

First Amendment to the
The Grosse Pointe Public School System Deferred Compensation Plan

The Grosse Pointe Public School System, a Michigan government entity (the "Employer"), having approved and adopted The Grosse Pointe Public School System Deferred Compensation Plan (the "Plan"), does hereby approve and adopt this First Amendment to the Plan.

WHEREAS, the Board of the Employer approved and adopted the Plan with the intent that the Plan qualify under Section 457(b) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Employer now wishes to make certain amendments to the Plan in order to conform the Plan to changes in applicable laws and regulations.

NOW, THEREFORE, the Employer hereby adopts this First Amendment to the Plan, as follows:

1. Paragraph B.1 is amended to read, as follows:

1. **Account.** The account maintained for each Participant reflecting the cumulative amount of each Participant's Deferred Compensation, including any income, gains, losses, or increases or decreases in market value attributable to the investment of the Participant's Deferred Compensation, and further reflecting any distributions to the Participant or the Beneficiary and any fees or expenses charged against the Participant's Deferred Compensation. **If a Participant has more than one Beneficiary at the time of the Participant's death, then a separate Account Balance shall be maintained for each Beneficiary. The Account Balance includes any account established under Section 6 for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant's death, and any account or accounts established for an alternate payee (as defined in section 414(p)(8) of the Code).**

2. Paragraph B.2 is amended to read, as follows:

2. **Beneficiary.** The person or persons designated by a Participant **(or, if none, the Participant's estate)** in the Participant's Beneficiary Designation Form as beneficiaries. A Participant may designate the Participant's estate as beneficiary in the event of the Participant's death. If more than one designated beneficiary survives the Participant, payments shall be made equally to the surviving beneficiaries, unless otherwise provided in the Beneficiary Designation Form. Nothing herein shall prevent the Participant from designating primary and contingent beneficiaries.

3. Paragraph B.10 is amended to read, as follows:

10. **Includible Compensation.** The same as "participant's compensation" under Code Section 415(c)(3), being the compensation of the participant from the employer for the year, **but**

subject to a maximum of \$200,000 (or such higher maximum as may apply under section 401(a)(17) of the Code), including any elective deferral and any amount which is contributed or deferred by the employer at the election of the participant and which is not includible in the gross income of the participant by reason of Code Sections 125, 132(f)(4), or 457. Compensation shall be taken into account at its value in the Plan Year in which it is deferred. If compensation deferred is subject to a substantial risk of forfeiture (as defined in Code Section 457(e)(3)), that compensation shall be taken into account at its value in the Plan Year in which it is no longer subject to a substantial risk of forfeiture.

4. Paragraph B.12.b is amended to read, as follows:

b. Limited Catch-Up. Notwithstanding the preceding Sub-Section a., for one or more of the Participant's last three (3) taxable years ending before the Participant attains Normal Retirement Age, **and provided the amount determined under this Sub-Section b exceeds the amount computed by combining the Normal Limitation under Sub-Section a and the Age 50 and over catch-up contribution under Sub-Section c**, the Maximum Deferral shall be the lesser of:

- i. Two (2) times the Dollar Limit set forth in Sub-Section c. for the year in which the Catch-up Limitation is being used; or
- ii. The sum of:
 - (A) The Maximum Deferral as it would be established for purposes of the preceding paragraph for the taxable year (determined without regard to this paragraph), plus
 - (B) The Maximum Deferral established for purposes of the preceding paragraph for each of the taxable years before the taxable year, less the amount of compensation deferred under the Plan for the prior taxable years.

A prior taxable year may be taken into account under this paragraph only if it began after December 31, 1978, the Participant was eligible to participate in the Plan during all or any portion of the taxable year, and compensation deferred under the Plan during the taxable year was subject to a maximum deferral limitation. The Participant's eligibility to participate in the prior year and the maximum deferral limitation must have been under rules consistent with Code Section 457(b). Prior taxable years include taxable years in which the Participant was eligible to participate in eligible plans sponsored by different entities, provided that the entities sponsoring the plans are located within the same State as the Employer.

A Participant may utilize the Catch-Up Limitation only if the Participant has not previously utilized it with respect to a different Normal Retirement Age under this Plan or any other plan.

For years prior to 2002, the limit under this Sub-Section b. for any year shall not exceed \$15,000.

5. The following new subparagraphs f, g, and h are added to paragraph B.12:

f. Participant covered by more than one Eligible Plan. If a Participant is or has been a participant in one or more other eligible plans within the meaning of section 457(b) of the Code, then this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of this paragraph B.12. For this purpose, the Administrator shall take into account any other such eligible plan maintained by the Employer and shall also take into account any other such eligible plan for which the Administrator receives from the Participant sufficient information concerning his or her participation in such other plan.

g. Disregard Excess Deferral. For purposes of the deferral limits set forth in Sub-Sections a, b and c of this paragraph B.12, an individual is treated as not having Deferred Compensation under a plan for a prior taxable year to the extent Excess Deferrals under the plan are distributed, as described in paragraph B.12.h. To the extent that the combined deferrals for pre-2002 years exceeded the maximum deferral limitations, the amount is treated as an Excess Deferral for those prior years.

h. Correction of Excess Deferrals. If the Deferred Compensation on behalf of a Participant for any calendar year exceeds the limitations described above in this paragraph B.12, or the Deferred Compensation on behalf of a Participant for any calendar year exceeds the limitations described above when combined with other amounts deferred by the Participant under another Plan for which the Participant provides information that is accepted by the Administrator, then the Deferred Compensation, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant.

6. Paragraph B.13 is amended to read, as follows:

13. Normal Retirement Age. Any age that is on or after the earlier of age 65 or the age at which Participants have the right to retire and receive, under the basic defined benefit pension plan of the employer (or a money purchase pension plan in which the participant also participates if the participant is not eligible to participate in a defined benefit plan), immediate retirement benefits without actuarial or similar reduction because of retirement before some later specified age, and that is not later than age 70½. In the case of a Participant who works beyond age 65, the Normal Retirement Age shall be that date or age designated by the Participant, but such date or age shall not be later than 70½. Notwithstanding the foregoing, if a Participant uses the Limited Catch-up provisions under paragraph B.12.b, then the Participant may not change his or her Normal Retirement Age.

7. Paragraph B.18 is amended to read, as follows:

18. Separation from Service. **The term Separation from Service means the date that the Employee dies, retires, or otherwise has a severance from employment with the Employer, as determined by the Administrator (and taking into account guidance issued under the Code).**

8. New paragraph B.20 is added, as follows:

20. Compensation. **All cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employee's gross income for the calendar year but for a compensation reduction election under section 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including an election to defer compensation under Section 3).**

9. Paragraph F.3 is amended to read, as follows:

3. Distribution to Meet Unforeseeable Emergency. Any time a Participant encounters an Unforeseeable Emergency, a Participant may apply to the **Administrator**, in writing, for a distribution of amounts deferred by the Participant under the Plan, regardless of whether the time of the application is before retirement or other termination of the Participant's service with the Employer. If the application for distribution is approved by the **Administrator**, the distribution will be made as soon as reasonably practicable, in view of the liquidity of the investments represented in the Participant's individual account in the Plan. A distribution because of an Unforeseeable Emergency may not exceed the amount reasonably needed to satisfy the emergency need. The Employer shall not be required to provide funds from other sources to fill a need or to expedite the distribution to the Participant. The distribution will be made in a single sum payment, in the amount approved by the **Administrator**. The **Administrator** shall provide written notice to the trustee of the amount of the distribution and to whom the distribution should be paid. **Notwithstanding any other provision of this Plan, if a Participant receives a distribution under this paragraph, the amount of the Participant's individual account under the Plan shall be reduced by a corresponding amount. The remaining balance of the Participant's individual account, if any, shall be distributed at the appropriate time in accordance with the provisions of this Plan.**

10. Sub-paragraphs d and e of paragraph F.8 are removed from paragraph F.8 and renumbered as set forth hereinafter, and the remainder of F.8 is amended to read, as follows:

8 Methods of Distribution; Required Minimum Distributions.

- a. **Override Provision.** No payment option may be selected by the Participant (or a Beneficiary) unless it satisfies the requirements of Code Section 401(a)(9) and any additional Code limitations applicable to the Plan. The provisions paragraph F.8. of this section shall apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year. The requirements of this paragraph F.8. shall take precedence over any inconsistent provisions of the Plan. All distributions required under this paragraph F.8. shall be determined and made in accordance with the regulations under section 401(a)(9) of the Code. Notwithstanding the other provisions of this section, distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to section 242(b)(2) of TEFRA.
- b. **Distributions where Participant Dies before Entire Interest is Distributed.** The Participant's entire interest shall be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date. If the Participant dies before distributions begin, the Participant's entire interest shall be distributed, or begin to be distributed, no later than as follows:
 - (i) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, then unless the surviving spouse elects to apply the 5-year rule (pursuant to F.8.f., below), distributions to the surviving spouse shall begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
 - (ii) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then unless the designated Beneficiary elects to apply the 5-year rule (pursuant to subsection F.8.f., below), distributions to the designated Beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

- (iii) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest shall be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (iv) If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this paragraph F.8.b., other than subparagraph (i), shall apply as if the surviving spouse were the Participant.

For purposes of this paragraph F.8.b. and paragraph F.8.d., unless subparagraph (iv) applies, distributions are considered to begin on the Participant's required beginning date. If subparagraph (iv) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under subparagraph (i). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under subparagraph (i)), the date distributions are considered to begin is the date distributions actually commence.

Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions shall be made in accordance with paragraphs F.8.c. and F.8.d. of this section. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder shall be made in accordance with the requirements of section 401(a)(9) of the Code.

c. **Determination of Distribution Amounts During Participant's Lifetime.** During the Participant's lifetime, the minimum amount that shall be distributed for each distribution calendar year is the lesser of:

- (i) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or
- (ii) if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's account

balance by the number in the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

Required minimum distributions shall be determined under this paragraph F.8.c. beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

d. Determination of Distribution Amounts After Participant's Death.

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

 - (1) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.**
 - (2) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.**
 - (3) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.**

- (ii) If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that shall be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
- (iii) Except as otherwise elected (pursuant to paragraph F.8.f., below), if the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that shall be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in subparagraphs (d)(i) and (ii).
- (iv) If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest shall be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (v) If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under paragraph F.8.b.(i), this paragraph F.8.d. shall apply as if the surviving spouse were the Participant.

e. **Definitions.**

- (i) "Designated Beneficiary" means the individual who is designated as the Beneficiary under the Plan and is the designated Beneficiary under section 401(a)(9) of the Code and section 1.401(a)(9)-1, Q&A-4, of the regulations.
- (ii) "Distribution calendar year" means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year that contains the Participant's required

beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under paragraph F.8.b. The required minimum distribution for the Participant's first distribution calendar year shall be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, shall be made on or before December 31 of that distribution calendar year.

(iii) "Life expectancy" means life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the regulations.

(iv) "Participant's account balance" means the account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(v) "Required beginning date" means April 1st of the calendar year following the later of:

(1) the calendar year in which the Participant attains age 70½; or

(2) the calendar year in which the Participant retires.

f. Election of 5-year Rule or Life Expectancy Rule. Participants or Beneficiaries may elect, on an individual basis, whether the 5-year rule or the life expectancy rule in paragraphs F.8.b. and F.8.d. applies to distributions after the death of a Participant who has a designated Beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under paragraph F.8.b., or by September 30 of the calendar year which contains the fifth anniversary of the Participant's death (or, if applicable, the surviving spouse's death). If neither the Participant nor the Beneficiary makes an election under this

paragraph, distributions shall be made in accordance with paragraphs F.8.b. and F.8.d.

- g. **Latest Distribution Date.** In no event shall any distribution under this Section 8 begin later than the later of (a) April 1 of the year following the calendar year in which the Participant attains age 70 1/2 or (b) April 1 of the year following the year in which the Participant retires or otherwise has a Separation from Service. If distributions commence in the calendar year following the later of the calendar year in which the Participant attains age 70 1/2 or the calendar year in which the Separation from Service occurs, the distribution on the date that distribution commences must be equal to the annual installment payment for the year that the Participant has a Separation from Service determined under paragraph Sub-Section 8.b(ii) and an amount equal to the annual installment payment for the year after Separation from Service determined under Sub-Section 8.b(ii) must also be paid before the end of the calendar year of commencement.
- h. **In-Service Distributions From Rollover Account.** If a Participant has a separate account attributable to rollover contributions to the plan, the Participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account.

11. Paragraph F.8.d is renumbered as paragraph F.9, and amended to read, as follows:

9. **Distribution Where Participant Dies Before Entire Interest is Distributed.** If a Participant has begun to receive distributions under this Plan, and the Participant dies before the Participant's entire interest has been distributed, then within thirty (30) days of receipt by the Committee of satisfactory proof of the Participant's death, the remaining portion of the Participant's individual account will begin to be distributed to the Participant's designated Beneficiary or Beneficiaries **provided that payments to the Participant's Beneficiary shall comply with Code Section 401(a)(9), and any other applicable Code limitations.** If a designated Beneficiary does not survive the Participant by at least fifteen (15) days, the remaining portion of the Participant's individual account in the Plan designated for that Beneficiary shall be paid as if that Beneficiary had not been effectively designated by the Participant. If a designated Beneficiary survives the Participant for a period of fifteen (15) days but dies before all of the death benefits payable to that Beneficiary under this Plan are paid, then within thirty (30) days of receipt by the Committee of satisfactory proof of the Beneficiary's death, the remaining portion of the Participant's individual account in the Plan designated for that Beneficiary shall be paid to that Beneficiary's estate in a single, lump sum payment.

12. Paragraph F.8.e is renumbered as paragraph F.10, and amended to read, as follows:

10. **Distribution Where Participant Dies Before Distributions have Begun.** If a Participant dies before the distribution of the Participant's interest in this Plan has begun, then

within thirty (30) days of receipt by the Committee of satisfactory proof of the Participant's death the entire interest of the Participant shall be distributed to the Participant's designated Beneficiaries; **provided that payments to the Participant's Beneficiaries shall comply with Code Section 401(a)(9), and any other applicable Code limitations.** If a designated Beneficiary does not survive the Participant by at least fifteen (15) days, the amount of the Participant's remaining interest in the Plan designated for that Beneficiary shall be paid as if that Beneficiary had not been effectively designated by the Participant. If a designated Beneficiary survives the Participant for a period of fifteen (15) days but dies before all of the death benefits payable to that Beneficiary under this Plan are paid, then within thirty (30) days of receipt by the Committee of satisfactory proof of the Beneficiary's death, the amount of the Participant's remaining interest in the Plan designated for that Beneficiary shall be paid to the Beneficiary's estate in a single, lump sum payment.

13. Former Paragraph F.9 (Distribution without Participant's Consent) is deleted.

14. New paragraph F.11 is added, as follows:

11. **Correction of Excess Deferrals.** If the deferrals on behalf of a Participant for any Plan Year exceeds the limitations described in this Plan, or the deferrals on behalf of a Participant for any Plan Year exceeds the limitations described above when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under Code Section 457(b) for which the Participant provides information that is accepted by the Committee, then the deferrals, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant.

15. Paragraph H.3 is amended to read, as follows:

3. **Rollovers.** A Participant may elect to roll an Eligible Rollover Distribution to an Eligible Retirement Plan. The Participant shall be provided with a description of available rollover rights and rules in advance of such a distribution. A distribution that is an Eligible Rollover Distribution and that is paid in a form other than a rollover will be subject to mandatory withholding of 20%, or such other mandatory withholding rate as may be imposed under the Code from time to time. This Plan shall be permitted to accept a rollover distribution from an Eligible Retirement Plan (including a distribution from an IRA) to this Plan, subject to any administrative restrictions imposed by the Plan. **To the extent required under the Code, the Plan shall separately account for any rollover contributions it receives.** To the extent necessary to satisfy the requirements of the Code, any such rollover distribution to the Plan shall be subject to the same restrictions on distributions applicable to other amounts held under the Plan.

16. Paragraph I.2 is amended to read, as follows:

2. **Protection of Persons Who Serve in a Uniformed Service.** An Employee whose employment is interrupted by qualified military service under Code section 414(u) or who is on a leave of absence for qualified military service under Code section 414(u) may

elect to make additional Annual Deferrals upon resumption of employment with the Employer equal to the maximum Annual Deferrals that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Annual Deferrals, if any, actually made for the Employee during the period of the interruption or leave. This right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

17. Except as specifically affected by this First Amendment, all of the terms and provisions of the Plan, as previously amended, shall remain in full force and effect, the same and unchanged.

IN WITNESS WHEREOF, the Employer has caused this First Amendment to be executed on the 31st day of December, 2005.

THE GROSSE POINTE PUBLIC SCHOOL SYSTEM
a Michigan governmental entity

By: C. Suzanne Klein

Its: Superintendent