

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE TO PROVIDE THAT COUNCILMEMBERS SHALL NO LONGER ACTIVELY PARTICIPATE IN THE PTC DEFERRED COMPENSATION PLAN AND PROVIDE FOR PARTICIPATION BY COUNCILMEMBERS IN THE CITY OF SAN JOSE, CALIFORNIA DEFINED CONTRIBUTION PLAN FOR UNIT 99 EMPLOYEES AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE VARIOUS DOCUMENTS NECESSARY TO ADMINISTER THE PLANS

WHEREAS, upon commencement of office with the City, councilmembers are offered a choice between the CalPERS defined benefit pension plan and the City's defined contribution PTC Deferred Compensation Plan for retirement options;

WHEREAS, the only investment option in the PTC Deferred Compensation Plan is a stability of principal investment vehicle;

WHEREAS, in 2013, the City began offering the Defined Contribution Plan for Unit 99 Employees, known as the Tier 3 Plan, to all new executive management or professional employees in Unit 99 who elect to opt out of the City's defined benefit Federated Employees Retirement Plan;

WHEREAS, unlike the PTC Deferred Compensation Plan, the Tier 3 plan provides a variety of investment options for participants to choose from; and

WHEREAS, the City of San José proposes to provide that councilmembers shall no longer actively participate in the PTC Deferred Compensation Plan and provide for participation by councilmembers in the Tier 3 Plan;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

1. Approve an amendment to the Basic Plan Document for the PTC Deferred Compensation Plan effective October 3, 2021 to provide that councilmembers shall no longer actively participate in the Plan and authorize the City Manager to execute the amended Basic Plan Document and other documents as necessary to administer the PTC Deferred Compensation Plan set forth in Chapter 3.50 of the San Jose Municipal Code. The proposed amendment to the Basic Plan Document for the PTC Deferred Compensation Plan is attached hereto as Exhibit A and incorporated in this Resolution.

2. Approve an amendment to the Basic Plan Document for the Defined Contribution Plan for Unit 99 Employees effective October 3, 2021 to provide for participation by councilmembers in the Plan and authorize the City Manager to execute the amended Basic Plan Document and other documents as necessary to administer the Defined Contribution Plan for Unit 99 Employees set forth in Chapter 3.49 of the San Jose Municipal Code. The proposed amendment to the Basic Plan Document for the Defined Contribution Plan for Unit 99 Employees is attached hereto as Exhibit B and incorporated in this Resolution.

NVF:SH
7/7/2021

ADOPTED this _____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

**CITY OF SAN JOSÉ, CALIFORNIA, PTC
DEFERRED COMPENSATION PLAN**

FIRST AMENDMENT TO BASIC PLAN DOCUMENT

As of ~~April 9~~ October 3, 2021

1809208.DOCX+1809208

DRAFT--Contact the Office of the City Clerk at (408) 535-1260 or CityClerk@sanjoseca.gov for final document.

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CITY OF SAN JOSÉ, CALIFORNIA, PTC DEFERRED COMPENSATION PLAN
PREAMBLE
(3.50.010, 3.50.020)

The City of San José, California ("City") established the City of San José, California, PTC Deferred Compensation Plan (hereinafter referred to as the "Plan"), pursuant to Chapter 3.50 of Title 3 of the San José Municipal Code ("SJMC"). In addition to SJMC Chapter 3.50, the City hereby adopts this basic plan document; thus, the Plan consists of the provisions set forth in this basic plan document and the applicable sections of the SJMC.

The Plan is intended to be an eligible governmental deferred compensation plan within the meaning of Section 457 of the Internal Revenue Code ("Code") pursuant to SJMC Chapter 3.50, as well as a governmental plan within the meaning of Code Section 414(d). The primary purpose of the Plan is to provide part-time, temporary and contract employees, ~~City Councilmembers~~ and Council assistants (who are not members of a City retirement plan other than an eligible deferred compensation plan) with a retirement program by requiring them to enter into an agreement with the City of San José which will provide for deferral of payment of a portion of their current compensation until death, retirement, termination of employment or other event as provided herein, in accordance with the applicable provisions of the SJMC and Internal Revenue Code.

ARTICLE I
DEFINITIONS
(3.50.030)

As used in this Plan, the following terms have the meaning set forth below, unless a different meaning is clearly required by the context.

1.1 "Account" means a sub-account maintained for a Participant to hold and account for the contributions which are the proceeds of deferral of compensation from the City, including any adjustment for earnings and expenses.

1.2 "Alternative Normal Retirement Age" means any age irrevocably designated in writing by the Participant which is:

- a. Not earlier than the earliest age at which the Participant has the right to retire under a retirement plan of the City and receive immediate retirement benefits without actuarial or similar reduction for early retirement; and
- b. No later than age seventy and one-half (70½).

1.3 "Alternate Payee" means any person who is recognized by a domestic relations order as having a right to receive all, or a portion of, the benefits payable under the Plan with respect to a Participant within the meaning of Code Section 414(p).

1.4 "Beneficiary" means a Beneficiary designated by the Participant to receive payment of benefits under the Plan, or if no Beneficiary is so designated, the Participant's estate.

- 1.5 "City" means the City of San José, California.
- 1.6 "City Manager" means the City Manager or the City Manager's designee.
- 1.7 "Committee" or "Advisory Committee" means the Deferred Compensation Advisory Committee.
- 1.8 "Compensation" prior to April 9, 2021 shall mean includible compensation. Effective April 9, 2021, "compensation" shall mean the following:

1. Regular Salary;
2. Executive Leave;
3. Personal Leave;
4. Vacation;
5. Holiday;
6. Sick Leave;
7. Administrative Leave;
8. Funeral Leave;
9. Paid Time Off;
10. Witness Leave;
11. Cancer Screening Release Time;
12. Military Leave;
13. Retroactive Salary Payments;
14. POST Pay;
15. Anti-Terrorism Pay; and
16. Any compensation that would be considered a non-pensionable compensation increase under Chapters 3.28.030.05(E) and/or 3.36.020.3(A) of Title 3 of the San Jose Municipal Code.

Notwithstanding anything to the contrary, compensation does not include payment for any purpose not included above, including, but not limited to, the following:

1. Bilingual pay;
2. Auto allowances;
3. Taxable cellular phone and data stipends;

4. Medical and dental in lieu payments;
5. Higher class pay;
6. Retention payments;
7. Management Performance Bonus Program;
8. Premium-related payments;
9. Severance pay;
10. Vacation balance payoffs;
11. Compensatory time off payoffs;
12. Sick leave payoffs;
13. Reimbursements;
14. Allowances for equipment;
15. Safety purchases;
16. Moving expenses;
17. Professional development;
18. Education reimbursement; and
19. Overtime.

1.9 "Eligible Deferred Compensation Plan" means a Plan which meets the requirements of Code Section 457(b).

1.10 "Includible Compensation" means:

- a. Prior to January 1, 2002, "Includible Compensation" means the compensation for services performed for the City which (taking into account the provisions of Sections 457 and 403(b) of the Code) is currently includible in gross income. Amounts of compensation shall be determined without regard to any community property laws.
- b. After December 31, 2001, "Includible Compensation" shall have the meaning given to the term "Participant's Compensation" by Code Section 415(c)(3). Amounts of compensation shall be determined without regard to any community property laws.
- c. Effective January 1, 2009, "Includible Compensation" includes differential wage payments while the participant is performing qualified military service (as defined in Chapter 43 of Title 38, United States Code) to the extent required by Internal Revenue Code Sections 3401(h) and 414(u)(12), the Treasury Regulations thereunder, and any subsequent guidance issued under Code Section 414(u)(12). A participant receiving differential wage payment from the City shall be treated as employed by the City, and the differential wage payment shall be treated as

compensation for purposes of applying the minimum amount which may be deferred under Code Sections 457(b)(2) and 457(b)(3). Furthermore, effective January 1, 2008, "Compensation" includes amounts paid after the Employee's Severance Event if paid by the later of two and one-half (2½) months after the Employee's Severance Event, or the end of the calendar year that includes the date of the Employee's Severance Event, subject to the following requirements:

1. The payment is regular compensation for services during the Employee's regular working hours, or compensation for services outside the Employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments and the payment would have been made to the Employee prior to a Severance Event if the Employee had continued in employment with the City.
 2. "Compensation" shall include all payments to an individual who does not currently perform services for the City by reason of qualified military service (within the meaning of Code Section 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the City rather than entering qualified military service.
- d. Effective April 9, 2021, "Includible Compensation" shall mean a participant's actual wages for services performed for the employer the year reported in box 1 of Form W-2, increased by any compensation reduction election under Sections 125, 132(f), 401(k), 403(b) or 457(b) of the Code (including an election to defer compensation under this Plan). Includible Compensation is determined without regard to any community property laws.

1.11 "Normal Retirement Age" means age seventy and one-half (70½), or, if earlier, that age as irrevocably selected in writing by the Participant as defined as an Alternative Normal Retirement Age.

1.12 "Participant" means any eligible PTC Employee who fulfills the requirements of enrollment into the Plan and who is or has enrolled in the Plan and who retains the right to benefits under the Plan. On or after October 3, 2021, City Councilmembers are no longer PTC Employees (and are no longer active Participants) but will continue to be Participants under the Plan as long as the Councilmember maintains an Account under the Plan.

1.13 "Participation Agreement" means any agreement executed and filed by a PTC Employee with the City or Plan Administrator, pursuant to Article II, in which a PTC Employee becomes a Participant in the Plan.

1.14 "Payroll Period" means a biweekly compensation period.

1.15 "Percentage Limitation" means:

- a. Prior to January 1, 2002, thirty-three and one-third percent (33 1/3%) of the Participant's Includible Compensation for the taxable year.

- b. After December 31, 2001, one hundred percent (100%) of the Participant's Includible Compensation for the tax year.

1.16 "Plan Administrator" means the City Manager or the person or entity designated by the City Manager to carry out certain nondiscretionary administrative functions of the Plan.

1.17 "Plan Year" means a calendar year.

1.18 "PTC Employee" means any part-time, temporary, or contract employee, ~~or any City Councilmember~~ of the City of San José, California, and shall include any Council assistant until such time as the Council assistant becomes a member of a City retirement plan other than an eligible deferred compensation plan. Prior to October 3, 2021, a PTC Employee includes any City Councilmember of the City of San Jose, California, but on or after October 3, 2021, City Councilmembers shall no longer be included as a PTC Employee under this Plan.

1.19 "Severance Event" means:

- a. Prior to January 1, 2002, severance of the Participant's employment with the City that constitutes a "separation from service" within the meaning of Code Section 402(e)(4)(D)(iii).
- b. After December 31, 2001, a severance of the Participant's employment with the City within the meaning of Code Section 457(d)(1)(A)(ii).

1.20 "Trustee" means the City of San José and Advisory Committee based on the duties set forth in Chapter 3.50.060 of Title 3 of the San José Municipal Code.

ARTICLE II PARTICIPATION (3.50.050, 3.50.090)

2.1 **Participation in Plan.** Each PTC Employee shall automatically become a Participant of the Plan and make mandatory deferrals of part of their Compensation, in the amount set forth in section 3.50.040 and Article III, effective the first pay period.

2.2 **USERRA.** Each period served by a person in the uniformed services shall, upon reemployment under the Uniformed Service Employment and Reemployment Act of 1994, as it may be amended from time to time ("USERRA"), be deemed to constitute service with the employer maintaining the Plan for the purpose of determining the accrual of benefits under the Plan, to the extent required by and as provided under USERRA. Notwithstanding any provision in the Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u) for additional elective deferrals a Participant can make upon return from qualified military service.

2.3 **Status of Participants.** Neither the establishment of the Plan nor any modification therefor, nor the establishment of any Account, nor the payment of any benefits, shall be construed as giving to any PTC Employee or Participant or other person any legal or equitable

right against the City, except as herein provided; and in no event shall the terms of employment of any Employee or Participant be modified or in any way affected hereby.

ARTICLE III
DEFERRAL OF COMPENSATION
(3.50.040)

3.1 **Individual Accounts.** Adequate records shall be created and maintained which reflect the value of the Account for each Participant, Alternate Payee, or Beneficiary of the Plan. Such records shall be in the form of individual Accounts, and credits and charges shall be made to such accounts in the manner herein described. Distributions and withdrawals made from an account shall be charged to the Account as of the date payment is made.

3.2 **Mandatory Deferrals and City Contributions.** During each payroll period in which a PTC Employee is a Participant in the Plan:

- a. 3.75% of the Participant's Compensation shall be deferred and paid to the Plan ("Mandatory Deferrals"); and
- b. For PTC Employees ~~other than City councilmembers~~, the City shall contribute 3.75% of the Participant's Compensation to the Plan; Prior to October 3, 2021, for City councilmembers, the City shall contribute 6.55% of the Participant's Compensation to the Plan (These contributions are referred to as "City Contributions").

All Mandatory Deferrals and City Contributions are subject to the applicable deferral limits set forth in this Article III. Mandatory Deferrals and City Contributions will be deposited into the Participant's Account pursuant to the Participation Agreement.

3.3 **Deferral Limits.** During each payroll period in which a PTC Employee is a Participant in the Plan with a deferral election in effect, the City shall defer payment of such part of the PTC Employee's Compensation as set forth in Section 3.2, provided that, except as provided in Sections 3.4 and 3.5, the maximum that each Participant may defer under this Plan for any taxable year shall not exceed the lesser of:

- a. The applicable dollar amount permitted under Code Section 457(b), as amended, and the regulations promulgated thereunder:

For the following years:	The Applicable Dollar Amount is:
2002	\$11,000
2003	\$12,000
2004	\$13,000
2005	\$14,000
2006 or thereafter	\$15,000, adjusted for cost-of-living after 2006 to the extent as indexed pursuant to Code Section 457(e)(15)

; or

b. The Percentage Limitation.

3.4 **Catch-Up Contributions.** Beginning January 1, 2002, a Participant who will attain age fifty (50) or more by the end of the tax year, is permitted to elect an additional amount of elective deferrals, up to the maximum age 50 catch-up deferrals for the year. The maximum dollar amount of the age 50 catch-up deferrals for a year is as follows.

For the following years:	The maximum age 50 catch-up dollar amount is:
2002	\$1,000
2003	\$2,000
2004	\$3,000
2005	\$4,000
2006 or thereafter	\$5,000, adjusted for cost-of-living after 2006 to the extent as provided under the Code.

3.5 **Special Section 457 Catch-up Limitation.** If the applicable year is one of a Participant's last three calendar years ending before the year in which the Participant attains Normal Retirement Age and the amount determined under this Section 3.5 exceeds the amount computed under Sections 3.3 and 3.4, then the deferral limit under this Article III shall be the lesser of:

- a. An amount equal to two times the Section 3.3 applicable dollar amount for such year; or
- b. the sum of:
 1. An amount equal to (1) the aggregate Section 3.3 limit for the current year plus each prior calendar year beginning after December 31, 2001 during which the Participant was an Employee under the Plan, minus (2) the aggregate amount of Compensation that the Participant deferred under the Plan during such years, plus
 2. An amount equal to (1) the aggregate limit referred to in Code Section 457(b)(2) for each prior calendar year beginning after December 31, 1978 and before January 1, 2002 during which the Participant was an Employee (determined without regard to Sections 3.4 and 3.5), minus (2) the aggregate contributions to Pre-2002 Coordination Plans (as defined by the Treasury Regulations and as provided in Section 3.7) for such years.

3.6 **Multiple Plan Deferral Limitation.** If a Participant is or has been a Participant in one or more eligible plans within the meaning of Code Section 457(b), then this Plan and all such other plans shall be considered as one plan for the purposes of applying the foregoing limitations of this Article III. For this purpose, the Plan Administrator shall take into account any other such eligible plan maintained by the City and shall also take into account any other such eligible Plan

for which the Plan Administrator receives from the Participant sufficient information concerning his or her participation in such other plan.

3.7 **Pre-2002 Coordination Plans.** For purposes of Section 3.5(b)(2), "contributions to Pre-2002 Coordination Plans" means any employer contribution, salary reduction or elective contribution under any other eligible Code Section 457(b) plan, or a salary reduction or elective contribution under any Code section 401(k) qualified cash or deferred arrangement, a Code Section 402(h)(1)(B) simplified employee pension (SARSEP), a Code Section 403(b) annuity contract, a Code Section 408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in Code Section 501(c)(18) of the Code, including plans, arrangements or accounts maintained by the City or any employer for whom the Participant performed services. However, the contributions for any calendar year are only taken into account for purposes of Section 3.5(b)(2) to the extent that the total of such contributions does not exceed the aggregate limit referred to in Code Section 457(b)(2) for that year. To the extent that the combined deferrals for pre-2002 years exceeded the maximum deferral limitations, the amount is treated as an excess deferral for those prior years.

3.8 **Military Service.** A PTC Employee whose employment is interrupted by qualified military service under Code Section 414(u) or who is on a leave of absence for qualified military service under Code Section 414(u) may elect to make-up Mandatory Deferrals upon resumption of employment with the City, subject to the following:

- a. The make-up Mandatory Deferrals shall not exceed the maximum deferrals the Employee could have elected during the period of qualified military service if the Employee's employment with the City had continued at the same level of Includible Compensation without the interruption or leave of absence, reduced by the deferrals, if any, actually made during the taxable year(s) in which the qualified military service occurred.
- b. The right to make additional deferrals is limited to the five (5) year period immediately following the resumption of employment with the City or, if sooner, a period immediately following the resumption of employment that is equal to three (3) times the length of the interruption or leave of absence.
- c. To the extent the Employee makes-up Mandatory Deferrals, the City shall make-up corresponding City Contributions.

3.9 **Voluntary Deferrals Not Permitted.** Participants are not eligible for any deferrals in excess of the Mandatory Deferrals as provided in Section 3.2. Participants are not eligible to make any additional contributions to an Account.

3.10 **Excess Deferrals.** If the amount of Compensation deferred in any taxable year exceeds the limitations described in this Article III, when combined with other amounts deferred by a Participant under another Eligible Deferred Compensation Plan under Code Section 457(b) for which the Participant provides information to the City, then the deferral for that taxable year, to the extent in excess of the applicable limitation (adjusted for any income or loss in value

allocable thereto) shall be distributed to the Participant to the extent that the deferral exceeds the applicable limitation as soon as administratively practicable.

ARTICLE IV
INVESTMENTS & EXPENSES – DEFERRED COMPENSATION FUND
(3.50.070, 3.50.190)

4.1 **PTC Deferred Compensation Fund.** The City shall establish a PTC deferred compensation fund to which all deferred compensation shall be credited at such times as the compensation would have been payable to employees if not Participant(s) in the Plan. Separate Accounts will be established for each PTC Employee participating, which will show all amounts of deferred compensation, investments made, shares acquired and earnings and gains on investments. Each Account will be valued at least semiannually.

4.2 **Investment of Deferred Compensation.** The Advisory Committee will select the funds and investments for amounts of deferred compensation. All investments will comply with Sections 53601 and 53602 of the Government Code of the State of California. Nothing in this Section 4.2 shall be construed to permit any type of investment prohibited by the Constitution of the State of California. Any action by the Advisory Committee in selecting investment funds shall not be considered to be either an endorsement or guarantee of any investments, nor shall it be considered to attest to the financial soundness or the suitability of any investment for the purpose of meeting future obligations. Neither the City nor the Advisory Committee shall be liable to any participant, or to any participant's beneficiaries or heirs, or to any other person for any losses resulting from investments under the Plan.

4.3 **Expenses.** The expenses of the Plan shall be allocated to and deducted from the Participant Accounts. Expenses incurred as a direct result of the investments held in the Trust shall be deducted from the interest, dividends, and net income of the appropriate investment prior to allocating each month's earnings to Participants. The City Manager or Trustee may also assess a reasonable record-keeping fee, as needed.

ARTICLE V
Rollovers and Transfers
(3.50.115 and 3.50.116)

5.1 **Eligible Outgoing Rollover Distributions.**

- a. Beginning January 1, 2002, a distributee may elect to take a distribution from this Plan in the form of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- b. For purposes of this Section 5.1:
 1. "Distributee" means a PTC Employee or former PTC Employee. It also includes the PTC Employee's or former PTC Employee's surviving spouse and the PTC Employee's or former PTC Employee's spouse or former

spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p). Effective January 1, 2007, a distributee further includes a nonspouse beneficiary who is a designated beneficiary as defined by Code Section 401(a)(9)(E). However, a nonspouse beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity shall be treated as an "inherited" individual retirement account or annuity.

- c. "Eligible retirement plan" means an individual retirement account described in the Internal Revenue Code Section 408(a), a Roth individual retirement account described in Internal Revenue Code Section 408A (for distributions after December 31, 2007), an individual retirement annuity described in Code Section 408(b), a SIMPLE IRA described in Internal Revenue Code Section 408(p) after the expiration of the required two year period, an annuity plan described in Internal Revenue Code Section 403(b), and such trust or annuity contract must separately account for amounts so transferred, including separate accounting for the portion of such distribution which is not includible in income, a qualified trust described in Internal Revenue Code Section 401(a), or an Eligible Deferred Compensation Plan (Code Section 457(b) plan) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, that accepts an eligible rollover distributions.
- d. An "eligible rollover distribution" is any distribution of all or a portion of the balance to the credit of the distributee which constitutes an eligible rollover distribution under Internal Revenue Code Section 401(a)(31)(D). For the purposes of distributions from other 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.
- e. The City Manager may require such documentation regarding any plan from which a rollover distribution may be accepted or to which a rollover distribution may be made as it deems necessary to effectuate the distribution, to confirm that such plan is an eligible retirement plan, and to assure that rollover distributions are permitted under such plan.

5.2 **Transfers out of the Plan.**

- a. If a Participant terminates employment with the City and accepts employment with any other local government or state, which has an Eligible Deferred Compensation Plan and which plan provides for acceptance of amounts previously deferred, the Participant may elect that all amounts previously deferred be rolled over to the new employer's plan.

- b. Beginning January 1, 2002, a Participant may transfer all or a portion of the Participant's account directly to the Trustee of a defined benefit governmental plan (as defined in Internal Revenue Code Section 414(d)) if such transfer is:
 1. For the purchase of permissive service credit (as defined in Internal Revenue Code Section 415(n)(3)(A)) under such governmental plan; or
 2. A repayment to which Code Section 415 does not apply by reason of Code Section 415(k)(3) thereof.

5.3 **Documentation.** The City Manager may require such documentation regarding any plan from which a transfer or rollover may be accepted or to which a transfer may be made as it deems necessary to effectuate the transfer, to confirm that such plan is an Eligible Deferred Compensation Plan of a local government or state or defined benefit governmental plan, as applicable, or to assure that transfers are permitted under such plan.

5.4 **Beneficiary Distributions.** Effective with respect to distributions made on or after January 1, 2010, a Beneficiary other than a Participant's (or former Participant's) surviving spouse or a Participant's (or former Participant's) spouse or former spouse who is an "alternate payee" under a qualified domestic relations order is a person eligible to make a rollover with regard to the interest of the Participant or former Participant, subject to the limitation for such a Beneficiary that an eligible retirement plan is an individual retirement account or individual retirement annuity that will be treated as an inherited individual retirement account or annuity under Internal Revenue Code Section 402(c)(11).

ARTICLE VI
CERTAIN DISTRIBUTIONS
(3.50.155)

6.1 **Other Distributions.**

Notwithstanding any other provisions of this Plan, the City may change the time or methods of benefit payments pursuant to this Plan.

6.2 **De Minimus Accounts.**

Notwithstanding any other provision of this Chapter, if, upon the occurrence of a Severance Event, the value of a Participant's Account is less than one thousand dollars (\$1,000), the Participant's Account shall be paid to the Participant in a lump-sum; provided that the Participant may elect an inter-plan transfer or an eligible rollover distribution.

ARTICLE VII
DISTRIBUTIONS OF BENEFITS
(3.50.120, 3.50.130, 3.50.131, 3.50.140, 3.50.150)

7.1 Distributions of Benefits; Election.

- a. A Participant may elect the method of payment and the settlement options for distribution in the event of a Severance Event no later than thirty (30) days after such Severance Event.
- b. A Participant may elect the method of payment and the settlement options for distribution in the event of the Participant's death at any time before his or her death.
- c. If the Participant fails to make an election of the method of payment before his or her death while still in employment status, the Participant's Beneficiary may elect the method of payment at any time before payments are due.
- d. If no election of the method of payment has been made by the Participant or the Participant's Beneficiary as provided for in this Article VII, the benefits payable to the Participant or the Participant's Beneficiary, less any federal or state income taxes required to be withheld, shall be payable in a lump sum. On or after January 1, 2002, the Participant or Beneficiary may elect an inter-plan transfer or a direct rollover as provided in Article V.
- e. Effective as of January 1, 1997, a participant may elect to defer commencement of distributions from the Plan if such election is made after amounts may be available under the Plan in accordance with the requirements of Section 457(d)(1)(A) of the Internal Revenue Code of 1986, as amended, and before commencement of such distributions. A participant may make only one election under this Subsection E.
- f. Effective as of January 1, 2002, a participant's right to change his or her election with respect to commencement of distribution shall not be constrained by Subsection (e). Subject to such limitations on frequency of changes as may be imposed by the Advisory Committee or the provider(s) of the investment options selected by the participant, the participant may change the date for commencement of distribution at any time prior to distribution. Notwithstanding the foregoing, the Advisory Committee or City Manager may, in order to ensure the orderly administration of this Plan, establish a deadline after which such election to defer commencement of distribution of benefits shall not be allowed.
- g. Effective as of January 1, 2013, a Participant shall be treated as having a Severance Event during any period the Participant is performing service in the uniformed services as described in Code Section 3401(h)(2)(A). If a Participant elects to receive a distribution from the Plan as a result of the application of this paragraph, the Participant may not make an elective deferrals to the Plan during the six (6) month period beginning on the date of the distribution.

7.2 **Method of Payment of Benefits upon Severance of Employment.**

- a. In the event of termination of employment because of a Severance Event, except in the event of death, and after the expiration of 30 days after the Severance Event, the full benefits credited to the Participant's Account plus or minus subsequent investment gains or losses, but less any federal or state income taxes required to be withheld, shall be distributed to the Participant in any one of or more of the following ways:
 1. In a lump sum;
 2. In a monthly, quarterly, semiannual, or annual installments, or, for a Participant eligible for an annuity payout option, installments during the lifetime of the Participant with or without a provision for a period certain, but in no case less frequently than annual payments. Life expectancy shall be actuarially determined by the City based on the date the distribution shall begin. Each installment payment shall not be less than fifty dollars (\$50.00), unless such payment is the entire balance remaining in the Participants' Account.
- b. The amount payable with respect to the Participant shall be paid at such times specified by the Secretary of the United States Treasury pursuant to regulations promulgated by said Secretary. Prior to January 1, 2002, distributions payable over a period of more than one (1) year shall be made only in substantially non-increasing amounts.
- c. No payment option may be selected by a Participant unless it satisfies the requirements of Code Sections 401(a)(9) and 457(d)(2).

7.3 **Date of Payment of Benefits.**

- a. A Participant's Account balances may continue to be invested until cash is to be withdrawn for the payment of benefits.
- b. Payment of benefits under Section 7.2 may commence no sooner than thirty-one (31) days following the occurrence of a Severance Event but in no event shall commence later than sixty (60) days after the close of the Plan year in which the Severance Event occurred except in the case where the Participant has elected a postponement of the commencement of distribution in accordance with the terms of this Plan.
- c. Payment of benefits in the event of the death of the Participant may commence at sixty (60) days after satisfactory proof of death, and shall commence no later than sixty (60) days after the close of the Plan Year in which death occurred, subject to satisfactory proof of death of the Participant, unless the time for payment is extended pursuant to Section 7.2(c).

7.4 Postponement of Payments of Benefits and Required Minimum Distribution Rules.

The provisions of this Section 7.4 shall be administered in a manner consistent with the provisions of Section 7.1 and Internal Revenue Code Sections 401(a)(9) and 457(d)(2). For the calendar year beginning January 1, 2002, the Plan will apply the minimum distribution requirements of Internal Revenue Code Section 401(a)(9) in accordance with the regulations under Internal Revenue Code Section 401(a)(9) that were proposed in January 2001, notwithstanding any provision of the Plan to the contrary. For calendar years beginning on or after January 1, 2003, the Plan will apply the minimum distribution requirements in accordance with the final regulations under Internal Revenue Code Section 401(a)(9) and the minimum distribution incidental benefit requirement of Internal Revenue Code Section 401(a)(9)(G). This Section constitutes a good faith interpretation of Internal Revenue Code Section 401(a)(9) for purposes of Section 823 of the Pension Protection Act of 2006.

- a. Subject to the requirements of Internal Revenue Code Sections 401(a)(9) and 457(d)(2), a Participant may postpone all payments under Section 7.2. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date, which shall be April 1 of the calendar year following the later of (i) the calendar year in which the Participant reaches age seventy and one-half (70½), or (ii) the calendar year in which the Participant retires from the City.

- 1. **Death of Participant Before Distributions Begin.** If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

- A. 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 ½, if later.
- B. If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
- C. 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.
- D. If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin,

this Section, other than 8.3(a)(i)(1), will apply as if the surviving spouse were the Participant.

2. **Required Minimum Distributions during Participant's Lifetime.** Amount of Required Minimum Distribution for Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed for each Distribution Calendar Year is the lesser of:

- A. The quotient obtained by dividing the Participant's Account by the distribution period in the Uniform Lifetime Table set forth in Treasury Regulation Section 1.401(a)(9)-9, Q&A-2, using the Participant's age as of the Participant's birthday in the Distribution Calendar Year (e.g., if the Participant's age is less than age 70 the distribution period is 27.4 plus the number of years that the Participant's age is less than 70); or
- B. If the Participant's sole Designated Beneficiary for the Distribution Calendar Year is the Participant's spouse and the spouse is more than 10 years younger than the Participant, the quotient obtained by dividing the Participant's Account by the number in the Joint and Last Survivor Table set forth in Treasury Regulation Section 1.401(a)(9)-9, Q&A-3, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the Distribution Calendar Year.

3. **Lifetime Required Minimum Distributions Continue through Year of Participant's Death.** Required minimum distributions will be determined under this Section 7.4 beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

4. **Required Minimum Distributions After Participant's Death**

Death On or After Date Distributions Begin

- A. **Participant Survived by Designated Beneficiary.** If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account 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:
 - i. 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.

- ii. 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 date 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.
 - iii. 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.
- B. No Designated Beneficiary. If the Participant dies or on 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 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.

Death before Date Distributions Begin

- A. Participant Survived By Designated Beneficiary. If the Participant dies before the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account by the remaining life expectancy of the Participant's designated Beneficiary.
- B. No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

- C. Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse, this Section will apply as if the surviving spouse were the Participant.
- b. The election to commence the distribution of benefits must be made in accordance with the provisions of Section 7.1.

7.5 **Payment of Benefits after Death.**

- a. Death Distribution. After the death of a Participant, the full benefits credited to the Participant's Account, less any federal or state income taxes required to be withheld by law, shall be distributed to Participant's beneficiaries in the manner designated by the Participant's most recent Participation Agreement, or amendments thereto, or other designation in writing by Participant.
- b. Post-Retirement Death Benefits
 - 1. The Beneficiary of a Participant who has died after distribution has started may, subject to any limitation imposed by contract between Participant and a Plan Administrator, elect to change the method of distribution to a more rapid payout. Once such an election has been made it may not be revoked. The Beneficiary must take distribution at least as rapidly as the Participant had elected.
 - 2. Benefits shall be distributed in a lump sum.
 - 3. If the Participant dies without naming a Beneficiary or if the person(s) named are no longer alive at the time of the Participant's death, the Participant's Account shall be paid to the estate of the Participant in a lump sum.
- c. Pre-Retirement Death Benefits
 - 1. If the Participant dies before he or she has begun to receive the benefits provided by the Plan, the Beneficiary may, subject to any limitation imposed by contract between Participant and a Plan Administrator, change the method of payment elected by the Participant to a method of payment allowed by this Section, no later than thirty (30) days prior to the date payments are due to commence.
 - 2. If the Participant dies before he or she has begun to receive the benefits provided by the Plan, subject to the requirements of Internal Revenue

Code Section 401(a)(9) and 457(d)(2), the Beneficiary may elect to postpone distribution of some or all of the benefits payable to a later date.

- d. All distributions made under this Section 7.5 shall meet the requirements of Internal Revenue Code Section 457.
- e. Effective as of January 1, 2007, the Plan specifically incorporates herein by reference the requirements of Internal Revenue Code Section 401(a)(37), the Treasury Regulations thereunder and any subsequent guidance under Internal Revenue Code Section 401(a)(37) requiring that if a Participant dies while performing qualified military service (as defined in Internal Revenue Code Section 414(u)), the Beneficiary(ies) of the Participant shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan had the Participant resumed employment on the date before the Participant's date of death and then had a Severance Event on account of death.

**ARTICLE VIII
MISCELLANEOUS**

(3.50.060, 3.50.110, 3.50.180, 3.50.190, 3.50.200, 3.50.210)

8.1 Administration of the Plan.

- a. The Plan and the Trust established by the Plan shall be administered by the City Manager, which shall be the sole authority to enforce the Plan and the Trust. To the extent reasonably necessary to effectively administer the Plan in accordance with the requirements of the Internal Revenue Code and any other applicable laws, regulations, or pronouncements, the City Manager may adopt amendments to this Basic Plan Document, provided such amendments do not conflict with any provisions of the San José Municipal Code.
- b. The City Manager shall be responsible for the operation of the Plan in accordance with its terms, and shall determine all the questions arising out of the administration, interpretation, and application of the Plan and the Trust. All such determinations shall be conclusive and binding on all persons.
- c. The City Manager shall have the authority to enter into agreements on behalf of the City for the administration of the Plan, for custodial agreements for funds, and for investments selected by the Advisory Committee under the Plan where the fees under such an agreement are to be paid by the Participants of the Plan or where there is no amount to be paid by the City under the agreement.
- d. The Advisory Committee shall have the authority to make decisions on behalf of the City as to the investment policy, the choice and nature of investments to be available under the Plan, and enter into agreements on behalf of the City for investment advice under the Plan where the fees to be paid under such an agreement are to be paid by the Participants of the Plan or where there is no amount to be paid by the City under the agreement. The Advisory Committee

shall have the authority to review and advise the City Manager on annual budgets and proposed changes to the Plan.

- e. The method of selection and the term of office of the members of the Advisory Committee shall be established by resolution of the City Council.

8.2 **Limitation on City Responsibility.**

- a. The City will invest funds held pursuant to agreements between Participants and City in accordance with the Plan.
- b. Any action by the City or the Advisory Committee in select investing funds shall not be considered to be either an endorsement or guarantee of any investment, nor shall it be considered to attest to the financial soundness or the suitability of any investment for the purpose of meeting future obligations. Neither City nor the Advisory Committee shall be liable to any Participant, or to any Participant's beneficiaries or heirs, or to any other person for any losses resulting from investments made under the Plan.
- c. The City hereby establishes this Basic Plan Document memorializing certain provisions of the Deferred Compensation Plan on the terms and conditions set forth herein.

8.3 **Administrative Costs.** The City Manager may determine fair and equitable cost to the City in withholding deferred compensation pursuant to this Plan or in making investments or otherwise administering or implementing the Plan. The City Manager may withhold or collect, or have withheld or collected such costs, in such manner as it deems equitable either (1) from the compensation deferred pursuant to the Plan, the income produced from any investment with respect thereto, or from principal return from any investment, whether or not augmented, or (2) from the organization receiving such investments, where required by law to collect therefrom, or if not so required, where mutually satisfactory to such organization and the City Manager, or (3) by direct charge to the Participants or any combination of the above.

8.4 **Conforming Domestic Relations Orders.**

- a. A domestic relations order means any judgment, decree or order, including approval of a property settlement agreement or separation agreement issued by a court of competent jurisdiction which relates to the provision of marital property rights of a Participant and is made pursuant to the state domestic relations law of the state where the marital dissolution or separation occurred.
- b. The Plan shall only recognize domestic relations orders that the City Manager, in accordance with its authority under Section 8.1, determines are conforming domestic relations orders.

- c. A conforming domestic relations order is a domestic relations order that the City Manager determines conforms with the following guidelines:
1. The order may provide for the establishment of a separate account for the nonparticipant spouse under the Plan. For purposes of this Section 8.4, "nonparticipant spouse" equally refers to current or former spouse of a Plan Participant.
 2. The order may provide, with respect to any separate account established for the nonparticipant spouse, that the nonparticipant spouse shall have the right:
 - A. To direct the investment of the account in accordance with the provisions of the Plan;
 - B. To elect the time and form of distribution from the options available under the Plan, provided that distributions shall not commence earlier than provided for in paragraph (3) below;
 - C. To designate beneficiaries of the separate account in the event of the nonparticipant spouse's death, in accordance with the procedures provided under the Plan;
 - D. To have all distributions from the account of the nonparticipant spouse made directly to the nonparticipant spouse or his or her Beneficiary.
 3. To conform, the order:
 - A. May not accelerate or increase any benefit provided under the Plan or create any rights greater than the Participant's rights under the Plan and under Code Section 457, and may not conflict in any other way with the Plan's distribution provisions or the requirements and limitations of Code Sections 401(a)(9), and 457(d), as amended; provided that after December 31, 2001, the nonparticipant spouse who has been awarded a separate account may elect to commence distribution of the nonparticipant spouse's separate account prior to the occurrence of a Severance Event for the Participant.
 - B. May not allow the nonparticipant spouse to defer compensation under the Plan except to the extent the nonparticipant spouse is an Employee otherwise authorized to become a Participant under the Plan; and
 - C. May provide that all distributions made to the nonparticipant spouse shall be made directly to the nonparticipant spouse or Beneficiary, as applicable.

4. The order shall also conform with such additional guidelines as the City Manager shall establish from time to time including, with regard to the following:
 - A. Provision for the withholding of taxes required by applicable law;
 - B. Provision that the Participant and/or the nonparticipant spouse be required to pay any expenses incurred by the City in connection with the order including, without limitation, the costs of any legal action taken by the City relating to the order;
 - C. Any requirement that the nonparticipant spouse provide the City Manager with such written requests, consents or instructions as the City Manager may require in accordance with the provisions of the Plan; and
 - D. Provision expressly acknowledging that the City's obligation to the Participant is reduced to the extent that payments are to be made to the nonparticipant spouse.

8.5 **Governing Law.** This Plan shall be construed, administered, and enforced according to the laws of the state of California.

8.6 **Nonassignability.** To the fullest extent permitted by law, the interest of a Participant in the Plan, shall not be assignable in whole or in part, directly or by operation of law or otherwise, in any manner.

8.7 **Amendment or Termination of the Plan.**

- a. The City may, at any time, terminate this Plan for all Participants. Upon such termination, each Participant in the Plan will be deemed to have terminated his or her service as of the date of such termination, and the value of each Participant's Account, less any taxes required to be withheld, shall be distributed to the Participants or their Beneficiaries no later than sixty (60) days after the termination of the Plan.
- b. The City may also amend the provisions of the Plan at any time; provided that no amendment shall affect the rights of the Participants or Beneficiaries to the receipt of payment of benefits, to the extent of any compensation deferred at the time of the amendment as adjusted for income attributable to such deferred compensation prior to and subsequent to the amendment. No amendment shall divest any Participant of any rights to deferrals prior to the date of any amendment or amend the Plan so that it is no longer in compliance with the requirements of Code Section 457.
- c. This Plan is intended to qualify as an eligible governmental state deferred compensation plan under Internal Revenue Code Section 457, and shall be interpreted and administered in a manner consistent with Internal Revenue Code

Section 457 and the regulations thereunder. The City reserves the right to amend the Plan to the extent that may be necessary to conform the Plan to the requirements of Internal Revenue Code Section 457 and any other applicable law, regulation or ruling, including amendments that are retroactive to the effective date of the Plan. In the event that the Plan is deemed by the Internal Revenue Service to be administered in a manner inconsistent with Code Section 457, the City shall correct such administration within the period provided in Code Section 457(b). The City reserves the right to take such action and do such things as are required to make the Plan, as administered, consistent with Internal Revenue Code Section 457.

8.8 **Repeal.** The amendments to the Plan made by the urgency ordinance adopted December 18, 2001, were made to implement provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). In the event the EGTRRA provisions implemented by the urgency ordinance terminate, expire or are repealed, the amendments made by the urgency ordinance shall be deemed terminated, expired or repealed to the extent necessary to conform this Plan to the requirements of Code Section 457.

ARTICLE IX
ESTABLISHMENT OF TRUST
(3.50.025)

9.1 **Establishment of Trust.**

- a. There is hereby established the City of San José PTC Deferred Compensation Plan Trust ("Trust").
- b. Notwithstanding any contrary provision of the Plan, in accordance with Internal Revenue Code Section 457(g), all amounts of compensation deferred pursuant to the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall be held by the City in the Trust for the exclusive benefit of Participants and beneficiaries under the Plan.
- c. The Trustee shall ensure that all investments, amounts, property, and rights held under the Trust are held for the exclusive benefit of Participants and their Beneficiaries.
- d. All amounts of compensation deferred under the Plan shall be transferred to the Trust within a period that is not longer than is reasonable for the proper administration of the accounts of Participants and Beneficiaries.
- e. Prior to the satisfaction of all liabilities with respect to Plan Participants and their beneficiaries, no part of the assets or income of the Trust shall be used for, or diverted to, purposes other than for the exclusive benefit of the Plan Participants and their beneficiaries and defraying reasonable expenses of the administration of the Plan.

Executed this ____ day of _____, 2021

CITY

By: _____

Title: _____

**FIRST AMENDMENT TO 401(a) DEFINED CONTRIBUTION PLAN FOR
GOVERNMENTAL EMPLOYERS
BASIC PLAN DOCUMENT
*(As of October 3, 2021)***

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**SPECIMEN 401(a) DEFINED CONTRIBUTION PLAN
FOR GOVERNMENTAL EMPLOYERS
PREAMBLE**

The Employer hereby establishes the Code Section 401(a) Defined Contribution Plan for Governmental Employers (the "Plan").

The Plan is intended to be a qualified plan within the meaning of Section 401(a) of the Internal Revenue Code (the "Code"); based on the election of the Employer in the Adoption Agreement, a money purchase pension plan within the meaning of Section 1-401-1(b)(1)(i) of the Income Tax Regulations or a profit sharing plan within the meaning of Section 1-401-1(b)(1)(ii) of the Income Tax Regulations; and a governmental plan within the meaning of Section 414(d) of the Code and Section 3(32) of the Employee Retirement Income Security Act of 1974.

The Plan consists of the provisions set forth in this basic plan document and the Adoption Agreement and is applicable to each Eligible Employee and elected official.

**ARTICLE I.
DEFINITIONS**

As used in this Plan, the following words and phrases shall have the meanings set forth herein unless a different meaning is clearly required by the context.

1.1 "414(h) Pick-Up Contribution" means mandatory contributions that all Participants must make if required under the Adoption Agreement pursuant to Section 414(h) of the Code. 414(h) Pick-Up Contribution are picked up by the Employer via a salary reduction in accordance with Section 414(h)(2) of the Code and are treated as Employer Contributions for federal income tax purposes, but are considered "wages" for purposes of FICA and FUTA.

1.2 "414(h) Pick-Up Contribution Account" means the account (including any earnings and losses attributable thereon) established and maintained by the Administrator for each Participant with respect to his total interest under the Plan resulting from 414(h) Pick-Up Contribution.

1.3 "Administrator" means the City. The City may appoint the city manager or his designee pursuant to Section 5.2 to perform administrative functions for the Plan.

1.4 "Adoption Agreement" means the separate agreement which is executed by the Employer and sets forth the elective provisions of the Plan. The Adoption Agreement is considered a part of the Plan.

1.5 "Anniversary Date" means the annual date for valuation of Plan assets specified in the Adoption Agreement, but in no event shall a valuation of Plan assets be performed less than once a year occurring on the last day of the Plan Year.

1.6 "Beneficiary" means the individual, individuals or trust designated by the Participant in writing on a form acceptable to the Administrator, and received by the Administrator before the Participant's death, to receive any undistributed amounts under the Participant Account which becomes payable upon the Participant's death. A Beneficiary may designate his own Beneficiary. If a Participant or Beneficiary does not designate a Beneficiary in a form acceptable to the Administrator, then his estate will be deemed to be his Beneficiary. In addition, any Beneficiary designation will meet the requirements of applicable state law.

1.7 "Code" means the Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

1.8 "Compensation" shall be defined in the Ordinance.

1.9 "Eligible Employee" means any individual Employee of the Employer who meets the criteria set forth in the Ordinance and the Adoption Agreement.

1.10 "Employee" means any person set forth in the Ordinance.

1.11 "Employer" means the City of San Jose, California

1.12 "Employer Contributions" means the Employer's contributions to the Plan in accordance with the formula selected in the Adoption Agreement.

1.13 "Employer Contribution Account" means that portion of the Participant Account established and maintained by the Administrator for each Participant with respect to his total interest (including any earnings and losses attributable thereon) under the Plan resulting from Employer Contributions.

1.14 "Fiscal Year" means the Employer's 12-month consecutive accounting year specified by the Employer in the Adoption Agreement.

1.15 "Investment Product" means group or individual annuity contracts or such other investment arrangements issued by or offered through the Provider and used to hold the assets of the Plan. Notwithstanding the previous sentence, life insurance shall not be a permissible investment product under the Plan.

1.16 "Normal Retirement Age" as set forth in the Ordinance and Adoption Agreement.

1.17 "Ordinance" means the municipal Ordinance adopted to establish the Plan.

1.18 "Participant" means any individual defined in the Ordinance.

1.19 "Participant Account" means the total of a Participant's 414(h) Pick-Up Contribution Account, Rollover Contribution Account, and the Employer Contribution Account for each Participant in the Plan, the account established for a Beneficiary after a Participant's

death, and any account or accounts established for an alternate payee (as defined in Section 414(p)(8) of the Code).

1.20 "Plan" means the name of the Plan as indicated in the Adoption Agreement.

1.21 "Plan Year" means the Plan's 12-consecutive month accounting year as elected by the Employer in the Adoption Agreement.

1.22 "Provider" means ING Life Insurance and Annuity Company and/or ReliaStar Life Insurance Company or such other provider entity as the Employer may approve.

1.23 "Rollover Contribution" means, if so elected by the Employer in the Adoption Agreement, contributions made by a Participant (or, if applicable, Eligible Employee or elected official) pursuant to Section 3.6 of "eligible rollover distributions" in accordance with Section 402(c)(4) of the Code.

1.24 "Rollover Contribution Account" means the account established and maintained by the Administrator for each Participant (or, if applicable, Eligible Employee or elected official) with respect to his total interest (including any earnings and losses attributable thereon) under the Plan resulting from Rollover Contribution.

1.25 "Vested" means the nonforfeitable portion of any account maintained on behalf of a Participant. All accounts are always 100% vested. There are no forfeitures in this Plan.

ARTICLE II. ELIGIBILITY

2.1 Eligibility

Each Eligible Employee and elected official will be a Participant in the Plan when he satisfies the eligibility requirements specified in the Adoption Agreement and the Ordinance.

2.2 Determination of Eligibility and Effective Date of Participation

(a) The Administrator will determine whether an Eligible Employee or elected official has satisfied the eligibility requirements specified in the Adoption Agreement based upon information furnished by the Employer. Such determination will be conclusive and binding and the criteria for such determination will be applied uniformly to all Participants.

(b) An Eligible Employee who is eligible to be a Participant shall become a Participant effective as of the day specified in the Adoption Agreement if they elect coverage in this Plan as provided in the Adoption Agreement. An elected official who is eligible to be a Participant shall become a Participant effective as of the day specified in the Adoption Agreement and as provided in the Ordinance.

(c) The Participant will provide investment direction for contributions made to an Investment Product on such forms as may be required by the Provider.

2.3 Termination of Eligibility

In the event a Participant will go from a classification of an Eligible Employee to a non-Eligible Employee, or a Participant is no longer an elected official, such Participant will not be able to actively participate in the Plan until he is again reclassified as an Eligible Employee or an elected official. The Participant Account of such inactive Participant will continue to be allocated any attributable earnings and losses.

2.4 Information Provided by the Employee or elected official

Each Eligible Employee or elected official enrolling in the Plan should provide to the Administrator at the time of initial enrollment, and later if there are any changes, any information necessary or advisable for the Administrator to administer the Plan.

2.5 Leave of Absence

If an Employee or elected official is absent from work by leave of absence, contributions under the Plan shall continue to the extent that Compensation continues.

2.6 Payment of Contributions to Investment Product

The Employer shall remit to the Provider the contributions to be allocated under the Investment Product to fund benefits under the Plan within the time period prescribed by applicable law.

ARTICLE III. CONTRIBUTION AND ALLOCATION

3.1 Employer Contributions

The Plan is a money purchase pension plan within the meaning of Section 1-401-1(b)(1)(i) of the Income Tax Regulations, as elected by the Employer in the Adoption Agreement, and the Employer will make Employer Contributions for each Plan Year as elected in the Adoption Agreement. Employer Contributions are subject to any limitations imposed under applicable law. Such Employer contributions shall be allocated to the Participant's Employer Contribution Account.

3.2 414(h) Pick-Up Contribution

A Participant shall make 414(h) Pick-Up Contribution as indicated in the Adoption Agreement, subject to any limitations imposed under applicable law. Such contributions shall be allocated to the 414(h) Pick-Up Contribution Account of each Participant.

3.3 Maximum Annual Additions

(a) The maximum permissible Annual Additions that may be contributed or allocated to each Participant Account under the Plan for any Limitation Year shall not exceed the lesser of:

- (1) \$40,000, as adjusted for increase in the cost of living under Section 415(d) of the Code, or
- (2) 100 percent of the Participant's Compensation for the Limitation Year.

(b) For purposes of this Section, "Annual Additions" means, for any Limitation Year, the sum of Employer Contributions, 414(h) Pick-Up Contribution, and Forfeitures to the Plan and any contributions and forfeitures allocated to any other qualified defined contribution plans of the Employer which are required to be aggregated with the Plan in accordance to Section 1.415(c)-1(a)(2) of the Income Tax Regulations. For this purpose, any excess amount applied under Section 415 of the Code in the Limitation Year to reduce Employer contributions shall be considered "Annual Additions" for such Limitation Year.

(c) For purposes of this Section, "Limitation Year" means the 12-consecutive month calendar year. If the Employer maintains any other qualified defined contribution plans as defined in Section 1.415(c)-1(a)(2) of the Income Tax Regulations, such other plans shall also use the calendar year as the Limitation Year.

(d) If a Participant participates in another qualified defined contribution plan maintained by the Employer (as defined in Section 1.415(c)-1(a)(2)) which is required to be aggregated with the Plan for purposes of this Section, the amount of Annual Additions which may be credited to an individual's Participant Account for any Limitation Year shall not exceed the maximum permissible amount described in subsection (a). If amounts allocated to a Participant's account maintained under this Plan are equal or greater than the maximum permissible amount described in subsection (a) in a Limitation Year, no amount shall be contributed to the Participant's account under the other plans for that Limitation Year.

3.4 Adjustment for Excess Annual Additions

(a) Notwithstanding Section 3.3(d), if the maximum permissible amount described in Section 3.3(a) is exceeded and if the Employer sponsors more than one qualified defined contribution plan, then any excesses will first be cured from such other qualified plan. If excesses remain or if there is no other qualified defined contribution plan of the Employer, then any remaining excesses shall be corrected in accordance with this Section.

(b) Notwithstanding any provision of the Plan to the contrary, if the Annual Additions to a Participant Account under the Plan are exceeded in any Limitation Year, then the Plan shall correct such excess in accordance with the Income Tax Regulations and such other guidance as the IRS may issue from time to time.

3.5 Rollovers to the Plan

(a) If elected by the Employer in the Adoption Agreement and with the consent of the Administrator, amounts that are considered eligible rollover distributions as defined in Section 402(c)(4) of the Code may be rolled over by an Eligible Employee or elected official, whether or not a Participant at the time, from an eligible retirement plan, as defined in subsection (b) below. A Participant who is a surviving spousal Beneficiary or an alternate payee (who is a spouse or former spouse) of another eligible retirement plan may roll over eligible rollover distributions from such eligible retirement plan as further defined in subsection (b). Such amounts shall be allocated to the Participant's Rollover Contribution Account.

(b) For purposes of this Section, the term "eligible retirement plan" means any other plan under Section 401(a) of the Code, a plan under Section 457(b) of the Code maintained by an employer as defined in Section 457(e)(1)(A) of the Code, a plan under Section 403(b) of the Code, an individual retirement account as described in Section 408(a) of the Code, and an individual retirement annuity as described in Section 408(b) of the Code, provided that after-tax amounts may only be rolled into the Plan from another plan that is subject to Section 401(a) of the Code. Distributions from a Roth account may not be rolled into this Plan. For purposes of this Section, the term "amounts rolled over from an eligible retirement plan" means:

(1) amounts rolled to the Plan directly from another eligible retirement plan on behalf of an Eligible Employee or elected official (or Participant, surviving spouse or alternate payee, as applicable); and

(2) eligible rollover distributions as defined in Section 402(c)(4) of the Code received by an Eligible Employee or elected official (or Participant, surviving spouse or alternate payee, as applicable) from another eligible retirement plan that are rolled over by the him to the Plan within sixty (60) days, following his receipt thereof.

3.6 Investments

Amounts deferred under the Plan will be invested in any Investment Product. If applicable, a Participant will direct the investment of his Participant Account among the investment options available under the Investment Product. Contributions will be allocated to a Participant Account in accordance with this Article III and earnings and losses attributable to such contributions will be allocated to such Participant Account. If any provision of an Investment Product agreement is not consistent with the Plan provisions, the terms of the Plan will control.

3.7 Vesting

(a) A Participant is always fully vested in his 414(h) Pick-Up Contribution, Rollover Contribution, Employer Contributions and the earnings thereon.

3.8 Protection of Persons Who Serve in a Uniformed Service

(a) Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code and the Ordinance.

ARTICLE IV. DETERMINATION AND DISTRIBUTION OF BENEFITS

4.1 Distributions under the Plan

(a) A Participant Account may not be paid to a Participant (or, if applicable, the Beneficiary) until one of the following events has occurred:

- (1) attainment of Normal Retirement Age,
- (2) separation from service prior to Normal Retirement Age, or
- (3) the Participant's death.

(b) Notwithstanding subsection (a), a Participant may choose to receive a distribution from his Rollover Contribution Account at the time elected by the Employer in the Adoption Agreement.

4.2 Distribution of Benefits upon Normal Retirement Age, Other Separation From Service.

(a) Upon attainment of a distributable event described in Section 4.1, but in no event later than the requirement to commence minimum distribution payments in accordance with Section 401(a)(9) of the Code and the Income Tax Regulations thereunder, a Participant may elect a benefit distribution option to which benefits will be paid.

(b) Upon a Participant's application for benefits, the Administrator will direct the distribution of a Participant Account in accordance with this Section 4.2 and the Ordinance.

(c) A Participant may choose a benefit distribution option as selected by the Employer in the Adoption Agreement and the Ordinance. The terms of any annuity contract purchased and distributed by the Plan to a Participant will comply with the requirements of the Plan.

4.3 Distribution of Benefits upon Death

(a) Upon the death of a Participant, the Administrator will direct that the deceased Participant's Participant Account, be distributed to the Beneficiary in accordance with the provisions of this Section.

(b) The designation of a Beneficiary will be made on a form satisfactory to the Administrator. A Participant or Beneficiary may at any time revoke his designation of a Beneficiary or change his Beneficiary by filing written notice of such revocation or change with the Administrator. In the event no valid designation of Beneficiary exists at the time of the Participant's or Beneficiary's death, the death benefit will be payable to the Participant's or Beneficiary's estate.

(c) The Administrator may require such proper proof of death and such evidence of the right of any person to receive payment of the value of the Participant Account of a deceased Participant or Beneficiary, as the Administrator may deem appropriate. The Administrator's determination of death and of the right of any person to receive payment will be conclusive.

(d) Death benefits payable to a Beneficiary will be made in a form as selected by the Beneficiary in accordance with the available options as elected by the Employer in the Adoption Agreement. If no election of the method of payment has been made by the ~~p~~Participant or the ~~p~~Participant's ~~b~~Beneficiary as provided for in ~~this-thechapter Plan~~, the benefits payable to the ~~p~~Participant or the ~~p~~Participant's ~~b~~Beneficiary shall ~~be-continued~~ to be held in the ~~p~~Plan. The terms of any annuity contract purchased and distributed by the Plan to a Beneficiary will comply with the requirements of the Plan.

4.4 Minimum Distributions

All distributions under the Plan shall comply with the minimum distribution requirements of Section 401(a)(9) of the Code and the Income Tax Regulations.

4.5 Rollovers from the Plan

(a) Notwithstanding any provision of the Plan to the contrary, a Participant will be permitted to elect to have any eligible rollover distribution (as defined in Section 402(c)(4) of the Code) paid directly to an eligible retirement plan (as defined in Section 3.6(b)) or to a Roth IRA established under Code Section 408A specified by the Participant. The maximum amount which may be rolled over shall not exceed the amount described in Section 402(c)(2) of the Code. The Participant will, in the time and manner prescribed by the Administrator, specify the amount to be rolled over and the eligible retirement plan to receive such rollover. Any portion of a distribution which is not rolled over will be distributed directly to the Participant.

(b) The election described in subsection (a) also applies to the surviving spouse who is the designated Beneficiary of the Participant or a spouse or former spouse

who is the alternate payee, provided that such spouse, former spouse or alternate payee directs the transfer of an eligible rollover distribution, as defined in Section 402(c)(4) of the Code into an eligible retirement plan, as defined in Section 3.6(b), in which such spouse, former spouse or alternate payee is a participant.

(c) A non-spousal Beneficiary may elect to roll over death benefits amounts in accordance with Section 402(c)(11) of the Code provided that:

(1) such amounts are rolled over to an inherited IRA via a direct trustee-to-trustee transfer;

(2) such election is made by December 31 of the year following the year of the Participant's death; and

(3) the rolled over amounts are eligible rollover distributions as defined in Section 402(c)(4) of the Code.

ARTICLE V. ADMINISTRATION

5.1 Powers and Responsibilities of the Employer.

(a) The Administrators shall have full power to interpret and construe the Plan in a manner consistent with its terms and the provisions of Section 401(a) of the Code, including the applicable Income Tax Regulations and to establish practices and procedures conforming to those provisions. In all such cases, the Administrator's determination shall be final and conclusive upon all persons. It is recognized that unusual circumstances may occur and questions may arise that are not specifically covered by any provision of the Plan, and the Administrator shall have the right to resolve all such questions. Notwithstanding the above, the Administrator's power and responsibility under the Plan will not extend to, nor have any control over, those responsibilities and duties of the Provider.

(b) If the City has appointed someone to fulfill Administrators responsibility, the City shall be empowered to appoint and remove the Administrator from time to time as it deems necessary for the proper administration of the Plan to assure that the Plan is being operated for the exclusive benefit of the Participants and their Beneficiaries in accordance with the terms of the Plan and the Code.

(c) The Employer shall periodically review the performance of any person to whom duties have been delegated or allocated by it under the provisions of this Plan or pursuant to procedures established hereunder. This requirement may be satisfied by formal periodic review by the Employer or by a qualified person specifically designated by the Employer, through day-to-day conduct and evaluation, or through other appropriate ways.

5.2 Designation of Administrative Authority

The Employer may appoint the city manager and the city manager's designee to discharge the Administrator's responsibilities under the Plan.

5.3 Allocation and Delegation of Responsibilities

If more than one entity is appointed as Administrator, the responsibilities of each Administrator may be specified by the Employer and accepted in writing by each Administrator. In the event that the Employer makes no such delegation, the Administrators may allocate the responsibilities among themselves, in which event the Administrators shall notify the Employer in writing of such action and specify the responsibilities of each Administrator.

5.4 Powers and Duties of the Administrator

The primary responsibility of the Administrator is to administer the Plan for the benefit of the Participants and their Beneficiaries, subject to the specific terms of the Plan. The Administrator will administer the Plan in accordance with its terms and will have the power and discretion to construe the terms of the Plan and determine all questions arising in connection with the administration, interpretation, and application of the Plan. Any such determination by the Administrator will be conclusive and binding upon all persons. The Administrator may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as will be deemed necessary or advisable to carry out the purpose of the Plan; provided, however, that any procedure, discretionary act, interpretation or construction will be done in a nondiscriminatory manner based upon uniform principles consistently applied and will be consistent with the intent that the Plan will continue to be deemed a qualified plan under the terms of Section 401(a) of the Code, and will comply with the terms of all Income Tax Regulations issued pursuant thereto. The Administrator will have all powers necessary or appropriate to accomplish his duties under this Plan. The Administrator will be charged with the duties of the general administration of the Plan, including, but not limited to, the following:

- (a) the discretion to determine all questions relating to the eligibility of Employees, ~~and~~ Independent Contractors and elected officials to participate or remain a Participant hereunder and to receive benefits under the Plan;
- (b) determine the amounts to be contributed to each Participant Account;
- (c) to authorize and direct the Provider with respect to all disbursements to which a Participant or Beneficiary is entitled under the Plan;
- (d) to maintain all necessary records for the administration of the Plan;
- (e) to maintain practices and procedures necessary to administer the Plan as are consistent with the terms hereof;

(f) to determine the type of any Investment Product to be purchased from the Provider; and

(g) to assist any Participant or Beneficiary regarding his rights, benefits, or elections available under the Plan.

5.5 Records and Reports

The Administrator will keep a record of all actions taken and will keep all other books of account, records, and other data that may be necessary for proper administration of the Plan and will be responsible for supplying all information and reports to the Internal Revenue Service, Participants, Beneficiaries and others as required by law.

5.6 Appointment of Advisers

The Administrator may appoint/employ such agents, attorneys, actuaries, accountants, auditors, investment counsel, and clerical assistants, and other persons as the Administrator deems necessary or desirable in connection with the administration of this Plan.

5.7 Information from Employer

To enable the Administrator to perform his functions, the Employer will supply the necessary information to the Administrator on a timely basis regarding the Participants under the Plan, including but not limited to Compensation, date of hire, date of death, disability, or termination of employment, and such other pertinent facts and data as the Administrator may require. The Administrator may rely upon such information as is supplied by the Employer and shall have no duty or responsibility to verify such information.

5.8 Payment of Expenses

All expenses of administration will be paid as directed by the Employer. Such expenses will include any expenses incident to the functioning of the Administrator, including, but not limited to, fees of accountants, counsel, and other specialists and their agents, and other costs of administering the Plan.

ARTICLE VI. AMENDMENT AND TERMINATION

6.1 Amendment

(a) The Employer shall have the right at any time to amend this Plan subject to the limitations of this Section. Any such amendment shall become effective as provided therein upon its execution.

(b) No amendment to the Plan will be effective if it authorizes or permits any part of the Investment Product (other than such part as is required to pay taxes and

administration expenses) to be used for or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries; or causes any reduction in the amount credited to the account of any Participant or Beneficiary; or causes or permits any portion of the Investment Product to revert to or become property of the Employer.

6.2 Termination

(a) The Employer shall have the right at any time to terminate the Plan by Ordinance. Upon any full or partial termination all amounts credited to the affected Participant Accounts shall become 100% Vested and shall not thereafter be subject to Forfeiture, and all unallocated amounts shall be allocated to the accounts of all Participants in accordance with the provisions hereof. In addition, the Employer must deliver written notice of discontinuance of the Investment Product to the Provider.

(b) Upon the full termination of the Plan, the Employer will direct the distribution of the assets to Participants and Beneficiaries in a manner which is consistent with and satisfies the provisions of Article IV.

ARTICLE VII. MISCELLANEOUS

7.1 Assets for Exclusive Benefit of Participants and Beneficiaries

All amounts in the Participant Accounts under this Plan, all property and rights which may be purchased with such amounts and all income attributable to such amounts, property or rights will be held in trust (or a custodial account or annuity contract described in Section 401(f) of the Code) for the exclusive benefit of Participants and their Beneficiaries. All such amounts will not be subject to the claims of the Employer's general creditors.

7.2 Participant's Rights

This Plan will not be deemed to constitute an employment contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan will be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon him as a Participant in this Plan.

7.3 Alienation

Subject to applicable state law (and Section 401(g) of the Code if the Investment Product consists of an annuity contract) and except as provided in Section 7.4, no benefit which will be payable to any person (including a Participant or their Beneficiaries) will be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same will be void; and no such benefit will in any manner be liable for, or subject to, the debts,

contracts, liabilities, engagements, or torts of any such person, nor will be subject to attachment or legal process for or against such person, and the same will not be recognized except to such extent as may be required by law.

7.4 Recognition of Approved Domestic Relations Orders

Notwithstanding Section 7.3, if a judgment, decree or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant is made pursuant to the domestic relations law of any State ("domestic relations order") and Section 414(p) of the Code, then the amount of the Participant Account shall be paid in the manner and to the person or persons so directed in the domestic relations order. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Ordinance contains procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order.

7.5 IRS Levy or Federal Restitution Order

Notwithstanding Section 7.3, if a Participant or Beneficiary is entitled to a distribution in accordance with Section 5, the Administrator may pay from a Participant's or Beneficiary's Account the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service or a criminal restitution order, with respect to that Participant or Beneficiary, or an amount that is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

7.6 Distribution for Minor Beneficiary or Incompetent

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

7.7 Mistaken Contributions

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

7.8 Procedure When Distributee Cannot Be Located

The Administrator shall make all reasonable attempts to determine the identity and address of a Participant or Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable

attempt means (a) the mailing by certified mail of a notice to the last known address shown on the Employer's or the Administrator's records, (b) notification sent to the Social Security Administration or the Pension Benefit Guaranty Corporation (under their program to identify payees under retirement plans), and (c) the payee has not responded within 6 months. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the funding vehicle shall continue to hold the benefits due such person.

7.9 Governing Law

The Plan will be construed, administered and enforced according to the Code and the laws of California.

7.10 Headings

Headings of the Plan have been inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

7.11 Gender

Pronouns used in the Plan in the masculine or feminine gender include both genders unless the context clearly indicates otherwise.

7.12 Approval by Internal Revenue Service

Notwithstanding anything herein to the contrary, if, pursuant to a timely application filed by or on behalf of the Plan, the Commissioner of the Internal Revenue Service or his delegate should determine that the Plan does not initially qualify as a tax-exempt plan under Sections 401 and 501 of the Code, and such determination is not contested, or if contested, is finally upheld, then if the Plan is a new plan, it shall be void and all amounts contributed to the Plan, by the Employer, less expenses paid, shall be returned within one year and the Plan shall terminate. If the disqualification relates to an amended plan, then the Plan shall operate as if it had not been amended and restated. In the event that a contribution is made to the Plan conditioned upon qualification of the Plan as amended, such contribution must be returned to the Employer upon the determination that the amended Plan fails to qualify under the Code.

Approved this _____ day of _____, 2021.

CITY OF SAN JOSE

By: _____

Title: _____