

ORIGINAL

**MODESTO IRRIGATION DISTRICT  
DEFERRED COMPENSATION PLAN**

**(As Amended and Restated Effective January 1, 2022)**

**MODESTO IRRIGATION DISTRICT  
DEFERRED COMPENSATION PLAN**

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**MODESTO IRRIGATION DISTRICT  
DEFERRED COMPENSATION PLAN**

The Modesto Irrigation District Deferred Compensation Plan (Plan) was established effective as of January 1, 1980 to provide retirement income and other deferred benefits to the Employees of Modesto Irrigation District (Employer) and their Beneficiaries. The Employer intends to maintain the Plan as an eligible deferred compensation plan within the meaning of section 457(b) of the Internal Revenue Code (Code). The Plan is established and shall be maintained for the exclusive benefit of the Participants and their Beneficiaries. The principal changes reflected in this amendment and restatement are those required to conform the Plan to the requirements of legislation that was enacted subsequent to the 2011 restatement of the Plan. This amendment and restatement are effective as of January 1, 2022 (except as otherwise set forth below).

**ARTICLE 1. DEFINITIONS**

The following words and terms as used in this Plan shall have the meaning set forth below, unless a different meaning is clearly required by the context.

1.01. Administrator.

"Administrator" means the chief human resources manager of the Employer (or such other individual appointed by the Board of Directors from time to time), with respect to ministerial administration of the Plan.

1.02. Agent.

"Agent" means the plan service agent to be appointed by and serve at the pleasure of the Employer.

1.03. Alternate Payee.

"Alternate Payee" means the person who is or was the spouse of the Participant or is the child of the Participant to the extent that such person is entitled to any or all of a Participant's Deferred Benefit under a court order that the Administrator has determined to be a Plan Approved Domestic Relations Order.

1.04. Applicable Dollar Amount.

"Applicable Dollar Amount" means the applicable dollar amount determined pursuant to Code section 457(e)(15) and in effect for the taxable year of the Participant. Such amounts are set forth below:

<b>For taxable years beginning in:</b>	<b>The Applicable Dollar Amount is:</b>
2002	\$11,000
2003	\$12,000
2004	\$13,000
2005	\$14,000
2006	\$15,000
2007	\$15,500
2008	\$15,500
2009	\$16,500
2010	\$16,500
2011	\$16,500
2012	\$17,000
2013	\$17,500
2014	\$17,500
2015	\$18,000
2016	\$18,000
2017	\$18,000
2018	\$18,500
2019	\$19,000
2020	\$19,500
2021	\$19,500
2022	\$20,500

The Applicable Dollar Amount may be adjusted by the Secretary of the Treasury for future taxable years.

1.05. Basic Plan.

"Basic Plan" means the Basic Retirement Plan for Employees of Modesto Irrigation District, as such plan may be amended from time to time.

1.06. Beneficiary.

"Beneficiary" means the person or persons, whether natural or non-natural, including but not limited to a trustee or other fiduciary, designated by a Participant or by the Plan to receive benefits under the Plan attributable to such Participant after the death of such Participant.

1.07. Board of Directors.

"Board of Directors" means the Board of Directors of the Employer.

1.08. Catch-Up Contribution.

"Catch-Up Contribution" means the additional amount of Compensation that may be deferred under the Plan in accordance with either the Normal Retirement Age Catch-Up Limitation subsection or the Age 50 Catch-Up Contributions subsection of the Annual Limit section.

1.09. Code.

"Code" means the Internal Revenue Code of 1986, as the same may be amended from time to time, or the corresponding section of any subsequent Internal Revenue Code, and, to the extent not inconsistent therewith, regulations issued thereunder.

1.10. Committee.

"Committee" means the Retirement Committee established and acting under the Basic Plan.

1.11. Compensation.

"Compensation" means a Participant's wages, salary and other amounts received for personal services rendered to the Employer as an Eligible Employee during the Participant's current taxable year, including compensation payable as bonuses, overtime, accumulated sick pay, accumulated vacation pay and back pay, and excluding any compensation received in the form of non-taxable fringe benefits. Compensation shall include that portion of such amount deferred by the Participant as Deferred Compensation Contributions under this Plan.

1.12. Deferred Benefit.

"Deferred Benefit" means the deferred amount due a Participant or the Participant's Beneficiary under the Plan, as determined by the balance in the Participant's Deferred Compensation Account and any separate accounts into which amounts attributable to rollovers and other transfers into the Plan have been credited.

1.13. Deferred Compensation Account.

"Deferred Compensation Account" means the account or accounts of a Participant attributable to the Participant's Deferred Compensation Contributions, including any Catch-Up Contributions, and any earnings thereon.

1.14. Deferred Compensation Contribution.

"Deferred Compensation Contribution" means that portion of a Participant's Compensation that is deferred under the Plan pursuant to a Deferred Compensation Election.

1.15. Deferred Compensation Election.

"Deferred Compensation Election" means the election (in the form prescribed by the Administrator, as amended from time to time) made by and under which the Employee elects to participate in the Plan and, if the Participant so elects, agrees to make Deferred Compensation Contributions.

1.16. Employee.

"Employee" means any employee whose customary employment by the Employer is for at least 20 hours per week and at least 5 months per year, excluding individuals who are employed in a work-experience or student intern classification under the personnel policies of the Employer, employees whose collective bargaining agreement does not provide for coverage under the Plan, individuals who are "leased employees" within the meaning of Code section 414(n), and any other individual who is not classified by the Employer, in its discretion, as an employee under Code section 3121(d). Excluded individuals include (but are not limited to) individuals classified by the Employer, in its discretion, as independent contractors, non-employee consultants, employees of a person or an entity other than the Employer and individuals whose basic compensation for services for the Employer is not paid directly by the Employer. Such individuals shall not be Employees even if the classification by the Employer is determined to be erroneous, or is retroactively revised. In the event the classification of an individual who is excluded from the definition of Employee under this section is determined to be erroneous or is retroactively revised, the individual shall nonetheless continue to be excluded from the definition of Employee and shall be ineligible for benefits for all periods prior to the date the Employer determines its classification of the individual is erroneous or should be revised.

1.17. Employer.

"Employer" means Modesto Irrigation District, and any successor thereto.



1.18. Enabling Law.

"Enabling Law" means the provisions of the Constitution and Government Code of the State of California relevant to funded deferred compensation plans maintained by local governmental agencies.

1.19. Fund.

"Fund" means the trust fund created under and subject to the Trust Agreement.

1.20. Includible Compensation.

- A. "Includible Compensation" means the amount of the Participant's Compensation that is "includible compensation" within the meaning of Code section 457(e)(5) and that is currently includible in the Participant's gross income, plus elective Participant contributions otherwise excludable under Code section 125, 132(f)(4), 402(g)(3) or 457.
- B. Effective as of January 1, 2009, "Includible Compensation" includes differential wage payments to Participants on active duty to the extent required by the provisions of Code section 414(u)(12)(A)(ii), the Treasury regulations thereunder and any subsequent guidance issued under Code section 414(u)(12)(A)(ii).
- C. Effective as of January 1, 2008, "Includible Compensation" includes amounts paid after the Employee's severance from employment if paid by the later of two and one-half (2-1/2) months after the Employee's severance from employment, or the end of the calendar year that includes the date of the Employee's severance from employment subject to the following requirements:
  - 1. The payment is regular compensation for services during the Employee's regular working hours, or compensation for services outside the Employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments and the payment would have been made to the Employee prior to a severance from employment if the Employee had continued in employment with the Employer.
  - 2. The payment is for unused accrued bona fide sick, vacation, or other leave, but only if the Employee would have been

able to use the leave if employment with the Employer continued.

3. The payment is received by the Employee pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid to the Employee at the same time if the Employee had continued in employment with the Employer and only to the extent that the payment is includible in the Employee's gross income.

Notwithstanding the provisions of this subsection C, "Includible Compensation" shall include all payments to an individual who does not currently perform services for the Employer by reason of qualified military service (within the meaning of Code section 414(u)(1)) to the extent these 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.

1.21. Normal Retirement Age.

"Normal Retirement Age" means:

- A. Age 60 with respect to Participants whose employment commencement date with the Employer is prior to January 1, 2006;
- B. Age 60 with respect to Participants whose employment commencement date with the Employer is on or after January 1, 2006 and who are not described in the next subsection; and
- C. Age 65 with respect to Participants who are defined as "New Participants" under the Basic Plan.

1.22. Participant.

"Participant" means an Employee (or former Employee) who has made a Deferred Compensation Election under the Plan and who has not yet received all of the payments of the Deferred Benefit to which the Employee is entitled under the Plan.

1.23. Plan.

"Plan" means "Modesto Irrigation District Deferred Compensation Plan" as set forth herein or duly amended.

1.24. Plan Approved Domestic Relations Order.

"Plan Approved Domestic Relations Order" means a qualified domestic relations order within the meaning of Code section 414(p) as applicable to governmental plans within the meaning of Code section 414(d) and as determined by the Administrator pursuant to the Plan.

1.25. Plan Year.

"Plan Year" means the twelve (12) month period beginning on January 1 and ending on December 31 each year.

1.26. Required Beginning Date.

April 1 of the calendar year following the calendar in which occurs the later of (i) the Participant's retirement or (ii) the Participant's attainment of whichever of the following is applicable:

- A. If the Participant attains age 70-1/2 on or before December 31, 2019, the calendar year in which the Participant attains age 70-1/2; or
- B. If the Participant attains age 70-1/2 after December 31, 2019, the calendar year in which the Participant attains age 72.

1.27. Rollover Contribution.

"Rollover Contribution" means a rollover to this Plan of an "eligible rollover distribution" as defined in Code section 402(c)(4), of pre-tax amounts, made on behalf of a Participant by an "eligible retirement plan" as defined in the Incoming Rollovers section.

1.28. Trust Agreement.

"Trust Agreement" means the written agreement (or declaration) made by and between the Employer and the Trustee under which the Fund is maintained.

1.29. Trustee.

"Trustee" means the Trustee duly appointed and currently serving under the Trust Agreement. At all times, every Trustee shall be a directed trustee and (except as provided by the next sentence) shall be completely subject to the direction of the Employer, the Administrator, the Committee,

a Participant as to the Participant's own account under the Plan, a Beneficiary as to the Beneficiary's own account under the Plan, or an Alternate Payee as to the Alternate Payee's own account under the Plan. The Trustee's only duty is to ensure that all investments, amounts, property, and rights held under the Fund are held for the exclusive benefit of the Participants, their Beneficiaries, and the Alternate Payees.

## ARTICLE 2. PARTICIPATION AND CONTRIBUTIONS

### 2.01. Eligibility.

Each Employee shall be eligible to participate in the Plan and defer Compensation hereunder.

### 2.02. Election Required For Participation.

An Employee may elect to become a Participant in the Plan by executing a Deferred Compensation Election and filing it with the Administrator. The Deferred Compensation Election shall be made on the form provided by the Administrator and under which the Employee agrees to be bound by all the terms and conditions of the Plan. The Deferred Compensation Election shall indicate the amount or percentage of any Deferred Compensation Contribution elected by the Participant and the Participant's directed investment election pursuant to article V, and shall refer to the provisions of the Plan. The minimum amount of Compensation that may be deferred under this Plan is \$10.00 per pay period.

### 2.03. Commencement Of Participation.

An Employee shall become a Participant as of the first day of the month following the date the Employee files a Deferred Compensation Election pursuant to the Election Required For Participation section, provided the Compensation deferred is not yet payable as of the first day of such month. A new Employee may become a Participant in the same month in which the new Employee is employed if the Employee files a Deferred Compensation Election on or before the first day on which the Employee performs services for the Employer. Deferred Compensation Elections filed pursuant to this section shall remain effective until amended pursuant to the Amendment Of Deferred Compensation Election section.

### 2.04. Length Of Participation.

An Employee who becomes a Participant shall be or remain a Participant for so long as the Employee is an Employee with a Deferred

Compensation Election in effect or is entitled to future benefits under the terms of the Plan.

2.05. Responsibility To Enroll.

The Administrator shall not be responsible to notify any Employee that the Employee has become eligible to participate in the Plan. The Employer shall be responsible for informing an Employee, upon becoming an Employee, of the existence of the Plan and of the Employee's eligibility to participate. The Employee shall be responsible to take any action necessary to enroll in the Plan. Neither the Administrator, the Committee, nor the Employer shall be liable for any missed Deferred Compensation Contributions as a result of an Employee's failure to enroll.

2.06. Amendment Of Deferred Compensation Election.

Subject to all the provisions of the Plan, a Participant may at any time amend the Participant's Deferred Compensation Election to change the amount of the Participant's Deferred Compensation Contribution, the Participant's investment direction, or both. Unless the Deferred Compensation Election specifies a later effective date, a change in the amount of a Participant's Deferred Compensation Contribution shall take effect as of the next available pay date or as soon as administratively possible, but under no circumstances shall the change be effective earlier than the first day of the calendar month next following the execution of the change in the amount of the Participant's Deferred Compensation Contribution and the delivery of such a change to the Administrator. A change in the investment direction for Deferred Compensation Contributions shall take effect as of the next available pay date.

2.07. Leave Of Absence.

Unless a Participant's Deferred Compensation Election is otherwise amended, if the Participant is absent from work by leave of absence, Deferred Compensation Contributions under the Plan shall continue to the extent that the Participant's Compensation continues.

2.08. Disability.

A disabled Participant may make Deferred Compensation Contributions during any portion of the period of the Participant's disability to the extent that the Participant has actual Compensation (not imputed compensation and not disability benefits) from which to make Deferred Compensation Contributions.

2.09. Protection Of Persons Who Serve In A Uniformed Service.

- A. To the extent required by the Uniformed Service Employment and Reemployment Act (USERRA), 38 U.S.C. 4318, a person who is a member of, applies to be a member of, has performed, applies to perform, or has an obligation to perform service in a "Uniformed Service" (as defined in USERRA) shall not be denied the right to make any Deferred Compensation Contribution or other right under this Plan on the basis of such membership, performance of service, application for service, or obligation.
- B. The Plan specifically incorporates herein by reference the requirements of Code section 401(a)(37), the Treasury regulations thereunder and any subsequent guidance under Code section 401(a)(37) requiring that, if a Participant dies while performing qualified military service (as defined in Code section 414(u)), the Beneficiary(ies) of the Participant shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan had the Participant resumed employment on the date before the Participant's date of death and then had a severance from employment on account of death.
- C. For purposes of the Time Of Payment section, a Participant shall be treated as having a severance from employment during any period the Participant is performing service in the uniformed services described in Code section 3401(h)(2)(A). If a Participant elects to receive a distribution from the Plan as result of the application of this subsection, the Participant may not make Deferred Compensation Contributions to the Plan during the 6 month period beginning on the date of the distribution.

2.10. Modification Of Elections.

The Employer shall have the right to modify or disallow the periodic deferral of Compensation elected by the Participant:

- A. In excess of the limitations stated in this section;
- B. In excess of the Participant's net Compensation for any pay period;
- C. Upon any change in the length of pay period utilized by Employer (in such case the periodic deferral shall be adjusted so that approximately the same percentage of pay shall be deferred on an annual basis);

- D. In order to round periodic deferrals to the nearest whole dollar amount; or
- E. In order to reduce the future deferrals in the event that the amount actually deferred for any pay period exceeds, for any reason whatsoever, the amount elected by the Participant; in the alternative, such amount of excess deferral may be refunded to the Participant.

2.11. Beneficiary Designation.

- A. The Participant shall be entitled to designate a Beneficiary hereunder by filing a designation in writing with the Administrator on the form provided for such purpose. Any Beneficiary designation made hereunder shall be effective only if signed and dated by the Participant and delivered to the Administrator prior to the time of the Participant's death. Any Beneficiary designation hereunder shall remain effective until changed or revoked hereunder.
- B. Any Beneficiary designation may include multiple, contingent or successive Beneficiaries, a trust, and may specify the proportionate distribution to each Beneficiary. The Participant shall designate each Beneficiary by name or by class. If multiple beneficiaries are designated, absent any other provision by the Participant, those named or the survivors of them shall share equally in any amounts payable thereunder. Notwithstanding the rule that a Participant shall designate each Beneficiary by name or by class, if the Committee, in its sole discretion, finds that a Beneficiary Designation sufficiently describes a trust, that Beneficiary Designation will be construed as naming the duly appointed and currently acting trustee of that trust.
- C. A Beneficiary designation may be changed by the Participant at any time, or from time to time, by filing a new designation in writing with the Administrator.
- D. If the Participant dies without having designated a Beneficiary, or if the Beneficiary so designated has predeceased the Participant, the Participant's Beneficiary shall be, in order of priority:
  - 1. The Participant's surviving spouse;

2. If none, the Participant's children (including adopted children) and descendants of the Participant's deceased children, per stirpes;
  3. If none, the Participant's parents, equally if both living;
  4. If none, the duly appointed executor or administrator of the Participant's estate; or
  5. If none, the next of kin entitled to inherit under the laws of the Participant's domicile at the time of the Participant's death.
- E. If a Beneficiary of the Participant shall survive the Participant but shall die before the Deferred Benefit has been distributed, then, absent any other provision by the Participant, the unpaid balance thereof shall be distributed to the estate of the deceased Beneficiary.
- F. Upon the dissolution of marriage of a Participant, any designation of the Participant's former spouse as a Beneficiary shall be treated as though the Participant's former spouse had predeceased the Participant, unless (i) after the dissolution of marriage, the Participant executes another Beneficiary designation that complies with this section and that clearly names such former spouse as a Beneficiary, or (ii) a court order presented to the Committee prior to distribution on behalf of the Participant explicitly requires the Participant to continue to maintain the former spouse as the which the Participant's former spouse is treated under the Participant's Beneficiary designation as having predeceased the Participant, no heirs or other beneficiaries of the former spouse shall receive benefits from the Plan as a Beneficiary of the Participant except as provided otherwise in the Participant's Beneficiary designation.

## 2.12. Omission Of Eligible Employee.

If an Employee who should have been included as a Participant for a calendar year is erroneously omitted and discovery of the omission is made after the Deferred Compensation Contribution is made and allocated, the Employer and the Administrator may correct the erroneous omission of the Employee in accordance with the requirements of the Internal Revenue Service through standards that are similar to those set forth in the Employee Plans Compliance Resolution System as described in Revenue Procedure 2021-30 and any subsequent guidance or standards similar to such requirements.



2.13. Inclusion of Ineligible Individual.

If any individual is erroneously included as a Participant in the Plan and discovery of the erroneous inclusion is made after the Deferred Compensation Contribution is made and allocated, the Employer and the Administrator may correct the erroneous inclusion of the individual in accordance with the requirements of the Internal Revenue Service through standards that are similar to those set forth in the Employee Plans Compliance Resolution System as described in Revenue Procedure 2021-30 and any subsequent guidance or standards similar to such requirements.

ARTICLE 3. LIMITATIONS ON DEFERRED COMPENSATION

3.01. Annual Limit.

A. Normal Limitation.

The maximum amount of Compensation that may be deferred (on an elective and non-elective basis) under this Plan and any other eligible deferred compensation plan within the meaning of Code section 457(b) during a calendar year shall not exceed the lesser of (i) the Applicable Dollar Amount for the calendar year or (ii) 100% of the Participant's Includible Compensation paid during the calendar year (Contribution Limitation).

B. Normal Retirement Age Catch-Up Limitation.

1. Notwithstanding subsection A, for any one (1) or more of a Participant's last three (3) taxable years ending before the Participant attains the Participant's Normal Retirement Age, the annual limitation shall be increased but it shall not exceed the lesser of:

a. Two (2) times the Applicable Dollar Amount for the calendar year; or

b. The sum of:

a. The Contribution Limitation established pursuant to subsection A for the taxable year determined without regard to this subsection; plus

- b. So much of the Contribution Limitation established for purposes of subsection A for the taxable years before the taxable year as has not been previously used under subsection A or this subsection.
2. For purposes of determining the amount in subsection A and this subsection for years prior to 2002, the limitations are reduced by amounts excluded from the Participant's income for any prior taxable year by reason of a salary reduction or elective contribution under any other eligible Code section 457(b) plan, Code section 401(k) qualified cash or deferred arrangement, Code section 402(h)(1)(B) simplified employee pension (SARSEP), Code section 403(b) annuity contract, and Code section 408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in Code section 501(c)(18). In addition, for purposes of applying the Code section 457(b)(2)(B) limitation for Includible Compensation for years prior to 2002, the limitation shall be 33-1/3% of the Participant's Compensation includible in gross income. Such limitations apply to the plans of all employers for whom a Participant has performed services, not just those of the Employer. However, if a Participant, although eligible, did not defer any compensation under the Plan in any given year before 2002, the limitations described above shall not apply, even though the Participant may have deferred compensation under one of the other plans described.
3. For Plan Years beginning on or after January 1, 2002, if the Participant is or has been a Participant in one or more eligible deferred compensation plan(s) within the meaning of Code section 457(b), this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of subsection A and this subsection.
4. In applying this subsection, a prior taxable year shall only be taken into account if (i) it begins after December 31, 1978, (ii) the Participant was eligible to participate in the Plan during all or a portion of the taxable year, and (iii) Compensation deferred, if any, under the Plan during the taxable year was subject to the Contribution Limitation described in subsection A or any other "plan ceiling" required by Code section 457.

5. Any Catch-Up Contribution under this subsection shall be subject to the coordination limitation set forth in subsection D.

C. Age 50 Catch-Up Contributions.

Each Participant who has attained age 50 before the close of the Plan Year may make a Catch-Up Contribution as an additional Deferred Compensation Contribution in accordance with, and subject to the limitations of, Code section 414(v). An election to make a Catch-Up Contribution shall be made in accordance with procedures prescribed by the Administrator and shall be subject to the coordination limitation set forth in subsection D.

D. Coordination Of Catch-Up Contributions.

A Participant who is eligible to make Catch-Up Contributions under both subsection B and subsection C, above, for the same year is entitled to make Deferred Compensation Contributions equal to the larger of:

1. The Contribution Limitation established pursuant to subsection A plus the applicable Catch-Up Contributions under subsection C; or
2. The Contribution Limitation established pursuant to subsection A increased as provided in subsection B and disregarding the Catch-Up Contribution provision in subsection C.

3.02. Excess Deferred Compensation.

- A. The maximum amount of the Compensation that any individual may defer under Code section 457(a) during any taxable year under the Plan and any other eligible deferred compensation plans shall not exceed the limitation set forth in this section.
- B. If a Participant's Deferred Compensation for the calendar year would be more than the amount permitted (Excess Deferred Compensation), the following provisions shall apply:
  1. Any direction for such Excess Deferred Compensation shall be invalid and the directed deferral shall not be made.

2. Notwithstanding any other provision of the Plan, Excess Deferred Compensation under the Plan and any other Code section 457(b) eligible deferred compensation plan(s) maintained by the Employer, computed without regard to any other Code section 457(b) eligible deferred compensation plan(s) maintained by any employer(s) other than the Employer, and any income allocable to such amount shall be distributed from the Plan or such other plan(s), as determined by the Administrator in its sole and absolute discretion, as soon as administratively practicable after the Administrator determines that the amount is Excess Deferred Compensation to the Participant to whose account Excess Deferred Compensation was assigned.
  
3. If Excess Deferred Compensation occurs solely because of combined deferred compensation under (i) the Plan and any other Code section 457(b) eligible deferred compensation plan(s) maintained by the Employer and (ii) any other Code section 457(b) eligible deferred compensation plan(s) maintained by any employer(s) other than the Employer, the Plan (or any other Code section 457(b) eligible deferred compensation plan(s) maintained by the Employer, as determined by the Administrator in its sole and absolute discretion), may distribute the Excess Deferred Compensation and any income allocable to such amount, as soon as administratively practicable after the Administrator determines that the amount is Excess Deferred Compensation, to each Participant to whose Account Excess Deferred Compensation was assigned for the preceding calendar year. Each such Participant shall notify the Employer or the Administrator of how much Excess Deferred Compensation the Administrator should distribute from the Plan (or any other Code section 457(b) eligible deferred compensation plan(s) maintained by the Employer) in accordance with rules established by the Administrator.

#### ARTICLE 4. ACCOUNTS AND INVESTMENTS

##### 4.01. The Trust Fund.

All assets of the Plan shall be held and invested in the Fund in accordance with this Plan and the Trust Agreement.

4.02. Plan Accounts.

The Administrator shall keep (or cause to be kept) the Deferred Compensation Account for each Participant (or Beneficiary). The account or accounts of a Participant shall always be fully vested and non-forfeitable.

4.03. Investment Direction.

- A. At the time an Employee becomes a Participant and at such other times as the Administrator may determine, the Participant shall choose among the various investment vehicles provided for the investment of the Deferred Compensation Account. Thereafter, and with respect to any balance then in the Deferred Compensation Account, the Participant (and, when applicable, each Beneficiary or Alternate Payee) may, subject to the consent of the Administrator, direct any prior investment of the Deferred Compensation Account be liquidated, sold, or otherwise disposed of with the proceeds reinvested in such manner as the Participant may designate in accordance with the foregoing provisions of this section. Notwithstanding that this Plan's procedure may permit the Agent to receive investment instructions, any investment direction is not effective unless and until actually delivered in good form to and accepted by the Administrator or the Agent.
- B. The Employer, the Committee, the Administrator, the Trustee, and any other Plan fiduciary are relieved of liability for any losses which are the direct and necessary result of the investment instructions given by a Participant in accordance with California Government Code section 53213.5(b). Neither the Employer, the Committee, the Administrator, the Trustee, or any other person shall be under any duty to question any direction from any Participant or to review any investment or to make any investment suggestion to any Participant, except as otherwise required by applicable State law.

4.04. Authority To Act.

During the Participant's life, the Participant shall direct the investment of the Participant's Deferred Compensation Account. If a Plan Approved Domestic Relations Order is in place, the Alternate Payee shall direct the investment of that portion of the Participant's Deferred Compensation Account assigned to such Alternate Payee pursuant to the order. During the Participant's disability or incompetence, the person who has authority to act for the Participant under a power-of-attorney accepted by the Administrator or the person that is duly appointed and currently serving

conservator or guardian of the estate of the Participant shall direct investment of the Participant's Deferred Compensation Account. After the Participant's death, the Beneficiary shall direct the investment of the Participant's Deferred Compensation Account or each Beneficiary shall direct the investment of the Participant's segregated Deferred Compensation Account.

4.05. Investment Direction Must Be In Writing.

Each investment direction must be in writing and shall not be proper unless the writing is signed by the Participant (or when applicable, the Beneficiary or Alternate Payee). Except as otherwise specified by the Agent's investment direction procedure, "writing" and "signed" shall be construed according to the Signatures And Broad Acceptance Of Writings section, subject to any security procedures required by the Agent. Without limiting the comprehensive effect of the above, a signed writing includes, to the extent permitted by the applicable investment, a proper communication made in a manner prescribed by the Agent.

4.06. Earnings Or Losses To Deferred Compensation Account.

Each Deferred Compensation Account shall be credited with the earnings and losses on such account, which amounts shall include interest, dividends, gain or loss on the sale of any investment, or any other increase or decrease in value, income, loss or earnings, as the case may be.

4.07. Failure To Give Investment Direction.

If at any time a Participant (and, when applicable, a Beneficiary or Alternate Payee) fails to exercise the individual's duty of investment direction (or an investment direction is refused), the Administrator shall, to the extent of the failure of proper investment direction, cause the Deferred Compensation Account to be invested as specified by a procedure adopted by the Committee.

4.08. Expenses.

All costs and expenses incurred in connection with investments shall be borne by the appropriate account(s) and appropriately reflected in the balance thereof.

4.09. Statement Of Deferred Compensation Account Balance.

Within a reasonable period of time after each reporting period, not less often than quarterly, the Administrator or Agent shall provide each Participant (and, when applicable, each Beneficiary or Alternate Payee) a statement of the balance as of such date in the individual's Deferred Compensation Account including the nature and value of any assets or investments used for the purpose of valuing the Deferred Compensation Account.

4.10. Equitable Adjustment In Case of Error Or Omission.

Where an error or omission is discovered in the account of a Participant (or, when applicable, a Beneficiary or Alternate Payee), the Administrator, Committee or Agent shall be authorized to make such equitable adjustment as it deems appropriate in accordance with the requirements of the Internal Revenue Service through standards that are similar to those set forth in the Employee Plans Compliance Resolution System as described in Revenue Procedure 2021-30 and any subsequent guidance or standards similar to such requirements.

ARTICLE 5. PAYMENT OF BENEFITS

5.01. Amount Of Deferred Benefit.

The Deferred Benefit—under the Plan payable to a Participant (or, if applicable, the Participant's Beneficiary or Alternate Payee) shall be the balance in the Participant's (or, if applicable, the Participant's Beneficiary's or Alternate Payee's) Deferred Compensation Account at the time of the benefit payment.

5.02. Time Of Payment.

- A. Except as otherwise provided in the Plan, the Deferred Benefit of a Participant shall become payable to the Participant, if then alive, or otherwise to the Participant's Beneficiary, at the time elected by the Participant. Such time shall be (i) no earlier than the Participant's severance from employment with the Employer and (ii) no later than the Participant's Required Beginning Date. If the Participant has not begun payments by the Participant's Required Beginning Date, payments will automatically commence at that time.
- B. The Deferred Benefit of a Participant who is deceased before such Deferred Benefit commences to be paid to the Participant shall become payable to the Participant's Beneficiary at the time elected

by such Beneficiary. Such payments may commence as soon as possible after the date of the Participant's death but no later than the time described in the Required Minimum Distributions section. If the Beneficiary has not begun payments by the time described in the Required Minimum Distributions section, payments will automatically commence at the applicable latest time.

- C. With respect to a Plan Approved Domestic Relations Order approved by the Plan, unless the Plan Approved Domestic Relations Order is more restrictive or the Alternate Payee requests payment earlier, an Alternate Payee may make an election regarding the Alternate Payee's distribution commencement date within the same time frame and in the same manner as the Participant to whom the Deferred Benefit is attributable. If no election is made by the Alternate Payee, the default distribution commencement date shall be the Participant's Required Beginning Date.
- D. Notwithstanding the foregoing provisions of this section, payment may be delayed for a reasonable period in the event the recipient cannot be located or is not competent to receive the benefit payment, there is a dispute as to the proper recipient of such benefit payment, additional time is needed to complete the Plan valuation adjustments and allocations, or additional time is necessary to properly explain the recipient's options.

5.03. Form Of Payment When Participant Is The Initial Recipient.

- A. The Participant shall elect in writing the form in which such Deferred Benefit is to be paid to the Participant from the forms of distribution available under the applicable Plan investments or that is otherwise provided by the Administrator. Payments continuing after a Participant's death shall be made to the Participant's Beneficiary. If the Participant elects a periodic installment, such installments shall not extend over a term certain not extending beyond:
  - 1. The life expectancy of the Participant; or
  - 2. The joint life and last survivor expectancy of the Participant and the Participant's designated Beneficiary.
- B. If the Participant fails to elect a form of distribution by the Participant's Required Beginning Date, the Participant shall receive



a single sum payment of the Participant's Deferred Benefit, subject to applicable rollover rights.

- C. Unless the Plan Approved Domestic Relations Order is more restrictive, an Alternate Payee may make an election regarding the Alternate Payee's form of distribution in the same manner as the Participant to whom the Deferred Benefit is attributable. If the Alternate Payee fails to elect a form of distribution by the Participant's Required Beginning Date, the Alternate Payee shall receive a single sum payment of the Alternate Payee's Deferred Benefit, subject to applicable rollover rights.

5.04. Form Of Payment When Beneficiary Is The Initial Recipient.

- A. In the event of a Participant's death before the Participant's Deferred Benefit commences to be paid to the Participant, the Participant's Deferred Benefit shall be paid to the Participant's Beneficiary in the applicable manner described in this section. Payments continuing after a Beneficiary's death shall be made to the successor Beneficiary.
- B. The Beneficiary shall elect in writing the form in which such Deferred Benefit is to be paid to the Beneficiary from the forms of distribution available under the applicable Plan investments or that is otherwise provided by the Administrator, subject to the requirements of the Required Minimum Distributions section.
- C. If the Beneficiary fails to elect a form of distribution by the time when distributions must commence under the Required Minimum Distributions section, the Beneficiary shall receive a single sum payment of the Beneficiary's Deferred Benefit, subject to applicable rollover rights.

5.05. Required Minimum Distributions.

A. General Rules.

1. In General.

Notwithstanding any other provision of the Plan to the contrary, all distributions from the Plan shall be made in accordance with Code section 401(a)(9) and the regulations issued thereunder, including the minimum distribution incidental benefit requirements of Code section 401(a)(9)(G) and the regulations issued thereunder.

2. Precedence.

The requirements of this section will take precedence over any inconsistent provisions of the Plan, provided that this section shall not be considered to allow a Participant or Beneficiary to delay a distribution or elect an optional form of benefit not otherwise provided in the Plan.

B. Required Minimum Distributions During Participant's Lifetime.

1. Required Beginning Date.

The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.

2. Required Minimum Distribution For Each Year.

During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

- a. The quotient obtained by dividing the Participant's Deferred Compensation Account balance by the distribution period in the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the regulations, using the Participant's age as of the Participant's birthday in the distribution calendar year; or
- b. 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 Deferred Compensation Account balance by the number in the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

3. Distributions Continue Through Year Of Participant's Death.

Required minimum distributions will be determined under this subsection B beginning with the first distribution calendar

year and up to and including the distribution calendar year that includes the Participant's date of death.

C. Death Of Participant On Or After Distributions Begin.

Except as provided in the Deaths After December 31, 2021 subsection, below:

1. Surviving Spouse Is Sole Designated Beneficiary.

If the Participant dies on or after the date distributions begin and the Participant's surviving spouse is the Participant's sole designated Beneficiary, then 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 Deferred Compensation Account balance by the longer of:

- a. The remaining life expectancy of the Participant, which shall be calculated using the age of the Participant in the year of death, reduced by 1 for each subsequent year; or
- b. The remaining life expectancy of the Participant's surviving spouse, which shall be calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by 1 for each subsequent calendar year.

2. Surviving Spouse Is Not Sole Designated Beneficiary.

If the Participant dies on or after the date distributions begin and the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then 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 Deferred Compensation Account balance by the longer of:

- a. The remaining life expectancy of the Participant, which shall be calculated using the age of the Participant in the year of death, reduced by 1 for each subsequent year; or
- b. The remaining life expectancy of the Participant's designated Beneficiary, which shall be calculated for each distribution calendar year after the year of the Participant's death using the age of the designated Beneficiary in the year following the year of the Participant's death, reduced by 1 for each subsequent year.

3. 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 year after the year of the Participant's death, 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 Deferred Compensation Account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by 1 for each subsequent year.

D. Death Of Participant Before Distributions Begin.

Except as provided in the Deaths After December 31, 2021 subsection, below:

1. Surviving Spouse Is Sole Designated Beneficiary.

If the Participant dies before distributions begin and the Participant's surviving spouse is the Participant's sole designated Beneficiary, then, except as provided in paragraph 3, below, the Participant's entire interest will be distributed, or begin to be distributed, to the surviving spouse as follows:

- a. Distributions shall begin by no later than December 31 of the later of (i) the calendar year immediately following the calendar year in which the

Participant died or (ii) the calendar year in which the Participant would have attained:

- (1) Age 70-1/2 if the Participant attains age 70-1/2 on or before December 31, 2019; or
  - (2) Age 72 if the Participant attains age 70-1/2 after December 31, 2019.
- b. 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 Deferred Compensation Account balance by the remaining life expectancy of the Participant's surviving spouse, which shall be calculated for each distribution calendar year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by 1 for each subsequent calendar year.

2. Surviving Spouse Is Not Sole Designated Beneficiary.

If the Participant dies before distributions begin and the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then, except as provided in paragraph 3, below, the Participant's entire interest will be distributed, or begin to be distributed, to the designated Beneficiary as follows:

- a. Distributions shall begin by no later than December 31 of the calendar year immediately following the calendar year in which the Participant died.
- b. 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 Deferred Compensation Account balance by the remaining life expectancy of

the Participant's designated Beneficiary, which shall be calculated for each distribution calendar year after the year of the Participant's death using the age of the designated Beneficiary in the year following the year of the Participant's death, reduced by 1 for each subsequent year.

3. Election To Apply 5-Year Rule.

- a. If the Participant dies before distributions begin and there is a designated Beneficiary, distribution to the designated Beneficiary is not required to begin by the date specified in paragraph 1 or 2, above, but the Participant's entire interest will be distributed to the designated Beneficiary by December 31 of the calendar year containing the 5th anniversary of the Participant's death, if elected under subparagraph b, below. 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 either the Participant or the surviving spouse begin, this election will apply as if the surviving spouse were the Participant.
- b. Participants or Beneficiaries may elect on an individual basis whether the 5-year rule or the life expectancy rule in paragraph 1 or 2, above, applies to distributions after the death of a Participant who has a designated Beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under paragraph 1 or 2, above, or by September 30 of the calendar year which contains the 5th anniversary of the Participant's (or, if applicable, the surviving spouse's) death. If neither the Participant nor Beneficiary makes an election under this paragraph, distributions will be made in accordance with paragraph 1 or 2, above.

4. 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 will be distributed by

December 31 of the calendar year containing the 5th anniversary of the Participant's death.

5. Death Of Surviving Spouse.

If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under paragraph 1, above, this subsection D will apply as if the surviving spouse were the Participant. In applying this rule, the date of death of the surviving spouse shall be substituted for the date of death of the Participant. However, in such case, the rule in clause (ii) of paragraph 1a shall not be available to the surviving spouse of the deceased Participant's surviving spouse.

E. Definitions.

1. Designated Beneficiary.

The individual who is designated as the Beneficiary under the Plan and is the designated Beneficiary under Code section 401(a)(9) and Treasury regulations section 1.401(a)(9)-4.

2. Distribution Calendar Year.

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 distributions are required to begin under subsection B, above. 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 death 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 section 1.401(a)(9)-9 of the regulations.

4. Participant's Deferred Compensation Account Balance.

The Deferred Compensation 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 Deferred Compensation 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 Deferred Compensation Account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

F. Deaths After December 31, 2021.

In the event of the Participant's death after December 31, 2021, all distributions from the Plan shall be made in accordance with Code section 401(a)(9)(H), as amended by the Further Consolidated Appropriations Act, 2020, that includes the Setting Every Community Up for Retirement Enhancement (SECURE) Act, and the regulations and other lawful guidance issued thereunder.

1. 10 Years After Death Rule.

If a Participant's Beneficiary is a designated Beneficiary, but is not an eligible designated Beneficiary, and the Participant dies before the distribution of the Participant's entire vested Deferred Compensation Account balance, regardless of whether the Participant dies before, on, or after beginning required minimum distributions, the Participant's entire interest will be distributed by December 31 of the calendar year containing the 10th anniversary of the Participant's death.



2. Exception For Eligible Designated Beneficiaries.

The rule set forth in paragraph 1, above, shall not apply if (i) the Participant's Beneficiary is an eligible designated Beneficiary, (ii) the entire interest will be distributed in accordance with the Treasury regulations over the life of the designated Beneficiary (or over a period not extending beyond the life expectancy of such Beneficiary), and (iii) such distributions begin not later than December 31 of the calendar year immediately following the calendar year in which the Participant died; provided, however, that, if the Participant's surviving spouse is the sole designated Beneficiary such distributions need not commence until the time set forth in subparagraph D.1.a, above.

3. Special Rule For Certain Trusts.

In the case of an applicable multi-beneficiary trust, if under the terms of the trust:

- a. It is to be divided immediately upon the death of the employee into separate trusts for each beneficiary, then paragraph 2, above, shall be applied separately with respect to the portion of the Participant's interest that is payable to any eligible designated Beneficiary who is described in clause (3) or (4) of subparagraph 4.a, below); or
- b. No individual (other than an eligible designated Beneficiary who is described in clause (3) or (4) of subparagraph 4.a, below) has any right to the Participant's interest in the Plan until the death of all such eligible designated Beneficiaries with respect to the trust, then paragraph 2, above, shall apply to the distribution of the Participant's interest and any Beneficiary who is not such an eligible designated Beneficiary shall be treated as a beneficiary of the eligible designated Beneficiary upon the death of such eligible designated Beneficiary.

4. Special Definitions.

a. Eligible Designated Beneficiary.

A designated Beneficiary who is as of the date of death of the Participant:

- (1) The surviving Spouse of the Participant;
- (2) Subject to clause (3) below, a child of the Participant who has not reached majority; provided, however, that such an individual shall cease to be described in this clause (2) as of the date the individual reaches majority and any remainder of the portion of the individual's interest to which Code section 401(a)(9)(H)(ii) applies shall be distributed within 10 years after such date;
- (3) Disabled within the meaning of Code section 72(m)(7);
- (4) A chronically ill individual within the meaning of Code section 7702B(c)(2), except that the requirements of subparagraph (A)(i) thereof shall only be treated as met if there is a certification that, as of such date, the period of inability described in such subparagraph with respect to the individual is an indefinite one which is reasonably expected to be lengthy in nature; or
- (5) An individual not described in any of the preceding subclauses who is not more than 10 years younger than the Participant.

b. Applicable Multi-Beneficiary Trust.

A trust where (i) the trust has more than one beneficiary, (ii) all of the beneficiaries of which are treated as designated Beneficiaries, and (iii) at least one of the beneficiaries of which is an eligible designated beneficiary described in clause (3) or (4) of subparagraph a, above.

G. Suspension Of Required Minimum Distributions.

The minimum distribution requirements under Code section 401(a)(9) shall apply to the Plan only to the extent that such requirements are applicable by law for a year. In particular, effective as of January 1, 2020, notwithstanding the preceding provisions of this section of the Plan, a Participant or Beneficiary who would have been required to receive required minimum distributions in 2020 (or paid in 2021 for the 2020 calendar year for a Participant with a required beginning date of April 1, 2021) but for the enactment of Code section 401(a)(9)(I) of the Code (2020 RMDs), and who would have satisfied that requirement by receiving distributions that are either (i) equal to the 2020 RMDs, or (ii) one or more payments (that include the 2020 RMDs) in a series of substantially equal periodic payments made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancies) of the Participant and the Participant's designated Beneficiary, or for a period of at least 10 years (Extended 2020 RMDs), will not receive those distributions; provided, however, that such a Participant or Beneficiary will be given an opportunity to make an election as to whether or not to receive those distributions.

5.06. Acceleration Or Delay Of Payments.

If distribution of a Participant's Deferred Benefit has been deferred or is being made from the Fund in the form of periodic installments, payment of all or part of any such remaining Deferred Benefit may be made to the Participant, Beneficiary or Alternate Payee entitled to benefits prior to the scheduled time for payment upon written application delivered to the Administrator. If distribution of a Participant's Deferred Benefit is being made from the Fund in the form of periodic installments, payment of all or part of any such remaining Deferred Benefit may be delayed or decreased upon written application delivered to the Administrator, provided the requirements of the Required Minimum Distributions section, continue to be met following the change in payment. A Participant, Beneficiary or Alternate Payee may make up to 2 changes or withdrawals in any calendar year without incurring a charge. An administrative fee may be applied to changes or withdrawals in excess of 2 in a calendar year.

5.07. Plan To Plan Direct Rollover.

A. Notwithstanding any contrary provision of the Plan, but subject to any de minimis or other exceptions or limitations provided for under Code section 401(a)(31), any prospective recipient (whether a

Participant, a surviving spouse, a current or former spouse who is an Alternate Payee under a Plan Approved Domestic Relations Order, or any other person eligible to make a rollover) of a distribution from the Plan which constitutes an "eligible rollover distribution" (to the extent otherwise includible in the recipient's gross income) may direct the Trustee to pay the distribution directly to an "eligible retirement plan." Effective with respect to distributions made on or after January 1, 2008, a Beneficiary other than a Participant's (or former Participant's) surviving spouse or a Participant's (or former Participant's) spouse or former spouse who is an "alternate payee" under a qualified domestic relations order is a person eligible to make a rollover with regard to the interest of the Participant or former Participant, subject to the limitation for such a Beneficiary that an eligible retirement plan is an individual retirement account or individual retirement annuity that will be treated as an inherited individual retirement account or annuity under Code section 402(c)(11). Effective as of January 1, 2020, a direct rollover will be offered only for distributions that would be eligible rollover distributions in the absence of Code section 401(a)(9)(I).

- B. For purposes hereof, the following terms have the meanings assigned to them in Code section 401(a)(31) and, to the extent not inconsistent therewith, shall have the following meanings:
1. The term "eligible retirement plan" means an eligible plan under Code section 457(b) which is maintained by a State, political subdivision of a State, or any agency or instrumentality of a State or political subdivision of a State, a defined contribution plan which is either an individual retirement account described in Code section 408(a), a Roth individual retirement account described in Code section 408A (for distributions after December 31, 2007), an individual retirement annuity described in Code section 408(b) (other than an endowment contract), an annuity plan described in Code section 403(a), or a qualified trust described in Code section 401(a), that accepts the prospective recipient's eligible rollover distribution. An eligible retirement plan shall also mean an annuity contract described in Code section 403(b). The definition of eligible retirement plan applicable to a Participant shall also apply in the case of a distribution to a Participant's surviving spouse and to a Participant's spouse or former spouse who is the alternate payee under a Plan Approved Domestic Relations Order.

2. The term "eligible rollover distribution" means any distribution other than:
  - a. A distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made either for the life (or life expectancy) of the recipient or the joint lives (or joint life expectancies) of the recipient and the Participant's beneficiary who is an individual or for a specified period of 10 or more years;
  - b. A distribution to the extent it is required under the minimum distribution requirement of Code section 401(a)(9);
  - c. Any amount that is distributed on account of hardship; or
  - d. Any other amount which is not considered an eligible rollover distribution for purposes of Code section 402(c)(4) with respect to the Plan.

A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Code section 408(a) or (b), a Roth individual retirement account described in Code section 408A (for distributions after December 31, 2007), or a qualified plan described in Code section 401(a) (whether or not it is a defined contribution plan), or an annuity contract or a custodial account described in Code section 403(b) that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible.

- C. Any such direction shall be filed with the Administrator in such form and at such time as the Administrator may require and shall adequately specify the eligible retirement plan to which the payment shall be made.

- D. The Trustee shall make payment as directed only if the proposed transferee plan will accept the payment.
- E. Any such plan to plan transfer shall be considered a distribution option under this Plan and shall be subject to all the usual distribution rules of this Plan (including but not limited to the requirement an advance explanation of the option).
- F. The Administrator is authorized in its discretion, applied on a uniform and non-discriminatory basis, to apply any discretionary de minimis or other discretionary exceptions or limitations provided for under Code section 401(a)(31) in effecting or declining to effect plan to plan transfers hereunder.
- G. Within a reasonable time (generally not more than 180 nor less than 30 days) before the benefit payment date of a prospective recipient of an eligible rollover distribution from the Plan, the Administrator shall provide the prospective recipient with a written explanation of the rollover and tax rules required by Code section 402(f).

5.08. Notice And Election Procedures Regarding Payment.

- A. Any election authorized and any designation of a date of payment by a Participant, Beneficiary or Alternate Payee shall be in writing, shall clearly indicate the election or designation being made, and shall be filed with the Administrator and in accordance with the procedures provided in the following subsections to this section.
- B. Within a reasonable time before a Participant's Deferred Benefit is to be paid to the Participant, the Administrator shall by mail or personal delivery provide the Participant with a written explanation of:
  - 1. The terms and conditions of the applicable forms of payment, including the financial effects of the applicable forms of payment.
  - 2. The Participant's right to delay receipt of the Participant's Deferred Benefit until such later date allowed under the Plan, including the right to modify or revoke any election thereunder.
  - 3. The Participant's right to obtain an advance on or acceleration of payment of the Participant's Deferred Benefit

or to change any periodic installments as provided under the Acceleration Or Delay Of Payments section.

- C. Within a reasonable time before the Deferred Benefit of a Participant who died prior to commencement of payment of the Participant's Deferred Benefit is to be paid, the Administrator shall by mail or personal delivery provide the Participant's Beneficiary with a written explanation of:
  - 1. The terms and conditions of the applicable forms of payment.
  - 2. The Beneficiary's right to delay receipt of the Participant's Deferred Benefit until such later date allowed under the Plan, including the right to modify or revoke any election thereunder.
  - 3. The Beneficiary's right to obtain an advance on or acceleration of payment of the Participant's Deferred Benefit or to change any periodic installments under the Acceleration Or Delay Of Payments section.

5.09. Benefit Determination And Payment Procedure.

- A. Subject to the powers of the Committee, the Administrator shall make all determinations concerning eligibility for benefits under the Plan, the time or terms of payment, and the forms or manner of payment to the Participant, the Participant's Beneficiary in the event of the death of a Participant, or an Alternate Payee. The Administrator shall promptly notify the Trustee of each such determination that benefit payments are due or should cease to be made and provide to the Trustee all other information necessary to allow the Trustees to carry out said determination, whereupon the Trustee shall pay or cease to pay such benefits in accordance with the Administrator's determination.
- B. In making the determinations described above, the Administrator shall take into account the terms of any Plan Approved Domestic Relations Order received with respect to the Deferred Benefit of the Participant or any death benefit with respect to the Participant. The time and form of payment with respect to the Plan Approved Domestic Relations Order and the time and form of payment chosen by the Participant or the Participant's Beneficiary or required by the Plan shall not be altered by the terms of the Plan Approved Domestic Relations Order. The Administrator shall

make all determinations regarding benefit payments to be made pursuant to a Plan Approved Domestic Relations Order. Any benefit payments which may be subject to the terms of a domestic relations order received by the Administrator shall be suspended during the period the Administrator is considering whether the order is a Plan Approved Domestic Relations Order. In the event that benefits are in pay status at the time that a domestic relations order is received, the Administrator shall promptly notify the Trustee of the amount, if any, of the benefit payments that must be suspended for the period required by the Administrator to determine the status of the order. Upon the completion of the Administrator's review or other determination of the status of the order, the Administrator shall promptly notify the Trustee of the time benefit payments are to commence and of the identity of, and the amount and form of benefits to be paid to, the person or persons to whom payment is to be made.

5.10. Payments To Minors And Incompetents.

If a Participant, Beneficiary or Alternate Payee entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Administrator, benefits will be paid to such person as the Administrator may designate for the benefit of such Participant, Beneficiary or Alternate Payee. Such payments shall be considered a payment to such Participant, Beneficiary or Alternate Payee and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

5.11. Distribution Of Benefit When Distributee Cannot Be Located.

The Administrator shall make all reasonable attempts to determine the identity and whereabouts of a Participant, a Participant's spouse, a Participant's Beneficiary, or an Alternate Payee entitled to benefits under the Plan, including the mailing by certified mail of a notice to the last known address shown on the Employer's, the Administrator's or the Trustee's records. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the Trustee shall continue to hold the benefit due such person, subject to any applicable statute of escheats.



## ARTICLE 6. WITHDRAWALS

### 6.01. Non-Hardship Withdrawal For Inactive Participant.

- A. Consistent with Code section 457(e)(9)(A), a Participant (but not a Beneficiary or Alternate Payee) may elect to receive a "Non-Hardship Withdrawal" if (i) the Participant's Deferred Benefit does not exceed the amount described in Code section 457(e)(9)(A) (\$5,000 for Plan Years beginning on or after January 1, 1998), (ii) the Participant has not made, and the Participant's Deferred Compensation Account has not received, any Deferred Compensation Contributions during the 2 year period that ends on the date of the Non-Hardship Withdrawal, and (iii) the Participant has not previously received any Non-Hardship Withdrawal under this Plan.
- B. If the value of a Participant's Deferred Benefit is less than \$1,000, the Participant's Deferred Benefit shall be paid to the Participant without election or consent in a Non-Hardship Withdrawal, provided that (i) no amount has been deferred under the Plan with respect to the Participant during the 2-year period ending on the date of the distribution and (ii) there has been no prior distribution under the Plan to the Participant pursuant to this section.
- C. A Non-Hardship Withdrawal under this section shall be payable only as a single sum, subject to applicable rollover rights.

### 6.02. Unforeseeable Emergency Hardship Withdrawal.

In the event of any unforeseeable emergency and upon written request of the Participant, which written request shall also designate such assets or investments deemed to be liquidated or sold for purposes hereof, the Committee in its sole discretion may pay as an unforeseeable emergency hardship withdrawal in one single sum to the Participant all or any portion of a Participant's Deferred Benefit. Any such payment shall be limited to that amount reasonably necessary to alleviate the unforeseeable emergency. For purposes hereof:

- A. An unforeseeable emergency shall be defined in a manner consistent with the meaning ascribed thereto under Code section 457 and the applicable regulations as a severe financial hardship to the Participant resulting from an illness or accident of the Participant, the Participant's spouse, or the Participant's dependent (as defined in Code section 152(a), but without regard to Code sections 152(b)(1), (b)(2) and (d)(1)(B)), loss of the

Participant's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, such as damage that is the result of a natural disaster), or any other similar extraordinary and unforeseeable circumstance arising as a result of events beyond the control of the Participant.

- B. The existence of an unforeseeable emergency shall be determined on the basis of the facts and circumstances of each case, but, in any event, payment may not be made to the extent that the hardship is or may be relieved:
  - 1. Through reimbursement or compensation by insurance or otherwise;
  - 2. By liquidation of the Participant's assets, to the extent such liquidation would not itself cause a severe hardship; or
  - 3. By cessation of deferrals under the Plan.
- C. Examples of what are not considered unforeseeable emergencies include the need to send a Participant's child to college or the desire to purchase a home.
- D. The amount of any financial hardship distribution shall not exceed the lesser of:
  - 1. The amount reasonably necessary, as determined by the Employer, to satisfy the hardship (which may include any amounts necessary to pay any federal, State, or local income taxes or penalties reasonably anticipated to result from the distribution); or
  - 2. The amount of the Participant's Deferred Compensation Account.

## ARTICLE 7. PLAN TO PLAN TRANSFERS

### 7.01. In-Service Transfer Out Of Plan.

- A. Consistent with Code section 457(e)(17), the Plan shall transfer, in the form of a trustee-to trustee transfer, to a governmental defined benefit plan, such amount as the Participant shall request, but not to exceed the amount necessary to purchase permissive service credits (as defined in Code section 415(n)(3)(A) and allowed under

such plan or to make repayments to which Code section 415 does not apply by reason of Code section 415(k)(3).

- B. Notwithstanding the preceding provision, in accordance with, but only to the extent required by, California Government Code section 7522.46 as in effect on January 1, 2013 or as subsequently amended, and the lawful guidance published thereunder, no portion of a Participant's Deferred Compensation Account may be transferred to the trustee of a defined benefit plan of a California "public retirement system," as that term is defined in California Government Code section 7522.04(j), for the purchase of "nonqualified service credit" as that term is defined in Code section 415(n)(3)(C).

7.02. Transfer Into Plan.

The Administrator will accept and credit to a Participant's account amounts transferred from another employer representing amounts held by such other employer under an "eligible" plan (within the meaning of Code section 457(b)). Any such transferred amount shall not be treated as Deferred Compensation Contributions subject to the limitations under article III, "Limitations On Deferred Compensation," except for the amount of deferred compensation contributions made by the Participant during the Participant's taxable year in which the transfer occurred which is treated as a Deferred Compensation Contribution subject to such limitations. The amount of any deferred compensation under the plan from which the transfer is made shall be taken into account in computing the Code section 457 Catch-Up Contribution limitations under this Plan.

7.03. Incoming Rollovers.

An eligible rollover distribution may be accepted in the Administrator's discretion from an eligible retirement plan maintained by another employer, and credited to a Participant's Deferred Compensation Account under the Plan. The Administrator may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Code section 402 and to confirm that such plan is an eligible retirement plan within the meaning of Code section 402(c)(8)(B). The Plan shall separately account for eligible rollover distributions from any eligible retirement plan that is not an eligible deferred compensation plan described in Code section 457(b) maintained by an eligible governmental employer described in Code section 457(e)(1)(A).

## ARTICLE 8. ADMINISTRATION

### 8.01. The Committee.

The Committee shall have the powers, duties and responsibilities set forth herein. The Committee shall be the "plan administrator" for purposes of the Code.

### 8.02. Actions of the Committee.

The Committee may adopt rules and regulations for the administration of the Plan consistent with the terms of the Plan. The action of a majority of the members of the Committee shall constitute the action of the Committee and shall be final and conclusive regarding the exercise of its authority under the terms of the Plan. The Committee shall maintain full and complete written records of its deliberations and decisions.

### 8.03. Expenses Of The Committee.

The members of the Committee shall serve without compensation. The Committee shall have the right to use the Employer's facilities in maintaining accounts and records and discharging its duties hereunder. The Committee may direct the Trustee or other third party administrator to reimburse the Committee or compensate any accountant, actuary, attorney, advisor or administrator from investment income for reasonable expenses incurred in connection with the administration of the Plan, unless the Employer has agreed to reimburse the Committee for such item of expense.

### 8.04. Powers Of The Committee.

The Committee shall have all powers to perform all duties necessary to exercise its functions including, but not limited to, the:

- A. Determination of Employees' eligibility, participation and benefits under the Plan;
- B. Determination of the existence of an unforeseeable emergency and amounts allowed to be withdrawn pursuant to such determination;
- C. Establishment and maintenance of separate accounts and written records showing at any time the interest of a Participant in the Participant's account;

- D. Filing of all such annual reports, financial and other statements as may be required by any applicable federal or State statute or regulation within the time prescribed for filing such documents;
- E. Provision of such reports, statements and other documents to Participants, Beneficiaries and Alternate Payees as may be required by any applicable federal or State statute or regulation within the time prescribed for providing such documents;
- F. Interpretation and construction of the provisions of the Plan in its discretion;
- G. Direction of the Trustee to make disbursement of benefits to the extent not performed by the Administrator;
- H. Appointment of such agents, advisors, counsel and delegates as may be necessary and appropriate for the administration and operation of this Plan and the delegation to such agents, advisors, counsel and delegates of any of its discretionary and ministerial powers and duties in accordance with this section; and
- I. Composition of and provision to Participants by the Administrator of all forms as described in this Plan.

8.05. Administrator.

The ministerial administration of the Plan shall be by the Administrator. The duties of the Administrator shall include, but are not limited to:

- A. To act as Secretary to the Committee;
- B. To act as advisor to the Committee in all matters related to the administration of the Plan;
- C. To supervise the clerical and technical employees of the Employer in all activities which are related to the administration of the Plan; and
- D. To perform all administrative functions of the Plan which are requested by the Committee which are consistent with the terms and provisions of the Plan. The Administrator does not have any duties concerning a Participant's selection of plan investments.

8.06. Responsibilities Of Administrator.

The Administrator is responsible for performing all ministerial duties required for the operation of the Plan, and is responsible for supervising the performance of any other persons who may assist in the performance of the Administrator's responsibilities pursuant to the Plan.

8.07. Information From Employer.

To enable the Administrator to perform its responsibilities, the Employer shall promptly provide to the Administrator complete and accurate information on any matter that is required by the Administrator in order to make any decision or determination under the Plan. The Administrator shall rely upon this information as supplied by the Employer and shall have no duty or responsibility to verify this information.

8.08. Administrator May Delegate Or Contract.

Except as prohibited by the Enabling Law, the Administrator may, except when expressly prohibited by this Plan, delegate any of its duties to any Employer, or to any officers, employees, or agents of any kind. Except as prohibited by the Enabling Law, the Administrator may, except when expressly prohibited by this Plan, contract any of its duties to the Agent or otherwise.

8.09. Plan Services.

The Administrator may contract with any person to provide services to assist in the administration of the Plan. The Administrator must make such contracts in compliance with the Enabling Law and other applicable state or local law. Any person other than the Administrator who performs services regarding the Plan (including but not limited to the Agent) is subject to the supervision and direction of the Administrator and does not have authority to control the operation of the Plan.

8.10. Revocability Of Action.

Any action taken by the Administrator or the Committee with respect to the rights or benefits under the Plan of any person shall be revocable by the Administrator or the Committee, respectively, as to payments or distributions not theretofore made pursuant to such actions, and appropriate adjustments may be made in future payments or distributions to a Participant, Beneficiary or Alternate Payee to offset any excess payment or underpayment made to such Participant, Beneficiary or Alternate Payee.

## ARTICLE 9. AMENDMENT AND TERMINATION

### 9.01. Termination Of The Plan.

The Employer reserves the right to terminate this Plan at any time, provided that no such termination shall reduce, suspend or terminate the Deferred Benefit otherwise payable to a Participant, Beneficiary or Alternate Payee hereunder as of the date of such termination. In the event of termination of this Plan, the various investment options provided for Deferred Compensation Accounts, and all Deferred Compensation Accounts invested therein, shall be immediately liquidated and all such Deferred Benefits shall be held in an account selected by the Committee, designed to insure the preservation of the assets of the terminated Plan. To the extent required by the "exclusive benefit" rule, any termination of the Plan shall not be effective to the extent that the amendment has the effect of causing any Plan assets to be diverted to or inure to the benefit of the Employer, or to be used for any purpose other than providing Deferred Benefits to Participants, Beneficiaries and Alternate Payees, and defraying reasonable expenses of administering the Plan.

### 9.02. Amendment Of The Plan.

The Board of Directors may amend the Plan at any time, consistent with the Enabling Law and the Code, provided that no such amendment shall reduce, suspend or terminate the Deferred Benefit otherwise payable to a Participant, Beneficiary or Alternate Payee hereunder as of the date of such amendment. To the extent required by the "exclusive benefit" rule, any amendment of the Plan shall not be effective to the extent that the amendment has the effect of causing any Plan assets to be diverted to or inure to the benefit of the Employer, or to be used for any purpose other than providing Deferred Benefits to Participants, Beneficiaries and Alternate Payees, and defraying reasonable expenses of administering the Plan.

## ARTICLE 10. MISCELLANEOUS

### 10.01. Status Of Participants.

Neither the establishment of the Plan nor any modification thereof, nor the establishment of any Deferred Compensation Account, nor the agreement between the Participant and the Trustee, nor the payment of any benefits, shall be construed as giving any Participant or other person any legal or equitable right against the Employer, and in not event shall the terms of

employment of any Employee or Participant be modified or in any way affected hereby.

10.02. Assets Of The Plan.

It is a condition of this Plan, and each Employee by participating herein expressly agrees, that the Employee, the Employee's Beneficiaries and the Employee's Alternate Payees shall look solely to the assets of the Plan for the payment of any benefit to which the individual is entitled under the Plan.

10.03. Non-Assignability.

The interests of each Participant hereunder the Plan are not subject to the claims of the Participant's creditors; and neither the Participant nor the Participant's Beneficiary, shall have any right to sell, assign, transfer or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be non-assignable and non-transferable.

A. Domestic Relations Orders.

Notwithstanding the foregoing, the Administrator shall honor any Plan Approved Domestic Relations Order. Nothing in this subsection shall be construed to authorize any amount to be distributed under the Plan at a time or in a form that is not permitted under the Plan or Code section 457. Any payment made to a person other than the Participant pursuant to this subsection shall be reduced by required income tax withholding; the fact that payment is made to a person other than the Participant may not prevent such payment from being includible in the gross income of the Participant for withholding and income tax reporting purposes. The Plan's liability to pay benefits to a Participant shall be reduced to the extent that amounts have been paid or set aside for payment to another person pursuant to this subsection. No such transfer shall be effectuated unless the Administrator has been provided with satisfactory evidence that the Plan is released from any claim with respect to such amounts, in any case in which (i) the Plan has been served with legal process or otherwise joined in a proceeding relating to such transfer, (ii) the Participant has been notified of the pendency of such proceeding in the manner prescribed by the law of the jurisdiction in which the proceeding is pending for service of process in such action or by mail from the Employer or Administrator to the Participant's last known mailing address, and (iii) the Participant fails to obtain an order of the court in the



proceeding relieving the Plan and the Administrator from the obligation to comply with the judgment, decree, or order. In the course of any proceeding relating to divorce, separation, or child support, the Administrator shall be authorized to disclose information relating to the Participant's account to the Participant's spouse, former spouse, or child (including the legal representatives of the spouse, former spouse, or child), or to a court.

B. Debt To Employer.

Notwithstanding the foregoing, the Administrator shall honor any process for a debt to the Employer. Under no circumstances may a payment under this subsection take place before the Participant separates from service or reaches age 70-1/2, whichever is earlier.

C. IRS Levy.

Notwithstanding the foregoing, the Administrator may pay to the Internal Revenue Service from a Participant's (or Beneficiary's or Alternate Payee's) Deferred Compensation Account the amount that the Administrator finds is lawfully demanded under a levy issued by the IRS with respect to that Participant (or Beneficiary or Alternate Payee) 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 or Alternate Payee). Except in the case of an Alternate Payee, under no circumstances may a payment under this subsection take place before the Participant separates from service or reaches age 70-1/2, whichever is earlier.

D. Cost Of Plan Defense.

Neither the Employer, the Trustee, the Committee, the Administrator, the Agent nor any person serving under contract or otherwise with respect to the Plan shall be obligated to incur any cost to defend against or set aside any judgment, decree, or order relating to the division, attachment, garnishment, or execution of or levy upon the Participant's Deferred Compensation Account or any distribution, including (but not limited to) any order in any bankruptcy proceeding of any kind. Notwithstanding the foregoing, if any such person is joined in any proceeding, the party may take such action as it considers necessary or appropriate to protect any and all of its legal rights, and the Participant (or Beneficiary or Alternate Payee) shall reimburse all actual fees of lawyers and legal assistants and expenses reasonably incurred by such party.

To the extent such fees and expenses would otherwise be borne by the Plan, such amounts may be charged against the Participant's, Beneficiary's or Alternate Payee's Deferred Compensation Account.

10.04. Binding Effect.

The Plan shall be binding upon and inure to the benefit of the Employer, its successors and assigns, and the Participant and the Participant's heirs, executors, administrators and legal representatives.

10.05. Construction.

The Plan is intended to be an "eligible" deferred compensation plan within the meaning of Code section 457(b) and maintained by a State, political subdivision of a State or any agency or instrumentality of a State or political subdivision of a State and the provisions of the Plan shall be interpreted and administered as such. Additionally, the Plan is established and maintained with the intent that it conform to the applicable requirements of the Enabling Law. The provisions of the Plan shall be interpreted whenever possible to state provisions that conform to the applicable requirements of the Enabling Law. When the Enabling Law is amended or interpreted through subsequent legislation or regulations or an attorney general opinion, the Plan should be construed as stating provisions consistent with such amendment or interpretation of the applicable law.

10.06. Gender And Number.

In construction of the Plan, the masculine shall include the feminine or neuter and the singular shall include the plural and vice-versa in all cases where such meanings would be appropriate.

10.07. Governing Law.

The Plan shall be construed, enforced and administered in accordance with the laws of the State of California, including any law preventing an individual or person claiming through him from acquiring property or receiving benefits as a result of the death of a decedent where such individual caused the death.

10.08. No Rights Created by Allocation.

Any allocation of contributions or investment earnings to any Deferred Compensation Account shall not cause the Participant to have any right, title, interest, in any of the Plan, except as expressly provided by the Plan.

10.09. Service Of Legal Process.

Requests for information, claims or demands, legal process, and court orders are properly delivered when delivered to the Administrator's principal place of business.

10.10. Severability.

If any provision of the Plan should for any reason be declared invalid or unenforceable by a court of competent jurisdiction, the remaining provisions shall nevertheless remain in full force and effect.

10.11. Signatures And Broad Acceptance Of Writings.

A. Except as provided in subsection B, all notices required to be given in writing and all elections, consents, applications and the like required to be made in writing, under any provision of the Plan, shall be invalid unless made on such forms as may be provided or approved by the Administrator and, in the case of a notice, election, consent or application by a Participant or Beneficiary, unless executed by the Participant or Beneficiary giving such notice or making such election, consent or application.

B. Subject to limitations under applicable provisions of the Code, the Administrator is authorized in its discretion to accept other means for receipt of effective notices, elections, consents, applications and/or other forms or communications by Participants and/or Beneficiaries, including but not limited to electronic transmissions through e-mail, voice mail, recorded messages on electronic telephone systems, and other permissible methods, on such basis and for such purposes as it determines from time to time.

10.12 Statute Of Limitations.

As to any action at law or in equity under or with respect to this Plan (other than as described by the other sentence of this section), the action shall be governed by (or precluded by) the relevant statute of limitations or statute of repose for actions upon a written contract according to the internal laws (without regard to the law of conflicts) of the State of

California. For any dispute that was resolved by arbitration, to the extent that the statute of limitations or statute of repose relating to any arbitration proceeding or arbitration award or any other matter relating to arbitration shall be governed by the internal laws (without regard to the law of conflicts) of the State of California.

10.13 Titles And Captions.

Titles and captions and headings herein have been inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

10.14. Waiver.

Failure to insist upon strict compliance with any provision of this Plan shall not be deemed to be a waiver of such provision or any other provision; waiver of breach of any provision of this Plan shall not be deemed to be a waiver of any other provision or subsequent breach of such provision. No term, condition, or provision of the Plan shall be deemed waived unless the purported waiver is in a writing signed by the party to be charged. No written waiver shall be deemed a continuing waiver unless so specifically stated in the writing, and such waiver shall operate only as to the specific term, condition, or provision waived.

10.15. Entire Document.

This document and any appendices or supplements hereto shall constitute the entire document and shall govern the rights, liabilities and obligations of the parties under the Plan, except as it may be modified by a duly authorized and adopted amendment. No statements contained in any other writing or communication, including, but not limited to, a summary plan description or a summary of material modifications, shall constitute the terms of the Plan.

Executed this 27 day of October, 2022.

Modesto Irrigation District

By: 

John Mensinger

Title: President

MID Board President

**RESOLUTION 2022-46**

**APPROVING AND AUTHORIZING THE BOARD PRESIDENT TO EXECUTE THE AMENDED AND RESTATED MODESTO IRRIGATION DISTRICT RETIREMENT SYSTEM BASIC RETIREMENT PLAN, SUPPLEMENTAL RETIREMENT PLAN, DEFERRED COMPENSATION PLAN, AND RETIREE MEDICAL BENEFITS PLAN**

WHEREAS, the Modesto Irrigation District Retirement System Basic Retirement Plan, Supplemental Retirement Plan, Deferred Compensation Plan, and Retiree Medical Benefits Plan (Plans) have been amended and restated to clarify language, remove extraneous inapplicable language, conform to statutory/regulatory requirements, and incorporate amendments into the body of the documents for the effective administration of the Plans; and

WHEREAS, the Plans have been amended and restated to reflect changes which the District has determined are necessary or desirable; and

WHEREAS, on October 19, 2022, the Retirement Committee, by Retirement Committee Resolution 2022-02, authorized and directed staff to recommend to the Board of Directors of the Modesto Irrigation District approval and execution of the amended and restated Modesto Irrigation District Retirement System Basic Retirement Plan, Supplemental Retirement Plan, Deferred Compensation Plan, and Retiree Medical Benefits Plan.

BE IT RESOLVED, That the Board of Directors of the Modesto Irrigation District does hereby approve the Amended and Restated Modesto Irrigation District Retirement System Basic Retirement Plan, Supplemental Retirement Plan, Deferred Compensation Plan, and Retiree Medical Benefits Plan.

BE IT FURTHER RESOLVED, That the Board of Directors of the Modesto Irrigation District does hereby authorize the Board President to execute the amended and restated Modesto Irrigation District Retirement System Basic Retirement Plan, Supplemental Retirement Plan, Deferred Compensation Plan, and Retiree Medical Benefits Plan on behalf of the District.

Moved by Director Gilman, seconded by Director Campbell, that the foregoing resolution be adopted.

The following roll call vote was had:

Ayes: Directors Campbell, Gilman and Mensinger


Noes: Director None

Absent: Directors Blom and Byrd

President Mensinger declared the resolution adopted.

oOo

I, Angela Cartisano, Board Secretary of the Modesto Irrigation District, do hereby CERTIFY that the foregoing is a full, true and correct copy of a resolution duly adopted at a special meeting of said Board of Directors held the twenty-fifth day of October 2022.



Board Secretary of the  
Modesto Irrigation District