

**City of Pensacola Deferred Compensation Plan for  
Elected Officers and Part-Time, Seasonal and Other  
Temporary Employees  
Amendment for  
HEART AND WRERA**

**ARTICLE I  
PREAMBLE**

- 1.1 **Effective date of Amendment.** The Employer adopts this Amendment to the Plan to reflect recent law changes. This Amendment is effective as indicated below for the respective provisions.
- 1.2 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.3 **Employer's election.** The Employer adopts all the default provisions of this Amendment except as otherwise elected in Article II.
- 1.4 **Construction.** Except as otherwise provided in this amendment, any reference to "Section" in this Amendment refers only to sections within this Amendment, and is not reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to any Plan article, section or other numbering designations.
- 1.5 **Effect of restatement of Plan.** If the Employer restates the Plan, then this Amendment shall remain in effect after such restatement unless the provision in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated onto a plan document which incorporates these HEART and WRERA provisions).

**ARTICLE II  
EMPLOYER ELECTIONS**

The Employer only needs to complete the questions in Sections 2.2 through 2.3 below in order to override the default provisions set forth below.

- 2.1 **Default Provisions.** Unless the Employer elects otherwise in this Article, the following defaults will apply:
  - a. Continued benefit accruals pursuant to the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act) are not provided.
  - b. Differential wage payments are treated as Compensation for all Plan benefit purposes.
  - c. The Plan permits distributions pursuant to the HEART Act on account of "deemed" severance of employment.
  - d. Requirement minimum Distributions (RMDs) for 2009 were continued unless a Participant or Beneficiary elected otherwise.

## 2.2 HEART ACT provisions (Article III).

**Continued benefit accruals.** Amendment Section 3.2 will not apply unless elected below:

- a. ☐ The provisions of Amendment Section 3.2 apply effective as of: (select one)
1. ☐ the first day of the 2007 Plan Year
  2. ☐ \_\_\_\_\_ (may not be earlier than the first day of the 2007 Plan Year).

However, the provisions no longer apply effective as of: (select if applicable)

3. ☐ \_\_\_\_\_.

**Differential pay.** Differential wage payments (as described in Amendment Section 3.3) will be treated, for Plan Years beginning after December 31, 2008, as compensation for all Plan benefit purposes unless b. is elected below:

- b. ☐ In lieu of the above default provision, the employer elects the following (select all that apply; these selections do not affect the operation of Amendment Section 3.3(ii)):
1. ☐ the inclusion is effective for Plan Years beginning after \_\_\_\_\_  
(May not be earlier than December 31, 2008).
  2. ☐ the inclusion only applies to Compensation for purposes of Elective Deferrals.

**Distributions for deemed severance of employment.** The Plan permits distributions pursuant to Amendment Section 3.4 unless otherwise elected below:

- c. ☐ The Plan does not permit such distributions.
- d. ☐ The Plan permits such distributions effective as of \_\_\_\_\_ (may not be earlier than January 1, 2007).

## 2.3 WRERA (RMD waivers for 2009). The provisions of Amendment Section 4.2 apply (RMDs continued unless otherwise elected by a Participant or Beneficiary) unless otherwise elected below:

- a. ☒ The provisions of Amendment Section 4.1 apply (RMDs were suspended unless a Participant or Beneficiary elected otherwise).
- b. ☐ RMDs continued in accordance with the terms of the Plan without regard to this Amendment (i.e., no election available to Participants or Beneficiaries).
- c. ☐ Other: \_\_\_\_\_.

For purposes of Amendment Section 4.3, the Plan will also treat the following as eligible rollover distributions in 2009: (If no election is made, then the direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code §401(a)(9)(H)):

- d. ☐ 2009 RMDs and Extended 2009 RMDs (both as defined in Article IV of this Amendment).
- e. ☐ 2009 RMDs (as defined in Article IV of this Amendment) but only if paid with an additional amount that is an eligible rollover distribution without regard to Code §401(a)(9)(H).

## ARTICLE III HEART ACT PROVISIONS

- 3.1 **Death benefits.** In the case of a death occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Code §401(u)), the Participant's Beneficiary is entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Participant had resumed employment and then terminated employment on account of death. Moreover, the Plan will credit the Participant's qualified military service as service for vesting purposes, as though the Participant had resumed employment under USERRA immediately prior to the Participant's death.

3.2 **Benefit accrual.** If the Employer elects in Amendment Section 2.2 to apply this Section 3.2, then effective as of the date specified in Amendment Section 2.2, for benefit accrual purposes, the Plan treats and individual who dies or becomes disabled (as defined under the terms of the Plan) while performing qualified military service with respect to the Employer as if the individual had resumed employment in accordance with the individual's reemployment rights under USERRA, on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability.

a. **Determination of benefits.** The Plan will determine the amount of employee contributions and the amount of elective deferrals of an individual treated as reemployed under this Section 3.2 for purposes of applying paragraph Code §414(u)(8)(C) on the basis of the individual's average actual employee contributions or elective deferrals for the lesser of: (i) the 12-month period of service with the Employer immediately prior to the qualified military service; or (ii) the actual length of continuous service with the Employer.

3.3 **Differential wage payments.** For years beginning after December 31, 2008: (i) an individual receiving a differential wage payment, as defined by Code §3401(h)(2), is treated as an employee of the employer making the payment; (ii) the differential wage payment is treated as compensation for purposes of Code §415(c)(3) and Treas. Reg. §1.1415(c)-2 (*e.g.* for purposes of Code §415, including the definition of post-severance compensation for deferral purposes under Treas. Reg. §1.457-4(d)(1)); and (iii) the Plan is not treated as failing to meet the requirements of any provision described in Code §414(u)(1)(C) (or corresponding plan provisions) by reason of any contribution or benefit which is based on the differential wage payment. Differential wage payments (as described herein) will also be considered compensation for all Plan purposes unless otherwise elected at Amendment 2.2.

Section 3.3(iii) above only if all employees of the Employer performing service in the uniformed services described in Code §3401(h)(2)(A) are entitled to receive differential wage payments (as defined in Code §3401(h)(2)) on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the Employer, to make contributions based on the payments on reasonably equivalent terms (taking into account Code §§410(b)(3), (4), and (5)).

3.4 **Deemed Severance.** Notwithstanding Section 3.3(i), if a Participant performs service in the uniformed services (as defined in Code §414(u)(12)(B)) on active duty for a period of more than 30 days, the Participant will be deemed to have a severance from employment solely for purposes of eligibility for distribution of amounts not subject to Code §412. However, the Plan will not distribute such a Participant's account on account of this deemed severance unless the Participant specifically elects to receive a benefit distribution hereunder. If a Participant elects to receive a distribution on account of this deemed severance, then the individual may not make an elective deferral or employee contribution during the 6-month period beginning on the date of the distribution. If a Participant would be entitled to a distribution on account of a deemed severance, and a distribution on account of another Plan provision (such as a qualified reservist distribution), then the other Plan provision will control and the 6-month suspension will not apply.

**ARTICLE IV**  
**WAIVER OF 2009 REQUIRED DISTRIBUTIONS**

- 4.1 **Suspension of RMDs unless otherwise elected by Participant.** This paragraph does not apply if the Employer elected Amendment Section 2.3a, b, or c. Notwithstanding the provisions of the Plan relating to required minimum distributions under Code §401(a)(9), a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Code §401(a)(9)(H) ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's designated Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will not receive those distributions for 2009 unless the Participant or Beneficiary chooses to receive such distributions. Participants and Beneficiaries described in the preceding sentence will not be given the opportunity to elect to receive the distributions described in the preceding sentence.
- 4.2 **Continuation of RMDs unless otherwise elected by Participant.** This paragraph applies if Amendment Section 2.3a is selected. Notwithstanding the provisions of the Plan relating to required minimum distributions under Code §401(a)(9), a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Code §401(a)(9)(H) ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's designated Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will not receive those distributions for 2009 unless the Participant or Beneficiary chooses to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence.
- 4.3 **Direct Rollovers.** Notwithstanding the provisions of the Plan relating to required minimum distributions under Code §401(a)(9), and solely for purposes of applying the direct rollover provisions of the Plan, certain additional distributions in 2009, as elected by the Employer in Amendment Section 2.3, will be treated as eligible rollover distributions. If no election is made by the Employer in Amendment Section 2.3, then a direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code §401(a)(9)(H).

\* \* \* \* \*

This Amendment has been executed this 24<sup>th</sup> day of <sup>March</sup>~~February~~, 2016.

By:   
Richard Barker, Jr., Chief Financial Officer

**City of Pensacola  
Deferred Compensation Plan  
for Elected Officers and Part-Time, Seasonal and  
Other Temporary Employees**



**GRAYROBINSON, P.A.  
GOVERNMENTAL 457(b) PLAN  
ADOPTION AGREEMENT**

**SECTION 1  
EMPLOYER INFORMATION**

**1-1 EMPLOYER INFORMATION:**

Name: City of Pensacola  
222 West Main Street  
Pensacola, Florida 32502

Telephone: (850) 435-1831

Fax: (850) 435-1700

**1-2 EMPLOYER IDENTIFICATION NUMBER (EIN):** 59-6000406

**1-3 TYPE OF EMPLOYER (optional):**

- ☐ (a) State
- ☒ (b) Political Subdivision of a State: (Describe) Municipality
- ☐ (c) Agency or Instrumentality of a State: (Describe) \_\_\_\_\_
- ☐ (d) Other governmental entity: (Describe) \_\_\_\_\_

**1-4 EMPLOYER'S TAX YEAR END:** The Employer's tax year ends September 30<sup>th</sup>

**1-5 RELATED EMPLOYERS:** (optional) List any Related Employers. A Related Employer must complete a Participating Employer Adoption Page for Employees of that Related Employer to participate in this Plan.

\_\_\_\_\_

\_\_\_\_\_

**SECTION 2  
PLAN INFORMATION**

**2-1 PLAN NAME:** City of Pensacola Deferred Compensation Plan for Elected Officers and Part-Time, Seasonal and Other Temporary Employees

**2-2 TYPE OF CONTRIBUTIONS:** (Check all that apply.)

- ☒ (a) Salary Deferral Contributions
- ☐ (b) Employer Matching Contributions
- ☐ (c) Employer Contributions

**2-3 PLAN YEAR:**

- ☐ (a) Calendar year
- ☒ (b) The 12-consecutive month period ending on September 30<sup>th</sup> each year.
- ☐ (c) Other: \_\_\_\_\_

**SECTION 3  
ELIGIBLE EMPLOYEES**

- 3-1 **ELIGIBLE EMPLOYEES:** In addition to the Employees identified in Section 2.02 of the Plan, the following Employees are excluded from participation under the Plan with respect to the contribution source(s) identified in this AA §3-1. (See Sections 2.02(d) and (e) of the Plan for rules regarding the effect on Plan participation if an Employee changes between an eligible and ineligible class of employment.)

Deferral	Match	ER	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(a) No exclusions.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(b) Collectively Bargained Employees.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(c) Nonresident aliens who receive no compensation from the Employer which constitutes U.S. source income.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(d) Employees who normally work less than _____ (not more than 20) hours a week. (See Section 2.02(b)(5) of the Plan.)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(e) Employees eligible for a 401(k), a 403(b) plan or another 457(b) plan sponsored by the Employer (see Section 2.02(b)(6) of the Plan)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Other: <u>All Employees, including Employees who are reemployed subsequent to retirement under another retirement plan of the City who is either currently receiving retirement benefits from such plan or has reached the normal retirement age for such plan, provided that the level of benefits under such plan conforms to the requirements of regulations adopted pursuant to Section 3121(b)(7)(F) of the Omnibus Budget Reconciliation Act of 1990, are excluded from participating in the Plan except:</u> (1) <u>the Mayor,</u> (2) <u>a member of the City Council, and</u> (3) <u>Employees of the City who are employed as a temporarily or seasonally Employee and Employees of the City who are employed part-time for six (6) months or less and who:</u> (i) <u>work less than thirty (30) hours per week; and</u> (ii) <u>are not a participant in any other defined benefit or defined contribution retirement plan or deferred compensation plan of the City or the Florida Retirement System.</u>

- 3-2 **INDEPENDENT CONTRACTORS:** Independent Contractors of the Employer are excluded from participation in the Plan, unless the Employer specifically elects otherwise below. If the Employer so elects, the term Employee as used in the Plan shall include the eligible Independent Contractors. Select the types of contributions for which Independent Contractors are eligible.

Deferral	Match	ER	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(a) Independent Contractors may participate in the Plan.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(b) Describe any special rules applicable to Independent Contractors: _____

**SECTION 4  
MINIMUM AGE AND SERVICE REQUIREMENTS**

- 4-1 **ELIGIBILITY REQUIREMENTS – MINIMUM AGE AND SERVICE:** An Eligible Employee (as defined in AA §3-1) who satisfies the minimum age and service conditions under this AA §4-1 will be eligible to participate under the Plan as of his/her Entry Date (as defined in AA §4-2 below).

- (a) **Service Requirement.** An Eligible Employee must complete the following minimum service requirements to participate in the Plan.

Deferral	Match	ER	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(1) There is no minimum service requirement for participation in the Plan.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(2) One Year of Service (as defined in Section 2.03(a) of the Plan and AA §4-3).
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(3) The completion of _____ consecutive full calendar months of employment

**Deferral      Match      ER**

during which the Employee is credited with at least \_\_\_\_\_ Hours of Service or the completion of a Year of Service. *[If no minimum Hours of Service are required, insert one (1) in the second blank line.]*

- |                          |                          |                          |  |
|--------------------------|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (4) The completion of _____ Hours of Service during an Eligibility Computation Period. <i>[If this (4) is chosen, an Employee satisfies the service requirement immediately upon completion of the designated Hours of Service.]</i> |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (5) Two (2) Years of Service.  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (6) Describe eligibility conditions: _____   |

- (b) **Minimum Age Requirement.** An Eligible Employee (as defined in AA §3-1) must have attained the following age with respect to the contribution source(s) identified in this AA §4-1(b).

**Deferral      Match      ER**

- |                                     |                          |                          |   |
|-------------------------------------|--------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (1) There is no minimum age for Plan eligibility. |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | (2) Age 21.                                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | (3) Age 18.                                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | (4) Other: _____.                                 |

- 4-2 **ENTRY DATE:** An Eligible Employee who satisfies the minimum age and service requirements in AA §4-1 shall be eligible to participate in the Plan as of his/her Entry Date. For this purpose, the Entry Date is the following date with respect to the contribution source(s) identified under this AA §4-2. *[Note: If any of (b) – (f) is completed for a contribution source, also complete one of (g) – (j) for the same contribution source.]*

**Deferral      Match      ER**

- |                                     |                          |                          |  |
|-------------------------------------|--------------------------|--------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (a) <b>Immediate.</b> The date the minimum age and service requirements are satisfied (or date of hire, if no minimum age and service requirements apply). |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | (b) <b>Semi-annual.</b> The first day of the 1st and 7th month of the Plan Year.   |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | (c) <b>Quarterly.</b> The first day of the 1st, 4th, 7th and 10th month of the Plan Year.  |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | (d) <b>Monthly.</b> The first day of each calendar month.  |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | (e) <b>Payroll period.</b> The first day of the payroll period.  |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | (f) <b>The first day of the Plan Year.</b>   |

An Eligible Employee's Entry Date (as defined above) is determined based on when the Employee satisfies the minimum age and service requirements in AA §4-1. For this purpose, an Employee's Entry Date is the Entry Date:

**Deferral      Match      ER**

- |                          |                          |                          |  |
|--------------------------|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (g) <b>next following</b> satisfaction of the minimum age and service requirements.                    |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (h) <b>coinciding with or next following</b> satisfaction of the minimum age and service requirements. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (i) <b>nearest</b> the satisfaction of the minimum age and service requirements.                       |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (j) <b>preceding</b> the satisfaction of the minimum age and service requirements.                     |



4-3 **DEFAULT ELIGIBILITY RULES.** In applying the minimum age and service requirements under AA §4-1 above, the following default rules apply with respect to all contribution sources under the Plan:

- **Year of Service.** An Employee earns a Year of Service for eligibility purposes upon completing 1,000 Hours of Service during an Eligibility Computation Period. Hours of Service are calculated based on actual hours worked during the Eligibility Computation Period. (See Section 1.60 of the Plan for the definition of Hours of Service.)
- **Eligibility Computation Period.** If one Year of Service is required for eligibility, the Plan will determine subsequent Eligibility Computation Periods on the basis of Plan Years (see Section 2.03(a)(2)(i) of the Plan). If more than one Year of Service is required for eligibility, the Plan will determine subsequent Eligibility Computation Periods on the basis of Anniversary Years (see Section 2.03(a)(2)(ii) of the Plan).

To override the default eligibility rules, complete the applicable sections of this AA §4-3. If this AA §4-3 is not completed for a particular contribution source, the default eligibility rules apply.

**Deferral   Match   ER**

- |                          |                          |                          |   |
|--------------------------|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (a) <b>Year of Service.</b> Instead of 1,000 Hours of Service, an Employee earns a Year of Service upon the completion of _____ Hours of Service during an Eligibility Computation Period.  |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (b) <b>Eligibility Computation Period (ECP).</b> The Plan will use Anniversary Years, unless more than one Year of Service is required under AA §4-1(a), in which case the Plan will shift to Plan Years.   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (c) <b>Elapsed Time method.</b> <i>[Check the same contribution source as checked in AA §4-1(a)(6) above.]</i> Eligibility service will be determined under the Elapsed Time method. An Eligible Employee (as defined in AA §3-1) must complete a _____ period of service to participate in the Plan. (See Section 2.03(a)(5) of the Plan.)   |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (d) <b>Equivalency Method.</b> For purposes of determining an Employee's Hours of Service for eligibility, the Plan will use the Equivalency Method (as defined in Section 2.03(a)(4) of the Plan). The Equivalency Method will apply to: <ul style="list-style-type: none"> <li><input type="checkbox"/> (1) All Employees.</li> <li><input type="checkbox"/> (2) Employees who are not paid on an hourly basis. For Employees for whom the Employer maintains hourly records, eligibility will be determined based on actual hours worked.</li> </ul> <p>If this (d) is checked, Hours of Service for eligibility will be determined under the following Equivalency Method.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> (3) <b>Monthly.</b> 190 Hours of Service for each month worked.</li> <li><input type="checkbox"/> (4) <b>Daily.</b> 10 Hours of Service for each day worked.</li> <li><input type="checkbox"/> (5) <b>Weekly.</b> 45 Hours of Service for each week worked.</li> <li><input type="checkbox"/> (6) <b>Semi-monthly.</b> 95 Hours of Service for each semi-monthly period worked.</li> </ul> |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (e) <b>Special eligibility provisions.</b> The following special eligibility provisions apply: _____  |

- 4-4 **EFFECTIVE DATE OF MINIMUM AGE AND SERVICE REQUIREMENTS.** The minimum age and/or service requirements under AA §4-1 apply to all Employees under the Plan. An Employee will participate with respect to all contribution sources under the Plan as of his/her Entry Date, taking into account all service with the Employer, including service earned prior to the Effective Date.

To allow Employees hired on a specified date to enter the Plan without regard to the minimum age and/or service conditions, complete this AA §4-4.

**Deferral      Match      ER**

- ☐      ☐      ☐      (a) **Automatic Eligibility.** An Eligible Employee who is employed by the Employer on the following date will become eligible to enter the Plan without regard to minimum age and/or service conditions:

☐ (1) the Effective Date of this Plan (as designated in subsection (a) or (b) of the Employer Signature Page, as applicable)

☐ (2) the date the Plan is executed by the Employer (as indicated on the Employer Signature Page)

☐ (3) \_\_\_\_\_ [insert date]

- ☐      ☐      ☐      (b) **Describe** other effective date provisions: \_\_\_\_\_

- 4-5 **SERVICE WITH PREDECESSOR EMPLOYER.** Service with the following Predecessor Employers will be counted for purposes of determining eligibility, vesting and allocation conditions under this Plan, unless designated otherwise under (b) below.

- ☐ (a) Identify Predecessor Employer(s):

➤ \_\_\_\_\_

➤ \_\_\_\_\_

- ☐ (b) The following special rules apply with respect to service with a Predecessor Employer: \_\_\_\_\_

<b>SECTION 5 COMPENSATION DEFINITIONS</b>
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- 5-1 **TOTAL COMPENSATION.** Total Compensation is based on the definition set forth under this AA §5-1. See Section 1.51 of the Plan for a specific definition of the various types of Total Compensation.

- ☐ (a) W-2 Wages  
☒ (b) Code §415 Compensation.  
☐ (c) Wages under Code §3401(a).

*[For purposes of determining Total Compensation, each definition includes pre-tax contributions to a Code §125 cafeteria plan, Code §401(k), Code §403(b) or a Code §457 plan, and qualified transportation fringes under Code §132(f)(4).]*

**5-2 POST-SEVERANCE COMPENSATION.**

- (a) **Exclusion of post-severance compensation from Total Compensation.** Total Compensation (as defined in Section 1.51 of the Plan) includes post-severance compensation, to the extent provided in Section 1.51(b) of the Plan. For this purpose, severance pay is always excluded from the definition of Plan Compensation. Other post-severance compensation paid within 2½ months after severance from employment with the Employer or the end of the Limitation Year that includes such date of severance from employment is included in Plan Compensation, unless excluded under this subsection (a). See Section 1.51(b) of the Plan.

The following amounts paid after a Participant's severance from employment are excluded from Plan Compensation.

- ☐ (1) **Unused leave payments.** Payment 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 had continued.
- ☐ (2) **Deferred compensation.** Payments received by an 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 and only to the extent that the payment is includible in the Employee's gross income.
- (b) **Continuation payments for military service and disabled Participants.** Unless designated otherwise under this subsection (b), Total Compensation does not include continuation payments for military service and disabled Participants. To count Total Compensation paid after severance of employment on account of military service and/or disability, check the appropriate selections under this subsection (b).
- ☒ (1) **Payments for military service.** Total Compensation includes amounts paid to an individual who does not currently perform services for the Employer by reason of qualified military service 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. See Section 1.51(c)(1) of the Plan.
- ☐ (2) **Payments to disabled Participants.** Total Compensation shall include post-severance compensation paid to a Participant who is permanently and totally disabled, as provided in Section 1.51(c)(2) of the Plan.

**5-3 PLAN COMPENSATION.** Total Compensation (as defined in AA §5-1 above) with the following exclusions described below.

Deferral	Match	ER	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(a) No exclusions.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(b) Elective Deferrals (as defined in Section 1.41 of the Plan), pre-tax contributions to a cafeteria plan, a Code §403(b) plan or a Code §401(k) Plan, and qualified transportation fringes under Code §132(f)(4) are excluded.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(c) All fringe benefits, expense reimbursements, deferred compensation, and welfare benefits are excluded.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(d) Compensation above \$ _____ is excluded.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(e) Amounts received as a bonus are excluded.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(f) Overtime payments are excluded.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(g) Amounts received after severance from employment are excluded. (See Section 1.51(b) of Plan.)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	(h) Describe adjustments to Plan Compensation: <u>The Plan excludes any and all incentive payments, court attendance payments, expense allowance payments not reported by the City as Participants' income on IRS Form W-2, or any other payments made to the Participant.</u>

**5-4 PERIOD FOR DETERMINING COMPENSATION.**

- (a) **Compensation Period.** Plan Compensation will be determined on the basis of the following period(s) for the contribution sources identified in this AA §5-4. *[If (2), (3) or (4) is checked for any contribution source, any reference to the Plan Year as it refers to Plan Compensation for that contribution source will be deemed to be a reference to the period designated below.]*

Match      ER

- | Match                    | ER                       |  |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | (1) The Plan Year.   |
| <input type="checkbox"/> | <input type="checkbox"/> | (2) The calendar year ending in the Plan Year.                           |
| <input type="checkbox"/> | <input type="checkbox"/> | (3) The Employer's fiscal tax year ending in the Plan Year.              |
| <input type="checkbox"/> | <input type="checkbox"/> | (4) The 12-month period ending on _____ which ends during the Plan Year. |

- (b) **Compensation while a Participant.** In determining Plan Compensation, only compensation earned while an individual is a Participant under the Plan with respect to a particular contribution source will be taken into account.

To count compensation for the entire Plan Year for a particular contribution source, including compensation earned while an individual is not a Participant with respect to such contribution source, check below.

- | Match                    | ER                       |  |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | All compensation earned during the Plan Year will be taken into account, including compensation earned while an individual is not a Participant. |

**SECTION 6**  
**EMPLOYER CONTRIBUTIONS**

- 6-1 **EMPLOYER CONTRIBUTIONS.** Is the Employer authorized to make Employer Contributions under the Plan?

- ☐ Yes  
☒ No [If No, skip to Section 6A.]

- 6-2 **EMPLOYER CONTRIBUTION FORMULAS.** For the period designated in AA §6-5 below, the Employer will make the following Employer Contributions on behalf of Participants who satisfy the allocation conditions designated in AA §6-6 below. Any Employer Contribution authorized under this AA §6-2 will be allocated in accordance with the allocation formula selected under AA §6-3 or AA §6-4, as applicable.

- ☐ (a) **Discretionary contribution.** The Employer will determine in its sole discretion how much, if any, it will make as an Employer Contribution.
- ☐ (b) **Fixed contribution.**
- ☐ (1) \_\_\_\_\_ % of each Participant's Plan Compensation.
- ☐ (2) \$ \_\_\_\_\_ for each Participant.
- ☐ (c) **Service-based contribution.** The Employer will make:
- ☐ (1) **Discretionary.** A discretionary contribution determined as a uniform percentage of Plan Compensation or a uniform dollar amount for each period of service designated below.
- ☐ (2) **Fixed percentage.** \_\_\_\_\_ % of Plan Compensation paid for each period of service designated below.
- ☐ (3) **Fixed dollar.** \$ \_\_\_\_\_ for each period of service designated below.

The service-based contribution selected under this (c) will be based on the following periods of service:

- ☐ (4) Each Hour of Service
- ☐ (5) Each week of employment
- ☐ (6) Describe period: \_\_\_\_\_

[Note: Any period described in subsection (6) cannot exceed a 12-month period.]

- 6-3 **ALLOCATION FORMULA.**

- ☐ (a) **Pro rata allocation.** The Employer Contribution under AA §6-2 will be allocated as a uniform percentage of Plan Compensation or as a uniform dollar amount. If a fixed Employer Contribution is selected in AA §6-2(b), the Employer

Contribution will be allocated in accordance with the selections made in AA §6-2(b). If both a discretionary and fixed Employer Contribution is selected in AA §6-2, this subsection (a) may be selected for both contribution formulas.

- ☐ (b) **Permitted Disparity Method.** The allocation for each Eligible Participant is determined under the Permitted Disparity formula.
- ☐ **Excess Compensation under the Permitted Disparity Method** is the amount of Included Compensation that exceeds: *[If this selection is not checked, Excess Compensation under the Permitted Disparity Method is the amount of Included Compensation that exceeds the Taxable Wage Base.]*
- ☐ (1) \_\_\_\_\_ % (may not exceed 100%) of the Taxable Wage Base.
- ☐ (i) The amount determined under (a) is not rounded.
- ☐ (ii) The amount determined under (a) is rounded (but not above the Taxable Wage Base) to the next higher:
- ☐ (A) \$1.                      ☐ (B) \$100.                      ☐ (C) \$1,000.
- ☐ (2) \_\_\_\_\_ (may not exceed the Taxable Wage Base).
- ☐ (c) **Service-based allocation formula.** The service-based Employer Contribution selected in AA §6-2(c) will be allocated in accordance with the selections made in AA §6-2(c).
- ☐ (d) **Describe other allocation method:** \_\_\_\_\_

6-4 **SPECIAL RULES.** No special rules apply with respect to Employer Contributions under the Plan, except to the extent designated under this AA §6-4.

- ☐ (a) **Period for determining Employer Contributions.** In determining the amount of the Employer Contributions to be allocated under this AA §6, the Employer Contribution will be based on Plan Compensation earned during the Plan Year.

Alternatively, the Employer may elect to base the Employer Contributions on Plan Compensation earned during the following period:

- ☐ (1) Plan Year quarter.                      ☐ (2) calendar month.
- ☐ (3) payroll period.                      ☐ (4) Other: \_\_\_\_\_

*[Note: Although Employer Contributions are determined on the basis of Plan Compensation earned during the period designated under this subsection (a), this does not require the Employer to actually make contributions or allocate contributions on the basis of such period.]*

- ☐ (b) **Special rules.** The following special provisions apply with respect to Employer Contributions: \_\_\_\_\_

6-5 **ALLOCATION CONDITIONS.** A Participant who has otherwise satisfied all conditions to receive an Employer Contribution, must satisfy any allocation conditions designated under this AA §6-5 to receive an allocation of Employer Contributions under the Plan.

- ☐ (a) **No allocation conditions** apply with respect to Employer Contributions under the Plan.
- ☐ (b) **Employment condition.** An Employee must be employed with the Employer on the last day of the Plan Year.
- ☐ (c) **Minimum service condition.** An Employee must be credited with at least:
- ☐ (1) \_\_\_\_\_ Hours of Service during the Plan Year.
- ☐ (2) \_\_\_\_\_ consecutive days of employment with the Employer during the Plan Year.
- ☐ (e) **Exceptions.** The above allocation condition(s) will **not** apply if the Employee:
- ☐ (1) dies during the Plan Year.
- ☐ (2) terminates employment as a result of a Disability.
- ☐ (3) terminates employment after attainment of Normal Retirement Age in the current Plan Year or any prior Plan Year.
- ☐ (4) terminates employment after attainment of Early Retirement Age in the current Plan Year or any prior Plan Year.

**SECTION 6A**  
**SALARY DEFERRALS**

6A-1 **SALARY DEFERRALS.** Are Employees permitted to make Salary Deferrals under the Plan?

- ☒ (a) **Yes.** This is a Salary Deferral only Plan. The Employer will make no other contributions to the Plan.  
☐ (b) **Yes.** This Plan permits Salary Deferrals and other Employer Contributions.  
☐ (c) **No.** [If "No" is checked, skip to Section 6B.]

6A-2 **MAXIMUM LIMIT ON SALARY DEFERRALS.** A Participant may defer an amount up to the Elective Deferral Dollar Limit. See Sections 5.02 and 5.03 of the Plan.

6A-3 **MINIMUM DEFERRAL RATE.** A Participant who elects to participate in the Plan must agree to defer a minimum of seven and one-half percent (7½%) of Compensation for such period.

6A-4 **AGE 50 CATCH-UP CONTRIBUTIONS.** The following provisions apply with respect to Age 50 Catch-Up Contributions (as defined in Section 3.03(d) of the Plan).

- ☒ (a) Age 50 Catch-Up Contributions are permitted under the Plan.  
☐ (1) Age 50 Catch-Up Contributions are eligible for any Matching Contributions under the Plan.  
☐ (2) Age 50 Catch-Up Contributions are **not** eligible for any Matching Contributions under the Plan (other than Safe Harbor Matching Contributions).  
☐ (b) Age 50 Catch-Up Contributions are **not** permitted under the Plan.

6A-5 **SPECIAL 457 CATCH-UP CONTRIBUTIONS.** The following provisions apply with respect to Special 457 Catch-Up Contributions (as defined in Section 3.03(e) of the Plan).

- ☒ (a) Special 457 Catch-Up Contributions are permitted under the Plan.  
☐ (1) Special 457 Catch-Up Contributions are eligible for any Matching Contributions under the Plan.  
☐ (2) Special 457 Catch-Up Contributions are **not** eligible for any Matching Contributions under the Plan (other than Safe Harbor Matching Contributions).  
☐ (b) Special 457 Catch-Up Contributions are **not** permitted under the Plan.

6A-6 **CHANGE OR REVOCATION OF DEFERRAL ELECTION:** In addition to the Participant's Entry Date under the Plan, a Participant may increase or decrease their Deferral Election only by proper application to the Plan Administrator. The change shall take effect as soon as administratively practical but not earlier than the first pay period of the month following receipt and approval of the application by the Plan Administrator. However, such change must meet the requirements of Section 6A-3. Revocation of deferral election is not permitted.

6A-7 **AUTOMATIC DEFERRAL ELECTION.** No automatic deferral election applies under Section 3.03(c) of the Plan.

To provide for an automatic deferral election, complete this AA §6A-8.

- ☐ (a) **Automatic deferral election.** Upon becoming eligible to make Salary Deferrals under the Plan (pursuant to AA §3 and AA §4), an Eligible Participant will be deemed to have entered into a Salary Deferral Election with a \_\_\_\_\_% of Total Compensation deferral election for each payroll period, unless the Participant makes a contrary Salary Reduction Agreement. Unless designated otherwise by the Participant, any Salary Deferrals made pursuant to an automatic deferral election will be treated as Pre-Tax Salary Deferrals.
- ☐ (b) **Automatic increase.** If elected under this subsection (b), the automatic deferral amount set forth in subsection (a) will increase each Plan Year by the following percentage:
- ☐ (1) \_\_\_\_\_% of Total Compensation  
but not in excess of
- ☐ (2) \_\_\_\_\_% of Total Compensation



- ☐ (c) **Application of automatic deferral provisions.** This automatic deferral election will apply to:
- ☐ (1) all Participants who have not entered into a Salary Reduction Agreement (including an election not to defer under the Plan).
  - ☐ (2) all Participants who have not entered into a Salary Reduction Agreement as of \_\_\_\_\_ that is at least equal to the automatic deferral amount under subsection (a).
  - ☐ (3) only Employees who become Participants on or after \_\_\_\_\_ and who do not enter into a contrary Salary Reduction Agreement (including an election not to defer under the Plan).

**6A-8 SPECIAL DEFERRAL EFFECTIVE DATES.** Unless designated otherwise under this AA §6A-9, a Participant is eligible to make Salary Deferrals under the Plan as of the Effective Date of the Plan (as designated in subsection (a) or (b) of the Employer Signature Page, as applicable). However, in no case may a Participant begin making Salary Deferrals prior to the later of the date the Employee becomes a Participant, the date the Participant executes a Salary Reduction Agreement or the date the Plan is adopted or effective. (See Section 3.03(a) of the Plan.)

- ☐ (a) **Salary Deferrals.** A Participant is eligible to make Salary Deferrals under the Plan as of:
- ☐ (1) the date the Plan is executed by the Employer (as indicated on the Employer Signature Page).
  - ☐ (2) \_\_\_\_\_ (insert date).
- ☐ (b) **Automatic deferral provisions.** The automatic deferral provisions under AA §6A-8 are effective as of \_\_\_\_\_.  
[If this (c) is not checked and the Plan applies an automatic deferral election under AA §6A-8, such automatic deferral provisions are effective as of the Effective Date applicable to Salary Deferrals under this AA §6A-9.]

**6A-10 SPECIAL RULES APPLICABLE TO SALARY DEFERRAL.** The following special rules apply to Salary Deferrals: As indicated in AA § 6A-3 and AA §6A-6 above the following shall apply: A Participant who elects to participate in the Plan must agree to defer a minimum of seven and one-half percent (7½%) of Compensation for such period. A Participant may increase or decrease their Deferral Election only by proper application to the Plan Administrator. The change shall take effect as soon as administratively practical but not earlier than the first pay period of the month following receipt and approval of the application by the Plan Administrator. Revocation of deferral election is not permitted.

**SECTION 6B**  
**MATCHING CONTRIBUTIONS**

**6B-1 MATCHING CONTRIBUTIONS.** Is the Employer authorized to make Matching Contributions under the Plan?

- ☐ **Yes.**
- ☒ **No.** [Check this box if there are no Matching Contributions. If "No" is checked, skip to Section 6C.]

**6B-2 MATCHING CONTRIBUTION FORMULAS:** For the period designated in AA §6B-5 below, the Employer will make the following Matching Contribution on behalf of Participants who satisfy the allocation conditions under AA §6B-7 below.

- ☐ (a) **Discretionary match.** The Employer will determine in its sole discretion how much, if any, it will make as a Matching Contribution. Such amount can be determined either as a uniform percentage of deferrals or as a flat dollar amount for each Participant.
- ☐ (b) **Fixed match.** The Employer will make a Matching Contribution for each Participant equal to:
- ☐ (1) \_\_\_\_\_% of Salary Deferrals made for each period designated in AA §6B-5 below.
  - ☐ (2) \$\_\_\_\_\_ for each period designated in AA §6B-5 below.

- ☐ (c) **Tiered match.** The Employer will make a Matching Contribution to all Participants based on the following tiers of Salary Deferrals.

Salary Deferrals (% of Plan Compensation or dollar amount)	Match %
<input type="checkbox"/> (1) Salary Deferrals up to first _____ % or \$ _____	_____ %
<input type="checkbox"/> (2) Salary Deferrals up to _____ % or \$ _____	_____ %
<input type="checkbox"/> (3) Salary Deferrals up to _____ % or \$ _____	_____ %
<input type="checkbox"/> (4) Salary Deferrals up to _____ % or \$ _____	_____ %

[Note: All tiers must be based on percentages or dollar amounts (but not both)]

- ☐ (d) **Discretionary tiered match.** The Employer will make a discretionary Matching Contribution to all Participants based on the following tiers of Salary Deferrals. The Employer may determine the amount of Matching Contribution to be made with respect to each tier of Salary Deferrals.

Salary Deferrals (% of Plan Compensation or dollar amount)
<input type="checkbox"/> (1) Salary Deferrals up to first _____ % or \$ _____
<input type="checkbox"/> (2) Salary Deferrals up to _____ % or \$ _____
<input type="checkbox"/> (3) Salary Deferrals up to _____ % or \$ _____
<input type="checkbox"/> (4) Salary Deferrals up to _____ % or \$ _____

[Note: All tiers must be based on percentages or dollar amounts (but not both).]

- ☐ (e) **Year of Service match.** The Employer will make a Matching Contribution as a uniform percentage of Salary Deferrals to all Participants based on Years of Service with the Employer.

Years of Service	Matching Percentage
<input type="checkbox"/> (1) Up to _____ Years of Service	_____ %
<input type="checkbox"/> (2) Up to _____ Years of Service	_____ %
<input type="checkbox"/> (3) Up to _____ Years of Service	_____ %
<input type="checkbox"/> (4) Years of Service above _____	_____ %

For this purpose, a Year of Service is each Plan Year during which an Employee completes at least 1,000 Hours of Service. Alternatively, a Year of Service is: \_\_\_\_\_

**6B-3 LIMITS ON MATCHING CONTRIBUTIONS.** In applying the Matching Contribution formula(s) selected under AA §6B-2 above, the following limits apply.

- ☐ (a) **No limits apply.** All Salary Deferrals are eligible for Matching Contributions.
- ☐ (b) **Limit on Salary Deferrals.** The Matching Contribution formula(s) selected in AA §6B-2 above apply only to Salary Deferrals that do not exceed:
- ☐ (1) \_\_\_\_\_ % of Plan Compensation.
- ☐ (2) \$ \_\_\_\_\_.
- ☐ (3) A discretionary amount determined by the Employer.
- ☐ (c) **Limit on Matching Contributions.** The total Matching Contribution provided under the formula(s) selected in AA §6B-2 above will not exceed:
- ☐ (1) \_\_\_\_\_ % of Plan Compensation.
- ☐ (2) \$ \_\_\_\_\_.

6B-4 **PERIOD FOR DETERMINING MATCHING CONTRIBUTIONS.** The Matching Contribution formula(s) selected in AA §6B-2 above (including any limitations on such amounts under AA §6B-3) are based on Salary Deferrals for the **Plan Year**. To apply a different period for determining the Matching Contributions and limits under AA §6B-2 and AA §6B-3, check one of (a) – (d) below.

☐ (a) payroll period.

☐ (b) Plan Year quarter.

☐ (c) calendar month.

☐ (d) Other: \_\_\_\_\_

*[Note: Although Matching Contributions (and any limits on those Matching Contributions) will be determined on the basis of the period designated under this AA §6B-5, this does not require the Employer to actually make contributions or allocate contributions on the basis of such period. See Section 3.04(c) of the Plan for a discussion of the "true up" requirements applicable to Matching Contributions.]*

6B-5 **ALLOCATION CONDITIONS.** A Participant who has otherwise satisfied all conditions to receive a Matching Contribution, must satisfy any allocation conditions designated under this AA §6B-7 to receive an allocation of Matching Contributions under the Plan.

☐ (a) **No allocation conditions** apply with respect to Matching Contributions under the Plan.

☐ (b) **Employment condition.** An Employee must be employed with the Employer on the last day of the Plan Year.

☐ (c) **Minimum service condition.** An Employee must be credited with at least:

☐ (1) \_\_\_\_\_ Hours of Service during the Plan Year.

☐ (2) \_\_\_\_\_ consecutive days of employment with the Employer during the Plan Year.

☐ (d) **Exceptions.** The above allocation condition(s) will **not** apply:

☐ (1) if the Employee dies during the Plan Year.

☐ (2) if the Employee terminates employment as a result of a Disability.

☐ (3) if the Employee terminates employment after attainment of Normal Retirement Age in the current Plan Year or any prior Plan Year.

☐ (4) if the Employee terminates employment after attainment of Early Retirement Age in the current Plan Year or any prior Plan Year.

6B-6 **SPECIAL RULES APPLICABLE TO MATCHING CONTRIBUTIONS.** The following special rules apply to Matching Contributions: \_\_\_\_\_

## SECTION 7 NORMAL RETIREMENT AGE

7-1 **NORMAL RETIREMENT AGE:** Normal Retirement Age under the Plan is:

☐ (a) Age \_\_\_\_\_ (not to exceed 65).

☐ (b) The later of (1) age \_\_\_\_\_ (not to exceed 65) or (2) the \_\_\_\_\_ (not to exceed 5<sup>th</sup>) anniversary of the date the Employee commenced participation in the Plan.

☒ (c) Age 70, unless the Participant has elected an alternative Normal Retirement Age by written instrument delivered to the Plan Administrator prior to termination of employment. A Participant's Normal Retirement Age determines: (i) the latest time when benefits may commence under this Plan (unless the Participant continues employment after Normal Retirement Age); and (ii) the period during which a Participant may utilize the three-year catch-up provision of AA § 6A-5. Once a Participant has to any extent utilized the catch-up provision of AA § 6A-5, his Normal Retirement Age may not be changed. A Participant's alternate Normal Retirement Age may not be earlier than the earliest date that the Participant will become eligible to retire and receive unreduced retirement benefits under the Participant's basic retirement plan covering that Participant and may not be later than the date the Participant attains age seventy (70). If a Participant continues employment after attaining age seventy (70), not having previously elected an alternative Normal Retirement Age, the Participant's alternative Normal Retirement Age shall be age seventy (70) or the age at which the Participant actually separates from service. If the Participant will not become eligible to receive benefits under a basic retirement plan maintained by the Employer, the Participant's alternate Normal Retirement Age may not be earlier than attainment of age fifty-five (55) and may not be later than attainment of age seventy (70).

**SECTION 8**  
**VESTING AND FORFEITURES**

8-1 **CONTRIBUTIONS SUBJECT TO VESTING.** Does the Plan provide for Employer Contributions under AA §6 or Matching Contributions under AA §6B that are subject to vesting?

☐ Yes

☒ No [If "No" is checked, skip to Section 9. See Section 7.11(a) of the Plan for default forfeiture rules.]

8-2 **VESTING SCHEDULE.** The vesting schedule under the Plan is as follows for both Employer Contributions and Matching Contributions, to the extent authorized under AA §6 and AA §6B. See Section 7.02(a) of the Plan for a description of the various vesting schedules under this AA §8-2.

☐ (a) **Employer Contributions (see AA §6)**

- ☐ (1) Full and immediate vesting.
- ☐ (2) Three-year cliff vesting schedule
- ☐ (3) Six-year graded vesting
- ☐ (4) Modified vesting schedule
  - \_\_\_\_\_ % after 1 Year of Service
  - \_\_\_\_\_ % after 2 Years of Service
  - \_\_\_\_\_ % after 3 Years of Service
  - \_\_\_\_\_ % after 4 Years of Service
  - \_\_\_\_\_ % after 5 Years of Service
  - \_\_\_\_\_ % after 6 Years of Service

☐ (b) **Matching Contributions (see AA §6B)**

- ☐ (1) Full and immediate vesting.
- ☐ (2) Three-year cliff vesting schedule
- ☐ (3) Six-year graded vesting
- ☐ (4) Modified vesting schedule
  - \_\_\_\_\_ % after 1 Year of Service
  - \_\_\_\_\_ % after 2 Years of Service
  - \_\_\_\_\_ % after 3 Years of Service
  - \_\_\_\_\_ % after 4 Years of Service
  - \_\_\_\_\_ % after 5 Years of Service
  - \_\_\_\_\_ % after 6 Years of Service

8-3 **VESTING SERVICE.** In applying the vesting schedules under this AA §8, the following service with the Employer is excluded.

☐ (a) None, all service with the Employer counts for vesting purposes.

☐ (b) Service before the original Effective Date of this Plan is excluded. (See Section 7.06 of the Plan for rules regarding Predecessor Service.)

☐ (c) Service completed before the Employee's \_\_\_\_\_ birthday is excluded.

8-4 **VESTING UPON DEATH, DISABILITY OR EARLY RETIREMENT AGE.** An Employee's vesting percentage increases to 100% if, while employed with the Employer, the Employee:

☐ (a) dies

☐ (b) terminates employment due to becoming Disabled

8-5 **DEFAULT VESTING RULES.** In applying the vesting requirements under this AA §8, the following default rules apply.

- **Year of Service.** An Employee earns a Year of Service for vesting purposes upon completing 1,000 Hours of Service during a Vesting Computation Period. Hours of Service are calculated based on actual hours worked during the Vesting Computation Period.
- **Vesting Computation Period.** The Vesting Computation Period is the Plan Year.

To override the default vesting rules, complete the applicable sections of this AA §8-5. If this AA §8-5 is not completed, the default vesting rules apply.

ER	Match	
<input type="checkbox"/>	<input type="checkbox"/>	(a) <b>Year of Service.</b> Instead of 1,000 Hours of Service, an Employee earns a Year of Service upon the completion of _____ [must be less than 1,000] Hours of Service during a Vesting Computation Period.
<input type="checkbox"/>	<input type="checkbox"/>	(b) <b>Vesting Computation Period (VCP).</b> Instead of the Plan Year, the Vesting Computation Period is: <input type="checkbox"/> (1) The 12-month period beginning with the anniversary of the Employee's date of hire. <input type="checkbox"/> (2) Describe: _____ <i>[Note: Any Vesting Computation Period described in (2) must be a 12-consecutive month period and must apply uniformly to all Participants.]</i>
<input type="checkbox"/>	<input type="checkbox"/>	(c) <b>Elapsed Time Method.</b> Vesting service will be determined under the Elapsed Time Method. (See Section 7.03(b) of the Plan.)
<input type="checkbox"/>	<input type="checkbox"/>	(d) <b>Equivalency Method.</b> For purposes of determining an Employee's Hours of Service for vesting, the Plan will use the Equivalency Method (as defined in Section 7.03(a)(2) of the Plan). The Equivalency Method will apply to: <input type="checkbox"/> (1) All Employees. <input type="checkbox"/> (2) Employees who are not paid on an hourly basis. For Employees paid on an hourly basis, vesting will be determined based on actual hours worked. If this (d) is checked, Hours of Service for vesting will be determined under the following Equivalency Method. <input type="checkbox"/> (3) <b>Monthly.</b> 190 Hours of Service for each month worked. <input type="checkbox"/> (4) <b>Daily.</b> 10 Hours of Service for each day worked. <input type="checkbox"/> (5) <b>Weekly.</b> 45 Hours of Service for each week worked. <input type="checkbox"/> (6) <b>Semi-monthly.</b> 95 Hours of Service for each semi-monthly period.
<input type="checkbox"/>	<input type="checkbox"/>	(e) <b>Special vesting provisions.</b> No special vesting provisions apply unless designated under this subsection (e): _____

8-6 **ALLOCATION OF FORFEITURES.** Any forfeitures occurring during a Plan Year will be:

**ER      Match**

- ☐      ☐      (a) Reallocated as additional Employer Contributions or as additional Matching Contributions.
- ☐      ☐      (b) Used to reduce Employer and/or Matching Contributions.

For purposes of this AA §8-8, forfeitures will be applied:

- ☐      ☐      (c) for the Plan Year in which the forfeiture occurs.
- ☐      ☐      (d) for the Plan Year **following** the Plan Year in which the forfeitures occur.

Prior to applying forfeitures under this AA §8-8:

- ☐      ☐      (e) Forfeitures will be used to pay Plan expenses.
- ☐      ☐      (f) Forfeitures will **not** be used to pay Plan expenses.

8-7 **SPECIAL RULES REGARDING CASH-OUT DISTRIBUTIONS.**

- (a) **Additional allocations.** If a terminated Participant receives a complete distribution of his/her vested Account Balance while still entitled to an additional allocation, the Cash-Out Distribution forfeiture provisions do not apply until the Participant receives a distribution of the additional amounts to be allocated. (See Section 7.10(a)(1) of the Plan.)

To modify the default Cash-Out Distribution forfeiture rules, complete this AA §8-7(a).

- ☐      The Cash-Out Distribution forfeiture provisions will apply if a terminated Participant takes a complete distribution, regardless of any additional allocations during the Plan Year.

- (b) **Timing of forfeitures.** A Participant who receives a Cash-Out Distribution (as defined in Section 7.10(a) of the Plan) is treated as having an immediate forfeiture of his/her nonvested Account Balance.

To modify the forfeiture timing rules to delay the occurrence of a forfeiture upon a Cash-Out Distribution, complete this AA §8-7(b).

- ☐      A forfeiture will occur upon the completion of \_\_\_\_\_ [cannot exceed 5] consecutive Breaks in Service (as defined in Section 7.07(a) of the Plan) following the Cash-Out Distribution.



SECTION 9  
DISTRIBUTION PROVISIONS – TERMINATION OF EMPLOYMENT

9-1 AVAILABLE FORMS OF DISTRIBUTION.

**Lump sum distribution** Unless selected otherwise under subsection (e) below, a Participant may take a distribution of his/her entire vested Account Balance in a single lump sum.

**Additional distribution options.** To provide for additional distribution options, check the applicable distribution forms under this AA §9-1. If a lump sum distribution will not be provided under the Plan, check (e) below and indicate that no lump sum distribution is available under the Plan.

- ☒ (a) **Partial lump sum.** A Participant may take a distribution of less than the entire vested Account Balance upon termination of employment.
- ☐ **Minimum distribution amount.** A Participant may not take a partial lump sum distribution of less than \$\_\_\_\_\_.
- ☒ (b) **Installment distributions.** A Participant may take a distribution over a specified period not to exceed the life or life expectancy of the Participant (and a designated beneficiary).
- ☒ (c) **Installment distribution for required minimum distributions.** A Participant may take an installment distribution solely to the extent necessary to satisfy the required minimum distribution rules under Section 8 of the Plan.
- ☐ (d) **Annuity distributions.** A Participant may elect to have the Plan Administrator use the Participant's vested Account Balance to purchase an annuity as described in Section 8.02 of the Plan.
- ☒ (e) **Describe:** A series of payments on an annuity basis as if an annuity contract was purchased based on the life of the Participant or Beneficiary. The payments shall be based on one of the following methods: (i) The life of the Participant. (ii) The life of the Participant or a period certain, whichever is greater. (iii) The joint and last survivor life of the Participant and another named person. Once payments have commenced on an annuity basis, any future payments to a Beneficiary will depend on the terms of the annuity payments agreed to by the Participant and the Employer. If the Participant dies prior to the period certain any remaining payments will be paid to the Beneficiary. If annuity payments have commenced on a joint and last survivor basis, any payments due after the death of the Participant will be due only to the other person on which the annuity payments have been based and not to any other Beneficiary(ies). If a Participant dies before distribution has commenced, the Beneficiary shall be paid in a lump sum payment unless the Beneficiary elects a different distribution option within 60 days after receipt of satisfactory proof of the death by the Plan Administrator.

*[Note: Any distribution option described in (e) will apply uniformly to all Participants under the Plan and may not be subject to the discretion of the Employer or Plan Administrator.]*

9-2 DISTRIBUTION OF SMALLER AMOUNTS

- ☐ (a) The Employer has discretion to make distribution of smaller amounts as described in Section 8.06 of the Plan.
- ☒ (b) The Participant has discretion to receive a distribution of smaller amounts as described in Section 8.06 of the Plan.

9-3 **TIMING OF DISTRIBUTIONS UPON TERMINATION OF EMPLOYMENT.**

- (a) **Distribution of vested Account Balances exceeding \$5,000.** A Participant who terminates employment with a vested Account Balance exceeding \$5,000 may receive a distribution of his/her vested Account Balance in any form permitted under AA §9-1 within a reasonable period following:

- ☒ (1) the date the Participant terminates employment.
- ☐ (2) the last day of the Plan Year during which the Participant terminates employment.
- ☐ (3) the first Valuation Date following the Participant's termination of employment.
- ☐ (4) the completion of \_\_\_\_\_ Breaks in Service.
- ☐ (5) Describe: \_\_\_\_\_

*[Note: Any distribution event described in (5) will apply uniformly to all Participants under the Plan and may not be subject to the discretion of the Employer or Plan Administrator.]*

- (b) **Distribution of vested Account Balances not exceeding \$5,000.** A Participant who terminates employment with a vested Account Balance that does not exceed \$5,000 may receive a **lump sum** distribution of his/her vested Account Balance within a reasonable period following:

- ☒ (1) the date the Participant terminates employment.
- ☐ (2) the last day of the Plan Year during which the Participant terminates employment.
- ☐ (3) the first Valuation Date following the Participant's termination of employment.
- ☐ (4) Describe: \_\_\_\_\_

*[Note: Any distribution event described in (4) will apply uniformly to all Participants under the Plan and may not be subject to the discretion of the Employer or Plan Administrator.]*

9-4 **SPECIAL RULES.**

- (a) **Availability of Involuntary Cash-Out Distributions.** A Participant who terminates employment with a vested Account Balance of \$5,000 or less will receive an Involuntary Cash-Out Distribution, subject to the Automatic Rollover provisions under Section 8.09 of the Plan.

Alternatively, an Involuntary Cash-Out Distribution will be made to the following terminated Participants.

- ☒ (1) **No Involuntary Cash-Out Distribution.** The Plan does not provide for Involuntary Cash-Out Distributions. A terminated Participant must consent to any distribution from the Plan.
- ☐ (2) **Lower Involuntary Cash-Out Distribution threshold.** A terminated Participant will receive an Involuntary Cash-Out Distribution only if the Participant's vested Account Balance is less than or equal to:
  - ☐ (i) \$1,000
  - ☐ (ii) \$\_\_\_\_\_ (must be less than \$5,000)

- (b) **Application of Automatic Rollover rules.** The Automatic Rollover rules described in Section 8.09 of the Plan do not apply to any Involuntary Cash-Out Distribution below \$1,000 (to the extent available under the Plan).

To override this default provision, check this subsection (b).

- ☐ Check this (b) to apply the Automatic Rollover provisions under Section 8.09 of the Plan to all Involuntary Cash-Out Distributions (including those below \$1,000).

- (c) **Treatment of Rollover Contributions.** Unless elected otherwise under this (c), Rollover Contributions will be excluded in determining whether a Participant's vested Account Balance exceeds the Involuntary Cash-Out threshold for purposes of applying the distribution rules under this AA §9 and Section 8.04(a) of the Plan. To include Rollover Contributions for purposes of applying the Plan's distribution rules, check below.

- ☐ In determining whether a Participant's vested Account Balance exceeds the Involuntary Cash-Out threshold, Rollover Contributions will be included.

**SECTION 10**  
**UNFORESEEN EMERGENCY DISTRIBUTIONS AND REQUIRED MINIMUM DISTRIBUTIONS**

10-1 **AVAILABILITY OF IN-SERVICE DISTRIBUTIONS.** A Participant may withdraw all or any portion of his/her vested Account Balance, to the extent designated, upon the occurrence of the event(s) selected under this AA §10-1.

- | Deferral                            | Match                    | ER                       |  |
|-------------------------------------|--------------------------|--------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | (a) No in-service distributions are permitted, except upon attainment of age 70 ½. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (b) The occurrence of an Unforeseen Emergency.                                     |

10-2 **SPECIAL DISTRIBUTION RULES.** No special distribution rules apply, unless specifically provided under this AA §10-2.

- ☐ (a) In-service distributions will only be permitted if the Participant is 100% vested in the amounts being withdrawn.
- ☐ (b) A Participant may take no more than \_\_\_\_\_ in-service distribution(s) in a Plan Year.
- ☐ (c) A Participant may not take an in-service distribution of less than \$\_\_\_\_\_ (may not exceed \$1,000).
- ☐ (d) If a distribution is permitted upon the occurrence of an Unforeseen Emergency in AA §10-1 above, a Participant may take such a distribution after termination of employment.
- ☒ (e) Describe: A Participant in the year in which such Participant attains age 70½ or any year thereafter may elect to receive an in-service distribution, provided, however, any Participant electing to receive an in-service distribution would be allowed only to continue employment no longer than 5 years from the effective date of the in-service distribution.

10-3 **REQUIRED BEGINNING DATE – NON-5% OWNERS.** In applying the required minimum distribution rules under Section 9 of the Plan, the Required Beginning Date for non-5% owners is:

- ☒ (a) the later of attainment of age 70½ or termination of employment.
- ☐ (b) the date the Employee attains age 70½, even if the Employee is still employed with the Employer.

**SECTION 11**  
**MISCELLANEOUS PROVISIONS**

11-1 **VALUATION DATES.** The Plan is valued **annually**, as of the last day of the Plan Year. In addition, the Plan will be valued on the following dates:

- | Deferral                            | Match                    | ER                       |  |
|-------------------------------------|--------------------------|--------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | (a) <b>Daily.</b> The Plan is valued at the end of each business day during which the New York Stock Exchange is open. |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | (b) <b>Monthly.</b> The Plan is valued at the end of each month of the Plan Year.                                      |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | (c) <b>Quarterly.</b> The Plan is valued at the end of each Plan Year quarter.   |
| <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | (d) <b>Describe:</b> _____   |

[Note: The Employer may elect operationally to perform interim valuations.]

11.2 **SPECIAL RULES APPLICABLE TO THIS PLAN.** The following rules apply to this Plan: \_\_\_\_\_.

**APPENDIX A**  
**SPECIAL EFFECTIVE DATES**

- ☐ A-1 **Eligible Employees.** The definition of Eligible Employee under AA §3 is effective as follows: \_\_\_\_\_
- ☐ A-2 **Minimum age and service conditions.** The minimum age and service conditions Entry Date provisions specified in AA §4 are effective as follows: \_\_\_\_\_
- ☐ A-3 **Compensation definitions.** The compensation definitions under AA §5 are effective as follows: \_\_\_\_\_
- ☐ A-4 **Employer Contributions.** The Employer Contribution provisions under AA §6 are effective as follows: \_\_\_\_\_
- ☐ A-5 **Salary Deferrals.** The provisions regarding Salary Deferrals under AA §6A are effective as follows: \_\_\_\_\_
- ☐ A-6 **Matching Contributions.** The Matching Contribution provisions under AA §6B are effective as follows: \_\_\_\_\_
- ☐ A-7 **Retirement age.** The retirement age provisions under AA §7 are effective as follows: \_\_\_\_\_
- ☐ A-8 **Vesting and forfeiture rules.** The rules regarding vesting and forfeitures under AA §8 are effective as follows: \_\_\_\_\_
- ☐ A-11 **Distribution provisions.** The distribution provisions under AA §9 are effective as follows: \_\_\_\_\_
- ☐ A-12 **Unforeseen Emergency and Required Minimum Distributions.** The provisions regarding Unforeseen Emergency distributions and Required Minimum Distributions under AA §10 are effective as follows: \_\_\_\_\_
- ☐ A-13 **Miscellaneous provisions.** The provisions under AA §11 are effective as follows: \_\_\_\_\_
- ☐ A-14 **Special effective date provisions for merged plans.** If any retirement plans have been merged into this Plan, the provisions of Section 14.03 of the Plan apply, except as follows: \_\_\_\_\_
- ☐ A-15 **Other special effective dates:** \_\_\_\_\_

**APPENDIX B**  
**LOAN POLICY**

B-1 Are **PARTICIPANT LOANS** permitted? (See Section 13 of the Plan.)

- ☒ (a) Yes.  
☐ (b) No.

B-2 **LOAN PROCEDURES.**

- ☐ (a) Loans will be provided under the default loan procedures set forth in Section 13 of the Plan, unless modified under this Appendix B.  
☒ (b) Loans will be provided under a separate written loan policy. *[If this (b) is checked, do **not** complete the remainder of this Appendix B.]*

B-3 **LOAN LIMITS.** The default loan policy under Section 13.03 of the Plan allows Participants to take a loan provided all outstanding loans do not exceed 50% of the Participant's vested Account Balance. To override the default loan policy to allow loans up to \$10,000, even if greater than 50% of the Participant's vested Account Balance, check this AA §B-3.

- ☐ A Participant may take a loan equal to the greater of \$10,000 or 50% of the Participant's vested Account Balance. *[If this AA §B-3 is checked, the Participant may be required to provide adequate security as required under Section 13.06 of the Plan.]*

B-4 **NUMBER OF LOANS.** The default loan policy under Section 13.04 of the Plan restricts Participants to one loan outstanding at any time. To override the default loan policy and permit Participants to have more than one loan outstanding at any time, complete (a) or (b) below.

- ☐ (a) A Participant may have \_\_\_\_\_ loans outstanding at any time.  
☐ (b) There are no restrictions on the number of loans a Participant may have outstanding at any time.

B-5 **INTEREST RATE.** The default loan policy under Section 13.05 of the Plan provides for an interest rate commensurate with the interest rates charged by local commercial banks for similar loans. To override the default loan policy and provide a specific interest rate to be charged on Participant loans, complete this AA §B-5.

- ☐ (a) The prime interest rate  
☐ (1) plus \_\_\_\_\_ percentage point(s).  
☐ (b) Describe: \_\_\_\_\_

B-6 **MINIMUM LOAN AMOUNT.** The default loan policy under Section 13.04 of the Plan provides that a Participant may not receive a loan of less than \$1,000. To modify the minimum loan amount, complete (a) or (b) below.

- ☐ (a) There is no minimum loan amount.  
☐ (b) The minimum loan amount is \$\_\_\_\_\_.

B-7 **PURPOSE OF LOAN.** The default loan policy under Section 13.02 of the Plan provides that a Participant may receive a Participant loan for any purpose. To modify the default loan policy to restrict the availability of Participant loans, complete (a) or (b) below.

- ☐ (a) A Participant may only receive a Participant loan upon the demonstration of a hardship event, as described in Section 8.10(d)(1)(i) of the Plan.  
☐ (b) A Participant may only receive a Participant loan under the following circumstances: \_\_\_\_\_

B-8 **SOURCE OF LOAN.** The default loan policy under Section 13.09 of the Plan provides that Participant loans will be made first from Employer Contribution and Employer Matching Contributions Accounts and then from the Salary Deferral Account(s). To modify the default loan policy to modify the contribution sources from which a Participant loan is made, complete (a) or (b) below.

- ☐ (a) Participant loans will be made on a prorata basis from all contribution sources.  
☐ (b) Participant loans will only be available from the following contribution sources: \_\_\_\_\_

**APPENDIX C**  
**ADMINISTRATIVE ELECTIONS**

*Use this Appendix C to identify certain elections dealing with the administration of the Plan. These elections may be changed without reexecuting this Agreement by substituting an updated Appendix C with new elections.*

C-1 **ROLLOVER CONTRIBUTIONS.** Does the Plan accept **Rollover Contributions**? (See Section 3.05 of the Plan.)

☐ (a) No

☒ (b) Yes

C-2 **QDRO PROCEDURES.** Do the default **QDRO** procedures under Section 11.06 of the Plan apply?

☐ (a) No

☒ (b) Yes



EMPLOYER SIGNATURE PAGE

**PURPOSE OF EXECUTION.** This Signature Page is being executed to effect:

- ☐ (a) The adoption of a **new plan**, effective \_\_\_\_\_ [insert Effective Date of Plan].
- ☒ (b) The **restatement** of an existing plan, effective October 1, 2015, except to the extent otherwise required by applicable law.  
[insert Effective Date of Plan].
- (1) Name of Plan(s) being restated: City of Pensacola Deferred Compensation Plan for Elected Officers and Part-Time, Seasonal and Other Temporary Employees.
- (2) The original effective date of the plan(s) being restated: July 1, 1991.
- ☐ (c) An **amendment** of the Plan. If this Plan is being amended, the updated pages of the Adoption Agreement may be substituted for the original pages in the Adoption Agreement. All prior Employer Signature Pages should be retained as part of this Adoption Agreement.
- (1) Identify the section(s) of the Adoption Agreement being amended: \_\_\_\_\_
- (2) Effective Date(s) of such changes: \_\_\_\_\_
- ☐ (d) To identify a **Successor Employer**. Check this selection if a successor to the signatory Employer is continuing this Plan as a Successor Employer. Complete this Employer Signature Page and substitute a new page 1 under this Adoption Agreement to identify the Successor Employer. All prior Employer Signature Pages should be retained as part of this Adoption Agreement.
- (1) Effective Date of the amendment is: \_\_\_\_\_

[Note: It is recommended that the Employer consult with legal counsel before executing this Agreement.]

City of Pensacola  
(Name of Employer)

Richard Barker, Jr.  
(Name of authorized representative)

(Signature)

Chief Financial Officer  
(Title)

3/24/2016

(Date)

**TRUSTEE DECLARATION**

Effective date of Declaration: October 1, 2015.

**Trustee Investment Powers**

- ☐ (a) Discretionary
- ☒ (b) Nondiscretionary
- ☐ (c) No Trustee. Plan is funded exclusively with custodial accounts, annuity contracts, and/or insurance contracts (see Section 12.12 of Plan)
- ☐ (d) Determined under a separate trust agreement.

Name of Trustee: \_\_\_\_\_

Title of Trust Agreement: \_\_\_\_\_


Address: \_\_\_\_\_

Description of any special Trustee powers: \_\_\_\_\_

**Trustee Signature.** By signing this Declaration, the Trustee agrees to the duties, responsibilities and liabilities imposed on the Trustee by the BPD and this Agreement.

Richard Barker, Jr.

(Print name of Trustee)

  
(Signature of Trustee or authorized representative)

3/24/2016  
(Date)

P. Cheryl Jackson

(Print name of Trustee)

  
(Signature of Trustee or authorized representative)

3/24/2016  
(Date)