

VANOVERBEKE  
MICHAUD &  
TIMMONY, P.C.

MICHAEL J. VANOVERBEKE  
THOMAS C. MICHAUD  
JACK TIMMONY  
FRANCIS E. JUDD  
AARON L. CASTLE  
ROBERT J. ABB

ATTORNEYS AND COUNSELORS

79 ALFRED STREET  
DETROIT, MICHIGAN 48201  
TEL: (313) 578-1200  
FAX: (313) 578-1201  
WWW.VMTLAW.COM

**M E M O R A N D U M**

**TO: BOARD OF TRUSTEES OF THE MACOMB TOWNSHIP  
ACT 345 FIRE RETIREMENT SYSTEM**

**FROM: VANOVERBEKE, MICHAUD & TIMMONY, P.C.**

**RE: ELIGIBLE ROLLOVER DISTRIBUTIONS**

**DATE: FEBRUARY 27, 2015**

Internal Revenue Code (“IRC”) § 401(a)(31) requires a qualified plan to permit its members to defer the payment of income tax on lump sum distributions by electing to have an otherwise taxable distribution paid directly to another eligible plan and/or account. This is commonly referred to as a “rollover”.

IRC § 402(f) requires a qualified plan to provide a written explanation to any recipient of an “eligible rollover distribution.” The written explanation must cover the direct rollover rules, the mandatory income tax withholding on distributions not directly rolled over, the tax treatment of distributions not rolled over (including the special tax treatment available for certain lump sum distributions), and when distributions may be subject to different restrictions and tax consequences after being rolled over. IRC § 402(f) provides that this explanation must be given within a reasonable period of time before the plan makes an eligible rollover distribution.

Under current IRS rules and regulations, each destination of an eligible rollover distribution (for example, a distribution split between a direct rollover to an IRA and an actual distribution of funds) is considered a separate distribution. Thus, if a participant’s account balance contains both pre-tax and after-tax amounts, each distribution includes a pro rata share of both. Beginning January 1, 2015, when plan participants direct that their eligible rollover distribution go to multiple destinations, the amounts will be treated as a single distribution for allocating pre-tax and after-tax basis. This will allow plan participants to:

1. Roll over amounts to both a Roth IRA and a non-Roth IRA;
2. Allocate the pre-tax amount of the distribution to the non-Roth IRA and the after-tax amount to the Roth IRA; and
3. Avoid having to pay income tax on pre-tax amounts rolled over to the non-Roth IRA.

In light of the expanded requirements under § 402(f), attached please find a revised notice and resolution which incorporate the necessary changes. As always, if you have any questions, please do not hesitate to contact this office.

# **MACOMB TOWNSHIP ACT 345 FIRE RETIREMENT SYSTEM**

## **NOTICE TO RECIPIENT OF LUMP SUM DISTRIBUTION**

The Retirement System is a qualified plan and is subject to applicable provisions of the Internal Revenue Code. Due to the complexity of the tax laws and other considerations, the Board does not provide tax advice. This notice is provided to you in accordance with Internal Revenue Code Section 402 and Internal Revenue Regulation 1.402(f).

*THE BOARD OF TRUSTEES MAKES NO REPRESENTATION OR GIVES NO ASSURANCE WITH RESPECT TO WHAT MAY OR MAY NOT BE PERMISSIBLE UNDER THE TAX LAWS. PLEASE CONSULT YOUR TAX ADVISOR.*

### **SPECIAL TAX RULES**

The Internal Revenue Code provides several complex rules relating to the taxation of the amounts you received in this distribution. This notice merely summarizes certain rules. You should promptly consult a tax advisor in deciding what course to follow with respect to any distribution from the Retirement System.

#### **SAFE HARBOR EXPLANATION FOR PLANS QUALIFIED UNDER IRC SECTION 401(a)**

#### **SPECIAL TAX NOTICE REGARDING PLAN PAYMENTS**

This notice explains how you can continue to defer income tax on your retirement savings in the Retirement System (the "Plan") and contains important information you will need before you decide how to receive your Plan benefits.

This notice is provided to you by the Plan because all or part of the payment that you will soon receive from the Plan may be eligible for rollover by you or your Plan Administrator to a traditional IRA, a Roth IRA or an eligible employer plan.

A rollover is a payment by you or the Plan Administrator of all or part of your benefit to another plan or IRA that allows you to continue to postpone taxation of that benefit until it is paid to you. Your payment cannot be rolled over to a designated Roth account in an employer plan, a SIMPLE IRA, or a Coverdell Education Savings Account (formerly known as an education IRA).

An "eligible employer plan" includes a plan qualified under section 401(a) of the Internal Revenue Code, including a 401(k) plan, profit-sharing plan, defined benefit plan, stock bonus plan, and money purchase plan; a section 403(a) annuity plan; a section 403(b) tax-sheltered annuity; and an eligible section 457(b) plan maintained by a governmental employer (governmental 457 plan).

An eligible employer plan is not legally required to accept a rollover. Before you decide to roll over your payment to another employer plan, you should find out whether the plan accepts rollovers and, if so, the types of distributions it accepts as a rollover. You should also find out about any documents that are required to be completed before the receiving plan will accept a

rollover. Even if a plan accepts rollovers, it might not accept rollovers of certain types of distributions, such as after-tax amounts. If this is the case, and your distribution includes after-tax amounts, you may wish instead to roll your distribution over to a traditional or Roth IRA or split your rollover amount between the employer plan in which you will participate and a traditional or Roth IRA. If an employer plan accepts your rollover, the plan may restrict subsequent distributions of the rollover amount or may require your spouse's consent for any subsequent distribution. A subsequent distribution from the plan that accepts your rollover may also be subject to different tax treatment than distributions from this Plan. Check with the administrator of the plan that is to receive your rollover prior to making the rollover.

If you have additional questions after reading this notice, please contact your plan administrator.

### **SUMMARY**

There are two ways you may be able to receive a Plan payment that is eligible for rollover:

- (1) Certain payments can be made directly to a traditional or Roth IRA that you establish or to an eligible employer plan that will accept it and hold it for your benefit ("DIRECT ROLLOVER"); or
- (2) The payment can be PAID TO YOU.

#### **If you choose a DIRECT ROLLOVER:**

- Your payment will not be taxed in the current year and no income tax will be withheld unless the rollover is made to a Roth IRA, in which case you must include the amount of the payment (other than after-tax contributions) in gross income
- You choose whether your payment will be made directly to your traditional IRA, your Roth IRA, or to an eligible employer plan that accepts your rollover. Your payment cannot be rolled over to a SIMPLE IRA, or a Coverdell Education Savings Account.
- The taxable portion of your payment will be taxed later when you take it out of the traditional IRA or the eligible employer plan. Depending on the type of plan, the later distribution may be subject to different tax treatment than it would be if you received a taxable distribution from this Plan.

#### **If you choose to have a Plan payment that is eligible for rollover PAID TO YOU:**

- You will receive only 80% of the taxable amount of the payment, because the Plan Administrator is required to withhold 20% of that amount and send it to the IRS as income tax withholding to be credited against your taxes. (The Plan is not required to withhold tax on distributions less than \$200.00).

- The taxable amount of your payment will be taxed in the current year unless you roll it over. Under limited circumstances, you may be able to use special tax rules that could reduce the tax you owe. However, if you receive the payment before age 59½, you may have to pay an additional 10% tax [Please note that effective August 17, 2006, the 10% penalty is waived for distributions made to individuals who separate from employment after age 55 and for distributions from a governmental defined benefit plan to public safety employees separating from service after attaining age 50 (instead of age 55)].
- You can roll over all or part of the payment by paying it to your traditional or Roth IRA or to an eligible employer plan that accepts your rollover within 60 days after you receive the payment. The amount rolled over will not be taxed until you take it out of a traditional IRA or an eligible employer plan. However, payments to a Roth IRA must include the amount of the rollover (excluding after-tax contributions) in gross income.
- If you want to roll over 100% of the payment to a traditional IRA, a Roth IRA, or an eligible employer plan, you must find other money to replace the 20% of the taxable portion that was withheld. If you roll over only the 80% that you received, you will be taxed on the 20% that was withheld and that is not rolled over.

### **Your Right to Waive the 30-Day Notice Period**

Generally, neither a direct rollover nor a payment can be made from the Plan until at least 30 days after your receipt of this notice. Thus, after receiving this notice, you have at least 30 days to consider whether to have your withdrawal directly rolled over. If you do not wish to wait until this 30-day notice period ends before your election is processed, you may waive the notice period by making an affirmative election indicating whether you wish to make a direct rollover. Your withdrawal will then be processed in accordance with your election as soon as practical after it is received by the Plan Administrator.

#### **I. PAYMENTS THAT CAN AND CANNOT BE ROLLED OVER**

##### **The following types of payments can be rolled over:**

Payments from the Plan may be “eligible rollover distributions.” This means that they can be rolled over to a traditional IRA, to a Roth IRA or to an eligible employer plan that accepts rollovers. Your Plan administrator should be able to tell you what portion of your payment is an eligible rollover distribution.

After-tax Contributions. After-tax contributions included in a payment are not taxed. If a payment is only part of your benefit, an allocable portion of your after-tax contributions is included in the payment, so you cannot take a payment of only after-tax contributions. However, if you have pre-1987 after-tax contributions maintained in a separate account, a special rule may apply to determine whether the after-tax contributions are included in a payment. In addition, special rules apply when you do a rollover, as described below.

If you made after-tax contributions to the Plan, these contributions may be rolled into either a traditional IRA, a Roth IRA or to certain employer plans that accept rollovers of the after-tax contributions. The following rules apply:

a) Rollover into a Traditional or Roth IRA. You can roll over your after-tax contributions to a traditional IRA or Roth IRA either directly or indirectly. Your plan administrator should be able to tell you how much of your payment is the taxable portion and how much is the after-tax portion. If you roll over after-tax contributions to a traditional IRA, it is your responsibility to keep track of, and report to the Internal Revenue Service on the applicable forms, the amount of these after-tax contributions. This will enable the nontaxable amount of any future distributions from the traditional IRA to be determined. Once you roll over your after-tax contributions to a traditional or Roth IRA, those amounts CANNOT later be rolled over to an employer plan.

b) Rollover into an Employer Plan. You can roll over after-tax contributions from an employer plan that is qualified under Code section 401(a) or a section 403(a) annuity plan to another such plan using a direct rollover if the other plan provides separate accounting for amounts rolled over, including separate accounting for the after-tax employee contributions and earnings on those contributions. You can also roll over after-tax contributions from a section 403(b) tax-sheltered annuity to another section 403(b) tax-sheltered annuity using a direct rollover if the other tax-sheltered annuity provides separate accounting for amounts rolled over, including separate accounting for the after-tax employee contributions and earnings on those contributions. You CANNOT roll over after-tax contributions to a governmental 457 plan. If you want to roll over your after-tax contributions to an employer plan that accepts these rollovers, you cannot have the after-tax contributions paid to you first. You must instruct the Plan Administrator of this Plan to make a direct rollover on your behalf. Also, you cannot first roll over after-tax contributions to a traditional or Roth IRA and then roll over that amount into an employer plan.

**The following types of payments cannot be rolled over:**

Payments Spread over Long Periods. You cannot roll over a payment if it is part of a series of equal (or almost equal) payments that are made at least once a year and that will last for:

- your lifetime (or a period measured by your life expectancy), or
- your lifetime and your beneficiary's lifetime (or a period measured by your joint life expectancies), or
- a period of 10 years or more.

Required Minimum Payments. Beginning when you reach age 70½ or retire, whichever is later, a certain portion of your payment cannot be rolled over because it is a “required minimum payment” that must be paid to you.

Corrective Distributions. A distribution that is made to correct a failed nondiscrimination test or because legal limits on certain contributions were exceeded cannot be rolled over.

Payments from a plan cannot be rolled over to a designated Roth account in an employer plan, a SIMPLE IRA, or a Coverdell Education Savings Account

## **II. DIRECT ROLLOVER**

A DIRECT ROLLOVER is a direct payment of the amount of your Plan benefits to a traditional IRA, a Roth IRA, or to an eligible employer plan that will accept it. You can choose a DIRECT ROLLOVER of all or any portion of your payment that is an eligible rollover distribution, as described in Part I above. The taxable portion of your payment for which you choose a DIRECT ROLLOVER is subject to taxation in the year of distribution if the payment is rolled over to a Roth IRA. You are not taxed on the taxable portion of your payment for which you choose a DIRECT ROLLOVER until you later take it out of a traditional IRA or an eligible employer plan. You may not choose a DIRECT ROLLOVER if your distributions for the year are less than \$200.

DIRECT ROLLOVER to a Traditional or Roth IRA. You can open a traditional IRA or a Roth IRA to receive the direct rollover. If you choose to have your payment made directly to a traditional IRA or a Roth IRA, contact an IRA sponsor (usually a financial institution) to find out how to have your payment made in a direct rollover to a traditional or Roth IRA at that institution. If you are unsure of how to invest your money, you can temporarily establish a traditional IRA or Roth IRA to receive the payment. However, in choosing a traditional or Roth IRA, you may wish to make sure that the traditional or Roth IRA you choose will allow you to move all or a part of your payment to another traditional or Roth IRA at a later date, without penalties or other limitations. See IRS Publication 590, Individual Retirement Arrangements, for more information on traditional IRAs (including limits on how often you can roll over between IRAs).

If you roll over a payment from the Plan to a Roth IRA, a special rule applies under which the amount of the payment rolled over (reduced by any after-tax amounts) will be taxed. However, the 10% additional income tax on early distributions will not apply (unless you take the amount rolled over out of the Roth IRA within 5 years, counting from January 1 of the year of the rollover). Later payments from the Roth IRA that are qualified distributions will not be taxed (including earnings after the rollover). A qualified distribution from a Roth IRA is a payment made after you are age 59½ (or after your death or disability, or as a qualified first-time homebuyer distribution of up to \$10,000) and after you have had a Roth IRA for at least 5 years.

DIRECT ROLLOVER to a Plan. If you are employed by a new employer that has an eligible employer plan, and you want a direct rollover to that plan, ask the plan administrator of that plan whether it will accept your rollover. An eligible employer plan is not legally required to accept a rollover. Even if your new employer's plan does not accept a rollover, you can choose a DIRECT ROLLOVER to a traditional IRA or a Roth IRA. If the employer plan accepts your rollover, the plan may provide restrictions on the circumstances under which you may later receive a distribution of the rollover amount or may require spousal consent to any subsequent distribution. Check with the plan administrator of that plan before making your decision.

DIRECT ROLLOVER of a Series of Payments. If you receive a payment that can be rolled over to a traditional IRA, a Roth IRA, or an eligible employer plan that will accept it, and it is paid in a series of payments for less than 10 years, your choice to make or not make a DIRECT ROLLOVER for a payment will apply to all later payments in the series until you change your election. You are free to change your election for any later payment in the series.

Change in Tax Treatment Resulting from a DIRECT ROLLOVER. The tax treatment of any payment from the eligible employer plan or traditional IRA receiving your DIRECT ROLLOVER might be different than if you received your benefit in a taxable distribution directly from the Plan.

For example, if you were born before January 1, 1936, you might be entitled to ten-year averaging or capital gain treatment, as explained below. However, if you have your benefit rolled over to a section 403(b) tax-sheltered annuity, a governmental 457 plan, or an IRA in a DIRECT ROLLOVER, your benefit will no longer be eligible for that special treatment. See the sections below entitled “Additional 10% Tax if You Are under Age 59½” and “Special Tax Treatment if You Were Born before January 1, 1936.”

### **III. SIXTY DAY ROLLOVER**

If you receive a payment that can be rolled over under Part I above, you can still decide to roll over all or part of it to a traditional IRA, a Roth IRA, or to an eligible employer plan that accepts rollovers. If you decide to roll over, you must contribute the amount of the payment you received to a traditional IRA, a Roth IRA, or an eligible employer plan within 60 days after you receive the payment. The portion of your payment that is rolled over will be taxed if rolled over into a Roth IRA. The portion of your payment that is rolled over will not be taxed until you take it out of a traditional IRA or an eligible employer plan.

You can roll over up to 100% of your payment that can be rolled over under Part I above, including an amount equal to the 20% of the taxable portion that was withheld. If you choose to roll over 100%, you must find other money within the 60-day period to contribute to the traditional IRA, Roth IRA, or the eligible employer plan, to replace the 20% that was withheld. On the other hand, if you roll over only the 80% of the taxable portion that you received, you will be taxed on the 20% that was withheld.

Example: The taxable portion of your payment that can be rolled over under Part I above is \$10,000, and you choose to have it paid to you. You will receive \$8,000, and \$2,000 will be sent to the IRS as income tax withholding. Within 60 days after receiving the \$8,000, you may roll over the entire \$10,000 to a traditional IRA, a Roth IRA or an eligible employer plan. To do this, you roll over the \$8,000 you received from the Plan, and you will have to find \$2,000 from other sources (your savings, a loan, etc.). In this case, the entire \$10,000 is not taxed until you take it out of the traditional IRA or an eligible employer plan. If you roll over the entire \$10,000, when you file your income tax return you may get a refund of part or all of the \$2,000 withheld. If, on the other hand, you roll over only \$8,000, the \$2,000 you did not roll over is taxed in the year it was withheld. When you file your income tax return, you may get a refund of part of the \$2,000 withheld. (However, any refund is likely to be larger if you roll over the entire \$10,000.)

#### **IV. PAYMENT PAID TO YOU**

If your payment can be rolled over (see Part I above) and the payment is made to you in cash, it is subject to 20% federal income tax withholding on the taxable portion (state tax withholding may also apply). The payment is taxed in the year you receive it unless, within 60 days, you roll it over to a traditional IRA, a Roth IRA or an eligible employer plan that accepts rollovers. If you do not roll it over, special tax rules may apply.

##### **Income Tax Withholding:**

Mandatory Withholding. If any portion of your payment can be rolled over under Part I above and you do not elect to make a DIRECT ROLLOVER, the Plan is required by law to withhold 20% of the taxable amount. This amount is sent to the IRS as federal income tax withholding.

For example, if you can roll over a taxable payment of \$10,000, only \$8,000 will be paid to you because the Plan must withhold \$2,000 as income tax. However, when you prepare your income tax return for the year, unless you make a rollover within 60 days (see “Sixty-Day Rollover Option” below), you must report the full \$10,000 as a taxable payment from the Plan. You must report the \$2,000 as tax withheld, and it will be credited against any income tax you owe for the year. There will be no income tax withholding if your payments for the year are less than \$200.

Voluntary Withholding. If any portion of your payment is taxable but cannot be rolled over under Part I above, the mandatory withholding rules described above do not apply. In this case, you may elect not to have withholding apply to that portion. If you do nothing, 10% will be taken out of this portion of your payment for federal income tax withholding. To elect out of withholding, ask the Plan Administrator for the election form and related information.

Additional 10% Tax If You Are under Age 59½. If you receive a payment before you reach age 59½ and you do not roll it over, then, in addition to the regular income tax, you may have to pay an extra tax equal to 10% of the taxable portion of the payment. The additional 10% tax generally does not apply to: (1) payments from a governmental defined benefit pension plan that are paid to qualified public safety employees after separation from service with your employer during or after the year you reach age 50 (Please note that prior to August 17, 2006, the 10% penalty applied to distributions made prior to age 55); (2) payments from a defined contribution plan that are paid after you separate from service during or after the year you attain age 55; (3) payments that are paid because you retire due to disability; (4) payments that are paid as equal (or almost equal) payments over your life or life expectancy (or you and your beneficiary’s lives or life expectancies); (5) dividends paid with respect to stock by an employee stock ownership plan (ESOP) as described in Code section 404(k); (6) payments that are paid directly to the government to satisfy a federal tax levy; (7) payments that are paid to an alternate payee under a qualified domestic relations order; or, (8) payments that do not exceed the amount of your deductible medical expenses. See IRS Form 5329 for more information on the additional 10% tax.

The additional 10% tax will not apply to distributions from a governmental 457 plan, except to the extent the distribution is attributable to an amount you rolled over to that plan (adjusted for investment returns) from another type of eligible employer plan or IRA. Any amount rolled over from a governmental 457 plan to another type of eligible employer plan or to a traditional IRA will become subject to the additional 10% tax if it is distributed to you before you reach age

59½, unless one of the exceptions applies.

If you receive a payment from an IRA when you are under age 59½, you will have to pay the 10% additional income tax on early distributions from the IRA, unless an exception applies. In general, the exceptions to the 10% additional income tax for early distributions from an IRA are the same as the exceptions listed above for early distributions from a plan. However, there are a few differences for payments from an IRA, including:

- (1) There is no exception for payments after separation from service that are made after age 55 (age 50 for public safety employees separating under a defined benefit plan);
- (2) The exception for qualified domestic relations orders does not apply (although a special rule applies under which, as part of a divorce or separation agreement, a tax-free transfer may be made directly to an IRA of a spouse or former spouse);
- (3) The exception for payments made at least annually in equal or close to equal amounts over a specified period applies without regard to whether you have had a separation from service; and
- (4) There are additional exceptions for (a) payments for qualified higher education expenses, (b) payments up to \$10,000 used in a qualified first-time home purchase, and (c) payments for health insurance premiums after you have received unemployment compensation for 12 consecutive weeks (or would have been eligible to receive unemployment compensation but for self-employed status).

Michigan State Income Tax Withholding. Effective January 1, 2012, Michigan law requires that taxes be paid on your distribution based on certain factors and the number of exemptions you requested for your federal income tax. For more information on Michigan tax withholding, please visit [www.michigan.gov/taxes](http://www.michigan.gov/taxes).

## **V. SPECIAL RULES AND OPTIONS**

### **If your payment includes after-tax contributions.**

If you do a direct rollover to an IRA of only a portion of the amount paid from the Plan and at the same time the rest is paid to you, the portion directly rolled over consists first of the amount that would be taxable if not rolled over. For example, assume you are receiving a distribution of \$12,000, of which \$2,000 is after-tax contributions. In this case, if you directly roll over \$10,000 to an IRA that is not a Roth IRA, no amount is taxable because the \$2,000 amount not directly rolled over is treated as being after-tax contributions. If you do a direct rollover the entire amount paid from the Plan to two or more destinations at the same time, you can choose which destination receives the after-tax contributions.

If you do a 60-day rollover to an IRA of only a portion of a payment made to you, the after-tax contributions are treated as rolled over last. For example, assume you are receiving a distribution of \$12,000, of which \$2,000 is after-tax contributions, and no part of the distribution is directly rolled over. In this case, if you roll over \$10,000 to an IRA that is not a Roth IRA in a 60-day rollover, no amount is taxable because the \$2,000 amount not rolled over is treated as being after-tax contributions.

Special Tax Treatment If You Were Born before January 1, 1936. If you receive a payment from a plan qualified under section 401(a) or a section 403(a) annuity plan that can be rolled over under Part I and you do not roll it over to a traditional IRA, a Roth IRA, or an eligible employer plan, the payment will be taxed in the year you receive it. However, if the payment qualifies as a “lump sum distribution,” it may be eligible for special tax treatment. (See also “Employer Stock or Securities”, below.) A lump sum distribution is a payment, within one year, of your entire balance under the Plan (and certain other similar plans of the employer) that is payable to you after you have reached age 59½ or because you have separated from service with your employer (or, in the case of a self-employed individual, after you have reached age 59½ or have become disabled).

For a payment to be treated as a lump sum distribution, you must have been a participant in the Plan for at least five years before the year in which you received the distribution. The special tax treatment for lump sum distributions that may be available to you is described below.

Ten-Year Averaging. If you receive a lump sum distribution and you were born before January 1, 1936, you can make a one-time election to figure the tax on the payment by using “10-year averaging” (using 1986 tax rates). Ten-year averaging often reduces the tax you owe.

Capital Gain Treatment. If you receive a lump sum distribution and you were born before January 1, 1936, and you were a participant in the Plan before 1974, you may elect to have the part of your payment that is attributable to your pre-1974 participation in the Plan taxed as long-term capital gain at a rate of 20%.

There are other limits on the special tax treatment for lump sum distributions. For example, you can generally elect this special tax treatment only once in your lifetime, and the election applies to all lump sum distributions that you receive in that same year. You may not elect this special tax treatment if you rolled amounts into this Plan from a 403(b) tax-sheltered annuity contract or from an IRA not originally attributable to a qualified employer plan. If you have previously rolled over a distribution from this Plan (or certain other similar plans of the employer), you cannot use this special averaging treatment for later payments from the Plan. If you roll over your payment to a traditional IRA, governmental 457 plan, or 403(b) tax-sheltered annuity, you will not be able to use special tax treatment for later payments from that IRA, plan, or annuity. Also, if you roll over only a portion of your payment to a traditional IRA, governmental 457 plan, or 403(b) tax-sheltered annuity, this special tax treatment is not available for the rest of the payment. See IRS Form 4972 for additional information on lump sum distributions and how you elect the special tax treatment.

## **VI. SURVIVING SPOUSES, ALTERNATE PAYEES, AND OTHER BENEFICIARIES**

In general, the rules summarized above that apply to payments to employees also apply to payments to surviving spouses of employees as well as to spouses or former spouses who are “alternate payees.” You are an alternate payee if your interest in the Plan results from a “qualified domestic relations order,” which is an order issued by a court, usually in connection with a divorce or legal separation.

If you are a surviving spouse or an alternate payee, you may choose to have a payment that can be rolled over, as described in Part I above, paid in a DIRECT ROLLOVER to a traditional IRA,

a Roth IRA, or to an eligible employer plan, or paid directly to you. If you have the payment paid to you, you can keep it or roll it over yourself to a traditional IRA, a Roth IRA, or to an eligible employer plan. Thus, you have the same choices as the employee.

If you are a beneficiary other than a surviving spouse or an alternate payee, you may choose to have the payment paid directly to you. If you desire to rollover the payment, you may only choose a DIRECT ROLLOVER, and you can only roll over the payment to an IRA. If you are a beneficiary other than a surviving spouse or an alternate payee, you may not elect an INDIRECT ROLLOVER or a rollover to an eligible employer plan.

If you are a surviving spouse, an alternate payee, or another beneficiary, your payment is generally not subject to the additional 10% tax described in Part III above, even if you are younger than age 59½.

If you are a surviving spouse, an alternate payee, or another beneficiary, you may be able to use the special tax treatment for lump sum distributions and the special rule for payments as described in Part III above. If you receive a payment because of the employee's death, you may be able to treat the payment as a lump sum distribution if the employee met the appropriate age requirements, whether or not the employee had 5 years of participation in the Plan.

### **HOW TO OBTAIN ADDITIONAL INFORMATION**

This notice summarizes only the federal (not state or local) tax rules that might apply to your payment. The rules described above are complex and contain many conditions and exceptions that are not included in this notice. Therefore, it is recommended that you consult with a professional tax advisor before you take a payment of your benefits from your Plan. Also, you can find more specific information on the tax treatment of payments from qualified employer plans in IRS Publication 575, Pension and Annuity Income, and IRS Publication 590, Individual Retirement Arrangements. These publications are available from your local IRS office, on the IRS's Internet Web Site at [www.irs.gov](http://www.irs.gov), or by calling 1-800-TAX-FORMS.

### **CONSULT YOUR TAX ADVISOR**

You should consult your tax advisor with respect to your individual tax matters. You should consult your tax advisor regarding any special tax advantages which may be available for you or any special tax rules applicable to you.

**THE BOARD OF TRUSTEES MAKES NO REPRESENTATION AND GIVES NO ASSURANCE WITH RESPECT TO WHAT MAY OR MAY NOT BE PERMISSIBLE UNDER THE TAX LAWS. PLEASE CONSULT YOUR TAX ADVISOR.**

**THIS NOTICE IS INTENDED TO PROVIDE GENERAL INFORMATION REGARDING THE VARIOUS TAX ISSUES FOR YOU TO CONSIDER REGARDING (TOTAL OR PARTIAL) LUMP SUM DISTRIBUTIONS. BECAUSE OF THE COMPLEXITY OF DISTRIBUTIONS FROM ANY TYPE OF RETIREMENT PLAN, YOU SHOULD SEEK THE ADVICE OF A TAX ADVISOR TO HELP YOU DETERMINE IF YOU ARE ELIGIBLE FOR SPECIAL TAX TREATMENT AND TO DETERMINE THE TAX CONSEQUENCES REGARDING YOUR WITHDRAWAL.**

**MACOMB TOWNSHIP ACT 345 FIRE RETIREMENT SYSTEM**

**REQUEST FOR WITHDRAWAL OF EMPLOYEE CONTRIBUTIONS AND INTEREST  
FROM PLAN AND DISTRIBUTION DESIGNATION**

Name \_\_\_\_\_

Address \_\_\_\_\_

Social Security Number \_\_\_\_\_

Date of request \_\_\_\_\_

**To the Board of Trustees of the Retirement System:**

As a result of my retirement/separation from service effective \_\_\_\_\_,  
I will be eligible on that date for the withdrawal of my accumulated contribution amounts.

Pursuant to the provisions of the Retirement System, I hereby request a withdrawal from my  
account as follows:

\_\_\_\_\_ I request that ALL of the funds in my accumulated contribution  
account be paid directly to me.

\_\_\_\_\_ I request that ALL or a PORTION of the funds in my accumulated  
contribution account totaling \$\_\_\_\_\_ (amounts  
contributed on a pre-tax basis and interest earnings) and  
\$\_\_\_\_\_ (amounts contributed on an after-tax basis) be  
forwarded to the plan(s) listed herein as a direct rollover/direct transfer,  
and the balance, if any, paid directly to me.

Name of Recipient Plan \_\_\_\_\_

Account No. \_\_\_\_\_

Address \_\_\_\_\_

City, State and Zip Code \_\_\_\_\_

Name of Recipient Plan \_\_\_\_\_

Account No. \_\_\_\_\_

Address \_\_\_\_\_

City, State and Zip Code \_\_\_\_\_

Representatives of the above-named company have assured me that the direct rollover/transfer  
amount will be deposited in an eligible retirement plan including an individual retirement  
arrangement qualified under IRC section 408(a) or (b) or IRC section 408A; a plan qualified  
under IRC section 401(a), including a 401(k) plan, profit-sharing plan, defined benefit plan,  
stock bonus plan, and money purchase plan; an IRC section 403(a) annuity plan; an IRC section  
403(b) tax-sheltered annuity; and an eligible IRC section 457(b) plan maintained by a  
governmental employer.

I acknowledge receipt of a Special Tax Notice provided to me pursuant to Section 402 of the Internal Revenue Code. I understand that I have the right to a period of at least 30 days, after receipt of the Notice to consider the decision of whether or not to elect a direct rollover.

Federal Income Tax. I acknowledge that twenty percent (20%) of the taxable portion not rolled-over will be withheld in accordance with applicable Internal Revenue Code requirements and regulations. **(Note: The Retirement System is not required to withhold tax on distributions less than \$200.00.)**

Michigan State Income Tax. I acknowledge that if I do not specify a Michigan state income tax election, the maximum deduction allowed by law will be withheld from payment(s) received.

I acknowledge that the Retirement System will issue appropriate 1099R forms for the distribution of the funds from the Plan.

I hereby release the Employer and the Board of Trustees of the Retirement System from any and all liability relative to the aforesaid Plan amounts upon the forwarding of the amounts as directed by me. I have made appropriate arrangements with the aforementioned financial institution to accept the transferred amount as a direct rollover, permitted by the Internal Revenue Code and applicable regulations. I hereby waive any and all claims relative to the aforesaid amounts forwarded/transferred consistent with this document. I acknowledge that representatives of the Township and Retirement System do not give tax advice and that I will consult with a tax advisor of my choice.

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Member

\_\_\_\_\_  
Address of Witness

\_\_\_\_\_  
Name of Member

\_\_\_\_\_  
City                      State                      Zip

Sworn to and subscribed before me this  
\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My Commission Expires:\_\_\_\_\_

**For Internal use:**

Annuity Reserve Account  
Principal        \$ \_\_\_\_\_  
Interest        \$ \_\_\_\_\_  
Total            \$ \_\_\_\_\_

Amounts and distribution  
Calculated by: \_\_\_\_\_  
Verified by: \_\_\_\_\_  
Payment date: \_\_\_\_\_

Approved at Board meeting of \_\_\_\_\_

**MACOMB TOWNSHIP ACT 345 FIRE RETIREMENT SYSTEM**

**R E S O L U T I O N**

**Adopted: March 12, 2015**

**Re: Notice to recipients of lump sum distributions from the Retirement System**

**WHEREAS**, the Board of Trustees is vested with the authority and fiduciary responsibility for the administration, management and operation of the Retirement System, and

**WHEREAS**, the Board of Trustees acknowledges that Section 402 of the Internal Revenue Code requires the Board to provide notice to recipients of lump sum distributions from the Plan, and

**WHEREAS**, applicable tax law and regulations require said notice to be provided at least thirty (30) days in advance of such distributions, and

**WHEREAS**, legal counsel has prepared a distribution notice and form consistent with IRC Section 402, and

**WHEREAS**, the Board of Trustees has discussed this matter, therefore be it

**RESOLVED**, that the Retirement System is hereby amended to comply with and shall be administered in accordance with the requirements of Notice 2014-54, with respect to the rollover of distributions to multiple destinations, and further

**RESOLVED**, that the Board of Trustees hereby adopts the distribution notice and form, and further

**RESOLVED**, that the Retirement System shall be administered consistent with said notice and IRS Notice 2014-54, and further

**RESOLVED**, that the distribution notice and form be provided to recipients of lump sum distributions from the Retirement System consistent with the Internal Revenue Code, and further

**RESOLVED**, that a copy of this resolution shall be provided to all appropriate parties.