



City of Chicago



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Office of the City Clerk

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Meeting Date:	6/25/2014
Sponsor(s):	Emanuel (Mayor)
Type:	Ordinance
Title:	Approval of amended and restated Deferred Compensation Plan
Committee(s) Assignment:	Committee on Workforce Development and Audit



OFFICE OF THE MAYOR
CITY OF CHICAGO

RAHM EMANUEL
MAYOR

June 25, 2014

TO THE HONORABLE, THE CITY COUNCIL
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the City Comptroller, I transmit herewith an ordinance authorizing the adoption of an amended and restated Deferred Compensation Plan.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

ORDINANCE

WHEREAS, The City of Chicago adopted an ordinance establishing a deferred compensation plan (the "Deferred Compensation Plan") for the employees of the City of Chicago on December 29, 1981, the *Journal of the Proceedings of the City Council*, pages 8921 -- 8928, and amended it on November 18, 1982, the *Journal of the Proceedings of the City Council*, pages 13682 -- 13685, and further amended it on January 23, 1985, the *Journal of the Proceedings of the city Council*, pages 12747 -- 12751, and further amended it on February 7, 1990, the *Journal of the Proceedings of the City Council*, pages 10993 -- 11005, and further amended it on October 28, 1997, the *Journal of the Proceedings of the City Council*, pages 54112 -- 54129, and further amended it December 5, 2001, the *Journal of the Proceedings of the City Council*, pages 73627 -- 73647; and

WHEREAS, Certain provisions of the Deferred Compensation Plan must be modified to conform with current requirements of applicable legislation and regulations and in order to add certain provisions to provide flexibility and clarification; and

WHEREAS, It is desirable to restate and amend the Deferred Compensation Plan in one comprehensive document; now, therefore,

Be It Ordained by the City Council of the City of Chicago:

SECTION 1. The amended and restated Deferred Compensation Plan, in substantially the form attached hereto as Exhibit A, is hereby approved, and the Mayor or his designee, duly authorized in writing, is hereby authorized to execute on behalf of the City the amended and restated Deferred Compensation Plan in substantially the form attached hereto as Exhibit A.

SECTION 2. All ordinance, resolutions, motions or orders in conflict with this ordinance are hereby repealed to the extent of such conflict, and this ordinance shall be in full force and effect immediately upon its passage and approval as provided by law.

Exhibit "A" referred to in this ordinance reads as follows:

EXHIBIT "A"

**CITY OF CHICAGO
DEFERRED COMPENSATION PLAN**

(As Amended and Restated Effective [●], 2014)

The City of Chicago has approved and adopted an amended and restated City of Chicago Deferred Compensation Plan (the “Plan”) effective as of the Effective Date. The Plan is intended to be an “eligible deferred compensation plan” as defined in §457(b) of the Internal Revenue Code of 1986 (“Eligible 457 Plan”). The Plan consists of the provisions set forth in this plan document and is applicable to current Participants and also to each eligible Public Employee who hereafter elects to participate in the Plan in accordance with its terms. The Plan is effective as to each such Public Employee upon the date he/she becomes a “Participant” by entering into and filing with the Administrative Services Provider the Participation Agreement and/or the Acknowledgement Card referred to herein.

ARTICLE I DEFINITIONS

1.01 “**Account**” means the separate Account(s) which the Administrative Services Provider maintains under the Plan for a Participant’s Deferred Compensation. The Administrative Services Provider may establish separate Accounts for multiple Beneficiaries of a Participant to facilitate required minimum distributions under Section 4.03 based on each Beneficiary’s life expectancy.

1.02 “**Accounting Date**” means the last day of the Plan Year.

1.03 “**Acknowledgement Card**” means the application to the Administrative Services Provider to participate in the Plan’s Social Security replacement feature pursuant to Section 2.03 of the Plan.

1.04 “**Administrative Services Provider**” means the person or entity which acts as the third party administrative services provider appointed by the Employer or the Deferred Compensation Plan Committee to carry out nondiscretionary administrative functions for the Plan. In the absence of appointment of a third party as the Administrative Services Provider, the Employer, acting through the Deferred Compensation Plan Committee or other duly authorized designee, shall serve as the Administrative Services Provider.

1.05 “**Beneficiary**” means a person who the Plan or a Participant designates and who is or may become entitled to a Participant’s Account upon the Participant’s death. A Beneficiary who becomes entitled to a benefit under the Plan remains a Beneficiary under the Plan until the Beneficiary has received full distribution of his/her Plan benefit. A Beneficiary’s right to (and the Administrative Services Provider’s duty to provide to the Beneficiary) information or data concerning the Plan does not arise until the Beneficiary first becomes entitled to receive a benefit under the Plan.

1.06 “**Code**” means the Internal Revenue Code of 1986, as amended.

1.07 “**Compensation**” for purposes of allocating Deferral Contributions with respect to a Public Employee means the employee’s wages, salaries, fees for professional services, and other amounts received without regard to whether or not an amount is paid in cash for personal services actually rendered in the course of employment with the Employer, to the extent that the amounts are includible in gross income (or to the extent the amounts would have been received and includible in gross income but for an election under Code §§ 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), and 457(b), including an election to defer Compensation under Article III). Compensation also includes any amount that the Internal Revenue Service in published guidance declares to constitute compensation for purposes of an Eligible 457 Plan. Notwithstanding the foregoing, for the avoidance of doubt, a Participant’s Compensation for purposes of allocating Deferral Contributions shall not include settlement awards paid to the Participant that are not based on wages, salaries, fees for professional services, or other compensation.

(A) Elective Contributions. Compensation under Section 1.07 includes Elective Contributions. “Elective Contributions” are amounts excludible from the Public Employee’s gross income under Code §§125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 403(b), 408(p) or 457, and contributed by the Employer, at the Public Employee’s election, to a cafeteria plan, a qualified transportation fringe benefit plan, a 401(k) arrangement, a SARSEP, a tax-sheltered annuity, a SIMPLE plan or a Code §457 plan.

(B) Differential wage payments. For years beginning after December 31, 2008, (i) an individual receiving a differential wage payment, as defined by Code §3401(h)(2), shall be treated as an employee of the employer making the payment; (ii) the differential wage payment shall be treated as compensation; and (iii) the plan will not be treated

as failing to meet the requirements of any provision described in Code §414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment.

(C) Social Security Replacement Compensation. With respect to a Public Employee who elects to make Deferral Contributions to the Social Security replacement feature of the Plan pursuant to Section 2.03, such Deferral Contributions shall be based solely on the portion of such Public Employee's Compensation that is comprised of base wages or base salary ("Social Security Replacement Compensation").

1.08 **"Custodian"** means a bank or person who qualifies as a non-bank custodian under Code §401(f)(2) and who accepts the position of Custodian of the Plan's assets that are held under a Custodial Account by executing a Custodial Account Agreement.

1.09 **"Custodial Account"** means an account established under the Plan pursuant to Code §457(g)(3) to hold, for the exclusive benefit of Participants and their Beneficiaries, assets of the Plan that are not held in a trust or annuity contract, including, without limitation, Deferred Compensation, amounts rolled into or transferred to the Plan, property and rights purchased with such amounts, and all income attributable to such amounts, property or rights, and under which a Custodian is appointed. For purposes of the Plan, a Custodial Account is treated as a trust.

1.10 **"Custodial Account Agreement"** means an agreement with a Custodian with respect to a Custodial Account.

1.11 **"Deferral Contributions"** means with respect to a Participant the Participant's Salary Reduction Contributions and Designated Roth Contributions, which are contributions the Employer makes to the Plan on behalf of a Participant who entered into a Participation Agreement and/or Acknowledgement Card pursuant to which such Participant elected to participate in the Plan. The Employer or the Administrative Services Provider (if applicable) in applying the Code §457(b) limit will take into account Deferral Contributions in the Taxable Year in which deferred. The Employer or Administrative Services Provider (if applicable) in determining the amount of a Participant's Deferral Contributions disregards the net income, gain and loss attributable to Deferral Contributions.

1.12 **"Deferred Compensation"** means as to a Participant the amount of Deferral Contributions, Rollover Contributions and Transfers adjusted for allocable net income, gain or loss, in the Participant's Account.

1.13 **"Deferred Compensation Plan Committee"** means the committee whose members are appointed from time to time by the Mayor of the City of Chicago to perform the functions and duties reserved to the Employer, unless the context clearly indicates otherwise, under the Plan. In the absence of appointment of committee members by the Mayor, "Deferred Compensation Plan Committee" shall mean the Comptroller, Budget Director, Chief Financial Officer and Commissioner of Human Resources of the City of Chicago.

1.13A **"Designated Roth Contributions"** means a Participant's Deferral Contributions that are includible in the Participant's gross income at the time deferred and have been irrevocably designated as Designated Roth Contributions by the Participant in his or her deferral election. A Participant's Designated Roth Contributions will be separately accounted for, as will gains and losses attributable to those Designated Roth Contributions. However, forfeitures may not be allocated to such account. The Plan must also maintain a record of a Participant's investment in the contract (i.e., Designated Roth Contributions that have not been distributed) and the year in which the Participant first made a Designated Roth Contribution.

1.14 **"Effective Date"** of this amendment and restatement of the Plan means the later of the date as of which the Chicago City Council approved the Plan or the date on which the Plan was executed by the Mayor of the City of Chicago, thereby adopting the Plan. For administrative purposes, the term "Effective Date" as to any provision of the Plan means the earlier of (a) the Effective Date as defined in the immediately preceding sentence or (b) the date as of which such provision was required by applicable law to apply to the Plan or, in the case of discretionary Plan provisions, the date as of which the provision was approved for inclusion in the Plan..

1.15 **"Employer"** means the City of Chicago or any of its departments for which services are performed by a Participant. "Employer" for purposes of the Plan also includes agencies of the City of Chicago that the City of Chicago permits from time to time to be employers under the Plan whose eligible employees may become Participants. As of the Effective Date, the only such agency that is an Employer under the Plan is the Board of Election Commissioners for the City of Chicago.

1.16 **“Excess Deferrals”** means Deferral Contributions to an Eligible 457 Plan for a Participant that exceed the Taxable Year maximum limitation of Code §§457(b) and (e)(18).

1.17 **“Includible Compensation”** means, for the Public Employee’s Taxable Year, the Public Employee’s total Compensation within the meaning of Code §415(c)(3) paid to the Public Employee for services rendered to the Employer. Includible Compensation includes Deferral Contributions under the Plan, compensation deferred under any other plan described in Code §457, and any amount excludible from the Employee’s gross income under Code §§401(k), 403(b), 125 or 132(f)(4) or any other amount excludible from the Public Employee’s gross income for federal income tax purposes. The Employer will determine Includible Compensation without regard to community property laws.

1.18 **“Independent Contractor”** means any person receiving any type of compensation from the Employer for which services are rendered pursuant to one or more written contracts, if such person is not treated by the Employer as an employee. Independent Contractors are not eligible to participate in the Plan.

1.19 **“Leased Employee”** means an employee within the meaning of Code § 414(n).

1.20 **“Normal Retirement Age”** means the age specified in writing by the Participant within a range of ages ending no later than 70½ and beginning no earlier than the earliest age at which the Participant has the right to retire under the applicable Employer’s retirement plan other than the Plan (if he/she belongs to or has a right to belong to such a plan), without consent of the Employer and to receive immediate retirement benefits without actuarial or similar reduction because of retirement before some later specified age in the applicable Employer’s retirement plan. Otherwise, the Normal Retirement Age designated by the Participant or Employer shall be no earlier than age 65 years.

Special Rule for Eligible Plans of Qualified Police or Firefighters. A Participant who is a qualified police officer or firefighter as defined under Code §415(b)(2)(H)(ii)(I) may designate a Normal Retirement Age between age 50 years and age 70½ years.

1.21 **“Participant”** is a Public Employee who elects to participate in the Plan in accordance with the provisions of Section 2.01 or an individual who has previously deferred Compensation under the Plan by a Participation Agreement and/or Acknowledgement Card and has not received a complete distribution of his/her Account.

1.22 **“Participation Agreement”** means the agreement to enroll and participate in the Plan that is completed by the Participant and provided to the Administrative Services Provider. The Participation Agreement is the agreement, by which the Employer reduces the Participant’s Compensation for contribution to the Participant’s Account.

1.23 **“Plan”** means the City of Chicago Deferred Compensation Plan (As Amended and Restated Effective [●], 2014). All section references within the Plan are Plan section references unless the context clearly indicates otherwise.

1.24 **“Plan Entry Date”** means the date on which a Public Employee completes and files a Participation Agreement with the Administrative Services Provider.

1.25 **“Plan Year”** means the calendar year in which the Plan initially became effective (1981), and each succeeding calendar year during the existence of the Plan.

1.26 **“Post-Severance Compensation”** has the meaning set forth in Section 3.02(C).

1.27 **“Public Employee”** means any person, including an elected or appointed official, who receives any type of Compensation from the Employer for which services are rendered. For purposes of this Plan, “Public Employee” shall specifically exclude Independent Contractors and Leased Employees.

1.28 **“QDRO”** means a qualified domestic relations order as defined in Code §414(p).

1.29 **“Rollover Contribution”** means the amount of cash or property which an eligible retirement plan described in Code §402(c)(8)(B) distributes to an eligible Public Employee or to a Participant in an eligible rollover distribution under Code §402(c)(4) and which the eligible Public Employee or Participant rolls directly or indirectly into the Plan. A Rollover Contribution excludes after-tax employee contributions, as adjusted for net income, gain or loss. A Participant’s “Rollover Contributions Account” shall be the subaccount under his/her Account

established to hold the Participant's Rollover Contributions, if any. A Rollover Contributions Account includes net income, gain or loss attributable to the Rollover Contribution(s).

1.29A **"Salary Reduction Contributions"** means a Participant's Deferral Contributions that are elective deferrals which are not includible in the Participant's gross income at the time deferred and have been irrevocably designated as Salary Reduction Contributions by the Participant in his or her deferral election. A Participant's Salary Reduction Contributions will be separately accounted for, as will net income, gain or loss, attributable to those Salary Reduction Contributions. All Deferral Contributions of a Participant prior to the effective date as of which the Participant first makes Designated Roth Contributions are Salary Reduction Contributions.

1.30 **"Service"** means any period of time the Public Employee is in the employ of the Employer. A Public Employee terminates Service upon incurring a Severance from Employment.

(A) **Qualified Military Service.** Service includes any "Qualified Military Service" (within the meaning of Code §414(u)) the Plan must credit for contributions and benefits in order to satisfy the crediting of Service requirements of Code §414(u). A Participant whose employment is interrupted by Qualified Military Service under Code §414(u) or who is on a leave of absence for Qualified Military Service under Code §414(u) may elect to make additional Deferral Contributions upon resumption of employment with the Employer equal to the maximum Deferral Contributions that the Participant could have elected during that period of Qualified Military Service if the Participant's employment with the Employer had continued (at the same level of Compensation) without the interruption of leave, reduced by the Deferral Contributions, if any, actually made for the Participant during the period of the interruption or leave. This right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave). The Plan shall apply the limitations of Article III to all Deferral Contributions under this paragraph with respect to the year to which the Deferral Contribution relates.

(B) **"Continuous Service"** means Service with the Employer during which the Public Employee does not incur a Severance from Employment.

(C) **"Severance from Employment."**

(1) **Public Employee.** A Public Employee has a Severance from Employment when the Public Employee ceases to be a Public Employee of the Employer. A Participant does not incur a Severance from Employment if, in connection with a change in employment, the Participant's new employer continues or assumes sponsorship of the Plan or accepts a Transfer of Plan assets as to the Participant.

(2) **Uniformed Services.** for purposes of distributions to an individual in the uniformed services, such individual will be treated as incurring a Severance from Employment during any period the individual is performing service in the uniformed services described in Code §3401(h)(2)(A). However, the Plan will not distribute the benefit to such an individual without that individual's consent, so long as the individual is receiving differential wage payments.

If an individual elects to receive a distribution under this provision, the individual may not make Deferral Contributions to the Plan during the 6-month period beginning on the date of the distribution.

1.31 **"Social Security Replacement Compensation"** has the meaning set forth in Section 1.07(C).

1.32 **"State"** means (a) one of the 50 states of the United States or the District of Columbia, or (b) a political subdivision of a State, or any agency or instrumentality of a State or its political subdivision. A State does not include the federal government or any agency or instrumentality thereof.

1.33 **"Taxable Year"** means the calendar year or other taxable year of a Participant.

1.34 **"Transfer"** means a transfer of Eligible 457 Plan assets to another Eligible 457 Plan which is not a Rollover Contribution and which is made in accordance with Section 5.02.

1.35 **"Unforeseeable Emergency"** means severe financial hardship to the Participant or the primary Beneficiary of the Participant (as designated in writing by the Participant) resulting from a sudden and unexpected illness or accident of the Participant, the primary Beneficiary of the Participant, or a dependent (as defined in Code §152(a)) of the Participant or primary Beneficiary, loss of the Participant's or primary Beneficiary's property due to casualty, or other similar or extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant or primary Beneficiary.

ARTICLE II PARTICIPATION IN PLAN

2.01 ELIGIBILITY. Each eligible Public Employee becomes a Participant in the Plan when he/she completes and files a Participation Agreement and/or Acknowledgement Card, as applicable. The Participant is obligated to inform the Employer of his/her participation in any other State or local deferred compensation plan(s) in any Taxable Year beginning after December 31, 1981. Each Public Employee who was a Participant in the Plan on the day before the Effective Date continues as a Participant in the Plan.

2.02 PARTICIPATION UPON REEMPLOYMENT. A Participant who incurs a Severance from Employment will re-enter the Plan as a Participant on the date of his/her re-employment.

2.03 SPECIAL ELIGIBILITY PROVISIONS FOR PARTICIPANTS USING THE PLAN'S SOCIAL SECURITY REPLACEMENT FEATURE. The Employer has elected to use the Plan as a Social Security replacement plan with respect to eligible Public Employees who are employed by the City of Chicago, Law Department or the Board of Election Commissioners for the City of Chicago; provided, however, that any such Public Employee who becomes eligible for, and elects to participate in, the Municipal Employees' Annuity and Benefit Fund of Chicago (or successor plan thereto or other pension fund of the Employer that requires as a condition of participation that employees make Social Security replacement contributions) shall cease to be eligible to participate in the Plan's Social Security replacement feature. Eligible Public Employees who elect to make contributions to the Plan pursuant to the Plan's Social Security replacement feature shall not be permitted to receive Unforeseeable Emergency withdrawals described in Section 4.05(a) or to take loans pursuant to Section 6.03 with respect to such Social Security replacement contributions or income thereon. The restrictions in the immediately preceding sentence shall not apply with respect to the Participant's contributions to the Plan, if any, that are not made under the Plan's Social Security replacement feature. Eligible Public Employees who elect to make contributions to the Plan pursuant to the Plan's Social Security replacement feature shall not be permitted to make Designated Roth Contributions pursuant to the Plan's Social Security replacement feature, and, for clarification, reference to "Deferral Contributions" in this Section 2.03 shall mean Salary Reduction Contributions and shall not include Designated Roth Contributions.

(A) Eligibility for new Public Employees to participate in Social Security replacement feature of Plan. A new Public Employee who is eligible to make contributions to the Plan pursuant to the Plan's Social Security replacement feature may, in his/her sole discretion, sign and file with the Administrative Services Provider an Acknowledgement Card and thereby consent to a reduction of salary by the amount of the Deferral Contribution specified in the Acknowledgement Card. Contributions to such a Participant's Account that are intended to be Social Security replacement contributions must equal at least 7.5% of the Participant's Social Security Replacement Compensation, or such other minimum amount as shall be required for the Plan to be considered a retirement system under Code §3121(b)(7)(F) and Treas. Reg. §31.3121(b)(7)-2, and the reduction in the Participant's salary shall begin as soon as administratively practicable thereafter, but in no event earlier than the first pay period commencing during the first month after the date on which the Acknowledgement Card is filed with the Administrative Services Provider. There shall be made available under the Plan one or more investment options for the investment of Social Security replacement contributions that satisfy(-ies) the reasonable interest rate requirement of Treas. Reg. §31.3121(b)(7)-2(e)(2)(iii)(C).

(B) Eligibility for current Public Employees to participate in Social Security replacement feature of Plan. A Public Employee who is either newly eligible to participate in the Plan or is already a Participant in the Plan and is eligible to make contributions to the Plan pursuant to the Plan's Social Security replacement feature may, in his/her sole discretion, sign and file with the Administrative Services Provider an Acknowledgement Card and thereby consent to a reduction of salary by the amount of the Deferral Contribution specified in the Acknowledgement Card. Contributions to such a Participant's Account that are intended to be Social Security replacement contributions must equal at least 7.5% of the Participant's Social Security Replacement Compensation or such other minimum amount as shall be required for the Plan to be considered a retirement system under Code §3121(b)(7)(F) and Treas. Reg. §31.3121(b)(7)-2, and the reduction in the Participant's salary shall begin soon as administratively practicable thereafter, but in no event earlier than the first pay period commencing during the first month after the date on which the Acknowledgement Card is filed with the Administrative Services Provider.

ARTICLE III DEFERRAL CONTRIBUTIONS/LIMITATIONS

3.01 AMOUNT.

(A) Contribution Formula. For each Plan Year, the Employer will contribute to the Plan on behalf of each Public Employee who is a Participant in the Plan the amount of Deferral Contributions the Public Employee elected to make under the Plan for such Plan Year.

(B) Return of Contributions. The Employer contributes to this Plan on the condition its contribution is not due to a mistake of fact. If any Participant Salary Reduction Contribution is due to a mistake of fact, the Employer will return the Participant's contribution, within one year after payment of the contribution.

(C) Payment of Contribution. The Employer will deposit Deferral Contributions to the Custodial Account or other funding vehicle established under the Plan as soon as administratively practicable but not later than 30 days from the date such contributions are withheld from the Participant's pay. Neither the Administrative Services Provider nor the Custodian is responsible for the delay of deposits of Deferral Contributions caused by the Employer.

3.02 DEFERRAL CONTRIBUTIONS.

(A) Deferral from Vacation and Back Pay. Except with respect to contributions made to the Plan pursuant to the Plan's Social Security replacement feature, Participants may make Deferral Contributions from accumulated vacation pay, if any, or from back pay, if any.

(B) Application to Leave of Absence and Disability. The Participation Agreement and/or Acknowledgement Card will continue to apply during the Participant's leave of absence or the Participant's disability (as the Employer shall establish), if the Participant has Compensation (or Social Security Replacement Compensation, as the case may be) other than imputed compensation or disability benefits.

(C) Post-severance deferrals limited to Post-Severance Compensation. Deferral Contributions are permitted from an amount received following Severance from Employment only if the amount is Post-Severance Compensation.

Post-Severance Compensation defined. Post-Severance Compensation includes the amounts described in (1) and (2) below, paid after a Participant's Severance from Employment with the Employer, but only to the extent such amounts are paid by the later of 2½ months after Severance from Employment or the end of the calendar year that includes the date of such Severance from Employment.

(1) Regular pay. Post-Severance Compensation *includes* regular pay after Severance of Employment, if any, if: (i) the payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and (ii) the payment would have been paid to the Participant prior to a Severance from Employment if the Participant had continued in employment with the Employer.

(2) Leave cashouts. Post-Severance Compensation *includes* leave cashouts, if any, if those amounts would have been included in the definition of Compensation if they were paid prior to the Participant's Severance from Employment, and the amounts, if any, are payment for unused accrued bona fide vacation or other leave, but only if the Participant would have been able to use the leave if employment had continued.

(3) Salary continuation payments for military service Participants. Post-Severance Compensation includes payments to an individual who does not currently perform services for the Employer by reason of Qualified Military Service (as described in Code §414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering Qualified Military Service.

Limitation on Post-Severance Compensation. Any payment of Compensation (or Social Security Replacement Compensation, as applicable) paid after Severance of Employment that is not described in Section 3.02(C)(1) or 3.02(C)(2) is not Post-Severance Compensation, even if payment is made by the later of 2½ months after Severance from Employment or by the end of the calendar year that includes the date of such Severance of Employment.

(D) Miscellaneous. Nothing in this Section 3.02, or any other provision of the Plan referring to compensation, is intended to modify, or shall be construed as modifying, any compensation policy, arrangement or practice of the Employer.

3.03 NORMAL LIMITATION. Except as provided in Sections 3.04 and 3.05, a Participant's maximum Deferral Contributions (excluding Rollover Contributions and Transfers) under this Plan for a Taxable Year may not exceed the lesser of:

(a) The applicable dollar amount as specified under Code §457(e)(15) (or, beginning January 1, 2006, such larger amount as the Commissioner of the Internal Revenue may prescribe), or

(b) 100% of the Participant's Includible Compensation for the Taxable Year.

3.04 NORMAL RETIREMENT AGE CATCH-UP CONTRIBUTION. For one or more of the Participant's last three Taxable Years ending before the Taxable Year in which the Participant attains Normal Retirement Age, the Participant's maximum Deferral Contributions may not exceed the lesser of:

(a) Twice the dollar amount under the Section 3.03 normal limitation, or

(b) the underutilized limitation.

(A) Underutilized Limitation. A Participant's underutilized limitation is equal to the sum of: (i) the normal limitation on contributions for the Taxable Year, and (ii) the normal limitation on contributions for each of the prior Taxable Years of the Participant commencing after 1981 during which the Participant was eligible to participate in the Plan and the Participant's Deferral Contributions were subject to the normal limitation or any other Code §457(b) limit, less the amount of Deferral Contributions for each such prior Taxable Year, excluding age 50 catch-up contribution described in Section 3.05.

(B) Multiple 457 Plans. If the Employer maintains more than one Eligible 457 Plan, the Plans may not permit any Participant to have more than one Normal Retirement Age under the Plans.

(C) Pre-2002 Coordination. In determining a Participant's underutilized limitation for pre-2002 Taxable Years, the coordination rule in effect under now repealed Code §457(c)(2) applies. Additionally, the normal limitation for pre-2002 Taxable Years is applied in accordance with Code §457(b)(2) as then in effect.

3.05 AGE 50 CATCH-UP CONTRIBUTION. All Public Employees who are eligible to make Deferral Contributions under this Plan and who have attained age 50 years before the close of the Taxable Year are eligible to make age 50 catch-up contributions for that Taxable Year in accordance with, and subject to the limitations of, Code §414(v). Such catch-up contributions are not taken into account for purposes of the provisions of the Plan implementing the required limitations of Code §457. If, for a Taxable Year, a Public Employee makes a catch-up contribution under Section 3.04, the Employee is not eligible to make age 50 catch-up contributions under this Section 3.05. A catch-up eligible Participant in each Taxable Year is entitled to make contributions equal to the greater of the catch-up amount determined under Section 3.04 or the catch-up amount determined under Section 3.05 plus the Section 3.03 normal limitation amount.

3.06 CONTRIBUTION ALLOCATION. The Administrative Services Provider will allocate to each Participant's Account his/her Deferral Contributions.

3.07 ALLOCATION CONDITIONS. The Plan does not impose any allocation conditions.

3.08 ROLLOVER CONTRIBUTIONS. The Plan permits Rollover Contributions.

(A) Operational Administration. The Employer, operationally and on a nondiscriminatory basis, may elect to permit or not to permit Rollover Contributions to this Plan or may elect to limit an eligible Public Employee's right or a Participant's right to make a Rollover Contribution. If the Employer permits Rollover Contributions, any Participant (or as applicable, any eligible Public Employee), with the Employer's written consent and after filing with the Administrative Services Provider the form prescribed by the Administrative Services Provider, may make a Rollover Contribution to the Custodial Account or other funding vehicle established under the Plan. Before a Rollover Contribution is accepted by the Plan, a Participant (or eligible Public Employee) may be required to furnish satisfactory evidence that the proposed rollover is in fact a "Rollover Contribution" which the Code permits an employee to make to an eligible retirement plan. The Plan may require that a Rollover Contribution be comprised solely of cash or may permit the rollover of property other than property which could: (1) generate unrelated business taxable income; (2) create difficulty or undue expense in storage, safekeeping or valuation; or (3) create other practical problems for the Custodial Account or other funding vehicle established under the Plan.

(B) Pre-Participation Rollover. If an eligible Public Employee makes a Rollover Contribution to the Custodial Account or other funding vehicle established under the Plan prior to entering into a Participation Agreement or completing and filing an Acknowledgement Card, the Public Employee shall be treated as a limited Participant (as described in Rev. Rul. 96-48 or in any successor ruling). If a limited Participant has a Severance from Employment prior to becoming a Participant in the Plan, his/her Rollover Contributions Account shall be distributed to the limited Participant in accordance with Article IV.

(C) Separate Accounting. The Administrative Services Provider shall account separately for: (1) amounts rolled into this Plan from an eligible retirement plan (other than from another Eligible 457 Plan); and (2) amounts rolled into this Plan from another Eligible 457 Plan. The Administrative Services Provider for purposes of ordering any subsequent distribution from this Plan may designate a distribution from a Participant's Rollover Contributions Account as coming first from either of (1) or (2) above if the Participant has both types of Rollover Contributions Accounts.

3.09 DISTRIBUTION OF EXCESS DEFERRALS. In the event that a Participant has Excess Deferrals, the Plan will distribute to the Participant the Excess Deferrals and allocable net income, gain or loss, in accordance with this Section 3.09 and Section 3A.04, as applicable.

The Administrative Services Provider will distribute Excess Deferrals from the Plan as soon as is reasonably practicable following the Administrative Services Provider's or Employer's determination of the amount of the Excess Deferral.

(A) Plan Aggregation. If the Employer maintains more than one Eligible 457 Plan, the Employer must aggregate all such Plans in determining whether any Participant has Excess Deferrals.

(B) Individual Limitation. If a Participant participates in another Eligible 457 Plan maintained by a different employer, and the Participant has Excess Deferrals, the Administrative Services Provider may, but is not required to, correct the Excess Deferrals by making a corrective distribution from this Plan.

3.10 DOLLAR LIMITS. The table below shows the applicable dollar amounts described in Section 3.03(a) and limitations on age 50 catch-up contributions described in Section 3.05 through the 2006 calendar year. These amounts are adjusted after 2006 for changes in the cost-of-living to the extent permitted in Code §415(d).

Year	Applicable Dollar Amount	Age 50+ Catch-up Contribution Limitation
2002	\$11,000	\$1,000
2003	\$12,000	\$2,000
2004	\$13,000	\$3,000
2005	\$14,000	\$4,000
2006	\$15,000	\$5,000

ARTICLE IIIA DESIGNATED ROTH CONTRIBUTIONS

3A.01 DESIGNATED ROTH CONTRIBUTIONS PERMITTED. Subject to the conditions and limitations of the Plan, an eligible Public Employee may elect that, in lieu of all or a portion of the Salary Reduction Contributions the employee is eligible to make to the Plan for an applicable period, the employee shall make Designated Roth Contributions. Designated Roth Contributions shall be treated in the same manner as Deferral Contributions for all Plan purposes except as provided otherwise in this Plan. The Employer may, in operation, implement (or cause the Administrative Services Provider to implement) administrative rules, including deferral election procedures, with respect to Designated Roth Contributions, provided such rules and procedures are communicated to Participants and permit Participants to modify their elections at least once each Plan Year.

3A.02 UNFORESEEABLE EMERGENCY. If the Plan permits distributions of Salary Reduction Contributions on account of an Unforeseeable Emergency, Designated Roth Contributions may be withdrawn on account of an Unforeseeable Emergency subject to the same qualifications that apply to Salary Reduction Contributions.

3A.03 DISTRIBUTION RULE. Withdrawals (including, but not limited to, withdrawals on account of an Unforeseeable Emergency) from a Participant's Accounts may be directed by the Participant from either Salary

Reduction Contributions, Designated Roth Contributions or pro rata from Salary Reduction Contributions and Designated Roth Contributions.

3A.04 **CORRECTIVE DISTRIBUTION RULE.** For any calendar year in which a Participant may make both Designated Roth Contributions and Salary Reduction Contributions and for which a corrective distribution is made to the Participant, the corrective distribution from the Participant's Accounts will be taken pro rata from a Participant's Salary Reduction Contributions and Designated Roth Contributions made during such calendar year, or the Participant may elect which type of Deferral Contributions shall be distributed first.

3A.05 **LOANS.** If Participant loans are permitted under the Plan, for any loans made after the date as of which Participants may make Designated Roth Contributions to the Plan the loan policy or program shall permit Participants to use as security a Participant's Designated Roth Contribution Account; provided, however, that loans may not be funded from the Participant's Designated Roth Contribution account.

3A.06 **ROLLOVERS.** A direct rollover of a distribution from Designated Roth Contributions shall only be made to a plan which includes Designated Roth Contributions as described in Code Section 402A(e)(1) or to a Roth IRA as described in Code Section 408A, and only to the extent the rollover is permitted under the rules of Code Section 402(c).

(a) The Plan may accept a rollover contribution of Designated Roth Contributions only if it is a direct rollover from another plan which permits Designated Roth Contributions as described in Code Section 402A(e)(1) and only to the extent the rollover is permitted under the rules of Code Section 402(c). The Deferred Compensation Plan Committee, operationally and on a uniform and nondiscriminatory basis, may decide whether to accept any such rollovers.

(b) The Plan shall not provide for a direct rollover (including an automatic rollover) for distributions from a Participant's Designated Roth Contribution Account if the amount of the distributions that are eligible rollover distributions are reasonably expected to total less than \$200 during a year. In addition, any distribution from a Participant's Designated Roth Contributions are not taken into account in determining whether distributions from a Participant's other accounts are reasonably expected to total less than \$200 during a year. Furthermore, the Plan will treat a Participant's Designated Roth Contribution Account and the Participant's other Accounts as held under two separate plans for purposes of applying the automatic rollover rules. However, eligible rollover distributions of a Participant's Designated Roth Contributions are taken into account in determining whether the total amount of the Participant's account balances under the Plan exceed the Plan's limits for purposes of mandatory distributions from the Plan.

ARTICLE IV TIME AND METHOD OF PAYMENT OF BENEFITS

4.01 **DISTRIBUTION RESTRICTIONS.** Except as the Plan provides otherwise, the Administrative Services Provider may not distribute to a Participant his/her Account prior to the Participant's Severance from Employment, the calendar year in which the Participant attains age 70½ years, or such other event for which federal legislation is enacted or regulatory relief granted permitting the Plan to make distributions to qualifying Participants.

(A) Distribution of Rollover Contributions. A Participant may receive a distribution of such Rollover Contributions without regard to the restrictions found in this Section 4.01.

4.02 **TIME AND METHOD OF PAYMENT OF ACCOUNT.** The Administrative Services Provider will distribute to a Participant who has incurred a Severance from Employment the Participant's Account under one or any combination of payment methods elected by the Participant. The Participant may elect one of the following methods of payment: (1) lump sum payment, (2) partial lump sum payment, (3) installment, or (4) an annuity. In no event will the Administrative Services Provider direct distribution, nor will the Participant elect to have distribution commence, later than the Participant's required beginning date, or under a method that does not satisfy Section 4.03.

Subject to any restrictions imposed by the Participant's investment providers and the Administrative Services Provider, the Participant: (1) may elect to commence distribution no earlier than is administratively practical following Severance from Employment; (2) may elect to postpone distribution of his/her Account to any fixed or determinable date including, but not beyond, the Participant's required beginning date; and (3) may elect the method of payment. A Participant may elect the timing and method of payment of his/her Account no later than 30 days

before the date the Participant first would be eligible to commence payment of the Participant's Account. The Administrative Services Provider must furnish to the Participant a form for the Participant to elect the time and a method of payment.

4.03 REQUIRED MINIMUM DISTRIBUTIONS. The Administrative Services Provider may not distribute the Participant's Account, nor may the Participant elect any distribution of his/her Account, under a method of payment which, as of the required beginning date, does not satisfy the minimum distribution requirements of Code §401(a)(9) or which is not consistent with applicable Treasury regulations.

(A) General Rules.

(1) **Precedence.** The requirements of this Section 4.03 will take precedence over any inconsistent provisions of the Plan.

(2) **Requirements of Treasury Regulations Incorporated.** All distributions required under this Section 4.03 will be determined and made in accordance with the Treasury regulations under Code §401(a)(9).

(B) Time and Manner of Distribution

(1) **Required Beginning Date.** The Participant's entire interest in the Plan will be distributed, or begin to be distributed, to the Participant no later than the Participant's required beginning date.

(2) **Death of Participant Before Distribution Begins.** If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(a) Spouse Designated Beneficiary. If the Participant's surviving spouse is the Participant's sole designated Beneficiary, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant dies, or by December 31 of the calendar year in which the Participant would have attained age 70½ years, if later.

(b) Non-Spouse Designated Beneficiary. If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(c) No Designated Beneficiary. If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest in the Plan will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(d) Death of Spouse. If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 4.03(B)(2), other than Section 4.03(B)(2)(a), will apply as if the surviving spouse were the Participant.

For purposes of this Section 4.03(B) and Section 4.03(D), unless Section 4.03(B)(2)(d) applies, distributions are considered to begin on the Participant's required beginning date. If Section 4.03(B)(2)(d) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 4.03(B)(2)(a). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 4.03(B)(2)(a)), the date distributions are considered to begin is the date distributions actually commence.

(3) **Forms of Distribution.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year, distributions will be made in accordance with Sections 4.03(C) and 4.03(D). If the Participant's interest in the Plan is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 4.01(a)(9) of the Code and the Treasury regulations.

(C) Required Minimum Distributions during Participant's Lifetime.

(1) **Amount of Required Minimum Distribution for Each Distribution Calendar Year.** During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

(a) ULT. The quotient obtained by dividing the Participant's Account balance by the number in the Uniform Life Table set forth in Treas. Reg. §1.401(a)(9)-9, using the Participant's attained age as of the Participant's birthday in the distribution calendar year; or

(b) Younger Spouse. If the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's Account balance by the number in the Joint and Last Survivor Table set forth in Treas. Reg. §1.401(a)(9)-9, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(2) **Lifetime Required Minimum Distributions Continue Through Year of Participant's Death**. Required minimum distributions will be determined under this Section 4.03(C) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(D) Required Minimum Distributions after Participant's Death.

(1) Death On or After Distributions Begin.

(a) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for the distribution calendar year of the Participant's death is obtained by dividing the Participant's Account balance by the remaining life expectancy of the Participant. The Participant's remaining life expectancy is calculated using the attained age of the Participant as of the Participant's birthday in the calendar year of death. For each distribution calendar year after the year of the Participant's death, the minimum amount that will be distributed is the quotient obtained by dividing the Participant's Account balance by the remaining life expectancy of the Participant's designated Beneficiary.

(b) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the calendar year after the calendar year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the calendar year of the Participant's death is the quotient obtained by dividing the Participant's Account balance by the Participant's remaining life expectancy calculated using the attained age of the Participant as of the Participant's birthday in the calendar year of death, reduced by one for each subsequent calendar year.

(2) Death before Date Distributions Begin.

(a) Participant Survived by Designated Beneficiary. If the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 4.03(D)(1).

(b) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest in the Plan will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(c) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 4.03(B)(2)(a), this Section 4.03(D)(2) will apply as if the surviving spouse were the Participant.

(E) Definitions

(1) **Designated Beneficiary**. The individual who is designated as the Beneficiary under the Plan and is the designated beneficiary under Code §401(a)(9) and Treas. Reg. §1.401(a)(9)-1, Q&A-4.

(2) **Distribution calendar year**. A distribution calendar year means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which the distributions are required to begin under Section 4.03(B)(2). The required minimum distribution for the

Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

(3) **Life expectancy.** Life expectancy as computed by use of the Single Life Table in Treas. Reg. §1.401(a)(9)-9.

(4) **Participant's account balance.** The Account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The Account balance for the valuation calendar year includes any Rollover Contributions or Transfers to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(5) **Required beginning date.** A Participant's required beginning date is the April 1 of the calendar year following the later of: (1) the calendar year in which the Participant attains age 70½ years, or (2) the calendar year in which the Participant retires or such other date under Code § 401(a)(9) by which required minimum distributions must commence.

(F) General 2009 waiver. The requirements of Code §401(a)(9) and the provisions of the Plan relating thereto, will not apply for the distribution calendar year 2009.

(1) **Special rule regarding waiver period.** For purposes of Code §401(a)(9) and the provisions of the Plan relating thereto: (a) the required beginning date with respect to any individual will be determined without regard to this Article IV for purposes of applying Code §401(a)(9) for distribution calendar years other than 2009; and (b) if the 5-year rule of Code §401(a)(9)(B)(ii) applies, the 5-year period described therein shall be determined without regard to calendar year 2009.

(2) **Eligible rollover distributions.** If all or any portion of a distribution during 2009 is treated as an eligible rollover distribution but would not be so treated if the minimum distribution requirements under Code §401(a)(9) had applied during 2009, then the Plan will not treat such distribution as an eligible rollover distribution for purposes of the direct rollover rules of Code §401(a)(31), the notice requirements of Code §402(f), or the 20% withholding requirement of Code §3405(c).

(3) **Participant may elect.** The Plan will permit an affected Participant to elect whether to receive his/her required minimum distribution for 2009. If the Participant fails to notify the Administrative Services Provider of his/her waiver, the Plan will distribute the 2009 required minimum distribution to the Participant.

4.04 **DEATH BENEFITS.** Upon the death of the Participant, the Administrative Services Provider must pay the Participant's Account in accordance with Section 4.03. Subject to Section 4.03, a Beneficiary may elect the timing and method of payment in the same manner as a Participant may elect under Section 4.02, if such elections apply.

In the case of a death occurring on or after January 1, 2007, if a Participant dies while performing Qualified Military Service (as defined in Code §414(u)), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of Qualified Military Service) provided under the Plan as if the Participant had resumed and then terminated employment on account of death.

4.05 **DISTRIBUTIONS PRIOR TO SEVERANCE FROM EMPLOYMENT.** Notwithstanding the Section 4.01 distribution restrictions and except with respect to Social Security replacement contributions and income thereon, the Plan permits the following in-service distributions in accordance with this Section.

(A) Unforeseeable Emergency. In the event of a Participant's Unforeseeable Emergency, the Administrative Services Provider may make a distribution to a Participant who has not incurred a Severance from Employment.

An Unforeseeable Emergency is a severe financial hardship of a Participant or primary Beneficiary of the Participant resulting from: (1) illness or accident of the Participant, the Participant's primary Beneficiary, or the spouse or dependent (as defined in Code §152, and, for Taxable Years beginning on or after January 1, 2005, without regard to Code §152(b)(1), (b)(2), and (d)(1)(B)) of the Participant or primary Beneficiary; (2) loss of the Participant's or primary Beneficiary's property due to casualty; (3) the need to pay for the funeral expenses of the spouse or dependent (as defined in Code §152, and, for Taxable Years beginning on or after January 1, 2005,

without regard to Code §152(b)(1), (b)(2), and (d)(1)(B)) of the Participant or primary Beneficiary; or (4) other similar extraordinary and unforeseeable circumstances arising from events beyond the Participant's or primary Beneficiary's control. The Administrative Services Provider will not pay the Participant more than the amount reasonably necessary to satisfy the emergency need, which may include amounts necessary to pay taxes or penalties on the distribution. The Administrative Services Provider will not make payment to the extent the Participant may relieve the financial hardship by cessation of deferrals under the Plan, through insurance or other reimbursement, or by liquidation of the individual's assets to the extent such liquidation would not cause severe financial hardship.

A Participant's primary Beneficiary is a person whom the Participant designates in writing as a "primary beneficiary" and who is or may become entitled to a Participant's Plan account upon the Participant's death.

(B) De minimis distribution. A Participant may elect to receive a distribution of his/her Account where: (1) the Participant's Account (disregarding Rollover Contributions) does not exceed \$5,000 (or such other amount as does not exceed the Code §411(a)(1)(A) dollar amount); (2) the Participant has not made or received an allocation of any Deferral Contributions under the Plan during the two-year period ending on the date of distribution; and (3) the Participant has not received a prior distribution under this Section 4.05(B).

(C) Distribution of Rollover Contributions. A Participant may request and receive distribution of his/her Account attributable to Rollover Contributions (but not to Transfers) before the Participant has a distributable event under Section 4.01.

4.06 DISTRIBUTIONS UNDER QUALIFIED DOMESTIC RELATIONS ORDERS (QDROs). Notwithstanding any other provision of this Plan, the QDRO provisions will apply. The Administrative Services Provider must comply with the terms of a QDRO, as defined in Code §414(p), which is issued with respect to the Plan.

(A) Time and Method of Payment. This Plan specifically permits distribution to an alternate payee under a QDRO at any time, notwithstanding any contrary Plan provision and irrespective of whether the Participant has attained his/her earliest retirement age (as defined under Code §414(p)) under the Plan. Nothing in this Section 4.06 gives a Participant a right to receive distribution at a time the Plan otherwise does not permit nor authorizes the alternate payee to receive a form of payment the Plan does not permit.

(B) QDRO Procedures. Upon receiving a domestic relations order, the Administrative Services Provider promptly will notify the Participant and any alternate payee named in the order, in writing, of the receipt of the order and the Plan's procedures for determining the qualified status of the order. Within a reasonable period of time after receiving the domestic relations order, the Administrative Services Provider must determine the qualified status of the order and must notify the Participant and each alternate payee, in writing, of the Administrative Services Provider's determination. The Administrative Services Provider must provide notice under this paragraph by mailing to the individual's address specified in the domestic relations order.

(C) Accounting. If any portion of the Participant's Account balance is payable under the domestic relations order during the period the Administrative Services Provider is making its determination of the qualified status of the domestic relations order, the Administrative Services Provider may maintain a separate accounting of the amounts payable. If the Administrative Services Provider determines the order is a QDRO within 18 months of the date amounts first are payable following receipt of the domestic relations order, the Administrative Services Provider will distribute the payable amounts in accordance with the QDRO. If the Administrative Services Provider does not make its determination of the qualified status of the order within the 18-month determination period, the Administrative Services Provider will distribute the payable amounts in the manner the Plan would distribute if the order did not exist and will apply the order prospectively if the Administrative Services Provider later determines the order is a QDRO.

To the extent it is not inconsistent with the provisions of the QDRO, the Administrative Services Provider may segregate the QDRO amount in a segregated investment account. The Administrative Services Provider will make any payments or distributions required under this Section 4.06 by separate benefit checks or other separate distribution to the alternate payee(s).

(D) Permissible QDROs. A domestic relations order that otherwise satisfies the requirements for a QDRO will not fail to be a QDRO: (i) solely because the order is issued after, or revises, another domestic relations order or QDRO; or (ii) solely because of the time at which the order is issued, including issuance after the annuity starting date or after the Participant's death. The Administrative Services Provider will only process a QDRO to the extent possible based upon the then-current value or benefit in the Participant's Account.

4.07 DIRECT ROLLOVER OF ELIGIBLE ROLLOVER DISTRIBUTIONS – GOVERNMENTAL PLAN.

(A) Participant Election. A Participant (including for this purpose, a former Public Employee) may elect, at the time and in the manner the Administrative Services Provider prescribes, to have any portion of his/her eligible rollover distribution from the Plan paid directly to an eligible retirement plan specified by the Participant in a direct rollover election. For purposes of this election, a “Participant” includes as to their respective interests, a Participant’s surviving spouse and the Participant’s spouse or former spouse who is an alternate payee under a QDRO.

(B) Rollover and Withholding Notice. At least 30 days and not more than 180 days prior to the distribution of an eligible rollover distribution, the Administrative Services Provider must provide a written notice (including a summary notice as permitted under applicable Treasury regulations) explaining to the distributee the rollover option, the applicability of mandatory 20% federal withholding to any amount not directly rolled over, and the recipient’s right to roll over within 60 days after the date of receipt of the distribution (“rollover notice”).

(C) Non-spouse Beneficiary rollover right. A non-spouse Beneficiary who is a “designated beneficiary” under Code §401(a)(9)(E) and the regulations thereunder, by a direct rollover, may roll over all or any portion of his/her distribution to an individual retirement account the Beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of an eligible rollover distribution.

(1) Certain requirements not applicable. Although a non-spouse Beneficiary may roll over directly a distribution, commencing with distributions after December 31, 2009, the distribution will be subject to the direct rollover requirements of Code §401(a)(31) (including the automatic rollover provisions of Code §401(a)(31)(B)), the notice requirements of Code §402(f) and the mandatory withholding requirements of Code §3405(c). If a non-spouse Beneficiary receives a distribution from the Plan, the distribution is not eligible for a “60-day” rollover.

(2) Trust Beneficiary. If the Participant’s named Beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Code §401(a)(9)(E).

(3) Required minimum distributions not eligible for rollover. A non-spouse Beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Treasury regulations and other Internal Revenue Service guidance. If the Participant dies before his/her required beginning date and the non-spouse Beneficiary rolls over to an individual retirement account the maximum amount eligible for rollover, the Beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to Treas. Reg. §1.401(a)(9)-3, A-4(c), in determining the required minimum distributions from the individual retirement account that receives the non-spouse Beneficiary’s distribution.

(D) Definitions. The following definitions apply to this Section:

(1) Eligible rollover distribution. An eligible rollover distribution is any distribution of all or any portion of a Participant’s Account, except an eligible rollover distribution does not include: (a) any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Participant or the joint lives (or joint life expectancies) of the Participant and the Participant’s designated Beneficiary, or for a specified period of ten years or more; (b) any Code §401(a)(9) required minimum distribution; (c) any Unforeseeable Emergency distribution; and (d) any distribution which otherwise would be an eligible rollover distribution, but where the total distributions to the Participant during that calendar year are reasonably expected to be less than \$200.

(2) Eligible retirement plan. An eligible retirement plan is an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b), an annuity plan described in Code §403(a), a qualified plan described in Code §401(a), an annuity contract (or custodial agreement) described in Code §403(b), or an eligible deferred compensation plan described in Code §457(b) and maintained by an Employer described in Code §457(e)(1)(A), which accepts the Participant’s, the Participant’s spouse’s or alternate payee’s eligible rollover distribution. For distributions made after December 31, 2007, a Participant or Beneficiary may elect to roll over directly an eligible rollover distribution to a Roth individual retirement account described in Code §408A(b).

(3) Direct rollover. A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

(4) **Mandatory distribution.** The Administrative Services Provider is directed to make a mandatory distribution, which is an eligible rollover distribution, without the Participant's consent provided that the Participant's Account is less than \$1,000. A distribution to a Beneficiary is not a mandatory distribution.

(5) **401(a)(31)(B) Effective Date.** The §401(a)(31)(B) Effective Date is the date of the close of the first regular legislative session of the legislative body with the authority to amend the Plan that begins on or after January 1, 2006.

4.08 ELECTION TO DEDUCT FROM DISTRIBUTION. For distributions in taxable years beginning after December 31, 2006, an Eligible Retired Public Safety Officer may elect annually for that Taxable Year to have the Plan deduct an amount from a distribution which the Eligible Retired Public Safety Officer otherwise would receive and include in income. The Plan will pay such deducted amounts directly to the provider as described in Section 4.08(A).

(A) Direct payment. The Plan will pay directly to the provider of the accident or health insurance plan or qualified long-term care insurance contract the amounts the Eligible Retired Public Safety Officer has elected to have deducted from the distribution. Such amounts may not exceed the lesser of \$3,000 or the amount the Participant paid for such taxable year for qualified healthcare premiums, and which otherwise complies with Code §402(l).

(B) Definitions.

(1) **Eligible Retired Public Safety Officer.** An "Eligible Retired Public Safety Officer" is an individual who, by reason of disability or attainment of normal retirement age, has experienced a Severance from Employment as a Public Safety Officer with the Employer.

(2) **Public Safety Officer.** A "Public Safety Officer" has the same meaning as in §1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. §3796b(9)(A)).

(3) **Qualified health insurance premiums.** The term "qualified health insurance premiums" means premiums for coverage for the Eligible Retired Public Safety Officer, his/her spouse, and dependents, by an accident or health plan or qualified long-term care insurance contract (as defined in Code §7702B(b)).

ARTICLE V
TRANSFERS

5.01 TERMINATION/FREEZING OF PLAN. The Employer has the right, at any time, to terminate this Plan or to cease (freeze) further Deferral Contributions to the Plan. Upon termination or freezing of the Plan, the provisions of the Plan (other than provisions permitting continued Deferral Contributions) remain operative until distribution of all Accounts. Upon Plan termination, the Administrative Services Provider shall distribute to Participants and Beneficiaries all Deferred Compensation as soon as is reasonably practicable following termination.

5.02 TRANSFERS. The Plan: (a) may accept a Transfer of a Participant's Account in another employer's Eligible 457 Plan; or (b) may Transfer a Participant's (or Beneficiary's) Account in this Plan to the another employer's Eligible 457 Plan. The other plan involved in the Transfer must provide for Transfers. The Participant or Beneficiary, after the Transfer will have Deferred Compensation in the recipient plan at least equal to his/her Deferred Compensation in the transferring plan immediately before the Transfer. Any Transfer also must comply with applicable Treasury regulations, and in particular Treas. Reg. §1.457-10(b)(2) as to post-severance transfers between Eligible 457 Plans; Treas. Reg. §1.457-10(b)(3) as to transfers of all assets between Eligible 457 Plans; and Treas. Reg. §1.457-10(b)(4) as to transfers between Eligible 457 Plans of the same Employer. The Administrative Services Provider will credit any Transfer accepted under this Section 5.02 to the Participant's Account and will treat the transferred amount as a Deferral Contribution for all purposes of this Plan except such Transfer will not be treated as a Deferral Contribution subject to the limitations of Article III. The Plan's transfer of any Participant's or Beneficiary's Account under this Section 5.02 completely discharges the Employer, the Administrative Services Provider, the Custodian and the Plan from any liability to the Participant or Beneficiary for any Plan benefits.

5.03 PURCHASE OF PERMISSIVE SERVICE CREDIT. A Participant, prior to otherwise incurring a distributable event under Article IV, may direct the transfer (as of January 1, 2002, or later) of all or a portion of his/her Account to a governmental defined benefit plan (under Code §414(d)) for: (a) the purchase of permissive service credit (under Code §415(n)(3)(A)) under such plan, or (b) the repayment of contributions and earnings previously refunded with respect to a forfeiture of service credited under the plan (or under another governmental plan within the same State) to which Code §415 does not apply by reason of Code §415(k)(3). Provided, however, a

Participant shall not be permitted to transfer that portion of his/her Account that is comprised of Designated Roth Contributions for purposes of purchasing permissive service credits as described in this Section 5.03.

ARTICLE VI ADMINISTRATIVE SERVICES PROVIDER - DUTIES

6.01 TERM/VACANCY. The Administrative Services Provider will serve until its successor is appointed. In case the Employer has not appointed a successor Administrative Services Provider, the Employer will exercise any and all duties of the Administrative Services Provider pending the filling of the vacancy.

6.02 DUTIES. The Administrative Services Provider will have the following duties:

- (a) To create administrative forms necessary for the proper and efficient administration of the Plan provided the forms are not inconsistent with the terms of the Plan;
- (b) To enforce the terms of the Plan and its procedures, including this document and such other documents related to the Plan's operation;
- (c) To make, at the direction of the Participant or Beneficiary or pursuant to Section 4.07(D)(4), distributions of an Account;
- (d) To review in accordance with the Plan's procedures respecting a claim for (or denial of a claim for) a benefit under the Plan;
- (e) To furnish the Employer with information which the Employer may require for tax or other purposes;
- (f) To make distributions on account of unforeseeable emergency in accordance with the Plan's procedures;
- (g) To accept Deferral Contributions, including Social Security replacement contributions, and Rollover Contributions;
- (h) To accept Transfers;
- (i) To accept Participant or, in the case of a deceased Participant, Beneficiary direction of investment;
- (j) To comply with any reporting and disclosure rules applicable to the Plan;
- (k) To make loans to eligible Participants;
- (l) To appoint agents to act for and in performing its third party administrative services to the Plan; and
- (m) To undertake any other action the Administrative Services Provider deems reasonable or necessary to provide third party administrative services to the Plan.

6.03 LOANS TO PARTICIPANTS. The Employer has elected to permit the Administrative Services Provider to make Plan loans to Participants by executing a participant loan program document with the Administrative Services Provider. Any loan by the Plan to a Participant shall be made in compliance with Code §72(p). If Plan loans are permitted, the Administrative Services Provider, with the approval and direction of the Employer in accordance with Section 10.03, may establish, amend or terminate from time to time, nondiscriminatory administrative procedures for administering loans. Such loan procedures must be a written document and must include: (1) the procedure for applying for a loan; (2) the criteria for approving or denying a loan; (3) the limitations, if any, on the types and amounts of loans available; and (4) the events constituting default and the steps the Plan will take to preserve Plan assets in the event of default. Any administrative procedures adopted under this Section 6.03 shall be construed as part of the Plan. Notwithstanding anything in this Section 6.03 to the contrary, no loans shall be made from a Participant's Social Security replacement contributions or income thereon and the amount of a Participant's Social Security contributions (as adjusted for earnings and losses thereon) shall be excluded from the Participant's Account balance for purposes of determining the maximum amount of any loan available from the Participant's Account.

6.04 INDIVIDUAL ACCOUNTS / RECORDS. The Administrative Services Provider will maintain a separate Account in the name of each Participant to reflect the value of the Participant's Deferred Compensation under the

Plan. The Administrative Services Provider will account separately for a Participant's Social Security replacement contributions.

6.05 VALUE OF PARTICIPANT'S ACCOUNT. The value of each Participant's Account consists of his/her accumulated Deferred Compensation, as of the most recent Accounting Date or any later date as the Administrative Services Provider may determine.

6.06 ALLOCATION OF NET INCOME, GAIN OR LOSS. As of each Accounting Date (and each other valuation date determined under Section 6.04), the Administrative Services Provider will adjust Accounts to reflect net income, gain or loss, if any, since the last Accounting Date or Account valuation. The Administrative Services Provider will continue to allocate net income, gain and loss to a Participant's Account subject to an installment distribution, until the Account is fully distributed.

6.07 ACCOUNT CHARGED The Administrative Services Provider will charge all distributions made to a Participant or to his/her Beneficiary, or transferred under Section 5.02 from his/her Account, against the Account of the Participant when made.

6.08 PARTICIPANT DIRECTION OF INVESTMENT. Subject to the terms and conditions required by the Administrative Services Provider, a Participant will have the right to direct the investment or re-investment of the assets comprising the Participant's Account. The Administrative Services Provider will account separately for the Participant-directed Accounts. The Participant's right to direct investment does not give the Participant any vested interest or secured or preferred position with respect to assets over which he/she has investment responsibility. A Participant's Social Security replacement contributions, if any, may be subject to restrictions on the type and manner of investment.

6.09 VESTING/SUBSTANTIAL RISK OF FORFEITURE. Each Participant's Account will be immediately 100% vested.

6.10 PRESERVATION OF ELIGIBLE PLAN STATUS. The Employer may take any such necessary and appropriate action to preserve the status of the Plan as an Eligible 457 Plan.

6.11 LIMITED LIABILITY. The Employer will not be liable to pay Plan benefits to a Participant in excess of the value of the Participant's Account as the Administrative Services Provider determines in accordance with the Plan terms. Neither the Employer nor the Administrative Services Provider will be liable for losses arising from depreciation or shrinkage in the value of any investments acquired under this Plan.

6.12 LOST PARTICIPANTS. If the Administrative Services Provider is unable to locate any Participant or Beneficiary whose Account becomes distributable (a "lost Participant"), the Administrative Services Provider will apply the provisions of this Section 6.12.

(A) Attempt to Locate. The Administrative Services Provider will attempt to locate a lost Participant and may use one or more of the following methods: (1) provide a distribution notice to the lost Participant at his/her last known address by certified or registered mail; (2) use a commercial locator service, the Internet or other general search method; (3) use the Social Security Administration search program; or (4) use such other methods as the Administrative Services Provider believes prudent.

(B) Failure to Locate. If a lost Participant is not located after 12 months following the date the Administrative Services Provider first attempts to locate the lost Participant using one or more of the methods described in Section 6.12(A), the Administrative Services Provider may employ the unclaimed property processes of the state of the lost Participant's last known address. Neither the Employer nor the Administrative Services Provider shall be responsible for restoring the Account (including potential gains) if a lost Participant whose Account was deposited with a state later makes a claim for his/her Account.

(C) Nonexclusivity and Uniformity. The provisions of this Section 6.12 are intended to provide permissible but not exclusive means for the Administrative Services Provider to administer the Accounts of lost Participants. The Administrative Services Provider may utilize any other reasonable method to locate lost Participants and to administer the Accounts of lost Participants, including such methods as the Internal Revenue Service or other regulatory agency may in the future specify. The Administrative Services Provider will apply Section 6.12 in a reasonable manner, but may in determining a specific course of action as to a particular Account, reasonably take into account differing circumstances such as the amount of a lost Participant's Account, the expense in attempting to locate a lost Participant, the Administrative Services Provider's ability to establish and the expense of establishing a rollover individual retirement account, and other factors. The Administrative Services Provider may charge to the

Account of a lost Participant the reasonable expenses incurred under this Section 6.12 and which are associated with the lost Participant's Account.

6.13 PLAN CORRECTION. The Administrative Services Provider, as directed by the Employer, may undertake such correction of Plan errors as the Employer deems necessary, including but not limited to correction to maintain the Plan's status as an "eligible deferred compensation plan" under the Code.

ARTICLE VII PARTICIPANT ADMINISTRATIVE PROVISIONS

7.01 BENEFICIARY DESIGNATION. A Participant from time to time may designate, in writing, any person(s) (including a trust or other entity), contingently or successively, to whom the Administrative Services Provider will pay the Participant's Account (including any life insurance proceeds payable to the Participant's Account) in the event of death. A Participant also may designate the method of payment of his/her Account. The Administrative Services Provider will prescribe the form for the Participant's written designation of Beneficiary, which form will have no effect until it is signed, filed with the Administrative Services Provider by the Participant and accepted by the Administrative Services Provider prior to the Participant's death. Upon the Participant's filing the form with the Administrative Services Provider, the form revokes all designations filed prior to that date by the same Participant. Provided the Administrative Services Provider has been provided reasonable notice thereof, a divorce decree, or a decree of legal separation, revokes the Participant's designation, if any, of his/her spouse as his/her Beneficiary under the Plan unless: (a) the decree or a QDRO provides otherwise; or (b) the Participant has re-designated his/her former spouse as Beneficiary following the date of the divorce decree, or other decree of legal separation. The foregoing revocation provision (if applicable) applies only with respect to a Participant whose divorce or legal separation becomes effective on or following the date the Employer executes the Plan.

7.02 NO BENEFICIARY DESIGNATION. If the Participant dies without having a Beneficiary designation on file, the Participant's interest in the Plan shall be paid to the properly appointed fiduciary of the Participant's probate estate. Provided, however if a fiduciary has not been appointed and qualified within one hundred twenty (120) days after the Participant's death, the Participant's interest in the Plan shall be paid to the Participant's surviving spouse. If no spouse survives the Participant, the Participant's interest in the Plan shall be paid to the Participant's surviving child or children in equal shares. If no spouse or children survive the Participant, the Participant's interest in the Plan shall be paid to the Participant's surviving parent or parents in equal shares. The Participant accepts and acknowledges that the Participant has the burden for executing and filing, with the Administrative Services Provider prior to the Participant's death, a proper Beneficiary designation form. The Participant further accepts and acknowledges that his/her failure to execute and file a proper Beneficiary designation form will result in the distribution of the Participant's interest in the Plan as provided above. The Beneficiary shall have the right to elect the mode of payment of such benefits, subject to the limitations set forth in Section 8.03.

If the Beneficiary survives the Participant, but dies prior to distribution of the Participant's entire Account, the Administrative Services Provider will pay the remaining Account to the Beneficiary's estate unless: (1) the Participant's Beneficiary designation provides otherwise; or (2) the Beneficiary has properly designated a Beneficiary. A Beneficiary only may designate a Beneficiary for the Participant's Account Balance remaining at the Beneficiary's death, and the Beneficiary's designation otherwise complies with the Plan terms.

7.03 PARTICIPATION AGREEMENT AND ACKNOWLEDGEMENT CARD.

(A) General. A Participant must elect to make Deferral Contributions on a Participation Agreement form or, with respect to Social Security replacement contributions, on an Acknowledgement Card, that the Administrative Services Provider provides for this purpose. The Participation Agreement and/or Acknowledgement Card must be consistent with the procedures of the Administrative Services Provider. The Participation Agreement or Acknowledgement Card may impose such other terms and limitations as the Employer or Administrative Services Provider may determine.

(B) Election Timing. A Participation Agreement or Acknowledgement Card may not take effect earlier than the first day of the calendar month following the date the Participant executes the Participation Agreement and as to Compensation paid or made available in such calendar month. However, if a Public Employee is eligible to become a Participant during the Public Employee's calendar month of hire, the Public Employee may execute a Participation Agreement (and/or Acknowledgement Card, as the case may be) before the date he/she becomes a Public Employee, effective for the first pay period commencing during the first month in which he/she becomes a Public Employee. Notwithstanding anything in the Plan to contrary, in no event may a Public Employee commence making

Deferral Contributions to the Plan earlier than the time permitted by the applicable provisions of Code §457 and Treasury Regulations promulgated thereunder.

(C) Vacation and Back Pay. If the Plan permits Participants to make Deferral Contributions from accumulated vacation pay or from back pay, if any, a Participant who will incur a Severance from Employment may execute a Participation Agreement before such amounts are paid or made available provided: (i) such amounts are paid or made available before the Participant incurs the Severance from Employment; and (ii) the Participant is a Public Employee in that month.

(D) Modification of Participation Agreement or Acknowledgement Card. A Participation Agreement or Acknowledgement Card remains in effect until a Participant modifies it or ceases to be eligible to participate in the Plan. A Participant may modify his/her Participation Agreement or Acknowledgement Card by executing a new Participation Agreement or Acknowledgement Card. Any modification will become effective no earlier than the beginning of the calendar month commencing after the date such new Participation Agreement or Acknowledgement Card has been filed with the Administrative Services Provider. Filing a new Participation Agreement or Acknowledgement Card will revoke all Participation Agreements or Acknowledgement Cards filed prior to that date. The Employer or Administrative Services Provider may restrict the Participant's right to modify his/her Participation Agreement or Acknowledgement Card in any Taxable Year.

7.04 PERSONAL DATA TO ADMINISTRATIVE SERVICES PROVIDER. Each Participant and each Beneficiary of a deceased Participant must furnish to the Administrative Services Provider such evidence, data or information as the Administrative Services Provider considers necessary or desirable for the purpose of administering the Plan. The provisions of this Plan are effective for the benefit of each Participant upon the condition precedent that each Participant will furnish promptly full, true and complete evidence, data and information when requested by the Administrative Services Provider, provided the Administrative Services Provider advises each Participant of the effect of his/her failure to comply with its request.

7.05 ADDRESS FOR NOTIFICATION. Each Participant and each Beneficiary of a deceased Participant must file with the Administrative Services Provider from time to time, in writing, his/her address and any change of address. Any communication, statement or notice addressed to a Participant, or Beneficiary, at his/her last address filed with the Administrative Services Provider, or as shown on the records of the Employer, binds the Participant, or Beneficiary, for all purposes of this Plan.

7.06 PARTICIPANT OR BENEFICIARY INCAPACITATED. If evidence is submitted to the Administrative Services Provider that a Participant or Beneficiary entitled to a Plan distribution is not able to care for his/her affairs because of a mental condition, a physical condition, or by reason of age, the Administrative Services Provider may make the distribution to the Participant's or Beneficiary's guardian, conservator, trustee, custodian (including under a Uniform Transfers or Gifts to Minors Act) or to his/her attorney-in-fact or to other legal representative upon furnishing evidence of such status satisfactory to the Administrative Services Provider. The Administrative Services Provider does not have any liability with respect to payments so made and the Administrative Services Provider has no duty to make inquiry as to the competence of any person entitled to receive payments under the Plan.

ARTICLE VIII MISCELLANEOUS

8.01 NO ASSIGNMENT OR ALIENATION. A Participant or Beneficiary does not have the right to commute, sell, assign, pledge, transfer or otherwise convey or encumber the right to receive any payments under the Plan, Custodial Account or other funding vehicle established under the Plan and the Administrative Services Provider will not recognize any such anticipation, assignment, or alienation. The payments and the rights under this Plan are non-assignable and nontransferable. Subject to Section 9.03, a Participant's or Beneficiary's interest in the Plan, the Custodial Account or any other funding vehicle is not subject to attachment, garnishment, levy, execution or other legal or equitable process.

8.02 EFFECT ON OTHER PLANS. This Plan does not affect benefits under any other retirement, pension, or benefit plan or system established for the benefit of the Employer's Public Employees, and participation under this Plan does not affect benefits receivable under any such plan or system, except to the extent provided in such plan or system.

8.03 WORD USAGE. Words used in the masculine will apply to the feminine where applicable, and wherever the context of the Plan dictates, the plural will be read as the singular and the singular as the plural.

8.04 STATE LAW. The laws of the State of Illinois will determine all questions arising with respect to the provisions of this Plan, except to the extent federal law supersedes state law.

8.05 EMPLOYMENT NOT GUARANTEED. Nothing contained in this Plan, or any modification or amendment to the Plan, or in the creation of any Account, or the payment of any benefit, gives any Public Employee, Participant or Beneficiary any right to continue employment, any legal or equitable right against the Employer, the Administrative Services Provider, the Custodian, any other Public Employee of the Employer, or any agents thereof except as expressly provided by the Plan.

8.06 NOTICE, DESIGNATION, ELECTION, CONSENT AND WAIVER. All notices under the Plan and all Participant or Beneficiary designations, elections, consents or waivers must be in writing and made in a form acceptable to the Administrative Services Provider. To the extent permitted by Treasury regulations or other applicable guidance, any Plan notice, election, consent or waiver may be transmitted electronically. Any person entitled to notice under the Plan may waive the notice or shorten the notice period except as otherwise required by the Code.

8.07 LIMITATIONS ON TRANSFERS AND EXCHANGES. The Employer and the Administrative Services Provider may adopt procedures to govern Participant elections and directions concerning a Participant's, Beneficiary's, or alternate payee's investment specifications and may impose limitations on transfers and exchanges from one investment option with the Plan to another. These procedures shall be in addition to any established by investment providers to the Plan. The Employer and the Administrative Services Provider may decline to implement any investment instructions for a Participant, Beneficiary, or alternate payee where either deems appropriate.

8.08 EMPLOYER RESPONSIBILITY FOR DISTRIBUTION OF PLAN RELATED INFORMATION. The Employer will distribute all Plan related amendments, restated plan documents, and deferred compensation plan tax related documentation to the Administrative Service Providers when there are multiple Administrative Service Providers of the Plan.

8.09 USE OF PLAN ASSETS THAT ARE NOT ATTRIBUTABLE TO AN ACCOUNT. If the Plan receives money that is not attributable to an Account, then the Employer will direct the Administrative Services Provider as to the use of these amounts. Examples include, but are not limited to, money received by the Plan as part of a settlement, litigation award or fee reimbursement. The Employer may use these amounts to offset Plan expenses or may allocate these amounts to Participants or as it deems appropriate.

8.10 NO RECOVERY; INDEMNIFICATION. As a condition to participation in the Plan, the Participant specifically agrees not to seek recovery against the Employer, the Administrative Services Provider, or the Custodian, or any other employee, contractee, or agent of the Employer, the Administrative Services Provider, or the Custodian for any loss sustained by the Participant or his Beneficiary for the nonperformance of their duties, negligence, or any other misconduct of the above named persons except that this paragraph shall not excuse fraud or wrongful taking by any person. The Employer and its agents, including the Administrative Services Provider, are hereby held harmless from all court costs and all claims for the attorney's fees arising from action brought by the Participant or any Beneficiary thereof under this Plan, or to enforce his rights under this Plan, including any amendments thereof. The Administrative Services Provider shall not be required to participate in any litigation concerning the Plan except upon written demand from the Employer. The Administrative Services Provider may compromise, adjust or effect settlement of litigation when specifically instructed to do so by the Employer. For purposes of this Section 8.10, an alternate payee of the Participant is considered to be a Beneficiary of the Participant.

8.11 INTERPRETATION OF PLAN. The Employer, or its authorized agent, the Administrative Services Provider, (i) shall be authorized to resolve any questions of fact necessary to decide the Participant's right under this Plan and such decision shall be binding on the Participant and any Beneficiary thereof and (ii) shall be authorized to construe the Plan and to resolve any ambiguity in the Plan.

8.12 NO REPRESENTATION AS TO TAX CONSEQUENCES. The Employer and Administrative Services Provider do not represent or guarantee that any particular federal or state income, payroll, personal property, or other tax consequence will occur because of the Participant's participation in this Plan. The Participant should consult with his/her own representative regarding all questions of federal or state income, payroll, personal property or other tax consequences arising from participation in this Plan

8.13 COMPLETE AGREEMENT; BINDING; NO ORAL STATEMENTS. This Plan, and all amendments thereto, shall constitute the total agreement or contract between the Employer and the Participant (and between the Employer and the Participant's Beneficiaries and alternate payees) regarding the Plan, and shall be binding on the parties hereto and their respective heirs, administrators, trustees, successors and assignees and on all Beneficiaries and alternate payees of the Participant. No oral statement regarding the Plan may be relied upon by the Participant, any Beneficiary or any alternate payee.

8.14 SUSPENSION AND LEGAL DETERMINATION OF PAYMENTS. The Employer, or its agents including the Administrative Services Provider, if in doubt concerning the correctness of their action in making a payment of a benefit, may suspend the payment until satisfied as to the correctness of the payment or the person to receive the payment or allow the filing in any State court of competent jurisdiction, a suit in such form as they consider appropriate for a legal determination of the benefits to be paid and the persons to receive them. The Employer shall comply with the final orders of the court in any such suit and the Participant, for him-/herself and his/her Beneficiary, consents to be bound thereby insofar as it affects the benefits payable under this Plan or the method or manner of payment.

ARTICLE IX FUNDING VEHICLES

9.01 FUNDING VEHICLES. All assets of the Plan, including all Deferred Compensation and amounts rolled into or transferred to the Plan, property and rights purchased with such amounts, and all income attributable to such amounts, property or rights shall (until made available to the Participant or Beneficiary) be held in trust, custodial account or annuity contract described in Code §457(g) for the exclusive benefit of the Participants and their Beneficiaries. As of the Effective Date, all of the Plan's assets are held in a Custodial Account pursuant to a Custodial Account Agreement. The Employer has adopted the Custodial Account to hold assets, other than assets held in one or more trusts and/or annuity contracts, which will provide benefits for the Participants and Beneficiaries hereunder in a common fund with the assets of other Section 457 plans. Such Custodial Account shall be held by the Custodian thereof for the exclusive benefit of such Participants and Beneficiaries of this and other Section 457 plans and the assets may not be diverted to any other use. The Administrative Services Provider shall be the agent of the Employer for purposes of providing direction to the Custodian of the Custodial Account as to the investment of the funds held in the account, the transfer of assets to or from the account and all other matters.

In addition to or in lieu of the Custodial Account, one or more other permitted funding vehicles may be established by the Employer under the Plan to hold the Plan's assets.

9.02 RECEIPT OF CONTRIBUTIONS. The Custodian is accountable to the Employer for the funds contributed to it by the Employer or the Administrative Services Provider, but the Custodian does not have any duty to see that the contributions received comply with the provisions of the Plan.

9.03 EXCLUSIVE BENEFIT. The assets of the Plan shall be held under the Custodial Account (and/or other permitted funding vehicles) for the exclusive benefit of the Participants and their Beneficiaries and neither the Employer nor the Custodian (nor any trustee, as applicable) will use or divert any part of the Plan's assets held under the Custodial Account (or other funding vehicle(s)) for purposes other than the exclusive benefit of the Participants and Beneficiaries of the Plan. The Employer will not have any right to the Plan's assets held under the Custodial Account or other applicable funding vehicle(s) and the Custodial Account assets (and Plan assets held under any other applicable funding vehicle(s)) will not be subject to the claims of the Employer's creditors or, except as provided in Section 4.06, of the creditors of any Participant or Beneficiary. No Participant or Beneficiary shall have any right to sell, assign, transfer or otherwise convey his/her Account or any interest in his/her Deferred Compensation. Notwithstanding the foregoing, the Administrative Services Provider may pay from a Participant's or Beneficiary's Account the amount the Administrative Services Provider 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. The Custodial Account and each other funding vehicle, if any, created under the Plan and its respective assets will not inure to the benefit of the Employer.

ARTICLE X ADMINISTRATION OF PLAN

10.01 APPOINTMENT OF AGENTS. The Employer or authorized designee shall have the authority to contract with agents and other third parties to perform duties with respect to the Plan and to select depositories for the assets of the Plan.

10.02 AMENDMENT BY EMPLOYER. The Employer has the right at any time and from time to time:

(a) To amend the Plan as may be required to cause this Plan to comply with any changes to the Code or other applicable laws and regulations.

(b) To amend any Custodial Account Agreement or agreement with respect to any other funding vehicle (e.g., any trust or annuity contract described in Code §457(g), as the case may be) in any manner it deems necessary or advisable in order to continue the status of this Plan as an Eligible 457 Plan or as the Employer may otherwise determine to be necessary or appropriate for prudent administration of the Plan.

Any such amendments to this Plan or any Custodial Account Agreement or agreement with respect to any other funding vehicle in any other manner, including deletion, substitution or modification of any provision thereof, may be made by the Employer without the consent of any Participant or Beneficiary.

All amendments to the Plan shall become effective on the first day of the month following the giving of not less than forty-five (45) days notice of the amendment. Notice shall be deemed given when the amendment is posted in the office of the Employer. To the extent that it is possible to do so, the Administrative Services Provider shall include an explanation of all amendments to the Plan that become effective during the Plan Year with the Participant's last semi-annual report for that Plan Year, which report may be mailed to the Participant or posted on an Internet website established by the Administrative Services Provider for the benefit of Participants (or their Beneficiaries and alternate payees, as applicable). No amendments shall deprive the Participant of any of the benefits to which he/she is entitled under this Plan with respect to deferred amounts credited to his/her Account prior to the effective date of the amendment. The Employer must make all amendments in writing. The Employer may amend the Plan by addenda, by separate amendment, or by restatement of the Plan. Each amendment must state the date to which it is either retroactively or prospectively effective. The Employer also may not make any amendment that affects the rights, duties or responsibilities of the Administrative Services Provider without the written consent of the affected Administrative Services Provider.

10.03 PROMULGATION OF RULES. The Mayor or his designee may issue rules of administration of the Plan, on the recommendation of the Budget Director, the Commissioner of Human Resources, the City Comptroller, the Chief Financial Officer and the Chairmen of the Committees on the Budget and Government Operations and Finance. The same will be approved by the Corporation Counsel as to form and legality. Any rules adopted under this Section shall be construed as part of the Plan.

[SIGNATURE ON NEXT PAGE]

IN WITNESS WHEREOF, the undersigned has executed this Plan to become effective the _____ day of _____, 2014 for the:

CITY OF CHICAGO DEFERRED COMPENSATION PLAN

(As Amended and Restated Effective [●], 2014)

By: _____
(signature)

(printed name)

(title/role)