

METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO DEFERRED COMPENSATION PLAN AND TRUST

As Amended and Restated Effective June 4, 2015

Article I. Purpose

The Employer hereby amends and restates the Metropolitan Water Reclamation District of Greater Chicago Deferred Compensation Plan and Trust, hereafter referred to as the "Plan" as set forth in this document. This Plan restatement is effective as of June 4, 2015 except as otherwise provided in this document.

The primary purpose of this Plan is to provide retirement income and other deferred benefits to the Employees of the Employer in accordance with the provisions of Section 457 of the Code. The Plan is intended to comply with Code Section 457(b) and thereby to be exempt from Code Section 409A, and shall be interpreted in accordance with that intent.

This Plan shall be an agreement solely between the Employer and participating Employees. The Plan and Trust forming a part hereof is established and shall be maintained for the exclusive benefit of Participants and their Beneficiaries. No part of the corpus or income of the Trust shall revert to the Employer or be used for or diverted to purposes other than the exclusive benefit of Participants and their Beneficiaries.

Article II. Definitions

2.01 **Account:** The bookkeeping account maintained for each Participant reflecting the cumulative amount of the Participant's Deferred Compensation, and any transfers for the benefit of the Participant accepted under the Plan, including any income, gains, losses, or increases or decreases in market value attributable to the Employer's investment of the such assets, and further reflecting any distributions to or for the benefit of the Participant or the Participant's Beneficiary and any fees or expenses charged against such assets. Each Participant's Account shall be divided into separate subaccounts to the extent necessary to reflect the portions of a Participant's deferrals contributed on a pre-tax basis, as opposed to the portion consisting of Roth contributions made pursuant to Section 4.01 (if any) or an in-Plan Roth rollover made pursuant to Section 6.10(b) (if any).

2.02 **Accounting Date:** Each business day that the New York Stock Exchange is open for trading, as provided in Section 6.06 for valuing the Trust's assets.

2.03 **Administrator:** The person or entity selected and retained, from time to time, by the District to provide recordkeeping and other administrative services with respect to the Plan. The District may terminate and replace the Administrator, or the Administrator may resign upon 180 days advance written notice or such other notice period as the District and Administrator shall agree to. In the absence of an appointed Administrator, the Committee shall serve as the Administrator.

2.04 **Automatic Distribution Date:** The later of April 1 of the calendar year after the Plan

Year in which the Participant attains age 70-1/2 or the date the employee has a Severance Event.

2.05 Beneficiary: The person or persons, either designated by the Participant or identified in accordance with the Plan, who shall receive any benefits payable hereunder in the event of the Participant's death. If the Participant names two or more Beneficiaries, they shall be entitled to equal shares of the benefits payable at the Participant's death unless otherwise provided in the Participant's Beneficiary designation. If no Beneficiary is designated or identifiable, if the Beneficiary predeceases the Participant, or if the Beneficiary does not survive the Participant for a period of 15 days, then the estate of the Participant shall be the sole Beneficiary. If a married Participant wishes to designate a different Beneficiary than his or her spouse as to all or any part of the Participant's benefit, then the Participant shall be responsible for obtaining and filing with the Administrator appropriate written and notarized consent of his or her spouse to such change. Any further change in Beneficiary, with respect to any portion of a benefit that the spouse has already consented to, will not require the further consent of the spouse. The Participant's spouse, if any, shall automatically be the Beneficiary of a married Participant unless the Participant designates a different Beneficiary. For purpose of this Plan, a Participant's spouse shall mean the individual to whom the Participant is, or whom the deceased Participant was at the time of his or her death, lawfully married under the laws of the State (including a Commonwealth or the District of Columbia) in which the marriage took place, as recognized under federal law governing tax-qualified retirement plans.

2.06 Benefit Commencement Date: The date selected by the Participant under Section 7.02, or by the Beneficiary under Section 7.04 or 7.05, or the "default" date that results (by operation of Section 7.02, 7.04 or 7.05 below) from the payee's failure to make such an election, whichever is applicable.

2.07 Code: The Internal Revenue Code of 1986, as amended, including any regulations or rulings under the Code. Any reference to Regulations is a reference to Treasury Department regulations under the Code, unless otherwise specified. Any reference to a Section of the Code or Regulations shall be construed to include a reference to the corresponding provision of any successor law. Any reference to a Section of the Code shall be construed to include a reference to the corresponding Treasury Department regulations thereunder.

2.08 Committee: The Committee established by the District in accordance with Section 3.05 hereof consisting of the District's Treasurer, its the Director of Human Resources and a Commissioner appointed, from time to time, by the Board of Commissioners that manages the District. The Committee shall be the primary fiduciary of the Plan, with authority to interpret and oversee the administration of the Plan, including the powers specified in Article III below.

2.09 Deferred Compensation: The amount of Includible Compensation otherwise payable to the Participant which the Participant elects to defer in accordance with the Plan, plus any amount credited to a Participant's Account by reason of a transfer under Sections 6.08 or 6.09, a rollover under Section 6.10, or any other amount which is properly deposited into the Trust and credited to the Participant's Account from time to time, not including any investment experience.

2.10 District: The Metropolitan Water Reclamation District of Greater Chicago, which is a

political subdivision, agency or instrumentality of the State of Illinois as described in Section 457(e)(1)(A) of the Code. The District is the Plan sponsor. The District shall act by written action of its Board of Commissioners or any person to which that Board delegates certain authority to act on its behalf with respect to the Plan.

2.11 Dollar Limitation: The applicable dollar amount within the meaning of Section 457(b)(2)(A) of the Code, as adjusted from year to year for changes in the cost-of-living in accordance with Section 457(e)(15) of the Code. The Dollar Limitation is used under Section 5.01 below to determine the maximum amount of Deferred Compensation that may be credited to a Participant's Account under the Plan for any Plan Year.

2.12 Employee: Any employee or officer of the District, any employee of the District's statutory retirement fund, and any employee or officer of any other entity which is a statutorily-created affiliate of the District that has adopted the Plan with the consent of the District.

2.13 Employer(s): Any of the entities described as an employer in Section 2.12 above that has adopted the Plan for the benefit of its employees, for so long as such entity has an obligation to contribute Employee deferrals to the Plan and qualifies as a governmental employer eligible to maintain a Code Section 457(b) plan.

2.14 457 Catch-Up Dollar Limitation: Twice the applicable annual Dollar Limitation. This limit is applied to catch-up contributions described in Section 5.02(b) below.

2.15 Includible Compensation: Includible Compensation of a Participant means the "Participant's compensation," as defined in Section 415(c)(3) of the Code, for services performed for the Employer. Includible Compensation shall be determined without regard to any community property laws. . Includible Compensation shall include any differential wage payments (as defined by Section 3401(h)(2) of the Code).

2.16 Joinder Agreement: An agreement entered into between an Employee and the Employer, including any amendments or modifications thereof. Such agreement shall fix the amount of Deferred Compensation, specify a preference among the investment alternatives offered under the Plan, designate the Employee's Beneficiary or Beneficiaries, and incorporate the terms, conditions, and provisions of the Plan by reference. The elections in effect under a Participant's Joinder Agreement as of December 31, 2014 shall remain in effect unless and until changed by the Participant, but beginning January 1, 2015, all new elections and changes of elections by Participants shall be made instead using election forms (which may be paper or electronic) made available by the Administrator and approved by the Committee for use by the Participants; provided, however, that any election form used for purposes of deferral elections under the Plan shall satisfy the requirement under Code Section 457(b) that deferrals be elected and made pursuant to an agreement.

2.17 Normal Limitation: The maximum amount of Deferred Compensation that may be credited to an Account for any Participant for any taxable year (other than amounts referred to in Sections 6.08, 6.09, and 6.10 below), as determined in accordance with Section 5.01 below and Treasury Regulations under Code Section 457(b)(2).

2.18 Normal Retirement Age: A Participant's Normal Retirement Age for purposes of the Plan shall be age 70-1/2, unless the Participant elects an earlier Normal Retirement Age in accordance with this Section 2.18. A Participant shall be permitted to file with the Administrator a written election, on a form approved by the Committee, of an earlier Normal Retirement Age so long as the elected Normal Retirement Age is not later than the Participant's attainment of age 70-1/2 and not before the earlier of: (i) the Participant attaining age 65, or, if applicable (ii) any earlier age at which the Participant would have the right to retire and receive, under the basic (statutory) defined benefit pension plan of the District (or under any money purchase pension plan, if then established and in effect, of an Employer, in which the Participant participates if he or she is not eligible to participate in the District's defined benefit pension plan) immediate retirement benefits without actuarial or similar reduction because of retirement before some later specified age. Pursuant to 40 ILCS 5/13-301, the basic (statutory) defined pension plan of the District currently allows for immediate retirement benefits without actuarial or similar reduction in accordance with the following:

- (a) Employees entering service prior to June 13, 1997 – employee may retire at age 50 with 30 years of service or at age 60 if less than 30 years of service.
- (b) Employees entering service after June 13, 1997 and before January 1, 2011 – employee may retire at age 55 with 30 years of service or at age 60 if less than 30 years of service.
- (c) Employees entering service on or after January 1, 2011 – employee may retire at age 67 (other than the standard vesting there is no years of service requirement).

Additional benefits established in accordance with the optional plan pursuant to 40 ILCS 5/13-304, may be considered in determining whether the Participant's retirement benefits are without actuarial or similar reduction under (ii) above. The optional plan allowed for the purchase of additional credit toward retirement benefits. Reciprocal service time credit with other qualified agencies will be included in the calculation of the years of service as allowed under the provisions of the defined pension plan of the District.

Normal Retirement Age determines if and when a Participant may be entitled to make catch-up contributions for up to three full Plan Years immediately preceding the Plan Year of the Participant's Normal Retirement Age. A Participant is not required to retire by incurring a Severance Event upon attaining his or her Normal Retirement Age, but the Participant's eligibility to make catch-up contributions under Section 5.02(b) below shall only arise for one catch-up period (of not more than three consecutive Plan Years) and shall cease as of the close of the Plan Year immediately preceding the Participant's Normal Retirement Age regardless of when the Participant may have made an early Normal Retirement Age election and of how long after Normal Retirement Age the Participant continues as an Employee. A Participant who has properly made a Normal Retirement Age election shall be eligible to make catch-up contributions under Section 5.02(b) for whatever portion of the three year catch-up period remains under that Section.

2.19 Participant: Any Employee who has joined the Plan pursuant to Article IV and for whom an Account balance is maintained under the Plan. An Employee or former Employee shall remain a Participant until his or her Account balance is zero so the Plan has no remaining

benefit obligation to that Participant.

2.20 **Percentage Limitation:** 100 percent (or such other percentage as applies from time to time under Code Section 457(b)(2)(B)) of the Participant's Includible Compensation available to be contributed as Deferred Compensation for the taxable year. The Percentage Limitation is used under Section 5.01 below to determine the maximum amount of Deferred Compensation that may be credited to a Participant's Account for any Plan Year.

2.21 **Plan Year:** The calendar year.

2.22 **Severance Event:** A severance of the Participant's employment or service relationship with the Employer, and any and all Employers, within the meaning of Section 457(d)(1)(A)(ii) of the Code.

In general, a Participant shall be deemed to have experienced a Severance Event for purposes of this Plan when, in accordance with the established practices of the Employer, the employment relationship is considered to have actually terminated. In the case of a Participant who is an independent contractor of the Employer, a Severance Event shall be deemed to have occurred when the Participant's contract under which services are performed has completely expired and terminated, there is no foreseeable possibility that the Employer will renew the contract or enter into a new contract for the Participant's services, and it is not anticipated that the Participant will become an Employee of the Employer. These general rules shall be applied consistent with applicable Treasury Regulations for determining a "severance from employment" by an employee or independent contractor under Code Section 457(d)(1)(A)(ii).

2.23 **Trust:** The Trust shall consist of all compensation deferred under the Plan, any amounts transferred to it by or on behalf of Participants, plus any income and gains thereon, less any losses, expenses and distributions to or on behalf of Participants and Beneficiaries.

2.24 **Trustee:** The Trustee shall be the District or any other person (or entity) appointed to serve as Trustee of the Plan from time to time by action of the District's Board of Commissioners or that Board's delegate. The Trustee shall manage the Trust in accordance with Article VI below.

Article III. Administration

3.01 **Committee Powers and Duties:** The Committee shall have the powers and duties set forth herein, in addition to such other powers and duties as may be provided in this Plan and Trust Document.

- (a) To see that all amounts specified in this Plan and Trust Document, from any source, are collected and applied.
- (b) To notify the Clerk of the Employer of the deductions to be made from the salaries of the employees.

- (c) To monitor investments offered by the Plan, recommend to the District changes to these investments when deemed appropriate, implement changes in investment options at the direction of the District and the facilitate investment directions by Participants and surviving Beneficiaries as provided in this Article III.
- (d) To consider and pass upon all applications for distributions and appeals of benefit denials.
- (e) To submit an annual report to the Board of Commissioners of the District. The report shall include the following:
 - (1) A balance sheet, showing the financial conditions of the Plan as of the end of the calendar year;
 - (2) A statement of receipts and disbursements during such year;
 - (3) A statement showing changes in the asset, liability, reserve and surplus accounts during such year;
 - (4) A detailed statement of investments as of the end of the year; and
 - (5) Any additional information as is deemed necessary for proper assessment of the condition of the Plan.
- (f) To recommend to the District appointment, replacement and termination of such advisors, auditors, legal or financial consultants and other Plan service providers as are necessary, from time to time, to fix or modify their compensation and any other terms and conditions of retention, to establish the scope and specific duties of the appointee by agreement, and to periodically review the actions of each appointee and to monitor the appointee's overall performance and compliance with its services agreement.
- (g) To make, adopt or approve rules, procedures and regulations necessary for the administration of the affairs of the Plan.
- (h) To cause to be collected any amounts due to the Plan from any Participant or Beneficiary prior to payment of any distribution due to such person.
- (i) To offset against any amount payable with respect to any Participant such sums as may be due to the Plan from or with respect to such Participant, or such sums as may have been paid by the Plan to or on behalf of such Participant due to misrepresentation, fraud or error.
- (j) To monitor the Administrator and any other Plan fiduciary or service provider, periodically in such manner and to such extent as the Committee, in its sole discretion, deems prudent.

- (k) To conduct or direct inquiry into the capability, experience, performance history, professional licensing or registration, if any, and financial stability of each and every Plan fiduciary or service provider as the Committee, in its sole discretion, deems prudent from time to time.
- (l) To require a fidelity bond to be provided by the Administrator, Trustee or custodian, to the extent deemed necessary or appropriate for the protection of the Plan and Trust, in the sole discretion of the Committee.
- (m) To notify Participants of any material Plan amendments with reasonable promptness before (or, under appropriate circumstances, after) such amendment takes effect. Similarly to notify Participants of any changes in investment options or administrative processes that may be relevant to the Participant's participation in the Plan.
- (n) To bring, settle and defend claims on behalf of or with respect to the Plan, to the extent not undertaken by the District.
- (o) To meet periodically in such a manner and with such frequency as the Committee deems necessary or appropriate, to develop and follow rules and procedures for conducting its business, and to maintain a record of its meetings and decisions.
- (p) To interpret the Plan, consistent with its purpose and applicable law, in the sole discretion of the Committee, and to treat similarly situated Participants and Beneficiaries in a substantially uniform manner insofar as practicable under the circumstances.

The decisions and actions of the Committee, and the fiduciary actions of the District, taken in good faith, shall be binding and enforceable on all interested persons, and shall not be overturned by any court or governmental body unless proven to be arbitrary and capricious, having no basis in the Plan or applicable law.

3.02 Officer Duties:

- (a) In addition to those other requirements set forth in this Article, the proper officers of the District shall, without cost to the Plan:
 - (1) Deduct, or cause to be deducted, all required sums from the salaries of participating Employees, and pay such sums to the Plan in such a manner as the Committee specifies.
 - (2) Furnish to the Committee, in the manner and form requested by it, such information, reports and data concerning Employees, as the Committee deems necessary or appropriate for the proper administration of the Plan.

(3) Furnish suitable rooms for offices and meetings.

- (b) The District shall have the authority to collect and make or oversee Participant contributions and other payments to the Plan, and to perform such other nondiscretionary administrative functions as the Committee may direct.

3.03 **Trust Provisions:**

- (a) Trustee: If the District designates a third party to serve as Trustee, then resignation, removal and appointment of the Trustee shall be conducted by action of the District's Board of Commissioners and shall be governed by provisions of Illinois law applicable to resignation, renewal and appointment of such Trustee. The Trustee may from time to time, with the consent of the District, transfer to a common, collective or pooled trust fund maintained by any corporate Trustee hereunder, all or such part of the Trust fund as the Trustee may deem advisable, and such part or all of the Trust fund so transferred shall be subject to all the terms and provisions of the common, collective or pooled trust fund which contemplate the commingling for investment purposes of such trust assets with trust assets of other trusts. The Trustee may, from time to time, withdraw from such common, collective or pooled trust fund all or such part of the Trust fund as the Trustee may deem advisable.
- (b) Investments: The Board of Commissioners of the District shall be responsible for developing and maintaining an Investment Policy Statement for the Plan, which shall provide guidelines for the retention, monitoring and changing of investment options offered under the Plan. The Board of Commissioners shall make all decisions regarding the selection of and changes to investment options under then Plan, and may retain an investment advisor as a consultant to conduct due diligence regarding current and prospective investment options, and to advise regarding portfolio strategy, market trends and conditions, and investment performance. The Board of Commissioners, or by delegation the Committee, shall contract with investment managers for various investment options which shall be available under the Plan from time to time.

The Committee may work with the investment advisor to develop recommendations for changes in or additions to the Plan's investment options. The Committee shall regularly monitor and evaluate the appropriateness of the Plan's investment options, and report to the Board of Commissioners on the Committee's findings and recommendation.

Participants or their surviving Beneficiaries shall be entitled to select from among the available investment options for the investment of their Accounts.

The Committee shall (i) provide appropriate and sufficient information regarding available investment options and investment direction procedures to Participants

and surviving Beneficiaries to enable them to make informed investment choices with respect to their Plan Accounts, (ii) allow changes in investment directions to be made with reasonable frequency, and (iii) offer a suitably diverse array of investment options as will give Participants and surviving Beneficiaries a reasonable opportunity to design a retirement account portfolio that takes into account, generally, such individual factors as age, financial circumstances and risk tolerance. Because investment control over their Accounts rests with the Participants and surviving Beneficiaries, none of the Plan fiduciaries will be liable for any investment loss, or lost investment opportunity, that is experienced by any Participant or Beneficiary with respect to the investment performance of their Account under the Plan. In the event and to the extent a Participant or surviving Beneficiary does not provide investment direction with respect to all or any portion of their Account, the undirected portion of the Account shall be invested in the Plan's "default" investment option, which shall be selected and announced from time to time by the Committee.

- (c) Designation of Fiduciaries: The Trustee, the District the Committee, and the Investment Advisor are fiduciaries under the Plan. The persons they designate to carry out or help carry out their duties or responsibilities may also be fiduciaries of the Plan to the extent they have discretion that may affect benefit rights or the management of Plan assets. For example, proxy voting is a fiduciary function. Each fiduciary has only those duties or responsibilities specifically assigned to it under the Plan or Trust or delegated to that fiduciary by another Plan fiduciary. Each fiduciary may assume (unless it has actual knowledge to the contrary) that any direction, information or action of another fiduciary is proper and need not inquire into the propriety of any such action, direction or information. Except as provided by law, no fiduciary will be responsible for the malfeasance, misfeasance or nonfeasance of any other fiduciary.
- (d) Fiduciary Standards:
 - (1) All fiduciaries shall discharge their duties with respect to this Plan and Trust solely in the aggregate interest of the Participants and Beneficiaries of the Plan. Such duties shall be discharged for the exclusive purpose of providing benefits to the Participants and Beneficiaries and defraying proper administrative expenses of the Plan.
 - (2) All fiduciaries shall discharge their duties with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and in a manner consistent with applicable Illinois law.
- (e) Trust Exemption. The Trust is intended to be exempt from taxation under Section 501(a) of the Code and is intended to comply with Section 457(g) of such Code. The District shall be empowered to submit or designate appropriate representatives

to submit this Plan and Trust to the Internal Revenue Service for a determination of the eligibility of the Plan under Section 457, and the exempt status of the Trust under Section 501(a), if the District concludes that such a determination is desirable.

3.04 Powers and Duties of the Trustee: The Trustee is the fiduciary with authority to manage and control the assets of the Trust, except as otherwise provided herein. The Trustee shall have and shall exercise all of the rights and authority of a legal owner with respect to all property of the Trust, including the power and duty to:

- (a) Invest and reinvest the Trust Fund pursuant to Section 6.02 hereof.
- (b) Settle, compromise or submit to arbitration, any claims, debts or damages due or owing to or from the Trust, to commence or defend against suits or legal proceedings and to represent the Trust in all suits or legal proceedings.
- (c) Exercise any right, including the right to vote, pertinent to any Trust property at any time. Notwithstanding the foregoing, the voting of proxies for securities held by the Trust is the responsibility of the District's Treasurer, except to the extent a third party Trustee agrees in writing to assume the responsibility to vote proxies.
- (d) Determine and report to the Administrator the value of Trust assets from time to time and as of any Accounting Date, as needed for the operation of the Plan.
- (e) Prepare, issue and file any financial or tax returns required by or with respect to the Trust from time to time.
- (f) Allow access to Trust records by the Administrator or Committee from time to time upon reasonable request.
- (g) Preserve and maintain Trust records and transfer them to any successor Trustee, or destroy them, as directed by the Committee or the District and consistent with applicable law governing the Trust and the operation of the Trustee.
- (h) Make, execute, and deliver, any and all contracts, contract waivers, releases or other instructions, in writing, necessary or proper for the accomplishment of any of the foregoing powers.

3.05 Duties of the Employers: The District shall have the authority to appoint the Administrator and the Committee as provided in Sections 2.03 and 2.08, to serve as Trustee or appoint a third party Trustee as provided in Section 2.24, to determine investment options available under the Plan as provided in Section 3.03(b), and to amend or terminate the Plan and Trust as provided in Article XI below. When taking action as Trustee or selecting investment options, the District shall be a Plan fiduciary, but in all other roles the District shall be acting solely as the Plan sponsor or as an employer of eligible or participating Employees, for which fiduciary responsibility under the Plan shall not attach. The District is free to consider its own

business interests when not acting as a Plan fiduciary. Employers shall cooperate with the Plan fiduciaries and with the District to provide information regarding their Employees and such Employees' elections regarding the Plan, and to facilitate the contribution of Deferred Compensation to the Plan and Trust.

3.06 Duties of Administrator: The Administrator shall perform such administrative and custodial services in connection with the Plan as it contracts with the District to provide, which may, without limitation, include the maintenance of Participants' Accounts, the provision of periodic reports to the Committee and the Participants and surviving Beneficiaries on the status of Accounts, providing and processing Joinder Agreements and election forms and maintaining Plan records. Plan records held or controlled by the Administrator shall be maintained on a confidential basis and, as directed by the Committee, shall be destroyed or delivered in usable form to any successor Administrator upon termination of the Administrator's services.

3.07 Claim and Appeal Procedures: If a benefit application is denied initially, any Participant, Beneficiary or authorized representative of a claimant under the Plan, who believes he or she is entitled to payment of a benefit for which provision is made in the Plan shall file a formal, written claim with the Committee and shall furnish such evidence of entitlement to benefits as the Committee may reasonably require. The Committee shall have complete discretion, in accordance with the Plan, as to whether a claim shall be allowed or denied. The Committee shall notify the Participant or Beneficiary in writing as to the amount of the benefit to which he or she is entitled, the duration of such benefit, the time the benefit is to commence and other pertinent information concerning his or her benefit. If a claim for a benefit is denied by the Committee, in whole or in part, the Committee shall provide adequate notice in writing to the Participant or Beneficiary whose claim for a benefit has been denied within the 90-day period following receipt of the claim by the Committee. If, under special circumstances, the Committee requires an extension of time for processing the claim, written notice of the extension shall be furnished to the claimant prior to the termination of the initial 90-day period. In no event shall such extension exceed a period of 90 days from the end of such initial period. If written notice of the denial is not furnished in accordance with the above, the claim shall be deemed denied and the claimant may proceed with an appeal of the denial, as provided below. The written notice regarding the benefit denied shall set forth (a) the specific reason or reasons for the denial; (b) specific reference to pertinent Plan provisions on which the denial is based; (c) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and (d) a statement that any appeal of the denial must be made in writing to the Committee, within 60 days after receipt of the notice, which must include a full description of the pertinent issues and the basis of the appeal. If the Participant or Beneficiary fails to appeal such action to the Committee in writing within the prescribed period of time, the Committee's determination shall be final, binding and conclusive.

In the event of an adverse benefit determination, the Participant, Beneficiary, or authorized representative shall be permitted to review pertinent documents, which shall be provided free of charge, including copies of all documents, records, and other information relevant to the claim for benefits, and to submit to the Committee issues and comments in writing. If the Committee receives from a Participant or a Beneficiary, within the prescribed period of time, a notice of an appeal of the denial of a claim for benefits, such notice shall immediately be submitted to the District. The District may hold a hearing or otherwise ascertain such facts as it deems necessary

and shall render a decision which shall be binding upon both parties. The decision of the District shall be in writing and a copy thereof shall be sent to each party within 60 days after the receipt by the Committee of the notice of appeal, unless special circumstances require a reasonable extension of such 60-day period, but in any event, not later than 120 days after receipt. If written notice of the denial on appeal of a claim for benefits is not received within the 60 or 120-day period, as applicable, then the claim shall be treated as a denied claim on appeal.

Article IV. Participation in the Plan

4.01 Initial Participation: Participation by any eligible Employee is voluntary. An Employee shall become a Participant by entering into a Joinder Agreement, (or other Committee-approved Plan enrollment form) prior to the beginning of the calendar month in which the enrollment is to become effective. An Employee shall be entitled, in accordance with the Plan, to elect to defer Compensation not yet earned as of any date on which he or she is a Participant insofar as may be permitted under the Code.

An Employee's deferral of Compensation made under this Section 4.01 will be made on a pre-tax basis, unless the Employee affirmatively elects, at the time and in the manner allowed by the Administrator and approved by the Committee, to have such deferrals treated as Roth contributions under the Plan. Roth contributions shall be treated as income to the Participant for tax purposes at the time of deferral, and shall be deposited into, and maintained in, a separate Roth subaccount under the Plan on behalf of the Participant. All gains, losses and other credits or charges will be allocated on a reasonable basis among the Participant's separate subaccounts. All Roth contributions shall be included in the determination of a Participant's aggregate Deferred Compensation for purposes of applying the limits of Article V or any other applicable limits under the Plan and the law.

4.02 Amendment of Elections: A Participant may use a Committee-approved election change form to amend an executed Joinder Agreement or other enrollment form in order to change the amount of Includible Compensation not yet earned that is to be deferred (including the reduction of such future deferrals to zero). Such amendment shall become effective as of the beginning of the calendar month commencing after the date such election change form is executed and received by the Administrator, or such other date as may be permitted under the Code. In accordance with the Plan and applicable procedures, a Participant (or surviving Beneficiary, if eligible to do so) may use an election change form to change investment directions, change Beneficiary designations, elect the form of distribution or provide any other election information, application or acknowledgement required by the Plan. Such forms and elections shall not take effect before they have been properly completed, signed and filed with the Administrator.

Article V. Limitations on Deferrals

5.01 Normal Limitation: Except as provided in Section 5.02, the maximum amount of Deferred Compensation for any Participant for any taxable year, shall not exceed the lesser of the Dollar Limitation or the Percentage Limitation. Amounts transferred or rolled over into the Plan by or on behalf of a Participant shall not count for purposes of determining the maximum under

this Section 5.01 to the extent that such transfers and rollovers are not counted for this purpose under the Code Section 457(b)(2).

5.02 Catch-Up Limitations:

- (a) Catch-up Contributions for Participants Age 50 and Over: In accordance with Code Section 457(e)(18), a Participant who has attained the age of 50 before the close of the Plan Year, and with respect to whom no other elective deferrals may be made to the Plan for the Plan Year by reason of the Normal Limitation of Section 5.01, may make elective deferrals of Deferred Compensation in addition to those permitted by the Normal Limitation in an amount not to exceed the lesser of (1) the applicable dollar amount as defined in Section 414(v)(2)(B) of the Code, as adjusted for the cost-of-living in accordance with Section 414(v)(2)(C) of the Code, or (2) the excess (if any) of (i) the Participant's Compensation for the year, over (ii) any other elective deferrals of the Participant for such year which are made under the Plan without regard to this Section 5.02(a). An additional contribution made pursuant to this Section 5.02(a) shall not, with respect to the year for which the contribution is made, be subject to any otherwise applicable limitation contained in Section 5.01 above, or be taken into account in applying such limitation to other contributions or benefits under the Plan or any other plan. This Section 5.02(a) shall not apply in any year to which a higher limit under Section 5.02(b) applies to the Participant.
- (b) Last Three Years Catch-up Contribution: In accordance with Code Section 457(b)(3), for each of the last three taxable years ending before the Participant's attainment of Normal Retirement Age, his or her maximum amount of Deferred Compensation (without regard to any transfers or rollovers that are not required to be counted for this purpose) shall be the lesser of: (1) the 457 Catch-Up Dollar Limitation, or (2) the sum of (i) the Normal Limitation for the taxable year, and (ii) the Normal Limitation for each prior taxable year of the Participant commencing after 1978 less the amount of the Participant's Deferred Compensation (taken into account for this purpose) for such prior taxable years. A prior taxable year shall be taken into account under the preceding sentence only if (x) the Participant was eligible to participate in the Plan for such year (or in any other eligible deferred compensation plan established under Section 457(b) of the Code which is properly taken into account pursuant to regulations under Code Section 457), and (y) compensation (if any) deferred under the Plan (or such other plan) was subject to the Normal Limitation.

5.03 Sick, Vacation and Back Pay: A Participant may defer all or a portion of the value of the Participant's accumulated sick pay, accumulated vacation pay and/or back pay, provided that such deferral does not cause total deferrals on behalf of the Participant to exceed any applicable limitation under Sections 5.01 and 5.02 above for the year of deferral. The election to defer such sick, vacation and/or back pay must be made in a manner and at a time permitted under Section 1.457-4(d) of the Treasury Department regulations. Pursuant to Treasury Department regulations issued under Section 415 of the Code, the Plan also permits Participant-elected deferrals from Compensation, including sick, vacation, back pay and any other eligible accrued

pay, so long as such Compensation is paid within 2 ½ months following the Participant's Severance Event and the other requirements of Sections 457(b) and 415 of the Code are met. Additionally, the agreement to defer such amounts must be entered into prior to the first day of the month in which the amounts otherwise would be paid or made available.

5.04 Other Plans: Notwithstanding any provision of the Plan to the contrary, the amount excludible from a Participant's gross income under this Plan or any other eligible deferred compensation plan under Section 457(b) of the Code shall not exceed the limits set forth in Sections 457(b) and 414(v) of the Code.

5.05 Excess Deferrals: Any deferral contributions made by a Participant that exceed the applicable limitations under this Plan for a taxable year, taking into account all similar plans to which the Participant contributed for the year, to the extent that contributions to such other plans are disclosed by the Participant, shall constitute an excess deferral for that taxable year. Any excess deferral along with allocable net income, shall be subject to corrective distribution as soon as administratively practicable after discovery of the excess in accordance with the requirements for correcting excess deferrals under the Code and Sections 1.457-4(e) and 1.457-5 of the Treasury Department regulations.

5.06 Protection of Person Who Serves in a Uniformed Service:

- (a) An Employee whose employment is interrupted by qualified military service (as defined in Section 414(u)(5) of the Code) may elect to contribute additional Deferred Compensation upon resumption of employment with the Employer equal to the maximum Deferred Compensation that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Includible Compensation) without the interruption or leave, reduced by Deferred Compensation, if any, actually made for the Employee during the period of the interruption or leave. This right applies for five years following the resumption of employment, or if sooner, for a period of time equal to three times the period of the interruption or leave.
- (b) If a Participant dies on or after January 1, 2007 in connection with performing such qualified military service, the surviving Beneficiary shall be entitled to any benefits provided under the Plan (without regard to benefit accruals relating to the period of qualified military service, unless otherwise required under Section 414(u) of the Code) as if the Participant had resumed employment with the Employer on the day before his or her death in accordance with the Participant's reemployment rights under chapter 43 of title 38, United States Code, and then incurred a Severance Event on account of his or her death.

Article VI. Trust and Investment of Accounts

6.01 Investment of Deferred Compensation: A Trust is hereby created to hold all the assets of the Plan for the exclusive benefit of Participants and Beneficiaries, except that expenses and taxes may be paid from the Trust as provided in Section 6.03. The Trustee shall be the District

or such other person that agrees to act in that capacity hereunder and has been appointed by the District in accordance with Section 2.24 above. Except as permitted by applicable law, no part of the Trust shall revert to the District, or any Employer, or be used for or diverted to purposes other than the exclusive benefit of Participants and other qualifying payees under the Plan (which purposes include the payment of reasonable expenses of operating the Plan and Trust) until all benefit obligations of the Plan have been satisfied, provided that amounts attributable to erroneous contributions or payments to the Trust may be properly and equitably refunded or corrected.

6.02 Investment Powers: The Trustee shall have the powers listed in this Section with respect to investment of Trust assets, except to the extent that the investment of Trust assets is directed by Participants or surviving Beneficiaries pursuant to Section 6.05.

- (a) To invest and reinvest the Trust without distinction between principal and income in common or preferred stocks, shares of regulated investment companies and other mutual funds, bonds, loans, notes, debentures, certificates of deposit, contracts with insurance companies including but not limited to insurance, individual or group annuity, deposit administration, guaranteed interest contracts, and deposits at reasonable rates of interest at banking institutions including but not limited to savings accounts and certificates of deposit. Assets of the Trust may be invested in securities that involve a higher degree of risk than investments that have demonstrated their investment performance over an extended period.
- (b) To invest and reinvest all or any part of the assets of the Trust in any common, collective or commingled trust fund that is maintained by a bank or other institution and that is available to employee plans described under Sections 457 or 401 of the Code, or any successor provisions thereto, and during the period of time that an investment through any such medium shall exist, to the extent of participation of the Plans the declaration of trust of such commonly collective, or commingled trust fund shall constitute a part of this Plan.
- (c) To invest and reinvest all or any part of the assets of the Trust in any group annuity, deposit administration or guaranteed interest contract issued by an insurance company or other financial institution on a commingled or collective basis with the assets of any other 457 plan or trust qualified under Section 401(a) of the Code or any other plan described in Section 401(a)(24) of the Code, and such contract may be held or issued in the name of the Administrator, or such custodian as the District may appoint, as agent and nominee for the Trustee. During the period that an investment through any such contract shall exist, to the extent of participation of the Plan, the terms and conditions of such contract shall constitute a part of the Plan.
- (d) To hold cash awaiting investment and to keep such portion of the Trust in cash or cash balances, without liability for interest, in such amounts as may from time to time be deemed to be reasonable and necessary to meet obligations under the Plan or otherwise to be in the best interests of the Plan.

- (e) To hold, to authorize the holding of, and to register any investment to the Trust in the name of the Plan or Trust, or any appointed custodian of Plan assets, or in bearer form, to deposit or arrange for the deposit of securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by any other person, and to organize corporations or trusts under the laws of any jurisdiction for the purpose of acquiring or holding title to any property for the Trust, all with or without the addition of words or other action to indicate that property is held in a fiduciary or representative capacity but the books and records of the Plan shall at all times show that all such investments are part of the Trust.
- (f) Upon such terms as may be deemed advisable for the protection of the interests of the Plan or for the preservation of the value of an investment, to exercise and enforce by suit for legal or equitable remedies or by other action, or to waive any right or claim on behalf of the Plan or any default in any obligation owing to the Plan, to renew, extend the time for payment of, agree to a reduction in the rate of interest on, or agree to any other modification or change in the terms of any obligation owing to the Plan, to settle, compromise, adjust, or submit to arbitration any claim or right in favor of or against the Plans to exercise and enforce any and all rights of foreclosure, bid for property in foreclosure, and take a deed in lieu of foreclosure with or without paying consideration therefore, to commence or defend suits or other legal proceedings whenever any interest of the Plan requires it, and to represent the Trust in all suits or legal proceedings in any court of law or equity or before any body or tribunal; provided, however, that the Trust may not be a necessary party to every lawsuit involving the Plan.
- (g) To employ suitable consultants, depositories, agents, and legal counsel on behalf of the Trust.
- (h) To open and maintain any bank account or accounts in the name of the Trust, the custodian, or any nominee or agent of the foregoing, in any bank or banks.
- (i) Investment of assets credited to Participant Accounts is subject to the terms of the relevant prospectus or offering document for the applicable investment option, including explicit policies pertaining to market timing and excessive trading. The Administrator reserves the right, in its sole discretion, to reject purchase orders or suspend investment availability to a Participant or Beneficiary when, in the judgment of the Administrator, such action is necessary to prevent abusive market timing or excessive trading and is in the best interest of the Plan. Plan investment providers also reserve the right to enforce the terms of the prospectus or other disclosure document with respect to all investment company securities it offers as such document may relate to market timing and excessive trading. This includes restricting the ability to purchase additional fund shares for an indefinite period of time and other remedial action in order to comply with prospectus terms and to comply with State, Federal and Self-Regulatory

Organization rules and regulation. Account restrictions may occur with or without prior notice to the affected party.

- (j) To do any and all other acts that may be deemed necessary to carry out any of the powers set forth herein.
- (k) To prepare such special and periodic reports concerning the financial status and condition of the Plan as may be requested by the Committee or deemed appropriate for purposes of the Plan, and to grant reasonable access to Trust records upon request of the Committee.

6.03 Taxes and Expenses: All taxes of any and all kinds whatsoever that may be levied or assessed under existing or future laws upon the Plan, or with respect to the Trust, or the income thereof, and all commissions or acquisitions or dispositions of securities and similar expenses of investment and reinvestment of the Trust, shall be paid from the Trust. Such reasonable compensation of any Plan fiduciary or service provider, as may be agreed upon from time to time by the Committee and the fiduciary or service provider, and reimbursement for reasonable expenses incurred by the Administrator, the Committee (in aggregate and by the members individually), or any other Plan fiduciary or service provider in performance of its duties hereunder (including but not limited to fees for legal, accounting, investment and custodial services) shall also be paid from the Trust. Expenses attributable to the administration of one or more particular Accounts may be deducted from that Account or Accounts as directed by the Committee and permitted by applicable law; otherwise, taxes and expenses attributable to operating the Plan or Trust in general shall be allocated pro rata to all Accounts, or to particular investment funds, as deemed appropriate by the Trustee and Administrator.

6.04 Payment of Benefits: The payment of benefits from the Trust in accordance with the terms of the Plan may be made by the Trustee, or by any Plan custodian in accordance with the direction of the Committee. The Trustee or custodian shall not be liable with respect to any distribution of Trust assets made at the direction of the Committee.

6.05 Investment Funds: In accordance with uniform and nondiscriminatory rules established by the Plan's Investment Policy Statement, and implemented by the Committee, a Participant or surviving Beneficiary may direct his or her Account to be invested, from time to time, in one or more investment funds available under the Plan; provided, however, that such investment directions shall not violate any investment restrictions established or accepted by the Plan. The Trustee may refuse to comply with any investment direction from the Participant (or, if applicable, a Beneficiary) in the event the Trustee, in its sole and absolute discretion, deems such direction improper by virtue of applicable law. No Plan fiduciary or service provider shall be liable for any losses incurred by virtue of following Participant (or, if applicable, Beneficiary) investment directions (including the use of the default investment fund where investment direction is not given) or for any reasonable administrative delay in implementing such directions.

6.06 Valuation of Accounts: As of each Accounting Date, the Plan assets held in each available investment fund shall be valued by the Trustee, or any other person (or entity)

appointed to serve as Trustee of the Plan, at fair market value and the investment income and gains or losses for each fund shall be determined. Such investment income and gains or losses shall be allocated proportionately among all Account balances on a fund-by-fund basis. The allocation shall be in the proportion that each such Account's balance invested in that fund as of the immediately preceding Accounting Date bears to the total of all such Account balances invested in that fund as of that Accounting Date. For purposes of this Article, all Account balances include the Account balances of all Participants and surviving Beneficiaries.

6.07 Crediting of Accounts: A Participant's Account shall reflect the amount and value of the investments or other property obtained by the Trustee, or any other person (or entity) appointed to serve as Trustee of the Plan, through the investment of the Participant's Deferred Compensation and other assets transferred to the Trust for the benefit of the Participant. It is anticipated that the Trust investments with respect to a Participant will conform to the investment preferences applicable pursuant to the Participant's applicable Joinder Agreement or investment direction agreement, and to corresponding provisions of the Plan. Each Participant or surviving Beneficiary shall receive periodic reports, not less frequently than annually, showing the then current value of his or her Account.

6.08 Post-Severance Transfers Among Eligible Deferred Compensation Plans:

- (a) Incoming Transfers: A transfer may be accepted from an eligible deferred compensation plan maintained by another employer and credited to a Participant's Account under the Plan if: (i) the Participant has had a Severance Event with that employer and become an Employee of the Employer; (ii) the other employer's plan provides that such transfer will be made; and (iii) the Participant or Beneficiary whose deferred amounts are being transferred will have an Account balance immediately after the transfer at least equal to his or her deferred amount immediately before the transfer. The Committee and Trustee may require such documentation from the predecessor plan as they deem necessary to make the transfer in accordance with Section 457(e)(10) of the Code, to confirm that such plan is an eligible deferred compensation plan within the meaning of Section 457(b) of the Code, and to assure that transfers are provided for under such plan. The Committee or Trustee may refuse to accept a transfer in the form of assets other than cash, unless they agree to accept and hold such other assets under the Plan. Such transferred amounts shall be separately accounted for by the Plan to the extent required by law.
- (b) Outgoing Transfers: An amount may be transferred to an eligible deferred compensation plan maintained by another employer, and charged to a Participant's or Beneficiary's Account under this Plan, if: (i) in the case of a transfer for a Participant, the Participant has a Severance Event with the Employer and becomes an employee of the other employer; (ii) the other employer's plan provides that such transfer will be accepted; (iii) the Participant or Beneficiary and the employers have signed such agreements as are necessary to assure that the Plan's liability to pay benefits to the Participant has been discharged and assumed by the other employer or by its plan; and (iv) the Participant or Beneficiary whose deferred amounts are

being transferred will have an amount credited on his or her behalf immediately after the transfer at least equal to the deferred amount that was credited on his or her behalf immediately before the transfer. The Committee or Trustee may require such documentation from the other plan as they deem necessary to make the transfer, to confirm that such plan is an eligible deferred compensation plan within the meaning of Section 457(b) of the Code, and to assure that transfers are provided for and properly accounted for under such plan. Such transfers shall be made only under such circumstances as are permitted under Section 457 of the Code and the regulations thereunder.

6.09 Transfers Among Eligible Deferred Compensation Plans of the Employer:

- (a) Incoming Transfers: A transfer may be accepted from another eligible deferred compensation plan maintained by an Employer and credited to a Participant Account under the Plan if: (i) the Employer's other plan provides that such transfer will be made; (ii) the Participant whose deferred amounts are being transferred will have an amount credited on his or her behalf immediately after the transfer at least equal to the deferred amount credited on his or her behalf immediately before the transfer; and (iii) the Participant whose deferred amounts are being transferred is not eligible for additional annual deferrals in the Plan unless the Participant is performing services for an Employer. Such transfers shall be separately accounted for to the extent required by law.
- (b) Outgoing Transfers: A transfer may be accepted by another eligible deferred compensation plan maintained by an Employer and credited to a Participant's or Beneficiary's Account under the Plan if: (i) the Employer's other plan provides that such transfer will be accepted; (ii) the Participant or Beneficiary whose deferred amounts are being transferred will have an amount credited and properly accounted for on his or her behalf immediately after the transfer at least equal to the deferred amount credited on his or her behalf immediately before the transfer; and (iii) the Participant or Beneficiary whose deferred amounts are being transferred is not eligible for additional annual deferrals in an Employer's other eligible deferred compensation plan unless the Participant or Beneficiary is performing services for the Employer.

6.10 Eligible Rollover Distributions:

- (a) Incoming Rollovers: An eligible rollover distribution may be accepted from an eligible retirement plan and credited to a Participant's Account under the Plan. The Employer may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Section 402 of the Code and to confirm that such plan is an eligible retirement plan within the meaning of Section 402(c)(8)(B) of the Code. The Plan shall separately account (in one or more separate accounts) for eligible rollover distributions from any eligible retirement plan that is not an eligible deferred compensation plan described in Section 457(b) of the Code maintained by an eligible governmental employer

described in Section 457(e)(1)(A) of Code.

- (b) In-Plan Conversion Rollovers: A Participant may elect, at any time and in the manner prescribed by the Committee, to have any distributable, pre-tax, vested amounts held in the Participant's Account rolled distributable over from the Participant's pre-tax subaccount to the Participant's Roth contribution subaccount.
- (c) Outgoing Rollovers: Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- (d) Definitions:
 - (1) Eligible Rollover Distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that, in accordance with Code Section 402(c)(4), an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Sections 401(a)(9) and 457(d)(2) of the Code; and any distribution made as a result of an unforeseeable emergency of the employee. For purposes of distributions from other eligible retirement plans rolled over into this Plan, the term eligible rollover distribution shall not include the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).
 - (2) Eligible Retirement Plan: An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code (other than an endowed contract), an annuity plan described in Sections 403(a) or 403(b) of the Code, a qualified trust described in Section 401(a) of the Code, a Roth IRA, or an eligible deferred compensation plan described in Section 457(b) of the Code which is maintained by an eligible governmental employer described in Section 457(e)(1)(A) of the Code, that accepts the distributee's eligible rollover distribution.
 - (3) Distributee: A distributee includes an Employee or former Employee who has an Account under the Plan. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the

interest of the spouse or former spouse.

- (4) Direct Rollover: A direct rollover is a payment by the Plan directly to the eligible retirement plan specified by the distributee.

6.11 Trustee-to-Trustee Transfers to Purchase Permissive Service Credit: All or a portion of a Participant's Account may be transferred directly to the trustee of a defined benefit governmental plan (as defined in Section 414(d) of the Code) if such transfer is (A) for the purchase of permissive service credit (as defined in Section 415(n)(3)(A) of the Code) under such plan, or (B) a repayment to which Section 415 of the Code does not apply by reason of subsection (k)(3) thereof, within the meaning of Section 457(e)(17) of the Code.

6.12 Treatment of Distributions of Amounts Previously Rolled Over From 401(a) and 403(b) Plans and IRAs: For purposes of Section 72(t) of the Code, a distribution from this Plan shall be treated as a distribution from a qualified retirement plan described in Section 4974(c)(1) of the Code to the extent that such distribution is attributable to an amount transferred to an eligible deferred compensation plan from a qualified retirement plan (as defined in Section 4974(c) of the Code).

Article VII. Benefits

7.01 Retirement Benefits and Election on Severance Event - General Rule: Except as otherwise provided in this Article VII, the distribution of a Participant's Account shall commence as of a Participant's Automatic Distribution Date, and the distribution of such benefits shall be made in accordance with one of the payment options described in Section 7.02. Notwithstanding the foregoing, but subject to the following paragraphs of this Section 7.01, the Participant may elect prior to and/or after a Severance Event (i) the form of distribution under Section 7.02, and (ii) to have the distribution of benefits commence prospectively on a fixed determinable date other than that described in the preceding sentence, but not later than April 1 of the year following the year of the Participant's Severance Event or attainment of age 70-1/2, whichever is later. If no election is made as to form of payment, the Participant's benefit shall be paid in accordance with Section 7.02 (c) over a period of five years in quarterly installments. Notwithstanding the foregoing, in order to ensure the orderly administration of this Section 7.01, from time to time the Administrator may establish a deadline for elections to be made under this Section. No in-service distributions will be permitted except those for unforeseeable emergencies in accordance with Section 7.06 and those for de minimis accounts in accordance with Section 7.07.

7.02 Payment Options: As provided in Sections 7.01, 7.04 and 7.05, a Participant may elect to have the value of the Participant's Account, determined by the Trustee as of the closest business day preceding each distribution date (or annuity purchase date, if applicable), distributed in accordance with one of the following payment options, provided that such option is consistent with the limitations set forth in Section 7.03 below.

- (a) Equal monthly, quarterly, semi-annual or annual payments in an amount chosen by the Participant, continuing until his or her Account is exhausted;

- (b) One lump-sum payment;
- (c) Approximately equal monthly, quarterly, semi-annual or annual payments, calculated to continue for a period certain chosen by the Participant;
- (d) Annual payments equal to the minimum distributions required under Section 401(a)(9) of the Code, including the incidental death benefit requirements of Code Section 401(a)(9)(G), over the life expectancy of the Participant or over the joint life expectancies of the Participant and his or her Beneficiary;
- (e) Payments equal to payments made by the issuer of a retirement annuity policy purchased by the Trustee with the value of the Participant's Account;
- (f) A split distribution under which payments under options (a), (b), (c) or (e) commence or are made at the same time, as elected by the Participant under Section 7.01, provided that all payments commence (or are made) by the latest benefit commencement date under Section 7.01; or
- (g) Any other payment option elected by the Participant and agreed to by the Committee.

7.03 Limitation on Options: No payment option may be selected by a Participant under subsections 7.02(a) or (c) for which the amount of any installment is less than \$100. No payment option may be selected by a Participant under Sections 7.02, 7.04, or 7.05 unless it satisfies the requirements of Sections 401(a)(9) and 457(d)(2) of the Code, including that payments commencing before the death of the Participant shall satisfy the incidental death benefit requirements under Code Section 401(a)(9)(G).

7.04 Post-Retirement Death Benefits:

- (a) Should the Participant die after he/she has begun to receive benefits under a payment option, the remaining payments, if any, under the payment option shall continue until the Administrator receives notice of the Participant's death. Upon notification of the Participant's death, benefits shall be payable to the Participant's Beneficiary commencing not later than December 31 of the year following the year of the Participant's death, provided that the Beneficiary may elect to begin benefits earlier than that date. Any periodic payments that accrued to the Beneficiary before payment to the Beneficiary begins shall be paid in a cumulative single sum as part of the Beneficiary's first actual payment.
- (b) In the event that the Beneficiary dies before the payment of death benefits has commenced or been completed, the remaining value of the Participant's Account shall be paid to the estate of the Beneficiary in a lump sum. In the event that the Participant's estate is the Beneficiary, payment shall be made to that estate in a lump sum.

7.05 **Pre-Retirement Death Benefits:**

- (a) Should the Participant die before he or she has begun to receive the benefits provided by Section 7.01, the value of the Participant's Account shall be payable to the Beneficiary commencing not later than December 31 of the year following the year of the Participant's death, provided that the Beneficiary may elect to begin benefits earlier than that date. Any periodic payments that accrued to the Beneficiary before payment to the Beneficiary begins shall be paid in a cumulative single sum as part of the Beneficiary's first actual payment.
- (b) In the event that the Beneficiary dies before the payment of death benefits has commenced or been completed, the remaining value of the Participant's Account shall be paid to the estate of the Beneficiary in a lump sum. In the event that the Participant's estate is the Beneficiary, payment shall be made to that estate in a lump sum.

7.06 Unforeseeable Emergencies: If before separation from service, the Participant is faced with an unforeseeable emergency that is approved by the Committee as meeting the requirements described below, the Participant shall be entitled to receive a distribution (as a cash lump sum) of the amount determined by the Committee to be the amount that is reasonably needed to satisfy the emergency need. To the extent allowed by applicable law, such need may be considered to include the estimated amount of income tax the Participant would pay on the principal amount of the emergency distribution.

An unforeseeable emergency means a severe financial hardship to the Participant resulting from a sudden and unexpected illness or accident of the Participant or of a dependent of the Participant (as defined by Code Section 152(a)), loss of the Participant's property due to casualty, or other similar and extraordinary unforeseeable circumstances arising as a result of events beyond the control of the Participant. The need to send the Participant's child to college or the desire to purchase a home shall not be considered an unforeseeable emergency. The determination as to whether an unforeseeable emergency exists shall be based on the facts of each individual case and determined consistent with Treasury Department regulation Section 1.457-6(c).

An unforeseeable emergency distribution shall not be paid to the extent that the financial hardship is or may be relieved through reimbursement or compensation by insurance or otherwise, by borrowing from commercial sources on reasonable commercial terms to the extent that this borrowing would not itself cause a severe financial hardship, by cessation of deferrals under the Plan, or by liquidation of the Participant's other assets (including the assets of the Participant's spouse and minor children that are reasonably available to the Participant) to the extent that this liquidation would not itself cause severe financial hardship.

7.07 De Minimis Accounts: Notwithstanding the foregoing provisions of this Article, if the value of a Participant's Account is less than \$1,000, the Participant's Account shall be paid to the Participant in a single lump sum distribution, provided that (a) no amount has been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the distribution and (b) there has been no prior distribution under the Plan to the Participant

pursuant to this Section 7.07. If the value of the Participant's Account is at least \$1,000 but not more than the dollar limit under Section 411(a)(11)(A) of the Code and (a) no amount has been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the distribution and (b) there has been no prior distribution under the Plan to the Participant pursuant to this Section 7.07, the Participant may elect to receive his or her entire Account. Such distribution shall be made in a lump sum.

Article VIII. MINIMUM DISTRIBUTION REQUIREMENTS

8.01 General Rules

- (a) The requirements of this Article shall apply to any distribution of a Participant's interest and will take precedence over any inconsistent provisions of this Plan.
- (b) All distributions required under Article VII shall be determined and made in accordance with section 401(a)(9) of the Code, including the minimum incidental distribution requirement of Section 401(a)(9)(G) of the Code, and the Income Tax Regulations thereunder, the provisions of which are herein incorporated by reference.

8.02 Distribution Commencement: The entire value of the Account of a Participant will commence to be distributed no later than the first day of April following the calendar year in which the later of (a) the attainment of age 70-1/2 by the Participant or (b) the separation from the service of the Employer by the Participant occurs (the "required beginning date"), over the life of such Employee or the lives of such Participant and his or her Beneficiary.

8.03 Required Amount: 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 Account balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9, Q&A-2 of the Income Tax 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 Account balance by the number in the Joint and Survivor Table set forth in Section 1.401(a)(9)-9 Q&A-3 of the Income Tax Regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

8.04 Timing of Distributions: Distributions shall be made over a period of time not extending beyond the life expectancy of the Participant, the joint lives of the Participant and a designated Beneficiary, a period certain not extending beyond the life expectancy of the Participant, or a period certain not extending beyond the joint life and last survivor expectancy of the Participant and a designated Beneficiary.

The second required minimum distribution shall be made before the end of the calendar year following the calendar year in which the Participant attained age 70-1/2. Subsequent distributions will be made before the end of each following calendar year until the Participant's entire Account has been distributed. A distribution is considered to begin on the date it is required to be distributed to the Participant or, if applicable, the surviving spouse.

The Account balance to be used in determining the required minimum distribution shall be the Account balance as of the Plan Year ending in the calendar year preceding the calendar year in which the Participant attained age 70-1/2 increased by any allocations and decreased by any distributions made during the calendar year containing the end of the Plan Year used to determine the first required minimum distribution. If the first minimum required minimum distribution is made after the end of the calendar year in which the Participant attained age 70-1/2, but before April 2 of the calendar year following the calendar year in which the Participant attained age 70-1/2, the first required minimum distribution shall be deemed made in the preceding calendar year for purposes of determining the second minimum required distribution which must be made before the end of the calendar year following the calendar year in which the Participant attained age 70-1/2. Subsequent distributions must be made before the end of each subsequent calendar year.

8.05 Distribution Upon Death

- (a) If the Participant dies on or after the date distribution of the Participant's Account has begun, the remaining portion of such Account will be distributed as follows:
 - (1) If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:
 - (A) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
 - (B) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, the remaining life expectancy of the surviving spouse is 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 one for each subsequent calendar year.
 - (C) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, the designated Beneficiary's remaining life

expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

- (2) If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of the 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 Account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
- (b) If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
- (1) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70-1/2, if later.
 - (2) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
 - (3) 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 fifth anniversary of the Participant's death.
 - (4) If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse are required to begin, this Section 8.05(b), other than Section 8.05(b)(1), will apply as if the surviving spouse were the Participant.

For purposes of Section 8.05(a) or Section 8.05(b), unless Section 8.05(b)(4) applies, distributions are considered to begin on the Participant's required beginning date. If Section 8.05(b)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 8.05(b)(1).

If the Participant dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 00.

Article IX. Non-Assignability

9.01 **General:** Except as provided in Article VIII and Section 9.02, no Participant or Beneficiary shall have any right to commute, sell, assign, pledge, transfer or otherwise convey or encumber the right to receive any payments hereunder, which payments and rights are expressly declared to be non-assignable and non-transferable.

9.02 Domestic Relations Orders:

- (a) Allowance of Transfers: To the extent required under a final judgment, decree, or other court order (including approval of a property settlement agreement) that (i) relates to the provision of child support, alimony payments, or marital property rights and (ii) is made pursuant to a state domestic relations law, and (iii) is permitted under Sections 414(p)(11) and (12) of the Code, any portion of a Participant's Account may be paid or set aside for payment to a spouse, former spouse, child, or other dependent of the Participant (an "Alternate Payee"). Where necessary to carry out the terms of such an order, a separate Account shall be established with respect to the Alternate Payee who shall be entitled to make investment, Beneficiary and distribution selections (except the Alternate Payee may not choose any form of payment that involves survivor benefits to any spouse of the Alternate Payee, nor add contributions to such Account) with respect thereto in the same manner as if he or she were a Participant. Any amount so set aside for an Alternate Payee shall be paid in accordance with the form and timing of payment specified in the order. Nothing in this Section 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 and Section 457(b) of the Code. Any payment made to a person pursuant to this Section shall be reduced by any required income tax withholding.
- (b) Release from Liability to Participant: 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 an Alternate Payee pursuant to paragraph (a) of this Section and the Participant and his or her Beneficiaries shall be deemed to have released the Plan and all its fiduciaries from any claim with respect to such amounts.
- (c) Participation in Legal Proceedings: The Plan shall not be obligated to defend against or set aside any judgement, decree, or order described in paragraph (a) or any legal order relating to the garnishment of a Participant's benefits, unless the full expense of the involvement of the Plan and its fiduciaries in connection with such legal action is borne by the Participant. In the event that the Participant's action (or inaction) nonetheless causes the Plan or any of its fiduciaries to incur such expense, the amount of the expense may be charged against the Participant's Account and thereby reduce the Plan's obligation to pay benefits to the Participant. In the course of any proceeding relating to divorce, separation, or child support, the Administrator or Committee shall be authorized to disclose information relating to the Participant's Account to the Alternate Payee (including the legal representatives of the Alternate Payee), or to a court.

- (d) Determination of Validity of Domestic Relations Orders: The Committee shall establish uniform procedures for determining the validity of any domestic relations order. The Committee's or Administrator's determinations under such procedures shall be conclusive and binding on all parties and shall be afforded the maximum amount of deference permitted by law.

Article X. Relationship to other Plans and Employment Agreements

This Plan serves in addition to any other retirement, pension, or benefit plan or system presently in existence or hereinafter established for the benefit of each Employer's employees, and participation hereunder shall not affect benefits receivable under any such plan or system. Nothing contained in this Plan shall be deemed to constitute an employment contract or agreement between any Participant and any Employer or to give any Participant the right to be retained in the employ of any Employer. Nor shall anything herein be construed to modify the terms of any employment contract or agreement between a Participant and an Employer.

Article XI. Amendment or Termination of Plan

The District may, by written action of its Board of Commissioners or any delegate of that Board for this purpose, at any time amend or terminate this Plan. In the event of termination, assets of the Plan shall be distributed to Participants and surviving Beneficiaries as soon as administratively practicable following termination of the Plan. Alternatively, assets of the Plan may be transferred to an eligible deferred compensation plan maintained by another eligible governmental employer within the same State if (i) all assets held and benefit obligations of the Plan are transferred; (ii) the receiving plan provides for the receipt of transfers; (iii) the Participants and Beneficiaries whose deferred amounts are being transferred will have an amount credited to their respective behalves immediately after the transfer at least equal to the deferred amount credited to them, respectively, immediately before the transfer; and such other conditions are met as may apply under applicable law and the terms of the two respective plans.

Except as may be required to maintain the status of the Plan as an eligible deferred compensation plan under Section 457(b) of the Code or to comply with other applicable laws, no amendment or termination of the Plan shall divest any Participant of any rights with respect to Deferred Compensation credited to his or her Account before the date of the amendment or termination.

Article XII. Applicable Law

This Plan and Trust shall be construed under the laws of the state where the District is located and is established with the intent that it meet the requirements of an "eligible deferred compensation plan" under Section 457(b) of the Code, as amended. The provisions of this Plan and Trust shall be interpreted wherever possible in conformity with the requirements of that Section of the Code.

In addition, notwithstanding any provision of the Plan to the contrary, the Plan shall be administered in compliance with the requirements of Section 414(u) of the Code.

Article XIII. Protection of Insider Fiduciaries

The District shall indemnify and hold harmless the Board, the Committee, any individual members of that Board or Committee, and any other employee of the District who is a fiduciary of the Plan (all such persons being referred to as an “insider fiduciary”), from and against any liability (including, without limitation, any damage, loss, cost or expense, including reasonable attorney’s fees and settlement payments) incurred in connection with any claim by or on behalf of any one or more Participants, other payees under the Plan, or government authority relating to any actual or alleged act or omission of the insider fiduciary taken in reasonable reliance on any direction, lack of direction, record or information provided by the District or the Plan. The District shall also indemnify and hold harmless any such insider fiduciary from any liability asserted or incurred regarding the exercise or performance of the rights, powers, obligations and discretions arising under the Plan, except to the extent such liability is due to the gross negligence, fraud or bad faith of the insider fiduciary. Such indemnification obligation of the District shall be applicable to the fullest extent permitted by law, but shall be secondary to any coverage of such liability available from any applicable liability insurance covering such insider fiduciary.

The Plan may purchase, as an authorized expense, liability insurance for the Plan and for insider fiduciaries of the Plan to cover liability or losses occurring by reason of the acts or omissions of such a fiduciary, provided such insurance policy permits subrogation by an insurer against the fiduciary, in the case of a breach by such fiduciary, for any liabilities, costs or expenses which are judicially determined to be due to the gross negligence, fraud, or bad faith of such fiduciary.

Article XIV. Gender and Number

The masculine pronoun, whenever used herein, shall include the feminine pronoun, and the singular shall include the plural, except where the context requires otherwise.

IN WITNESS WHEREOF, The District has caused this Amended and Restated Plan and Trust to be approved by its Board of Commissioners and signed by its duly authorized officers on this _____ day of _____ 2015, and shall be effective as of the 4th day of June, 2015, except as otherwise provided herein.

Frank Avila
Chairman of the Committee on Finance

Denice E. Korcal
Director of Human Resources

Mary Ann Boyle
Treasurer

ATTESTED TO BY:

JACQUELINE TORRES
Clerk of the Metropolitan Water Reclamation
District of Greater Chicago

FOR THE TRUSTEE:

Frank Avila
Chairman of the Committee on Finance

Denice E. Korcal
Director of Human Resources

Mary Ann Boyle
Treasurer

ATTESTED TO BY:

JACQUELINE TORRES
Clerk of the Metropolitan Water Reclamation
District of Greater Chicago

Approved as to Form and Legality:

Deputy Attorney

Attorney