

CITY OF ROCHESTER HILLS, MICHIGAN
RETIREMENT HEALTHCARE FUNDING

501(c)(9) TRUST AGREEMENT



City of Rochester Hills, Michigan

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CITY OF ROCHESTER HILLS, MICHIGAN

**RETIREMENT HEALTHCARE FUNDING
501(c)(9) TRUST AGREEMENT**

WITNESSETH THAT:

WHEREAS, the **City of Rochester Hills, Michigan** has previously or concurrently adopted **City of Rochester Hills, Michigan** Retirement Healthcare Funding Plan, herein referred to as the "Plan" and incorporated by reference including all definitions therein; and

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

WHEREAS, **City of Rochester Hills, Michigan** intends that this Trust, as defined herein, comply with Section 501(c)(9) of the Internal Revenue Code of 1986 (the "Code"); the Public Employee Health Care Fund Investment Act, Michigan Public Act 149 of 1999, and the Public Employee Retirement System Investment Act, Michigan Public Act 314 of 1965, as amended,;

NOW, THEREFORE, for and in consideration of the premises and of the mutual covenants herein contained, **City of Rochester Hills, Michigan**, and the Administrator do hereby covenant and agree as follows:

ARTICLE I

TRUST AND TRUST FUND

1.1 NAME OF TRUST

This Trust shall be entitled **City of Rochester Hills, Michigan** Retirement Healthcare Funding 501(c)(9) Trust Agreement (hereinafter referred to as the "Trust"), and shall carry into effect the provisions of the Plan created prior to, or concurrently herewith and forming a part hereof. All of the definitions in such Plan are hereby incorporated herein by reference. City of Rochester Hills, Michigan hereby appoints its City Finance Director and City Treasurer to act as Trustees of the Trust, and to take, hold, invest, administer and distribute in accordance with the following provisions, any and all contributions and assets paid or delivered to the Trustees pursuant to the Plan.

1.2 TRUST FUND

All of the assets at any time held hereunder by the Trustees are hereinafter referred to collectively as the "Trust Fund". All right, title and interest in and to the assets of the Trust Fund shall be at all times vested exclusively in the Trustees. **City of Rochester Hills, Michigan**, through its Trustees hereby appoints Diversified Investment Advisors as custodian of the assets with Directed Trustee through agreement by Diversified Investment Advisor with a trust company selected by Diversified.

1.3 TRUSTEES'S RECEIPT OF CONTRIBUTIONS

The Trustees directs the Custodian to receive, take, and hold any contributions paid to the Trustees in cash or in other property acceptable to the Trustees. All contributions so received together with the income there from and any other increment thereon shall be deposited into Participant -Accounts as indicated by the transmittal submitted with the contribution and be held, managed, and administered by the Trustee pursuant to the terms of this Agreement without distinction between principal and income and without liability for the payment of interest thereon. The Trustees shall not be responsible for the collection of any contributions under the Plan.

ARTICLE II

PLAN

2.1 DELIVERY OF PLAN DOCUMENT TO TRUSTEES

The City of Rochester Hills, Michigan shall deliver to the Trustees a copy of the Plan document and of any amendments thereto for convenience of reference, but rights, powers, titles, duties, discretions and immunities of the Trustees shall be governed solely by this instrument without reference to the Plan.

ARTICLE III

ADMINISTRATOR

3.1 APPOINTMENT OF ADMINISTRATOR

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

3.2 DIRECTIONS TO TRUSTEES

- (a) all directions by the Administrator to the Trustees shall be in writing signed by such Administrator, or by the Administrator's duly appointed and authorized agent or representative.
- (b) The Administrator shall furnish to the Trustees a specimen signature of the Administrator or Administrators or of the Administrator's duly appointed and authorized agent or representative at the time he or she is appointed.

3.3 DETERMINATION OF INTERESTS

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

ARTICLE IV

CONTRIBUTIONS

4.1 RECEIPT OF CONTRIBUTIONS

The Trustees (through the Custodian) shall receive all contributions paid in cash or other property acceptable to the Trustees, and all contributions so received together with the income there from and any increment thereon shall be held, managed and administered by the Trustees pursuant to this Agreement without distinction between principal and income. The Trustees shall have no duty to require any contributions to be made to the Trustees by **City of Rochester Hills, Michigan** or to determine that the amounts received comply with the Plan, or to determine that the Trust Fund is adequate to provide the benefits payable pursuant to the Plan.

ARTICLE V

TRUSTEES

5.1 APPOINTMENT OF TRUSTEES

The Trustees hereunder shall be **the City Finance Director and City Treasurer**. The trust company shall be a bank or trust company chartered and regulated by Federal banking authorities or by a similar authority of one of the United States. The Trustees shall have the following general categories of responsibilities:

- (a) to manage, and control the Plan assets. The Trustees shall not be responsible for verifying that investment of Plan asset by Participants, is consistent with the Plan adopted by the **City of Rochester Hills, Michigan**, but may rely on information received by the Custodian;
- (b) to pay benefits, through the Administrator, required under the Plan to be paid to Participants, their Dependents or, in the event of death, their Beneficiaries,

including withholding and depositing of income taxes with respect to taxable benefit payments, pursuant to the direction of the Administrator;

- (c) to maintain records of contributions received and receive disbursements reports from the Administrator and furnish to **the City of Rochester Hills, Michigan** for each Fiscal Year a written annual report per Section 5.7.

5.2 INVESTMENT POWERS AND DUTIES OF THE TRUSTEES

Consistent with the Plan the Trustees shall have the following powers and duties with respect to the investment of the Plan Assets:

- (a) to apply for, own, and pay premiums on life insurance Contracts or Policies;
- (b) to provide participants, in the Trust Fund with investment options in such securities or property, real or personal, wherever situated, including, but not limited to, stocks, common or preferred, bonds and other evidences of indebtedness or ownership,. The Trustees, on the advice of the Administrator or Custodian, shall give due regard to any limitations imposed by the Code or Michigan State law and ERISA, if applicable, so that at all times the Plan may qualify as an employee benefit plan and the Trust as a trust which complies with Section 501(c)(9) of the Code and Michigan Public Act 149 of 1999 and Michigan Public 314 of 1965.
- (c) The powers granted to the Trustees shall be exercised in the sole fiduciary discretion of the Trustees. However, if Participants, Dependents or Beneficiaries are empowered, each of them may direct the Trustees to separate and keep separate all or a portion of his account; and further each such person is authorized and empowered, to give directions to the Trustees in such form as the Trustees may require concerning the investment of the Participant's, Dependent's or Beneficiary's directed account. The Trustees shall comply, through the Custodian, as promptly as practicable with investment directions given hereunder. The Trustees may refuse to comply with any investment direction in the event the Trustees deem such directions to be improper by virtue of applicable law. Any costs and expenses related to compliance with the Participant's, Dependent's or Beneficiary's direction shall be borne by his account.

5.3 OTHER POWERS OF THE TRUSTEES

The Trustees, in addition to all powers and authorities under common law, statutory authority and consistent with the other provisions of this Agreement shall have the following powers and authorities:

- (a) To subscribe for, any securities or other property and to retain the same.
- (b) To accept and retain for such time as it may deem advisable any securities or other property received or acquired by it as Trustees hereunder, whether or not

such securities or other property would normally be purchased as investments hereunder;

- (c) To make, execute, acknowledge, and deliver any documents of transfer and conveyance or any other instruments that may be necessary or appropriate to carry out the powers herein granted;
- (d) To settle, compromise, or submit to arbitration any claims, debts, or damages due or owing to or from the Plan, to commence or defend suits or legal or administrative proceedings, and to represent the Plan in all suits and legal and administrative proceedings;
- (e) To employ suitable agents and counsel and to pay their reasonable expenses and compensation, and such agent or counsel may or may not be agent or counsel for **City of Rochester Hills, Michigan**;
- (f) To do all such acts and exercise all such rights and privileges, although not specifically mentioned herein, as the Trustees may deem necessary to carry out the purposes of the Plan;
- (g) To apply for and procure from responsible insurance companies such endowment and other life insurance Contracts on the life of any Participant as required to insure or protect the benefits under the Plan to exercise, at any time or from time to time, whatever rights and privileges may be granted under such endowment or other insurance contracts; to collect, receive, and settle for the proceeds of all such endowment or other insurance contracts as and when entitled to do so under the provisions thereof;

5.4 DUTIES OF THE TRUSTEES REGARDING PAYMENTS

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

5.5 PAYMENT OF EXPENSES

All expenses of administration may be paid out of the Trust Fund unless previously paid by **City of Rochester Hills, Michigan**. Such expenses shall include any expenses incident to the functioning of the Administrator, including, but not limited to, accountants, counsel, and other specialists and their agents, and other costs of administering the Plan as previously approved by the Trustees. Until paid, the expenses shall constitute a liability of the Trust Fund.

5.6 VALUATION OF THE TRUST FUND

As of each Anniversary Date, and at such other date or dates deemed necessary by the Administrator, herein called "valuation date", the Trustees shall determine the net worth of the assets comprising the Trust Fund held in Participant Accounts as it exists on the "valuation date" prior to taking into consideration any contribution for that Plan Year. In determining such net

worth, the Trustees shall value the assets comprising the Trust Fund at their fair market value as of the "valuation date".

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

5.7 ANNUAL REPORT OF THE TRUSTEES

Within sixty (60) days after the Anniversary Date for each Plan Year, the Trustees shall furnish to **City of Rochester Hills, Michigan** a written statement of account with respect to the Fiscal Year for which such contribution was made setting forth:

- (a) all contributions made to the Trust Fund the net income, or loss, of the Trust Fund;
- (b) the gains, or losses, realized by the Trust Fund upon sales or other disposition of the assets;
- (c) the increase, or decrease, in the value of the Trust Fund;
- (d) all payments and distributions made from the Trust Fund; and
- (e) such further information as the Trustees and/or Administrator deems appropriate.

5.8 AUDIT

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

- (3) statement of receipts and disbursements, a schedule of all assets held for investment purposes, a schedule of all loans or fixed income obligations in default at the close of the Plan Year;
- (4) the most recent annual statement of assets and liabilities of any bank common or collective trust fund in which Plan assets are invested or such information regarding separate accounts or trusts with a bank or insurance company as the Trustees deem necessary; and

All auditing and accounting fees shall be an expense of and maybe paid from the Trust Fund.

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

5.9 RESIGNATION, REMOVAL AND SUCCESSION OF TRUSTEES

- (a) The Trustees, Custodian and/or the Trust Company may resign at any time by delivering to City of Rochester Hills, Michigan, at least ninety (90) days before its effective date, a written notice of its resignation.
- (b) City of Rochester Hills, Michigan may remove the Custodian and/or the Trust Company by mailing, by registered or certified mail, addressed to such Custodian or Directed Trustee at his last known address, a written notice of its removal and a copy, certified by **City of Rochester Hills, Michigan**, of the resolution adopted effecting its removal.
- (c) Upon the death, resignation, incapacity, dissolution or removal of any of the Trustees, a successor may be appointed by City of Rochester Hills, Michigan; and such successor, upon accepting such appointment in writing and delivering same to City of Rochester Hills, Michigan, shall, without further act, become vested with all the estate, rights, powers, discretions, and duties of his predecessor with like respect as if he were originally named as a Trustees herein. Until such a successor is appointed, the remaining Trustee shall have full authority to act under the terms of this Agreement. In the event that **City of Rochester Hills, Michigan** does not name a successor Trustee by the effective date of the removal or resignation of the Trustee, **City of Rochester Hills, Michigan** shall become the Trustee hereunder.
- (d) **City of Rochester Hills, Michigan** may designate a successor Trustee prior to the resignation or removal of a Trustee. In the event a successor is so designated by **City of Rochester Hills, Michigan** and accepts such designation, the successor shall, without further act, become vested with all the estate, rights, powers, discretions, and duties of his predecessor with the like effect as if he were

originally named as Trustee herein immediately upon the death, resignation, incapacity, or removal of his predecessor.

- (e) Whenever any Trustee hereunder ceases to serve as such, he shall furnish to **City of Rochester Hills, Michigan** a written statement of account with respect to the portion of the Fiscal Year during which he served as Trustee. This statement shall be either (i) included as part of the annual statement of account for the Fiscal Year required under Section 5.7 or (ii) set forth in a special statement. Any such special statement of account should be rendered no later than the due date of the annual statement of account for the Fiscal Year. No successor to the Trustee shall have any duty or responsibility to investigate the acts or transactions of any predecessor who has rendered all statements of account required by Section 5.7 and this subparagraph.

ARTICLE VI

AMENDMENT, TERMINATION AND MERGERS

6.1 AMENDMENT

City of Rochester Hills, Michigan shall have the right at any time and from time to time to amend, in whole or in part, any or all of the provisions of this Agreement. However, no such amendment shall authorize or permit any part of the corpus or income of the Trust Fund (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to, or inure privately to individuals or for purposes other than the benefit of Participants, Dependents or Beneficiaries as provided herein, or to revert to or become the property of **City of Rochester Hills, Michigan**; and no such amendment which affects the rights, duties or responsibilities of the Trustees may be made without the written consent of the Trustees. Any such amendment shall become effective upon delivery of a duly executed instrument to the Trustees, provided that the Trustees shall in writing consent to the terms of such amendment.

6.2 TERMINATION OF TRUST BY CITY OF ROCHESTER HILLS, MICHIGAN

City of Rochester Hills, Michigan shall have the right at any time to terminate the Trust by delivering to the Trustees and Administrator written notice of such termination. Upon such termination of the Trust, **City of Rochester Hills, Michigan**, by written notice to the Trustees and Administrator, may direct either:

- (a) complete distribution of the assets in the Trust Fund to the Participants or their Beneficiaries as soon as the Administrator deems it to be in the best interests of the Participants or their Beneficiaries, except however, such distribution shall only be made (1) pursuant to the terms of a collective bargaining agreement, or (2) on the basis of objective and reasonable standards which do not result in unequal payments to similarly situated Participants or their Beneficiaries or in disproportionate payments to officers, shareholders, or highly compensated Employees of **City of Rochester Hills, Michigan**; or

- (b) that any assets remaining in the Trust after the satisfaction of all liabilities to existing Participants or their Beneficiaries, shall be applied to provide such Participants or their Beneficiaries with the benefits set forth in the Plan, provided, however, that such benefits shall not be provided in disproportionate amounts to officers, shareholders, or highly compensated Employees of **City of Rochester Hills, Michigan**.

6.3 MERGER, CONSOLIDATION OR TRANSFER

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

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

6.4 TRANSFER OF INTEREST

Pursuant to the direction of the Administrator, the Trustees may accept funds transferred from another trust forming part of a welfare benefit meeting the requirements of Code Section 501(c)(9). The Administrator shall maintain records with respect to the separate "Participant's Transferred Account" on behalf of sponsoring entity and the Participant with respect to the amount transferred. In the event of such a transfer under this Plan, the Trustees may act upon the direction of the Administrator without determining the facts concerning a transfer.

ARTICLE VII

MISCELLANEOUS

7.1 QUALIFIED TRUST

- (a) The Trust is intended to continue to qualify and to be tax exempt under Section 501(c)(9) of the Code, as amended from time to time. Until advised otherwise, the Trustees may conclusively presume that this Trust is qualified under Section 501(c)(9) of the Code as amended from time to time, and that this Trust is exempt from federal income taxes.
- (b) The Administrator, within a reasonable time after the initial adoption of the Plan, or upon an amendment of any of its elective provisions, shall promptly cause an application to be filed by or on behalf of the Plan with the Internal Revenue

Service requesting a determination letter that the Trust as adopted qualifies as a tax-exempt trust under Section 501(c)(9) of the Code.

- (c) Notwithstanding anything herein to the contrary, if, pursuant to an application filed by or in behalf of the Plan, the Commissioner of Internal Revenue Service or his delegate should determine that the Plan does not initially qualify as a tax-exempt plan and trust under Section 501(c)(9) of the Code, and such determination is not contested, or if contested, is finally upheld, then the Plan shall be void *ab initio* and the Trustees shall direct the Administrator to return all amounts contributed to the Plan by the **City of Rochester Hills, Michigan**, less expenses paid, within one year and the Plan shall terminate, and the Administrator shall be discharged from all further obligations.

7.2 PARTICIPANTS' RIGHTS

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

7.3 ALIENATION

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

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

7.4 CONSTRUCTION OF AGREEMENT

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

7.5 GENDER AND NUMBER

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

7.6 PROHIBITION AGAINST DIVERSION OR INUREMENT

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 the Trust Fund maintained pursuant to this trust, or any funds contributed thereto, to inure (other than through the payment of benefits provided under the terms of the Plan) to the benefit of any private shareholder or individual.

7.7 BONDING

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

7.8 SPONSOR'S, ADMINISTRATOR'S AND TRUSTEES'S PROTECTIVE CLAUSE

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

7.9 INSURER'S PROTECTIVE CLAUSE

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

privilege contrary to the terms of any Contract which it issues hereunder, or the rules of the insurer.

7.10 INDEMNIFICATION OF TRUSTEES

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

7.11 LIMITATION OF TRUSTEES'S LIABILITY

The Trustees shall accept and rely upon any documents executed by the Administrator until such time as **City of Rochester Hills, Michigan** or Administrator files with the Trustees a written revocation of such designation. If the Trustees makes a written request for directions from **City of Rochester Hills, Michigan**, the Administrator, or Custodian, the Trustees may await such directions without incurring liability. The Trustees has no duty to act in the absence of such requested directions, but may in its discretion take such action, as it deems appropriate to carry out the purpose of this Trust Agreement.

7.12 RECEIPT AND RELEASE FOR PAYMENTS

- (a) No benefit payable to any Participant or Beneficiary shall exceed the value of the Participant's Account. In the event that there are insufficient –assets in the Participant's Account to pay in full any benefit provided hereunder, neither the Trustees nor the **City of Rochester Hills, Michigan** shall bear any liability to any Participant or Beneficiary on account of such insufficiency.
- (b) Any payment to any Participant, his legal representative, Beneficiary, or to any guardian or committee appointed for such Participant or Beneficiary in accordance with the provisions of this Agreement, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Trustees, the Administrator and **City of Rochester Hills, Michigan**, any of whom may require such Participant, legal representative, Beneficiary, guardian or committee, as a condition precedent to such payment, to execute a receipt and release thereof in such form as shall be determined by the Trustees, Administrator or **City of Rochester Hills, Michigan**.

7.13 HEADINGS

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

ARTICLE VIII

EXECUTION

8.1 SIGNATURES

In witness of the foregoing covenants herein contained, the Corporate Authority of the **City of Rochester Hills, Michigan** has directed this Trust and the related Plan document be adopted as of the dates shown below:

- (a) City of Rochester Hills, Michigan: City of Rochester Hills, Michigan is named in the attached Adoption Agreement.

Dated this ____ day of _____ 2011.

Signed by: _____

Title: Mayor

Signature: _____