

U.A. Local 350 Retirement 401(k) Plan

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May 25, 2023

To: All Participants & Dependents

From: Board of Trustees of the U.A. Local 350 Retirement 401(k) Plan ("Plan")

Re: Recent Changes to the Plan Rules -Summary of Material Modifications ("SMM")

Dear Participant,

This Notice known as the Summary of Material Modifications ("SMM") is legally required to inform you of recent and/or upcoming changes made to the U.A. Local 350 Retirement 401(k) Plan ("Plan"). You should review this information carefully and share it with your eligible Dependents. Please contact the Trust Fund office if you have any questions.

IN ACCORDANCE WITH THE REQUIREMENTS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, AS AMENDED ("ERISA"), THIS DOCUMENT SERVES AS A SUMMARY OF MATERIAL MODIFICATIONS ("SMM") TO THE PLAN AND SUPPLEMENTS THE RESTATED SUMMARY PLAN DESCRIPTION ("SPD") AND PLAN DOCUMENT (COLLECTIVELY ALSO KNOWN AS THE "PLAN RULES") THAT HAS BEEN SEPARATELY PROVIDED TO YOU. YOU SHOULD KEEP AND INSERT THIS DOCUMENT WITH YOUR COPY OF THE PLAN RULES FOR FUTURE REFERENCE. THE PLAN RESERVES THE RIGHT TO AMEND OR TERMINATE THE PLAN AT ANY TIME AND ALL BENEFITS AND COVERAGE ARE SUBJECT TO THE TERMS OF THE OFFICIAL PLAN DOCUMENT.

**PLAN AMENDMENT –
Article I, Numbers 1 and 2 of the SPD
Effective July 1, 2023**

(IMPORTANT: Increase Elective Deferral limit to 401k Plan to \$12 per hour maximum and Update on the 2023 IRS Contribution Limit for 401k Deferrals)

1. **How Often Can Deferral Elections be Made and how much can be deferred?** Semi-annual elections are permitted. You may elect a specific amount that you wish deferred to the 401(k) Plan. **Effective July 1, 2023, those amounts are:** \$1.00, \$2.00, \$3.00, \$4.00, \$5.00, \$6.00, \$7.00, \$8.00, \$9.00 or \$10.00. If you are age 50 or older, you may choose \$11.00 or \$12.00 an hour (subject to the maximum limits summarized in number 2 below). The election that you made as part of the first enrollment period will remain in place until the next election period (and continue unless changed). Any deferral amounts are in addition to any "Mandatory" Employer Contribution provided in a current or future Collective Bargaining Agreement.
2. **What is the Maximum Amount that can be deferred to the 401(k) Plan?** \$22,500 (Age 49 or younger) and \$30,000 (with \$7,500 catch-up for Age 50 or older) for 2023. Pursuant to IRS

guidelines, the maximum amount that you may defer out of your wages to a 401(k) Plan during 2023 is \$22,500 each calendar year; however, for Employees who are age 50 or older, the IRS permits an additional catch-up contribution of \$7,500 each year. Thus, the maximum amount that a person age 50 or older can defer is \$30,000 for 2023. These limits are subject to change by the IRS on an annual basis. These limits also should not be an issue unless you work a great number of hours and you have elected the highest deferral category. The IRS evaluates these limits each year and periodically has increased these amounts. If you defer more than the above limits during a calendar year, the Plan will make a refund to you and issue an IRS Form 1099R form showing that the refund is taxable income to you. You are urged to monitor the amounts deferred to the 401(k) Plan each year to avoid exceeding the IRS-mandated limits. In addition, the Trustees have an obligation to monitor the deferrals to the 401(k) Plan to ensure that the Plan does not discriminate in favor of what's called "highly compensated Participants" (those earning \$150,000 or more in 2023—that amount will increase in future years). That would occur if the elective deferrals for highly compensated individuals exceed the amounts deferred by non-highly compensated Participants by specified amounts as determined by IRS guidelines. If that does occur, the Plan will issue a refund of the excess deferrals and issue an IRS Form 1099 R showing that the refund is taxable income to the impacted Participants. That refund would be made by April 15 of the following year.

PLAN AMENDMENT –

Article VIII, Section A of the SPD and Article VI., Section 6.7 of the Plan Document

Effective January 1, 2023

(Required Minimum Distribution Age Change to Age 73 and later on to Age 75 beginning 2033 pursuant to SECURE Act 2.0)

Please note if you are already taking a Required Minimum Distribution ("RMD") you cannot stop and must continue to take an RMD. These new changes are effective for those who reach age 72 after December 31, 2022 and then later on in 2033 for those who reach Age 73 after January 1, 2033.

A. IRS Required Distributions

Age 73 Required Minimum Distribution ("RMD"). Effective immediately, under the Internal Revenue Code ("IRC"), for a Participant who is not a 5% owner (within the meaning of Section 416 of the IRC) and who is eligible for a distribution of his/her account and attains age 73 after December 31, 2022 (meaning those with birth years on January 1, 1951 through and including December 31, 1959, the Plan must commence paying his or her benefits no later than:

- (1)** April 1st following the year the participant (or beneficiary, if applicable) reaches Age 73 or
- (2)** the date you retire, whichever is later.

However, benefit payments to 5% owners must commence no later than April 1 following the calendar year in which the Participant reaches Age 73, regardless of whether the Participant has retired or terminated his or her employment.

This is known as your Required Minimum Distribution or "RMD".

Any Participant (including a 5% owner) who attains age 70-½ on or after January 1, 2020 and is already receiving RMDs, would continue to be required to take distributions under the prior Required Minimum Distribution rule (which requires distributions for a non-five percent (5%) owner to commence no later than April 1st of the calendar year following the later of the calendar year in which the Participant attains age 72 or the calendar year in which the Participant retires, and for a five percent (5%) owner distributions must commence no later April 1st of the calendar year following the calendar year in which the Participant attains age 72, even if still working).

Although you may take your first RMD by the end of the calendar year in which you turn age 73 you can delay taking that first distribution until April 1 of the year following the year in which you turn 73. If you choose to delay the first RMD, you will have to take two distributions in that same year (the second one by December 31). Consequently, you will want to compare the advantage of leaving the money in your account with the tax consequences of taking two distributions in one year. All subsequent RMDs must be taken by December 31 of each year.

Age 75 Required Minimum Distribution (“RMD”). Notwithstanding any other provision, for a Participant who is not a 5% owner (within the meaning of Section 416 of the IRC) and who is eligible for a distribution of his or her account and attains age 73 after January 1, 2033 (meaning those with birth years on January 1, 1960 or later) must commence distribution of his or her account until the later of:

- (1) April 1 of the calendar year following the attainment of age 75 or
- (2) the date you retire.

However, if the Participant owns at least 5% of a contributing employer, distribution must commence no later than April 1 of the calendar year following attainment of age 75 even if the employee has not retired.

However, benefit payments to 5% owners must commence no later than April 1 following the calendar year in which the Participant reaches Age 75, regardless of whether the Participant has retired or terminated his or her employment.

Although you may take your first RMD by the end of the calendar year in which you turn age 75 you can delay taking that first distribution until April 1 of the year following the year in which you turn 75. If you choose to delay the first RMD, you will have to take two distributions in that same year (the second one by December 31). Consequently, you will want to compare the advantage of leaving the money in your account with the tax consequences of taking two distributions in one year. All subsequent RMDs must be taken by December 31 of each year.

A Participant who attains age 73 (or Age 75 after 2032) may elect to receive his or her benefits regardless of whether he retires. Upon attainment of the RMD age, the Plan must, if you are receiving periodic or specified monthly payments, ensure that your payments are paid over a period that does not exceed your life expectancy or the life expectancy of you and a designated beneficiary. Your RMD is calculated each year according to IRS guidelines. If you take only your RMD, the remaining part of your Individual Account balance can remain in the Plan and continue to be tax-deferred. You can take more than the minimum. Not taking the RMD, however, will result in a significant penalty. (REMINDER AGAIN: If you own five percent or more of a contributing Employer, the Plan will be required by IRS rules to commence paying your benefit at your RMD age even if you are still working.) The Plan has the right to make a distribution to you even if you fail to file a pension application in order to comply with IRS requirements.

Once you withdraw your RMD, it is reported as a taxable distribution (ineligible for rollover) on Form 1099-R for the year the RMD is paid. Your RMD is subject to federal income tax withholding, unless you elect otherwise. Generally, federal income tax withholding on periodic payments (including eligible rollover distributions) applies at the default rate of 20% unless you elect some other rate or you elect not to have withholding apply. However, non-periodic payments and RMD payments applies at the default rate of 10% unless you elect some other rate or you elect not to have withholding apply.

This is because RMD payments are not considered eligible Rollover distributions. Certain states may also require withholding. You will owe income tax on the distribution. You cannot roll the RMD portion of your pension into an Individual Retirement Account or retirement plan. **In order to comply with Treasury Department regulations, we advise you that this description is not intended to constitute, nor does it constitute legal or tax advice. You are responsible for consulting your own tax advisor as to any tax consequences associated with your individual situation.**

**WARNING- POTENTIAL IRS PENALTY ASSESSED AGAINST YOU
(If your benefits are not paid at the RMD Age)**

The IRS assesses a severe penalty against you if you do not begin receiving your retirement benefits by April 1st of the year following the date you attain your RMD Age or the date you retire (for non-5% participant owners), whichever is later. If you are a 5 percent owner, you must begin receiving your benefits at the RMD age even if you are still working or have or have not terminated your employment.

**PLAN AMENDMENT – Article IX. of the SPD and Article 6, Section 6.11 of the Plan Document
Effective January 1, 2024
**(Small Balance Lump Sum Payout Changed from “\$7,500” to “\$7,000 for Voluntary Cash-out
and “\$7,000 for Forced Cash-outs)****

5. Small Account Balances/Lump Sum Cash-Out (Under \$7,000)

(a) Small Account Balance/Voluntary (Under \$7,000 but no Work in Two Months.) Effective January 1, 2024, you are permitted to take a distribution of \$7,000 or less provided: (1) you have been terminated from Covered Employment and have had no Employer contributions made on your behalf for two consecutive months, (2) your Individual Account balance is equal to or less than \$7,000, (3) with Spousal Consent (unless unmarried) and (4) you would have to confirm that you are not working in the Plumbing and Pipefitting Industry and have no intention of doing so.

(b) Small Account Balance/No Consent Required (\$7,000 or less). Effective January 1, 2024, pursuant to the Internal Revenue Code, if your Individual Account balance is **equal to or less than \$7,000** and you (or your beneficiary) are entitled to a distribution from the Plan (ex. Retired), when you seek a distribution or automatically (if you do not take action after being provided notice), the Plan is permitted to distribute such amount in a lump sum payment (cash-out) or rollover the balance into an Individual Retirement Account for the Participant (or beneficiary) if the amount exceeds \$1,000. No spousal consent is required.

Sincerely,

Board of Trustees of the U.A. Local 350 Retirement 401(k) Plan