

**WASHTENAW COUNTY
VEBA TRUST AGREEMENT**

Effective December 27, 1996

Restated Effective January 1, 1998

Restated Effective May 19, 2010

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**WASHTENAW COUNTY
VEBA
TRUST AGREEMENT**

This Trust Agreement is made this _____ day of _____, 2010, by and between the County of Washtenaw, Michigan and the Board of Trustees described in Sec. 3.1 of this Trust Agreement, or their successors (the "Trustees").

RECITALS:

WHEREAS, the County provides medical benefits to County retirees, their spouses and dependents pursuant to the terms of collective bargaining agreements, policies for non-union former employees, and the Washtenaw County Retiree Health Care Plan (the "Plan"); and

WHEREAS, the County established a trust exempt from tax under Section 501(c)(9) of the Internal Revenue Code of 1986, as amended, to accumulate during employees' working years the funds needed to pay for retiree health benefits after retirement, to pay retiree medical benefits under the Plan and to receive contributions for that purpose from the County and employees as required by the terms of collective bargaining agreements or County policies for non-union employees; and

WHEREAS, the parties desire to amend and restate the Trust Agreement (a) to change the name of the trust to the VEBA; (b) at the request of the County, to revise Articles II (contributions) and VI (amendment and termination), both effective as of the date of this restated Trust Agreement; and (c) pursuant to the recommendation of the Trustees and their legal counsel, to amend Sections 3.4(e), 4.1 and 4.2 to reflect the amendments to Act 314 by P.A. 1996, No. 485 with respect to investment fiduciaries, investment managers, and prohibited investments, effective as of the December 27, 1996 effective date of this Trust Agreement, and all actions previously taken by the Trustees shall be regarded as having been taken in accordance with this restated Trust Agreement; and

WHEREAS, the parties desire to amend Section 3.4(c) of the Trust Agreement to better reflect Section 20f of Act 314 and to authorize (prospectively and retroactively to November 17, 1998) the use of a clearing corporation as custodian, which shall be regarded as having been in accordance with this restated Trust Agreement.

NOW, THEREFORE, the parties agree to amend and restate the Washtenaw County Retirees Medical Benefit Trust (now known as the Washtenaw County VEBA) on the following terms:

**ARTICLE I
GENERAL**

Sec. 1.1 Name of Trust. This Trust Agreement and the trust established by this Trust Agreement shall be known as the "Washtenaw County VEBA " (the "VEBA").

Sec. 1.2 Purpose; VEBA. The purpose of this VEBA is to provide, through insurance contracts, contracts with health maintenance organizations, preferred provider organizations, other similar health care provider organizations (referred to in this Trust Agreement as "Health Care Organizations"), or otherwise, for medical benefits for retired employees of the County, their spouses and dependents, pursuant to the terms of the Washtenaw County Retiree Health Care Plan (the "Plan"), and for such other life, sick, accident, vacation or other benefits as defined in Section 501(c)(9) of the Code for employees and retired employees of the County, their spouses and dependents, as the County and the Trustees shall from time to time agree shall be funded through the VEBA or as may be required to be funded through the VEBA pursuant to the terms of any collective bargaining agreement between the County and any collective bargaining association covering County employees. Together with the Plan and any other benefit plan funded through this VEBA, this VEBA shall constitute a voluntary employees' beneficiary association as defined in Section 501(c)(9) of the Code ("VEBA") and shall be administered and interpreted so as to comply with the requirements of Section 501(c)(9). The members of this VEBA shall be all employees of the County and all former employees of the County eligible for retiree health care benefits under the Plan.

Sec. 1.3 Acceptance of VEBA. By executing this Trust Agreement, the Trustees accept their appointment as such.

Sec. 1.4 Part of Plan. This VEBA forms a part of the Washtenaw County Retiree Health Plan and is used to fund benefits thereunder. The County warrants that it has furnished the Trustees with a true and correct copy of the Plan as currently in effect. The County agrees that promptly upon the adoption of any amendment to the Plan it will furnish the Trustees with a copy of the amendment and with an appropriate certificate evidencing their due adoption. The County further agrees that no amendment of the Plan shall have the effect of changing the rights, duties, and liabilities of the Trustees without their written consent. The Trustees may rely on the latest Plan documents furnished them as above provided without further inquiry or verification.

Sec. 1.5 Certification of Fiduciaries and Administrator. The County Administrator will certify to the Trustees the name of the person or persons who have authority on behalf of the County to communicate with the Trustees with respect to any matters relating to the VEBA. The Trustees shall recognize the County as the administrator of the Plan unless and until receipt from the County Administrator of a certification evidencing the appointment of some other person or persons as said administrator. The County Administrator shall provide the Trustees with a specimen signature of each of the persons referred to above. The Trustees may rely on the latest relevant certificate without further inquiry or verification.

Sec. 1.6 Benefit Administrator. If a Benefit Administrator is appointed under the Plan, the County shall notify the Trustees in writing of such appointment and shall furnish the Trustees with a copy of the agreement between it and the Benefit Administrator. The Benefit Administrator shall have authority to exercise those powers delegated to it by the County in the agreement and to direct the Trustees in the exercise of these powers.

After receipt of notice of the appointment, the Trustees shall be fully protected in acting upon written instructions received from the Benefit Administrator within the Benefit Administrator's authority under the agreement prior to receipt of notice of a change in or termination of the Benefit Administrator.

Sec. 1.7 Construction and Applicable Law. This Trust Agreement shall be construed and administered according to the laws of the State of Michigan and in accordance with Section 501(c)(9) of the Code. All references herein to the "Code" are to the Internal Revenue Code of 1986 as from time to time amended, and the regulations promulgated thereunder.

**ARTICLE II
TRUST FUND**

Sec. 2.1 Composition. All sums of money and all securities and other property acceptable to the Trustees and received by them to be held in VEBA hereunder, as evidenced by their receipts, from whatever source received, together with all investments made therewith, the proceeds thereof, and all earnings and accumulations thereon, and the part thereof from time to time remaining, shall be held and administered by the Trustees, in trust, in a fund referred to herein as the "Trust Fund" or the "VEBA," in accordance with the terms and provisions hereof for the exclusive benefit of the participants in the Plan and their beneficiaries and of defraying reasonable expenses of investing the Trust Fund. The Trust Fund shall be held, administered, and disbursed by the Trustees without distinction between principal and income.

Sec. 2.2 Amount of Contributions.

(a) The County shall contribute to the VEBA an amount equal to the amount of County contributions required to pay for retiree health benefits for the current year under the Plan for benefits for current retirees receiving benefits through the VEBA which were not previously funded, in excess of any amounts payable by such retirees, their spouses or dependents under the terms of the Plan.

In addition, the County may, in its discretion, contribute to the VEBA:

(i) the amount required to pre-fund retiree health benefits for future non-union retirees on a level basis over the period of employment of active non-union employees on an actuarially determined basis, and/or

(ii) the amount required to pre-fund retiree health benefits by the terms of any collective bargaining agreement between the County and any collective bargaining association covering employees of the County.

(b) The County has the authority to contribute amounts deducted from the compensation of employees for retirement purposes to fund retiree health or the retirement system or plan applicable to such employees at the level stated in the applicable collective bargaining agreements or, for non-union employees, as required by policy of the County.

(c) Retired County employees, their spouses and dependents shall contribute to the VEBA the amount required to receive benefits under the terms of the Plan, collective bargaining agreements and/or the policy of the County with respect to non-union retirees.

Sec. 2.3 Separate Accounts for Benefit Plans. Initially, the County and the Trustees intend that this VEBA be used only to pre-fund and provide for retiree health care benefits under the Plan. In the event this Trust Agreement is amended to provide other benefits under other benefit plans which may be funded through a VEBA pursuant to Section 501(c)(9) of the Code, the Trustees shall create and maintain separate accounts for the Plan and each other benefit plan

funded through the Trust. The Trustees shall thereafter allocate contributions for the Plan and each other benefit plan funded through the Trust, and earnings or losses thereon, to the separate account for such plan. The Trustees shall not pay for benefits under the Plan or under any other benefit plan any amounts in excess of the amount in the separate account for such plan. Furthermore, the Trustees shall not pay any amounts allocable to the separate account for the Plan to pay for medical or other benefits for active employees, even if the Plan is amended to provide such benefits to active employees, their spouses and dependents. Such accounts shall be primarily for accounting purposes and shall not require segregation within the Trust Fund.

Sec. 2.4 No Duty to Collect Contributions. The Trustees shall have no duty to require any contributions to be made to them, to determine that the contributions received by them comply with the provisions of the Plan, with the terms of any collective bargaining agreement between the County and a collective bargaining association covering County employees, or with any resolution of the Board of Commissioners of the County providing therefor, or to collect any contributions payable to the VEBA pursuant to the Plan, any collective bargaining agreement or resolution of the Board of Commissioners. The Trustees shall not be responsible for the adequacy of the Trust Fund to pay benefits under the Plan. The responsibility of the Trustees shall be limited to the sums of money, securities, and other property actually received by them.

**ARTICLE III
TRUSTEES**

Sec. 3.1 Trustees. The Trustees shall be the following five individuals:

(a) One active employee, who is not a County Commissioner, appointed by the Retirement Commission of the Washtenaw County Employees' Retirement System from among the participants of that Plan.

(b) One active employee, who is not a County Commissioner, appointed by the Washtenaw County Deputy Sheriffs Association (WCDSA) from among the participants of the Municipal Employees' Retirement System (MERS).

(c) The County Human Resources Director or a person designated to serve as Trustee by the County Human Resources Director.

(d) The County Finance Director or a person designated to serve as Trustee by the County Finance Director.

(e) One Washtenaw County Board of Commissioner representative appointed by the Retirement Commission (WCERS).

(f) There shall be an alternate for the MERS Trustee, appointed in the same manner as the Trustee for whom such individual shall be the alternate, who shall attend meetings in the absence of and at the request of the Trustee for whom such individual is the alternate, to have the same power, authority, voting rights, and duties as the Trustee at such meeting.

Sec. 3.2 Term of Office; Oath of Office; Vacancies.

(a) The Retirement Commission shall appoint a WCERS employee representative in every odd-numbered year.

The WCDSA shall appoint a MERS employee representative based on a term of their choice.

The Retirement Commission shall appoint a Board of Commissioner representative annually.

The County Human Resources Director shall be Trustee so long as he/she remains employed by the County in that office; a person designated by the Human Resources Director shall serve at the pleasure of the County Human Resources Director until such Trustee shall resign.

The County Finance Director shall be Trustee so long as he/she remains employed by the County in that office; a person designated by the County Finance Director shall serve at the pleasure of the County Finance Director until such Trustee shall resign.

(b) Each Trustee shall, prior to taking office, take an oath of office administered by the County Clerk.

(c) (i) An active employee who (A) terminates employment with the County for any reason including death or retirement; or (B) transfers to another position in the County and becomes a participant in a different pension plan or retirement system, or

(ii) any Trustee except the County Human Resources Director or the County Finance Director (but not excepting the County Human Resource's or County Finance Director's designee) who fails to attend three consecutive meetings unless excused for cause by the Trustees attending the meetings,

shall be deemed to have resigned. The remaining Trustees shall by resolution declare the Trustee position vacated effective as of the adoption of the resolution. The vacancy created by the removal, resignation, or deemed resignation of any Trustee shall be filled for the unexpired term of such Trustee by the Retirement Commission, the County Human Resources Director, the County Finance Director, or by the WCDSA in the same manner as provided in Sec. 3.1 above. At the request of the County, upon removal or resignation of any Trustee, such Trustee shall file a final account with the County.

(d) If a vacancy is for a Trustee other than the County Human Resources Director and/or the County Finance Director or his or her designee and the unexpired term is sixty (60) days or less, the position shall be left vacant until filled by a regularly scheduled election.

Sec. 3.3 Meetings; Quorum; Voting; Record of Proceedings. The Trustees shall hold meetings regularly, at least one in each calendar quarter, and shall designate the time and place of each meeting. All meetings of the Trustees shall be public and shall be held subject to the provisions of the Open Meetings Act. Notice of the meetings will be posted in the County Building prior to the meeting date. Three Trustees shall constitute a quorum at any meeting of the Trustees. Each Trustee shall be entitled to one vote on each question before the Trustees. At least three concurring votes shall be required on each question before the Trustees. The Trustees shall adopt their own rules of procedures and shall keep a written record of their proceedings.

Sec. 3.4 Officers; Services.

(a) The Trustees shall elect from among the Trustees a Chairperson and a Vice Chairperson. The Chairperson shall preside over the meetings of the Trustees. If the Chairperson is unable to preside over a meeting, the Vice Chairperson shall preside over that meeting.

(b) The Retirement Administrator shall be the Secretary to the Trust.

(c) The County Treasurer shall be the Treasurer of the Trust. The Treasurer shall be custodian of the assets of the Trust Fund except as to such assets as the Trustees may from time to time place in the custody of the federal reserve system, a clearing corporation, or a custodian bank which is a member of the federal reserve system, as selected by the Trustees.

(d) The Trustees shall appoint as the Legal Advisor an attorney who is not eligible to participate in the Plan.

(e) The Trustees shall have the right to employ such agents, experts, investment fiduciaries, counsel, and other persons (any of whom may also be employed by or represent the County) deemed by the Trustees to be necessary or proper for the administration of the Trust; to rely and act on information and advice furnished by such agents, experts, investment fiduciaries, counsel, and other persons; and to pay their reasonable expenses and compensation for services to the VEBA from the Trust Fund.

For purposes of this Section 3.4(e), an investment fiduciary means any person who does any of the following:

(a) Exercises any discretionary authority or control in the investment of the Trust Fund; or

(b) Renders investment advice to the VEBA for a fee or other direct or indirect compensation.

Except for an employee of the VEBA, the County, or the State of Michigan who is acting in the capacity of an investment fiduciary to the VEBA, an investment fiduciary shall meet one of the following requirements:

(i) Be a registered investment advisor under both the investment advisors act of 1940, title II of chapter 686, 54 Stat. 847, 15 U.S.C. 80b-1 to 80b-21, and the uniform securities Act, Act No. 265 of the Public Acts of 1964, being sections 451.501 to 451.818 of the Michigan Compiled Laws.

(ii) Be a bank as defined under the investment advisers act of 1940.

(iii) Be an insurance company qualified under MCLA Section 38.1136.

Sec. 3.5 Compensation and Expenses. The Trustees shall serve without additional compensation for their services as Trustees. The Trustees shall be entitled to reimbursement for all reasonable and necessary costs, expenses, and disbursements incurred by them in the performance of such services. Such compensation and reimbursements shall be paid from the income of the Trust Fund if not paid directly by the County, and shall constitute a lien upon the Trust Fund until paid. Trustees who are employees of the County shall be paid their regular compensation for the time spent fulfilling their duties as Trustees.

Sec. 3.6 Records and Accountings. The Trustees shall keep accurate and detailed records and accounts of all investments, receipts, and disbursements, and other transactions hereunder, and all records, books, and accounts relating thereto shall be open to inspection by any person designated by the County at all reasonable times; provided, however, that the Trustees shall have no responsibility regarding the records or accounts of any checking account opened pursuant to Sec. 4.1 (c)(iii). As soon as reasonably practicable following the close of each annual accounting period of the Trust, and as soon as reasonably practicable after the resignation or removal of a Trustee has become effective, the Trustees shall file with the County a written account setting forth all investments, receipts, disbursements, and other transactions effected by them during such year, or during the part of the year to the date the resignation or removal is effective, as the case may be, and containing a description of all securities purchased and sold, the cost or net proceeds of sale, the securities and investments held at the end of such period, and the cost of each item thereof as carried on the books of the Trustees. The accounting shall also furnish upon request of the County such other information as the Trustees may possess and as may be necessary for the County to comply with annual information/tax returns required by the Internal Revenue Service. If the fair market value of an asset in the Trust Fund is not available when necessary for accounting or reporting purposes, the fair value of the asset shall be determined in good faith by the Trustees, assuming an orderly liquidation at the time of such determination. The approval of any accounting, act or procedure by the County shall be a full acquittance and discharge to the Trustees with respect thereto. Nothing herein contained, however, shall be deemed to preclude the Trustees of their rights to have their account judicially settled by a court of competent jurisdiction.

Sec. 3.7 Record Retention. The Trustees shall retain their records relating to the VEBA as long as necessary for the proper administration thereof and at least for any period required by law.

Sec. 3.8 Indemnification. The Trustees shall be indemnified and saved harmless by the County from and against any and all personal liability to which the Trustees may be subjected by reason of any act done or omitted to be done in their official capacity in good faith in the administration of this Trust, or in carrying out any directions of the County and of the Benefits Administrator issued in accordance with this Trust Agreement, and the Trustees shall be reimbursed by the County for all expenses reasonably incurred in their defense in the event the County fails to provide such defense. The County's obligation to indemnify or defend shall be secondary and excess to any indemnity or defense provided by any insurance coverage.

Sec. 3.9 Contract for Provision of Medical Benefits. The Trustees shall, if so directed by the County, execute a contract with an insurance company or a Health Care Organization for the provision of benefits under the Plan. The Trustees are further authorized to accept and hold any such contract, and to assign and deliver any such contract upon the further direction of the County. The Trustees shall be indemnified and saved harmless by the County from and against any and all personal liability to which the Trustees may be subjected by acting pursuant to this paragraph, and shall be reimbursed by the County for all expenses reasonably incurred in acting

pursuant to this paragraph or in the defense of the Trustees in the event that the County fails to provide such defense.



ARTICLE IV
TRUSTEE POWERS; INVESTMENTS

Sec. 4.1 General Responsibility. The general responsibilities of the Trustees shall be as follows:

(a) Except as expressly otherwise provided herein, the Trustees shall have exclusive authority and discretion to manage and control the assets of the Plan held in the Trust Fund, provided that the Trustees may delegate such authority and discretion to an investment manager as described in Section 3.41(e).

(b) The Trustees shall hold, administer, invest and reinvest, and disburse the Trust Fund in accordance with the powers and subject to the restrictions stated herein.

(c)(i) The Trustees shall make such payments and disbursements from the Trust Fund as the County or Benefit Administrator, or any other party authorized by the County to so direct the Trustees, shall from time to time direct in writing. The Trustees shall accept written directions by facsimile, and such facsimile directions shall have the same effect as a writing delivered by mail or by delivery service. Such payments or disbursements may be made directly to such person or persons, natural or otherwise, at such time and in such amounts as specified in authorized directions to the Trustees, and the County warrants that no direction will be issued to the Trustees other than in accordance with the terms of the Plan.

(c)(ii) Without limiting the generality of the foregoing, but in furtherance thereof, the Trustees shall also pay premiums to insurance companies for insurance coverage or to Health Care Organizations for health care benefits under the Plan, as directed by the County or the Benefit Administrator.

(c)(iii) The County or the Benefit Administrator is authorized to open a commercial checking account in any bank for the purpose of making distributions or paying benefits or premiums in accordance with the Plan. Any person authorized by the County or the Benefit Administrator is authorized to sign, manually or by facsimile signature, any and all checks, drafts and orders, including orders or directions in informal or letter form, against any funds in such checking account with such bank and such bank is authorized to honor any and all checks, drafts and orders so signed, regardless of by whom or by what means the actual or purported facsimile signature or signatures thereon may have been affixed thereto, if such signature or signatures resemble those duly filed with such bank, without further inquiry or regard to the authority of said person or the use of the checks, drafts and orders, or the proceeds thereof or to determine whether such checks, drafts and orders are in accordance with the Plan. The Trustees shall make such deposits to any such checking account as directed in writing or by facsimile by the County or the Benefit Administrator or any person authorized by the County, and the Trustees shall have no duty to question the propriety of any such direction or account for the funds retained in or disbursed from any such checking account. The County warrants that all funds deposited in any such designated checking account will be disbursed by it or the Benefit Administrator solely to or for the use and benefit of persons entitled thereto in accordance with the terms of the Plan, but

until so disbursed, shall be held in VEBA for such purpose by it or the Benefit Administrator. The Trustees shall be indemnified and saved harmless by the County from and against any and all personal liability to which the Trustees may be subjected by acting pursuant hereto and the Trustees shall be reimbursed by the County for all expenses reasonably incurred in their defense in the event the County fails to provide such defense.

(d) The Trustees in their capacity as such shall have no responsibility or authority with respect to the operation and administration of the Plan, and the rights, powers and duties of the Trustees shall be governed solely by the terms of this Trust Agreement without reference to the provisions of the Plan.

Sec. 4.2 Powers of Trustees. The Trustees shall have the right, power, and authority to take any action and to enter into and carry out every agreement with respect to the Trust Fund that may be necessary or advisable to discharge their responsibilities hereunder.

The Trustees shall invest and re-invest the assets of the Trust Fund subject to the terms, conditions, limitations and restrictions imposed by the provisions of P.A. 165, No. 314, as amended, being Section 38.1132 et seq. of Michigan Compiled Laws Annotated (the "Investment Funds of Public Employee Retirement Systems Act"). In exercising their discretionary authority with respect to the management of the Trust Fund, the Trustees shall exercise the care, skill, prudence, and diligence under the circumstances then prevailing, that a prudent person, acting in a similar capacity and familiar with those matters, would use in the conduct of a similar enterprise with similar aims, and as further described in MCLA 38.1133(3), and shall not engage in the transactions prohibited and described by MCLA 38.1133(4), (6), and (9).

Subject to the foregoing, the Trustees shall have the following powers, rights and duties:

(i) to retain, manage, improve, repair, operate and control all property, real or personal, at any time comprising part of the Trust Fund;

(ii) to manage, sell, contract to sell, grant options to purchase, convey, exchange, partition, lease for any term (even though such term commences in the future or may extend beyond the duration of the Trust), and otherwise dispose of the Trust Fund from time to time in such manner, for such consideration, and upon such terms and conditions as the Trustee in its discretion shall determine;

(iii) to vote any corporate stock either in person or by proxy for any purpose; to exercise or sell any stock subscription or conversion right; to participate in voting trusts; to consent to, take any action in connection with, and receive and retain any securities resulting from, any merger, consolidation, reorganization, readjustment of the financial structure, liquidation, sale, lease or other organization the securities of which may constitute a portion of the Trust Fund;

(iv) to keep any property in the name of a nominee with or without disclosure of any fiduciary relationship;

(v) to borrow money, and to mortgage, pledge or otherwise encumber the Trust Fund or any part thereof;

(vi) to take any action with respect to conserving or realizing upon the value of any property in the Trust Fund; to collect, pay, contest, compromise, or abandon demands of or against the Trust Fund, to pay any tax, assessment or other charge attributable to the interest of any beneficiary;

(vii) to employ agents, experts, investment fiduciaries, and other persons as described in Section 3.4(e); and

(viii) to perform any and all acts in its judgment necessary or desirable for the proper and advantageous administration and distribution of the Trust Fund.



**ARTICLE V
MISCELLANEOUS**

Sec. 5.1 No Assignment. The Trustees shall not recognize any assignment, alienation, anticipation, attachment, garnishment, legal process, sale, transfer, pledge, encumbrance of or charge upon any benefits payable under the Plan, except as the County or Benefit Administrator may authorize or direct and certify as being in accordance with the Plan.

Sec. 5.2 Evidence. Evidence required of anyone under this Trust Agreement may be by certificate, affidavit, document, or other instrument which the person acting in reliance thereon considers to be pertinent and reliable, and to be signed, made, or presented by the proper party.

Sec. 5.3 Dealings of Others With Trustees. No person (corporate or individual) dealing with the Trustees shall be required to see to the application of any money paid or property delivered to the Trustees or to determine whether the Trustees are acting pursuant to any authority granted to it under this Trust Agreement.

Sec. 5.4 Others Not Party. No insurance company that issues an insurance contract held by the Trustees and no Health Care Organization with which the Trustees have entered into a contract shall be construed to be a party to this Trust Agreement, nor shall it have any responsibility for the validity of this Trust Agreement. An insurance company or Health Care Organization to which an application may be submitted by the Trustees may accept such application and shall have no duty to make any investigation or inquiry regarding the authority of the Trustees to make such application or any amendment thereto or to inquire as to whether a person on whose life any contract is to be issued is entitled to such contract under the Plan.

Sec. 5.5 Audits. The County shall have the right to cause the books, records, and accounts of the Trustees that relate to the Plan to be examined and audited by independent auditors designated by the County at such times as the County may determine, and the Trustees shall make such books, records, and accounts available for such purposes at all reasonable times.


Sec. 5.6 Waiver of Notice. Any notice required under this Trust Agreement may be waived by the person entitled thereto.

Sec. 5.7 Headings. Headings at the beginning of articles and sections are for convenience of reference, shall not be considered a part of this Trust Agreement, and shall not influence their construction.

Sec. 5.8 Use of Compounds of Word "Here." Use of the words "hereof", "herein", "hereunder", or similar compounds of the word "here" shall mean and refer to the entire Trust Agreement unless the context clearly indicates otherwise.

Sec. 5.9 Construed as a Whole. The provisions of this Trust Agreement shall be construed as a whole in such manner as to carry out the provisions thereof and shall not be construed separately without relation to the context.

Sec. 5.10 Counterparts. This Trust Agreement may be executed in any number of counterparts, each of which shall be deemed an original. Such counterparts shall constitute but one and the same instrument, which may be sufficiently evidenced by any one counterpart.



**ARTICLE VI
AMENDMENT AND TERMINATION**

Sec. 6.1 No Diversion. The Trust Fund shall be for the exclusive purpose of providing benefits to retired employees of the County eligible to participate in the Plan and their dependents or beneficiaries and defraying reasonable expenses of administering the Plans, and no part of the corpus or income of the Trust Fund may be used for, or diverted to, any other purposes. Except as provided in Sec. 6.1(a) and Sec. 6.4 below, no portion of the Trust Fund shall inure to the private benefit of the County and no portion of the Trust Fund shall be distributed to any individual, except for payment of benefits under the Plan. Expenses of administering the Plan may include premiums for the bonding of Plan officials and any taxes on the Trust Fund or assets held in the Trust Fund. Notwithstanding the foregoing:

(a) If any contribution or portion thereof is made by the County by a mistake of fact, the Trustees shall, upon written request of the County, return such contribution or portion thereof to the County within one year after the payment of the contribution to the Trustees; however, the earnings attributable to such contribution or portion thereof shall not be returned to the County but shall remain in the Trust Fund, and the amount returned to the County shall be reduced by any losses attributable to such contribution or portion thereof.

(b) If upon a termination of the Plan and after payment of benefits accrued under the Plan to the time of termination there remains a balance in the Trust Fund attributable to the terminated Plan, such balance shall be applied to pay the costs under any comparable plan or plans maintained for retired employees by the County. In the event the County ceases to maintain a comparable plan or plans for retired employees before the balance is entirely disbursed, the balance remaining shall be applied to pay the costs under any comparable plan or plans maintained for active employees. In no event may any amounts be returned to the County except as provided in subsection (a) of this section or Sec. 6.4 below.

Sec. 6.2 Amendment. Subject to the provisions of Sec. 6.1 hereof, this Trust Agreement may be amended at any time or from time to time and in any manner by resolution of the Board of Commissioners of the County with the written agreement of the Trustees, and the provisions of any such amendment may be made applicable to the Trust Fund as constituted at the time of the amendment as well as to the part of the Trust Fund subsequently acquired, provided that this Trust Agreement shall not be amended in any manner which causes or allows any portion of the Trust Fund allocable to the Plan (pursuant to Sec. 2.3 above) to be used for purposes other than providing retiree health care benefits to retired employees of the County, or in the event of the termination of the Plan, for purposes other than those described in Sec. 6.1(b) above and permitted by Section 501(c)(9) of the Code.

Sec. 6.3 Termination of Plan; Termination of VEBA. If the Plan is terminated, this VEBA shall nevertheless continue in effect until the Trust Fund has been distributed pursuant to Sec. 6.1(b) and this Trust Agreement. The Board of Commissioners of the County may, by resolution, terminate the VEBA at any time, provided that this VEBA shall nevertheless continue

in effect until the Trust Fund has been distributed pursuant to Sec. 6-1(b) and this Trust Agreement.

Sec. 6.4 Initial Qualification. Contributions to the Trust Fund are conditioned on the initial qualification of the VEBA as a voluntary employees' beneficiary association under Section 501(c)(9) of the Code. If the VEBA is not determined to be tax-exempt under Section 501(c)(9), this VEBA shall terminate, and the Trustees shall, on the written request of the County, return the Trust Fund to the County within one year after the date such qualification of the VEBA is denied.

IN WITNESS WHEREOF, the County has caused this restated Trust Agreement to be executed by its duly authorized officers, and the Trustees have executed this Trust Agreement, as of the day and year first above written.

COUNTY OF WASHTENAW

By: _____

Its: _____

Attest:

Trustee (WCERS)

Trustee (MERS)

Trustee (Human Resources Director or designee)

Trustee (Finance Director or designee)

Trustee (County Commissioner)

05/19/2010