



Board Report 24-12

Date: March 5, 2024

To: Board of Deferred Compensation Administration

From: Staff

Subject: Plan Document Revisions for SECURE 2.0

Board of Deferred Compensation Administration
Thomas Moutes <i>Chair</i>
Neil Guglielmo <i>Vice-Chair</i>
Jeremy Wolfson <i>First Provisional Chair</i>
Joseph Salazar <i>Second Provisional Chair</i>
Matthew Benham <i>Third Provisional Chair</i>
Dana H. Brown
Linda P. Le
Carl Lurvey
Simboa Wright

Recommendation:

That the Board adopt the revised Plan Document to incorporate SECURE 2.0 provisions related to changes to: a) required beginning age for Required Minimum Distributions, and b) elimination of the first of the month rule.

Background:

In March of 2022, the House of Representatives passed the Securing a Strong Retirement Act (SECURE 2.0). On December 23, 2022, the U.S. Senate passed the Consolidated Appropriations Act, 2023, which contained the SECURE 2.0 Act. The consolidated bill was signed into law by President Joseph Biden on December 29, 2022. The [SECURE 2.0 Act](#)¹ is composed of numerous retirement reform provisions that began to take effect in 2023 and will continue over the next several years.

In order to begin the review of applicable provisions to be adopted, staff requested from Segal, the plan administration consultant, to provide initial guidance, which was provided to the Board on June 20, 2023 in [Board Report 23-24](#). The Board approved the mandatory provisions and as such, staff is returning now with the associated Plan Document revisions for changes in 2023 and 2024.

¹ SECURE 2.0 Act of 2022: <https://www.congress.gov/117/bills/hr2617/BILLS-117hr2617enr.pdf> (starting page 817)

Discussion:

A. Initial Plan Document Revisions for SECURE 2.0

It is not uncommon for legislation of this nature to require technical corrections. The National Association of Government Defined Contribution Administrators (NAGDCA) has continued to pen letters to the legislature to request additional guidance on interpretation of provisions and also more time on behalf of governmental plans that might require additional time to implement certain provisions. In its most recent letter² dated [January 10, 2024](#), NAGDCA asks that at a minimum two additional years beyond any transition period be provided to public plans than what is provided to the private sector for certain provisions. NAGDCA previously requested additional time to implement Section 603, which is the provision requiring high-wage earners to contribute Roth dollars after the regular limit. This was to take effect for taxable years after December 31, 2023. However, in late 2023, the Treasury and IRS provided authorization for a two-year transition period.

For overall amendment to the plan document, Congress set a deadline of the end of plan year 2027 for governmental plans to amend their plan documents to include necessary SECURE 2.0 provisions. For now, as a best practice, staff is recommending a revision to the Plan Document to incorporate language to accommodate provisions for 2023 and 2024 as indicated in **Attachment A**.

1. Changes to Required Minimum Distribution Provisions (Mandatory)

SECURE 2.0 Provision	DCP Plan Document Revision
Section 107 (Mandatory) increases the age to begin Required Minimum Distributions (RMDs) to age 73 beginning in 2023. All individuals taking their first RMD have until April 1 of the subsequent calendar year to receive the distribution.	Section 9.04. Distribution Options Revision to paragraph (c).

There are additional changes that will be made by the third party administrator to accommodate the following provisions that do not require an update in the Plan Document:

- **SECURE 2.0, Section 302** reduces the missed RMD Penalty from 50% to 25% of the amount of the missed payment; if corrected in a timely manner, the penalty may be reduced to 10%. No change is required as it is not a plan provision but a penalty levied by the IRS.
- **SECURE 2.0, Section 325** indicates the after-tax (Roth) account balance will no longer be subject to RMDs during the participant's lifetime, and is effective for tax years after December 31, 2023. Previously, both the pre-tax and Roth account balances were taken into account when calculating the RMD amount. Current references to applicable IRS provisions do not require a change to the Plan Document.

²

January 10, 2024:
https://www.nagdca.org/wp-content/uploads/2024/01/NAGDCA_SECURE2_IRS_Comment_Letter_01.10.24.pdf

- **SECURE 2.0, Section 327** allows surviving spouses to elect to defer RMDs until the year in which the plan participant would have attained RMD age. RMDs will also be calculated under the life expectancy table available for the plan participant. The provision is effective for tax years after December 31, 2023. Section 9.06 Distributions for Participants Dying on or After January 1, 2022 is reserved and will be fleshed out as part of the next round of Plan Document revisions. The TPA will continue to administer in accordance with IRS regulation.

2. Elimination of the First Day of the Month Requirement for Contribution Elections

SECURE 2.0 Provision	DCP Plan Document Revision
<p>Section 306 allows participant contribution elections to be effective any time prior to the compensation being available to the participant. Participants will no longer have to wait until after the first day of the month for new contribution elections to take effect. As an example, previously a participant had to elect a contribution change in May to have it take effect in June; the new provision removes this administrative requirement and will allow participants to make changes to their deferral amounts as soon as administratively feasible.</p>	<p>Section 4.01. Elective Deferrals Revision to paragraph (b).</p>

Staff and Voya plan to implement the change beginning with the March 20, 2024 paycheck. Communications and notices will be provided to participants through the LA457.com website via pop-ups and blog posts, newsletter articles, and participant website (post log-in) updates. Once implemented, participants will have the ability to make contribution changes as soon as administratively possible, typically within one to two pay periods. This is an optional provision, but staff highly recommends this change be adopted so that deferral elections may be more timely.

B. Next Steps for Reviewing SECURE 2.0 Provisions

The Board referred several optional provisions to the Plan Governance and Administrative Issues Committee (PG-AIC) for future discussion and evaluation. Staff developed the matrix in **Attachment B** to begin to track the Board's decisions and status with regard to each provision pertinent to the DCP. Staff is also awaiting updates on any interpretive guidelines for SECURE 2.0 Section 109 and SECURE 2.0 Section 603, which would be included in the next round of provisions to be considered.

Submitted by: Esther Chang, Defined Contribution Plan Manager

**THE CITY OF LOS ANGELES
DEFERRED COMPENSATION PLAN**

PLAN DOCUMENT

As Amended and Restated Effective June 15, 2021

**THE CITY OF LOS ANGELES
DEFERRED COMPENSATION PLAN**

ARTICLE I

ESTABLISHMENT AND RESTATEMENT OF THE PLAN DOCUMENT

Section 1.01. Plan Establishment and History.

The City of Los Angeles (“City”), a charter city and a political subdivision of the State of California, is an “eligible employer” described in Section 457(e)(1) of the Internal Revenue Code (“Code”) of 1986, as amended. The City established a Deferred Compensation Plan (“Plan”) for the employees of the City pursuant to the Los Angeles Administrative Code (“LAAC”) Section 4.1400 on February 13, 1981. The original Plan Document was adopted as of that same date. The Plan is considered an Employee benefit plan or savings plan for purposes of California Civil Code Section 5106(b), as amended from time to time, or its successor sections.

The Plan Document was restated by the City of Los Angeles Board of Deferred Compensation on November 27, 2001.¹ The Plan Document is amended and restated, herein, effective June 15, 2021².

Section 1.02. Compliance with Section 457 of the Internal Revenue Code.

The Plan is an eligible deferred compensation plan within the meaning of Section 457(b)(1) of the Code, and the regulations thereunder (regarding deferred compensation plans of state and local governments and tax-exempt organizations).

ARTICLE II

CONSTRUCTION AND DEFINITIONS

Section 2.01. Construction and Governing Law.

(a) This Plan Document shall be interpreted, enforced and administered in accordance with the City of Los Angeles Charter (“Charter”) and LAAC, and when not inconsistent with the Charter or LAAC, or expressly provided otherwise herein, the laws of the State of California without regard to conflict of law principles.

(b) Words used herein in the masculine gender shall be construed to include the feminine gender where appropriate, and *vice versa*, and words used herein in the singular or plural shall be construed as being in the plural or singular where appropriate, and *vice versa*.

¹ Revised January 29, 2002; revised February 26, 2002; revised April 29, 2003; revised March 15, 2005; revised December 20, 2005; revised June 19, 2007; revised March 18, 2008; revised August 18, 2009; revised June 21, 2011; revised December 20, 2011; revised May 15, 2012; revised March 18, 2014; revised June 16, 2015.

² Revised March 5, 2024.

(c) The headings and subheadings herein are inserted for convenience of reference only and are not to be considered in the construction of any provision of the Plan Document.

(d) If any provision of the Plan Document is held to violate the Code or held illegal or invalid for any other reason, that provision shall be deemed to be null and void, but the invalidation of that provision shall not otherwise impair or affect the Plan Document.

(e) In resolving any conflict between provisions of the Plan Document and in resolving any other uncertainty as to the meaning or intention of any provision of the Plan Document, the interpretation that causes the Plan to (i) constitute an eligible deferred compensation plan under the provisions of Section 457(b) of the Code, (ii) be a governmental plan as defined in Section 414(d) of the Code, and (iii) comply with all applicable requirements of the Code, shall prevail over any different interpretation.

Section 2.02. Definitions.

When the initial letter of a word or phrase is capitalized herein the meaning of such word or phrase shall be as follows:

(a) “Account” means the aggregate of the following separate bookkeeping accounts maintained for each Participant or alternate payee reflecting his or her interest under the Plan as follows:

(1) “Pre-Tax Contribution Account” means the account maintained to reflect the Participant's interest under the Plan attributable to his or her Pre-Tax Contributions made pursuant to Section 4.01 or 4.02.

(2) “Roth Contribution Account” means the account maintained to reflect the Participant's interest under the Plan attributable to his or her Roth Contributions made pursuant to Section 4.01 or 4.02.

(3) “Rollover Contribution Account” means the account maintained to reflect the Participant's interest under the Plan attributable to his or her Rollover Contributions pursuant to Section 4.03. There shall be the following separate subaccounts under the Rollover Contribution Account:

(i) A subaccount to reflect the Participant's interest under the Plan attributable to his or her Rollover Contributions from a Code Section 457(b) plan within the meaning of Section 4.03(a);

(ii) A subaccount to reflect the Participant's interest under the Plan attributable to his or her Rollover Contributions from a Code Section 457(b) plan within the meaning of Section 4.03(a) that consists of Roth elective deferrals within the meaning of Section 4.03(b);

(iii) A subaccount to reflect the Participant's interest under the Plan attributable to his or her Rollover Contributions from an eligible retirement plan within the meaning of Section 4.03(a) other than a Code Section 457(b) plan; and

(iv) A subaccount to reflect the Participant's interest under the Plan attributable to his or her Rollover Contributions from an eligible retirement plan within the meaning of Section 4.03(a) other than a Code Section 457(b) plan that consists of Roth elective deferrals within the meaning of Section 4.03(b).

(4) “Transfer Contribution Account” means the account maintained to reflect the Participant's interest under the Plan attributable to his or her Transfer Contributions pursuant to Section 4.04.

(b) “Administrator” means the Board or the duly authorized representative contracted to act on behalf of the Board.

(c) “Applicable Form” means the appropriate form as designated and furnished by the Administrator to make any election or provide any notice required by the Plan. In those circumstances where a written election or consent is not required by the Plan or the Code, the Administrator may prescribe an electronic or telephonic form in lieu of or in addition to a written form.

(d) “Auto-Enrollment Program” or “AEP” means the program under which a Covered Employee is automatically enrolled in and contributes to the Plan, as described in Section 4.02. “Board” means the Board of Deferred Compensation Administration.

(e) “City” means the City of Los Angeles, California.

(f) “Code” means the Internal Revenue Code of 1986, as amended from time to time.

(g) “Compensation” means all cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses and overtime pay, that is includible in the Participant's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Participant's gross income for the calendar year but for a compensation reduction election under Code Sections 125, 132(f), 401(k), 403(b), or 457(b) (including an election to defer compensation under Article 4). Compensation shall be taken into account at its present value and its amount shall be determined without regard to any community property laws. Effective March 1, 2012, Compensation shall include differential wage payments (as such term is defined in Code Section 3401(h)(2)). To the extent permitted by federal law and Treasury Regulations (“Treas. Reg.”) or other similar guidance, Compensation also includes accrued bona fide sick, vacation, or other leave pay which may be paid to a Participant by the later of two and one-half (2 ½) months after a Participant's Separation from Employment or by the end of the calendar year that includes the date of such Separation from Employment so long as the Employee would have been able to use the leave if employment had continued.

(h) “Contributions” mean Pre-Tax Contributions, Roth Contributions, Rollover Contributions, and Transfer Contributions.

(i) “Cost-of-Living Adjustment” means the cost-of-living adjustment as prescribed by the Code for any applicable year.

(j) “Designated Beneficiary” means an individual who is not an Eligible Designated Beneficiary designated by a Participant to receive benefits under the Plan as of the date of death of the Participant.

(k) “Entity Beneficiary” means any partnership, trust, corporation, limited liability company or firm, or any combination thereof, that is not a Designated Beneficiary or an Eligible Designated Beneficiary but designated by a Participant to receive benefits under the Plan as of the date of death of the Participant. “Elective Deferral” means Pre-Tax Contributions and Roth Contributions made in accordance with Section 4.01.

(l) “Eligible Designated Beneficiary” means an individual described under Code Section 401(a)(9)(E)(ii) and related Treasury Regulations and IRS pronouncements as of the date of death of the Participant.

(m) “Employee” means any individual who renders services to the City in exchange for regular Compensation and who is eligible to participate in the Plan, excluding the Pension Savings Plan.

(n) “Employer” or “City” means all offices, bureaus, and departments of the City of Los Angeles and includes therein departments which have control of their own definite revenues.

(o) “HEART” means the Heroes Earnings Assistance and Relief Tax Act of 2008, as amended from time to time.

(p) “Includible Compensation” means an Employee's actual wages in box 1 of Form W-2 for a year for services to the Employer, but subject to a maximum of \$200,000 (or such higher maximum as may apply under Code Section 401(a)(17)), and increased (up to the dollar maximum) by any compensation reduction election under Code Section 125, 132(o), 401(k), 403(b) or 457(b).

(q) “Investment Funds” means the mutual funds, collective investment funds, insurance company separate accounts, annuity contracts, or other investment vehicles, including Self-Directed brokerage accounts, made available to Participants for the investment of their Accounts. The Administrator, in its sole and absolute discretion, shall select the Investment Funds and may add or delete Investment Funds.

(r) “Money Type” means contributory and/or rollover amounts held within a participant's account that are required to be separately maintained under certain Code sections. Separate accounting will be maintained for Pre-Tax Contributions and Roth Contributions and their respective investment gains and losses.

(s) “Normal Retirement Age” means the age elected by the Participant on the Applicable Form that is (i) on or after the age at which the Participant can retire and receive an unreduced benefit from the Employer's pension plan and (ii) not later than age seventy and one-half (70 ½). If the Participant will not become eligible to receive benefits from the Employer's pension plan, the Participant's alternate Normal Retirement Age may not be earlier than 65 and may not be later than age 70½.

(t) “Participant” means an Employee who is currently enrolled in or who has previously deferred Compensation under the Plan by salary reduction and who has not received a distribution of his or her entire benefit under the Plan. A Participant shall also mean, when appropriate to the context, a former Employee who is eligible to receive a benefit of any type under the Plan.

(u) “Participation Agreement” means the online, telephonic, or written agreement filed by an Employee with the Administrator in which the Employee elects to become a Participant in the Plan under Section 4.01. “Plan” means the City of Los Angeles Deferred Compensation Plan established under LAAC section 4.1400.

(v) “Plan Document” means the Plan description provided in this document.

(w) “Plan Amendment Date” means the date the restatement is adopted by the Board.

(x) “Plan Effective Date” means February 13, 1981.

(y) “Plan Year” means the calendar year.

(z) “Person” means an individual, a trust, estate, partnership, association, company, limited liability company, or corporation.

(aa) “Pre-Tax Contributions” mean a Participant's elective deferrals that are not includible in the Participant's gross income at the time deferred as set forth under Section 4.01 or 4.02. A Participant's Pre-Tax Contributions, and any investment gains or losses thereon, will be accounted for separately from the Participant's Roth Contributions.

(bb) “Qualified Roth Distribution” means a distribution from a Roth Contribution Account after the Participant has satisfied a five (5) year tax holding period and has attained age fifty-nine and one-half (59½), died, or become disabled, in accordance with Code Section 402A(d). The five (5) year tax holding period is the period of five (5) consecutive taxable years that begins with the first day of the first taxable year in which the Participant makes a designated Roth Contribution under the Plan or to another retirement plan which amount was directly rolled over to the Plan, and ends when five (5) consecutive taxable years have been completed.

(cc) “Rollover Contributions” mean the contributions made to the Plan pursuant to Section 4.03.

(dd) “Roth Contributions” mean contributions made to the Plan by the Employer at the election of a Participant under a Participation Agreement that have been (i) designated irrevocably by the Participant as a Roth Contribution being made in lieu of all or a portion of the Pre-Tax Contributions the Participant is otherwise eligible to make under the Plan, and (ii) treated by the Employer as includible in the Participant's gross income at the time the Participant would have received that amount in cash if the Participant had not made such an election.

(ee) “Secondary Beneficiary” means any individual, trust, partnership, corporation, limited liability company, or firm, or any combination thereof, designated by or upon an account being established for an Entity Beneficiary, Designated Beneficiary or Eligible Designated

Beneficiary to receive benefits under the Plan or their respective estate as determined under California law.

(ff) “Separation from Employment” means the date when the Employee ceases to (a) render services to the City in exchange for remuneration, and (b) be eligible to contribute to one the City’s retirement or pension plans, excluding the Pension Savings Plan, without regard to any services rendered by such employee to the City following such date pursuant to section 1164(b) of the City of Los Angeles Charter.

(gg) “Service Provider” means a Person selected by the Board to provide services to the Plan.

(hh) “Staff” means Employees of the City who provide assistance and support to the Board.

(ii) “Transfer Contribution” means contributions made to the Plan pursuant to Section 4.04.

(jj) “Trust” means the separate fund holding all assets and income of the Plan, including amounts, assets, and income held in custodial accounts or annuity contracts as authorized by Code Section 457(g) and established under LAAC § 4.1404.

(kk) “Trust Fund” means the assets of the Trust.

(ll) “Trustee” means the Board or any Person designated and appointed by the Board to serve as trustee or successor trustee of the Trust.

(mm) “USERRA” means the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended from time to time.

(nn) “Valuation Date” means the date on which the assets and the Participant's Accounts shall be valued. All daily transactions shall be based on that day's closing market values. Value of the Participant's Account shall be adjusted in accordance with daily values.

(oo) “Vested” means an unconditional, legally enforceable, and non-forfeitable interest in an Account

ARTICLE III

ELIGIBILITY AND PARTICIPATION

Section 3.01. Participation.

(a) An Employee who is a Participant on the day before the Effective Date of this amended and restated Plan Document shall continue to be a Participant on the Effective Date.

(b) An Employee may become a Participant in the Plan immediately after commencement of employment or reemployment with the Employer.

(c) To become a Participant under the Plan, an Employee must complete the Applicable Forms, which may include a Participation Agreement and enrollment, beneficiary designation, and investment election forms, and return them to the Administrator. Subject to Section 4.02, an Employee who fails to complete the Applicable Forms shall be deemed to have waived all of his or her rights under the Plan, provided that such Employee may become a Participant in the Plan at any time thereafter by completing the Applicable Forms and returning them to the Administrator. The dollar or percentage amount to be deferred shall be deducted from the Compensation otherwise payable to the Participant per payroll period; such amount shall not exceed the limits set forth herein.

(d) Each Participant shall have the right to designate a beneficiary or beneficiaries to receive any benefits which may be payable under the Plan upon the death of such Participant. The designation may be made, and may be revoked or changed, only by a written instrument (in form acceptable to the Board of Deferred Compensation Administration and the Administrator) signed by the Participant and filed with the Administrator before his or her death. In the absence of a designation or at any time when there is no beneficiary designated by the Participant, the Participant's beneficiary shall be proscribed under California law.

(e) Each Participant shall be deemed to have assented to all the terms and conditions of the Plan upon execution of a Participation Agreement or upon enrollment pursuant to the provisions of the AEP. No Participant shall have the power or right to sell, transfer, assign, hypothecate, or otherwise dispose of all or any part of the Account or any right which the Participant may have under the Plan.

(f) An Employee shall become a Participant pursuant to the provisions of the AEP under Section 4.02.

Section 3.02. Cessation of Contributions.

A Participant shall cease to be eligible for Contributions under the Plan when he or she experiences a Separation of Employment or the Plan is terminated.

ARTICLE IV

CONTRIBUTIONS

Section 4.01. Elective Deferrals.

(a) Participation Agreement. Subject to the limitations under Article V, an Employee who has satisfied the participation requirements under Section 3.01 may enter into a written Participation Agreement agreeing to contribute each pay period Pre-Tax Contributions and/or Roth Contributions to the Plan an amount equal to a specified percentage or dollar amount of his or her Compensation, as permitted by the Internal Revenue Code and the Administrator. The Administrator may establish a minimum Elective Deferral amount, and this amount may be amended from time to time.

(b) Effective Date of Deferrals. Elective Deferrals shall begin as soon as administratively practicable following the date specified in the Participation Agreement, or, if

later or if no date is specified, as soon as administratively practicable after the Participation Agreement is filed with the Administrator. Unless the election specifies a later effective date, a change in the amount of the annual deferrals shall take effect as the next following payroll period or as soon as administratively practicable if later, so long as an agreement providing for such change has been entered into before the compensation to which it applies is currently available to the participant (or until such time or times set forth in the Plan with respect to any automatic enrollment program that may be established under the terms of the Plan). ~~Notwithstanding the preceding, the Participation Agreement shall become effective no earlier than the first pay date of the month following the month in which the Participation Agreement is executed and submitted to the Administrator; provided, however, that a new Employee may defer Compensation payable in the calendar month during which he or she first becomes an Employee if he or she enters into a Participation Agreement before the first day on which he or she performs services for the Employer.~~

(c) Payment of Elective Deferrals to the Trust. Elective Deferrals shall reduce the Compensation otherwise payable to a Participant and shall be paid in cash to the Trustee by the Employer, on a basis consistent with its payroll practices, as soon as administratively feasible after being withheld from the Compensation of a Participant, but no later than fifteen (15) business days following the end of the month in which such amount is withheld from the Compensation of the Participant.

(d) Amendment of Deferral Election. A Participant may change his or her election to make Pre-Tax Contributions and/or Roth Contributions at any time by entering into a new Participation Agreement. Any such changes shall be effective as soon as administratively practicable following the date specified in the new Participation Agreement, or, if later, as soon as administratively practicable after the Participation Agreement is filed with the Administrator; provided that the Participation Agreement shall become effective no earlier than the first pay date of the month following the month in which the Participation Agreement is executed and submitted to the Administrator.

(e) Termination of Deferral Election. A Participant may terminate his or her election to make Elective Deferrals at any time by filing the Applicable Form with the Administrator, which shall be effective as soon as administratively practicable after the Applicable Form is filed with the Administrator.

(f) Change in Status. An election to make Elective Deferrals shall not be valid with respect to any period during which the Participant is not an Employee. No election to make, change, or discontinue Elective Deferrals shall be given retroactive effect.

(g) Rules and Procedures. The Administrator may establish additional rules and procedures governing the manner and timing of elections by Participants to make, change, or discontinue Elective Deferrals.

Section 4.02. Automatic Elective Deferrals.

(a) Automatic Elective Programs (“AEP”). Notwithstanding Section 4.01 or any other provision of the Plan Document, in accordance with Code Section 414(w), an Employee who is

a Covered Employee shall be automatically enrolled in the Plan pursuant to this Section. The Plan is not responsible for delays or errors in departmental payroll/human resources processing, data entry, or other such administrative or technical actions that may result in a Covered Employee not being enrolled in the AEP.

(b) Definitions.

(1) “AEP Participant” is a Covered Employee who has had a portion of his/her Compensation deferred from his/her payroll check pursuant to the terms of this Section 4.02 and has not taken action to opt-out or make an election to increase or decrease his/her deferrals, change or add Roth Contributions, or change his/her investment option.

(2) “Covered Employee” means an Employee:

(i) Whose bargaining unit at the time of the employee's original hire is identified in a collective bargaining agreement or similar agreement between the employee's Labor Organization and the City of Los Angeles as participating in the AEP, and;

(ii) Who is an active member of the Los Angeles City Employees' Retirement System, the Water and Power Employees' Retirement System, or the Los Angeles Fire & Police Pensions System.

(3) “Default Deferral” is the total amount of Pre-Tax Contributions deferred each pay period an AEP Participant contributes to the Plan in the absence of a Participation Agreement pursuant to Section 4.01.

(4) “Labor Organization” means an employee labor organization representing one or more bargaining units made up of City of Los Angeles employees.

(5) “Opt-Out Period” means the period, a minimum of 30 days, after the initial notice described in paragraph (e) below is issued to Covered Employees enrolled through the AEP and prior to the initial Default Deferral, which will provide the Covered Employee an opportunity to make an affirmative deferral election under Section 4.01. Any change made during this period shall be considered an affirmative deferral election.

(6) “Permissible Withdrawal Window” means the 90-calendar day period subsequent to the initial Default Deferral during which a Participant is allowed to request a full withdrawal of all Default Deferrals, with earnings and less administrative or servicing fees through the date of distribution. Funds from incoming transfers or rollovers from an Eligible Retirement Plan will not be distributed and will remain in the account. Should a withdrawal request be made within the Permissible Withdraw Window, the AEP Participant will no longer be considered a Participant of the Plan unless funds remain in the account due to an incoming transfer or rollover.

(c) Rules of Application

(1) Automatic Contribution Arrangement. A Covered Employee shall be deemed to have elected to contribute Default Deferrals to the Plan, for the Plan Year and each subsequent Plan Year, in an amount equal to 2% each bi-weekly pay period and shall increase 0.25% annually on the paycheck date nearest the anniversary of the first automatic elective deferral paycheck date. The preceding sentence shall not apply if, within a reasonable period of time (pursuant to policy established by the Administrator which shall be uniformly applied on a nondiscriminatory basis) after receipt of the notice described in paragraph (3) below, the Covered Employee affirmatively elects not to make Elective Deferrals to the Plan or affirmatively elects to make Pre-Tax Contributions and/or Roth Contributions under the Plan in a greater or lesser amount pursuant to Section 4.01.

(2) Investment of Default Deferrals. The initial Default Deferrals and any subsequent Default Deferrals made within the Permissible Withdrawal Window will be invested in the Plan's FDIC-Insured Savings Account or other such interest-bearing account as may be designated by the Administrator. No earlier than the 91st day and no later than the 120th day following the date of the initial Default Deferral, all Default Deferrals will be transferred from the FDIC-Insured Savings Account to the Moderate Profile Portfolio. Should an AEP Participant make an affirmative deferral election under Section 4.01 during the Permissible Withdraw Window, assets will not be transferred to the Moderate Profile Portfolio unless the Participant elects to make such change.

(3) Required Notice. Prior to making Default Deferrals to the Plan on behalf of any Covered Employee, and at least thirty (30) days but not more than ninety (90) days before the beginning of each Plan Year thereafter, the Employer shall provide notice to the Covered Employee that explains:

- (i) the amount and timing of Default Deferrals;
- (ii) how Default Deferrals will be invested in the absence of an investment election by the Participant;
- (iii) the Covered Employee's right to modify or terminate automatic Default Deferrals, including to have contributions designated as Roth Contributions;
- (iv) the procedures for exercising the Covered Employee's right to make an affirmative election under the Plan;
- (v) the timing for implementation of any such election;
- (vi) the Covered Employee's right to make a withdrawal of Default Deferrals in accordance with paragraph (h); and
- (vii) the risks associated with investing in the market, including the possible loss of contributions.

(d) Opt-Out Period. A Covered Employee enrolled through the AEP will have a reasonable opportunity after receipt of the notice described in paragraph (e) to make an affirmative deferral election to modify or terminate Default Deferrals by filing the Applicable Form under Section 4.01 during the Opt-Out Period. Default Deferrals shall become effective the first pay date following the end of the Participant's Opt-Out Period.

(e) Continuing Effect. Except as provided in paragraph (h), Default Deferrals under this Section 4.02 shall remain in effect until the Participant affirmatively elects to modify or terminate Default Deferrals by filing the Applicable Form under Section 4.01.

(f) 90-Calendar Day Withdrawal Window. An Employee may request a withdrawal of any Default Deferrals made under this Section 4.02, provided that such request must be made no later than ninety (90) calendar days after the date Default Deferrals are first withheld from Compensation. Distributions made pursuant to this paragraph (f) are not counted against the contribution limitations under Article V. Unless the Employee affirmatively elects otherwise, any withdrawal request shall be treated as an affirmative election under Section 4.01 to terminate Plan participation unless funds remain in the Account due to an incoming transfer or rollover.

(g) Payment of Default Deferrals to the Trust. Default Deferrals shall reduce the Compensation otherwise payable to a Participant and shall be paid in cash to the Trust Fund by the Employer, on a basis consistent with its payroll practices, as soon as administratively feasible after being withheld from the Compensation of a Participant, but no later than fifteen (15) business days following the end of the month in which such amount is withheld from the Compensation of the Participant.

(h) Default Deferrals shall be allocated to the Pre-Tax Contribution Account of the Participant as of the date of contribution.

(i) The Administrator may establish additional rules and procedures governing the administration of Default Deferrals.

Section 4.03. Rollover Contributions to the Plan.

(a) A Participant may contribute to the Plan as a Rollover Contribution a distribution from:

(1) a Code Section 401(a), including a Deferred Retirement Option Plan component thereof, or 403(a) qualified plan, excluding after-tax employee contributions;

(2) a Code Section 403(b) plan, excluding after-tax employee contributions;

(3) a Code Section 457(b) eligible deferred compensation plan which is maintained by an eligible employer described in Code Section 457(e)(1)(A);

(4) a Code Section 408 individual retirement account or annuity, with respect to the portion of the distribution that is eligible to be rolled over and would otherwise be includible in gross income;

(5) a Coronavirus Distribution, described in subsection 9.04(e), provided a Participant makes the contribution within 36 months from the date of the Coronavirus Distribution.; or

(6) an RMD distribution from the Plan received in 2020.

Except with regard to a contribution under subparagraphs (a)(5) and (a)(6), a Rollover Contribution under this paragraph shall be made directly from such prior plan, or if such amount was distributed to the Participant, shall be made within sixty (60) days after the Employee receives the rollover amount.

(b) A Participant may also contribute to the Plan as a Rollover Contribution a distribution from a Roth elective deferral account under a Code Section 401(a) plan, a Code Section 403(b) plan, or a Code Section 457(b) eligible deferred compensation plan which is maintained by an eligible employer described in Code Section 457(e)(1)(A), but only to the extent that the Rollover Contribution is made directly from such prior plan and only to the extent the rollover is permitted under the rules of Code Section 402(c).

(c) A Rollover Contribution shall be subject to the Trustee's determination, in its discretion, that the Rollover Contribution satisfies all applicable requirements of the Code.

(d) A Rollover Contribution shall be allocated to a Rollover Contribution Account as of the date of the contribution; provided, however, that separate subaccounts shall be maintained to reflect Rollover Contributions from Code Section 457(b) plans and plans other than Code Section 457(b) plans, and separate subaccounts shall be maintained to reflect Rollover Contributions from elective deferral accounts and Roth elective deferral accounts, as provided in Section 2.02(a).

(e) Before a Rollover Contribution is made, the Participant shall designate on the Applicable Form the Investment Funds in which to invest his or her Rollover Contribution.

Section 4.04. Transfers to the Plan.

(a) Subject to the conditions set forth in this subsection (a), the Plan shall accept a Transfer Contribution on behalf of a Participant who was formerly a participant in an eligible deferred compensation plan maintained by another governmental employer.

(b) The Plan shall only accept a transfer that satisfies the following conditions:

(1) The Participant has separated from employment with the prior governmental employer;

(2) The Participant has established an Account with the Plan;

(3) The transferor plan permits the transfer;

(4) The Participant whose amounts are being transferred will have a deferred amount immediately after the transfer at least equal to the deferred amount with respect to that Participant immediately before the transfer; and

(5) The transfer satisfies such other rules and policies established by the Administrator.

(c) The Plan shall accept, in a direct transfer, assets representing the value of a Participant's interest in the City of Los Angeles Pension Savings Plan; provided, however, that the Participant has established an Account with this Plan.

(d) A Transfer Contribution shall be allocated to the Transfer Contribution Account of the Participant as of the date of the transfer.

Section 4.05. Leave of Absence.

During a paid leave of absence, Contributions shall continue to be made for a Participant on the basis of Compensation paid by the Employer during the leave. No Contributions shall be made on behalf of a Participant who is on an unpaid leave of absence.

Section 4.06. Disability.

To the extent a Participant has Compensation, such individual who has not had a Separation from Employment may make Elective Deferrals during any period of time that he or she is disabled, as determined under Code Section 22(e)(3).

Section 4.07. Expenses of Plan.

All reasonable expenses of administering the Plan shall be charged against and paid from the Participant's Accounts, subject to the terms of the applicable Investment Funds. The Administrator shall have the right to allocate expenses associated with maintaining the Accounts of terminated Employees to such Accounts, even if no expenses are allocated to the Accounts of active Employees, in accordance with rules promulgated by the Internal Revenue Service.

ARTICLE V

LIMITATIONS ON CONTRIBUTIONS

Section 5.01. Elective Deferral Limits.

(a) Basic Annual Limitation. The maximum amount of Elective Deferrals to the Plan for any calendar year shall be limited to the lesser of (i) the applicable dollar amount as provided in Code Section 457(e)(15) or (ii) the Participant's Includible Compensation as provided in Code Section 457(b)(2). The applicable dollar amount is \$19,500 for 2020, increased thereafter by the Cost-of-Living Adjustment.

(b) Age 50 Catch-Up Annual Deferral Contributions. A Participant who attains the age of fifty (50) or more by the end of a calendar year, and who is contributing up to the applicable

dollar amount under paragraph (a), may make additional Elective Deferrals, as set forth under Code Section 414(v), in an amount of up to \$6,500 beginning the calendar year 2020 increased thereafter by the Cost-of-Living Adjustment.

(c) Special Section 457 Catch-Up Limitation. If the applicable year falls within a Participant's last three (3) calendar years ending before the year in which the Participant attains Normal Retirement Age and the amount determined under this paragraph (c) exceeds the amount computed under paragraphs (a) and (b), then the Elective Deferrals limit under this Article V shall be the lesser of:

(1) An amount equal to two (2) times the applicable dollar amount set forth in paragraph (a) for such year (\$39,000 beginning calendar year 2020); or

(2) The sum of:

(i) An amount equal to (i) the aggregate paragraph (a) limit for the current year plus each prior calendar year beginning after December 31, 2001, during which the Participant was an Employee under the Plan, minus (ii) the aggregate amount of Compensation that the Participant deferred under the Plan during such years, plus

(ii) An amount equal to (i) the aggregate limit referred to in Code Section 457(b)(2) for each prior calendar year beginning after December 31, 1978, and before January 1, 2002, during which the Participant was an Employee (determined without regard to paragraph (b) or (c)), minus (ii) the aggregate contributions to Pre-2002 Coordination Plans (as defined by Treasury regulations and as provided in Section 5.03(c) herein) for such years.

However, in no event can the Elective Deferrals be more than the Participant's Compensation for the year.

Section 5.02. Coordination of Limits.

(a) Participant Covered By More Than One Eligible Plan. If the Participant is or has been a participant in one or more other eligible plans within the meaning of Code Section 457(b), then this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of this Article V. For this purpose, the Administrator shall take into account any other such eligible plan maintained by the Employer for which the Administrator receives from the Employer sufficient information concerning such plan, 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.

(b) Pre-Participation Years. In applying Section 5.01(c), a year shall be taken into account only if:

(1) the Participant was eligible to participate in the Plan during all or a portion of the year; and

(2) Compensation deferred, if any, under the Plan during the year was subject to the applicable dollar amount described in Section 5.01(a) or any other plan ceiling required by Code Section 457(b).

(c) Pre-2002 Coordination Years. For purposes of Section 5.01(c)(2)(ii) “contributions to Pre-2002 Coordination Plans” means any employer contribution, salary reduction or elective contribution under any other eligible Code Section 457(b) plan, or a salary reduction or elective contribution under any Code Section 401(k) qualified cash or deferred arrangement, Code Section 402(h)(1)(B) simplified employee pension (SARSEP), Code Section 403(b) annuity contract, and Code Section 408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in Code Section 501(c)(18), including plans, arrangements or accounts maintained by the Employer or any employer for whom the Participant performed services. However, the contributions for any calendar year are only taken into account for purposes of Section 5.01(c)(2)(ii) to the extent that the total of such contributions does not exceed the aggregate limit referred to in Code Section 457(b)(2) for that year.

(d) Current Rule. For 2002 and thereafter, any amounts contributed by the Participant to a tax-sheltered annuity pursuant to Code Section 403(b) or to a 401(k) plan pursuant to Code Section 402(e)(3) shall not reduce the maximum Elective Deferrals under Section 5.01.

(1) 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 Section 5.04. 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.

(2) The Participant is responsible for ensuring coordination of these limits.

Section 5.03. Correction of Excess Deferrals.

(a) If the Elective Deferrals on behalf of a Participant for a calendar year exceeds the limitations described above, or the Elective Deferrals 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 eligible deferred compensation plan under Code Section 457(b) for which the Participant provides information that is accepted by the Administrator, then the Elective 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 in accordance with the requirements for excess deferrals under the Code.

(b) Excess Elective Deferrals shall be distributed from the following accounts in the following order:

- (1) other eligible deferred compensation plan or plans;
- (2) a Participant's Roth Contributions to this Plan; and
- (3) a Participant's Pre-Tax Contributions to this Plan.

ARTICLE VI

ACCOUNTING

Section 6.01. Participant Accounts.

The Administrator shall establish and maintain adequate records to reflect the Accounts of each Participant, Entity Beneficiary, Designated Beneficiary, Eligible Designated Beneficiary, and/or Secondary Beneficiary (collectively “Beneficiaries” or “Beneficiary” as the context so requires). Credits and charges shall be made to such Accounts to reflect additions, distributions, and withdrawals, and to reflect gains or losses pursuant to the terms of each Investment Fund. The maintenance of individual Accounts is for accounting purposes only, and a segregation of Plan assets to each Account shall not be required.

Section 6.02. Participant Statements.

The Administrator shall provide to each Participant or his or her respective applicable Beneficiaries a quarterly statement, reflecting the value of the Participant's Account as of the end of each quarter and shall provide similar information to the Administrator upon its request. Such quarterly statement shall be furnished to the Participant in the manner designated or permitted by the Administrator.

Section 6.03. Value of Account.

The value of the Account is the value as of any Valuation Date as determined by the Administrator.

ARTICLE VII

INVESTMENT OF CONTRIBUTIONS

Section 7.01. Investment Funds.

(a) All Contributions under the Plan shall be transferred to the Trust to be held, managed, invested, and distributed in accordance with the provisions of the Plan Document and the Investment Funds as applicable.

(b) Participants' Accounts shall be invested in one or more of the Investment Funds available to Participants under the Plan as selected by the Administrator and communicated to Participants. The Administrator's current selection of Investment Funds is not intended to limit future additions or deletions of Investment Funds.

(c) A Participant shall have the right to direct the investment of his or her Account by filing the Applicable Form with the Administrator. A Participant may change his or her investment election as often as determined by the Administrator. A Participant may elect to transfer all or any portion of his or her Accounts invested in any one Investment Fund to another Investment Fund, subject to the limitations of the Investment Fund(s), by filing a request on the Applicable Form with the Administrator.

Section 7.02. Default Investments.

If a Participant does not have a valid and complete investment direction on file with the Administrator on the Applicable Form, Contributions may be invested in a default fund selected by the Administrator in its sole discretion, until the Participant makes an affirmative election regarding the investment of his or her Account.

ARTICLE VIII

TRUST

Section 8.01. Trust Fund.

All Contributions under the Plan shall be part of the Trust Fund in accordance with the provisions of the Plan, Plan Document, and the Investment Funds, as applicable. All assets held in connection with the Plan, including all Contributions, all property and rights acquired or purchased with such amounts, and all income attributable to such amounts, property or rights, shall be held in, managed, invested and distributed in Trust as part of the Trust Fund, in accordance with the provisions of the Plan Document. All benefits under the Plan shall be distributed solely from the Trust Fund, and the City shall have no liability for any such benefits other than the obligation to make Contributions as provided in the Plan Document.

Section 8.02. Trust Status.

The Trust Fund shall be held in Trust for the exclusive benefit of the Participants and Beneficiaries under the Plan in accordance with Code Section 457(g). No part of the Trust Fund shall be used for, or diverted to, purposes other than for the exclusive benefit of the Participants and their Beneficiaries, and for defraying the reasonable expenses of the Plan and Trust. The Trust is exempt from tax pursuant to Code Section 457(g)(2).

ARTICLE IX

DISTRIBUTIONS

Section 9.01. Distribution Restrictions.

(a) A Participant's Account may not be distributed to the Participant or his or her Entity Beneficiary, Eligible Designated Beneficiary, or Designated Beneficiary except as otherwise provided in this Article IX.

(b) Notwithstanding paragraph (a), a Participant may request a distribution from his or her Rollover Contribution Account at any time.

(c) Any distribution from the Plan being made to a Participant who previously commenced a distribution following a Separation from Employment in accordance with subsection 9.04(b) shall cease upon the reemployment of such Participant by the Employer during the pendency of Participant's period of reemployment.

Section 9.02. Distributions for Health Insurance Premiums of Retired Public Safety Officers.

As set forth under Code Section 457(a)(3), beginning January 1, 2012, a Participant who is an eligible retired public safety officer (as defined in Code Section 402(l)(4)(B)) and who has separated from service as a public safety officer with the Employer, may elect a distribution to be paid by the Plan from the Participant's account directly to an insurer for payment of qualified health insurance premiums (as defined in Code Section 402(l)(4)(D)), up to \$3,000 per taxable year (or such other limitation prescribed in Code Section 402(l)(2)). Such election shall be made in accordance with procedures established by the Administrator.

Section 9.03. Distribution of Small Account Balances.

Upon a written request to the Administrator, a Participant may elect to receive a distribution of his or her Account in a lump sum if the Account balance does not exceed \$5,000 (or such other dollar limit provided under Code Section 411(a)(11), if greater) without regard to amounts attributable to rollover contributions, provided that no Elective Deferrals have been made by the Participant during the two-year period immediately prior to the date of distribution, and the Participant has not previously received a distribution of his or her Account under this Section 9.03.

Section 9.04. Distribution Options.

(a) In-Service Distributions. Notwithstanding the provisions of subsection 9.04(b) and (c), but with regard to the provisions of subsection 9.04(f), beginning January 1, 2020, a Participant may commence a distribution of his or her Account in the calendar year in which the Participant attains age 59 ½.

(b) Separation from Employment. Subject to the provisions under this Section, the terms of the Investment Funds, together with any restrictions established by the Administrator, a Participant may commence a distribution of his or her Account any time following a Separation of Employment by filing the Applicable Forms with the Administrator, without regard to any services performed by the Participant for the City pursuant to Charter Section 1164(b).

(c) Required Minimum Distributions. A Participant's Accounts shall be distributed to the Participant beginning no later than April 1 of the calendar year following the calendar year in ~~in which the Participant either attains the~~ ~~which the Participant attains~~ age 73½ (age 70½ for ~~2 for distributions required to be made after December 31, 2019, with respect to a Participant who would have attained age 70½ after December 31, 2019~~ Participants born on or before June 30, 1949, or age 72 for Participants born on or after July 1, 1949 but before January 1, 1951) or, if later, April 1 of the calendar year following the calendar year that the Participant has a Separation from Employment. The amount of any such required minimum distribution discussed herein shall be determined in accordance with Code Section 401(a)(9) and the regulations thereunder as applicable to a governmental plan as defined in Code Section 414(d).

(d) Elective Suspension of Required Minimum Distributions for 2020. A Participant or Beneficiary who would have been required to receive required minimum distributions for 2020 but for the enactment of Code Section 401(a)(9)(I) ("2020 RMDs"), and who would have satisfied that requirement by receiving periodic or installment distributions that are equal to the 2020

RMDs, will receive those distributions for 2020 unless the Participant or Beneficiary chooses not to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence.

(e) Coronavirus Related Distributions. Beginning January 1, 2020 through December 30, 2020, or such other date as proscribed by the Code Participant may elect a coronavirus related distribution (“Coronavirus Distribution”) in an amount up to \$100,000 provided the Participant attests to any one of the following:

(1) Participant is diagnosed with virus SARS-CoV-2 or with coronavirus disease (COVID-19) (collectively, “COVID-19”) by a test approved by the Centers for Disease Control and Prevention (“CDC”);

(2) Participant’s spouse or dependent is so diagnosed with COVID-19 by a test approved by the CDC, or

(3) Participant who experiences adverse financial consequences as a result of

(i) the Participant, the Participant's Spouse, or a member of the Participant's household (1) being quarantined, (2) being furloughed or laid off or having work hours reduced due to such virus or disease, (3) being unable to work due to lack of child care due to such virus or disease, (4) having a reduction in pay (or self-employment income) due to such virus or disease, or (5) having a job offer rescinded or start date for a job delayed due to such virus or disease;

(ii) closing or reducing hours of a business owned or operated by the Participant, the Participant's Spouse, or a member of the Participant's household due to such virus or disease; or

(iii) other factors as determined by the Secretary of the Treasury (or the Secretary's delegate).

(f) Distribution Forms to Participant. On or before the date of a distribution described in subsections 9.04(a) through (c), a Participant may elect a distribution under any of the following forms of payment:

(1) **Lump sum payment.** The total benefits payable in one cash payment.

(2) **Partial lump-sum payment.** Subject to subsection 9.04(g), payment of a portion of the Participant's Account with the remaining balance to be paid in the manner set forth under subparagraph 9.04(f)(3) through (f)(4).

(3) **Periodic Payment - Fixed Term.** Subject to Section 9.04(c), amounts payable in equal installments over the lesser of, a period of one to thirty years or the life expectancy of the Participant.

(4) **Periodic Payment - Fixed Dollar Payment.** Subject to Section 9.04(c), a fixed dollar amount payment over a time period not to exceed, the lesser of, a Participant's life expectancy or thirty years

(g) Distribution of Entire Interest. Distributions of a Participant's entire interest in the Plan must occur over the life of the Participant or the lives of the Participant and Designated Beneficiary but not exceeding beyond either the life expectancy of the Participant or the life expectancy of the Participant and Designated Beneficiary. Notwithstanding any other provision of the Plan Document, the elected form of distribution shall comply with required distribution rules under Code Section 401(a)(9) and the regulations thereunder, as applicable to a governmental plan defined in Code Section 414(d), including any minimum distribution incidental benefit requirements.

Section 9.05. Distributions for Participants Dying on or before December 31, 2021.

(a) Upon the death of the Participant, such death to be evidenced by a federal, state, or local governmental issued death certificate or such other federal, state, or local equivalent, the Participant's Beneficiaries may elect to receive the Participant's Account in any form permitted under Section 9.04. If there are two or more Beneficiaries, the provisions of this section shall be applied to each Beneficiary separately with respect to each beneficiary's share in the Participant's account. However, if the Beneficiary of the Participant is the Participant's estate, the benefit will be payable only in a single lump sum. If such Beneficiary dies after beginning to receive benefits but prior to the depletion of such beneficiary's entire account balance has been distributed, the remaining account balance shall be paid to such Beneficiary's Secondary Beneficiary in a lump sum or in accordance with state law, if there's no Secondary Beneficiary. Notwithstanding any other provision in the Plan Document to the contrary, distributions upon the death of a Participant shall be made in accordance with the following requirements and shall otherwise comply with Code Section 401(a)(9) and the regulations thereunder, as applicable to a governmental plan as defined in Code Section 414(d), including any minimum distribution incidental benefit requirements.

(b) For an Eligible Designated Beneficiary who is the Participant's surviving spouse, distributions after the Participant's death must begin to be distributed by the later of December 31 of the calendar year immediately following the year of the Participant's death or December 31 of the calendar year in which the Participant would have attained age 72. Payments to a surviving spouse must be made over a period not to exceed the surviving spouse's life expectancy. Alternatively, the surviving spouse may elect to receive a total distribution of the Participant's Account by no later than December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(c) In cases where a Beneficiary is not the Participant's surviving spouse, distributions after the Participant's death must either (1) begin to be distributed no later than December 31 of the calendar year immediately following the year of the Participant's death, payable over a period

not to exceed the Beneficiary's life expectancy; or (2) be distributed no later than December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(d) If required minimum distributions under Code Section 401(a)(9) have begun prior to the death of the Participant, the remaining portion of the Participant's Account shall be distributed to the Beneficiary at least as rapidly as under the method of distribution in effect prior to the Participant's death.

Section 9.06. Distributions for Participants Dying on or After January 1, 2022.

[RESERVED]

Section 9.07. In-Plan Roth Transfers.

(a) Any vested amount held in an Account for a Participant (other than an amount held in a Roth Account) is eligible for Direct Rollover to the Participant's Roth Contribution Account under the Plan, even if the vested amount is not otherwise distributable (pursuant to Code Section 402A(c)(4)(E)) under Section 9, and the transfer shall be treated as a qualified rollover contribution (within the meaning of Code Section 408A(e)) to such Account.

(b) A Participant's election under this Section shall be subject to the reasonable administrative procedures established by the Administrator, Code Section 402A(c)(4) and the Treasury Regulations thereunder, and any subsequent guidance from the Internal Revenue Service.

(c) The taxable portion of the Participant's Account transferred to a Roth Contribution Account under Section 9.07 shall be included in the Participant's gross income in the tax year in which the transfer occurs.

(d) The Plan shall provide written information regarding in-Plan Roth transfers under this Section, for amounts that are otherwise distributable under this Section to the extent required by Code Section 402(f).

(e) A loan transferred in an in-plan rollover that does not change the loan's repayment schedule shall not be treated as a new loan for purposes of Code Section 72(p).

Section. 9.08. Distributions for Births or Adoption.

(a) Distribution. If a Participant experiences a qualified birth or adoption as described under Code Section 72(t)(H), the Participant may elect to receive a withholding tax-free distribution in an amount up to \$5,000 as provided under Code Section 72(t)(H)(ii) within one year from the date of a qualified birth or adoption.

(b) Repayment of Distribution. As provided Under Code Section 72(t)(H)(v), any Participant who has elected to receive a distribution described in Section 9.08(a) may make one or more contributions to an eligible retirement plan in an aggregate amount not to exceed the amount distributed under Section 9.08(a).

Section. 9.09. Unforeseeable Financial Emergency Distributions.

(a) Distribution. If the Participant has an unforeseeable emergency before retirement or other Separation from Employment, the Participant may elect to receive a lump sum distribution equal to the amount requested or, if less, the maximum amount determined by the Administrator to be permitted to be distributed under this Section 9.07. The Participant's distribution request shall specify the reason for the Unforeseeable Financial Emergency, as defined herein, and specify the amount the Participant wishes to withdraw to meet the need caused by the Unforeseeable Financial Emergency.

(b) "Unforeseeable Financial Emergency" means a severe financial hardship of the Participant resulting from:

(1) an illness or accident of the Participant, the Participant's Spouse, the Participant's dependent (as defined in Code Section 152, without regard to Code Sections 152(b)(1), (b)(2), and (d)(1)(B)), or a Beneficiary of the Participant;

(2) loss of the Participant's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, *e.g.*, as a result of a natural disaster);

(3) the need to pay funeral expenses of the Participant's Spouse, the Participant's Dependent (as defined in Code Section 152, without regard to Code Sections 152(b)(1), (b)(2), and (d)(1)(B)), or a Beneficiary of the Participant; or

(4) other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant. For example, the imminent foreclosure of or eviction from the Participant's primary residence may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses, including non-refundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency. Except as otherwise specifically provided in this Section 9.07, neither the purchase of a home nor the payment of college tuition is an unforeseeable emergency.

(c) Unforeseeable Financial Emergency Distribution Standard. A distribution due to an Unforeseeable Financial Emergency may not be made to the extent that such emergency is or may be relieved through reimbursement or compensation from insurance or otherwise, by liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship, or by cessation of Elective Deferrals under the Plan.

(d) Distribution Necessary to Satisfy Emergency Need. Distributions due to an Unforeseeable Financial Emergency may not exceed the amount reasonably necessary to satisfy the emergency need (which may include any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution).

(e) Administrator Determines Unforeseeable Financial Emergency. The Administrator must determine whether the circumstances of the Participant constitute an Unforeseeable Financial Emergency within the meaning of Subsection 9(b). Following a uniform procedure, the Administrator's determination shall take into account the facts or circumstances of each individual case deemed necessary or advisable by the Administrator, and the Participant shall be required to submit any evidence of his or her circumstances that the Administrator requires.

(f) Reasonable Fee. The Administrator may charge a reasonable fee, as approved by the Board, for processing Unforeseeable Financial Emergency distributions.

Section 9.10. Transfer to Defined Benefit Governmental Plan.

(a) Subject to Subsection 9.10(b), if a Participant is also a Participant in a tax-qualified defined benefit governmental plan (as defined in Code Section 414(d)) that provides for the acceptance of plan-to-plan transfers with respect to the Participant, such Participant may elect to have any portion of the Participant's Account transferred to the defined benefit governmental plan

for, (i) the purchase of permissive service credit (as defined in Code Section 415(n)(3)(A)) under such plan, or (ii) a repayment to which Code Section 415 does not apply by reason of Code Section 415(k)(3). Such transfer requests shall be made directly to the defined benefit governmental plan. A transfer under this Section may be made before the Participant has had a Separation from Employment.

(b) No portion of the Participant's Account attributable to Roth Contributions or Roth Rollover Contributions may be transferred under this Section 9.10.

Section 9.11. Transfers from and to the Plan.

(a) Transfers to eligible deferred compensation plan of another governmental employer. If a Participant has a Separation from Employment and begins performing services for another governmental employer that maintains an eligible deferred compensation plan which provides for the receipt of transfers, such Participant may request a transfer of all or a portion of his or her Account to the eligible deferred compensation plan of the other governmental employer provided that distributions under this Plan have not commenced. The amount deferred under the other plan immediately after the transfer must be at least equal to the amount transferred.

(b) Transfers to the City of Los Angeles Pension Savings Plan. If a Participant becomes a participant in the City of Los Angeles Pension Savings Plan (whether or not he or she has had a Separation from Employment), such Participant may request a transfer of all or a portion of his or her Account to the City of Los Angeles Pension Savings Plan, provided that distributions under the Plan have not commenced.

Section 9.12. Disaster Relief Distributions.

Notwithstanding any other provision of the Plan, a Participant may receive a qualified disaster distribution from the Plan in accordance with relief announced by the Internal Revenue Service or adopted by federal law for individuals who suffered economic losses as a result of natural disasters declared by the President of the United States in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Eligibility for a qualified disaster distribution and the terms for repayment shall be determined by the terms of the disaster declaration and guidance issued by the Internal Revenue Service, if any, or in the applicable federal law. Except where inconsistent with the applicable disaster relief announcement or law, the provisions of Section 9.9 and Article X of the Plan apply, respectively, to any unforeseeable emergency withdrawal or loan made pursuant to this section.

ARTICLE X

LOANS

Section 10.01. General Loan Provisions.

(a) Loans. A Participant shall be entitled to receive a loan from the Plan subject to the provisions of this Article. A Participant may apply for a loan by completing the Applicable Forms. The minimum amount of a loan is \$1,000.

(b) Maximum Loan Amount. Except as provided under Section 9.12 or subsection (c), the maximum amount of a loan from the Plan, when added to the outstanding balance of all other loans from the Plan, shall not exceed the lesser of:

(1) \$50,000, reduced by the greater of (i) the outstanding balance on any loan from the Plan to the Participant on the date the loan is made or (ii) the highest outstanding balance on loans from the Plan to the Participant during the one-year period ending on the day before the date the loan is approved by the Administrator (not taking into account any payments made during such one-year period); or

(2) One half (1/2) of the value of the Participant's vested Account Balance.

(c) Maximum Loan Amount Due to Covid-19. For the period beginning March 27, 2020 through September 23, 2020 with respect to a Participant described in subsection 9.04(e), subsection 10.01 (b)(1) shall be applied by substituting "\$100,000 for "\$50,000," and subsection 10.01(b)(2) shall be applied by substituting "the value of the Participant's vested Account Balance" for "one half (1/2) of the value of the Participant's vested Account Balance."

(d) Allocation from Accounts. Loan distributions shall be prorated across all Money Types and all available investment options excluding the brokerage window.

(e) Loan fees. Each Participant will be required to pay a loan origination fee, ongoing maintenance fee, and any other costs related to the Participant's loan application, as established by the Administrator, unless otherwise waived in whole or in part, and approved by the Board, as applicable.

Section 10.02. Loan Administration and Terms.

(a) The loan program described in this Article shall be administered by the Administrator. All loans shall be subject to the approval of the Administrator.

(b) The rate of interest shall be 2% over the Prime Rate, as published in the Wall Street Journal on the first business day of the month before the loan is originated.

(c) Each loan shall be amortized on a substantially level basis with payments not less frequently than bi-weekly throughout the repayment period. The period of repayment shall be no less than one (1) year and no more than to five (5) years as designated by the Participant at the time of loan application. Notwithstanding the foregoing, if the proceeds of the loan are used to

acquire a dwelling which within a reasonable time is to be used as the Participant's principal residence, the period of repayment shall be no less than one (1) year and no more than fifteen (15) years as designated by the Participant at the time of loan application.

- (d) Loans may not be “rolled over” to a new loan or re-financed.
- (e) Participant may only have two loans outstanding at any time.
- (f) Repayment Agreements.

(1) The Participant shall be required, as a condition of the Administrator’s approval, to enter into an irrevocable agreement authorizing the Employer to make payroll deductions from his or her Compensation. Repayments of a loan shall be made by payroll deduction of equal amounts (comprised of both principal and interest) from each paycheck, except in the cases of a lump-sum correction of delinquencies as outlined in Section 10.03 or a lump-sum early payoff.

(2) Participants who have had a Separation from Employment shall make direct payments to the Administrator on a no less than monthly basis and in accordance with a payment schedule established by the Administrator. Payments may be made by cashier's check, money order, Automated Clearing House (ACH), personal check, or such other method of payment acceptable to the Administrator.

(3) A Participant may prepay a loan. The Participant may either make a partial payment of principal or a full payment of the entire outstanding balance of the loan. Prepayments on loans are applied to the outstanding principal owed and do not preclude a Participant from making regularly scheduled payments.

Section 10.03. Default.

(a) Security. Any loan to a Participant shall be secured by a pledge of the portion of the Participant’s interest in the Plan invested in such loan.

(b) Delinquent Loan. Except as provided under subparagraph (g), a Participant’s loan shall be delinquent if any loan payment is not made on or before the payment due date and the Administrator does not receive the payment by the last day of the calendar quarter following the calendar quarter in which it is due. The Administrator shall provide the Participant any and all notices of delinquency.

(c) Defaulted Loan. If the Administrator does not receive the delinquent loan payment(s), including interest on the missed payment from the original due date to the payment date, in a lump sum, by the last business day of the calendar quarter following the calendar quarter in which the payment is due, the loan shall be in default. The Administrator shall notify the Participant any and all notices of default.

(d) Repayment of Defaulted Loan. In the event of a defaulted loan under this Article, the loan shall be subject to the following provisions:

(1) all remaining payments on the loan shall be immediately due and payable within sixty (60) days of the date of default; and

(2) the interest rate imposed on the outstanding loan balance shall be the greater of the stated interest or the interest rate effective as of the first day of the calendar month immediately following the month in which any such loan default occurs.

(e) Defaulted Loan Treated as a Distribution. Subject to time period specified under subparagraph (d)(1) herein, a defaulted loan shall be treated as a distribution includable in gross income as set forth under Code Section 72(p)(1) and without regard to Code Section 72(t).

(f) Prohibition of Future Loans. Participant shall be permanently ineligible for any future loans from the Plan unless any outstanding loans are being repaid or have been paid in full or offset. Participants who have a Separation from Employment and have returned to employment with the Employer must first offset or pay in full any defaulted balances prior to issuance of a new loan.

(g) Loan Forbearance. With respect to a Participant described in subsection 9.04(e), any failure to make a loan repayment due or owing on March 27, 2020 through December 31, 2020 shall not cause such loan to be considered a Delinquent Loan nor be considered in Default if the participant elects to defer repayment. If the participant elects to defer repayment, on January 1, 2021, the remaining principal of the loan and any interest accruing during the suspension period shall be reamortized over a period that is up to one (1) year longer than the original term of the loan or otherwise be treated as a Delinquent Loan and subject to the provisions herein.

Section 10.04. Leave of Absence.

(a) If a Participant who has an outstanding loan incurs an authorized leave of absence, and either ceases loan repayment or such Participant's rate of pay (after income and employment tax withholding) is not sufficient to allow repayment under the terms of the loan, based on the sole discretion of the Administrator, the loan will not be deemed in default for a period equal to the lesser of:

(1) the length of the leave of absence; or

(2) one (1) year, as long as the loan (including interest that accrues during the leave of absence) is repaid by the latest permissible term of the loan and the amount of the installments due after the leave of absence ends is not less than the amount required under the terms of the original loan.

The Participant must notify the Plan of the authorized leave of absence by completing and submitting the proper form to the Administrator prior to and upon return from the approved leave of absence.

(b) Military Leave Repayment Period. Notwithstanding the preceding provisions, loan repayments during a period of military service will be suspended as permitted under Code Section 414(u)(4). In accordance with Code Section 414(u), a loan suspended because of military service will not be deemed in default even if the suspension exceeds one year, as long as loan repayments

resume upon completion of the military service and the loan (including interest that accrues during the military leave) is repaid by the end of the period equal to the sum of the term of the loan plus the period of military service.

ARTICLE XI

VESTING

A Participant shall be one hundred percent (100%) Vested in his or her Accounts at all times as provided under Treasury Regulation section 1.457-8(a).

ARTICLE XII

ROLLOVERS FROM THIS PLAN

Section 12.01. Plan Distributions and Withholding Requirements.

Notwithstanding any provisions of the Plan Document that would otherwise limit a Distributee's election under this Section, a Distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

Section 12.02. Definitions for this Article.

For purposes of this Article, the following definitions shall apply.

(a) “Direct Rollover” means an Eligible Rollover Distribution that is paid directly to an Eligible Retirement Plan for the benefit of the Distributee.

(b) “Distributee” means a Participant, the Participant’s Eligible Designated Beneficiary, or the Participant's former Spouse who is the alternate payee under a qualified domestic relations order as defined in Code Section 414(p), and a Participant's Designated Beneficiary, any of whom is eligible to receive a distribution from the Plan.

(c) Notwithstanding anything in the Plan Document to the contrary that otherwise would limit a Distributee's election under this Article XII, and to the extent allowed under the applicable provisions of the Code, a Distributee who is a Designated Beneficiary, but not a surviving spouse, spouse or former spouse who is an alternate payee, may elect at the time and in the manner prescribed by the Administrator, to have all or any part of his or her Account that qualifies as an Eligible Rollover Distribution paid in a direct trustee-to-trustee transfer to an Eligible Retirement Plan that is an individual retirement plan described in clause (i) or (ii) of Code Section 402(c)(8)(B). If such a transfer is made: (1) the transfer shall be treated as an Eligible Rollover Distribution, (2) the individual retirement plan shall be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of Code Section 408(d)(3)(C), and (3) Code Section 401(a)(9)(B) (other than clause (iv) thereof) shall apply to such individual retirement plan.

- (d) “Eligible Retirement Plan,” as defined under Code Section 402(c)(8)(B), means:
- (1) an individual retirement account described in Code Section 408(a);
 - (2) an individual retirement annuity (other than an endowment contract) described in Code Section 408(b);
 - (3) any annuity plan described in Code Section 403(a);
 - (4) a plan described in Code Section 403(b);
 - (5) a qualified plan described in Code Section 401(a);
 - (6) a Code Section 457(b) eligible deferred compensation plan which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state;
 - (7) a Roth individual retirement account described in Code Section 408A(e) provided the Distributee's adjusted gross income does not exceed any limit applicable under federal law for the tax year in which the distribution occurs; and
 - (8) a SIMPLE IRA described in Code Section 408(p)(1), provided that the rollover contribution is made after the two (2) year period described in Code Section 72(t)(6).

In the case of a distribution to a Designated Beneficiary, an Eligible Retirement Plan means the plans described in subparagraphs (1) and (2) only, to the extent consistent with the provisions of Code Section 402(c)(11) and any successor provisions thereto or additional guidance issued thereunder.

(e) “Eligible Rollover Distribution,” as defined in Code Section 402(f)(2)(A), means any distribution of all or any portion of the balance to the credit of the Distributee under the Plan, excluding the following:

- (1) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated Beneficiary, or for a specified period of ten (10) years or more;
- (2) any distribution to the extent such distribution is required under Code Section 401(a)(9);
- (3) the portion of any distribution that is not includible in gross income; however, a portion of a distribution will not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income, although such portion may be transferred only to an individual retirement account or annuity described in Code Section 408(a) or (b) or to a qualified retirement plan described in Code Section 401(a) that agrees to separately account for amounts so

transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible;

(4) any distribution which is made upon the financial hardship of the Participant; and

(5) other items designated by regulations, or promulgated by the Internal Revenue Service in revenue rulings, notices, or other guidance, as items that do not constitute an eligible rollover distribution.

Section 12.03. Direct Rollover.

A Distributee may elect on an Applicable Form to have an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan as specified by the Distributee in a Direct Rollover, at the time and in the manner prescribed by the Administrator. An Eligible Rollover Distribution that is paid to an Eligible Retirement Plan in a Direct Rollover is excludable from the Distributee's gross income under Code Section 402; provided, however, if any portion of such Eligible Rollover Distribution is subsequently distributed from the Eligible Retirement Plan, that portion shall be included in gross income to the extent required under Code Sections 402, 403, or 408.

ARTICLE XIII

ADMINISTRATION OF THE PLAN

Section 13.01. Authority of the Board.

The Board is responsible for performing the duties required to operate the Plan in accordance with LAAC, the Plan Document, the Code and the applicable Treasury Regulations promulgated thereunder, and State law. In connection therewith, the Board may provide rules and regulations, not inconsistent with the provisions hereof, for the operation and management of the Plan, and may, from time to time, amend or rescind such rules or regulations.

Section 13.02. Powers of the Board.

The Board shall have the power and discretion to construe and interpret the Plan, including any ambiguities, to determine all questions of fact or law arising under the Plan, and to resolve any disputes arising under and all questions concerning administration of the Plan. The Board may correct any defect, supply any omission or reconcile any inconsistency in the Plan in such manner and to such extent as the Board may deem expedient and the Board should be the sole and final judge of such expediency. Actions of the Board are subject to the provisions of City Charter Section 245, the Code and the applicable Treasury Regulations promulgated thereunder, and State law.

Section 13.03. Delegation by Board.

The Board may delegate to the Staff, an individual, committee, or organization to carry out certain of the Board's duties or responsibilities under the Plan. Any such Staff, individual,

committee or organization delegated such duties or responsibilities shall perform them until revoked by the Board, which in the Board's sole discretion, may occur without cause or advance notice.

Section 13.04. Employment of Service Providers.

The Board may employ one or more Service Providers to perform those delegated responsibilities under the Plan.

ARTICLE XIV

AMENDMENT AND TERMINATION OF THE PLAN

Section 14.01. Amendment and Termination.

While it is expected that the Plan shall continue indefinitely, the City reserves the right to amend, freeze, or terminate the Plan, or to discontinue any further Contributions to the Plan at any time, through the actions of the Board. The City may amend the Plan Document, consistent with the LAAC.

Section 14.02. Distribution Upon Termination of the Plan.

Pursuant to LAAC Section 4.1409, the City has the right to completely terminate the Plan at any time and in its sole discretion. Upon termination of the Plan and subject to the provisions in this Section, the Board, together with the City, shall arrange for the suitable distribution of Plan assets, including the possibility of transfer to another 457 plan or plans. Any pay out to Participants and Beneficiaries or a successor plan upon termination of the Plan shall not occur until, (i) all provisions of the law with respect to such termination have been complied with, and, (ii) a determination has been made of the fair market value of the assets of the Plan, such determination to be provided by a qualified valuation Service Provider, and (iii) a determination by such valuation Service Provider that the Plan has sufficient assets to discharge, when due, all obligations of the Plan.

ARTICLE XV

MISCELLANEOUS

Section 15.01. Non-Alienation.

(a) A Participant's Account under the Plan shall not be liable for any debt, liability, contract, engagement, or tort of the Participant or his or her Beneficiary, nor subject to anticipation, sale, assignment, transfer, encumbrance, pledge, charge, attachment, garnishment, execution, alienation, or any other voluntarily or involuntarily alienation or other legal or equitable process, nor transferable by operation of law.

(b) Qualified Domestic Relations Orders.

(1) Notwithstanding paragraph (a), the Plan shall comply with any judgment, decree or order (“domestic relations order”) which establishes the right of an alternate payee within the meaning of Code Section 414(p)(8) to all or a portion of a Participant's benefit under the Plan to the extent that it is a “qualified domestic relations order” (“QDRO”) under Code Section 414(p).

(2) Where necessary to carry out the terms of such a QDRO, a separate account shall be established with respect to the alternative payee and such person shall be entitled to make investment selections with respect thereto in the same manner as the Participant. All costs and charges incurred in carrying out the investment selection shall be deducted from the account created for the alternate payee making the investment selection.

(3) Any amounts so set aside for an alternate payee under subsection (b)(2), may be paid in whole or in part to such payee or in the fashion so designated by such payee, as soon as administratively feasible, following the date that the QDRO has been approved, unless the QDRO directs a different form of payment or different payment date. Withholding and income tax reporting shall be done with respect to the alternate payee under the terms of the Code as amended from time to time.

(c) Notwithstanding paragraph (a), the Plan shall offset from the benefit otherwise payable to a Participant or his or her Spouse such amounts as are permitted to be offset in accordance with Code Section 401(a)(13)(C).

(d) Notwithstanding paragraph (a), the Administrator may pay from Participant's or Beneficiary's Account under the Plan the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary. Except in the case of an alternate payee within the meaning of Code Section 414(p)(8), under no circumstances may a payment under this paragraph (d) take place before a Participant has a Separation from Employment or reaches age fifty nine and one-half (59 ½), whichever is earlier.

Section 15.02. Military Service.

(a) Notwithstanding any provisions of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with USERRA, HEART, and Code Sections 401(a)(37) and 414(u). For purposes of this Section, “qualified military service” means any service in the uniformed services as defined in USERRA by any individual if such individual is entitled to reemployment rights under USERRA with respect to such service.

(b) A Participant whose employment is interrupted by qualified military service or who is on a leave of absence for qualified military service may elect to make Elective Deferrals upon resumption of employment with the Employer up to the maximum Elective Deferrals that the Participant could have elected during that period if the Participant's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave,

reduced by the Elective Deferrals, if any, actually made for the Participant during the period of the interruption or leave. Except to the extent provided under Code Section 414(u), this right applies for the lesser of (i) five (5) years following the resumption of employment or (ii) a period equal to three (3) times the period of the interruption or leave. Such Elective Deferrals by the Participant may only be made during such period and while the Participant is reemployed by the Employer.

(c) To the extent provided under Code Section 401(a)(37), in the case of a Participant whose employment is interrupted by qualified military service and who dies while performing qualified military service, the survivor of such Participant shall be entitled to any additional benefit (other than benefit accruals) provided under the Plan as if the Participant timely resumed employment in accordance with USERRA and then, on the next day, terminated employment on account of death.

(d) A Participant whose employment is interrupted by qualified military service or who is on a leave of absence for qualified military service and who receives a differential wage payment within the meaning of Code Section 414(u)(12)(D) from the Employer shall be treated as an Employee of the Employer who is a Participant eligible to make Elective Deferrals during such service and the differential wage payment shall be treated as Compensation and Includible Compensation. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

Section 15.03. Limitation of Rights and Obligations.

Neither the establishment nor maintenance of the Plan, nor any amendment thereof, nor the purchase of any insurance contract, nor any act or omission under the Plan or resulting from the operation of the Plan shall be construed:

(a) as conferring upon any Participant, Beneficiary or any other person any right or claim against the City, Board, or Service Provider

(b) as a contract or agreement between the City, the Board, or Service Provider, and any Participant or other person; or

(c) as an agreement, consideration, or inducement of employment or as effecting in any manner or to any extent whatsoever the rights or obligations of the City, the Board, or any Participant to continue or terminate the employment relationship at any time.

Section 15.04. Federal and State Taxes.

It is intended that Pre-Tax Contributions, plus any earnings thereunder, are excludable from gross income for federal and state income tax purposes until distributed to Participants or Beneficiaries as provided in the Plan Document, and that Roth Contributions and earnings thereunder are excludable from gross income for federal and state income tax purposes when paid to Participants or Beneficiaries to the extent that they are Qualified Distributions. However, the Administrator does not guarantee that any particular federal or state income, payroll, or other tax consequence will occur as a result of participation in the Plan.

Section 15.05. Mistaken Contributions.

If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant, subject to any federal and/or state income taxes.

Section 15.06. Erroneous Payments.

If the Administrator makes any payment that according to the terms of the Plan Document and the benefits provided hereunder should not have been made, the Administrator may recover that incorrect payment, exercising all reasonable diligence in accordance with state law, whether or not it was made due to the error of the Administrator, from the person to whom it was made or from any other appropriate party.

Section 15.07. Payments to Minors or Participants Deemed to be Incompetent.

If a Participant or Beneficiary, entitled to receive any benefits hereunder, is a minor or is determined to be legally incapable of giving valid receipt and discharge for such benefits by a court of competent jurisdiction, benefits shall be paid to such person's custodian or legal guardian for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to the Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

Section 15.08. Missing or Lost Participants.

In the event that the Administrator does not have current contact information for or is unable to identify a Participant or Beneficiary under the Plan, the Administrator shall make reasonable attempts to determine the address and identity of the Participant or Beneficiary entitled to benefits under the Plan. A reasonable attempt to locate a missing or lost Participant or Beneficiary shall include (i) providing notice to the Participant at the Participant's last known address via certified mail; (ii) determining whether the Employer's records or the records of another plan maintained by the Employer has a more current address for the Participant; (iii) attempting to contact any named Beneficiary of the Participant; and (iv) searching for the missing Participant via free electronic search tools, such as Internet search engines, public record databases, obituaries, and social media. If such search methods are unsuccessful, based on the facts and circumstances, the Administrator may use other search methods, including but not limited to using Internet search tools, commercial locator services, credit reporting agencies, information brokers, investigation databases, and analogous services that may involve charges. The Administrator may charge missing Participants and Beneficiaries reasonable expenses for efforts to find them. In the event that the Administrator is unable to locate a Participant or Beneficiary entitled to benefits under the Plan, the Trustee may close the Participant's Account and may transfer the money in the Account to the employer accumulation reserve or other reserve account that the Plan may have. The City shall restore the Participant's Account and shall debit the employer accumulation reserve accordingly if the Participant or Beneficiary subsequently applies for retirement benefits under this Plan.

Section 15.09. Written Notice.

Any written notice required or permitted under the Plan Document, if directed to the City, shall be sent to its principal office and, if directed to a Participant or to a Beneficiary, shall be sent to such Participant or Beneficiary at the last known address for such person as it appears in the City's records or as indicated on the Participant's account.

Section 15.10. No Reversion.

Under no circumstances or conditions will any Contributions revert to, be paid to, or inure to the benefit of, directly or indirectly, the City or the Administrator, but shall be held for the exclusive purpose of providing benefits to Participants and their Beneficiaries and defraying the reasonable expenses of administering the Plan.

SECURE 2.0 PROVISIONS FOR UPCOMING DCP REVIEW & CONSIDERATION

Section	Subject	Effective Date	Mandatory/Optional	Status	Plan Document Adoption Revisions
Section 107	Increase in age for required beginning date for mandatory distributions.	1/1/2023 (for individuals who attain age 72 after that date)	Mandatory	DONE ; if adopted by Board ³ ; Plan Document revision proposed in BR 24-12.	Section 9.04.Distribution Options, revision to paragraph (c).
Section 109	Higher catch-up limit to apply at age 60, 61, 62 and 63.	1/1/2025	Mandatory (if offered)	Awaiting further guidance from the IRS.	
Section 115	Withdrawals for certain emergency expenses.	1/1/2024	Optional	To be referred to the PG-AIC for future discussion. ³	
Section 302	Reduction in excise tax on certain accumulations in qualified retirement plans.	1/1/2023		DONE ; no additional action needed as Plan Document refers to updated provision.	No revision required.
Section 306	Eliminate the “first day of the month” requirement for governmental Section 457(b) plans.	1/1/2023	Optional	DONE ; if adopted by Board ³ ; Plan Document revision proposed in BR 24-12.	Section 4.01.Elective Deferrals, revision to paragraph (b).
Section 311	Repayment of qualified birth or adoption distribution limited to three years.	Upon enactment (for prior distributions, repayment period ends 12/21/25)	Optional	To be referred to the PG-AIC for future discussion.	
Section 312	Employer may rely on employee self-certifying that deemed hardship distribution conditions are met.	1/1/2023	Optional	To be referred to the PG-AIC for future discussion. ³	
Section 314	Penalty-free withdrawal from retirement plans for individual in case of domestic abuse.	1/1/2024	Optional	To be referred to the PG-AIC for future discussion.	

³ See [Board Report 23-24: SECURE 2.0 Provisions](#) and [BDCA Adopted Minutes June 20, 2023](#)

Section	Subject	Effective Date	Mandatory/Optional	Status	Plan Document Adoption Revisions
Section 325	Roth balances are no longer subject to RMD.	1/1/2024		DONE ; no additional action needed as Plan Document refers to updated provision.	No revision required.
Section 326	Exception to penalty on early distributions from qualified plans for individuals with a terminal illness.	12/29/2022	Optional	To be referred to the PG-AIC for future discussion.	
Section 327	Surviving spouse election to be treated as employee.	1/1/2024	Mandatory	To be referred to the PG-AIC for future discussion. ³	
Section 328	Repeal of direct payment requirement on exclusion from gross income of distributions from governmental plans for health and long-term care insurance.	12/29/2022	Optional	To be referred to the PG-AIC for future discussion. ³	
Section 329	Modification of eligible age for exemption from early withdrawal penalty.	12/29/2022	Optional	To be referred to the PG-AIC for future discussion.	
Section 331	Special rules for the use of retirement funds in connection with qualified federally declared disasters.	1/26/2021	Optional	To be referred to the PG-AIC for future discussion.	
Section 339	Recognition of Tribal government domestic relations orders.	1/1/2023	Optional	To be referred to the PG-AIC for future discussion. ³	
Section 603	Catch-Up deferrals for participants whose wages exceed \$145,000 must be made on a Roth basis.	1/1/2026 (extended from 1/1/2024 through IRS notice 2023-62)	Mandatory	PENDING ; Adopted by Board ³ ; waiting for additional IRS clarification.	
Section 604	Optional treatment of employer matching or nonelective contributions as Roth contributions.	12/29/2022	Optional	To be referred to the PG-AIC for future discussion.	