartford Life product not a part of the Plan without the prior consent of the Plan Sponsor. Notwithstanding the foregoing, nothing in this Agreement shall prohibit Hartford Life from solicitations undertaken in the ordinary course of Hartford

Life's business using lists obtained from sources other than the Plan Sponsor.

13.8 The failure of the Plan Sponsor or Hartford Life at any time to enforce a provision of this Agreement shall in no way constitute a waiver of the provision, nor in any way affect the validity of this Agreement or any part hereof, or the right of the Plan Sponsor or Hartford Life thereafter to enforce each and every provision thereof.

13.9 Hartford Life may assign its rights and obligations under this Agreement to an affiliate or subsidiary company without the written consent of Plan Sponsor. However, any other assignment of this Agreement, or any part of it, without the written consent of the other party shall be void.

13.10 Any notices provided for herein shall be in writing and shall be delivered personally, or sent by facsimile device, express delivery or registered or certified United States mail, postage prepaid, return receipt requested and shall be deemed to have been given when received by;

a) **the Plan Sponsor** Contact as referenced in Section 2.1 of this Agreement and/or to such other persons at such other addresses which the Plan Sponsor has designated in writing;

b) **Hartford Life:** Director, Service Center Operations
Retirement Plan Solutions
Hartford Life Insurance Company
P.O. Box 2999
Hartford, CT 06104-2999

13.11 Indemnification by the Plan Sponsor - The Plan Sponsor agrees to indemnify, defend and hold harmless Hartford Life, its subsidiaries, affiliates, officers, directors, employees and agents from and against any and all loss, damage or liability assessed against Hartford Life or incurred by Hartford Life arising out of or in connection with any claim, action or suit brought or asserted against Hartford Life alleging or involving the Plan Sponsor's negligence or willful misconduct in the performance (or non-performance) of its services, duties and obligations under this Agreement and/or the Plan; provided that (i) Hartford Life has notified the Plan Sponsor promptly and in writing of the claim, action or suit; (ii) the Plan Sponsor has the right to assume the defense of such claim, action or suit with counsel selected by the Plan Sponsor and to compromise or settle such action, suit or claim (provided however, that any such compromise or settlement shall not require action or non-action by Hartford Life without its prior written consent, which shall not be unreasonably withheld); and (iii) the Plan Sponsor receives Hartford Life's cooperation, at the Plan Sponsor's sole cost, in such defense. The provisions of this Section shall survive any termination of this Agreement.

Indemnification by Hartford Life - Hartford Life agrees to indemnify, defend and hold harmless the Plan Sponsor, its officers, directors, employees and agents from and against loss,

damage or liability assessed against the Plan Sponsor or incurred by the Plan Sponsor arising out of or in connection with any claim, action or suit brought or asserted against the Plan Sponsor alleging or involving Hartford Life's negligence or willful misconduct in the performance (or non-performance) of its services, duties and obligations under this Agreement; provided that (i) the Plan Sponsor has notified Hartford Life promptly and in writing of the claim, action or suit; (ii) Hartford Life has the right to assume the defense of such claim, action or suit with counsel selected by Hartford Life and to compromise or settle such action, suit or claim (provided however, that any such compromise or settlement shall not require action or non-action by the Plan Sponsor without its prior written consent, which shall not be unreasonably withheld); and (iii) Hartford Life receives the Plan Sponsor's cooperation, at Hartford Life's sole cost, in such defense. The provisions of this Section shall survive any termination of this Agreement.

13.12 Notwithstanding anything to the contrary contained herein, neither party nor their affiliates shall be liable for indirect, special or consequential damages.

13.13 The laws of the state in which the Employer is domiciled shall govern the rights and obligations of the parties under this Agreement.

13.14 Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall be ineffective to the extent such provision is prohibited or unenforceable without invalidating the remaining provisions, and any such prohibition or unenforceable provision in any jurisdiction shall not invalidate nor render unenforceable such provision in any other jurisdiction.

13.15 Both the Plan Sponsor and Hartford Life agree to comply in all material respects with all applicable federal, state, and local laws and regulations as it affects the Plan and its operation. Nothing contained herein shall be construed to prohibit either party from performing any act or not performing any act as either may be required by statute, court, or other authority having jurisdiction thereof.

13.16 Two or more duplicate originals of this Agreement may be signed by the parties, each of which shall be an original but all of which together shall constitute one and the same instrument.

13.17 This Agreement and any written appendices, amendments and addenda hereto embody the entire Agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein and this Agreement shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto with respect to this Agreement.

13.18 This Agreement shall be effective immediately upon execution by both parties and shall remain in force until terminated by either party as provided herein.

14.0 EXPENSES

14.1 The fees for services rendered by Hartford Life pursuant to this Agreement are set forth in Exhibit A. Such fees shall be due and payable to Hartford Life by the Plan Sponsor, billed as described in the Exhibit. The Plan Sponsor shall remit payment of any expenses due directly to Hartford Life or may direct the payment of expenses due to be made from the Investment Arrangement with deductions made from each Individual Account on a prorata basis from all investments under all sources.

14.2 For any fees due under this Agreement, the Plan Sponsor agrees to remit payment to Hartford Life or direct payment from the Investment Arrangement within thirty-one (31) days of the date of notice of such fees. A late charge of three (3) percent shall be applied to any fees that remain outstanding on the last day of any calendar quarter. In addition, the Plan Sponsor shall reimburse Hartford Life for any costs Hartford Life incurs in collecting delinquent amounts including court costs and attorney fees.

14.3 The Plan Sponsor acknowledges and agrees that the receipt by Hartford Life of any fees provided for in this Agreement will not constitute a "prohibited transaction" within the meaning of the Code or other applicable law.

15.0 Frequent Trading Procedures – Notice by Underlying Fund

If Hartford Life receives written notice from an underlying fund that an investment option under the Plan is experiencing excessive or abusive trading activity, the following procedures will be followed:

15.1 If the underlying fund in its notice identifies specific trade dates that are of concern, Hartford Life will, in turn, review the transaction history of each Participant Account invested in the investment option to identify Participants who purchased and redeemed shares on such dates;

15.2 Hartford Life will send written notice to those Participants asking that they cease from engaging in such trading activity;

15.3 If an underlying fund provides subsequent written notice that it is continuing to experience excessive or abusive trading, Hartford Life will review the transaction history of each Participant Account invested in the investment option. If any Participant who has already received written notice of abusive trading is again identified, Hartford Life will inform the Trustee;

15.4 Hartford Life or the Trustee may restrict any Participant who has been identified twice as engaging in abusive or excessive trading from the use of the internet, phone, facsimile or other electronic investment option transfer privileges and will only

accept written investment instructions submitted by the Participant via regular U.S. Mail; and

15.5 Hartford Life will provide written notice to the Participant detailing the action to be taken.

16.0 Frequent Trading Procedures – Detection of Frequent Trading

If frequent trading activity by Plan Participants is detected, the following procedures will be followed:

16.1 Hartford Life will send written notice to the Trustee detailing Participant trading activity;

16.2 Subsequent to such notice, Hartford Life or the Trustee may restrict any Participant who has been identified as engaging in abusive or excessive trading from the use of the internet, phone, facsimile or other electronic investment option transfer privileges and will only accept written investment instructions submitted by the Participant via regular U.S. Mail; and

16.3 Hartford Life will provide written notice to the Participant detailing the action to be taken.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed.

For the Plan Sponsor

By: _____ Date: _____

Name: _____ Title: _____

For Hartford Life Insurance Company:

By: _____ Date: _____

Name: _____ Title: _____

HART Administrative Services Agreement

Exhibit A

Section 1 Minimum Benefit Payments – There is no minimum benefit payment required.

Section 2 Participant Annual Maintenance Fee – This fee has been waived.

**MASTER APPLICATION FOR
GROUP VARIABLE FUNDING AGREEMENT**

[Hartford Life Insurance Company
200 Hopmeadow Street
Simsbury, Connecticut 06089]



Hartford Life

Application is hereby made for a Group Variable Funding Agreement (the "Contract"):

1. Application-Contract Owner :

City of Pasadena

117 E. Colorado, 5th Floor
Street or P.O. Box

Pasadena CA 91105
City State Zip Code

2. Nature of Applicant's Business: Public Entity

3. Requested Effective Date of Contract: 9/1/05

4. Special Requests:

5. The Contract Owner has elected (choose a method): n/a **Method One** n/a **Method Two** for the deduction of the Program and Administrative Charge and for the determination of the Net Investment Factor under the Contract.

It is understood that all payments and values provided by the Contract are the exclusive property of the Applicant-Contract Owner and when based on the investment experience of a Separate Account, are variable and not guaranteed as to fixed dollar amount.

Dated at _____ this _____ day of _____

For _____
(Contract Owner)

Registered Representative (Licensed Agent)

By _____

(Title)

[SPECIMEN DOCUMENT – FOR REVIEW WITH TAX/BENEFITS COUNSEL]

DECLARATION OF TRUST

THIS DECLARATION OF TRUST OF THE _____ is made as of _____ by and between the _____, (hereinafter referred to as the "Employer") and _____ (hereinafter referred to as the "Trustee").

WHEREAS, the Employer is exempt from federal income tax under the Internal Revenue Code of 1986 as a state or territory of the United States, or any political subdivision, municipality or agency thereof, or an agency of such political subdivision or municipality (including any corporation owned or controlled by any state or territory of the United States or by any political subdivision, municipality, or agency); and

WHEREAS, the Employer provides for the security and welfare of its Participants, their Spouses, Dependents and Beneficiaries by the maintenance of a post-retirement welfare benefit plan that provides for reimbursement of expenses incurred by the Participant, his Spouse and Dependents, and/or Beneficiaries for medical, dental, vision benefits or insurance, and/or long-term care insurance and other similar benefits, as specified by the Employer in the Adoption Agreement adopting the Retiree Medical Expense and Insurance Premium Reimbursement Plan (the Adoption Agreement and Retiree Medical Expense and Insurance Premium Reimbursement Plan are collectively referred to herein as the "Plan"); and

WHEREAS, it is an essential function and integral part of the exempt activities of the Employer to assist Participants, their Spouses, Dependents and Beneficiaries by making contributions to and accumulating assets in the trust, a segregated fund, for reimbursement of eligible expenses incurred under the Plan; and

WHEREAS, the authority to conduct the general operation and administration of the Plan is vested in the Employer or its designee, who has the authority and shall be subject to the duties with respect to the trust specified in this Declaration of Trust; and

WHEREAS, the Employer wishes to establish this trust to hold assets and income of the Plan for the exclusive benefit of Plan Participants, their Spouses, Dependents and Beneficiaries.

NOW, THEREFORE, the parties hereto do hereby establish this trust, to be known as the Declaration of Trust of _____ (hereinafter referred to as the "Trust"), and agree that the following constitute the Declaration of Trust (hereinafter referred to as the "Declaration"):

ARTICLE ONE DEFINITIONS

1.1 Definitions. For the purposes of this Declaration, the following terms shall have the respective meanings set forth below unless otherwise expressly provided.

(a) "Account" means the individual recordkeeping account maintained under the Plan to record the interest of a Participant in the Plan in accordance with Section 5.3.

(b) "Administrator" means the Employer or the entity designated by the Employer to conduct such administrative services as are necessary to implement the Plan.

(c) "Beneficiary" means an individual who is a "Beneficiary," as defined under the Plan.

(d) "Code" means the Internal Revenue Code of 1986, as amended from time to time.

(e) "Dependent" means an individual who is a "Dependent," as defined under the Plan.

(f) "Investment Fund" means any separate investment option or vehicle selected by the Employer in which all or a portion of the Trust assets may be separately invested as herein provided. The Trustee shall not be required to select any Investment Fund.

(g) "Participant" means an individual who is eligible to participate in the Plan as determined by the Administrator, in its exclusive discretion.

(h) "Spouse" means an individual who is a "Spouse," as defined under the terms of the Plan.

(i) "Trust" means the trust established by this Declaration.

(j) "Trustee" means the person or persons appointed by the Employer to serve in that capacity.

ARTICLE TWO ESTABLISHMENT OF TRUST

2.1 Establishment of Trust. The Trust is hereby established as of the date set forth above for the exclusive purpose of providing benefits to Participants, their Spouses, Dependents and Beneficiaries, and defraying reasonable expenses of administering the Trust.

2.2 **Rights in Trust Assets.** The Trust may not be revoked by the Employer. It shall be impossible, at any time prior to satisfaction of all liabilities with respect to the Plan, for any part of the corpus or income of the Trust to be used for, or diverted to, purposes other than for the Plan.

2.3 **Benefits.** This Trust may provide benefits to the Participant, the Participant's Spouse, Dependents and Beneficiary(ies) pursuant to the terms of the Plan. If a Participant dies without a Beneficiary, any amount of contributions, plus accrued earnings thereon, remaining in an Account in respect of such Participant shall be applied in the manner specified by the Plan for forfeited Account balances.

2.4 **Form of Benefits.** This Trust may provide benefits by cash payment. This Trust may reimburse the Participant, his Spouse or Dependents for insurance premiums or other payments expended for permissible benefits described under the Plan. This Trust may reimburse the Employer, or the Administrator for insurance premiums incurred under the Plan, and for expenses incurred in administering the Plan and Trust as provided in Sections 6.3 and 6.4.

ARTICLE THREE TRUSTEE AND EMPLOYER DUTIES

3.1 **Trustee Duties.** It shall be the duty of the Trustee to hold title to assets held in respect of the Plan in the Trustee's name as directed by the Employer or its designees in writing. With respect to its duties hereunder, the Trustee is a directed trustee and shall have no duty to: (i) determine or enforce payment of any contribution due under the Plan; (ii) inquire into the accuracy of any contribution; (iii) determine the adequacy of any funding policy adopted by the Employer to meet its obligations under the Plan; or (iv) look into the propriety of any investment or distribution made under the Plan. The Trustee shall have the authority to appoint one or more custodians that shall be responsible for the custody, investment, safekeeping or disposition of any assets comprising the Trust. If the Trustee does not appoint a custodian with respect to the Trust, the Trustee shall be responsible for the custody, investment, safekeeping and disposition of the assets comprising the Trust. The Trustee shall have no duty to question any action or direction of the Employer, or any failure of the Employer to give directions, or to review the securities or other investments which are held pursuant to the Employer's directions, or to make suggestions to the Employer as to the investment, reinvestment, retention or disposition of any such assets. The Trustee shall not have any liability or responsibility for diversification of such assets, or for any loss to or the depreciation of such assets because of the purchase, retention or sale of assets in accordance with the Employer's direction.

3.2 **Employer Duties.** It shall be the duty of the Employer, subject to the provisions of the Plan, to pay over to the Administrator, or other person designated hereunder from time to time, the Employer's contributions under the Plan and to inform the Trustee in writing as to the identity and value of the assets titled in the Trustee's name hereunder and to keep accurate books and records with respect to the

Participants of the Plan. The Employer or its designee shall have the duty to select and monitor all investment options made available to Participants under Section 5.4 of this Declaration. The Employer or its designee shall have the authority to appoint and dismiss the Administrator.

ARTICLE FOUR INVESTMENTS

4.1 Trustee's General Administrative Powers. The Trustee shall not have any discretion or authority with regard to the investment of the Trust and shall act solely as a directed Trustee of the assets of which it holds title. To the extent directed by the Employer (or Participants, their Spouses and Dependents, or Beneficiaries to the extent provided herein) the Trustee is authorized and empowered with the following powers, rights and duties, each of which the Trustee shall exercise in a nondiscretionary manner:

(a) To cause stocks, bonds, securities, or other investments to be registered in its name as Trustee or in the name of a nominee, or to take and keep the same unregistered;

(b) To employ such agents and legal counsel as it deems advisable or proper in connection with its duties and to pay such agents and legal counsel a reasonable fee. The Trustee shall not be liable for the acts of such agents and counsel or for the acts done in good faith and in reliance upon the advice of such agents and legal counsel, provided it has used reasonable care in selecting such agents and legal counsel;

(c) To exercise where applicable and appropriate any rights of ownership in any contracts of insurance in which any part of the Trust may be invested and to pay the premiums thereon; and

(d) At the direction of the Employer (or Participants, their Spouses, their Dependents, their Beneficiaries, as the case may be) to sell, write options on, convey or transfer, invest and reinvest any part thereof in each and every kind of property, whether real, personal or mixed, tangible or intangible, whether income or nonincome producing and wherever situated, including but not limited to, time deposits (including time deposits in the Trustee or its affiliates, or any successor thereto, if the deposits bear a reasonable rate of interest), shares of common and preferred stock, mortgages, bonds, leases, notes, debentures, equipment or collateral trust certificates, rights, warrants, convertible or exchangeable securities and other corporate, individual or government securities or obligations, funding agreements, annuity, retirement or other insurance contracts, mutual funds (including funds for which the Trustee or its affiliates serve as investment advisor, custodian or in a similar or related capacity), or in units of any other common, collective or commingled trust fund.

4.2 Trustee as Title Holder. Notwithstanding anything to the contrary herein, the assets of the Plan shall be held by the Trustee as title holder only provided that the

Trustee shall designate a custodian that shall be responsible for the custody, investment, safekeeping or disposition of any assets comprising the Trust. If the Trustee does not appoint a custodian with respect to the Trust, the Trustee shall be responsible for the custody, investment, safekeeping and disposition of the assets comprising the Trust. The Trustee shall not be responsible or liable for any loss or expense which may arise from or result from compliance with any direction from the Employer, the Administrator, or such agents to take title to any assets nor shall the Trustee be responsible or liable for any loss or expense which may result from the Trustee's refusal or failure to comply with any direction to hold title, except if the same shall involve or result from the Trustee's negligence or intentional misconduct. The Trustee may refuse to comply with any direction from the Employer, the Administrator, or such agents in the event that the Trustee, in its sole and absolute discretion, deems such direction illegal.

4.3 **Employer Indemnification of Trustee.** The Employer hereby indemnifies and holds the Trustee harmless from any and all actions, claims, demands, liabilities, losses, damages or reasonable expenses of whatsoever kind and nature in connection with or arising out of (i) any action taken or omitted in good faith by the Trustee in accordance with the directions of the Employer or its agents and subagents hereunder, or (ii) any disbursements of any part of the Trust made by the Trustee in accordance with the directions of the Employer. Notwithstanding anything to the contrary herein, the Employer shall have no responsibility to the Trustee under the foregoing indemnification if the Trustee fails negligently, intentionally or recklessly to perform any of the duties undertaken by it under the provisions of this Trust.

4.4 **Employer Valuation of Plan Assets.** Notwithstanding anything to the contrary herein, the Employer, or, if so designated by the Employer, the Administrator or another agent of the Employer, will be responsible for valuing all assets so acquired for all purposes of the Trust and of holding, investing, trading and disposing of the same. The Employer will indemnify and hold the Trustee harmless against any and all claims, actions, demands, liabilities, losses, damages, or expenses of whatsoever kind and nature, which arise from or are related to any use of such valuation by the Trustee or holding, trading, or disposition of such assets.

4.5 **Trustee Indemnification of Employer.** The Trustee shall and hereby does indemnify and hold harmless the Employer from any and all actions, claims, demands, liabilities, losses, damages and reasonable expenses of whatsoever kind and nature in connection with or arising out of (a) the Trustee's failure to follow the directions of the Employer, the Administrator, or agents thereof, except as permitted by the last sentence of Section 4.3 above; (b) any disbursements made without the direction of the Employer, the Administrator, or agents thereof; and (c) the Trustee's negligence, willful misconduct, or recklessness with respect to the Trustee's duties under this Declaration.

ARTICLE FIVE CONTRIBUTIONS

5.1 **Employer Contributions.** The Employer shall contribute to the Trust such amounts as specified in the Plan or by resolution.

5.2 **Accrued Sick Leave and/or Accrued Vacation Leave.** Contributions up to an amount equal to the value of accrued sick leave or vacation leave, or both, may be permitted under the Plan. If such contributions of accrued sick leave and/or accrued vacation leave are permitted under the Plan, the Plan must provide a formula for determining the value of the Participant's contribution of accrued sick leave and/or vacation leave. The Plan must contain a forfeiture provision that will prevent Participants from receiving the accrued sick leave or vacation leave, or both, in cash in lieu of a contribution to the Trust.

5.3 **Accounts.** Employer contributions and contributions of accrued sick leave and/or accrued vacation leave, all investment income and realized and unrealized gains and losses, will be credited to a separate bookkeeping account established on behalf of each Participant, and following the death of the Participant, maintained for the benefit of the Beneficiary. The Account will be merely a recordkeeping account for purpose of keeping track of contributions, investment gains/losses, and any forfeitures; neither the Trustee nor the Administrator will create a separate fund or otherwise segregate assets for this purpose.

5.4 **Participant Investment Direction.** The assets in each Participant's Account may be invested in Investment Funds as directed by the Participant from among the Investment Funds selected by the Employer. Upon the Participant's death, the surviving Spouse of the Participant shall have the right to direct the Trustee with respect to the investment and reinvestment of the assets credited to the Account among the investment options made available by the Employer under the Plan. If there is no surviving Spouse upon the Participant's death, then upon the Participant's death, the oldest Beneficiary as of the date of the Participant's death, or a Beneficiary other than the oldest Beneficiary as of the date of the Participant's death that is designated in writing by the Participant or Spouse, shall have the right to direct the Trustee with respect to the investment and reinvestment of the assets credited to such the Account among the investment options made available by the Employer under the Plan. If any such Beneficiary is under the age of majority in his or her state of residence at the time he or she is to assume the responsibility of providing investment instructions with respect to the Account, the guardian or legal representative of such Beneficiary shall have the authority to direct the Trustee with respect to the investment and reinvestment of the assets credited to such the Account among the investment options made available by the Employer under the Plan. The Employer or Administrator shall provide to all Participants and Beneficiaries who are entitled to direct the investment of Investment Fund allocated to their Accounts a copy of all material describing such investment options as may be required by law. Each Participant or Beneficiary who directs the investment of Trust assets allocated to his Account among the Investment

Funds shall be solely and absolutely responsible for the investment, or reinvestment of any such directed investment held on his behalf in the Trust, and, except as otherwise provided herein, the Trustee shall not question any such direction, review any securities or other such assets, or make suggestions with respect to the investment, reinvestment, retention or disposition of any such assets. The Trustee shall not have any liability or responsibility for diversification of such assets, for any loss to or depreciation of such assets because of the purchase, retention or sale of assets in accordance with a Participant's or Beneficiary's direction, and the Participant or Beneficiary shall have sole responsibility for the overall diversification, liquidity and prudence of the investments held on his behalf in the Trust. If a Participant fails or Beneficiary to direct the investments of Trust assets held on his behalf, the Trustee shall invest such assets in accordance with the written directions of the Employer.

5.5 Receipt of Contributions. The Employer or, if so designated by the Employer, the Administrator or another agent of the Employer, shall receive all contributions paid or delivered to it hereunder and shall hold, invest, reinvest and administer such contributions pursuant to this Declaration, without distinction between principal and income. The Trustee shall not be responsible for the calculation or collection of any contribution under the Plan, but shall hold title to property received in respect of the Plan in the Trustee's name as directed by the Employer or its designee pursuant to this Declaration.

5.6 Non-Alienation of Accounts. No amount in any Account maintained under this Trust shall be subject to transfer, assignment, or alienation, whether voluntary or involuntary, in favor of any creditor, transferee, or assignee of the Employer, the Trustee, any Participant, his Spouse, Dependents, or Beneficiaries.

5.7 Forfeitures. The Plan may provide that the balance of any Account that is equal to or less than an amount specified in the Plan before the Participant becomes eligible to receive reimbursement of medical expenses under the Plan, or upon the Participant's death, shall be forfeited and applied in the manner specified by the Plan for forfeited Account balances.

5.8 Other Plans. If the Employer hereafter adopts one or more other plans providing medical, dental, vision, and long-term care insurance, or other similar benefits and designates the Trust hereby created as part of such other plan, the Employer or, if so designated by the Employer, the Administrator or another agent of the Employer shall, subject to the terms of this Declaration, accept and hold hereunder contributions to such other plans. In that event (a) the Employer or, if so designated by the Employer, the Administrator or another agent of the Employer, may commingle for investment purposes the contributions received under such other plan or plans with the contributions previously received by the Trust, but the books and records of the Employer or, if so designated by the Employer, the Administrator or another agent of the Employer, shall at all times show the portion of the Trust Fund allocable to each plan; (b) the term "Plan" as used herein shall be deemed to refer separately to each other plan; and (c) the term "Employer" as used herein shall be deemed to refer to the person

or group of persons which have been designated by the terms of such other plans as having the authority to control and manage the operation and administration of such other plan.

ARTICLE SIX DISBURSEMENTS AND EXPENSES

6.1 **Use of Trust Assets.** The Employer or its designee shall make such payments from the Trust at such time to such persons and in such amounts as shall be authorized by the provisions of the Plan provided, however, that no payment shall be made, either during the existence of or upon the discontinuance of the Plan (subject to Section 5.7), which would cause any part of the Trust to be used for or diverted to purposes other than the exclusive benefit of the Participants and their Beneficiaries pursuant to the provisions of the Plan or the payment of reasonable Plan or Trust expenses. Upon any discontinuance of the Plan or any termination of the Plan, if the Trust assets attributable to the Plan are more than sufficient to satisfy the liabilities with respect to the Plan, the remainder of the Trust assets attributable to the Plan shall be paid to the Employer.

6.2 **Payments from Accounts.** All payments of benefits under the Plan shall be made exclusively from the assets of the Accounts of the Participants to whom or to whose Spouse, Dependents, or Beneficiaries such payments are to be made, and no person shall be entitled to look to any other source for such payments.

6.3 **Expenses and Trustee Compensation.** The Trustee shall be entitled to reasonable compensation for its services and shall be reimbursed for all reasonable expenses incurred by it in performing its duties hereunder including, but not limited to, legal and accounting expenses. Such compensation is set forth in a separate schedule. Such schedule may be modified from time to time as agreed by the Employer and the Trustee. All such compensation and expenses shall be paid from the Trust, unless paid by the Employer, the Administrator, any of the Employer's employees or any other party, on behalf of the Employer. Any amounts payable under the Plans, or any other costs or expenses that are chargeable to the Trust that are paid or incurred by or on behalf of the Employer shall be fully reimbursed by the Trust to the Employer, first out of the Trust income and then out of the Trust corpus, upon presentation to the Trustee of an accounting of such amounts payable under the Plans, costs and expenses.

6.4 **Payment of Expenses and Trustee Compensation.** Upon receipt of written instructions from the Employer, the Trustee shall charge the Trust and reimburse the Employer, the Administrator, any of the Employer's employees, the Trustee or any other party for expenses payable by the Trust pursuant to Section 6.3 but paid by the Employer, the Administrator, any of the Employer's employees, the Trustee, or any other party, as the case may be. Any fees or expenses incurred in connection with the Administration of the Plan or the Trust including, without limitation, reasonable fees of accountants and legal counsel to the extent not otherwise reimbursed may be reimbursed by the Trust. Notwithstanding the foregoing, a Trustee who is already

receiving full-time pay as an employee of the Employer may not receive any additional compensation for services as a Trustee.

ARTICLE SEVEN ACCOUNTING

7.1 **Required Accounting.** The Trustee shall not be required to keep accounts of the investments, receipts, disbursements, and other transactions of the Trust, except as necessary to perform its title-holding function hereunder. All accounts, books, and records relating thereto shall be maintained by the Employer or its designee.

7.2 **Reports by Trustee.** As promptly as possible following the close of each year, the Trustee shall file with the Employer a written account setting forth assets titled to the Trust as reported to the Trustee by the Employer or its designee. The Employer may approve such reports by written approval delivered to the Trustee or failure to object within six (6) months of the receipt of such report. Upon written approval or a failure to object as provided in the preceding sentence the Trustee shall be released and discharged as to all matters set forth in such reports.

7.3 **Examination of Books and Records.** The Employer shall have the right at all reasonable times during the term of this Declaration and for three (3) years after the termination of this Declaration to examine, audit, inspect, review, extract information from, and copy all books, records, accounts, and other documents of the Trustee relating to this Declaration and the Trustees' performance hereunder.

ARTICLE EIGHT MISCELLANEOUS PROVISIONS

8.1 **No Bond.** Neither the Trustee nor any affiliate thereof shall be required to give any bond or to qualify before, be appointed by, or account to any court of law in the exercise of its powers hereunder.

8.2 **Reliance on Trustee Acts.** No person transferring title or receiving a transfer of title from the Trustee shall be obligated to look to the propriety of the acts of the Trustee in connection therewith.

8.3 **No Assumption of Duties Beyond Those Specified in Declaration.** The Employer may engage the Trustee as its agent in the performance of any duties required of the Employer under the Plan, but such agency shall not be deemed to increase the responsibility or liability of the trustee under this Declaration.

8.4 **Governing Law.** This Trust and its validity, construction and effect shall be governed by the laws of the State in which the Employer is domiciled.

8.5 **Invalid Provisions.** If any provision of this Trust shall be held illegal, invalid or unenforceable for any reason, such determination shall not affect the remaining

provisions, and such provisions shall be construed to effectuate the purpose of this Trust.

8.6 Gender and Number. Pronouns and other similar words used herein in the masculine gender shall be read as the feminine gender where appropriate, and the singular form of words shall be read as the plural where appropriate.

8.7 Headings, Subheadings. Headings and subheadings in this Agreement are inserted for convenience of reference only and are not to be considered in the construction of the provisions hereof.

8.8 Court Proceedings. In the case of any court proceeding involving the Trustee or the Trust, only the Employer and the Trustee shall be necessary or proper parties thereto, and no Participant shall be entitled to any notice of process with respect thereto. Any final judgment entered in any such proceeding shall be conclusive upon the Employer, the Administrator, the Trustee, and Participants.

ARTICLE NINE AMENDMENT AND TERMINATION

9.1 Amendment of Trust. The Employer reserves the right to alter, amend, or (subject to Section 6.1) terminate this Declaration at any time for any reason without the consent of the Trustee or any other person, provided that no amendment affecting the rights, duties, or responsibilities of the Trustee shall be adopted without the execution of the Trustee to the amendment. Any such amendment shall become effective as of the date provided in the amendment, if requiring the Trustee's execution, or on delivery of the amendment to the Trustee, if the Trustee's execution is not required.

9.2 Termination of Trust. Upon termination of this Declaration and upon the satisfaction of all liabilities under the Plan to provide such benefits, any amount of contributions, plus accrued earnings thereon, remaining in such separate Accounts must, under the terms of the Plan and Section 2.2 of this Declaration, be returned to the Employer.

ARTICLE TEN SUCCESSOR TRUSTEES

10.1 Removal of Trustee. The Employer reserves the right to discharge the Trustee for any or no reason, at any time by giving ninety (90) days' advance written notice to the Trustee, unless a shorter period is acceptable to the Trustee.

10.2 Resignation of Trustee. The Trustee reserves the right to resign at any time by giving ninety (90) days' advance written notice to the Employer, unless a shorter period is acceptable to the Employer.

10.3 Appointment of Successor. In the event of discharge or resignation of the Trustee, the Employer shall appoint a successor Trustee who shall succeed to all rights, duties, and responsibilities of the former Trustee under this Declaration. If the Employer fails to appoint a successor by the end of the ninety (90) day period referred to in Sections 10.1 and 10.2, the Trustee may secure the appointment of a successor by a court of competent jurisdiction at the expense of the Trust. Upon its acceptance in writing of such appointment delivered to the Employer and the retiring Trustee, the successor Trustee shall be vested with all the rights, powers, and duties of the Trustee under this Agreement. The retiring Trustee shall endorse, transfer, assign, convey, and deliver to its successor all of the property then held by it under the Trust, except such amount as shall be agreed upon between the Trustee and the Employer as reasonable compensation and expenses in connection with the settlement of accounts and the delivery of the title of assets to the successor Trustee. If the retiring Trustee holds title to any property unsuitable for transfer, it shall, except as otherwise directed by the Employer, retain title to such property, and as to such property alone it shall continue to be the Trustee. The retiring Trustee shall file a final accounting with the Employer as soon as possible, but in no event later than the date as of which such Trustee resigns or is discharged. Upon the relinquishment and delivery of all Trust assets and the delivery of the final accounting to the Employer, the retiring Trustee shall be discharged of all further duties and obligations hereunder.

**ARTICLE ELEVEN
LIMITED EFFECT OF PLAN AND TRUST**

11.1 Limited Effect of Plan and Trust. Neither the establishment of the Plan and the Trust or any modification thereof, the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any person covered under the Plan or other person any legal or equitable right against the Trustee, the Administrator, the Employer or any officer or employee thereof, except as may otherwise be expressly provided in the Plan or in this Declaration.

IN WITNESS WHEREOF, the Employer and the Trustee have executed this Declaration by their respective duly authorized officers, as of the date first mentioned above.

[EMPLOYER]

[TRUSTEE]

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

**ADDITIONAL BACKGROUND MATERIALS
RELATED TO ITEM 4.A., RESOLUTION APPROVING THE
HART ADMINISTRATIVE SERVICES AGREEMENT
AND RELATED DOCUMENTS, ARE AVAILABLE
FOR REVIEW IN THE CITY CLERK'S OFFICE**