BOARD OF COUNTY COMMISSIONERS
LEON COUNTY, FLORIDA

AGENDA
REGULAR MEETING

Tuesday, May 10, 2022
3:00 p.m.

Leon County Courthouse, County Commission Chambers, Fifth Floor
301 South Monroe Street Tallahassee, FL 32301



COUNTY COMMISSIONERS

Bill Proctor, Chairman
District 1

Nick Maddox, Vice Chair At-Large II	Carolyn D. Cummings At-Large I	Kristin Dozier District 5
Jimbo Jackson District 2	Rick Minor District 3	Brian Welch District 4

Vincent S. Long
County Administrator

Chasity H. O'Steen
County Attorney

The Leon County Commission typically holds regular meetings on the second Tuesday of each month and workshops are held on the fourth Tuesday of the month. Regularly scheduled meetings are held at 3:00 p.m. and workshops are held at 1:00 p.m. A tentative schedule of meetings and workshops is attached to this agenda as a "Public Notice." Commission meeting agendas and minutes are available on the County Home Page at: **www.leoncountyfl.gov.** The media and the public can access the meeting in real time on Comcast channel 16, the Leon County Florida channel on Roku, the County's Facebook page, YouTube channel, Twitter and web site.

Please be advised that if a person decides to appeal any decision made by the Board of County Commissioners with respect to any matter considered at this meeting or hearing, such person will need a record of these proceedings, and for this purpose, such person may need to ensure that verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based. The County does not provide or prepare such record (Section 286.0105, Florida Statutes).

In accordance with Section 286.26, Florida Statutes, persons needing a special accommodation to participate in this proceeding should contact the ADA Coordinator by written or oral request at least 48 hours prior to the proceeding, at 850-606-5011 or Facilities Management at 850-606-5000, or 7-1-1 (TTY and Voice) via Florida Relay Service. Accommodation Request Forms are available on the website **www.leoncountyfl.gov/ADA.**

Board of County Commissioners
Leon County, Florida
Agenda
Regular Public Meeting
Tuesday, May 10, 2022, 3:00 p.m.

Leon County Courthouse, Commission Chambers, 5th Floor
301 S. Monroe Street Tallahassee, Florida 32301

The media and the public can access the meeting in real time on Comcast channel 16, the Leon County Florida channel on Roku, the County's Facebook page, YouTube channel, Twitter and County web site.

Citizens wishing to provide input on any item(s) on the published agenda (or a non-agenda subject) for the meeting may share public comment by using one of the following options:

- In-person at the meeting; or
- Register to provide comments using communications media technology during the meeting through the registration form using the following link https://www2.leoncountyfl.gov/coadmin/agenda/. Citizens wishing to provide virtual comment must register by 8 p.m. on the day before the meeting to provide County staff sufficient time to provide instructions to citizens for comment during the meeting. Anyone needing assistance with registration may contact County Administration at 850-606-5300.

Please note that Board of County Commissioners Policy 01-05, Article IX., Section E., titled "Addressing the Commission", and Article IX., Section F., entitled "Decorum", shall remain in full force and effect.

INVOCATION & PLEDGE OF ALLEGIANCE

Invocation by Gary Linton, Pastor Seminole Baptist Church

Pledge of Allegiance by Commissioner Jimbo Jackson

AWARDS AND PRESENTATIONS

- Proclamation Recognizing Florida High Winning the State 3A Basketball Championship and Coach Charlie Ward's Contribution to the Community
  (Commissioner Maddox)
- Proclamation Recognizing May as National Bike Month
  (Chairman Proctor)
- Presentation by Elder Care Services, Inc.
  (Jocelyne Fliger, President & CEO, Elder Care Services)
- Overview of the Upcoming 2022 Hurricane Season
  (Kevin Peters, Director, Emergency Management and Kianna Gilley, Manager, Community and Media Relations)

CITIZENS TO BE HEARD ON CONSENT AND NON-AGENDAED ITEMS

3-minute limit per speaker; there will not be any discussion by the Commission.

CONSENT

1. Minutes: March 8, 2022 Regular Meeting and March 22, 2022 Leon County Detention Facility Population Management Workshop
   (Clerk of Court)

2. Payment of Bills and Vouchers
   (County Administrator/ Office of Financial Stewardship/ Office of Management & Budget)

3. State of Florida Division of Elections Network Security Enhancements Election Security Grant for Fiscal Year 2022
   (County Administrator / Financial Stewardship)

4. Approval of the Resolutions and Adoption Agreements for the Restatement of the 401(a) Retirement Savings Plans with AIG-VALIC, Mission Square (ICMA) and Nationwide
   (County Administrator/ Human Resources)

5. Leon County Indigent Cremation and Burial Program Fee Schedule Update
   (County Administrator/ Human Services & Community Partnerships)

6. 9/11 Day of Remembrance and Service for 2022
   (County Administrator/ Human Services & Community Partnerships)

7. Approval of the Plat for Bornino Commercial Subdivision
   (County Administrator/ Public Works)

8. Third Performance Agreement and Surety Device for Unit I of Chastain Manor Phase II Subdivision
   (County Administrator/ Public Works)

9. Second Performance Agreement and Surety Device for Summerfield Phase IV Subdivision
   (County Administrator/ Public Works)

10. Acceptance and Disposition of Roller Rink Equipment Donation from Tallahassee Indoor Sports Inc.
    (County Administrator/ Resource Stewardship)

Procurements: *(These items are included under Consent.)*

11. Approval of Selection of Public Financial Management, Inc. to Provide Financial Advisory Services to Leon County
    (County Administrator/ / Purchasing/ Office of Financial Stewardship)

12. Extension of the Debris Removal and Disposal Contracts
    (County Administrator/ / Purchasing/ Public Works)

13. Approval of Award for the Leon County Solid Waste Yard Debris Processing Contract
    (County Administrator/ / Purchasing/ Resource Stewardship)

14. Bid Award for the Renovation of the Daniel B. Chaires Community Park Tennis Courts
    (County Administrator/ / Purchasing/ Resource Stewardship)

Status Reports: *(These items are included under Consent.)*

15. Killearn Chain of Lakes
    (County Administrator/ Public Works)

16. Report on Gun Buyback Programs
    (County Administrator / County Administration)

17. Opioid Litigation Status Report and Consideration of the Opioid Litigation CVS Health Corporation and CVS Pharmacy, Inc., Teva Pharmaceutical Industries Ltd., and Allergan Finance, LLC, Allergan Sales, LLC, Allergen USA, Inc., and Allergan Limited Settlement Agreements and Proposed Participation Agreements
(County Attorney)

CONSENT ITEMS PULLED FOR DISCUSSION

GENERAL BUSINESS

18. Status Report on Parcels Associated with Lake Hall School House Preservation Efforts
(County Administrator/ County Administration)

19. Commissioner Appointments to the Value Adjustment Board
(County Administrator/County Administration)

20. Full Board Appointments to the Advisory Committee for Quality Growth
(County Administrator/County Administration)

SCHEDULED PUBLIC HEARINGS, 6:00 P.M.

21. First and Only Public Hearing to Consider Adopting a Proposed Ordinance to Repeal Section 18-142 of the Leon County Code of Laws Regarding Open Burning
(County Attorney)

22. First and Only Public Hearing to Consider Adopting an Ordinance Amending the Official Zoning Map to Change the Zoning Classification from Manufactured Home and Single-Family Detached (R-5) Zoning District to Office Residential (OR-2) Zoning District for the 11.07 Acres Located at 6034 W. Tennessee Street
(County Administrator/ PLACE/ Planning)

23. First and Only Public Hearing to Consider Adopting an Ordinance Amending Section 10-1.101 of the Land Development Code Entitled "Definitions", and Creating a New Section 10-7.545.1 Entitled "Electric Vehicle Charging Station Infrastructure and Electric Vehicle Parking Requirements"
(County Administrator/ Development Support & Environmental Management)

24. First of Two Public Hearings to Consider Adopting an Ordinance Amending Chapter 10 of the Land Development Code to Address Sign Regulations
(County Administrator/ Development Support & Environmental Management)

CITIZENS TO BE HEARD ON NON-AGENDAED ITEMS

3-minute limit per speaker; Commission may discuss issues that are brought forth by speakers.

COMMENTS/DISCUSSION ITEMS

Items from the County Attorney

Items from the County Administrator

Discussion Items by Commissioners

RECEIPT AND FILE

- Leon County Research and Development Authority Financial Statements, Years ended September 30, 2021 and 2020 with Report of Independent Auditors
- Children's Services Council of Leon County Quarterly Financial Report, 2nd Quarter FY 2022

ADJOURN

The next regular meeting of the Board of County Commissioners is tentatively scheduled for
Tuesday, June 14, 2022 at 3:00 p.m.

All lobbyists appearing before the Board must pay a $25 annual registration fee.
For registration forms and/or additional information, please contact the Board Secretary or visit the County Clerk website at www.leoncountyfl.gov

PUBLIC NOTICE

Leon County Board of County Commissioners
2022 Tentative Meeting Schedule
All Workshops, Meetings, and Public Hearings are subject to change.

Date	Day	Time	Meeting
January 24	Monday	9:00 a.m.	Board Retreat
January 25	Tuesday	3:00 p.m.	Regular Board Meeting
February 8	Tuesday	3:00 p.m.	Regular Board Meeting
February 22	Tuesday	9:00 a.m.	Joint County/City Affordable Housing Workshop
March 8	Tuesday	3:00 p.m.	Regular Board Meeting
March 22	Tuesday	9:00 a.m.	Workshop on Alternatives to Incarceration for the Possession of Small Amounts of Marijuana
		10:30 a.m.	Leon County Detention Facility Population Management Workshop
		1:00 p.m.	Joint County/City Workshop on the 2022 Cycle Comprehensive Plan Amendments
April 12	Tuesday	3:00 p.m.	Regular Board Meeting
April 12	Tuesday	6:00 p.m.	Joint Transmittal Hearing on the 2022 Cycle Comprehensive Plan Amendments
May 10	Tuesday	3:00 p.m.	Regular Board Meeting
May 24	Tuesday		Workshop (TBD)
June 14	Tuesday	3:00 p.m.	Regular Board Meeting
June 14	Tuesday	6:00 p.m.	Joint Adoption Hearing on 2022 Cycle Comprehensive Plan Amendments
June 21	Tuesday	9:00 a.m.	Budget Workshop
July 12	Tuesday	9:00 a.m.	Budget Workshop (if necessary)
July 12	Tuesday	3:00 p.m.	Regular Board Meeting
September 13	Tuesday	3:00 p.m.	Regular Board Meeting
September 13	Tuesday	6:00 p.m.	First Public Hearing on Tentative Millage Rate and Budgets
September 20	Tuesday		Workshop (TBD)
September 20	Tuesday	6:00 p.m.	Second Public Hearing on Final Millage Rate and Final Budgets
October 11	Tuesday	3:00 p.m.	Regular Board Meeting
October 25	Tuesday		Workshop (TBD)
November 22	Tuesday	3:00 p.m.	Installation, Reorganization & Regular Board Meeting
December 13	Tuesday	3:00 p.m.	Regular Board Meeting

Note: All regularly scheduled Board meetings are generally scheduled for the 2nd Tuesday of the month and workshops for the 4th Tuesday. If additional Board meetings are necessary, the meeting would be scheduled on the 4th Tuesday of the month in addition to or in place of a workshop.

PUBLIC NOTICE

Leon County Board of County Commissioners
2022 Tentative Meeting Schedule

Month	Day	Time	Meeting Type
January 2022	Tuesday 11	No meeting	BOARD RECESS
	Monday 17	Offices Closed	MARTIN LUTHER KING, JR. DAY
	Wednesday 19 – Thursday 20		*FAC Legislative Day & Innovation Day Tallahassee, FL*
	Monday 24	9:00 a.m.	Board Retreat North Florida Fairgrounds
	Tuesday 25	3:00 p.m.	Regular Meeting County Courthouse, 5th Floor Commission Chambers
		6:00 p.m.	First of Two Public Hearings to Consider an Amendment to the Park Place Development Agreement
	~~Tuesday 18~~ Monday 31	~~1:30 p.m.~~ 5:30 p.m.	Capital Region Transportation Planning Agency City Commission Chambers
February 2022	Tuesday 8	3:00 p.m.	Regular Meeting County Courthouse, 5th Floor Commission Chambers
		6:00 p.m.	Second and Final Public Hearing to Consider an Amendment to the Park Place Development Agreement
		6:00 p.m.	First and Only Public Hearing to Consider an Ordinance Amending Article IV of Chapter 10 of the Leon County Code of Law, Entitled "Closed Basins and Standards"
		6:00 p.m.	First and only Public Hearing to consider the draft ordinance which repeals Chapter 11, Article VIII of the Code of Laws Entitled Solicitation on Public Street
	Saturday 12 – Wednesday 16		*NACO Legislative Conference* *Washington, D.C.*
	Monday 21	1:30 p.m.	Capital Region Transportation Planning Agency Meeting City Commission Chambers
	Tuesday 22	9:00 a.m.	Joint Workshop on Affordable Housing City Commission Chambers
	Thursday 24	3:00 p.m.	Blueprint Intergovernmental Agency Meeting City Commission Chambers
March 2022	Tuesday 8	3:00 p.m.	Regular Meeting County Courthouse, 5th Floor Commission Chambers
		6:00 p.m.	First and Only Public Hearing to consider an Ordinance Adopting the Annual Update to the Tallahassee-Leon County Comprehensive Plan Capital Improvements Schedule
		6:00 p.m.	First and Only Public Hearing for the Camellia Oaks Type C Site and Development Plan Application
		6:00 p.m.	First and Only Public Hearing to Consider an Ordinance Amending Ordinance No. 07-18, as amended, to contract the boundaries of the Fallschase Community Development District
	Tuesday 15	1:30 p.m.	Capital Region Transportation Planning Agency Meeting City Commission Chambers
	Tuesday 22	9:00 a.m.	Workshop on Alternatives to Incarceration for the Possession of Small Amounts of Marijuana County Courthouse, 5th Floor Commission Chambers
		10:30 a.m.	Leon County Detention Facility Population Management Workshop

Month	Day	Time	Meeting Type
March 2022 (cont.)	Tuesday 22	1:00 p.m.	Joint County/City Workshop on the 2022 Cycle Comprehensive Plan Amendments
	Thursday 31	3:00 p.m.	Blueprint Intergovernmental Agency Meeting City Commission Chambers
April 2022	Tuesday 12	3:00 p.m.	Regular Meeting County Courthouse, 5th Floor Commission Chambers
		6:00 p.m.	Joint County/City Transmittal Hearing on Cycle 2022 Comprehensive Plan Amendments
		6:00 p.m.	First & Only Public Hearing to consider an Ordinance Amending the Official Zoning Map to Change Zoning Classification from the Bradfordville Commercial-1 (BC-1) and Bradfordville Commercial-2 (BC-2) Zoning Districts to the Bradfordville Office Residential (BOR) Zoning District for 10.16 Acres Located at 6785 Thomasville Road
	~~Tuesday 19~~ *cancelled*	~~1:30 p.m.~~	~~Capital Region Transportation Planning Agency Meeting~~ ~~City Commission Chambers~~
	Wednesday 20 – Saturday 24		*National Organization of Black County Officials (NOBCO) Annual Economic Development Conference* *Memphis, TN*
	Saturday 23		*Honor Flight Tallahassee* *Washington D.C.*
	~~Tuesday 26~~ *cancelled*	~~9:00 a.m.~~	~~Budget Policy Workshop~~ ~~County Courthouse, 5th Floor Commission Chambers~~
May 2022	Tuesday 10	3:00 p.m.	Regular Meeting County Courthouse, 5th Floor Commission Chambers
		6:00 p.m.	First and Only Public Hearing to Consider Adopting an Ordinance Amending Section 10-1.101 of the Land Development Code Entitled "Definitions", and Creating a New Section 10-7.545.1 Entitled "Electric Vehicle Charging Station Infrastructure and Electric Vehicle Parking Requirements"
		6:00 p.m.	First of Two Public Hearings to Consider Adoption of an Ordinance Amending Chapter 10 of the Land Development Code to Address Sign Regulations
		6:00 p.m.	First and Only Public Hearing to Consider Adopting an Ordinance Amending the Official Zoning Map to Change the Zoning Classification from Manufactured Home and Single Family Detached (R-5) Zoning District to the Office Residential (OR-2) Zoning District for the 10.4 Acres Located at 6034 W. Tennessee Street
		6:00 p.m.	First and only public hearing to consider adopting an Ordinance to repeal Section 18-142 of the Leon County Code of Laws Pertaining to Open Burning
	Tuesday 17	1:30 p.m.	Capital Region Transportation Planning Agency Meeting City Commission Chambers
	Thursday 19	1:00 p.m.	Blueprint Intergovernmental Agency Budget Workshop City Commission Chambers
		3:00 p.m.	Blueprint Intergovernmental Agency Meeting City Commission Chambers
	Friday 20	Offices Closed	EMANCIPATON DAY
	Tuesday 24		Meeting and/or Workshop (TBD) County Courthouse, 5th Floor Commission Chambers
	Monday 30	Offices Closed	MEMORIAL DAY

Month	Day	Time	Meeting Type
June 2022	Tuesday 14	3:00 p.m.	Regular Meeting County Courthouse, 5th Floor Commission Chambers
		6:00 p.m.	Joint County/City Adoption Hearing on Cycle 2022 Comprehensive Plan Amendments
		6:00 p.m.	Second & Final Public Hearing to Consider Adoption of an Ordinance Amending Chapter 10 of the Land Development Code to Address Sign Regulations
		6:00 p.m.	**First & Only Public Hearing to Consider Adopting an Ordinance to Sunset the Leon County Contractors Licensing Program and the Contractors Licensing Board**
	Monday 20	1:30 p.m.	Capital Region Transportation Planning Agency Meeting City Commission Chambers
	Tuesday 21	9:00 a.m.	Budget Workshop County Courthouse, 5th Floor Commission Chambers
	Tuesday 28 – Friday 1		*FAC Annual Conference & Educational Exposition* *Orange County; Orlando, FL*
July 2022	Monday 4	Offices Closed	INDEPENDENCE DAY
	Tuesday 12	9:00 a.m.	Budget Workshop (if necessary) County Courthouse, 5th Floor Commission Chambers
	Tuesday 12	3:00 p.m.	Regular Meeting County Courthouse, 5th Floor Commission Chambers
	Thursday 14	3:00 p.m.	Blueprint Intergovernmental Agency Meeting City Commission Chambers
	Wednesday 20 – Saturday 23		***National Urban League Annual Conference*** ***Washington D.C.***
	Thursday 21 - Sunday 24		*NACo Annual Conference* *Adams County / Aurora, Colorado*
	Tuesday 26	No Meeting	BOARD RECESS
August 2022	*Thursday 18 - Sunday 21*		*Chamber of Commerce Annual Conference* *Amelia Island, Fernandina Beach, FL*
September 2022	Monday 5	Offices Closed	LABOR DAY
	Tuesday 13	3:00 p.m.	Regular Meeting County Courthouse, 5th Floor Commission Chambers
		6:00 p.m.*	First Public Hearing Regarding Tentative Millage Rates and Tentative Budgets for FY 21/22*
	Wednesday 14 – Friday 16		***FAC Innovation & Policy Conference*** ***Miami-Dade County***
	Sunday 18 – Wednesday 21		*ICMA Annual Conference* *Franklin County / Columbus, Ohio*
	Tuesday 20	1:00 p.m.	Workshop TBD County Courthouse, 5th Floor Commission Chambers
		6:00 p.m.*	Second & Final Public Hearing on Adoption of Final Millage Rates and Budgets for FY 21/22*
	Tuesday 27	1:30 p.m.	Capital Region Transportation Planning Agency Meeting City Commission Chambers
	~~Thursday 15~~ **Thursday 29**	5:00 p.m.	Blueprint Intergovernmental Agency Meeting & 6:00 p.m. Budget Public Hearing City Commission Chambers
	TBD		*Congressional Black Caucus Annual Legislative Conference - TBD*
These public hearing dates may change because of the School Board's scheduling of its budget adoption public hearings			
October 2022	Tuesday 11	3:00 p.m.	Regular Meeting County Courthouse, 5th Floor Commission Chambers

Month	Day	Time	Meeting Type
October 2022 (cont.)	Tuesday 18	9:00 a.m.	Capital Region Transportation Planning Agency Workshop/Retreat – City Commission Chambers
	Tuesday 25		Meeting and/or Workshop (TBD) County Courthouse, 5th Floor Commission Chambers
November 2022	Tuesday 8	Offices Closed	ELECTION DAY
	Friday 11	Offices Closed	VETERAN'S DAY
	Tuesday 15	1:30 p.m.	Capital Region Transportation Planning Agency Meeting City Commission Chambers
	Tuesday 22	3:00 p.m.	Installation, Reorganization and Regular Meeting County Courthouse, 5th Floor Commission Chambers
	Thursday 24	Offices Closed	THANKSGIVING DAY
	Friday 25	Offices Closed	FRIDAY AFTER THANKSGIVING DAY
	Wednesday 30 – Friday 2		***FAC Legislative Conference Pinellas County***
December 2022	Thursday 8	3:00 p.m.	Blueprint Intergovernmental Agency Meeting City Commission Chambers
	Tuesday 13	3:00 p.m.	Regular Meeting County Courthouse, 5th Floor Commission Chambers
	Tuesday 20	1:30 p.m.	Capital Region Transportation Planning Agency Meeting City Commission Chambers
	Monday 26	Offices Closed	CHRISTMAS OBSERVED
January 2023	Monday 2	Offices Closed	NEW YEAR'S DAY OBSERVED
	Tuesday 10	No Meeting	BOARD RECESS
	Monday 16		MARTIN LUTHER KING, JR. DAY

Citizen Committees, Boards, and Authorities
Current and Upcoming Vacancies

leoncountyfl.gov/committees

CURRENT VACANCIES

Affordable Housing Advisory Committee
Board of County Commissioners (1 appointment) from one of the following categories:
- b. A citizen who is actively engaged in the banking or mortgage banking industry in connection with affordable housing.
- c. A citizen who is a representative of those areas of labor actively engaged in home building in connection with affordable housing.
- e. A citizen who is actively engaged as a for-profit provider of affordable housing.
- j. A citizen who represents employers within the jurisdiction.
- k. A citizen who represents essential services personnel, as defined in the local housing assistance plan. (*Essential Service Personnel includes teachers and educators, other school district, community college and university employees, police and fire personnel, health care personnel, skilled building trades personnel and active U.S. Armed Forces service members.*)

Animal Classification Committee
Board of County Commissioners (1 appointment) – Licensed Veterinarian
Board of County Commissioners (1 appointment) – Informed Citizen

Joint City/County Bicycling Workgroup
City of Tallahassee (4 appointments)

Tallahassee-Leon County Commission on the Status of Women & Girls
Commissioner - District At-Large I: Carolyn Cummings (1 appointment)

UPCOMING VACANCIES

MAY 31, 2022

Advisory Committee for Quality Growth
Board of County Commissioners (8 appointments)

JUNE 30, 2022

Architectural Review Board
Board of County Commissioners (1 appointment) – owner of historic property

Board of Adjustments & Appeals
Board of County Commissioners (2 appointments)

CareerSource Capital Region Board
Board of County Commissioners (2 appointments)

Planning Commission
Board of County Commissioners (1 appointment)

JULY 31, 2022

Big Bend Health Council
Board of County Commissioners (4 appointments)

Code Enforcement Board
Commissioner - District I: Bill Proctor (1 appointment)

JULY 31, 2022 (cont.)

Investment Oversight Committee
Board of County Commissioners (2 appointments)

Water Resource Committee
Commissioner - District II: Jimbo Jackson (1 appointment)
Commissioner - District IV: Brian Welch (1 appointment)

SEPTEMBER 30, 2022

Community Development Block Grant Citizens Advisory Task Force
Board of County Commissioners (3 appointments)

Council on Culture & Arts
Board of County Commissioners (2 appointments)

Joint School Coordinating Committee
Board of County Commissioners (1 appointment)

Leon County Research & Development Authority
Board of County Commissioners (3 appointments)

Science Advisory Committee
Commissioner - District III: Rick Minor (1 appointment)
Commissioner - District IV: Brian Welch (1 appointment)

Tallahassee-Leon County Commission on the Status of Women & Girls
Commissioner - District III: Rick Minor (1 appointment)
Commissioner - District I: Bill Proctor (1 appointment)
Commissioner - District V: Kristin Dozier (1 appointment)
Board of County Commissioners (4 appointments- ratification of CSWG appointees)

Leon County
Board of County Commissioners

Notes for Agenda Item #1

Leon County Board of County Commissioners

Agenda Item #1

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: Minutes: March 8, 2022 Regular Meeting and March 22, 2022 Leon County Detention Facility Population Management Workshop

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Edward Burke, Finance Director, Clerk of Court & Comptroller
Lead Staff/ Project Team:	Beryl Wood, Clerk to the Board

Statement of Issue:

This item seeks Board review and approval of the following minutes: March 8, 2022 Regular Meeting and March 22, 2022 Leon County Detention Facility Population Management Workshop.

Fiscal Impact:

This item has no fiscal impact.

Staff Recommendation:

Option #1: Approve the minutes of the March 8, 2022 Regular Meeting and March 22, 2022 Leon County Detention Facility Population Management Workshop.

Attachments:

1. March 8, 2022 Regular Meeting Minutes
2. March 22, 2022 Leon County Detention Facility Population Management Workshop Meeting Minutes

BOARD OF COUNTY COMMISSIONERS
LEON COUNTY, FLORIDA
REGULAR MEETING
March 8, 2022

The Board of County Commissioners of Leon County, Florida met in regular session at 3:00 p.m. with Chairman Bill Proctor presiding. Present were Vice-Chairman Nick Maddox and Commissioners Brian Welch, Kristin Dozier, Carolyn Cummings, Rick Minor, and Jimbo Jackson. Also present were County Administrator Vincent Long, County Attorney Chasity O'Steen, and Clerk to the Board Beryl H. Wood.

Chairman Proctor called the meeting to order at 3:00 p.m.

Invocation and Pledge of Allegiance

The Invocation was provided by Rev. Alphonso B. Whitaker of Peacemakers, Inc., and the Pledge of Allegiance was provided by Commissioner Minor.

AWARDS AND PRESENTATIONS

- **REMOVED - Proclamation Recognizing the Leon County Chapter of the Charmettes Inc. for 50 years of Debutant Presentations and Scholarships, and its Support of the Howard University Cancer Center**

- **ADDED - Presentation of the Knight Creative Communities Institute (KCCI) 2022 Catalyst Class Project**
  - Betsy Couch, KCCI Executive Director, gave an update. She discussed the planning for KCCI Placemaking Week. She stated the focus included painting at the Downtown Library, planting 200 trees for Tallahassee's 200th Anniversary, and fundraising activities.
  - Commissioner Minor thanked Ms. Couch and KCCI. He stated that he serves on the KCCI Board and thanked them for their hard work.
  - Commissioner Dozier thanked them for their hard work.

- **Legislative Update**
  - Andrew Johnson, Assistant to the County Administrator, gave a legislative status update. He noted this was the last week of session. He noted several bills of importance and shared that after session ends they will present a final report.
  - Commissioner Cummings thanked Mr. Johnson for the summary. She asked about the legislation that would allow businesses to challenge local ordinances, and the potential budget cuts to school districts that implemented mask mandates.
  - Commissioner Jackson inquired regarding legislation to provide $10,000 down-payment assistance for essential workers.
  - Commissioner Dozier thanked the legislative team for their great work.
  - Chairman Proctor commented on the school board fines.
    - County Attorney O'Steen noted that this is a budgetary issue in response to previous mask related policies.

CONSENT

Vice-Chair Maddox moved, seconded by Commissioner Jackson, to approve the Consent Agenda, with the exception of Items 5, 6, 10, 11, 12, 15, 16, and 17. The motion carried 7-0.

1. Minutes: January 4, 2022 Special Meeting, and January 24, 2022 Board Retreat

The Board approved Option 1: Approve the minutes of January 4, 2022, Special Meeting and January 24, 2022, Board Retreat.

2. Payment of Bills and Vouchers

The Board approved Option 1: Approve the payment of bills and vouchers submitted for March 8, 2022 and pre-approve the payment of bills and vouchers for the period of March 9, 2022 through April 11, 2022.

3. Rules of Procedure for Meetings of the Leon County Board of County Commissioners

The Board approved Option 1: Adopt the proposed revised Policy No. 01-05, "Rules of Procedure for Meetings of the Leon County Board of County Commissioners."

4. Request to Schedule Two Public Hearings to Consider Adopting an Ordinance Amending Chapter 10, the Land Development Code, to Address the Sign Regulations for May 10, 2022, and June 14, 2022

The Board approved Option 1: Schedule two Public Hearings to consider adoption of an Ordinance amending Chapter 10, the Land Development Code, to address the sign regulations, for May 10, 2022, and June 14, 2022, at 6:00 p.m.

5. PULLED - Ratification of Actions Taken at the February 22, 2022, Joint Affordable Housing Workshop and Update on the ERA Temporary Relocation Assistance Program

6. PULLED - Resolutions Authorizing the Housing Finance Authority of Leon County to Issue Multifamily Housing Revenue Bonds

7. Analysis of Historic Population Projections and Land Use Needs Compared to the 2020 U.S. Census and Actual Development Activity

The Board approved Option 1: Accept the analysis of historic population projections and land use needs compared to the 2020 U.S. Census and actual development activity.

***8.* Cooperative Forest Road Agreement with the United States Department of Agriculture Forest Service National Forests in Florida**

The Board approved Option 1: Approve the United States Department of Agriculture Forest Service Cooperative Agreement on National Forest Service Roads, subject to legal review by the County Attorney.

***9.* Third Performance Agreement and Surety Device for Fletcher Oaks Subdivision Phase I**

The Board approved Option 1: Accept the Third Performance Agreement and Surety Device for Fletcher Oaks Subdivision Phase I and authorize the County Administrator to execute the agreement and any future extensions thereto.

10. **PULLED - Approval of Rivers Landing Phase IIA Replat**

11. **PULLED - Approval of the FY2022 – FY2026 Division of Tourism Strategic Plan**

Procurements: (These items are included under Consent).

12. PULLED - Bid Award for Construction of the Crowder Road Boat Landing Improvements

Status Reports: *(These items are included under Consent)*

13. Annual 2021 Concurrency Report

The Board approved Option 1: Accept the 2021 Concurrency Annual Report.

14. Annual Fiscal Year 2021 Leon County Contractors Licensing Board Report

The Board approved Options 1-2:
Option 1: Accept the Annual FY 2021 Contractors Licensing Board Report; and
Option 2: Direct staff to draft changes to amend the Code of Laws Chapter 5, Building Code and Chapter 10, Land Development Code, to sunset the Leon County Contractors Licensing Board, and schedule for Board consideration for approval via the public hearing process.

15. PULLED - Annual 2021 Supervised Pretrial Release Program Report

16. PULLED - Status Report on Water Quality Regulatory Standards in Florida and Georgia

17. **PULLED - Status Report on the Killearn Chain of Lakes**

26. ADD-ON - Knight Creative Communities Institute 2022 Catalyst Class Project

The Board approved Option 1: Accept the status report on the Knight Creative Communities Institute (KCCI) 2022 Catalyst Class Report.

CONSENT ITEMS PULLED FOR DISCUSSION

5. Ratification of Actions Taken at the February 22, 2022, Joint Affordable Housing Workshop and Update on the ERA Temporary Relocation Assistance Program

This item was pulled by Chairman Proctor.

- Kirsten Mood, via Zoom, thanked the County and City Commissions for their continued work on affordable housing.

- Chairman Proctor discussed his concerns. He asked how the individual need would be prioritized and reflected on the needs of the homeless population. He inquired about the partnership with the Urban League.
    - Shington Lamy, Director, Human Services and Community Partnerships, stated that priority will be given to those individuals whose household income is at 50% or below AMI. He provided an overview of the funding that is currently being used for homeless services. He explained that the Urban League will assist with intake for the Temporary Relocation Assistance Program. Mr. Lamy discussed that $6.3 million dollars have been allocated for CARES.
- Vice-Chair Maddox reflected on the Heirs' Property Program in Gainesville. He inquired if staff could look into the program to see if it would be appropriate for Leon County.
    - Shington Lamy replied that Legal Services of North Florida offered a similar program that aided with heirs' property issues.
- Chairman Proctor shared that Clerk Marshall's Office does periodic workshops on heirs' property issues.
- Commissioner Cummings reflected on the recurring issue of senior citizens who have complained about not being able to receive home repair assistance because they cannot show that they own the property. Shington Lamy confirmed that ownership must be confirmed in order to qualify for the home rehabilitation program as it is funded through the State Housing Initiatives Partnership (SHIP) program.
- Commissioner Dozier stated her support of the motion. She reflected on the need for referrals to the available services once an issue has been identified.
    - Shington Lamy stated that referrals are made when citizens apply for home rehabilitation assistance and proactively at the annual Home Expo.

Vice-Chair Maddox moved, seconded by Commissioner Cummings, to approve as amended:

Option 1: Ratify the preliminary actions taken at the February 22, 2022, Joint Affordable Housing Workshop, including:

- *Accepted the joint report on affordable housing in Tallahassee-Leon County;*
- *As recommended by the County and City Affordable Housing Advisory Committees, directed County and City staff to partner with the Florida Housing Coalition to draft updated Inclusionary Housing Ordinances for the County and City that are identical and mandatory within the Urban Services Area to be considered by the County Commission and City Commission, respectively;*
- *Directed Planning staff to initiate a Comprehensive Plan amendment concurrent with the development of a uniform and mandatory Inclusionary Housing Ordinances in the County and City;*
- *Directed County and City staff to draft an Interlocal Agreement for the collaboration on the State Housing Initiative Partnership Program within the City limits for consideration by the County Commission and City Commission respectively;*
- *Directed County and City staff to pursue a partnership with Promised Land Community Development Corporation (CDC) as well as other local partners for the development of affordable housing for homeownership**; and***

Option #2: Accept the status report on the ERA Temporary Relocation Assistance Program and authorize the County Administrator to contract with the Tallahassee Urban League, and other providers as necessary, to assist in administering the program, and directed staff to provide additional information on the heirs' property program and resources available for senior citizens seeking assistance with the rehabilitation of property in the absence of clear title.

The motion carried 7-0.

6. Resolutions Authorizing the Housing Finance Authority of Leon County to issue Multifamily Housing Revenue Bonds

- This item was pulled from Consent by Chairman Proctor. He expressed concern about the $55,000,000 bond for the Ridge Road development due to the lack of public input. He stated that he could not support Option 1 and asked that the item be pulled until substantial public engagement has occurred, and the developer has provided a presentation. He expressed concern about the lack of infrastructure to support the Ridge Road development.
- Vice-Chair Maddox stated that additional public engagement is needed. He confirmed with the County Administrator that Board approval is necessary to proceed. He reflected on the need for the Housing Finance Authority (HFA) to update the Board by providing a presentation.
    - County Administrator Long provided an overview of the County's role in conduit funding.
- Vice-Chair Maddox motioned to postpone action on Option 1, approve Option 2, and direct staff to work with the HFA to improve the citizen engagement process.
- Commissioner Cummings confirmed with Shington Lamy that Option #2 will provide for the conversion of three student housing complexes into mixed-income housing that will include affordable housing units as proposed by a nonprofit developer out of Jacksonville. She stated her support of Option 2.
- Chairman Proctor expressed concern about the proposed developments and confirmed with Shington Lamy that the developers are committed to what they included in the HFA application for the bonds.
- Vice-Chair Maddox expressed concern that the HFA does not require MWSBE participations. He reflected on the need for a possible HFA workshop or update from the HFA.
- Commissioner Dozier reflected on the HFA public engagement process. She agreed that an agenda item or workshop on the HFA project process may be necessary to promote future projects.
    - County Administrator Long stated that an agenda item could be brought back on conduit financing.
- Vice-Chair Maddox agreed that an agenda item is necessary, to include the HFA public engagement process and the possibility of including a MWSBE component.
- Commissioner Minor commended Option 2 and stated his support of the motion.

Vice-Chair Maddox moved, seconded by Commissioner Cummings, to approve, as amended, the postponement of action on Option #1:

Approving the Resolution authorizing the Housing Finance Authority of Leon County to issue $55,000,000 Multifamily Housing Revenue Bonds for the Ridge Road Development; and

Approve Option #2: Approve the Resolution authorizing the Housing Finance Authority of Leon County to issue $75,000,000 Multifamily Housing Revenue Bonds for the Tallahassee Affordable Housing Portfolio; and

Request an agenda item providing an overview of the HFA and the County's roles in conduit financing, including a review of the HFA public engagement process, and a review of the HFA's ability to require developers to utilize MWSBEs.

The motion carried 7-0.

10. Approval of Rivers Landing Phase IIA Replat

- This item was pulled from Consent by Commissioner Minor. He recused himself from the vote based upon the appearance of a conflict due to his wife's employment.

Commissioner Dozier moved, seconded by Commissioner Jackson, to approve Option #1:

Approve the Rivers Landing Phase IIA Replat for recording in the Public Record.

The motion carried 5-0 with Commissioner Minor recused and Vice-Chair Maddox out of Chambers.

11. Approval of FY2022-FY2026 Tourism Strategic Plan

- This item was pulled from Consent by Chairman Proctor. He commended Tourism's 5-year Strategic Plan.
  - Kerri Post, Director of the Division of Tourism, outlined the strategic plan. She stated they have partnered with Dr. Elaine Bryant of EW Bryant Associates, LLC. She discussed their smart goals and how they are promoting Tallahassee/Leon County. She noted that they are marketing the community by increasing engagement with visitors. She also discussed the upcoming bicentennial celebration.
- Commissioner Dozier noted that the North Monroe Street area may be an option for a future visitor center. She reflected on the need for an app to promote visitor information and include a Trailahassee map integrated with GIS.
  - Kerri Post confirmed that the County has the Visit Tallahassee destination app. She stated that past research indicated that there were other popular apps available and concluded that a Trailahassee app may not be necessary. She would follow-up with users to see if there is a current need for a Trailahassee app or partnership with an existing app.
- Commissioner Cummings thanked Ms. Post for her hard work at promoting Tallahassee.
- Chairman Proctor recalled citizen input he received regarding the need for a cultural festival similar to the one held in Panama City. He also expressed that the upcoming bicentennial celebration should focus on historic families in the community.

Commissioner Dozier moved, seconded by Vice-Chair Maddox, to approve Option #1:

Approve the FY2022 – FY2026 Division of Tourism Strategic Plan.

The motion carried 7-0.

12. Bid Award for the Crowder Road Boat Landing Improvements

- This item was pulled from Consent by Chairman Proctor. He reflected on the need for a report, including a schedule and timeline of needed improvements for all the County's boat landings, and confirmed with County Administrator Long that an agenda item is forthcoming.

Commissioner Minor moved, seconded by Vice-Chair Maddox, to approve Option #1: Approve the bid award for the construction of the Crowder Road Boat Landing improvements to Allen's Excavation, Inc. in the amount of $578,762, and authorize the County Administrator to execute the agreement subject to legal review by the County Attorney. The motion carried 7-0.

15. Annual 2021 Supervised Pretrial Release Program Report

- This item was pulled from Consent by Chairman Proctor. He reflected on the need to reduce the jail population and the impact of the pretrial release program.

Commissioner Welch moved, seconded by Commissioner Cummings, to approve Option #1:

Accept the 2021 Supervised Pretrial Release Program Annual Report and authorize staff to submit to the Clerk of Circuit Court and Comptroller for Leon County.

The motion passed 7-0.

16. Status Report on Water Quality Regulatory Standards in Florida and Georgia

- This item was pulled from Consent by Chairman Proctor. He reflected on the ongoing dispute with Georgia regarding water quality standards of water flowing into Florida from Georgia.
  - County Attorney O'Steen reported that the County has a history of monitoring the flow of water coming from Georgia. The County has worked tirelessly with different entities to ensure the water flow does not adversely impact water locally.

Vice-Chair Maddox moved, seconded by Commissioner Dozier, to approve Option #1:

Accept the status report on Water Quality Regulatory Standards in Florida and Georgia.

The motion passed 7-0.

17. Status Report on the Killearn Chain of Lakes

- This item was pulled by Commissioner Welch.
- The following citizen provided in-person public comment:
  - Danielle Irwin, 3185 Ferns Glen Drive, Board member of the Killearn Homes Association (KHA) and Chair of its Lakes Restoration Committee, spoke regarding

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the stormwater management problem and asked for the Board to consider Option #3 Board direction, to explore options for a collaborative approach to address the issue of the impairment of the waterbodies in the Killearn Chain of Lakes, including:

(1) County/City should update and broaden its interlocal agreement to include all aspects of sediment management including street sweeping, road pavement and sediment outfall excavation of the mounds that accumulate;
(2) County should ensure street sweeping programs include prioritized streets in the County drainage area to reduce rainfall driven sediment loading to the lakes;
(3) County/City/KHA should develop a program for more routine sediment excavation; and
(4) KHA requests that the County be a participating stakeholder in updating the 4E restoration plan that the FDEP created with the City and KHA in 2016.

- Commissioner Welch reflected on the need for the County to ensure collaboration with the City and KHA.
- Chairman Proctor confirmed with Anna Padilla, Stormwater Management Coordinator, that the lakes are stormwater facilities and are classified as impaired Class III water bodies.
- Commissioner Dozier expressed how complicated this item was. She shared her support of the motion.

Commissioner Welch moved, seconded by Vice-Chair Maddox, to approve, as amended, Option #1:

Accept the status report on the Killearn Chain of Lakes; and direct staff to prepare an agenda item evaluating the issues brought forward by the Killearn Homes Association regarding the impairment of the waterbodies in the Killearn Chain of Lakes.

The motion carried 7-0.

CITIZENS TO BE HEARD ON NON-AGENDAED ITEMS (3-minute limit per speaker; there will not be any discussion by the Commission)

- Kelly Otte, 1075 Alameda Drive, Oasis Center for Women & Girls, acknowledged that March 8th was International Women's Day and February was Women's History Month, and thanked the County. She highlighted Commissioner Dozier's pioneering work for Women's History Month at the age of 16, and how she had been a trailblazer ever since, which was over 30 years ago.
- Commissioner Cummings commented on the Oasis Center and noted it was a great celebration. She thanked both women for their pioneering work and acknowledged Commissioner Dozier for being honored.
- Commissioner Welch acknowledged International Women's History Day and thanked female public servants and especially Commissioner Dozier.
- Commissioner Minor acknowledged the contribution of female leaders and congratulated Commissioner Dozier.

The Board recessed at 5:27 p.m.

GENERAL BUSINESS

- Chairman Proctor requested that Item #19 be moved before Item #18.

Vice-Chair Maddox moved, seconded by Commissioner Cummings, to approve moving Agenda Item #19 before Agenda Item #18.

The motion passed 7-0.

18. Board Consideration for Funding to Support the Council on the Status of Men and Boys

County Administrator Long introduced this item. He stated that, as directed by the Board during the February 8, 2022, meeting, this item seeks Board consideration of a budget amendment allocating $70,000 to support the Tallahassee-Leon County Council on the Status of Men and Boys (CSMB). In addition, the item recommends the Board authorize the Leon County Sheriff to utilize $70,000 from the Law Enforcement Trust Fund to support the CSMB. He noted the City has reserved its funds, and the School Board is supposed to follow suit as well.

Public Comment:
- K. Lennorris Barber, 527 W. Brevard Street, stated that initially he was excited, but now has reservations. He stated this is shaping up to be political and asked that they take a look at ensuring that the process of hiring an Executive Director is a fair process.
- Stanley Sims, 1320 Avondale Way, shared his support. He asked that they move in a methodical way. He stated the community trusts Sheriff McNeil.
- Kelly Otte, 1075 Alameda Drive, waived her time.

- Vice-Chair Maddox expressed concern with the composition of the CSMB and stated that he could support Options #1 and #2 with the understanding that the composition of the Council come back to the Board for review.
- Commissioner Minor stated his support of Options #1 and #2 and offered two friendly amendments to include representation from the Oasis Center, Commission on the Status of Women & Girls (CSWG), or Refuge House on the Council. He reflected on the differences between the CSWG and the CSMB and expressed the need to rename the CSMB to avoid future confusion.
- Vice-Chair Maddox accepted the amendment to include representation from the Oasis Center, CSWG, or Refuge House.
- Commissioner Dozier agreed that representation from one of the women's organizations should be included and offered a friendly amendment to include the Sheriff's final Council proposal in the agenda item.
- Vice-Chair Maddox accepted the amendment.
- Commissioner Welch expressed concern about the appointment of the Council's executive director and the composition of the Council. He stated his support of the motion as long as the Board has some input as to the structure of the Council.
- Commissioner Cummings reflected on the need to get the initiative off the ground, and the first step is the funding.
- Vice-Chair Maddox confirmed with the County Administrator that a budget discussion item will be provided for future funding.

- Chairman Proctor confirmed with the County Administrator that the City Manager would serve on the Council and not the mayor.
- Deputy Sheriff Cave appeared before the Board and commented on the beginning stages of the Council on Status of Men and Boys. He noted they are committed to making this work.

Vice-Chair Maddox moved, seconded by Commissioner Dozier, for approval, as amended, of Options 1-2:

Option 1: Approve the Budget Amendment Request for the Council on the Status of Men and Boys in the amount of $70,000; and

Option 2: Approve the transfer of $70,000 from the Law Enforcement Trust Fund to the Sheriff's Office General Operating budget for the Council on the Status of Men and Boys, and direct staff to bring back an agenda item to review the final composition of the Council.

The motion carried 6-0 (Commissioner Jackson out of Chambers).

19. Status Report on the Tallahassee-Leon County Local Broadband Technology Planning Efforts, Rural Broadband, and Federal and State Legislative Update on Broadband Resources

County Administrator Long introduced this item. As requested by the Board, this item provides a status report on the efforts to develop a comprehensive Local Broadband Plan for Tallahassee-Leon County that will enable the community to take advantage of federal, state, and other grant opportunities. The item includes an update on broadband access in rural communities, current state and federal legislation, and information on the Infrastructure Investment and Jobs Act.

Public Comment:

- The Reverend David Hall, 12700 Miccosukee Road, and the Reverend Carolyn Simmons, discussed complications with broadband in the Miccosukee Road area. He challenged the Board to visit the area and see how this problem affects residents.

- Cristina Paredes, Office of Economic Vitality Director, commented that she was pleased to share updates on broadband access and affordability. She noted disparities with rural communities. She also noted they have access to 3 providers which is an increase. New services will launch in mid-2022.

Commissioner Welch thanked staff for a thorough report. He noted they are doing everything possible to take advantage of the federal dollars to assist and to leverage more opportunities.

Commissioner Cummings confirmed with Ms. Paredes that OEV is working with local partners and that her office will follow-up with Reverend Hall.

- Vice-Chair Maddox thanked staff for the great job. He reflected on the need in the Miccosukee area. He commented on the service providers and that it was time for them to step up and do their part.
- Commissioner Dozier acknowledged Ms. Paredes. She commented on the painful struggle with broadband and that the community needs useable broadband.

Ms. Paredes stated that a press release went out today that encourages residents to participate in the State's internet speed test to help determine the needs and opportunities for broadband in the community.

- Chairman Proctor reflected on the need in the Woodville and Highway 20 areas.

Commissioner Welch moved, seconded by Commissioner Dozier, approval of Option 1:

Accept the Status Report on the Tallahassee-Leon County Local Broadband Technology Planning Efforts, Rural Broadband, and Federal and State Legislative Update on Broadband Resources.

The motion carried 6-0 (Commissioner Jackson out of Chambers).

20. Electric Vehicle Charging Infrastructure Update Including a Request to Schedule the First and Only Public Hearing to Consider an Electric Vehicle Charging Station Ordinance for May 10, 2022

County Administrator Long introduced this item. As requested by the Board, this item provides an overview of the regulatory framework and opportunities to expand the community's charging infrastructure for electric vehicles. Further, this item seeks Board approval to schedule the first and only public hearing to consider a proposed electric vehicle readiness Ordinance. The intent of the proposed Ordinance is to facilitate the use of electric vehicles and to further the establishment of a convenient, cost-effective electric vehicle infrastructure that will also accommodate future technology advancement.

- Commissioner Welch confirmed with Barry Wilcox, Director of Development Support & Environmental Management, that a redevelopment component is included in the Ordinance.
- Commissioner Minor commented on the thresholds and that they may have to be upped in a couple of years.
- Commissioner Dozier reflected on conversations with the City about setting up a framework.
- Commissioner Cummings commended staff for their foresight to put the County in a good position for the future.

Vice-Chair Maddox moved, seconded by Commissioner Welch, approval of Options 1-2:

Option 1: Schedule the first and only Public Hearing to consider an Ordinance amending Section 10-1.101 of the Leon County Land Development Code, entitled "Definitions" and creating a new Section 10-7.545.1 entitled "Electric Vehicle Charging Station Infrastructure and Electric Vehicle Parking Requirements", for May 10, 2022 at 6:00 p.m.; and

Option 2: Accept the staff report to engage members of the Capital Area Sustainability Compact in developing a plan to guide grant applications expanding electric vehicle charging infrastructure.

The motion carried 6-0 (Commissioner Jackson out of Chambers).

21. Authorization of a Sponsorship Agreement for Tallahassee Community College's Inaugural "Rock the Roost" Concert

County Administrator Long introduced this item. This item seeks Board authorization to enter into a sponsorship agreement in the amount of $50,000 to support Tallahassee Community College's (TCC) inaugural "Rock the Roost" concert on July 23, 2022, and approval of the Resolution and associated Budget Amendment Request.

Commissioner Dozier confirmed with the County Administrator that the staff recommendation is for what TCC would have been eligible for should they have gone through the County's normal grant cycle application process.
Commissioner Welch stated his support of Option #1 and reflected on future events.
Commissioner Minor confirmed with Kerri Post, Director of the Division of Tourism, that the estimated number of room nights is on par with other events receiving the recommended funding.
Commissioner Cummings confirmed with Kerri Post that the grant applications are normally accepted in the summer, the events are categorized by the number of room nights generated, and the grant cycle dates are publicly noticed.

- Commissioner Dozier confirmed with Kerri Post that past out-of-cycle requests for first-year events which were created after the grant cycle closed were considered for funding by the TDC.

Vice-Chair Maddox moved, seconded by Commissioner Welch, to approve, as amended, Option #1: Authorize the County Administrator to execute a sponsorship agreement with Tallahassee Community College for the inaugural "Rock the Roost" concert, subject to legal review by the County Attorney; and approve the Resolution and associated Budget Amendment Request using $50,000 of Tourism Development fund balance; and directed staff to provide an agenda item regarding out-of-cycle grant funding requests.

The motion passed 6-0 (Commissioner Jackson out of Chambers).

Vice-Chair Maddox requested moving Item #27 before Item #22.

Vice-Chair Maddox moved, seconded by Chairman Proctor, to approve moving agenda item #27 before agenda item #22.

The motion passed 6-0 (Commissioner Jackson out of Chambers).

***22.* Setting of the FY 2023 Maximum Discretionary Funding Levels for Outside Agencies Including the Community Human Services Partnership**

This item was introduced by County Administrator Long. Pursuant to the County's Discretionary Funding Ordinance and Policy No. 93-44 "Fiscal Planning", this item seeks Board consideration to approve the FY 2023 maximum discretionary funding levels for outside agencies including the Community Human Services Partnership (CHSP) and special events.

Public Comment

- Kelly Otte, 1075 Alameda Drive, commented on the different funding amounts for the Commission on the Status of Women and Girls and the Council on the Status of Men and Boys. She stated they would be back in April for a funding increase

for an Executive Director. She commented on CHSP funding and asked that they take a deeper look.

- Commissioner Dozier reflected on Kelly Otte's role in the creation of the Commission on the Status of Women & Girls (CSWG) and expressed that she is open to taking a new look at the CSWG structure. She made a motion for Options #1-#5, as amended to direct staff to bring back an agenda item to explore the CSWG structure and funding.

Chairman Proctor passed the gavel to Vice-Chair Maddox.

- Commissioner Cummings noted that the two groups, CSWG and CSMB, should not be pitted against each other, as they are addressing different issues. She welcomed more analysis and information.
- Commissioner Minor stated the name change would help and supported the motion. He commented on the effects of COVID on women.
- Chairman Proctor reflected on the need for additional funding for the Domestic Violence Coordinating Council. He expressed concern with the Disc Village report regarding racial disparities in the civil citation program. He reflected on the equity for the funding of the Oasis Center and commended the Sheriff's data in the proposal for the CSMB. He noted that he would like to increase the Special Event funding to fund Soul Santa at $10,000 total and the MLK day celebration at $6,000 total (an addition of $7,500 in Special Event funding). He offered a friendly amendment.
- Commissioner Dozier stated that the partner organizations typically ask when more funding is needed. She stated that she could not support increasing the Special Event funding without hearing from the organizations. She stated no agency funding requests have been made, and she did not accept the friendly amendment.
- Vice-Chair Maddox reflected on setting the maximum discretionary funding level for FY 2023 and confirmed with the County Administrator that the Board could set a higher amount. He suggested setting the maximum at $1.8 million (currently at $1.66 million), to allow flexibility.
    - County Administrator Long confirmed that the maximum levels for each category must be set by the Board by March 31st per the Ordinance.

- Chairman Proctor offered a substitute motion to set the maximum discretionary funding level at $1.8 million for FY 2023. The motion was seconded by Commissioner Cummings.
    - County Administrator Long clarified that outside agency funding is for agencies that do not provide direct services and therefore are not eligible for the CHSP funding.

Commissioner Dozier discussed the process and noted that everyone that gets funding knows the process as well.
Chairman Proctor asked for a friendly amendment to the original motion to include the $7,500 in additional Special Event funding.
Commissioner Dozier did not accept the amendment.
Chairman Proctor made a substitute motion to include $6,000 total special event funding for MLK Day and $10,000 total special event funding for Soul Santa (an additional $7,500 for special event funding).

Vice-Chair Maddox asked where the funding is going.

Commissioner Minor confirmed with the County Attorney that he should recuse himself from the vote since the MLK Day and Soul Santa events are run by a person who works on his campaign.

Commissioner Cummings reflected on other agencies that may need additional funding.

- Commissioner Dozier reflected on the current streamlined process. She suggested that, should the substitute motion fail or is withdrawn, she would accept an amendment to bring back an agenda item on increased funding for the MLK celebration and Soul Santa.
- Chairman Proctor withdrew his motion and offered an amendment to the original motion for the agenda item to also include consideration for additional funding for the MLK celebration and Soul Santa.
- Commissioner Dozier accepted the friendly amendment.
    - County Administrator Long clarified that the agenda item is for FY 2022 funding.

Commissioner Dozier moved, seconded by Commissioner Cummings, to approve as amended:

Option #1: Approve the Community Human Services Partnership (CHSP) funding level for FY 2023 at $1,445,000;

Option #2: Approve the non-departmental maximum discretionary funding level for FY 2023 at $37,000 for special events funding;

Option #3: Maintain the Commissioner Office Budgets at $12,500;

Option #4: Maintain the Kearney Center Capital Funding at $100,000;

Option #5: Establish the FY 2023 Outside Agency Contracts as follows:

- *Apalachee Regional Planning Council: $8,800*
- *DISC Village: $222,759*
- *Domestic Violence Coordinating Council: $25,000*
- *Legal Services of North Florida: $125,000*
- *Oasis Center: $20,000*
- *St. Francis Wildlife Association: $71,250*
- *Tallahassee Senior Citizens Foundation: $179,000*
- *Tallahassee Trust for Historic Preservation: $63,175*
- *United Partners for Human Services: $23,750*
- *Whole Child Leon: $38,000;*

And direct staff to provide an agenda item to consider an increase in funding for the Commission on the Status of Women and Girls from the current fiscal year budget, and an agenda item to consider the additional $1,500 in funding for the MLK celebration and additional $6,000 funding for Soul Santa, from the current fiscal year budget.

The motion carried 5-0 (Commissioner Jackson out of Chambers and Commissioner Minor recusing).

27. ADD-ON - Status Report on the Redevelopment of the Orange Avenue Apartments and Board Consideration of the Tallahassee Housing Authority Funding Request

County Administrator Long introduced this item.

- Commissioner Dozier disclosed that Mad Dog Construction is owned by her father and his wife. She would need to recuse herself from the discussion and vote since they have been chosen on this project.
    - Ms. Brenda Williams, Tallahassee Housing Authority, thanked the Commission for their support. They are looking to have groundbreaking in May.
- Commissioner Cummings commended Ms. Williams and the staff recommendation, and stated her support for the motion.

Vice-Chair Maddox moved, seconded by Commissioner Minor, to approve Option #1: Approve the use of $1,002,853 of American Rescue Plan Act (ARPA) funding to support the request of the Tallahassee Housing Authority for the redevelopment of the Orange Avenue Apartments, and authorize the County Administrator to execute a letter of commitment.

The motion carried 4-0 (Commissioner Dozier recused, and Commissioners Jackson and Welch out of Chambers).

SCHEDULED PUBLIC HEARINGS, 6:00 P.M.

23. First and Only Public Hearing on Adoption of the Annual Update to the Tallahassee Leon County Comprehensive Plan Capital Improvements Schedule

County Administrator Long announced the Public Hearing. He stated this item provides for the annual update to the Five-Year Schedule of Capital Improvements pursuant to Florida Statutes, and requests the Board conduct the first and only public hearing to adopt an Ordinance updating the Tallahassee-Leon County Comprehensive Capital Improvement Schedule.

Commissioner Dozier moved, seconded by Commissioner Minor, for approval of Option 1:

Conduct first and only public hearing and adopt the Ordinance updating the Tallahassee-Leon County Comprehensive Plan Capital Improvements Schedule.

The motion carried 6-0 (Commissioner Jackson out of Chambers.).

24. First and Only Public Hearing for the Camellia Oaks Phase 3 Type "C" Site and Development Plan Application

County Administrator Long announced the Public Hearing. He stated this item requests the Board conduct the first and only Public Hearing and seeks conditional Board approval of the Camellia Oaks Phase 3 Type "C" site and development plan application for a

residential development on a 33.10-acre parcel, located on Mahan Dr., west of Charlais Street. The project site is located within the Residential Preservation (RP) Zoning District which allows the proposed single-family detached residential development as a permissible use and requires review and approval by the Board at a public hearing.

County Attorney O'Steen explained the procedure for disclosing ex parte communications regarding the quasi-judicial proceeding.

- Chairman Proctor inquired about the number of properties.
    - Scott Brockmeier, Development Support and Environmental Management shared there were 119 units in Phase 3.

Vice-Chair Maddox moved, seconded by Commissioner Welch, for approval of Option 1:

Conduct the first and only Public Hearing for the Camellia Oaks Phase 3 Type "C" site and development plan application and approve the application with conditions, based on the findings of fact and conclusions of law included herein and those established within the Development Review Committee's record, as well as any evidence received at the Public Hearing.

The motion carried 6-0 (Commissioner Jackson out of Chambers).

25. First and Only Public Hearing to Consider Adopting an Ordinance Amending Ordinance No. 97-18, as Amended, to Contract the Boundaries of the Fallschase Community Development District

County Attorney O'Steen announced the Public Hearing. She stated, as directed by the Board at the February 8, 2022, meeting, this item requests the Board conduct the first and only public hearing to consider the adoption of a proposed Ordinance amending Leon County Ordinance No. 97-18, as amended by Ordinance No. 2007-12, to contract the boundaries of the existing Fallschase Community Development District.

- Chairman Proctor inquired about the motivation for contracting the size of Fallschase.
    - County Attorney O'Steen stated that she could only speak to the determination that the contraction of the boundaries to remove the boundaries to remove the roads maintained by the County and the two stormwater ponds that serve and are maintained by the Fallschase Commercial Subdivision would not adversely impact the District.

Commissioner Welch moved, seconded by Commissioner Cummings, for approval of Option 1:

Conduct the first and only public hearing and adopt proposed Ordinance amending Leon County Ordinance No. 97-18, as amended, to contract the boundaries of the existing Fallschase Community Development District.

The motion carried 6-0 (Commissioner Jackson out of Chambers).

CITIZENS TO BE HEARD ON NON-AGENDAED ITEMS (3-minute limit per speaker; Commission may discuss issues that are brought forth by speakers.)

- Dr. Gerri Seay, 2014 Chuli Nene, spoke on the Lake Hall School. She provided a presentation on the Lake Hall School Park. She asked when this item will be placed back on the agenda and discussed the boundary settlements.
    - County Administrator Long confirmed the item is tabled and will come back to the Board upon the Board's request.

- Commissioner Welch reiterated his desire to preserve the Lake Hall School House. He made a motion for an agenda item to come back to the Board on April 12th with an update including an option for eminent domain. The motion was seconded by Commissioner Cummings.
- Chairman Proctor reflected on the costs to acquire and maintain the Lake Hall School House and requested that this information be included in the agenda item.

Commissioner Welch moved, seconded by Commissioner Cumming, to direct staff to provide an agenda item with an update on the previous analysis done for the Lake Hall School House, to include an option for the Board's consideration to acquire the school house via eminent domain.

The motion passed 6-0 (Commissioner Jackson out of Chambers).

- Donna Cotterell, Bond Neighborhood, spoke in support of the Lake Hall School. She spoke of the importance of the project and asked the County to move forward to make the history come alive.

Vice-Chair Maddox returned the gavel to Chairman Proctor.

COMMENTS/DISCUSSION ITEMS

County Attorney O'Steen:

No comments

County Administrator Long:

No comments

COMMISSIONER DISCUSSION ITEMS

Commissioner Dozier:

- Confirmed with the County Administrator that information on mobile applications that highlight local trails will be provided to the Board.

- Chairman Proctor passed the gavel to Vice-Chair Maddox.

Commissioner Dozier moved, seconded by Commissioner Minor, to approve a proclamation recognizing March 6-12 as Women in Construction Week.

The motion passed 6-0 (Commissioner Jackson out of Chambers).

Commissioner Dozier moved, seconded by Vice-Chair Maddox, to approve a proclamation recognizing March as Multiple Sclerosis Awareness Month.

The motion passed 6-0 (Commissioner Jackson out of Chambers).

- Commended staff for the 717 consecutive days activated at EOC and the last regularly scheduled operational COVID update (number 341).

Commissioner Minor:

- Requested a proclamation recognizing April 28th as a day of remembrance in memory of the victims of the Holocaust, in honor of the survivors and the rescuers.

Commissioner Minor moved, seconded by Vice-Chair Maddox, to approve a proclamation recognizing April 28th as a day of remembrance in memory of the victims of the Holocaust.

The motion passed 6-0 (Commissioner Jackson out of Chambers).

Commissioner Welch:

- Commended the Public Works staff for all their hard work on day-to-day projects and special assignments.

Commissioner Cummings:

- Shared that she was honored to present the proclamation on Women's History Month, and commended Commissioner Dozier for being named as Trailblazer of the Year at the 2022 Trailblazer Luncheon celebrating Women's History Month.

Commissioner Jackson:

- Not present

Vice-Chairman Maddox:

- Requested a proclamation to recognize Florida High for winning the State 3A Basketball Championship and Coach Charlie Ward's contribution to the community.

Chairman Proctor moved, seconded by Commissioner Minor, to approve a proclamation recognizing Florida High winning the State 3A Basketball Championship and Coach Charlie Ward.

The motion passed 6-0 (Commissioner Jackson out of Chambers).

- Shared that he recently attended the first Tallahassee Black Business Expo and requested a proclamation recognizing Vaughn Wilson, President of Mega Ace Media, for his efforts on the first annual Tallahassee Black Business Expo.

Chairman Proctor moved, seconded by Commissioner Cummings, to approve a proclamation recognizing Vaughn Wilson, President of Mega Ace Media, for his efforts on the first annual Tallahassee Black Business Expo.

The motion passed 6-0 (Commissioner Jackson out of Chambers).

- Commended the Board's and staff's understanding of their respective roles.

Chairman Proctor:

- Discussed policy and commented on how they become better is by challenging staff to bring excellence to the community.

- Requested an agenda item for consideration of a resolution in support of the Universal Declaration of Human Rights.

  Commissioner Minor moved, seconded by Vice-Chair Maddox, to direct staff to provide an agenda item for consideration of a resolution in support of the Universal Declaration of Human Rights.

  The motion passed 5-0 (Commissioners Jackson and Dozier out of Chambers).

- Requested a proclamation recognizing May as bike month.

  Chairman Proctor moved, seconded by Commissioner Minor, to approve a proclamation recognizing May as bike month.

  The motion passed 5-0 (Commissioners Jackson and Dozier out of Chambers).

- Requested that the National Organization of Black County Officials (NOBCO) Conference, April 20-24, 2022, be add to the Board's Travel Schedule for 2022 and in the future.

  Chairman Proctor moved, seconded by Commissioner Cummings, to approve adding the National Organization of Black County Officials (NOBCO) Conference, April 20-24, 2022, to the Board Travel Schedule for 2022 and in the future.

  The motion passed 6-0 (Commissioner Jackson out of Chambers).

- Requested a presentation from Big Bend Hospice and a proclamation recognizing their work in the community.

  Chairman Proctor moved, seconded by Commissioner Minor, to approve a presentation from the Big Bend Hospice and a proclamation recognizing their work in the community.

  The motion passed 6-0 (Commissioner Jackson out of Chambers).

- Requested a presentation from Elder Care Services, Inc. on their outreach efforts for the Board's April 12th meeting.

RECEIPT AND FILE:

- None.

ADJOURN:

There being no further business to come before the Board, the meeting was adjourned at 9:40 p.m.

ATTEST:

BY: _____
Bill Proctor, Chairman
Board of County Commissioners

BY: _____
Gwendolyn Marshall Knight, Clerk of Court
& Comptroller, Leon County, Florida

DRAFT

BOARD OF COUNTY COMMISSIONERS
LEON COUNTY, FLORIDA
WORKSHOP
Leon County Detention Facility Population Management
March 22, 2022

The Leon County Board of County Commissioners met for a Workshop on Leon County Detention Facility Population Management on Tuesday, March 22, 2022, at 10:45 a.m., with Chairman Bill Proctor presiding. Present were Vice-Chair Nick Maddox and Commissioners Brian Welch, Kristin Dozier, Carolyn Cummings, Rick Minor, and Jimbo Jackson. Also present were County Administrator Vincent Long, County Attorney Chasity O'Steen, and Clerk to the Board Beryl H. Wood.

Facilitator(s): Alan Rosenzweig, Deputy County Administrator
Wanda Hunter, Assistant County Administrator
Teresa Broxton, Director, Office of Intervention and Detention Alternatives
Andy Johnson, Assistant to the County Administrator

County Administrator Long gave the introduction for the workshop. He stated that at the October 12, 2021, regular meeting, the Board requested a workshop to provide an overview of the inmate population at the Leon County Detention Facility. The item provides a detailed discussion of historical trends and factors that affect the inmate population, an extensive review of the strategies utilized by Leon County and its partners to continuously review and manage the inmate population, and options for Board consideration to identify additional jail population management strategies as well as to plan proactively for additional space needs that may be necessary in the future. He introduced Sheriff Walt McNeil, Assistant Sheriff Steve Harrelson, Chief Judge Sjostrom, State Attorney Jack Campbell, Public Defender Jessica Yeary, Wanda Hunter, Teresa Broxton, Andy Johnson, and Alan Rosenzweig.

Ms. Hunter spoke about jail population trends, the factors that have impacted the population, alternatives to keep people out of detention facilities, and recommendations. She stated the jail capacity is approximately 1,219 inmates, not considering classifications. Even though they have had a few ups and downs for the last 20 years, the population has stayed steady. She demonstrated the Inmate Population by Charge Level graph and stated that the current population is 1,127. She noted that during the height of COVID, jury trials were suspended for about 10 months, and they had to utilize other resources. The Detention Facility limited visitation to essential personnel.

Factors Impacting the Inmate Population:

- COVID-19
- Increase in Felony Offenders
- Length of Stay
- 92% Increase since 2019
- Case Clearance Rate

She shared Alternatives to Incarceration:

Proactive Intervention Strategies

- Crisis Intervention Team Training

- Mental Health Mobile Response Units
- Homeless Outreach Street Teams
- Council on the Status of Men and Boys

Pre- & Post-Arrest Diversion Tools

- Juvenile & Adult Diversion Programs
- Release on Recognizance
- Supervised Pretrial Release
- Bond
- Detention Review
- Specialty Courts

Post-Sentence Alternatives

- County Probation
- State Probation

Re-entry Services

- Employability & Life Skills Training (In Leon County Detention Facility)
- Technology Training (In Leon County Detention Facility)
- RISE Center
- Refire Culinary
- Big Bend Re-Entry Coalition

Chairman Proctor thanked Chief Judge Sjostrom for his attendance. He expressed his concern on the average stay in jail from 137 days in 2019 to 263 days in 2022. He asked the Chief Judge for his comments.

Chief Judge Sjostrom stated he couldn't tell exactly why the lengths of stay are greater in jail. However, he feels it has to do with the pandemic and that individuals have extraordinarily serious accusations that remain pending and unresolved. He stated that those who stay the longest are those for whom the stakes are the highest. He noted judges are neutral and must make individual decisions based on the different cases. He noted nothing resolves cases like having fair trials. He stated that 7,508 citizens have answered the call for jurors. He hoped with that they are putting the backlog to rest. He stated they have seated at least 200 juries. He stated they are giving the people the opportunity to resolve the cases. He stated they are open for business and ready to resolve cases.

Chairman Proctor inquired about the 16-hour court.

Chief Judge Sjostrom responded the courts are opposed to it.

Ms. Hunter went over programs that they have in place now that provide alternatives to incarceration. She stated that they are constantly looking for other programs that give support to managing the jail population. She discussed the Public Safety Commission Council.

Ms. Broxton explained that the Office of Intervention and Detention Alternatives consists of the supervised pre-trial release probation and drug and alcohol testing divisions, which provide pre-trial and post-sentence alternatives to incarceration through community supervision. She stated that Chief Judge Sjostrom issued two administrative orders in 2019 governing the pre-trial

release program and the first appearance process. Those orders were designed to ensure that each defendant receives an individualized assessment of their ability to be released from the detention facility without monetary bond, and to make sure that any conditions of release enhance public safety. She stated the criminal justice system was affected by COVID, and they had to alter operations for public safety, suspend court operations, and implement virtual alternatives. When courts began to re-open and cases were being disposed, they had more cases that were sentenced to county probation which resulted in a 23% increase in both pretrial and probation cases. They now have more than 1,600 people in community supervision that are not in the detention facility.

Chairman Proctor questioned electronic monitoring.

Ms. Broxton stated that Leon County offers electronic monitoring by GPS, which is location tracking, as well as Secure Continuous Remote Alcohol Monitoring (CRAM), which is for alcohol detection. They routinely have an average of 200 individuals who are being supervised by electronic monitoring.

Mr. Johnson discussed the recommendations of Options 3 and 4. He stated the County has a long history of effectively managing the jail population. The second item that will be included in the scope of work will be to analyze trends in the inmate population. Due to spacing needs some must have separate quarters.

Chairman Proctor asked if there were reasons why they should be concerned with the Leon County Detention Center and how do they rank compared to other facilities.

County Administrator Long spoke in support of the Sheriff and how they run the jail. He stated they are working proactively together the best they can and continue to manage it as effectively as they can.

Sheriff McNeil expressed his gratitude and appreciation for all staff. He shared his belief that the detention facility is one of the best in the state. He acknowledged they are an accredited facility, are inspected on a regular basis, and continue to remain in that place or better.

Vice-Chair Maddox inquired about Option 3.

County Administrator Long stated that the recommendation suggests looking beyond and evaluating other facilities. He believed this recommendation is important to anticipate future needs. Vice-Chair Maddox asked how long the consultant's report will be relevant after it is done.

County Administrator Long replied he did not know. They want to get maximum use for a long period of time.

Vice-Chair Maddox asked Sheriff McNeil about not requesting a new detention facility.

Sheriff McNeil commented on the initial review and concluded that additional programming was needed and that has been done already. Secondly, he stated they need to be proactive. If trends continue in the community the way they are, it is anticipated that at some point they will be overcrowded. He stated the County is growing and crime is growing as well.

Vice-Chair Maddox inquired if there is any standard on maximum jail population.

Mr. Harrelson explained that the Florida Model Jail Standard (FMJS) dictates how much space must be given to each inmate. They are evaluated every year and pass the assessment every

time. He shared that FMJS sets the standards. The space is limited to 1,219 inmates and they must follow that as far as jail space. FMJS recommends that when they reach 80% or more of the capacity, they need to start planning for additional space. They have been at 80% since 1997.

Vice-Chair Maddox expressed his concern about creating a perception that they are building a new jail to lock up more people. He stated the message should be sent that they are doing everything they can to lower the jail population. He asked how they can get below 80% without building on.

Sheriff McNeil replied to the complexity of this issue. He stated most inmates were incarcerated for a shorter period based on misdemeanor- level crimes; however, now the stay is longer. He shared his concern about facing the reality and having an overcrowded facility.

Vice-Chair Maddox stated that he doesn't desire to make detention centers into prisons.

Chairman Proctor paused to welcome Judge Frank Allman and recognized PSCC members for their presence.

Commissioner Welch stated they need to accept that Leon County is growing, as well as the jail population with more violent crimes. He asked if guards, deputies, and the community would get a better experience if the population was lower or if there is more vacancy. He stated he supports the 4 options and that they need to accept they are going to have to build additional space in the future. He shared that he recognizes the reality that the Sheriff's Office is currently dealing with. He commends all detention facility staff and deputies.

Commissioner Cummings recognized the complexity of the criminal justice system and felt everyone did a tremendous job. She shared they are here looking at the jail population, andmore roundtables are clearly necessary. She recalled a prior meeting with the City and consideration of community based trusted entities. She asked if they have ever utilized or considered entities or groups that can be effective in reducing jail population.

Sheriff McNeil stated they are hoping the Commission on the Status of Men and Boys will help to build a more robust front-end set of questions and that the intake will seek more information about the inmate coming in, such as family issues, family history, and what is really going on. He stated they do some of that today with the Chaplin Program, but COVID-19 shut it all down and they are starting to get back into it.

Commissioner Cummings asked Sheriff McNeil if there is a trusted entity that could help him.

Sheriff McNeil stated yes, they hope to build a platform which allows providers to connect with inmates with a particular set of issues through the intake process of the Commission on the Status of Men and Boys.

Mr. Campbell stated the judge sets the bond. They are looking at the same model at pre-trial with the idea that if they have someone needing services for mental health or substance abuse, and there is an organization that can care for that person, then they can create a care plan to provide the needed services. However, that will require a judge to modify the conditions or convert them to pretrial to make sure they follow the directions of the Good Samaritan that wants to take them under their wing.

Chairman Proctor asked Ms. Broxton if they had a similar model through the PSCC.

Ms. Broxton stated yes; to some extent they provide wrap-around services. Some were released with pretrial conditions, and some were released on bond to go to reentry.

Commissioner Cummings stated she supports the recommendations. She asked about Option 4, if an individual doesn't have the bond or waived speedy trial, are there other instances that they will be in jail.

Mr. Campbell stated they are almost all felonies. He shared that he and Ms. Yeary spent time trying to get funding for their people. He stated there were more motions at the State to send prisoners back to the county detention than to take their people. He stated he and the Sheriff are being playing defense in trying to have jails handle state prisoners; he believes is a good movement and still working on that.

Commissioner Cummings asked if there is a limit that is placed on the amount of time a person can be detained in jail.

Ms. Jessica Yeary, Public Defender', stated that most people sitting in jail have the presumption of innocence and are waiting for trial. She believes it is not an accurate representation that just because a person is accused of a felony the person is not entitled to release. People in jail have only been charged, not convicted.

Jack Campbell, State Attorney, stated the purpose of bonds is to protect the public. Some people have violated their pretrial conditions, or their crimes are so serious that they are not entitled to bond. He stated he would like to get them to trial as fast as possible, so that they can either be freed or sent to a state facility.

Commissioner Cummings thanked everyone for all they have done.

Commissioner Dozier thanked everyone for their presence. She asked if there are limitations on the length of time that someone can be in the detention facility. She inquired if they could be moved somewhere else before their trial date or would that harm their ability to work with their lawyer or public defender.

Ms. Yeary stated it would be difficult for people to be held in a state correctional facility pending resolution of their case. Sentencing people to prison before they are convicted is incredibly problematic, specifically to a person's condition, mental health, and well-being.

Mr. Campbell stated they are not transporting as much from a state facility back to the Detention Center for the day in court. He stated they need to speed things up and would like to see cases resolved within 180 days.

Chairman Proctor commented on the cost savings of virtual first appearance versus having to bring people before the court physically.

Sheriff McNeil stated yes, they saw so many benefits from that environment.

Commissioner Dozier asked Mr. Johnson that if Option 4 passed, would the legislative policy proposals be brought back to the Board before June or September.

Mr. Johnson stated yes.

Commissioner Dozier stated she will not support Option 4. She would if they brought back a full report about the time limits on keeping people at the detention center.

Mr. Campbell discussed that holding persons that were sentenced to prison for 18 months or a year and a day is a possibility, and that's why planning on additional space is beneficial.

Commissioner Dozier discussed the different populations in jail and the need to reflect on in the future not just the population growth of the community but what offenses they are committing. She asked if there are any strategies and would be interested in other options to help mitigate any other issues. She stated this is a collaborative approach and if the consultant looks more broadly or finds other examples in other communities, she hopes they will have more discussion about that.

Commissioner Minor thanked everyone for being in attendance. In reference to the consultant services item, he asked if this is the right time for them to have a consultant look and try to make future projections.

County Administrator Long stated they will consider all that has been discussed.

Commissioner Minor commented on the amount of the consultant services. He asked Sheriff McNeal if the yearly FMJS assessment focuses strictly on the condition of the existing structure.

Sheriff McNeil replied that most prisons are not direct contact and theirs is a direct contact facility. Even if they don't do the study, he will be talking to staff on how to reconfigure the facility. The building was built as a detention facility and staffing needs are greater with this facility. He stated they are housing more mental health persons than they ever anticipated, and they should be looking at how to ensure that the State takes those persons that should be in state mental institutions as opposed to the local detention facility.

Chairman Minor stated he would support Option 3 as well as Options 1, 2, and 4.

Chairman Proctor recognized Grant Slayden, Court Administrator, and thanked him for attending the meeting.

Chairman Proctor agreed with Sheriff McNeil that they need a mental health facility. The County detention center serves as a homeless shelter and a mental health treatment facility. He stated he is in support of Options 1, 2, and 4, not including option 3. He commented on the average stay in jail from 137 days in 2019 to 263 days in 2022 and requested an evaluation of jail clogging and a look at case management. He asked what the percentage of the jail funding is.

County Administrator Long stated 40%.

Chairman Proctor stated if they do a report on Option 3, he will not vote to build a new jail off the consultant's report. He commented on the Sheriff's training sessions with the officers. He believes it will be important for a consultant to look at the cost of renting space from neighboring counties (Wakulla, Jefferson, etc.) versus the cost of building in Leon County.

Mr. Harrelson stated the problem with other counties is that they don't have the amount of space that Leon County has, so it will be cheaper to do it in Leon County. He commented on Ohio giving up on gun control and not requiring a permit anymore. He requested to have the consultant evaluate jail overcrowding and the average stay in jail from 137 days in 2019 to 263 days in 2022.

County Administrator Long stated they could include that.

Commissioner Minor acknowledged and congratulated Monica Casey of WCTV and wished her well as she leaves the area.

Vice-Chair Maddox moved, seconded by Commissioner Welch, to approve Options 1-4, with the caveat that they need to explore every single option before considering building on to the jail:

Option #1: Accept the status report of the Leon County Detention Facility;

Option #2: Approve the Resolution and Budget Amendment to hire two additional Pretrial Officer positions to address the increased workload in FY 2022;

Option #3: Direct staff to include funding in the FY 2023 budget process for consultant services to identify additional strategies to further mitigate the need for additional infrastructure, and to evaluate future space needs that may be necessary for the Leon County Detention Facility; and

Option #4: Direct staff to work with the Florida Association of Counties, to develop a state legislative policy proposal that would place a limit on the amount of time that a person charged with a felony offense and awaiting sentencing can be detained in a county jail.

The motion carried 7-0.

Chairman Proctor thanked everyone.

Adjourn:
There being no further business to come before the Board, the workshop was adjourned at 12:31 p.m.

ATTEST:

BY: _____
Bill Proctor, Chairman
Board of County Commissioners

BY: _____
Gwendolyn Marshall Knight, Clerk of Court
& Comptroller, Leon County, Florida

Leon County
Board of County Commissioners

Notes for Agenda Item #2

Leon County Board of County Commissioners

Agenda Item #2

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: Payment of Bills and Vouchers

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Scott Ross, Director, Office of Financial Stewardship Roshaunda Bradley, Budget Manager
Lead Staff/ Project Team:	Amy McClure, Management Analyst

Statement of Issue:

This item requests Board approval of the payment of bills and vouchers submitted for May 10, 2022 and pre-approval of payment of bills and vouchers for the period of May 11, 2022 through June 13, 2022.

Fiscal Impact:

This item has a fiscal impact. All funds authorized for the issuance of these checks have been budgeted.

Staff Recommendation:

Option #1: Approve the payment of bills and vouchers submitted for May 10, 2022 and pre-approve the payment of bills and vouchers for the period of May 11, 2022 through June 13, 2022.

Report and Discussion

Background:

The Office of Financial Stewardship/Management and Budget (OMB) reviews the bills and vouchers printout, submitted for approval during the May 10th meeting, the morning of Monday, May 9, 2022. If, for any reason, any of these bills are not recommended for approval, OMB will notify the Board.

Analysis:

Due to the Board not holding a regular meeting until June 14, 2022, it is advisable for the Board to pre-approve payment of the County's bills for May 11, 2022 through June 13, 2022 so that vendors and service providers will not experience hardship because of delays in payment. In the event the Board meeting is cancelled, the payment of bills/vouchers will be approved until the next scheduled meeting. OMB will continue to review the printouts prior to payment; if for any reason OMB questions payment, then payment will be withheld until an inquiry is made and satisfied, or until the next scheduled Board meeting. Copies of the bills/vouchers printout will be available in OMB for review.

Options:

1. Approve the payment of bills and vouchers submitted for May 10, 2022 and pre-approve the payment of bills and vouchers for the period of May 11, 2022 through June 13, 2022.
2. Do not approve the payment of bills and vouchers submitted for May 10, 2022, and do not pre-approve the payment of bills and vouchers for the period of May 11, 2022 through June 13, 2022.
3. Board direction.

Recommendation:

Option #1

Leon County
Board of County Commissioners

Notes for Agenda Item #3

Leon County Board of County Commissioners

Agenda Item #3

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator



Title: State of Florida Division of Elections Network Security Enhancements Election Security Grant for Fiscal Year 2022

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Scott Ross, Director, Office of Financial Stewardship
Lead Staff/ Project Team:	Roshaunda Bradley, Budget Manager Eryn Calabro, Principal Management and Budget Analyst

Statement of Issue:

This item seeks budget authority for the Supervisor of Elections to accept a FY 2022 Network Security Enhancements Election Security Grant.

Fiscal Impact:

This item has a fiscal impact. The State of Florida, Department of State, Division of Elections, as the pass-through entity for this federal funding, has allocated $32,252 for a Network Security Enhancements Election Security Grant to Leon County's Supervisor of Elections in FY 2022.

Staff Recommendation:

Option #1: Accept and authorize the Leon County Supervisor of Elections to recognize and spend the FY 2021-2022 Network Security Enhancements Election Security Grant award in the amount of $32,252 within the requirements of the Memorandum of Agreement (Attachment #1).

Option #2: Approve the Resolution and associated Budget Amendment Request (Attachment #2).

Report and Discussion

Background:

This item seeks budget authority for the Leon County Supervisor of Elections (SOE) to accept a FY 2022 Network Security Enhancements Election Security Grant (Attachment #1). The SOE requires budgetary authority from the Leon County Board of County Commissioners to recognize these grant revenues and draw down the funds for eligible expenses per the grant guidelines.

The State of Florida, Department of State, Division of Elections (DOS) is authorized to distribute to Florida's 67 County Supervisors of Elections a total of $1.5 million in nonrecurring funds for FY 2022 from the Federal Grants Trust Fund, pursuant to section 101 of the Help America Vote Act of 2002, and the Catalog of Federal Domestic Assistance 90.404. The SOE was awarded $32,252 on April 5, 2022 (Attachment #3).

Funds provided under this Memorandum of Agreement (Agreement) shall be used at the local level to purchase goods and services to address the DOS's assessment of the SOE's election security needs to comply with the 2020 Memorandum of Agreement for Minimum Security Standards for the Florida Voter Registration System. Sub-recipients may spend funds on projects identified in consultation with the DOS cybernavigation team. The SOE will use the funds to purchase a security camera server and pc monitor privacy shields.

To ensure the County maximizes grant leveraging opportunities, the Office of Management and Budget (OMB) coordinates with department liaisons and actively seeks grant funding opportunities throughout the fiscal year. These efforts include contacting and communicating with previous funders for any new or forthcoming grant opportunities. Through timely submittals of reporting and invoices as well as satisfactory compliance with grant closeouts and on-site and desk monitoring by the granting agencies, Leon County has proactively positioned itself as a responsive and accountable funding partner. Because of this accountability, agencies often contact Leon County when grant funds become available.

In addition, the County's partnership with Patton Boggs also garners access to recently announced federal funding opportunities and OMB routinely monitors the federal Grants.gov portal for granting opportunities. The County aggressively seeks state and federal grant funding to support County projects and initiatives and has achieved considerable success in leveraging County dollars. With receipt of the CARES Act funding and the ARPA (American Rescue Plan Act) funding, the total County grant leverage ratio is $12.32 to $1; excluding the significant septic to sewer related grants which require one-to-one dollar match, the leveraging ratio would be $65.56 to $1.

Analysis:

The Network Security Enhancements Elections Security Grant is designed to improve election cybersecurity initiatives at the local level. A few requirements of the grant include the following:

- Funds may only be used for the purpose for which they were originally provided unless an amendment is submitted and approved by DOS. This grant award is provided to fund cybersecurity controls, vulnerability management, email security, network and endpoint hygiene, physical security, and elections security equipment.
- Unspent grant funds as of June 15, 2022, including any interest earned, must be returned to DOS. Grant funds must be placed in a separate, interest-bearing account until the funds are ready to be disbursed.

This item seeks acceptance of the FY 2022 Network Security Enhancements Election Security Grant and approval of a Resolution and Budget Amendment Request allocating $32,252 in grant funds into the FY 2022 budget (Attachment #2).

Options:

1. Accept and authorize the Leon County Supervisor of Elections to recognize and spend the FY 2021-2022 Network Security Enhancements Election Security Grant award in the amount of $32,252 within the requirements of the Memorandum of Agreement (Attachment #1).
2. Approve the Resolution and associated Budget Amendment Request (Attachment #2).
3. Board direction.

Recommendation:

Options #1 and #2

Attachments:

1. FY 2021-2022 Network Security Enhancements Election Security Grant Memorandum of Agreement
2. Resolution and associated Budget Amendment Request
3. Grant Award Notification

MEMORANDUM OF AGREEMENT
FOR 2022 NETWORK SECURITY ENHANCEMENTS
ELECTION SECURITY GRANT

This agreement is between the State of Florida, Department of State, Division of Elections ("Department"), an agency of the State of Florida,
and Mark S. Earley Supervisor of Elections ("Sub-recipient") for
Leon County, Florida. This agreement governs the receipt and use of federal funds as specified herein. Unless otherwise specified herein, all required submissions shall be through the Department of State Online Grants System. The grant will be identified as grant number
ESF G4 MOA# 2022 - 22.e.es.300. LEO

I. Governing Law

Grant funds are made available pursuant to Specific Appropriation 3062, Chapter 2021-36, Laws of Florida, in the ongoing effort to improve the administration of federal elections through security enhancements.

The Department of State hereby establishes a subgrant program for the 67 county supervisors of elections. The Department of State is authorized to distribute to Florida's 67 county Supervisors of Elections a total of one-million and five-hundred thousand dollars ($1,500,000) in non-recurring funds for fiscal year 2021-2022 from the Federal Grants Trust Fund, pursuant to section 101 of the Help America Vote Act of 2002 (HAVA) and the Catalog of Federal Domestic Assistance (CFDA) 90.404 ("Help America Vote Act Requirements Payments").

I. Scope of Work and Deliverables

Sub-recipient may apply for a 2022 ESF4 Grant for the purchase of goods and/or services based on the scope of work set forth in paragraph A. An initial application for funds must be submitted through the Department of State Online Grants System no later than February 7, 2022 in order to be eligible for a subgrant award.

A. Scope of Work

Sub-recipient's application for a 2022 ESF4 Grant is limited to the purchase of goods and/or services to address the Department's assessment of the Sub-recipient's election security needs to be able to comply with the 2020 Memorandum of Agreement for Minimum Security Standards for the Florida Voter Registration System. Sub-recipient may request advance payment, reimbursement or a combination thereof.

Covered expenses shall only include items or services purchased, including installation and completion of acceptance testing, in the eligible period. Funds may be requested based on purchases of goods and/or services within one or more of the following categories:

Category 1: Multi-factor Authentication (MFA) and Access Controls: This category of funds is to assist Counties in implementing strong identity and authentication controls as defined by NIST and DHS in such publications as NIST SP 800-63. Example systems would include deploying multi-factor authentication for local workstations and cloud systems using hardware tokens such as YubiKeys or fingerprint readers. These types of solutions mitigate password theft attacks and prevent unknown

assailants from logging into systems by requiring additional security checks beyond just a username and password.

Category 2: Vulnerability Management: This category of funds is to assist Counties in implementing a vulnerability management program and to work towards the resolution of any vulnerable systems on their networks. This work could include deploying a vulnerability scanner or upgrading licenses on workstations and servers to supported and secure operating systems. This work limits Counties from unnecessary exposure that could be used by an adversary to abuse their systems or infect County networks with ransomware.

Category 3: E-Mail Security (Including DMARC): This category of funds is for Counties to implement strong mail security products including absorbing any costs involved in migrating to .GOV domains. Mail security that protects against phishing attacks through advanced features such as time of click protection, file analysis through sandboxing, and other security enhancements is critical in preventing ransomware attacks and blocking credential theft concerns.

Category 4: Network Hygiene, Segmentation, and Security: This category of funds is for Counties to work towards zero trust architecture and sturdy border defense between the SOE office and other County agencies which often do not have as stringent a security solution in place. These funds can be applied towards next-generation firewalls, upgraded switches, and network access control solutions that automate restrictions for non-compliant and insecure systems.

Category 5: Endpoint Hygiene and Security: This category of funds is for Counties to upgrade endpoint protection software allowing for automation in defense against malware and ransomware. Counties are encouraged to implement endpoint detection and response (EDR) systems in conjunction with the Center for Internet Security and other managed service offerings to block and limit the spread of malware across their systems. EDR solutions allow for rapid isolation of infected systems and triage work to begin before infections can spread.

Category 6: Physical Security and Other Needs: This category of funds is for Counties to improve the security of their facilities through the implementation and upgrade of badge access systems, security camera systems, fences, plexiglass shields, bollards, and other solutions to prevent unwanted physical access to sensitive. Counties may also use this category to request other security enhancements that may not fall cleanly into other categories such as managed security services, penetration tests, and tabulation system seals.

Category 7: Elections Security Equipment: This category is to address potentially outdated or insecure elections technologies such as pollbooks that need to be addressed before the completion of testing and lock out for the 2022 election cycle. Additional funds may be made available later to continue this effort, but those funds will not be available in a manner that aligns with the 2022 elections cycle. Counties may opt to apply for funding in this category primarily only if their latest Department assessment demonstrates minimal need on the FVRS security front.

Request for reimbursement and/or advance payments for service may not exceed maximum allowable amounts awarded within the grant period. For an advance payment request, a Sub-recipient shall submit a completed Letter of Need (Attachment B, incorporated by reference). Additionally, a Sub-recipient shall submit a completed Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (Attachment C, incorporated by reference).

B. Deliverables, Minimum Levels of Service, and Financial Consequences

Deliverable	Minimum Level of Service	Financial Consequences
1.	Complete the package of requirements for the implementation of the Scope of Work. Funds may be requested as either one of the following categories: Category 1: Multi-factor Authentication (MFA) and Access Controls Category 2: Vulnerability Management Category 3: E-Mail Security (Including DMARC) Category 4: Network Hygiene, Segmentation, and Security Category 5: Endpoint Hygiene and Security Category 6: Physical Security and Other Needs Category 7: Elections Security Equipment -if applicable- A signed Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Lower Tier Covered Transactions **(Attachment B)**. (Executive Order 12549, Debarment and Suspension, 45 CFR 1183.35.) This form prohibits the disbursement of federal funds to the intended recipient of such funds or to any sub-recipient thereunder unless such recipient and each sub-recipient, if any, certify that they are not excluded or disqualified from receiving federal funds by any federal department or agency. Sub-recipient shall provide documentation to the State demonstrating estimated cost or actual cost incurred, whichever is applicable, for purchase and installation. Once purchased and installed, Sub-recipient shall provide updated documentation no later than 30 days from installation receipt.	If Sub-recipient does not apply for grant funds by February 7, 2022, funds revert to the Election Security Fund. If Sub-recipient does not use awarded funds within the grant period, unexpended funds, including any interest accrued, shall be returned to the Department at the same time the final expenditure report is submitted.
2.	Completion of minimum level of service for category for previous deliverable. Funds may be requested from within one or more of the following categories: Category 1: Multi-factor Authentication (MFA) and Access Controls Category 2: Vulnerability Management Category 3: E-Mail Security (Including DMARC)	If Sub-recipient does not apply for grant funds by February 7, 2022, funds revert to the State. If Sub-recipient does not use awarded funds within the grant period, unexpended funds, include any interest

	Category 4: Network Hygiene, Segmentation, and Security Category 5: Endpoint Hygiene and Security Category 6: Physical Security and Other Needs Category 7: Elections Security Equipment -if applicable- • A signed Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion Lower Tier Covered Transactions (**Attachment B**). (Executive Order 12549, Debarment and Suspension, 45 CFR 1183.35.) This form prohibits the disbursement of federal funds to the intended recipient of such funds or to any sub-recipient thereunder unless such recipient and each sub-recipient, if any, certify that they are not excluded or disqualified from receiving federal funds by any federal department or agency. Sub-recipient shall provide documentation to the State demonstrating estimated cost or actual cost incurred, whichever is applicable, for purchase and installation. Once purchased and installed, Sub-recipient shall provide updated documentation no later than 30 days from installation receipt.	accrued shall be returned to the Department at the same time the final expenditure report is submitted.

III. Grant Period and Timeline

The grant agreement covers the period indicated below:

Date	Event
7/1/2021	Beginning period for expending reimbursement funds.
2/7/2022	• Deadline to submit Dos Online Grants application • Beginning period for expending advanced funds.
5/1/2022	• Deadline to expend funds eligible for reimbursement in accordance with plan. • Deadline to incur obligations eligible for advance payment in accordance with plan. • Deadline to expend advance funds.
6/30/2022	Deadline to submit a Final Expenditure Report/Expenditure Log using **The Online Grants System** and return any unspent advance funds, including accrued interest.

IV. Grant Submission/Application

To be eligible for the grant, Sub-recipient must submit an online grant application using the Department's Online Grants System as detailed in Section II. The amount awarded to each Sub-recipient will be based on the online application and the Department's assessment of the Sub-recipient's election security needs to be able to comply with Sub-recipient's executed 2020 Updated Memorandum of Agreement for Minimum Security Standards for the Florida Voter Registration System.

V. Grant Expenditure Log and Final Expenditure Report

The Sub-recipient must submit an expenditure log demonstrating the use of grant funds prior to the release of any reimbursement payments. Each log must list all grant expenditures, including check numbers or transaction numbers, payees, dates of payment, check amounts, and associated Deliverables that support the satisfactory completion of services for each payment. The expenditure log details how grant funds were spent to achieve the deliverable(s) during the previous payment period. Expenditure logs will be submitted online with payment requests at www.dosgrants.com.

The Sub-recipient must submit a Final Expenditure Report using **the Online Grants System** along with supporting documentation evidencing allowable expenses no later than June 30, 2022. Further requirements are detailed in Deliverables within Section II. Documentation must account for all expenditures made from grant funds awarded under this agreement. Along with the report, Sub-recipient shall return any unspent advanced funds. All returned and/or unspent funds, including interest earned, shall revert to the Federal Grants Trust Fund. Any expense not accounted and verified for in the supporting documentation in the expenditure log and/or final report shall be returned within 15 days of notice from the State.

Failure to comply with the deadlines to submit a final expenditure report and expenditure log and to return unexpended funds may affect eligibility for future awards.

VI. Restrictions

A. No lobbying

Sub-recipient shall not use any funds received hereunder to support lobbying activities to influence proposed or pending federal or state legislation or appropriations. This does not affect the right of the Sub-recipient, or that of any other organization to petition Congress, or any other level of Government, through the use of other resources.

B. Non-allowable expenses

If the Sub-recipient expends any funds on expenses that are not allowable, the Sub-recipient must reimburse immediately the funds to the Department, not otherwise expended for allowable costs, including any interest earned during the term of this agreement. Any funds determined, at any time, not to be expended in accordance with this agreement shall be returned, including any interest earned, to the Department within 30 days of written notice. All funds returned shall revert to the Federal Grants Trust Fund.

C. Interest-bearing account

The Sub-recipient must establish and maintain the grant funds in an interest bearing account in a "qualified public depository" as defined by section 280.02(26), Florida Statutes. The Sub-recipient must segregate the funds in a separate account established to hold only such funds. Sub-recipient must comply with the applicable requirements of chapter 280, including but not limited to:

- The execution and retention in your official records of a Public Deposit Identification and Acknowledgement Form.
- The submission each year by November 30th of a Public Depositor Annual Report to the Chief Financial Officer (DFS-J1-1009).

For more information refer to the Department of Financial Services Collateral Management for Governmental Units webpage or contact the Program Administrator at 850-413-3167.

VIII. Payments

A. Distribution

The Department shall determine eligibility and grant award amount based on a completed online application. Funds will then be distributed subject to whether the request is a reimbursement, advance or combination thereof. As applicable, funds will be distributed subsequent to the submission of a more detailed Election Security Improvement Plan using **Attachment A** with supporting documentation to supplement the online plan. The award date for the subgrant is the day the funds are transferred or distributed to the Supervisor.

B. Electronic Funds Transfer and Warrants

It is recommended that the Sub-recipient establish and/or use electronic funds transfer (EFT) to receive payment more efficiently and timely. All Sub-recipient wishing to receive funds through electronic funds transfer must submit a Direct Deposit Authorization form to the Florida Department of Financial Services. To download this form visit https://www.myfloridacfo.com/Division/AA/Forms/DFS-A1-26E.pdf. This file also includes tools and information that allow you to check on payments. If EFT has already been set up for your organization, you do not need to submit another authorization form unless you have changed bank accounts.

Sub-recipients without EFT capabilities may experience longer timeframes for payment by warrant.

IX. Monitoring, Audits, and Audit Reporting

The administration of resources awarded to the Sub-recipient may be subject to monitoring, audits and reporting requirements at the state and/or federal level. The Sub-recipient agrees to comply and cooperate with federal and state requirements for inspections, reviews, investigations, and/or audits including those deemed necessary by the Department, Inspector General, Chief Financial Officer, Auditor General and/or U.S. Election Assistance Commission. The Sub-recipient agrees to maintain records necessary to comply and to respond to such activities.

A. Department audit

The Department shall also conduct a limited scope post-grant audit of federal funds for six randomly selected Sub-recipients and may conduct more as needed. Sub-recipient agrees to comply with any additional instructions provided by Department staff to the Sub-recipient regarding such audit. If the

Department determines that federal funds received under this Agreement were used for any unauthorized purpose or that the Sub-recipient did not comply with this agreement or state or federal requirements for receipt, expenditure, or accounting, the Sub-recipient must return or repay these federal funds in an amount sufficient to ensure or obtain compliance, including expenses for any corrective or remedial action, and interest earned or that may have been earned. If it is determined that funds have not been used accordingly, Sub-recipient shall return awarded funds up to the amount determined to not have been used, including interest that would have accrued.

B. Audit Requirements for Federal Financial Assistance

Audit Requirements for Awards of State and Federal Financial Assistance (Form DFS-A2-CL), **(Attachment D)**, entitled is incorporated herein and made a part of this agreement. Upon ascertainment of the total Sub-recipient grant amount, the form will be finalized to be Sub-recipient specific.

Additional guidance to state and federal monitoring and auditing requirements may be found at *https://www.eac.gov./payments-and-grants/audits-resolutions.*

X. Record Retention

A. Maintenance of records.

The Sub-recipient shall retain accurate and detailed records sufficient to demonstrate its compliance with the terms of this agreement for five fiscal years from the date an audit report is issued. The Sub-recipient shall allow the Department or its designee, CFO, or Auditor General or auditor access to such records, including access to the audit working papers during such period unless otherwise extended.

B. Property Inventory

The Sub-recipient must also maintain appropriate property inventory. Inventory is required for property with a cost or value of $5,000 or more at the time of acquisition in the applicable fiscal subgrant year. Federal regulations (2 CFR 200.313(d)(1)) state that "property records [purchased with federal funds] must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property." *See also* Rule 69I-73, Florida Administrative Code. A property inventory template is attached. **(Attachment E)**. Such property inventory shall be maintained at the local level.

C. Sensitive and/or confidential information.

Documentation associated with this sub grant may contain sensitive and/ confidential information that is exempt from public records disclosure pursuant to Florida and federal laws including but not limited to Section 282.318, F.S. and the Cybersecurity Information Sharing Act (CISA).

X. Entirety of the Agreement

All terms and conditions of this Agreement are fully set forth in this document and its attachments and shall be governed by the laws of the State of Florida. The parties agree that proper venue will be in Leon County, Florida. This agreement is effective as of the date it is fully executed.

The parties have caused this Agreement to be executed by their undersigned officials as duly authorized.

By County Supervisor of Elections/Sub-recipient		By Department of State, Division of Elections	
Signature	[signature]	**Signature**	
Name and Title	Mark S Earley Supervisor of Elections	**Name and Title**	Maria Matthews, Director, Division of Elections
Address	PO Box 7357 Tallahassee FL 32314	**Address**	R.A. Gray Building, Ste. 316 500 S. Bronough Street, Tallahassee, Florida 32399
County FEID	59-6000708		
Date	2/4/2022	**Date**	

Amendment #1 to Memorandum of Agreement for 2022 Election Security Funds – Election Security Enhancements Election Security Grant

This Amendment amends the Memorandum of Agreement for 2022 Election Security Funds Grant (ESF4) #22.e.es.300.036 between the State of Florida, Department of State, Division of Elections, hereinafter referred to as the "Division" and Leon County, hereinafter referred to as the "Grantee."

Specifically, due to a delay in legislative appropriation during the 2022 session, this amendment is needed to change dates in Section III (Grant Period and Timeline), Section IV (Grant Submission), and Section V. (Final Expenditure Report) to allow Grantee adequate opportunity to fulfill the award terms. Wherever the following dates appear in the specified in the original agreement as to certain activities, those dates are now changed to the extended (no later than) dates as noted in the table below. Initial dates remaining the same are included solely as point of reference.

Date	Event	Amended Date
7/1/2021	Beginning period for expending reimbursement funds.	Remains the same
2/7/2022	Deadline to submit Dos Online Grants application Beginning period for expending advanced funds.	Remains the same
5/1/2022	Deadline to expend funds eligible for reimbursement in accordance with plan. Deadline to incur obligations eligible for advance payment in accordance with plan. Deadline to expend advance funds.	**6/15/2022**
06/30/2022	Deadline to submit a Final Expenditure Report/Expenditure Log using **The Online Grants System** and return any unspent advance funds, including accrued interest.	Remains the same

The parties now mutually agree to amended terms and conditions of the grant agreement as set forth herein. All other terms and conditions are fully set forth in the Memorandum of Agreement referenced above and its attachments and shall be governed by the laws of the State of Florida. This Amendment is effective as of the date it is fully executed by the undersigned officials as duly authorized.

By County Supervisor of Elections/Sub-recipient		***By Department of State, Division of Elections***	
Signature		**Signature**	
Name and Title	Mark S. Earley Supervisor of Elections, Leon County	**Name and Title**	Maria Matthews, Director
Address	PO Box 7357 Tallahassee, FL 32314	**Address**	R.A. Gray Building, Ste. 316 500 S. Bronough Street, Tallahassee, Florida 32399
County FEID	59-6000708		
Date	3/15/22	**Date**	

RESOLUTION NO.

WHEREAS, the Board of County Commissioners of Leon County, Florida, approved a budget for fiscal year 2021/2022; and,

WHEREAS, the Board of County Commissioners, pursuant to Chapter 129, Florida Statutes, desires to amend the budget.

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners of Leon County, Florida, hereby amends the budget as reflected on the Departmental Budget Amendment Request Form attached hereto and incorporated herein by reference.

Adopted this 10th day of May, 2022.

LEON COUNTY, FLORIDA

By:_____
Bill Proctor, Chairman
Board of County Commissioners

ATTESTED BY:
Gwendolyn Marshall Knight, Clerk of Court
& Comptroller, Leon County, Florida

By:_____

APPROVED AS TO FORM:
Chasity H. O'Steen, County Attorney
Leon County Attorney's Office

By:_____

FISCAL YEAR 2021/2022
BUDGET AMENDMENT REQUEST

No: BAR22025
Date: 4/12/2022

Agenda Item No:
Agenda Item Date: 5/10/2022

County Administrator
Vincent S. Long

Deputy County Administrator
Alan Rosenzweig

Request Detail

Revenues

Account Information					Current Budget	Change	Adjusted Budget
Fund	*Org*	*Acct*	*Prog*	*Title*			
061	953025	331100	000	FY 2021-2022 Federal Elections Security Grant	-	32,252	32,252
				Subtotal:		32,252	

Expenditures

Account Information					Current Budget	Change	Adjusted Budget
Fund	*Org*	*Acct*	*Prog*	*Title*			
061	953025	56400	513	Machinery and Equipment	-	32,252	32,252
				Subtotal:		32,252	

Purpose of Request

This budget amendment appropriates $32,252 from the State of Florida, Department of State, Division of Elections for an Election Security Grant to fund cybersecurity controls, vulnerability management, email security, network and endpoint hygiene, physical security, and elections security equipment.

Division/Department
216XX/XX

Roshaunda Bradley, Budget Manager

Scott Ross, Director, Office of Financial Stewardship

Approved By: **Resolution** [X] **Motion** [ ] **Administrator** [ ]

Roshaunda Bradley

From: Matthews, Maria I. <Maria.Matthews@DOS.MyFlorida.com>
Sent: Tuesday, April 5, 2022 5:29 PM
To: Holly Thompson
Subject: RE: Security Grant Amount for Leon

I corrected a number below. I am horrible with math. It should be $32,252.13 in lieu of $32,272.13.

From: Holly Thompson <ThompsonH@leonvotes.gov>
Sent: Tuesday, April 5, 2022 5:14 PM
To: Matthews, Maria I. <Maria.Matthews@DOS.MyFlorida.com>
Subject: RE: Security Grant Amount for Leon

EMAIL RECEIVED FROM EXTERNAL SOURCE

Super duper helpful—thanks so much for the number. That will let us get several balls moving on this end.

Best,
Holly

From: Matthews, Maria I. <Maria.Matthews@DOS.MyFlorida.com>
Sent: Tuesday, April 5, 2022 5:12 PM
To: Holly Thompson <ThompsonH@leonvotes.gov>
Subject: RE: Security Grant Amount for Leon

Holly,

I'm glad the FSE canvassing board workshop went well. I thought Supervisor Cowles and committee did an excellent job refreshing the program and I was glad to be a part of it.

Regrettably, the Florida Legislature still has not released the funds for the grants although they have approved the award amounts. This is what those are for your county subject to release which I am hearing will be another 2 weeks at least.

ESF Subgrant Award Program	Leon County's Award - Advancement	Leon County's Award - Reimbursement	Total Award including additive ($12,752.13)
$1.5M Grant	$10,000	$10,000	$32,252.13

Respectfully,

Maria Matthews, Esq.
Division of Elections, Director
Florida Department of State

Leon County
Board of County Commissioners

Notes for Agenda Item #4

Leon County Board of County Commissioners

Agenda Item #4

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: Approval of the Resolutions and Adoption Agreements for the Restatement of the 401(a) Retirement Savings Plans with AIG-VALIC, MissionSquare (ICMA) and Nationwide

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Candice Wilson, Director of Human Resources
Lead Staff/ Project Team:	Amy Cox, HR Manager Danielle Woods, Benefits Specialist

Statement of Issue:

This item seeks Board approval of resolutions and adoption agreements for the 401(a) Match Retirement Savings Plan.

Fiscal Impact:

This item has no fiscal impact.

Staff Recommendation:

Option #1: Approve the Resolutions and Adoption Agreements for the Restatement of 401(a) Retirement Savings Plans for AIG-VALIC (Attachment #1), MissionSquare-ICMA (Attachment #2) and Nationwide (Attachment #3) in accordance with federal laws and regulations and authorize the County Administrator to execute the Agreements, subject to legal review by the County Attorney.

Report and Discussion

Background:

This item seeks Board approval of Resolutions and Adoption Agreements for the 401(a) Match Retirement Savings Plan. As a benefit to employees, the County currently offers two 401(a) Match Retirement Savings Plans. The first plan is offered for lower wage-earning employees that work 20 or more hours a week with annual earnings of less than $50,000; and the second is for contract employees. The County's current 401(a) Match Retirement Savings Plan vendors are AIG-VALIC, MissionSquare (ICMA) and Nationwide.

Every six years, the Internal Revenue Service (IRS) requires employers with qualified retirement plans to restate their plan documents – reflecting changes that have occurred since the documents were last restated. The rewriting of the plan document to include changes in the law is commonly referred to as a "Restatement". Leon County's documents were last restated April 26, 2016. Restatement of these plan documents does not alter the current operation of the plan.

Analysis:

Per IRS guidelines, each plan sponsor must execute a new adoption agreement by July 31, 2022. In the past, staff recommended, and the Board approved the use of the vendor's plan documents. The plan documents incorporate statutory and regulatory changes made since the prior restatement to ensure the plan maintains its qualified tax-exempt status. The plan documents contain provisions set forth by Congress, the Internal Revenue Service (IRS) and the Department of Labor (DOL) and, are to be rewritten in its entirety to reflect any changes in the law. A few of the notable changes include:

- Expanding the definition of "spouse" to include those of the same gender.
- Expanding the types of contributions and earnings a plan may make available for hardship distributions.
- Updated the base document language to comply with special disaster distributions permitted by Congress for disaster relief.

The 401(a) vendors submitted updated plan documents to the IRS and were subsequently approved. As part of the approval process, Leon County is required to approve Resolutions, Adoption Agreements and Plan documents, which will bring the County's 401(a) Match Retirement Plans into compliance with federal laws and regulations.

Options:

1. Approve the Resolutions and Adoption Agreements for the Restatement of 401(a) Retirement Savings Plans for AIG-VALIC (Attachment #1), Mission Square (ICMA) (Attachment #2), and Nationwide (Attachment #3) in accordance with federal laws and regulations and authorize the County Administrator to execute the Agreements, subject to legal review by the County Attorney.
2. Do not approve the Resolutions and Adoption Agreements for the Restatement of 401(a) Retirement Savings Plans for AIG-VALIC, Mission Square (ICMA) and Nationwide in accordance with federal laws and regulations.
3. Board direction.

Recommendation:

Option #1

Attachments:

1. Resolution and Adoption Agreement for AIG-VALIC Governmental Profit Sharing Plan & Governmental Money Purchase Plan Agreement for the Executive Plan
2. Resolution and Adoption Agreement for MissionSquare (ICMA) Governmental Profit Sharing Plan & Agreement for the Executive Plan
3. Resolution and Adoption Agreement for Nationwide Financial Services Governmental 401(a) Plan

RESOLUTION NO. -__

A RESOLUTION OF THE LEON COUNTY, FLORIDA BOARD OF COUNTY COMMISSIONERS AUTHORIZING AMENDMENT AND RESTATEMENT OF RETIREMENT PLAN VIA ADOPTION OF VALIC RETIREMENT SERVICES COMPANY RETIREMENT PLAN FOR GOVERNMENTAL EMPLOYERS

WHEREAS, the Board of County Commissioners of Leon County, FL (hereinafter, the "Employer"), previously established the Leon County BOCC 401(a) Matching Program (hereinafter, the "Plan") for the exclusive benefit of its employees and their beneficiaries, which Plan was originally effective as of October 1, 2006; and

WHEREAS, the Employer retained the power to amend and/or terminate the Plan; and

WHEREAS, the Employer now desires to amend and restate the Plan by adopting the VALIC Retirement Services Company Retirement Plan for Governmental Employers document; and

NOW THEREFORE, BE IT RESOLVED that the Employer hereby amends and restates that Plan, effective October 1, 2021, by adopting the document titled "VALIC Retirement Services Company Retirement Plan for Governmental Employers," in the form and substance as the document heretofore presented to the governing body of the Employer; and

RESOLVED FURTHER, that the appropriate representatives of the Employer be, and the same hereby are, authorized and directed to: (i) execute the adoption agreement to the VALIC Retirement Services Company Retirement Plan for Governmental Employers document as approved; (ii) execute all other documents and to do all other things as may be necessary or appropriate to make the VALIC Retirement Services Company Retirement Plan for Governmental Employers document effective October 1, 2021, including the execution of any amendments required by the Internal Revenue Service in order to continue and maintain the qualified and exempt status of the Plan; and (iii) execute any other documents required to obtain reliance on advisory letters issued to the VALIC Retirement Services Company Retirement Plan for Governmental Employers by the Internal Revenue Service.

Adopted this **10th** day of **May, 2022.**

LEON COUNTY, FLORIDA

BY: _____
Bill Proctor, Chairman
Board of County Commissioners

APPROVED AS TO FORM:
Chasity H. O'Steen, County Attorney
Leon County Attorney's Office

By:_____

ATTEST:
Gwendolyn Marshall Knight, Clerk of the
Court & Comptroller, Leon County, Florida

By:_____

PRE-APPROVED GOVERNMENTAL DEFINED CONTRIBUTION PLAN

BASIC PLAN DOCUMENT

[DC-BPD #03]

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PLAN DEFINITIONS

This Section contains definitions for common terms that are used throughout the Plan. All capitalized terms under the Plan are defined in this Section or in the relevant section of the Plan document where such term is used.

1.01 **Account.** The separate Account maintained for each Participant under the Plan by the Plan Administrator, Plan service provider, Custodian or insurance company. A Participant may have any (or all) of the following separate Accounts, to the extent authorized under the Plan:

- Employer Contribution Account
- Matching Contribution Account
- After-Tax Employee Contribution Account
- Employer Pick-Up Contribution Account
- Rollover Contribution Account
- Transfer Account

In addition, if this Plan qualifies as a Grandfathered 401(k) Arrangement (as defined in Section 1.55), a Participant also may have any (or all) of the following separate Accounts:

- Pre-Tax Salary Deferral Account
- Roth Deferral Account
- Roth Rollover Contribution Account

The Plan Administrator may establish other Accounts, as it deems necessary, for the proper administration of the Plan.

1.02 **Account Balance.** Account Balance shall mean a Participant's balances in all of the Accounts maintained by the Plan on his or her behalf.

1.03 **Actuarial Factor.** A Participant's Actuarial Factor is used for purposes of determining the Participant's allocation under the age-based formula under AA §6-3(f) of the Profit Sharing Plan Adoption Agreement or under the age-based contribution formula under AA §6-2(e) of the Money Purchase Plan Adoption Agreement. See Section 3.02(a)(1)(i)(E) or 3.02(b)(4).

1.04 **Adoption Agreement ("Agreement" or "AA").** The Adoption Agreement contains the elective provisions that an Employer may complete to supplement or modify the provisions under the Plan. Each adopting Employer must complete and execute the Adoption Agreement. If the Plan covers Employees of an Employer other than the Employer that executes the Employer Signature Page of the Adoption Agreement, such additional Employer(s) must execute a Participating Employer Adoption Page under the Adoption Agreement. (See Section 16 for rules applicable to adoption by Participating Employers.) An Employer may adopt more than one Adoption Agreement associated with this Plan document. Each executed Agreement is treated as a separate Plan. The Employer may adopt a Profit Sharing Plan Adoption Agreement or a Money Purchase Plan Adoption Agreement. The Employer also may elect under the Profit Sharing Plan Adoption Agreement to provide for a Grandfathered 401(k) Arrangement under the Plan. Any reference to the Profit Sharing Plan Adoption Agreement includes the Grandfathered 401(k) Plan Adoption Agreement, unless specifically provided otherwise.

1.05 **After-Tax Employee Contributions.** Employee Contributions that may be made to the Plan by a Participant that are included in the Participant's gross income in the year such amounts are contributed to the Plan and are maintained under a separate After-Tax Employee Contribution Account to which earnings and losses are allocated. See Section 3.04. For this purpose, Roth Deferrals are not considered as After-Tax Employee Contributions.

1.06 **Alternate Payee.** A person designated to receive all or a portion of the Participant's benefit pursuant to a QDRO. See Section 1.80.

1.07 **Anniversary Years.** An alternative period for measuring Eligibility Computation Periods (under Section 2.03(a)(3)) and Vesting Computation Periods (under Section 6.05). An Anniversary Year is any 12-month period which commences with the Employee's Employment Commencement Date, or which commences with the anniversary of the Employee's Employment Commencement Date.

1.08 **Annual Additions.** The amounts taken into account under a Defined Contribution Plan for purposes of applying the limitation on allocations under Code §415. See Section 5.02(c)(1) for the definition of Annual Additions.

1.09 **Annuity Contract.** A nontransferable group annuity certificate or individual contract as defined in Code §401(g) that is issued by an insurance company qualified to issue annuities in a State and that includes payment in the form of an annuity and that meets the following requirements: (a) An Annuity Contract may only be offered by an Insurance Company; (b) The Annuity Contract may be owned by the Participant, and a group Annuity Contract may be held by the Trustee or Employer (if a

qualified trust substitute under Code §401(f)); and (c) An Annuity Contract may be fixed, variable, or a combination of fixed and variable.

A life insurance contract, an endowment contract, a health or accident insurance contract, or a property, casualty, or liability insurance contract do not constitute an Annuity Contract. However, this does not apply for contracts issued before September 24, 2007.

1.10 **Annuity Starting Date.** The date an Employee commences distribution from the Plan. If a Participant commences distribution with respect to a portion of his/her Account Balance, a separate Annuity Starting Date applies to any subsequent distribution. If distribution is made in the form of an annuity, the Annuity Starting Date is the first day of the first period for which annuity payments are made.

1.11 **Beneficiary.** A person designated by the Participant (or by the terms of the Plan) to receive a benefit under the Plan upon the death of the Participant. See Section 7.07(c) for the applicable rules for determining a Participant's Beneficiaries under the Plan.

1.12 **Break in Service.** The Computation Period (as defined in Section 2.03(a)(3) for purposes of eligibility and Section 6.05 for purposes of vesting) during which an Employee does not complete more than five hundred (500) Hours of Service with the Employer. However, if the Employer elects under AA §4-3(a) or AA §8-5(a) to require less than 1,000 Hours of Service to earn a Year of Service for eligibility or vesting purposes, a Break in Service will occur for any Computation Period during which the Employee does not complete more than one-half (1/2) of the Hours of Service required to earn a Year of Service for eligibility or vesting purposes, as applicable. However, if the Elapsed Time method applies under AA §4-3(c) (for purposes of eligibility) or AA §8-5(c) (for purposes of vesting), an Employee will incur a Break in Service if the Employee incurs at least a one-year Period of Severance (as defined under Section 1.72). (See Section 2.07 for a discussion of the eligibility Break in Service rules and Section 6.08 for a discussion of the vesting Break in Service rules.)

1.13 **Cash-Out Distribution.** A total distribution made to a terminated Participant in accordance with Section 6.10(a).

1.14 **Catch-Up Contributions.** Salary Deferrals that may be made under a Grandfathered 401(k) Arrangement that are in excess of an otherwise applicable Plan limit and that are made by a Participant who is age 50 or over by the end of his/her taxable year. See Section 3.02(c)(2)(iv).

1.15 **Catch-Up Contribution Limit.** The annual limit applicable to Catch-Up Contributions as set forth in Section 3.02(c)(2)(iv)(A).

1.16 **Code.** The Internal Revenue Code of 1986, as amended.

1.17 **Code §415 Limitation.** The limit on the amount of Annual Additions a Participant may receive under the Plan during a Limitation Year. See Section 5.02.

1.18 **Collectively Bargained Employee.** An Employee who is included in a unit of Employees covered by a collective bargaining agreement between the Employer and Employee representatives and whose retirement benefits are subject to good faith bargaining. Such Employees may be excluded from the Plan if designated under AA §3-1(b). See Section 2.02(b)(1) for additional requirements related to the exclusion of Collectively Bargained Employees.

1.19 **Compensation Limit.** The maximum amount of compensation that can be taken into account for any Plan Year for purposes of determining a Participant's Plan Compensation. The Compensation Limit is $200,000, as adjusted for cost-of-living, increased in accordance with Code §401(a)(17)(B). For 2019, the Compensation Limit is $280,000. In determining the Compensation Limit for any applicable period (the "determination period"), the cost-of-living adjustment in effect for a calendar year applies to any determination period that begins with or within such calendar year.

If a determination period consists of fewer than 12 months, the Compensation Limit for such period is an amount equal to the otherwise applicable Compensation Limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12. A determination period will not be considered to be less than 12 months merely because compensation is taken into account only for the period the Employee is a Participant. If Salary Deferrals, Matching Contributions, or After-Tax Employee Contributions are separately determined on the basis of specified periods within the determination period (e.g., on the basis of payroll periods), no proration of the Compensation Limit is required with respect to such contributions.

If compensation for any prior determination period is taken into account in determining a Participant's allocations for the current Plan Year, the compensation for such prior determination period is subject to the applicable Compensation Limit in effect for that prior period.

In determining the amount of a Participant's Salary Deferrals under a Grandfathered 401(k) Arrangement, a Participant may defer with respect to Plan Compensation that exceeds the Compensation Limit, provided the total deferrals made by the Participant satisfy the Elective Deferral Dollar Limit and any other limitations under the Plan.

1.20 **Computation Period.** The 12-consecutive month period used for measuring whether an Employee completes a Year of Service for eligibility or vesting purposes.

(a) **Eligibility Computation Period.** The 12-consecutive month period used for measuring Years of Service for eligibility purposes. See Section 2.03(a)(3).

(b) **Vesting Computation Period.** The 12-consecutive month period used for measuring Years of Service for vesting purposes. See Section 6.05.

1.21 **Custodian.** An organization that has custody of all or any portion of the Plan assets in a custodial account as described in Code §401(f). See Section 12.05.

1.22 **Defined Benefit Plan.** A plan under which a Participant's benefit is based solely on the Plan's benefit formula without the establishment of separate Accounts for Participants.

1.23 **Defined Contribution Plan.** A plan that provides for individual Accounts for each Participant to which all contributions, forfeitures, income, expenses, gains and losses under the Plan are credited or deducted. A Participant's benefit under a Defined Contribution Plan is based solely on the fair market value of his/her vested Account Balance.

1.24 **Designated Beneficiary.** A Beneficiary who is designated by the Participant (or by the terms of the Plan) and whose life expectancy is taken into account in determining minimum distributions under Code §401(a)(9) and Treas. Reg. §1.401(a)(9)-4. See Section 8.05(a).

1.25 **Differential Pay.** Certain payments made by the Employer to an individual while the individual is performing service in the Uniformed Services. See Section 1.94(e).

1.26 **Directed Account.** The Plan assets under a Trust which are held for the benefit of a specific Participant. See Section 10.03(d)(2).

1.27 **Directed Trustee.** A Trustee is a Directed Trustee to the extent that the Trustee's investment powers are subject to the direction of another person.

1.28 **Direct Rollover.** A rollover, at the Participant's direction, of all or a portion of the Participant's vested Account Balance directly to an Eligible Retirement Plan. See Section 7.0404.

1.29 **Disabled.** An individual is considered Disabled for purposes of applying the provisions of this Plan if the individual meets the definition of Disabled elected by the Employer under AA §2.8.

1.30 **Discretionary Trustee.** A Trustee is a Discretionary Trustee to the extent the Trustee has exclusive authority and discretion to invest, manage or control the Plan assets without direction from any other person.

1.31 **Distribution Calendar Year.** A calendar year for which a minimum distribution is required. See Section 8.05(b).

1.32 **Early Retirement Age.** The age and/or Years of Service set forth in AA §7-2. Early Retirement Age may be used to determine distribution rights and/or vesting rights. If a Participant separates from service before satisfying the age requirement for early retirement, but has satisfied the service requirement, the Participant will be entitled to elect an early retirement benefit upon satisfaction of such age requirement. The Plan is not required to have an Early Retirement Age.

1.33 **Effective Date.** The date this Plan, including any restatement or amendment of this Plan, is effective. The Effective Date of the Plan is designated on the Employer Signature Page under the Adoption Agreement.

1.34 **Elapsed Time.** A special method for crediting service for eligibility or vesting. See Section 2.03(a)(6) for more information on the Elapsed Time method of crediting service for eligibility purposes and Section 6.04(b) for more information on the Elapsed Time method of crediting service for vesting purposes. Also see Section 3.07 for the ability to use the Elapsed Time method for applying allocation conditions under the Plan.

1.35 **Elective Deferral Dollar Limit.** The maximum amount of Elective Deferrals a Participant may make for any calendar year. See Section 5.03.

1.36 **Elective Deferrals.** A Participant's Elective Deferrals is the sum of all Salary Deferrals (as defined in Section 1.88) and other contributions made pursuant to a Salary Deferral Election under a SARSEP described in Code §408(k)(6), a SIMPLE IRA plan described in Code §408(p), a plan described under Code §501(c)(18), and a custodial account or other arrangement described in Code §403(b). Elective Deferrals shall not include any amounts properly distributed as an Excess Amount under Code §415.

1.37 **Eligible Employee.** An Employee who is not excluded from participation under Section 2.02 of the Plan or AA §3-1.

1.38 **Eligible Retirement Plan.** A qualified retirement plan or IRA that may receive a rollover contribution. See Section 7.04(a)(2).

1.39 **Eligible Rollover Distribution.** An amount distributed from the Plan that is eligible for rollover to an Eligible Retirement Plan. See Section 7.04(a)(1).

1.40 **Employee.** An Employee is any individual employed by the Employer (including any Related Employers). An independent contractor is not an Employee. An Employee is not eligible to participate under the Plan if the individual is not an Eligible Employee under Section 2.02. A Leased Employee is also treated as an Employee of the recipient organization, as provided in Section 2.02(b)(3).

1.41 **Employer.** Except as otherwise provided, Employer means the Employer that adopts this Plan and any Related Employer. The Employer must be qualified to maintain a Governmental Plan under Code §414(d). (See Section 2.02(c) for rules regarding coverage of Employees of Related Employers. Also see Section 16 for rules that apply to Employers that execute a Participating Employer Adoption Page.)

1.42 **Employer Contributions.** Contributions the Employer makes pursuant to AA §6. See Section 3.02.

1.43 **Employer Pick-up Contributions.** Contributions made by the Employee and picked up by the Employer in accordance with Code §414(h)(2). See Section 3.03.

1.44 **Employment Commencement Date.** The date the Employee first performs an Hour of Service for the Employer.

1.45 **Entry Date.** The date on which an Employee becomes a Participant upon satisfying the Plan's minimum age and service conditions. See Section 2.03(b).

1.46 **Equivalency Method.** An alternative method for crediting Hours of Service for purposes of eligibility and vesting. See Section 2.03(a)(5) for eligibility provisions and Section 6.04(a)(2) for vesting provisions.

1.47 **ERISA.** The Employee Retirement Income Security Act of 1974, as amended.

1.48 **Excess Amount.** Amounts which exceed the Code §415 Limitation. See Section 5.02(c)(4).

1.49 **Excess Compensation.** The amount of Plan Compensation that exceeds the Integration Level for purposes of applying the permitted disparity allocation formula. See Section 3.02(a)(1)(i)(B) (Profit Sharing Plan) and Section 3.02(b)(2) (Money Purchase Plan).

1.50 **Excess Deferrals.** Elective Deferrals that exceed the Elective Deferral Dollar Limit (as defined in Section 5.03). (See Section 5.03(b) for rules regarding the correction of Excess Deferrals.)

1.51 **Favorable IRS Letter.** An opinion letter issued by the IRS pursuant to Rev. Proc. 2017-41 (or its successor) to a Provider as to the qualified status of a Pre-Approved Plan.

1.52 **FICA Replacement Plan.** This Plan may qualify as a FICA Replacement Plan under Code §3121(b)(7)(F) if the requirements under Section 4.03 are satisfied.

1.53 **General Trust Account.** The Plan assets under a Trust which are held for the benefit of all Plan Participants as a pooled investment. See Section 10.03(d)(1).

1.54 **Governmental Plan.** A plan established and maintained for its Employees by any State or political subdivision of a State, any State agency or instrumentality, or an Indian Tribal Government (provided the requirements under Section 4.02 of the Plan are satisfied), as provided under Code §414(d).

1.55 **Grandfathered 401(k) Arrangement.** An arrangement under Code §401(k) maintained by a governmental employer that was in existence on May 6, 1986. If a governmental entity adopted a 401(k) plan before May 6, 1986, then all 401(k) plans adopted by the governmental entity are treated as adopted before such date, including a 401(k) plan that is actually adopted after such date. A Grandfathered 401(k) Arrangement also may be adopted by an Indian Tribal Government, as defined in Section 1.58.

The Employer may elect to provide a Grandfathered 401(k) Arrangement under AA §2-3 of the Profit Sharing Plan Adoption Agreement. Any such election under AA §2-3 will be null and void if the Employer does not satisfy the requirements for maintaining a Grandfathered 401(k) Arrangement. If the Employer elects a Grandfathered 401(k) Arrangement under AA §2-3, the Employer may authorize Employees to make Salary Deferrals under the Plan in addition to Matching Contributions, Employer Contributions and After-Tax Employee Contributions, to the extent provided under AA §6 - §6B of the Adoption Agreement.

1.56 **Hardship.** A heavy and immediate financial need which meets the requirements of Section 7.10(e).

1.57 **Hour of Service.** Each Employee of the Employer will receive credit for each Hour of Service he/she works for purposes of applying the eligibility and vesting rules under the Plan. An Employee will not receive credit for the same Hour of Service under more than one category listed below.

(a) **Performance of duties.** Hours of Service include each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer. These hours will be credited to the Employee for the computation period in which the duties are performed. In the case of Hours of Service to be credited to an Employee in connection with a period of no more than 31 days which extends beyond one computation period, all such Hours of Service may be credited to the first computation period or the second computation period. Hours of Service under this subsection (a) must be credited consistently for all Employees within the same job classifications.

(b) **Nonperformance of duties.** Hours of Service include each hour for which an Employee is paid, or entitled to payment, by the Employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence. No more than 501 hours of service will be credited under this paragraph for any single continuous period (whether or not such period occurs in a single Computation Period). Hours under this paragraph will be calculated and credited pursuant to §2530.200b-2 of the Department of Labor Regulations which is incorporated herein by this reference.

(c) **Back pay award.** Hours of Service include each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same Hours of Service will not be credited both under subsection (a) or subsection (b) above, as the case may be, and under this subsection (c). These hours will be credited to the Employee for the Computation Period(s) to which the award or agreement pertains rather than the Computation Period(s) in which the award, agreement or payment is made.

(d) **Related Employers/Leased Employees.** Hours of Service will be credited for employment with any Related Employer. Hours of Service also include hours credited as a Leased Employee or as an employee under Code §414(o).

(e) **Maternity/paternity/FMLA/military leave.** Solely for purposes of determining whether a Break in Service has occurred in a Computation Period, an individual who is absent from work for maternity or paternity reasons will receive credit for the Hours of Service which would otherwise have been credited to such individual but for such absence, or in any case in which such hours cannot be determined, 8 Hours of Service per day of such absence. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence:

(1) by reason of the pregnancy of the individual,

(2) by reason of a birth of a child of the individual,

(3) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or

(4) for purposes of caring for such child for a period beginning immediately following such birth or placement.

The Hours of Service credited under this paragraph will be credited in the Computation Period in which the absence begins if the crediting is necessary to prevent a Break in Service in that period, or in all other cases, in the following Computation Period.

In addition, solely for purposes of determining whether a Break in Service has occurred in a Computation Period, an individual who is absent from work due to events described under the Family and Medical Leave Act (FMLA) and as required under DOL Reg. §825.215 will receive credit for the Hours of Service which would have been credited to such individual but for the absence. In addition, solely for purposes of determining whether a Break in Service has occurred in a Computation Period, an individual who is absent from work due to military leave described under the Uniformed Services Employment and Reemployment Rights Act and as required under Code §414(u)(8)(A) and DOL Reg. 20 CFR

§1002.259 will receive credit for the Hours of Service which would have been credited to such individual but for the absence.

1.58 **Indian Tribal Government.** The governing body of any tribe, band, community, village, or group of Indians, or (if applicable) Alaska Natives, which is determined by the Secretary of Treasury, after consultation with the Secretary of Interior, to exercise governmental functions, as defined under Code §7701(a)(40) and regulations thereunder. See Section 4.02 of the Plan for special rules applicable to Indian Tribal Governments.

1.59 **Insurer.** Any insurance company or affiliate or subsidiary thereof, or any legal reserve insurance company, which issues one or more contracts under the Plan in accordance with the requirements under Sections 10.07 and 10.08.

1.60 **Investment Arrangement.** The investments under the Plan as described in Section 10.06 of this Plan document. The terms governing each Investment Arrangement under the Plan, excluding those terms that are inconsistent with Code Section 401(a), are hereby incorporated by reference into the Plan. In the event of any conflict between the terms of the Plan (including, but not limited to, any elections under the Adoption Agreement) and the terms of the Investment Arrangement, the terms of the Plan shall control, except that the terms of the Plan may not alter or construe the terms of the Investment Arrangement or enlarge the obligations of the issuer or provider of the Investment Arrangement without the consent of the issuer or provider.

1.61 **Integration Level.** The amount used for purposes of applying the permitted disparity allocation formula. The Integration Level is the Taxable Wage Base, unless the Employer designates a different amount under the Adoption Agreement. See Section 3.02(a)(1)(i)(B) (Profit Sharing Plan) and Section 3.02(b)(2) (Money Purchase Plan).

1.62 **Leased Employee.** An individual who performs services for the Employer pursuant to an agreement between the Employer and a leasing organization, and who satisfies the definition of a Leased Employee under Code §414(n). See Section 2.02(b)(3) for rules regarding the treatment of a Leased Employee as an Employee of the Employer.

1.63 **Limitation Year.** The measuring period for determining whether the Plan satisfies the Code §415 Limitation under Section 5.02. See Section 5.02(c)(5).

1.64 **Mass Submitter.** The Mass Submitter, as described under Rev. Proc. 2017-41 or its successor, of this Pre-Approved Plan is ASC Institute, LLC.

1.65 **Matching Contributions.** Matching Contributions are contributions made by the Employer on behalf of a Participant on account of other contributions made by the Participant under this Plan or another plan maintained by the Employer. See Section 3.02(c)(3).

1.66 **Maximum Disparity Rate.** The maximum amount that may be allocated with respect to Excess Compensation under the permitted disparity allocation formula. See Section 3.02(a)(1)(i)(B) (Profit Sharing Plan) and Section 3.02(b)(2) (Money Purchase Plan).

1.67 **Normal Retirement Age.** The age selected under AA §7-1. For purposes of applying the Normal Retirement Age provisions under AA §7-1, an Employee's participation commencement date is the first day of the first Plan Year in which the Employee commenced participation in the Plan. The Normal Retirement Age must be reasonably representative of the typical retirement age for the industry in which the Plan Participants work. A Normal Retirement Age of at least age 62 is deemed to be reasonable while a Normal Retirement Age under age 55 is presumed not to satisfy this requirement, unless facts and circumstances show otherwise. Whether a Normal Retirement Age between 55 and 62 satisfies this requirement depends on the facts and circumstances. A Governmental Plan must comply with the final Normal Retirement Age regulations under Treas. Reg. §1.401(a)-1, as amended, effective for Annuity Starting Dates occurring in Plan Years beginning on or after the later of the two dates described in IRS Notice 2012-29. The Employer may use AA §7-1(c), for example, to describe a reasonable Normal Retirement Age that is between age 55 and 62 that takes into account service as well as age.

1.68 **Participant.** Except as provided under AA §3-1, a Participant is an Employee (or former Employee) who has satisfied the conditions for participating under the Plan, as described in Section 2.03 and AA §4-1. A Participant also includes any Employee (or former Employee) who has an Account Balance under the Plan, including an Account Balance derived from a rollover or transfer from another qualified plan or IRA. A Participant is entitled to share in an allocation of contributions or forfeitures under the Plan for a given year only if the Participant is an Eligible Employee as defined in Section 2.02, and satisfies the allocation conditions set forth in Section 3.07.

An Employee is treated as a Participant with respect to Salary Deferrals and After-Tax Employee Contributions once the Employee has satisfied the eligibility conditions under AA §4-1 for making such contributions, even if the Employee chooses not to actually make such contributions to the Plan. An Employee is treated as a Participant with respect to Matching Contributions once the Employee has satisfied the eligibility conditions under AA §4-1 for receiving such contributions, even if

the Employee does not receive a Matching Contribution because of the Employee's failure to make contributions eligible for the Matching Contribution.

1.69 **Participating Employer.** An Employer that adopts this Plan by executing the Participating Employer Adoption Page under the Adoption Agreement. See Section 16 for the rules applicable to contributions and deductions for contributions made by a Participating Employer.

1.70 **Participating Employer Adoption Page.** The signature page in the Adoption Agreement for a Related Employer to adopt the Plan as a Participating Employer.

1.71 **Part-Time Employee.** Unless designated otherwise under AA 3-1(h), a Part-Time Employee is an Employee who is normally scheduled to work 20 or fewer hours per week. Notwithstanding the foregoing, if the Employer is a post-secondary educational institution, an Employee who is a teacher shall not be considered a Part-Time Employee if he/ she normally has classroom hours of one-half or more of the number of classroom hours designated by the Employer as constituting full-time employment, provided that such designation is reasonable under all of the facts and circumstances.

1.72 **Period of Severance.** A continuous period of time during which the Employee is not employed by the Employer and which is used to determine an Employee's Participation under the Elapsed Time method. See Section 2.03(a)(6) for rules regarding eligibility and Section 6.04(b) for rules regarding vesting.

1.73 **Plan.** The Plan is **t**he retirement plan established or continued by the Employer for the benefit of its Employees under this Plan document. The Plan consists of the basic plan document and the elections made under the Adoption Agreement. The basic plan document is the portion of the Plan that contains the non-elective provisions. The Employer may supplement or modify the basic plan document through its elections in the Adoption Agreement or by separate governing documents that are expressly authorized by the Plan. If the Employer adopts more than one Adoption Agreement under this Plan, then each executed Adoption Agreement represents a separate Plan. The Employer may adopt the Plan, under the appropriate Adoption Agreement, as a Profit Sharing Plan (with or without provisions for a Grandfathered 401(k) Arrangement) or as a Money Purchase Plan.

1.74 **Plan Administrator.** The Plan Administrator is the person designated to be responsible for the administration and operation of the Plan. Unless otherwise designated by the Employer, and until such designation is accepted by the designee, the Plan Administrator is the Employer. If another Employer has executed a Participating Employer Adoption Page, the Employer referred to in this Section is the Employer that executes the Employer Signature Page of the Adoption Agreement. A Plan Administrator also includes a Qualified Termination Administrator (QTA) that assumes the responsibilities of Plan Administrator.

1.75 **Plan Compensation.** Plan Compensation is Total Compensation, as modified under AA §5-3, which is actually paid to an Employee during the determination period (as defined in subsection (a) below). In determining Plan Compensation, the Employer may elect under AA §5-3(b) to exclude all Elective Deferrals (as defined in Section 1.36), pre-tax contributions to a cafeteria plan or a Code §457 plan, and qualified transportation fringes under Code§132(f)(4). In addition, the Employer may elect under AA §5-3 to exclude other designated elements of compensation.

Plan Compensation generally includes amounts an Employee earns with a Participating Employer and amounts earned with a Related Employer (even if the Related Employer has not executed a Participating Employer Adoption Page under the Adoption Agreement). However, the Employer may elect under AA §5-3(h) to exclude all amounts earned with a Related Employer that has not executed a Participating Employer Adoption Page.

In no case may Plan Compensation for any Participant exceed the Compensation Limit (as defined in Section 1.19).

(a) **Determination period.** Unless designated otherwise under AA §5-4(a), Plan Compensation is determined based on the Plan Year. Alternatively, the Employer may elect under AA §5-4(a) to determine Plan Compensation on the basis of the calendar year ending in the Plan Year or any other 12-month period ending in the Plan Year. If the determination period is the calendar year or other 12-month period ending in the Plan Year, for any Employee whose date of hire is less than 12 months before the end of the designated 12-month period, Plan Compensation will be determined over the Plan Year.

(b) **Partial period of participation.** If an Employee is a Participant for only part of a Plan Year, Plan Compensation may be determined over the entire Plan Year or over the period during which such Employee is a Participant. In determining whether an Employee is a Participant for purposes of applying this subsection (b), the Employee's status will be determined solely with respect to the contribution type for which the definition of Plan Compensation is being determined. Plan Compensation does not include any amounts earned for any period while an individual is not an Eligible Employee (as defined in Section 2.02).

1.76 **Plan Year.** The 12-consecutive month period designated under AA §2-4 on which the records of the Plan are maintained. The Plan Year can be a 52-53 week period by designating the appropriate ending date in AA §2-4(b). If the Plan Year is amended to create a Short Plan Year, or if a new Plan has an initial Short Plan Year, the Employer may document such Short Plan Year under AA §2-4(c).

1.77 **Predecessor Employer.** An employer that previously employed the Employees of the Employer. See Sections 2.06 (eligibility), 3.07(b) (allocation conditions) and 6.07 (vesting) for the rules regarding the crediting of service with a Predecessor Employer.

1.78 **Pre-Tax Deferrals.** Pre-tax Deferrals are a Participant's Salary Deferrals that are not includible in the Participant's gross income at the time deferred.

1.79 **Provider.** An entity defined under §4.08 of Rev. Proc. 2017-41, or its successor, that provides this Plan to adopting Employers.

1.80 **Qualified Domestic Relations Order (QDRO).** A domestic relations order that provides for the payment of all or a portion of the Participant's benefits to an Alternate Payee and satisfies the requirements under Code §414(p). See Section 11.05.

1.81 **Qualifying Longevity Annuity Contract (QLAC).** An annuity contract that is purchased from an insurance company for a Participant and that satisfies the requirements under Treas. Reg. §1.401(a)(9)-6, Q&A-17.

1.82 **Reemployment Commencement Date.** The first date upon which an Employee is credited with an Hour of Service following a Break in Service (or Period of Severance, if the Plan is using the Elapsed Time method of crediting service).

1.83 **Related Employer.** A Related Employer includes all members of a controlled group of corporations (as defined in Code §414(b)), all commonly controlled trades or businesses (as defined in Code §414(c)) or affiliated service groups (as defined in Code §414(m)) of which the Employer is a part, and any other entity required to be aggregated with the Employer pursuant to regulations under Code §414(o). For purposes of applying the provisions under this Plan, the Employer and any Related Employers are treated as a single Employer, unless specifically stated otherwise. See Section 16.06 for operating rules that apply when the Employer is a member of a Related Employer group. Also see Section 16 for rules regarding participation of Employees of Related Employers.

1.84 **Required Beginning Date.** The date by which minimum distributions must commence under the Plan. See Section 8.05(e).

1.85 **Rollover Contribution.** A contribution made by an Employee to the Plan attributable to an Eligible Rollover Distribution (as defined in Section 7.04(a)(1) from another qualified plan or IRA. See Section 3.05 for rules regarding the acceptance of Rollover Contributions under this Plan.

1.86 **Roth Deferrals.** Roth Deferrals are Salary Deferrals that are includible in the Participant's gross income at the time deferred and have been irrevocably designated as Roth Deferrals in the Participant's Salary Deferral Election. A Participant's Roth Deferrals will be maintained in a separate Account containing only the Participant's Roth Deferrals and gains and losses attributable to those Roth Deferrals. See Section 3.02(c)(2)(v).

1.87 **Salary Deferral Election.** An agreement between a Participant and the Employer, whereby the Participant elects to have a specific percentage or dollar amount withheld from his/her Plan Compensation, and the Employer agrees to contribute such amount into the Plan. A Salary Deferral Election may only be made if the Plan qualifies as a Grandfathered 401(k) Arrangement as designated under AA §2-3 of the Profit Sharing Plan Adoption Agreement. See Section 3.02(c)(2)(i).

1.88 **Salary Deferrals.** Amounts contributed under a Grandfathered 401(k) Arrangement at the election of the Participant, in lieu of cash compensation, which are made pursuant to a Salary Deferral Election or other deferral mechanism. Salary Deferrals include Roth Deferrals and Pre-Tax Deferrals. Salary Deferrals shall not include any amounts properly distributed as an Excess Amount under Code §415 pursuant to Section 5.02(c)(4). An Employee's Salary Deferrals are treated as employer contributions for all purposes under this Plan, except as otherwise provided under the Code or Treasury regulations. See Section 3.02(c)(2).

1.89 **Seasonal Employee.** An Employee who normally works on a full-time basis less than five months during any year.

1.90 **Short Plan Year.** Any Plan Year that is less than 12 months long, either because of the amendment of the Plan Year, or because the Effective Date of a new Plan is less than 12 months prior to the end of the first Plan Year.

1.91 **Spouse.** Subject to any additional guidance by the IRS, other Federal agency or court, or applicable State law, a Spouse is any individual who is lawfully married to the Participant under a state or foreign jurisdiction. However, a former Spouse of the Participant will be treated as the Spouse or surviving Spouse, and any current Spouse will not be treated as the Spouse or

surviving Spouse to the extent provided under a valid QDRO. The Plan Administrator may interpret the meaning of Spouse for purposes of this Plan as such term is applicable to Governmental Plans under the Code.

1.92 **Taxable Wage Base.** The maximum amount of wages taken into account for Social Security purposes. The Taxable Wage Base is used to determine the Integration Level for purposes of applying the permitted disparity allocation formula. See Section 3.02(a)(1)(i)(B) (Profit Sharing Plan) and Section 3.02(b)(2) (Money Purchase Plan).

1.93 **Temporary Employee.** Any Employee performing services under a contractual arrangement with the Employer of two years or less duration. Possible contract extensions may be considered in determining the duration of a contractual arrangement, but only if, under the facts and circumstances, there is a significant likelihood that the Employee's contract will be extended. Future contract extensions are considered significantly likely to occur for purposes of this rule if:

(a) on average 80 percent of similarly situated Employees have had bona fide offers to renew their contracts in the immediately preceding two academic or calendar years; or

(b) the Employee with respect to whom the determination is being made has a history of contract extensions with respect to his or her current position.

An Employee is not considered a Temporary Employee solely because he or she is included in a unit of Employees covered by a collective bargaining agreement of two years or less duration.

1.94 **Total Compensation.** A Participant's compensation for services with the Employer, as defined in this Section 1.94. Total Compensation may be defined in AA §5-1 to be either W-2 Wages, Wages under Code §3401(a), or Code §415 Compensation. Each definition of Total Compensation includes Elective Deferrals (as defined in Section 1.36), elective contributions to a cafeteria plan under Code §125 or to an eligible deferred compensation plan under Code §457, Employer Pick-Up Contributions under Code §414(h)(2), and elective contributions that are not includible in the Employee's gross income as a qualified transportation fringe under Code §132(f)(4).

(a) **Total Compensation definitions.** The Employer may elect under AA §5-1 to define Total Compensation as any of the following definitions:

(1) **W-2 Wages.** Wages within the meaning of Code §3401(a) and all other payments of compensation to an Employee by the Employer (in the course of the Employer's trade or business) for which the Employer is required to furnish the Employee a written statement under Code §6041(d), 6051(a)(3), and 6052, determined without regard to any rules under Code §3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed.

(2) **Wages under Code §3401(a).** Wages within the meaning of Code §3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed.

(3) **Code §415 Compensation.** Wages, salaries, fees for professional services and other amounts received for personal services actually rendered in the course of employment with the Employer (without regard to whether or not such amounts are paid in cash) to the extent that the amounts are includible in gross income, including amounts that are includible in the gross income of an Employee under the rules of Code §409A or §457(f)(1)(A) or because the amounts are constructively received by the Employee. Such amounts include, but are not limited to, commissions, compensation for services on the basis of a percentage of profits, tips, bonuses, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan (as described in Treas. Reg. §1.62-2(c)), and excluding the following:

(i) Employer contributions (other than elective contributions described in Code §402(e)(3), §408(k)(6), §408(p)(2)(A)(i), or §457(b)) to a plan of deferred compensation (including a SEP described in Code §408(k) or a SIMPLE IRA described in Code §408(p), and whether or not qualified) to the extent such contributions are not includible in the Employee's gross income for the taxable year in which contributed, and any distributions (whether or not includible in gross income when distributed) from a plan of deferred compensation (whether or not qualified);

(ii) Amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by the Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture.

(iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option.

(iv) Other amounts which received special tax benefits, or contributions made by the Employer (other than Elective Deferrals) towards the purchase of an annuity contract described in Code §403(b) (whether or not the contributions are actually excludable from the gross income of the Employee).

(b) **Post-severance compensation.** Effective for the first Limitation Year beginning on or after July 1, 2007, Total Compensation includes compensation that is paid after an Employee severs employment with the Employer, provided the compensation is paid by the later of 2½ months after severance from employment with the Employer maintaining the Plan or the end of the Limitation Year that includes such date of severance from employment. For this purpose, compensation paid after severance of employment may only be included in Total Compensation to the extent such amounts would have been included as compensation if they were paid prior to the Employee's severance from employment.

For purposes of applying this subsection (b), unless designated otherwise under AA §5-2(a), the following amounts that are paid after a Participant's severance of employment are included in Total Compensation:

(1) **Regular pay.** 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;

(2) **Unused leave payments.** Payment for unused accrued bona fide sick, vacation, or other leave, but only if the Employee would have been able to use the leave if employment had continued; and

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

Other post-severance payments (such as severance pay, parachute payments within the meaning of Code §280G(b)(2), or post-severance payments under a nonqualified unfunded deferred compensation plan that would not have been paid if the Employee had continued in employment) are not included as Total Compensation, even if such amounts are paid within the time period described in this subsection (b).

In determining the amount of a Participant's Employer Contributions, Matching Contributions or Salary Deferrals, Plan Compensation may not include any amounts that do not satisfy the requirements of this subsection (b) or subsection (c) below. If Total Compensation is defined to include post-severance compensation, the Employer may elect to exclude all such compensation paid after termination of employment from the definition of Plan Compensation under AA §5-3(j) or may elect to exclude any of the specific types of post-severance compensation defined in subsections (1), (2) and/or (3) above, by designating such compensation types under AA §5-3(l). The exclusion of post-severance compensation from the definition of Plan Compensation that is otherwise includible in Total Compensation may cause the Plan to fail the nondiscriminatory compensation rules under Treas. Reg. §1.414(s)-1.

(c) **Continuation payments for disabled Participants.** Unless designated otherwise under AA §5-2(b), Total Compensation does not include compensation paid to a Participant who is permanently and totally disabled (as defined in Code §22(e)(3)). If elected under AA §5-2(b), the Plan may take into account compensation the Participant would have received for the year if the Participant was paid at the rate of compensation paid immediately before becoming permanently and totally disabled (if such compensation is greater than the Participant's compensation determined without regard to this subsection (c)), provided contributions made with respect to amounts treated as compensation under this subsection (c) are nonforfeitable when made. If so elected under AA §5-2(b), payment to disabled Participants will be included as Total Compensation, notwithstanding the rules under subsection (b) above.

(d) **Deemed §125 compensation.** A reference to elective contributions under a Code §125 cafeteria plan includes any amounts that are not available to a participant in cash in lieu of group health coverage because the Participant is unable to certify that he or she has other health coverage. Such deemed §125 compensation will be treated as an amount under Code §125 only if the Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan. If the Employer elects under AA §5-3(i) to exclude deemed §125 compensation from the definition of Plan Compensation, such exclusion also will apply for purposes of determining Total Compensation under this Section 1.94.

(e) **Differential Pay.** Effective for years beginning on or after January 1, 2009, in the case of an individual who receives Differential Pay from the Employer:

(1) such individual will be treated as an Employee of the Employer making the payment, and

(2) the Differential Pay shall be treated as wages and will be included in calculating an Employee's Total Compensation under the Plan.

If all Employees performing service in the Uniformed Services are entitled to receive Differential Pay on reasonably equivalent terms and are eligible to make contributions based on the payments on reasonably equivalent terms, the Plan shall not be treated as failing to meet the requirements of any provision described in Code §414(u)(1)(C) by reason of any contribution or benefit based on Differential Pay. However, for purposes of applying this subparagraph, the provisions of Code §§410(b)(3), (4), and (5) shall apply. The Employer may elect to exclude Differential Pay from the definition of Plan Compensation under AA §5-3(k).

For purposes of this subsection (e), Differential Pay means any payment which is made by an Employer to an individual while the individual is performing service in the Uniformed Services while on active duty for a period of more than 30 days, and represents all or a portion of the wages the individual would have received from the Employer if the individual were performing services for the Employer. In applying the provisions of this subsection (e), Uniformed Services are services as described in Code §3401(h)(2)(A).

1.95 **Trust.** The Trust is the separate funding vehicle under the Plan.

1.96 **Trustee.** The Trustee is the person or persons (or any successor to such person or persons) identified in the Adoption Agreement or under a separate Trust document. The Trustee may be a Discretionary Trustee or a Directed Trustee. See Section 12 for the rights and duties of a Trustee under this Plan.

1.97 **Valuation Date.** The date or dates upon which Plan assets are valued. Plan assets will be valued as of the last day of each Plan Year. In addition, the Employer may elect under AA §11-1 to establish additional Valuation Dates. Notwithstanding any election under AA §11-1, Plan assets may be valued on a more frequent basis within the complete discretion of the Employer. See Section 10.02.

1.98 **Year of Service.** A Year of Service is a 12-consecutive month Computation Period during which an Employee completes 1,000 Hours of Service. For purposes of applying the eligibility rules under Section 2.03 of the Plan, an Employee will earn a Year of Service if he/she completes 1,000 Hours of Service with the Employer during an Eligibility Computation Period (as defined in Section 2.03(a)(3)). For purposes of applying the vesting rules under Section 6, an Employee will earn a Year of Service if he/she completes 1,000 Hours of Service with the Employer during a Vesting Computation Period (as defined in Section 6.05). The Employer may elect under AA §4-3(a) (for eligibility purposes) and AA §8-5(a) (for vesting purposes) to require the completion of any lesser number of Hours of Service to earn a Year of Service. Alternatively, the Employer may elect to apply the Elapsed Time method (for eligibility and/or vesting purposes) in calculating an Employee's Years of Service under the Plan.

SECTION 2
ELIGIBILITY AND PARTICIPATION

2.01 **Eligibility.** In order to participate in the Plan, an Employee must be an Eligible Employee (as defined in Section 2.02) and must satisfy the Plan's minimum age and service conditions (as defined in Section 2.03). Once an Employee satisfies the Plan's minimum age and service conditions, such Employee shall become a Participant on the appropriate Entry Date (as selected in AA §4-2). An Employee who meets the minimum age and service requirements set forth herein, but who is not an Eligible Employee, will be eligible to participate in the Plan only upon becoming an Eligible Employee. For purposes of determining eligibility to make Salary Deferrals, an Employee will be deemed to commence participation on a timely basis if the Employee is permitted to commence making Salary Deferrals as soon as administratively feasible after satisfying the eligibility conditions under the Plan.

2.02 **Eligible Employees.** Unless specifically excluded under AA §3-1 or under this Section 2.02, all Employees of the Employer are Eligible Employees. AA §3-1 lists various classes of Employees that may be excluded from Plan participation. If an Employee is not an Eligible Employee (e.g., such Employee is a member of a class of Employees excluded under AA §3-1), that individual may not participate under the Plan, unless he/she subsequently becomes an Eligible Employee.

(a) **Only Employees may participate in the Plan.** To participate in the Plan, an individual must be an Employee. If an individual is not an Employee (e.g., the individual performs services with the Employer as an independent contractor) such individual may not participate under the Plan. If an individual who is classified as a non-Employee is later determined by the Employer, or by a court or other government agency, to be an Employee of the Employer, the reclassification of such individual as an Employee will not create retroactive rights to participate in the Plan. Thus, for example, if the IRS or DOL should find that an independent contractor is really an Employee, such individual will be eligible to participate in the Plan as of the date the IRS or DOL issues a final determination declaring such individual to be an Employee (provided the individual has satisfied all conditions for participating in the Plan (as described in this Section 2)). For periods prior to the date of such final determination, the reclassified Employee will not have any rights to accrued benefits under the Plan, except as agreed to by the Employer, or mandated by a court or government agency, or as set forth in an amendment adopted by the Employer.

(b) **Excluded Employees.** The Employer may elect under AA §3-1 to exclude designated classes of Employees. Since a governmental plan is exempt from minimum coverage testing, the Employer may elect to exclude any class of Employees without subjecting the Plan to minimum coverage or nondiscrimination testing.

(1) **Collectively Bargained Employees.** The Employer may elect under AA §3-1(b) to exclude Collectively Bargained Employees. For this purpose, a Collectively Bargained Employee is an Employee who is included in a unit of Employees covered by a collective bargaining agreement between the Employer and Employee representatives and whose retirement benefits are subject to good faith bargaining.

(2) **Nonresident aliens.** The Employer may elect under AA §3-1(c) to exclude Employees who are nonresident aliens. For this purpose, a nonresident alien is neither a citizen of the United States nor a resident of the United States for U.S. tax purposes (as defined in Code §7701(b)), and who does not have any earned income (as defined in Code §911) for the Employer that constitutes U.S. source income (within the meaning of Code §861). If a nonresident alien Employee has U.S. source income, he/she is treated as satisfying this definition if all of his/her U.S. source income from the Employer is exempt from U.S. income tax under an applicable income tax treaty.

(3) **Leased Employees.** The Employer may elect under AA §3-1(d) to exclude Leased Employees. For this purpose, a Leased Employee is any person (other than an Employee of the Employer) who, pursuant to an agreement between the recipient Employer and a leasing organization, performs services for the recipient Employer on a substantially full-time basis for a period of at least one year, and such services are performed under the primary direction or control of the recipient Employer. (See Code §414(n) for rules applicable to the determination of Leased Employees.)

(c) **Employees of Related Employers.** If the Employer is a member of a Related Employer group, Employees of each member of the Related Employer group may participate under this Plan, provided the Related Employer executes a Participating Employer Adoption Page under the Adoption Agreement. If a Related Employer does not execute a Participating Employer Adoption Page, any Employees of such Related Employer are not eligible to participate in the Plan. See Section 16.06 for operating rules that apply when the Employer is a member of a Related Employer group. Also see Section 16 for rules regarding participation of Employees of Related Employers.

(d) **Ineligible Employee becomes Eligible Employee.** If an Employee changes status from an ineligible Employee to an Eligible Employee, such Employee will become a Participant immediately on the date he/she changes status to an Eligible Employee, provided the Employee has satisfied the Plan's minimum age and service conditions and has passed

the Entry Date (as defined in AA §4-2) that would otherwise have applied had the Employee been an Eligible Employee. If the Employee's original Entry Date (determined as if the Employee was always an Eligible Employee) has not passed as of the date the Employee becomes an Eligible Employee, the Employee will not become a Participant until such Entry Date. If an ineligible Employee has not satisfied the Plan's minimum age and service conditions at the time such Employee becomes an Eligible Employee, such Employee will become a Participant on the appropriate Entry Date following satisfaction of the Plan's minimum age and service requirements. The requirements for the timing of participation under this subsection (d) is deemed satisfied with respect to Salary Deferrals if the Employee is permitted to commence making Salary Deferrals under the Plan as soon as administratively feasible after the Employee is eligible to participate in the Plan.

(e) **Eligible Employee becomes ineligible Employee.** If an Employee ceases to qualify as an Eligible Employee (i.e., the Employee changes status from an eligible class to an ineligible class of Employees), such Employee will immediately cease to participate in the Plan. If such Employee should subsequently become an Eligible Employee, he/she will be able to participate in the Plan in accordance with subsection (d) above.

(f) **Improper exclusion of eligible Participant.** If the Plan improperly excludes a Participant who has satisfied the requirements under this Section 2 for participating under the Plan, the Employer may take reasonable action to correct such violation, provided such corrective action is consistent with the requirements of the Employee Plans Compliance Resolution System (EPCRS) program.

2.03 **Minimum Age and Service Conditions.** AA §4-1 contains specific elections as to the minimum age and service conditions which an Employee must satisfy prior to becoming eligible to participate under the Plan. A Governmental Plan is exempt from both the ERISA and pre-ERISA eligibility requirements. Therefore, the Plan may provide any minimum age and service requirements under AA §4-1 without the need to comply with the requirements of Code §410(a).

The Employer may elect to apply different minimum age and service requirements for different groups of Employees or for different contribution formulas under AA §4-1(c). In addition, the Employer may select different age and service conditions under AA §4-1 for Salary Deferrals, Matching Contributions, and/or Employer Contributions if the Plan qualifies as a Grandfathered 401(k) Arrangement.

(a) **Application of age and service conditions.** The Employer may elect under AA §4-1 to impose minimum age and service conditions that an Employee must satisfy in order to participate under the Plan.

(1) **Year of Service.** In applying the minimum service requirements under AA §4-1, unless designated otherwise under AA §4-3, an Employee will earn a Year of Service if the Employee completes at least 1,000 Hours of Service with the Employer during an Eligibility Computation Period (as defined in subsection (3) below). The Employer may modify the definition of Year of Service under AA §4-3(a) to require a different number of Hours of Service to earn a Year of Service. An Employee will receive credit for a Year of Service, as of the end of the Eligibility Computation Period during which the Employee completes the required Hours of Service needed to earn a Year of Service. Unless otherwise provided under AA §4-3, an Employee need not be employed for the entire Eligibility Computation Period to receive credit for a Year of Service, provided the Employee completes the required Hours of Service during such period.

(2) **Months of service.** The Employer may elect under AA§4-1(a) to require a specific number of Hours of Service during a designated number of months of employment. If an Employee is required under AA §4-1(a) to complete a certain number of Hours of Service during a designated period, an Employee generally will satisfy the eligibility conditions as of the end of the designated period, regardless of whether the Employee is employed during the entire period. Alternatively, the Employer may elect under AA §4-1(a)(3)(ii) to require an Employee to be employed continuously throughout the designated period provided the Employee is eligible to participate in the Plan upon completing a Year of Service as defined in subsection (1) above.

If an Employee does not complete the required Hours of Service during the designated period, or does not work continuously during the designated period, if required under AA §4-1(a)(3)(ii), the Employee will satisfy eligibility upon completion of a Year of Service as defined in subsection (1) above. For purposes of applying the Year of Service requirement, an Employee need not be employed during the entire measuring period as long as the Employee completes the required Hours of Service, as specified under subsection (1) above. For example, an Employee who is not employed throughout the designated period, if required under AA §4-1(a)(3)(ii), would still satisfy the eligibility conditions as of the end of the Eligibility Computation Period if the Employee completes a Year of Service, regardless of whether the Employee is employed during the entire period.

(3) **Eligibility Computation Periods.** Unless provided otherwise under AA §4-3, in determining whether an Employee has earned a Year of Service for eligibility purposes, an Employee's initial Eligibility Computation Period is the 12-month period beginning on the Employee's Employment Commencement Date. Subsequent

Eligibility Computation Periods will either be based on Plan Years or Anniversary Years (as set forth in AA §4-3).

(i) **Plan Years.** If the Employer elects under AA §4-3 to base subsequent Eligibility Computation Periods on Plan Years, the Plan will begin measuring Years of Service on the basis of Plan Years beginning with the first Plan Year commencing after the Employee's Employment Commencement Date. Thus, for the first Plan Year following the Employee's Employment Commencement Date, the initial Eligibility Computation Period and the first Plan Year Eligibility Computation Period may overlap.

(ii) **Anniversary Years.** If the Employer elects under AA §4-3(b) to base subsequent Eligibility Computation Periods on Anniversary Years, the Plan will measure Years of Service after the initial Eligibility Computation Period on the basis of 12-month periods commencing with the anniversaries of the Employee's Employment Commencement Date.

(iii) **Rehired Employee.** If an Employee is rehired following a Break in Service, the Employee's initial Eligibility Computation Period following the Employee's return to employment will be measured from the Employee's Reemployment Commencement Date. Subsequent Eligibility Computation Periods will be measured based on the Plan Year or anniversaries of the Reemployment Commencement Date, as designated under subsection (i) or (ii) above. For this purpose, an Employee's Reemployment Commencement Date is the first day the Employee is entitled to be credited with an Hour of Service after the first Eligibility Computation Period in which the Employee incurs a Break in Service.

(4) **Hours of Service.** In calculating an Employee's Hours of Service for purposes of applying the eligibility rules under this Section 2.03, the Employer will count the actual Hours of Service an Employee works during the year. (See Section 1.57 for the definition of Hour of Service). The Employer may elect under AA §4-3 to use an alternative method for crediting service, such as the Equivalency Method or Elapsed Time method (instead of counting the actual Hours of Service an Employee works). (See subsections (5) and (6) below for a description of the Equivalency Method and Elapsed Time method of crediting service.)

(5) **Equivalency Method.** Instead of counting actual Hours of Service in applying the minimum service conditions under this Section 2.03, the Employer may elect under AA §4-3(d) to determine Hours of Service based on the Equivalency Method. Under the Equivalency Method, an Employee receives credit for a specified number of Hours of Service based on the period worked with the Employer.

(i) **Monthly.** Under the monthly Equivalency Method, an Employee is credited with 190 Hours of Service for each calendar month during which the Employee completes at least one Hour of Service with the Employer.

(ii) **Daily.** Under the daily Equivalency Method, an Employee is credited with 10 Hours of Service for each day during which the Employee completes at least one Hour of Service with the Employer.

(iii) **Weekly.** Under the weekly Equivalency Method, an Employee is credited with 45 Hours of Service for each week during which the Employee completes at least one Hour of Service with the Employer.

(iv) **Semi-monthly.** Under the semi-monthly Equivalency Method, an Employee is credited with 95 Hours of Service for each semi-monthly period during which the Employee completes at least one Hour of Service with the Employer.

(v) **Other Equivalency Method.** The Employer may describe an alternative Equivalency Method in the Adoption Agreement, provided any description of an Equivalency Method is definitely determinable.

(6) **Elapsed Time method.** Instead of counting actual Hours of Service in applying the minimum service requirements under this Section 2.03, the Employer may elect under AA §4-3(c) to apply the Elapsed Time method for calculating an Employee's service with the Employer. Under the Elapsed Time method, an Employee receives credit for the aggregate period of time worked for the Employer commencing with the Employee's first day of employment (or reemployment, if applicable) and ending on the date the Employee terminates employment with the Employer. If an Employee's aggregate period of service includes fractional years, such fractional years are expressed in terms of days.

In calculating an Employee's aggregate period of service, the Employer may credit an Employee with service for any Period of Severance that lasts less than 12 consecutive months. For this purpose, a Period of Severance is any continuous period of time during which the Employee is not employed by the Employer. A Period of Severance begins on the date the Employee retires, quits or is discharged, or if earlier, the 12-month

anniversary of the date on which the Employee is first absent from service for a reason other than retirement, quit or discharge. In the case of an Employee who is absent from work for maternity or paternity reasons, the 12-consecutive month period beginning on the first anniversary of the first date of such absence shall not constitute a Period of Severance. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence

(i) by reason of the pregnancy of the Employee,

(ii) by reason of the birth of a child of the Employee,

(iii) by reason of the placement of a child with the Employee in connection with the adoption of such child by the Employee, or

(iv) for purposes of caring for a child of the Employee for a period beginning immediately following the birth or placement of such child.

(7) **Amendment of age and service requirements.** If the Plan's minimum age and service conditions are amended, the amendment may consider an Employee who is a Participant immediately prior to the effective date of the amendment as satisfying the amended requirements or may require all Employees to satisfy the amended minimum age and service conditions. If an Employee has not satisfied the minimum age and service conditions as of the effective date of the amendment, the Employee must satisfy the eligibility requirements as amended. This provision may be modified under the special Effective Date provisions under Appendix A of the Adoption Agreement or under a separate amendment implementing the updated minimum age and service provisions.

(i) **Change to Elapsed Time method.** If the service crediting method is changed from an Hours of Service method to the Elapsed Time method, the amount of service credited to an Employee will equal the sum of the service under subsections (A) and (B) below. For this purpose, a change in service crediting method will occur if the Plan is amended to change the service crediting method or if the service crediting method is changed as a result of an Employee's change in employment status.

(A) The number of Years of Service equal to the number of Years of Service credited under the Hours of Service method before the Eligibility Computation Period during which the change to the Elapsed Time method occurs.

(B) For the Eligibility Computation Period in which the change occurs, the greater of:

(I) the period of service that would be credited under the Elapsed Time method from the first day of that Eligibility Computation Period through the date of the change, or

(II) the service that would be taken into account under the Hours of Service method for the Eligibility Computation Period which includes the date of the change.

If the period of service described in subsection (I) is the greater amount, then subsequent periods of service are credited under the Elapsed Time method beginning with the date of the change. If the period of service described in subsection (II) applies, the Elapsed Time method will be used beginning with the first day of the Eligibility Computation Period that would have followed the Eligibility Computation Period in which the change to the Elapsed Time method occurred.

If the change to the Elapsed Time method occurs as of the first day of an Eligibility Computation Period, the use of the Elapsed Time method begins as of the date of the change, and the calculation in subsection (B) above does not apply. In such case, the Employee's service is determined under subsection (A) above plus the subsequent periods of service determined under the Elapsed Time method, starting with the effective date of the change.

(ii) **Change to Hours of Service method.** If the service crediting method is changed from the Elapsed Time method to an Hours of Service method, the Employee's Elapsed Time service earned as of the date of the change is converted into Years of Service under the Hours of Service method, determined as the sum of subsections (A) and (B), below. For this purpose, a change in service crediting method will occur if the Plan is amended to change the service crediting method or if the service crediting method is changed as a result of an Employee's change in employment status.

(A) A number of Years of Service is credited that equals the number of 1-year periods of service credited under the Elapsed Time method as of the date of the change.

(B) For the Eligibility Computation Period which includes the date of the change, the Employee is credited with an equivalent number of Hours of Service, using one of the Equivalency Methods defined in subsection (5) above for any fractional year that was credited under the Elapsed Time method as of the date of the change.

For the portion of the Eligibility Computation Period following the date of the change, actual Hours of Service are counted. The Hours of Service credited for the portion of the Eligibility Computation Period in which the Elapsed Time method was in effect are added to the actual Hours of Service credited for the remaining portion of the Eligibility Computation Period to determine if the Employee has a Year of Service for that Eligibility Computation Period.

(b) **Entry Dates.** Once an Eligible Employee satisfies the minimum age and service conditions (as set forth in AA §4-1), the Employee will be eligible to participate under the Plan as of his/her Entry Date (as set forth in AA §4-2). If the Employer adopts a Grandfathered 401(k) Arrangement as designated under AA §2-3 of the Profit Sharing Plan Adoption Agreement, the Employer may elect different Entry Dates with respect to Salary Deferrals, Matching Contributions, and Employer Contributions.

2.04 **Participation on Effective Date of Plan.** Unless designated otherwise under AA §4-4, an Eligible Employee who has satisfied the minimum age and service conditions and reached his/her Entry Date as of the Effective Date of the Plan will be eligible to participate in the Plan as of such Effective Date. If an Employee has satisfied the minimum age and service conditions as of the Effective Date of the Plan but has not yet reached his/her Entry Date, the Employee will be eligible to participate on the appropriate Entry Date. The Employer may modify this rule under AA §4-4 by electing to treat all Employees employed on the Effective Date of the Plan as Participants (regardless of whether they have satisfied the Plan's minimum age and service conditions) or by designating a specific date as of which all Eligible Employees will be deemed to be a Participant, (regardless of whether the Employee has otherwise satisfied the minimum age and service conditions).

2.05 **Rehired Employees.** Subject to the Break in Service rules under Section 2.07, if a terminated Employee is subsequently rehired, such Employee will be eligible to participate in the Plan on his/her reemployment date, if the Employee is an Eligible Employee and the Employee had satisfied the Plan's minimum age and service conditions prior to his/her termination of employment. If a rehired Employee had not satisfied the Plan's minimum age and service conditions prior to termination of employment, such Employee is eligible to participate in the Plan on the appropriate Entry Date following satisfaction of the eligibility requirements under this Section 2.

2.06 **Service with Predecessor Employers.** To the extent provided under AA §4-5, if the Employer maintains the plan of a Predecessor Employer, any service with such Predecessor Employer is treated as service with the Employer for purposes of applying the provisions of this Plan.

2.07 **Break in Service Rules.** Generally, an Employee will be credited with all service earned for the Employer, including service earned prior to the effective date of the Plan and service earned while the Employee is an ineligible Employee. However, the Employer may elect under AA §4-6 to disregard an Employee's service with the Employer under the Break in Service rules. For this purpose, an Employee incurs a Break in Service for any Eligibility Computation Period (as defined in Section 2.03(a)(3)) during which the Employee does not complete more than five hundred (500) Hours of Service with the Employer. However, if the Employer elects to require less than 1,000 Hours of Service to earn a Year of Service for eligibility purposes, a Break in Service will occur for any Eligibility Computation Period during which the Employee does not complete more than one-half (1/2) of the Hours of Service required to earn an eligibility Year of Service.

2.08 **Waiver of Participation.** An Employee may not waive participation under the Plan unless specifically permitted under AA §11-4. For this purpose, the mere failure to make Salary Deferrals or After-Tax Employee Contributions is not a waiver of participation. The Employer may elect under AA §11-4 to permit Employees to make a one-time irrevocable election to not participate under the Plan. The Employer may elect under AA §6-7(c)(2) to permit Employees to make a one-time irrevocable election to waive any Employer Pick-Up Contributions under the Plan.

SECTION 3
PLAN CONTRIBUTIONS

This Section 3 describes the type of contributions that may be made to the Plan. The type of contributions that may be made to the Plan and the method for allocating such contributions may vary depending on the type of Plan involved. (See Section 5 for a discussion of the limits that apply to any contributions made under the Plan.)

3.01 **Types of Contributions.** An Employer may designate under the Adoption Agreement the amount and type of contributions that may be made under the Plan. The Plan may provide for Employer Contributions (as authorized under AA §6) and, if so elected under AA §6-7, After-Tax Employee Contributions. In addition, the Profit Sharing Plan may provide for Matching Contributions with respect to any After-Tax Employee Contributions under the Plan or Elective Deferrals made under another plan maintained by the Employer. If the Plan qualifies as a Grandfathered 401(k) Arrangement (as designated under AA §2-3 of the Profit Sharing Plan Adoption Agreement, the Plan may provide for Salary Deferrals, Employer Contributions, Matching Contributions and After-Tax Employee Contributions.

To share in a contribution under the Plan, an Employee must satisfy all of the conditions for being a Participant (as described in Section 2) and must satisfy any allocation conditions (as described in Section 3.07) applicable to the particular type of contribution. The Employer may designate under AA §2-5 that the Plan is a frozen Plan. As a frozen Plan, the Employer will not make any Employer Contributions or Matching Contributions with respect to Plan Compensation earned after the date identified in AA §2-5 and no Participant will be permitted to make Salary Deferrals or Employee After-Tax Employee Contributions to the Plan for any period following the effective date of the freeze as identified in AA §2-5.

3.02 **Employer Contribution Formulas.** If permitted under AA §6, the Employer may make an Employer Contribution to the Plan, in accordance with the contribution formula selected under AA §6-2. Subsection (a) below describes the Employer Contributions that may be selected under the Profit Sharing Plan Adoption Agreement, subsection (b) below describes the Employer Contributions that may be made under the Money Purchase Plan Adoption Agreement and subsection (c) below describes the Employer Contributions that may be made under a Grandfathered 401(k) Arrangement. Since a governmental plan is exempt from the nondiscrimination requirements, the contribution formulas described in this Section 3.02 need not satisfy the nondiscrimination tests under Code §401(a)(4) or the regulations thereunder.

(a) **Contribution formulas (Profit Sharing Plan).** The Employer may elect under AA §6-2 of the Profit Sharing Plan Adoption Agreement to make any of the following Employer Contributions. If the Employer elects more than one Employer Contribution formula, each formula is applied separately. The Employer's aggregate Employer Contribution for a Plan Year will be the sum of the Employer Contributions under all such formulas. Any reference to the Adoption Agreement under this subsection (a) is a reference to the Profit Sharing Plan Adoption Agreement.

(1) **Employer Contributions.** An Employer may designate under AA §6 of the Profit Sharing Adoption Agreement the amount of Employer Contributions that may be made under the Plan. Any Employer Contributions selected under AA §6 will be made in accordance with the contribution formula selected under AA §6-2. Any Employer Contribution must be allocated in accordance with a definite allocation formula as set forth in AA §6-3. To receive an allocation of Employer Contributions, a Participant must satisfy any allocations conditions designated under the Plan, as described in Section 3.07 below.

In determining the amount of Employer Contributions to be allocated to Participants under the Plan, the Plan will take into account Plan Compensation (as defined in Section 1.75) for the Plan Year. The Employer may designate under AA §6-5(a) alternative periods for determining the allocation of Employer Contributions. If alternative periods are designated under AA §6-5(a), a Participant's allocation of Employer Contributions will be determined separately for each designated period based on Plan Compensation earned during such period. If an alternative period is designated under AA §6-5(a), the Employer need not actually make the Employer Contribution during the designated period, provided the total Employer Contribution for the Plan Year is allocated based on the proper Plan Compensation. (If the permitted disparity allocation method applies under AA §6-3(c), the allocation will be based on the Plan Year.)

If the Employer maintains any other qualified plan(s) which cover any Participants under this Plan, the Employer may elect under AA §6-5(c) to reduce such Participants' allocation under this Plan to take into account the benefits provided under the Employer's other qualified plan(s). The Employer describe how the offset will be applied under AA §6-5(c)(2).

(i) **Discretionary Employer Contribution.** If a discretionary contribution is selected under AA §6-2(a), the Employer may decide on an annual basis how much (if any) it wishes to contribute to the Plan as an Employer Contribution. If the Employer elects to make a discretionary contribution, such amount may be allocated under the pro rata, permitted disparity, Employee group, age-based or uniform points allocation method (as selected in AA §6-3).

(A) **Pro rata allocation formula**. Under the pro rata allocation formula, a pro rata share of the Employer Contribution is allocated to each Participant's Employer Contribution Account. A Participant's pro rata share may be determined based on the ratio such Participant's Plan Compensation bears to the total Plan Compensation of all Participants or as a uniform dollar amount, as designated in AA§6-3(a).

(B) **Permitted disparity allocation formula.** Under the permitted disparity allocation formula, the Employer Contribution is allocated to Participants' Employer Contribution Accounts using a two-step method. The Employer may not elect the permitted disparity allocation formula under the Plan if the Employer maintains another qualified plan, covering any of the same Employees, which uses permitted disparity in determining the allocation of contributions or the accrual of benefits under such plan.

(I) **Two-step method.** Under the two-step method, the discretionary Employer Contribution is allocated under the following method:

(a) **Step one.** The Employer Contribution is allocated to each Participant's Employer Contribution Account in the ratio that the sum of each Participant's Plan Compensation plus Excess Compensation (as defined in subsection (II) below) bears to the sum of the total Plan Compensation plus Excess Compensation of all Participants, but not in excess of the Maximum Disparity Rate (as defined in subsection (IV) below).

(b) **Step two.** Any Employer Contribution remaining after the allocation in subsection (a) above will be allocated in the ratio that each Participant's Plan Compensation bears to the total Plan Compensation of all Participants.

(II) **Excess Compensation.** The amount of Plan Compensation that exceeds the Integration Level.

(III) **Integration Level.** The Taxable Wage Base, unless specified otherwise under AA §6-3(c)(1).

(IV) **Maximum Disparity Rate.** The Maximum Disparity Rate is the maximum amount that may be allocated with respect to Excess Compensation. Unless provided otherwise under AA §6-3(c)(2), the maximum amount that may be allocated as a percentage of Plan Compensation and Excess Compensation under step one of the two-step allocation method under subsection (I) above, may not exceed the following percentage:

Integration Level (as a percentage of the Taxable Wage Base)	Maximum Disparity Rate
100%	5.7%
More than 80% but less than 100%	5.4%
More than 20% and not more than 80%	4.3%
20% or less	5.7%

The Employer may elect to apply a greater Maximum Disparity Rate under AA §6-3(c)(2).

(V) **Taxable Wage Base.** The maximum amount of wages that are considered for Social Security purposes as in effect at the beginning of the Plan Year.

(C) **Uniform points allocation.** Under the uniform points allocation, the Employer will allocate the discretionary Employer Contribution on the basis of each Participant's total points for the Plan Year, as determined under AA §6-3(d). A Participant's allocation of the Employer Contribution is determined by multiplying the Employer Contribution by a fraction, the numerator of which is the Participant's total points for the Plan Year and the denominator of which is the sum of the points for all Participants for the Plan Year.

A Participant will receive points for each year(s) of age and/or each Year(s) of Service designated under AA §6-3(d). In addition, a Participant also may receive points based on his/her Plan Compensation. Each Participant will receive the same number of points for each designated year of age and/or service and the same number of points for each designated level of Plan Compensation.

(D) **Employee group allocation.** Under the Employee group allocation method, the Employer may make a different discretionary contribution to each Participant's Employer Contribution Account based on the Employee allocation groups designated under AA §6-3(e). The Employer Contribution made for an allocation group will be allocated as a uniform percentage of Plan Compensation or as a uniform dollar amount. If the Employer Contribution is allocated as a percentage of Plan Compensation, the amount that will be allocated to each Participant within an allocation group is determined by multiplying the Employer Contribution made for that allocation group by the following fraction:

$$\frac{\text{Participant's Plan Compensation}}{\text{Plan Compensation of all Participants in the allocation group}}$$

Alternatively, the Employer may set forth in the description of the Employee groups under AA §6-3(e)(2) a fixed contribution amount for a designated Employee group. If a fixed contribution is provided for a specific Employee group, the amount designated as the fixed contribution will be allocated to each Participant within the designated Employee group.

The Employer must designate how much of the Employer Contribution is made for each of the Employee allocation groups and whether such amounts are allocated on the basis of Plan Compensation or as a uniform dollar amount. The portion of the Employer Contribution designated for a specific allocation group will be allocated only to Participants within that allocation group. If a Participant is in more than one allocation group during the Plan Year, the Participant will receive an Employer Contribution based on the Participant's status on the last day of the Plan Year. In the event a Participant is in two or more allocation groups on the last day of the Plan Year, the Participant will receive an Employer Contribution based on the first allocation group listed under AA §6-3(e)(2) in which the Participant is a part. The Employer can provide for a different treatment of Employees in multiple groups under AA §6-3(e)(3)(i).

(E) **Age-based allocation formula.** Under the age-based allocation formula, the Employer will allocate the discretionary Employer Contribution on the basis of each Participant's adjusted Plan Compensation. For this purpose, a Participant's adjusted Plan Compensation is determined by multiplying the Participant's Plan Compensation by an Actuarial Factor. A Participant's Actuarial Factor is determined based on standard actuarial assumptions using a testing age that is the later of Normal Retirement Age or the Employee's current age. Unless designated otherwise under AA §6-3(f), a Participant's Actuarial Factor is determined based on an 8.5% interest rate and the UP-1984 mortality table. (See Appendix A of the Plan for the Actuarial Factors associated with an 8.5% interest rate and the UP-1984 mortality table and a testing age of 65. If an interest rate other than 8.5% or a mortality table other than the UP-1984 mortality table is selected under AA §6-3(f), or if a testing age other than age 65 is used, the Plan must determine the appropriate Actuarial Factors based on the designated interest rate, mortality table and testing age.)

(ii) **Fixed Employer Contribution.** The Employer may elect under AA §6-2(b) to make a fixed contribution to the Plan. The Employer may elect under AA §6-2(b)(1) or (2) to make a fixed contribution as a designated percentage of Plan Compensation or as a uniform dollar amount. If a fixed contribution is selected under AA §6-2(b)(1) or (2), the Employer Contribution will be allocated under the fixed contribution formula under AA §6-3(b) in accordance with the selections made in AA §6-2(b).

(iii) **Service-based Employer Contribution.** If elected in AA §6-2(d), the Employer may make a contribution based on an Employee's service with the Employer during the Plan Year (or other period designated under AA §6-5(a)). The Employer may elect to make the service-based contribution as a discretionary contribution or as a fixed contribution. Any such contribution will be allocated on the basis of Participants' Hours of Service, weeks of employment or other measuring period selected under AA §6-2(d). The Employer Contribution will be allocated under the service-based allocation formula under AA §6-3(g).

(iv) **Contributions of Accrued Sick/Vacation Leave.** The Employer may elect under AA §6-4 to provide Employer Contributions of accrued sick and/or vacation leave, provided the following requirements are satisfied:

(A) The leave converted under the arrangement can only be accrued unpaid leave;

(B) The leave converted can only be sick and/or vacation leave;

(C) The Employer designates how often the conversions occur;

(D) The eligibility requirements for participation in the plan cannot be such that an Employee becomes a Participant only in the plan year in which the Employee terminates employment;

(E) The only accrued unpaid leave which can be converted under the arrangement must only be leave for which the Employee has no right to request a cash payment;

(F) The leave conversion formula can only be one which involves multiplying an Employee's current daily rate of pay against the amount of accrued unpaid leave being converted; and

(G) The leave conversion formula is definitely determinable.

(2) **Frozen Plan.** The Employer may designate under AA §2-5 that the Plan is a frozen Plan. As a frozen Plan, the Employer will not make any Employer Contributions with respect to Plan Compensation earned after the date identified in AA §2-5. If the Plan holds any unallocated forfeitures at the time the Plan is frozen, such forfeitures may be allocated to all eligible Participants in accordance with Section 6.11 in the year the Plan is frozen, regardless of any contrary selections under AA §8-7.

(b) **Employer Contribution formulas (Money Purchase Plan).** The Employer may elect under AA §6 of the Money Purchase Plan Adoption Agreement to make any of the following Employer Contributions. Each Participant will receive an allocation of Employer Contributions equal to the amount determined under the contribution formula elected under AA §6-2. Any reference to the Adoption Agreement under this subsection (b) is a reference to the Money Purchase Plan Adoption Agreement. To receive an allocation of Employer Contributions, a Participant must satisfy any allocation conditions designated under the Plan, as described in Section 3.07 below.

In determining the amount of Employer Contributions to be allocated to Participants under the Plan, the Plan will take into account Plan Compensation (as defined in Section 1.75) for the Plan Year. The Employer may designate under AA §6-4 alternative periods for determining the allocation of Employer Contributions. If alternative periods are designated under AA §6-4, a Participant's allocation of Employer Contributions will be determined separately for each designated period based on Plan Compensation earned during such period. If an alternative period is designated under AA §6-4, the Employer need not actually make the Employer Contribution during the designated period, provided the total Employer Contribution for the Plan Year is allocated based on the proper Plan Compensation. (If the permitted disparity allocation method applies under AA §6-2(c), the allocation will be based on the Plan Year.)

If the Employer maintains any other qualified plan(s) which cover any Participants under this Plan, the Employer may elect under AA §6-3(b) to reduce such Participants' allocation under this Plan to take into account the benefits provided under the Employer's other qualified plan(s). The Employer may describe under AA §6-3(b)(2) how the offset will be applied.

(1) **Uniform Employer Contribution.** If elected under AA §6-2(a), the Employer will make a contribution to each Participant under the Plan as a uniform percentage of Plan Compensation or as a uniform dollar amount, as designated in AA§6-2(a).

(2) **Permitted disparity contribution formula.** If elected under AA §6-2(c), the Employer will make a permitted disparity contribution to each Participant using either the individual or group method. The Employer may not elect the permitted disparity contribution formula under the Plan if the Employer maintains another qualified plan, covering any of the same Employees, which uses permitted disparity in determining the allocation of contributions or the accrual of benefits under such plan.

(i) **Individual method.** Under the individual method, each Participant will receive an allocation of the Employer Contribution equal to the amount determined under the contribution formula under AA §6-2(c)(1). A Participant may not receive an allocation with respect to Excess Compensation that exceeds the Maximum Disparity Rate.

(A) **Excess Compensation.** The amount of Plan Compensation that exceeds the Integration Level.

(B) **Integration Level.** The Taxable Wage Base, unless specified otherwise under AA §6-2(c)(3).

(C) **Maximum Disparity Rate.** The Maximum Disparity Rate is the maximum amount that may be allocated with respect to Excess Compensation under the permitted disparity formula. Unless provided otherwise under AA §6-2(c)(3), the maximum amount that may be allocated as a percentage of Plan Compensation and Excess Compensation is the following percentage:

Integration Level (as a percentage of the Taxable Wage Base)	Maximum Disparity Rate
100%	5.7%
More than 80% but less than 100%	5.4%
More than 20% and not more than 80%	4.3%
20% or less	5.7%

The Employer may elect to apply a greater Maximum Disparity Rate under AA §6-2(c)(3)(ii).

(D) **Taxable Wage Base.** The maximum amount of wages that are considered for Social Security purposes as in effect at the beginning of the Plan Year.

(ii) **Group method.** Under the group method, the Employer contributes a fixed percentage of total Plan Compensation of all Participants. The Employer Contribution is then allocated under the two-step method (as described in subsection (a)(1)(i)(B)(I) above). In determining Excess Compensation, the Integration Level is the Taxable Wage Base, unless designated otherwise under AA §6-2(c)(3).

(3) **Employee group contribution formula.** Under the Employee group contribution formula, the Employer may make a different contribution to each Participant's Employer Contribution Account based on the designated Employee groups identified under AA §6-2(d).

The Employer Contribution made for a designated Employee group will be allocated to each eligible Participant in such group as a uniform percentage of Plan Compensation or as a uniform dollar amount, as designated in AA §6-2(d)(2). The Employer also may elect to allocate an amount to each eligible Participant in a designated Employee group the maximum amount permissible under Code §415. See Section 5.02.

The Employee groups designated in AA §6-2(d) must be clearly defined in a manner that will not violate the definite determinable requirement of Treas. Reg. §1.401-1(b)(1)(ii). The portion of the Employer Contribution designated for a specific Employee group will be allocated only to Participants within that group. If a Participant is in more than one Employee group during the Plan Year, the Participant will receive an Employer Contribution based on the Participant's status on the last day of the Plan Year. In the event a Participant is in two or more Employee groups on the last day of the Plan Year, the Participant will receive an Employer Contribution based on the first Employee group listed under AA §6-2(d) in which the Participant is a part. The Employer can provide for a different treatment of Employees in multiple groups as part of the group description in AA §6-2(d)(1).

(4) **Age-based contribution formula.** Under the age-based contribution formula, the Employer will contribute a specific percentage of each Participant's adjusted Plan Compensation. For this purpose, a Participant's adjusted Plan Compensation is determined by multiplying the Participant's Plan Compensation by an Actuarial Factor. A Participant's Actuarial Factor must be determined based on standard actuarial assumptions using a testing age that is the later of Normal Retirement Age or the Employee's current age. Unless designated otherwise under AA §6-2(e), a Participant's Actuarial Factor is determined based on an 8.5% interest rate and the UP-1984 mortality table. (See Appendix A of the Plan for the Actuarial Factors associated with an 8.5% interest rate and the UP-1984 mortality table and a testing age of 65. If an interest rate other than 8.5% or a mortality table other than the UP-1984 mortality table is selected under AA §6-2(e), or if a testing age other than age 65 is used, the Plan must determine the appropriate Actuarial Factors based on the designated interest rate, mortality table and testing age.)

(5) **Service-based Employer Contribution.** If elected in AA §6-2(f), the Employer will make a contribution based on an Employee's service with the Employer during the Plan Year (or other period designated under AA §6-4.)

The Employer Contribution will be allocated on the basis of Participants' Hours of Service, weeks of employment or other measuring period selected under AA §6-2(f).

(6) **Frozen Plan.** The Employer may designate under AA §2-5 that the Plan is a frozen Plan. As a frozen Plan, the Employer will not make any Employer Contributions with respect to Plan Compensation earned after the date identified in AA §2-5. If the Plan holds any unallocated forfeitures at the time of the termination, such forfeitures may be allocated to all eligible Participants in accordance with Section 6.11 in the year of the termination, regardless of any contrary selections under AA §8-7.

(c) **Contribution formulas (Grandfathered 401(k) Plan).** If the Employer is eligible to maintain a Grandfathered 401(k) Arrangement (as defined under AA §2-3), the Employer may elect under the Adoption Agreement to make Employer Contributions, Matching Contributions and/or Salary Deferrals. Any reference to the Adoption Agreement under this subsection (c) is a reference to the Grandfathered 401(k) Plan Adoption Agreement.

(1) **Employer Contributions.** An Employer may designate under AA §6 of the Grandfathered 401(k) Plan Adoption Agreement the amount of Employer Contributions that may be made under the Plan. The same rules apply with respect to Employer Contributions under the Grandfathered 401(k) Arrangement as apply under the Profit Sharing Plan, as set forth under subsection (a), above. If the Employer elects more than one Employer Contribution formula, each formula is applied separately. The Employer's aggregate Employer Contribution for a Plan Year will be the sum of the Employer Contributions under all such formulas.

(2) **Salary Deferrals.** The Employer may elect under AA §6A of the Grandfathered 401(k) Plan Adoption Agreement to authorize Participants to make Salary Deferrals under the Plan. A Participant's total Salary Deferrals may not exceed the lesser of any limitation designated under AA §6A-2, the Elective Deferral Dollar Limit described under Section 5.03, or the amount permitted under the Code §415 Limitation described under Section 5.02. The Employer may elect under AA §6A-2(b) of the Grandfathered 401(k) Plan Adoption Agreement to apply a different limit on Salary Deferrals to the extent such Salary Deferrals are withheld from a Participant's bonus payments.

(i) **Salary Deferral Election.** In order to make Salary Deferrals under the Plan, a Participant must enter into a Salary Deferral Election which authorizes the Employer to withhold a specific dollar amount or a specific percentage from the Participant's Plan Compensation. The Salary Deferral Election may permit a Participant to specify a different percentage or dollar amount be withheld from specified components of Plan Compensation, such as base pay, bonuses, commissions, etc. In addition, the Salary Deferral Election may provide the conditions on which an Employee's affirmative Salary Deferral Election will expire. If an Employee's Salary Deferral Election expires, such Employee can always complete a new affirmative election and designate a new deferral percentage. If the Plan is not an Automatic Contribution Arrangement and an Employee's affirmative election expires, the Salary Deferral Election may provide that the Employee's expiring deferral election remains in effect and may increase by a designated amount unless the Employee affirmatively elects otherwise. The Employer will deposit any amounts withheld from a Participant's Plan Compensation as Salary Deferrals into the Participant's Salary Deferral Account under the Plan. A Salary Deferral Election may only relate to Plan Compensation that is not currently available at the time the Salary Deferral Election is completed. In determining the amount to be withheld from a Participant's Plan Compensation, a Salary Deferral election may be rounded to the next highest or lowest whole dollar amount.

The Employer may designate under AA §6A-8 of the Grandfathered 401(k) Plan Adoption Agreement to apply a special effective date as of which Participants may begin making Salary Deferrals under the Plan. Regardless of any special effective date designated under AA §6A-8, a Salary Deferral Election may not be effective prior to the later of:

(A) the date the Employee becomes a Participant;

(B) the date the Participant executes the Salary Deferral Election; or

(C) the date the Plan is first adopted or effective.

In addition, Salary Deferrals made pursuant to a Salary Deferral Election may not be made earlier than the date the Participant performs the services to which such Salary Deferrals relate or the date the compensation subject to such Salary Deferral Election would be currently available to the Participant absent the deferral election (if earlier). Regardless of when a Participant elects to commence making Salary Deferrals, the Employer may delay commencement for a reasonable period of time in order to implement the Salary Deferral election.

A Salary Deferral Election is valid even though it is executed by an Employee before he/she actually has qualified as a Participant, so long as the Salary Deferral Election is not effective before the date the Employee is a Participant.

(ii) **Change in deferral election.** An Employee must be permitted to enter into a new Salary Deferral Election or to modify or terminate an existing Salary Deferral Election at least once a year. The Employer may designate additional dates on the Salary Deferral Election form (or other written procedures) as to when a Participant may modify or terminate a Salary Deferral Election Any election to modify or terminate a Salary Deferral Election will take effect within a reasonable period following such election and will apply only on a prospective basis. The Employer may allow an Employee to increase his/her deferral election up to the Elective Deferral Dollar Limit at any time during the last two months of the Plan Year.

(iii) **Automatic Contribution Arrangement.** The Employer may elect under AA §6A-7 of the Grandfathered 401(k) Plan Adoption Agreement to provide for an automatic deferral election under the Plan. If the Employer elects to apply an automatic deferral election, the Employer will automatically withhold the amount designated under AA §6A-7 from Participants' Plan Compensation, unless the Participant completes a Salary Deferral Election electing a different deferral amount (including a zero deferral amount). Unless provided otherwise under AA §6A-7, an Employee who is automatically enrolled under a prior plan document will continue to be automatically enrolled under the current Plan document.

(A) **Automatic increase.** The Plan may provide under AA §6A-7 of the Grandfathered 401(k) Plan Adoption Agreement that the automatic deferral amount will automatically increase by a designated percentage each Plan Year. Unless designated otherwise under AA §6A-7(a)(4), in applying any automatic deferral increase under AA §6A-7, the initial deferral amount will apply for the period that begins when the employee first participates in the automatic contribution arrangement and ends on the last day of the following Plan Year. The automatic increase will apply for each Plan Year beginning with the Plan Year immediately following the initial deferral period and for each subsequent Plan Year.

(B) **Annual notice requirement.** Each eligible Employee must receive a written notice describing the Participant's rights and obligations under the Plan which is sufficiently accurate and comprehensive to apprise the Employee of such rights and obligations and is written in a manner calculated to be understood by the average Plan Participant. The annual notice only needs to be provided to those Employees who are covered under the Automatic Contribution Arrangement. If it is impractical to provide the annual notice to a newly eligible Participant before the date such individual becomes eligible to participate under the Plan, the notice will be treated as timely if it is provided as soon as practicable after such date and the Employee is permitted to defer from Plan Compensation earned beginning on the date of participation.

(C) **Timing of annual notice.** The annual notice must be provided within a reasonable period before the beginning of each Plan Year (or, in the year an Employee becomes an eligible Employee, within a reasonable period before the Employee becomes an eligible Employee). In addition, a notice satisfies the timing requirements only if it is provided sufficiently early so that the Employee has a reasonable period of time after receipt of the notice and before the first Salary Deferral made under the arrangement to make an alternative deferral election. The annual notice will be deemed timely if it is provided to each eligible Employee at least 30 days (and no more than 90 days) before the beginning of each Plan Year. In the case of an Employee who does not receive the notice within such period because the Employee becomes an eligible Employee after the 90th day before the beginning of the Plan Year, the timing requirement is deemed to be satisfied if the notice is provided no more than 90 days before the Employee becomes an eligible Employee (and no later than the date the Employee becomes an eligible Employee).

(D) **Timing of automatic deferral.** Generally, the automatic deferral will commence as of the date the Employee is otherwise eligible to make Salary Deferrals under the Plan, if the Employee had completed a Salary Deferral Election. However, an automatic deferral will be treated as timely if the deferral is made pursuant to reasonable administrative procedures established by the Plan Administrator. If the Plan provides an Employee with a written notice as described in Section 3.03(c)(2)(i)(D) above no later than 30 days after his/her Entry Date, provides the Employee with the opportunity to make an affirmative Salary Deferral Election up to 30 days after the notice is provided, and, in the absence of the Employee's affirmative Salary Deferral Election, provides

that automatic deferrals will commence as soon as administratively practicable following the last day of the 30 day period, then the Plan will be treated as having a reasonable administrative procedure.

(E) **Permissible Withdrawals.** If so elected under AA §6A-7(b) of the Grandfathered 401(k) Plan Adoption Agreement, effective for Plan Years beginning on or after January 1, 2008, any Employee who has Salary Deferrals contributed to the Plan pursuant to an automatic deferral election may elect to withdraw such contributions (and earnings attributable thereto) in accordance with the requirements of this subsection (E). A permissible withdrawal under this subsection (E) may be made without regard to any elections under AA §10 and will not cause the Plan to fail the prohibition on in-service distribution applicable to Salary Deferrals under Section 7.10(c).

(I) **Amount of distribution.** A distribution satisfies the requirement of this subsection (E) if the distribution is equal to the amount of Salary Deferrals made pursuant to the automatic deferral election through the effective date of the withdrawal election (as described in subsection (III) below) adjusted for allocable gains and losses as of the date of the distribution.

The distribution amount determined under this subsection (I) may be reduced by any generally applicable fees. However, the Plan may not charge a greater fee for a permissible distribution under this subsection (E) than applies with respect to other Plan distributions.

(II) **Timing of permissive withdrawal election.** An election to withdraw Salary Deferrals under this subsection (E) must be made no later than 90 days after the date of the first default Salary Deferral. The date of the first default Salary Deferral is the date that the Plan Compensation from which such Salary Deferrals are withheld would otherwise have been included in gross income. The Employer may designate an alternative period for making permissive withdrawals under AA §6A-7(b)(3).

(III) **Effective date of permissible withdrawal.** The effective date of a permissible withdrawal election cannot be later than the pay date for the second payroll period that begins after the election is made or, if earlier, the first pay date that occurs at least 30 days after the election is made. If an Employee does not make automatic deferrals to the Plan for an entire Plan Year (e.g., due to termination of employment), the Plan may allow such Employee to take a permissive withdrawal, but only with respect to default contributions made after the Employee's return to employment.

(IV) **Consequences of permissible withdrawal.** Any amount distributed under this subsection (E) is includible in the Employee's gross income for the taxable year in which the distribution is made. However, the portion of any distribution consisting of Roth Deferrals is not included in an Employee's gross income a second time. In addition, a permissible withdrawal under this subsection (E) is not subject to any penalty tax under Code §72(t). Unless the Employee affirmatively elects otherwise, any withdrawal request will be treated as an affirmative election to stop having Salary Deferrals made on the Employee's behalf as of the date specified in subsection (III) above.

(iv) **Catch-Up Contributions.** If permitted under AA §6A-4 of the Grandfathered 401(k) Plan Adoption Agreement, a Participant who is aged 50 or over by the end of his/her taxable year beginning in the calendar year may make Catch-Up Contributions, provided such Catch-Up Contributions are in excess of an otherwise applicable limit under the Plan. For this purpose, an otherwise applicable Plan limit is a limit in the Plan that applies to Salary Deferrals without regard to Catch-up Contributions, such as a Plan-imposed Salary Deferral limit under AA §6A-2, the Code §415 Limitation (described in Section 5.02), or the Elective Deferral Dollar Limit (described in Section 5.03).

(A) **Catch-Up Contribution Limit.** Catch-up Contributions for a Participant for a taxable year may not exceed the Catch-Up Contribution Limit. The Catch-Up Contribution Limit for taxable years beginning in 2010 through 2014 is $5,500. For taxable years beginning after 2014, the Catch-Up Contribution Limit will be adjusted for cost-of-living increases under Code §414(v)(2)(C). The Employer may operationally limit Catch-Up Contributions so that a Participant's total Catch-Up Contributions, when added to other Salary Deferrals, may not exceed 75 percent of the Participant's Plan Compensation for the taxable year.

(B) **Special treatment of Catch-Up Contributions.** Catch-up Contributions are not subject to the Elective Deferral Dollar Limit or the Code §415 Limitation.

(v) **Roth Deferrals.** For Plan Years beginning on or after January 1, 2006, if permitted under AA §6A-5 of the Grandfathered 401(k) Plan Adoption Agreement, a Participant may designate all or a portion of his/her Salary Deferrals as Roth Deferrals. For this purpose, a Roth Deferral is a Salary Deferral that satisfies the following conditions.

(A) **Irrevocable election.** The Participant makes an irrevocable election (at the time the Participant enters into his/her Salary Deferral Election) designating all or a portion of his/her Salary Deferrals as Roth Deferrals. The irrevocable election applies with respect to Salary Deferrals that are made pursuant to such election. A Participant may modify or change a Salary Deferral Election to increase or decrease the amount of Salary Deferrals designated as Roth Deferrals, provided such change or modification applies only with respect to Salary Deferrals made after such change or modification. (See subsection (ii) above for rules regarding the timing of permissible changes or modifications to a Participant's Salary Deferral Election.)

(B) **Subject to immediate taxation.** To the extent a Participant designates all or a portion of his/her Salary Deferrals as Roth Deferrals, such amounts will be includible in the Participant's income at the time the Participant would have received the contribution amounts in cash if the Employee had not made the Salary Deferral election.

(C) **Separate account.** Any amounts designated as Roth Deferrals will be maintained by the Plan in a separate Roth Deferral Account. The Plan will credit and debit all contributions and withdrawals of Roth Deferrals to such separate Account. The Plan will separately allocate gains, losses, and other credits and charges to the Roth Deferral Account on a reasonable basis that is consistent with such allocations for other Accounts under the Plan. However, in no event may the Plan allocate forfeitures under the Plan to the Roth Deferral Account. The Plan will separately track Participants' accumulated Roth Deferrals and the earnings on such amounts.

(D) **Satisfaction of Salary Deferral requirements.** Roth Deferrals are subject to the same requirements as apply to Salary Deferrals. Thus Roth Deferrals are subject to the following requirements:

(I) Roth Deferrals are always 100% vested, as provided in Section 6.01.

(II) Roth Deferrals are subject to the Elective Deferral Dollar Limit, as described in Section 5.03. For this purpose, all Salary Deferrals (both Pre-Tax Salary Deferrals and Roth Deferrals) are aggregated in applying the Elective Deferral Dollar Limit.

(III) Roth Deferrals are subject to the same distribution restrictions as apply to Salary Deferrals under Section 7.10(c). See Section 7.11(b) for special distribution provisions applicable to Roth Deferrals.

(IV) Roth Deferrals are subject to the required minimum distribution requirements under Code §401(a)(9), as set forth in Section 8.

(E) **Rollover of Roth Deferrals.**

(I) **Rollovers from this Plan.** For purposes of the rollover rules under Section 7.0404, a Direct Rollover of a distribution from a Participant's Roth Deferral Account will only be made to another Roth Deferral Account under a qualified plan described in Code §401(a) or an annuity contract or custodial account described in Code §403(b) or to a Roth IRA described in §408A, and only to the extent the rollover is permitted under the rules of Code §402(c).

(II) **Rollovers to this Plan.** Subject to the provisions under Section 3.05, a Participant may make a Rollover Contribution to his/her Roth Deferral Account only if the rollover is a Direct Rollover from another Roth Deferral Account under a qualified retirement plan (as described in Section 3.05) and only to the extent the rollover is permitted under the rules of Code §402(c). A rollover of Roth Deferrals may not be made to this Plan from a Roth

IRA. Any rollover of Roth Deferrals to this Plan will be held in a separate Roth Rollover Account.

(III) **Minimum rollover amount.** The Plan Administrator may decide whether or not to provide for a Direct Rollover (including an Automatic Rollover) for distributions from a Participant's Roth Deferral Account if it is reasonably expected (at the time of the distribution) that the total amount the Participant will receive as a distribution during the calendar year will total less than $200. In addition, the Plan Administrator may decide whether or not to take into account any distribution from a Participant's Roth Deferral Account in determining whether distributions from a Participant's other Accounts are reasonably expected to total less than $200 during a year. For purposes of applying the Automatic Rollover provisions under Section 8.06, a Participant's Roth Deferral Account and the Participant's other Accounts are treated as accounts held under separate plans. (See Treas. Reg. §1.401(k)-1(f)(4)(ii).)

(IV) **Separate treatment of Roth Deferrals.** The provisions under Section 7.0404 that allow a Participant to elect a Direct Rollover of only a portion of an Eligible Rollover Distribution, but only if the amount rolled over is at least $500, is applied by treating any amount distributed from the Participant's Roth Deferral Account as a separate distribution from any amount distributed from the Participant's other Accounts in the Plan, even if the amounts are distributed at the same time.

(vi) **In-Plan Roth Conversions.** Effective on or after January 1, 2013, the Employer may elect under AA §6A-5(c) of the Profit Sharing/401(k) Plan Adoption Agreement to permit In-Plan Roth Conversions under the Plan. For this purpose, an In-Plan Roth Conversion is a conversion of amounts held in a Participant's Plan Account, other than a Roth Deferral Account or Roth Rollover Account, into the Participant's In-Plan Roth Conversion Account under the Plan, pursuant to Code §402A(c)(4). Any election to make an In-Plan Roth Conversion during a taxable year may not be changed after the In-Plan Roth Conversion is completed. (For In-Plan Roth Conversions completed prior to January 1. 2013, a Participant had to be eligible to receive a distribution of the converted amounts at the time of the In-Plan Roth Conversion. The provisions of this Section 3.03(c)(vi) do not affect an In-Plan Roth Conversion completed prior to January 1, 2013.)

An In-Plan Roth Conversion may be elected by a Participant, a Spousal beneficiary, or an Alternate Payee who is a Spouse or former Spouse. To the extent the term "Participant" is used for purposes of determining eligibility to make an In-Plan Roth Conversion, such term will also include a Spousal beneficiary and an Alternate Payee who is a Spouse or former Spouse.

(A) **Amounts Eligible for In-Plan Roth Conversion.** If permitted under AA §6A-5(c) of the Profit Sharing/401(k) Adoption Agreement, a Participant may convert any portion of his/her vested Account Balance (other than amounts attributable to Roth Deferrals or Roth Deferral rollovers) to an In-Plan Roth Conversion Account. Unless elected otherwise under AA §6A-5(c), a Participant need not be eligible to receive a distribution from the Plan at the time of the In-Plan Roth Conversion.

In addition, an In-Plan Roth Conversion will not be treated as a distribution for the following purposes:

(I) **Participant loans.** A Participant loan directly transferred in an In-Plan Roth Conversion without changing the repayment schedule is not treated as a new loan.

(II) **Spousal consent.** An In-Plan Roth Conversion is not treated as a distribution for purposes of applying the spousal consent requirements under Code §401(a)(11). Thus, a married Plan Participant is not required to obtain spousal consent in connection with an election to make an In-Plan Roth Conversion, even if the Plan is otherwise subject to the spousal consent requirements under Code §401(a)(11).

(III) **Participant consent.** An In-Plan Roth Conversion is not treated as a distribution for purposes of applying the participant consent requirements under Code §411(a)(11). Thus, amounts that are converted as part of an In-Plan Roth Conversion continue to be taken into account in determining whether the Participant's vested Account Balance exceeds $5,000 for purposes of applying the Involuntary Cash-Out provisions and will not trigger the requirement for a notice of the Participant's right to defer receipt of the distribution.

(IV) **Mandatory withholding.** An In-Plan Roth Conversion is not subject to 20% mandatory withholding under Code §3405(c).

(V) **Distribution restrictions.** Generally, a distribution will be permitted from the In-Plan Roth Conversion Account to the extent permitted for regular Roth Deferrals under AA §10-1. The distribution restrictions normally applicable to Roth Deferrals, as described in Section 7.10(c) of the Plan, do not apply to the extent the conversion is from a contribution source that is not otherwise subject to the distribution restrictions applicable to Roth Deferrals. In addition, distribution restrictions that otherwise apply with respect to a specific contribution source will continue to apply if such contribution source is converted to Roth Deferrals. For example, if Traditional Safe Harbor Contributions are converted to Roth Deferrals, such amounts may not be distributed on account of hardship or other event not otherwise permitted under Section 7.10(c) of the Plan, unless permitted otherwise under IRS guidance.

(B) **Effect of In-Plan Roth Conversion.** A Participant must include in gross income the taxable amount of an In-Plan Roth Conversion. For this purpose, the taxable amount of an In-Plan Roth Conversion is the fair market value of the distribution, reduced by any basis in the converted amounts. If the distribution includes Employer securities, the fair market value includes any net unrealized appreciation within the meaning of Code §402(e)(4). If an outstanding loan is rolled over as part of an In-Plan Roth Conversion, the amount includible in gross income includes the balance of the loan.

Generally, the taxable amount of an In-Plan Roth Conversion is includible in gross income in the taxable year in which the conversion occurs.

(C) **Application of Early Distribution Penalty under Code §72(t).** An In-Plan Roth Conversion is not subject to the early distribution penalty under Code §72(t) at the time of the conversion. However, if an amount allocable to the taxable amount of an In-Plan Roth Conversion is subsequently distributed within the 5-taxable-year period beginning with the first day of the Participant's taxable year in which the conversion was made, the amount distributed is treated as includible in gross income for purposes of applying the Code §72(t) early distribution penalty. For this purpose, the 5-taxable-year period ends on the last day of the Participant's fifth taxable year in the period. This subsection (C) will not apply to the extent the distribution is rolled over to a Roth account in another qualified plan or is rolled over to a Roth IRA. However, the rule under this subsection (C) will apply to any subsequent distributions made from such other Roth account or Roth IRA within the 5-taxable-year period.

(D) **Contribution Sources.** Unless elected otherwise under AA §6A-5(c), an In-Plan Roth Conversion may be made from any contribution source under the Plan, other than a Roth Deferral Account or Roth Rollover Account. The Employer may elect in AA §6A-5(c) to limit the contribution sources that are eligible for In-Plan Roth Conversion. In addition, the Employer may elect in AA §6A-5(c) to limit In-Plan Roth Conversions to contribution accounts that are 100% vested.

(3) **Matching Contributions.** The Employer may elect under AA §6B of the Grandfathered 401(k) Plan Adoption Agreement to authorize Matching Contributions under the Plan. If the Employer elects more than one Matching Contribution formula under AA §6B-2, each formula is applied separately. A Participant's aggregate Matching Contributions will be the sum of the Matching Contributions under all such formulas. Any Matching Contribution made under the Plan will be allocated to Participants' Matching Contribution Account. To receive an allocation of Matching Contributions, a Participant must satisfy any allocations conditions designated under the Plan, as described in Section 3.07 below.

(i) **Contributions eligible for Matching Contributions.** The Matching Contribution formula(s) apply to Salary Deferrals, Catch-Up Contributions, After-Tax Employee Contributions and/or Employer Pick-Up Contributions made under the Plan, to the extent authorized under the Adoption Agreement. In addition, the Employer may elect under AA §6B-3(b) to match Elective Deferrals under another qualified plan, 403(b) plan or 457(b) plan maintained by the Employer. If the Employer elects to make a Matching Contribution based on the Employee's Elective Deferrals or Roth Deferrals under another qualified plan, 403(b) plan or 457(b) plan, the Employer shall make a Matching Contribution on behalf of any eligible Participant who makes Elective Deferrals or Roth Deferrals to the plan designated under AA §6B-3(b). Any such Matching Contribution made to the Plan will be allocated in accordance with any special

provisions added under AA §6B-3(b). Any such Matching Contributions will be in addition to any Matching Contributions made with respect to Salary Deferrals, After-Tax Employee Contributions, Catch-Up Contributions and/or Employer Pick-Up Contributions under this Plan.

(ii) **Period for determining Matching Contributions.** AA §6B-5 sets forth the period for which the Matching Contribution formula(s) applies. For this purpose, the period designated in AA §6B-5 applies for purposes of determining the amount of Salary Deferrals, Catch-Up Contributions, After-Tax Employee Contributions, and/or Employer Pick-Up Contributions taken into account in applying the Matching Contribution formula(s) and in applying any limits on the amount of Salary Deferrals that may be taken into account under the Matching Contribution formula(s). (See subsection (iii) below for rules applicable to true-up contributions where the Employer contributes Matching Contributions to the Plan on a different period than selected under AA §6B-5.)

If the Employer elects a discretionary Matching Contribution under the Plan, the Employer may elect to make a different Matching Contribution for each period for which Matching Contributions are determined under the Plan. Thus, for example, if the discretionary Matching Contribution is based on the Plan Year quarter, the Employer may elect to make a different level of Matching Contribution for each Plan Year quarter. The Matching Contribution for the full Plan Year must be taken into account in applying the ACP Test with respect to such Plan Year.

(iii) **True-up contributions.** If the Employer makes Matching Contributions more frequently than annually, the Employer may need to make true-up contributions for Participants. True-up contributions will be required if the Employer actually contributes Matching Contributions to the Plan on a more frequent basis than the period that is used to determine the amount of the Matching Contributions under AA §6B-5. For example, if Matching Contributions apply with respect to Salary Deferrals made for the Plan Year, but the Employer contributes the Matching Contributions on a quarterly basis, the Employer may have to make a true-up contribution to any Participant based on Salary Deferrals for the Plan Year. If a true-up contribution is required under this subsection (iii), the Employer may make such additional contribution as required to satisfy the contribution requirements under the Plan. If true-up contributions will not be made for any Participant under the Plan, payroll period should be selected under AA §6B-5(a).

If Matching Contributions are determined on a period other than the Plan Year, the Employer may make an additional discretionary Matching Contribution equal to the true-up contribution that would otherwise be required if Matching Contributions were determined on a Plan Year basis. If an additional discretionary Matching Contribution is made under this subsection (iii), such contribution must be provided to all eligible Participants who would otherwise be entitled to a true-up contribution based on Plan Compensation for the Plan Year.

3.03 **Employer Pick-Up Contributions.** The Employer may elect under AA §6-7(c) to make Employer Pick-Up Contributions. An Employer Pick-Up Contribution is a contribution made by an Employee that is "picked up" by the Employer in accordance with Code §414(h)(2). If the Employer elects to provide Employer Pick-Up Contributions under AA §6-7(c), a Participant who meets the eligibility requirements of AA §4-1 shall be deemed to have authorized the Employer to deduct the amount designated under AA §-6-7(c) from the Participant's Plan Compensation prior to payment. Contributions picked-up under this Section 3.03 will be withheld from the Employee's compensation and deposited into the Participant's Employer Pick-up Contribution Account. Contributions that are picked up under this Section 3.03 will be treated as Employer Contributions under the Plan and such contributions and earnings thereon will be 100% vested at all times.

To constitute an Employer Pick-up Contribution under this Section 3.03, the Employer must:

(a) specify that the contributions, although designated as Employee contributions, are being paid by the Employer in lieu of contributions by the Employee;

(b) take the action necessary to effectuate the pick-up, which must be completed before the period to which such contributions relate;

(c) exclude from the Employee's gross income the contributions picked up by the Employer until such time as they are distributed to the Employee; and

(d) prohibit an Employee from opting out of the Employer Pick-up Contribution and prohibit the receipt of the contributed amounts directly instead of having them paid by the Employer to the Plan.

To satisfy the requirements of this Section 3.03, the Employer Pick-Up Contributions must be effectuated by a person duly authorized to take such action with respect to the Employer and must be evidenced by a contemporaneous written document,

such as minutes from a meeting, a resolution, an ordinance or this Plan document. Any Participating Employee may not enter into a cash or deferred election (within the meaning of Treas. Reg. § 1.401(k)-1(a)(3)) with respect to the designated Employee contributions, at any time from or after the date of the implementation of the Employer Pick-Up Contribution. For example, a Participant may not opt out of the Employer Pick-Up Contribution or receive the contributed amounts directly instead of having them paid by the Employer into the Plan.

3.04 **After-Tax Employee Contributions.** The Employer may elect under AA §6-7 to allow Participants to make After-Tax Employee Contributions under the Plan. If permitted under AA §6-7, a Participant's compensation will be reduced by the amount the Participant elects to contribute as an After-Tax Employee Contribution. The After-Tax Employee Contributions may be Voluntary After-Tax Employee Contributions, as designated under AA §6-7(a), or may be Mandatory After-Tax Employee Contributions, as designated under AA §6-7(b). Any After-Tax Employee Contributions made under the Plan will be held in Participants' After-Tax Employee Contribution Account, which is always 100% vested.

A Participant's election to change or resume an after-tax election will be effective as set forth under the After-Tax Employee Contributions election form or other written procedures adopted by the Plan Administrator. An Employee must be permitted to modify or terminate an existing After-Tax Employee Contribution election at least once a year. The Employer may designate additional dates on the After-Tax Employee Contribution election form (or other written procedures) as to when a Participant may commence, modify or terminate After-Tax Employee Contributions. Any election to modify or terminate an After-Tax Employee Contribution election will take effect within a reasonable period following such election and will apply only on a prospective basis.

A Participant may withdraw amounts from his/her After-Tax Employee Contribution Account at any time, in accordance with the distribution rules under Section 7.10(a), except as otherwise provided under AA §10. No forfeitures will occur solely as a result of an Employee's withdrawal of After-Tax Employee Contributions. The Employer may collect Participants' After-Tax Employee Contributions using payroll reduction or other collection procedures. The Employer may designate in the Adoption Agreement or in separate administrative procedures any special rules regarding the acceptance of After-Tax Employee Contributions. Any separate procedures will apply uniformly to all Participants under the Plan.

3.05 **Rollover Contributions.** An Employee (or former Employee) may make a Rollover Contribution to this Plan from a qualified retirement plan or from an IRA, if the acceptance of rollovers is permitted under AA §C-2 or if the Plan Administrator adopts administrative procedures regarding the acceptance of Rollover Contributions. Subject to the provisions under Section 3.02(c)(2)(v)(E) relating to rollovers of Roth Deferrals, any Rollover Contribution an Employee (or former Employee) makes to this Plan will be held in the Employee's Rollover Contribution Account, which is always 100% vested. A Participant may withdraw amounts from his/her Rollover Contribution Account at any time, in accordance with the distribution rules under Section 7, except as prohibited under AA §10. Any amounts received as a Rollover Contribution under this Section 3.05 will not be treated as an Annual Addition for purposes of applying the Code §415 Limitation described in Section 5.02.

For purposes of this Section 3.05, a qualified retirement plan is a tax-qualified retirement plan described in Code §401(a) or Code §403(a), an annuity contract described in §403(b) of the Code, or an eligible plan under §457(b) of the Code 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. To qualify as a Rollover Contribution under this Section, the Rollover Contribution must be transferred directly from the qualified retirement plan or IRA in a Direct Rollover or must be transferred to the Plan by the Employee within the requisite period of time for Rollover Contributions from the qualified plan or IRA.

The Plan Administrator may accept any Rollover Contribution that satisfies the requirements, including the time period to make Rollover Contributions, under Code §402(c) and applicable IRS regulations and other guidance. Thus, for example, the Plan Administrator may accept a Rollover Contribution as provided under Revenue Procedure 2016-47 relating to the waiver of the 60-day rollover period and acceptable self-certification by an Employee and the Plan may accept a Rollover Contribution of qualified plan loan offset amounts within the applicable time period.

If permitted under AA §C-2 or other administrative procedures, an Employee (or former Employee) may make a Rollover Contribution to the Plan even if the Employee is not a Participant with respect to any or all other contributions under the Plan. An Employee who makes a Rollover Contribution to this Plan prior to becoming a Participant shall be treated as a Participant only with respect to such Rollover Contribution Account, but shall not be treated as a Participant with respect to other contribution sources under the Plan until he/she otherwise satisfies the eligibility conditions under the Plan. To the extent Participant loans are authorized under the Plan, a "limited Participant" under this paragraph may request a Participant loan from the Rollover Contribution Account, unless provided otherwise under AA §B-3 or separate administrative procedures adopted by the Plan Administrator.

The Plan Administrator may refuse to accept a Rollover Contribution if the Plan Administrator reasonably believes the Rollover Contribution:

(a) is not being made from a proper plan or IRA;

(b) is not being made within sixty (60) days from receipt of the amounts from a qualified retirement plan or IRA;

(c) could jeopardize the tax-exempt status of the Plan; or

(d) could create adverse tax consequences for the Plan or the Employer.

Prior to accepting a Rollover Contribution, the Plan Administrator may require the Employee to provide satisfactory evidence establishing that the Rollover Contribution meets the requirements of this Section.

If the Plan accepts an invalid Rollover Contribution, the contribution will be treated, for purposes of applying the qualification requirements of Code §401(a) to the Plan, as if it were a valid Rollover Contribution if two conditions are satisfied:

(a) When accepting the amount from the Employee as a Rollover Contribution, the Plan Administrator must reasonably conclude that the contribution is a valid Rollover Contribution; and

(b) If the Plan Administrator later determines that the contribution was an invalid Rollover Contribution, the Plan Administrator must distribute the amount of the invalid Rollover Contribution, plus any earnings attributable thereto, to the Employee within a reasonable time after such determination.

The Plan Administrator may use the criteria set forth in IRS Revenue Ruling 2014-9, as well as other evidence, in reasonably determining whether a Rollover Contribution is valid. Thus, the Plan Administrator may access the EFAST2 database maintained by the Department of Labor to assist in determining whether a potential Rollover Contribution was distributed by a plan intended to be a qualified plan. If the Plan Administrator later determines that the Rollover Contribution was not valid, the Plan Administrator must have the amount rolled over plus any attributable earnings distributed within a reasonable period of time after such determination.

The Plan Administrator may apply different conditions for accepting Rollover Contributions from qualified retirement plans and IRAs. For example, the Plan Administrator may decide in its discretion whether to accept a Direct Rollover of a loan note from another qualified plan. Any conditions on Rollover Contributions must be applied uniformly to all Employees under the Plan.

3.06 **Deductible Employee Contributions.** The Plan Administrator will not accept deductible employee contributions that are made for a taxable year beginning after December 31, 1986. Contributions made prior to that date will be maintained in a separate Account which will be nonforfeitable at all times. The Account will share in the gains and losses under the Plan in the same manner as described in Section 10.03(d). No part of the deductible voluntary contribution Account will be used to purchase life insurance. The Participant may withdraw any part of the deductible voluntary contribution Account by making a written application to the Plan Administrator.

3.07 **Allocation Conditions.** In order to receive an allocation of Employer Contributions and/or Matching Contributions, a Participant must satisfy any allocation conditions designated under the Adoption Agreement with respect to such contributions. If the Employer elects to apply a minimum service requirement for Employer Contributions and/or Matching Contributions, the Employer may elect to base such minimum service requirement on the basis of Hours of Service or on the basis of consecutive days of employment under the Elapsed Time method.

(a) **Special rule for year of Plan termination.** A last day employment condition automatically applies for any Plan Year in which the Plan is terminated, regardless of whether the Employer has elected to apply a last day employment condition under the Adoption Agreement. Thus, the Employer will not be obligated to make an Employer Contribution or Matching Contribution for the Plan Year in which the Plan terminates, unless the Employer provides for an Employer Contribution and/or Matching Contribution in its termination amendment. If there are unallocated forfeitures at the time of Plan termination, such forfeitures will be allocated to Participants under the Plan's procedures for allocating forfeitures.

(b) **Service with Predecessor Employers.** To the extent provided by the Employer under AA §4-5, if the Employer maintains the plan of a Predecessor Employer, any service with such Predecessor Employer is treated as service with the Employer for purposes of applying the allocation conditions under this Section 3.07.

3.08 **Contribution of Property.** Subject to the consent of the Trustee, the Employer may make its contribution to the Plan in the form of property.

SECTION 4
SPECIAL RULES AFFECTING GOVERNMENTAL PLANS AND INDIAN TRIBAL GOVERNMENT PLANS

4.01 **Governmental Plan.** Provided the Plan is properly adopted by an entity that meets the requirements for establishing and maintaining a Governmental Plan under Code §414(d), this Plan is a qualified plan under Code §401(a).

(a) **Governmental Plan exemptions.** As a Governmental Plan, this Plan is exempt from Title I of ERISA and certain qualification rules under Code §401(a), including:

(1) The minimum age and service rules under Code §410(a) and the minimum coverage rules under Code §410(b).

(2) The minimum vesting requirements of Code §411, including minimum vesting schedules, consent requirements for plan distributions, and the anti-cutback rule under Code §411(d)(6).

(3) The nondiscrimination requirements under Code §§401(a)(4), 401(k) and 401(m).

(4) The top-heavy rules under Code §416.

(5) The joint and survivor annuity rules under Code §§401(a)(11) and 417.

(6) The requirements for protecting benefits pursuant to a plan merger or a transfer of plan assets and liabilities, as prescribed by Code §401(a)(12).

(7) The anti-assignment rule under Code §401(a)(13). However, the Code provisions relating to the taxability of benefits distributed pursuant to a Qualified Domestic Relations Order (QDRO) are applicable to benefits payable to an alternate payee under the QDRO. See Code §414(p)(11).

(8) The commencement of benefit requirements under Code §401(a)(14).

(9) The protections under Code §401(a)(19).

(b) **Adoption Agreement elections.** An Employer's election of provisions similar to requirements applicable to plans covered under Title I of ERISA, or to otherwise inapplicable qualification requirements under Code §401(a), will not affect the Plan's status as a Governmental Plan under Section 1.54. Provided the Employer is qualified to maintain a Governmental Plan, the Plan remains exempt from ERISA and certain Code requirements as a Governmental Plan.

4.02 **Plan of Indian Tribal Government Treated as Governmental Plan.** A Plan established and maintained by:

(a) an Indian Tribal Government, as defined in Code §7701(a)(40);

(b) a subdivision of an Indian Tribal Government, determined in accordance with Code §7871(d); or

(c) an agency or instrumentality of either subsection (a) or (b) above

is treated as a Governmental Plan, provided the conditions in this Section 4.02 are satisfied.

To qualify as a Governmental Plan, the Plan must cover only Employees substantially all of whose services are in the performance of essential government functions, but not in the performance of commercial activities (whether or not essential government functions). The interpretation of these conditions, including the meaning of essential government function and commercial activities, is determined under applicable regulations. Provided the requirements of this Section 4.02 are satisfied, the Plan may include a cash or deferred arrangement as provided under Code §401(k).

4.03 **FICA Replacement Plan,** An Employee who satisfies the requirements as a Qualified Participant under subsection (b) below will be exempt from FICA tax as provided under Code §3121(b)(7)(F) if the requirements under this Section 4.03 are satisfied. The Plan may be identified as a FICA Replacement Plan under AA §2-3.

(a) **Minimum benefit requirement.** The Plan must provide a minimum retirement benefit as set forth under this subsection (a). For this purpose, the Plan satisfies the minimum retirement benefit requirement with respect to an Employee if allocations to the Employee's Account (without regard to any earnings allocated to the Employee's Account) are at least 7.5% of the Employee's Plan Compensation for service with the Employer. Matching Contributions by the Employer may be taken into account for this purpose.

(1) **Definition of Plan Compensation.** The definition of Plan Compensation used in determining whether the minimum retirement benefit requirement under this subsection (a) is satisfied must be at least equal to the Employee's base pay, provided such designation is reasonable under all the facts and circumstances. Thus, the Employer may elect under AA §5-3 to exclude items such as overtime pay, bonuses, or fringe benefits. In addition, the Employer may elect under AA §5-3(l) to exclude any compensation in excess of the contribution base described in Code §3121(x) as of the beginning of the Plan Year.

(2) **Reasonable rate of earnings.** An Employee's Account must be credited with a reasonable rate of earnings. This requirement is satisfied if Employees' Accounts are held in a separate trust that is subject to general fiduciary standards and are credited with actual earnings under the Plan.

(3) **Employee Contributions.** Contributions from both the Employer and Employee may be used to make up the 7.5% allocation requirement under this subsection (a). If the Plan only provides for Employee Contributions, the Plan will satisfy the minimum benefit requirement under this subsection (a) if the total Employee Contributions are at least 7.5% of Plan Compensation.

(b) **Qualified Participant.** An Employee is a Qualified Participant under the Plan with respect to the services performed on a given day if, on that day, the Employee has satisfied all conditions (other than vesting) for receiving an allocation under the Plan that meets the minimum retirement benefit requirement under subsection (a) above. An Employee will be a Qualified Participant on any day with respect to compensation earned during a period ending on that day and beginning on or after the beginning of the Plan Year, regardless of whether the allocations were made or accrued before the effective date of Code §3121(b)(7)(F).

(1) **Part-Time, Seasonal and Temporary Employees.** A Part-Time, Seasonal, or Temporary Employee is not a Qualified Participant on a given day unless any benefit relied upon to meet the minimum benefit requirement under subsection (a) above is 100% vested. A Part-Time, Seasonal or Temporary Employee's benefit is considered 100% vested on a given day if on that day the Employee is unconditionally entitled to a single-sum distribution on account of death or separation from service of an amount that is at least equal to 7.5% of Plan Compensation for all periods of service taken into account in determining whether the Employee's benefit meets the minimum retirement benefit requirement under subsection (a) above.

(2) **Alternative lookback rule.** The Employer may elect to apply the alternative lookback rule described in Treas. Reg. §31.3121(b)(7)-2(d)(3) in determining whether an Employee is a Qualified Participant. Under the alternative lookback rule, an Employee may be treated as a Qualified Participant throughout a calendar year if the Employee is a Qualified Participant at the end of the Plan Year ending in the previous calendar year. For this purpose, if the alternative lookback rule is used, an Employee may be treated as a Qualified Participant on any given day during the first Plan Year of participation if it is reasonable on such day to believe that the Employee will be a Qualified Participant on the last day of such Plan Year.

(c) **Special rule for short period**. An Employee may not be treated as a Qualified Participant if Plan Compensation for less than a full plan year or other 12-month period is regularly taken into account in determining allocations to the Employee's Account for the Plan Year unless, under all of the facts and circumstances, such arrangement is not a device to avoid the imposition of FICA taxes. For example, an arrangement under which Plan Compensation taken into account under AA §5-3 is limited to the contribution base described in section 3121(x)(1) is not considered a device to avoid FICA taxes by reason of such limitation.

SECTION 5
LIMITS ON CONTRIBUTIONS

5.01 **Limits on Employer Contributions.** Any contributions the Employer makes under the Plan are subject to the limitations set forth in this Section 5.

(a) **Limitation on total Employer Contributions.** All Employer Contributions the Employer makes under the Plan are subject to the Code §415 Limitation, as described in Section 5.02 below. For purposes of applying the Code §415 Limitation, Employer Contributions include any Employer Contributions, Matching Contributions, or Salary Deferrals made under the Plan. See the definition of Annual Additions under Section 5.02(c)(1) below.

(b) **Limitation on Salary Deferrals.** If the Employer adopts the Grandfathered 401(k) Arrangement, any Salary Deferrals made under the Plan are subject to the Elective Deferral Dollar Limit, as described in Section 5.03 below.

5.02 **Code §415 Limitation.**

(a) **No other plan participation.** If the Participant does not participate in, and has never participated in, another qualified retirement plan, a welfare benefit fund (as defined under Code §419(e)), an individual medical account (as defined under Code §415(l)(2)), or a SEP (as defined under Code §408(k)) maintained by the Employer which provides an Annual Addition as defined in subsection (c)(1) below, then the amount of Annual Additions which may be credited to the Participant's Account for any Limitation Year will not exceed the lesser of the Maximum Permissible Amount or any other limitation contained in this Plan.

If an Employer Contribution that would otherwise be contributed or allocated to a Participant's Account will cause that Participant's Annual Additions for the Limitation Year to exceed the Maximum Permissible Amount, the amount to be contributed or allocated to such Participant will be reduced so that the Annual Additions allocated to such Participant's Account for the Limitation Year will equal the Maximum Permissible Amount. However, if a contribution or allocation is made to a Participant's Account in an amount that exceeds the Maximum Permissible Amount, such excess Annual Additions may be corrected pursuant to the correction procedures outlined under the IRS' Employee Plans Compliance Resolution System (EPCRS) as set forth in Rev. Proc. 2013-12.

(b) **Participation in another plan.** This subsection (b) applies if, in addition to this Plan, the Participant receives an Annual Addition during any Limitation Year from another Defined Contribution Plan, a welfare benefit fund (as defined under Code §419(e)), an individual medical account (as defined under Code §415(l)(2)), or a SEP (as defined under Code §408(k)) maintained by the Employer.

(1) **This Plan's Code §415 Limitation.** The Annual Additions that may be credited to a Participant's Account under this Plan for any Limitation Year will not exceed the Maximum Permissible Amount (defined in subsection (c)(6) below), reduced by the Annual Additions credited to a Participant's Account under any other Defined Contribution Plan, welfare benefit fund, individual medical account, or SEP maintained by the Employer for the same Limitation Year.

(2) **Annual Additions reduction.** If the Annual Additions with respect to the Participant under any other Defined Contribution Plan, welfare benefit fund, individual medical account, or SEP maintained by the Employer are less than the Maximum Permissible Amount and the Annual Additions that would otherwise be contributed or allocated to the Participant's Account under this Plan would exceed the Code §415 Limitation for the Limitation Year, the amount contributed or allocated will be reduced so that the Annual Additions under all such Plans and funds for the Limitation Year will equal the Maximum Permissible Amount. However, if a contribution or allocation is made to a Participant's Account in an amount that exceeds the Maximum Permissible Amount, such excess Annual Additions may be corrected pursuant to the correction procedures outlined under the IRS' Employee Plans Compliance Resolution System (EPCRS) as set forth in Rev. Proc. 2013-12.

(3) **No Annual Additions permitted.** If the Annual Additions with respect to the Participant under such other Defined Contribution Plan(s), welfare benefit fund(s), individual medical account(s), or SEP(s), in the aggregate are equal to or greater than the Maximum Permissible Amount, no amount will be contributed or allocated to the Participant's Account under this Plan for the Limitation Year. However, if a contribution or allocation is made to a Participant's Account in an amount that exceeds the Maximum Permissible Amount, such excess Annual Additions may be corrected pursuant to the correction procedures outlined under the IRS' Employee Plans Compliance Resolution System (EPCRS) as set forth in Rev. Proc. 2013-12.

(c) Definitions.

(1) **Annual Additions.** The amounts credited to a Participant's Account for the Limitation Year that are taken into account in applying the Code §415 Limitation, including:

(i) Employer Contributions, including Matching Contributions, Salary Deferrals and Employer Pick-Up Contributions;

(ii) After-Tax Employee Contributions;

(iii) Forfeitures;

(iv) Amounts allocated to an individual medical account (as defined in Code §415(l)(2)), which is part of a pension or annuity plan maintained by the Employer;

(v) Amounts derived from contributions paid or accrued which are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Code §419A(d)(3)) under a welfare benefit fund (as defined in Code §419(e)) maintained by the Employer; and

(vi) Allocations under a SEP (as defined in Code §408(k)).

An Annual Addition is credited to a Participant's Account for a particular Limitation Year if such amount is allocated to the Participant's Account as of any date within that Limitation Year. An Annual Addition will not be deemed credited to a Participant's Account for a particular Limitation Year unless such amount is actually contributed to the Plan no later than the 15th day of the tenth calendar month following the end of the calendar year or fiscal year (as applicable, depending on the basis on which the Employer keeps its books) with or within which the particular Limitation Year ends. In the case of After-Tax Employee Contributions, such amount shall not be deemed credited to a Participant's Account for a particular Limitation Year unless the contributions are actually contributed to the Plan no later than 30 days after the close of that Limitation Year.

(2) **Defined Contribution Dollar Limitation.** $40,000, as adjusted under Code §415(d). For 2019, the Defined Contribution Dollar Limit is $56,000.

(3) **Employer.** For purposes of this Section 5.02, Employer shall mean the Employer that adopts this Plan, and all members of a controlled group of corporations (as defined in §414(b) of the Code, as modified by §415(h)), all commonly controlled trades or businesses (as defined in §414(c) of the Code, as modified by §415(h)) or affiliated service groups (as defined in §414(m)) of which the adopting Employer is a part, and any other entity required to be aggregated with the Employer pursuant to regulations under §414(o) of the Code.

(4) **Excess Amount.** The excess of the Participant's Annual Additions for the Limitation Year over the Maximum Permissible Amount.

(5) **Limitation Year.** The Plan Year, unless the Employer elects another 12-consecutive month period under AA §11-2(a). If the Limitation Year is amended to a different 12-consecutive month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made. If the Plan has an initial Plan Year that is less than 12 months, the Limitation Year for such first Plan Year is the 12-month period ending on the last day of that Plan Year, unless otherwise specified in AA §11-2(a).

If an Employer has multiple Limitation Years (e.g., due to the maintenance of multiple Defined Contribution Plans by a group of Related Employers), and a Participant is credited with Annual Additions in only one Defined Contribution Plan, the Code §415 Limitation is applied only with respect to that Plan. If a Participant is credited with Annual Additions in more than one Defined Contribution Plan, each such Plan satisfies the Code §415 Limitation based on Annual Additions for the Limitation Year with respect to such plan, plus any amounts credited to the Participant's Account under all other plans required to be aggregated pursuant to Code §415(f).

(6) **Maximum Permissible Amount.** The maximum Annual Additions that may be contributed or allocated to a Participant's Account under the Plan for any Limitation Year shall not exceed the lesser of:

(i) the Defined Contribution Dollar Limitation; or

(ii) 100 percent of the Participant's Total Compensation for the Limitation Year.

The Total Compensation limitation referred to in subsection (ii) above shall not apply to any contribution for

medical benefits (within the meaning of Code §401(h) or §419A(f)(2)) which is otherwise treated as an Annual Addition.

If a short Limitation Year is created because of an amendment changing the Limitation Year to a different 12-consecutive month period, the Maximum Permissible Amount will not exceed the Defined Contribution Dollar Limitation multiplied by the following fraction:

$$\frac{\text{Number of months in the short Limitation Year}}{12}$$

If a short Limitation Year is created because the Plan has an *initial* Plan Year that is less than 12 months, no proration of the Defined Contribution Dollar Limitation is required, unless provided otherwise under AA §11-2(c). (See subsection (5) above for the rule allowing the use of a full 12-month Limitation Year for the first year of the Plan, thereby avoiding the need to prorate the Defined Contribution Dollar Limitation.)

(7) **Total Compensation.** The amount of compensation as defined under Section 1.94, subject to the Employer's election under AA §5-1.

(i) **Total Compensation actually paid or made available.** For purposes of applying the limitations of this Section 5.02, Total Compensation for a Limitation Year is the Total Compensation actually paid or made available to an Employee during such Limitation Year. However, if elected in AA §5-4(c), the Employer may include in Total Compensation for a Limitation Year amounts earned but not paid in the Limitation Year because of the timing of pay periods and pay days, but only if:

(A) the amounts are paid during the first few weeks of the next Limitation Year,

(B) such amounts are included on a uniform and consistent basis with respect to all similarly-situated employees, and

(C) no amounts are included in Total Compensation in more than one Limitation Year.

(ii) **Disabled Participants.** Total Compensation does not include any imputed compensation for the period a Participant is disabled. However, the Employer may elect under AA §11-2(b) to include under the definition of Total Compensation, the amount a terminated Participant who is permanently and totally disabled (as described under Treas. Reg. §1.415(c)-2(g)(4)) would have received for the Limitation Year if the Participant had been paid at the rate of Total Compensation paid immediately before becoming permanently and totally disabled. If the Employer elects under AA §11-2(b) to include imputed compensation for a disabled Participant, a disabled Participant will receive an allocation of any Employer Contribution the Employer makes to the Plan based on the Employee's imputed compensation for the Plan Year. Any Employer Contributions made to a disabled Participant under this subsection (ii) are fully vested when made and will be made only to Non-Highly Compensated Employees.

(d) **Restorative payments.** Restorative payments are not considered Annual Additions for any Limitation Year. For this purpose, restorative payments are payments made to restore losses to the Plan resulting from actions (or a failure to act) by a fiduciary for which there is a reasonable risk of liability under applicable federal or state law, where Participants who are similarly situated are treated similarly with respect to the payments.

(e) **Corrective provisions.** The Plan is amended to eliminate any specific correction methods for correcting excess annual additions. If the Plan is eligible for self-correction under the IRS' EPCRS program, the Employer may use reasonable correction methods (including the correction methods described in § 1.415-6(b)(6) of the 1981 IRS regulations) to the extent permitted under the IRS' EPCRS program.

(f) **Change of Limitation Year.** Where there is a change of Limitation Year, a "short" Limitation Year exists for the period beginning with the first day of the Limitation Year and ending on the day before the change in Limitation Year is effective. For this purpose, if the Plan is terminated effective as of a date other than the last day of the Limitation Year, the Plan is treated as if it were amended to change its Limitation Year.

5.03 **Elective Deferral Dollar Limit.** The Elective Deferral Dollar Limit under this Section 5.03 applies with respect to Salary Deferrals under the Grandfathered 401(k) Arrangement. Under this Elective Deferral Dollar Limit, an Employee may not make Elective Deferrals under this Plan (and any other plan, contract or arrangement maintained by the Employer) during any calendar year in an amount that exceeds the Elective Deferral Dollar Limit in effect for the Participant's taxable year beginning

in such calendar year. Additional restrictions apply if a Participant participates in a plan maintained by an unrelated employer. (See subsection (b)(6) below.)

The Elective Deferral Dollar Limit is the limit under Code §402(g)(1). The Elective Deferral Dollar Limit is $19,000 for taxable years beginning in 2019. The Elective Deferral Dollar Limit will be adjusted for cost-of-living increases under Code §402(g)(4). Any such adjustments will be in multiples of $500.

If a Participant is aged 50 or over by the end of the taxable year, the Elective Deferral Dollar Limit is increased by the Catch-Up Contribution Limit (as defined in Section 3.02(c)(2)(iv)(A)). If the Plan does not provide for Catch-up Contributions, the Elective Deferral Dollar Limit is not increased by the Catch-Up Contribution Limit.

(a) **Excess Deferrals.** Excess Deferrals are Elective Deferrals made during the Participant's taxable year that exceed the Elective Deferral Dollar Limit (as described above) for such year; counting only Elective Deferrals made under this Plan and any other plan, contract or arrangement maintained by the Employer. (See subsection (b)(6) below for provisions that apply when a Participant makes Elective Deferrals to a plan of an unrelated Employer.)

(b) **Correction of Excess Deferrals.** If a Participant makes Excess Deferrals (i.e., Elective Deferrals in excess of the Elective Deferral Dollar Limit) under this Plan and any other plan maintained by the Employer, such Excess Deferrals (plus allocable income or loss) shall be distributed to the Participant. A distribution of Excess Deferrals may be made at any time (subject to the correction provisions under the IRS' EPCRS program as described in Rev. Proc. 2013-12 or subsequent guidance). If the corrective distribution of Excess Deferrals is made by April 15 of the calendar year following the year the Excess Deferrals are made to the Plan, such amounts will be taxable in the year of deferral but not in the year of distribution. If a corrective distribution of Excess Deferrals is made after April 15 of the following calendar year, such amounts will be taxable in both the year of deferral and the year of distribution. See subsection (3) below.

(1) **Amount of corrective distribution.** The amount to be distributed from this Plan as a correction of Excess Deferrals equals the amount of Elective Deferrals the Participant contributes during the taxable year to this Plan and any other plan maintained by the Employer in excess of the Elective Deferral Dollar Limit, reduced by any corrective distribution of Excess Deferrals the Participant receives during the calendar year from this Plan or other plan(s) maintained by the Employer. If a Participant has both a Pre Tax-Deferral Account and a Roth Deferral Account, the Participant may designate the extent to which the corrective distribution of Excess Deferrals is taken from the Pre-Tax Deferral Account or from the Roth Deferral Account under AA §6A-5. If a Participant does not designate the Account(s) from which the distribution will be made, the corrective distribution will be made first from the Participant's Pre-Tax Deferral Account.

(2) **Allocable gain or loss.** A corrective distribution of Excess Deferrals must include any allocable gain or loss for the taxable year in which the Excess Deferrals are contributed to the Plan. The gain or loss allocable to Excess Deferrals may be determined in any reasonable manner, provided the manner used to determine allocable gain or loss is applied consistently for all Participants and in a manner that is reasonably reflective of the method used by the Plan for allocating income to Participants' Accounts. A corrective distribution of Excess Deferrals will not include any income or loss allocable to the period between the end of the taxable year and the date of distribution.

(3) **Taxation of corrective distribution.** If a corrective distribution of Excess Deferrals is made by April 15 of the following calendar year, amounts attributable to the Excess Deferrals will be includible in the Participant's gross income in the taxable year in which such amounts are deferred under the Plan and amounts attributable to income or loss on the Excess Deferrals will be includible in gross income in the year of distribution. However, a corrective distribution of Excess Deferrals will not be included in gross income to the extent such distribution is comprised of Roth Deferrals. A Roth Deferral is treated as an Excess Deferral only to the extent that the total amount of Roth Deferrals for an individual exceeds the applicable limit for the taxable year or the Roth Deferrals are identified as Excess Deferrals and the individual receives a distribution of the Excess Deferrals and allocable income under this paragraph.

If a corrective distribution of Excess Deferrals is made after April 15, the amount of the corrective distribution attributable to Excess Deferrals will be includible in the Participant's gross income in both the taxable year in which such amounts are deferred under the Plan and the taxable year in which such amounts are distributed. (See Section 7.11(b)(2) for a discussion of the ordering rules for determining the Accounts from which the corrective distribution is made where a Participant has both a Pre-Tax Deferral Account and a Roth Deferral Account.)

If a corrective distribution of Excess Deferrals made after April 15 of the following calendar year apply to Excess Deferrals that are Roth Deferrals, such amounts are includible in gross income (without adjustment for

any return of investment in the contract under Code §72(e)(8)). In addition, such distribution cannot be a "qualified distribution" as described in Code §402A(d)(2) and is not an Eligible Rollover Distributions (within the meaning of Code §402(c)(4)). For this purpose, if a Roth Deferral account includes any Excess Deferrals, any distributions from the Roth Deferral account are treated as attributable to those Excess Deferrals until the total amount distributed from the Roth Deferral account equals the total of such Excess Deferrals and attributable income.

(4) **Coordination with other provisions.** A corrective distribution of Excess Deferrals made by April 15 of the following calendar year may be made without consent of the Participant or the Participant's Spouse, and without regard to any distribution restrictions applicable under Section 7. A corrective distribution of Excess Deferrals made by the appropriate April 15 also is not treated as a distribution for purposes of applying the required minimum distribution rules under Section 8.

(5) **Suspension of Salary Deferrals.** If a Participant's Salary Deferrals under this Plan, in combination with any Elective Deferrals the Participant makes during the calendar year under any other plan maintained by the Employer, equal or exceed the Elective Deferral Dollar Limit, the Employer may suspend the Participant's Salary Deferrals under this Plan for the remainder of the calendar year without the Participant's consent.

(6) **Correction of Excess Deferrals under plans not maintained by the Employer.** The correction provisions under this subsection (b) apply only if a Participant makes Excess Deferrals under this Plan (or under this Plan and other plans maintained by the Employer). However, if a Participant has Excess Deferrals for a calendar year on account of making Elective Deferrals to a plan of an unrelated employer, the Participant may assign to this Plan any portion of his/her Elective Deferrals made under all plans during the calendar year to the extent such Elective Deferrals exceed the Elective Deferral Dollar Limit. The Participant must notify the Plan Administrator in writing on or before March 1 of the following calendar year of the amount of the Excess Deferrals to be assigned to this Plan. If any Roth Deferrals were made to a plan, the notification must also identify the extent to which, if any, the Excess Deferrals are comprised of Roth Deferrals.

Upon receipt of a timely notification, the Excess Deferrals assigned to this Plan will be distributed (along with any allocable income or loss) to the Participant in accordance with the corrective distribution provisions under this subsection (b). A Participant is deemed to notify the Plan Administrator of Excess Deferrals (including any portion of Excess Deferrals that are comprised of Roth Deferrals) to the extent such Excess Deferrals arise only under this Plan and any other plan maintained by the Employer.

SECTION 6
PARTICIPANT VESTING AND FORFEITURES

6.01 **Vesting of Contributions.** A Participant's vested interest in his/her Employer Contribution Account and Matching Contribution Account is determined based on the vesting schedule elected in AA §8. A Participant is always fully vested in his/her Employer Pick-Up Contribution Account, Salary Deferral Account, After-Tax Employee Contribution Account, and Rollover Contribution Account.

6.02 **Vesting Schedules.** A Participant's vested interest in his/her Employer Contribution Account and/or Matching Contribution Account is determined by multiplying the Participant's vesting percentage (determined under the applicable vesting schedule selected in AA §8) by the total amount under the applicable Account.

(a) **Full and immediate vesting schedule.** Under the full and immediate vesting schedule, the Participant is always 100% vested in his/her Account Balance.

(b) **6-year graded vesting schedule.** Under the 6-year graded vesting schedule, an Employee vests in his/her Employer Contribution Account and/or Matching Contribution Account in the following manner:

After 2 Years of Service – 20% vesting
After 3 Years of Service – 40% vesting
After 4 Years of Service – 60% vesting
After 5 Years of Service – 80% vesting
After 6 Years of Service – 100% vesting

(c) **3-year cliff vesting schedule.** Under the 3-year cliff vesting schedule, an Employee is 100% vested after 3 Years of Service. Prior to the third Year of Service, the vesting percentage is zero.

(d) **Modified vesting schedule.** Under the modified vesting schedule, the Employer may designate the vesting percentage that applies for each Year of Service. As a Governmental Plan, the Plan is not subject to the requirements of Code §411 and may modify the vesting schedule, provided the Plan satisfies the requirements of Code §§401(a)(4) and (7) as in effect before the enactment of ERISA. For this purpose, the modified vesting schedule must be at least as favorable as one of the following safe harbor vesting schedules:

(1) **15-year cliff vesting schedule.** The Participant is fully vested after 15 years of creditable service. Service can be based on years of employment, years of participation or other creditable years of service.

(2) **20-year graded vesting schedule.** The Participant is fully vested based on a graded vesting schedule of 5 to 20 years of creditable service. Service can be based on years of employment, years of participation or other creditable years of service.

(3) **20-year cliff vesting for qualified public safety employees.** Participant is fully vested after 20 years of creditable service. Service can be based on years of employment, years of participation or other creditable years of service. The safe harbor schedule is available only with respect to the vesting schedule applicable to a group in which substantially all of the participants are qualified public safety employees (within the meaning of Code §72(t)(10(B).

6.03 **Special vesting rules.**

(a) **Normal Retirement Age.** Unless designated otherwise under AA §8-2(b), regardless of the Plan's vesting schedule, an Employee's right to his/her Account Balance is fully vested upon the date he/she attains Normal Retirement Age (as defined in AA §7-1), provided the Employee is still employed at such time.

(b) **100% vesting upon death, disability, or Early Retirement Age.** The Employer may elect under AA §8-4 to allow a Participant's vesting percentage to automatically increase to 100% if the Participant dies, becomes Disabled, and/or attains Early Retirement Age while employed by the Employer.

(c) **Vesting upon merger, consolidation or transfer.** No accelerated vesting will be required solely because a Defined Contribution Plan is merged with another Defined Contribution Plan, or because assets are transferred from a Defined Contribution Plan to another Defined Contribution Plan.

(d) **Vesting schedules applicable to prior contributions.** If the Plan holds Employer Contributions and/or Matching Contributions that are subject to vesting, but the Plan no longer provides for such contributions, the Plan will continue to apply the vesting schedule applicable to those contributions as determined under the prior Plan document. See

Section 6.11(e) for the rules applicable to forfeitures of such prior contributions. The Employer may document any prior vesting schedule in AA §A-8.

(e) **Different Vesting Schedules for Different Sources.** The Employer may designate different vesting schedules for different sources (e.g., Matching Contributions and/or Employer Contributions.

6.04 **Year of Service.** An Employee's position on the vesting schedule is dependent on the Employee's Years of Service with the Employer. Generally, an Employee will earn a vesting Year of Service for each Vesting Computation Period (as defined in Section 6.05) during which the Employee completes at least 1,000 Hours of Service (or the Hours of Service designated under AA §8-5(a)). Alternatively, the Employer may elect to calculate Years of Service using the Elapsed Time method (as defined in subsection 6.04(b) below).

(a) **Hours of Service.** Unless the Employer elects to use the Elapsed Time method under AA §8-5(c), vesting Years of Service will be determined based on an Employee's Hours of Service earned during the Vesting Computation Period.

(1) **Actual Hours of Service.** In determining an Employee's vesting Years of Service, the Employer will credit an Employee with the actual Hours of Service earned during the Vesting Computation Period, unless the Employer elects under AA §8-5(d) to determine Hours of Service using the Equivalency Method.

(2) **Equivalency Method.** Instead of counting actual Hours of Service in applying the Plan's vesting schedules, the Employer may elect under AA §8-5(d) to determine Hours of Service based on the Equivalency Method. Under the Equivalency Method, an Employee receives credit for a specified number of Hours of Service based on the period worked with the Employer.

(i) **Monthly.** Under the monthly Equivalency Method, an Employee is credited with 190 Hours of Service for each calendar month during which the Employee completes at least one Hour of Service with the Employer.

(ii) **Daily.** Under the daily Equivalency Method, an Employee is credited with 10 Hours of Service for each day during which the Employee completes at least one Hour of Service with the Employer.

(iii) **Weekly.** Under the weekly Equivalency Method, an Employee is credited with 45 Hours of Service for each week during which the Employee completes at least one Hour of Service with the Employer.

(iv) **Semi-monthly.** Under the semi-monthly Equivalency Method, an Employee is credited with 95 Hours of Service for each semi-monthly period during which the Employee completes at least one Hour of Service with the Employer.

(v) **Other Equivalency Method.** The Employer may describe an alternative Equivalency Method in the Adoption Agreement, provided any description of an Equivalency Method is definitely determinable.

(3) **Employee need not be employed for entire Vesting Computation Period.** Unless provided otherwise under AA §8-5(e), if an Employee completes the required Hours of Service during a Vesting Computation Period, the Employee will receive credit for a Year of Service as of the end of such Vesting Computation Period, even if the Employee is not employed for the entire Vesting Computation Period.

(b) **Elapsed Time method.** Instead of using Hours of Service in applying the Plan's vesting schedules, the Employer may elect under AA §8-5(c) to apply the Elapsed Time method for calculating an Employee's vesting service with the Employer. Under the Elapsed Time method, an Employee receives credit for the aggregate period of time worked for the Employer commencing with the Employee's first day of employment (or reemployment, if applicable) and ending on the date the Employee terminates employment with the Employer. If an Employee's aggregate period of service includes fractional years, such fractional years are expressed in terms of days.

In calculating an Employee's aggregate period of service, the Employer may credit an Employee with service for any Period of Severance that lasts less than 12 consecutive months. For this purpose, a Period of Severance is any continuous period of time during which the Employee is not employed by the Employer. A Period of Severance begins on the date the Employee retires, quits or is discharged, or if earlier, the 12-month anniversary of the date on which the Employee is first absent from service for a reason other than retirement, quit or discharge. In the case of an Employee who is absent from work for maternity or paternity reasons, the 12-consecutive month period beginning on the first anniversary of the first date of such absence shall not constitute a Period of Severance. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence:

(1) by reason of the pregnancy of the Employee;

(2) by reason of the birth of a child of the Employee;

(3) by reason of the placement of a child with the Employee in connection with the adoption of such child by the Employee; or

(4) for purposes of caring for a child of the Employee for a period beginning immediately following the birth or placement of such child.

For purposes of applying the Elapsed Time method, unless otherwise provided, service will be credited for employment with any Related Employer.

6.05 **Vesting Computation Period.** Generally, the Vesting Computation Period is the Plan Year. Alternatively, the Employer may elect under AA §8-5(b) to use the 12-month period commencing on the Employee's date of hire (or reemployment date, if applicable) and each subsequent 12-month period commencing on the anniversary of such date or the Employer may elect to use any other 12-consecutive month period as the Vesting Computation Period.

6.06 **Excluded service.** Generally, all service with the Employer counts for purposes of applying the Plan's vesting schedules. However, the Employer may elect under AA §8-3 to exclude certain service with the Employer in calculating an Employee's vesting Years of Service.

(a) **Service before the Effective Date of the Plan.** The Employer may elect under AA §8-3(a) to exclude service earned during any period prior to the date the Employer established the Plan or a Predecessor Plan. For this purpose, a Predecessor Plan is a qualified plan maintained by the Employer that is terminated within the 5-year period immediately preceding or following the establishment of this Plan. A Participant's service under a Predecessor Plan must be counted for purposes of determining the Participant's vested percentage under this Plan.

(b) **Service before a specified age.** The Employer may elect under AA §8-3(b) to exclude service before an Employee attains a specified age. An Employee will be credited with a Year of Service for the Vesting Computation Period during which the Employee attains the required age, provided the Employee satisfies all other conditions required for a Year of Service.

6.07 **Service with Predecessor Employers.** To the extent provided, if the Employer maintains the plan of a Predecessor Employer, any service with such Predecessor Employer is treated as service with the Employer for purposes of applying the provisions of this Plan.

6.08 **Break in Service Rules.** In addition to any service excluded under Section 6.06, the Employer may elect under AA §8-6 to disregard an Employee's vesting service with the Employer earned prior to a Break in Service. For this purpose, an Employee incurs a Break in Service for any Vesting Computation Period (as defined in Section 6.05) during which the Employee does not complete more than five hundred (500) Hours of Service with the Employer. However, if the Employer elects to require less than 1,000 Hours of Service to earn a vesting Year of Service, a Break in Service will occur for any Vesting Computation Period during which the Employee does not complete more than one-half (1/2) of the Hours of Service required to earn a vesting Year of Service.

6.09 **Special Vesting Rule - In-Service Distribution When Account Balance is Less than 100% Vested.** If amounts are distributed from a Participant's Employer Contribution Account or Matching Contribution Account at a time when the Participant's vested percentage in such amounts is less than 100% and the Participant may increase the vested percentage in the Account Balance:

(a) A separate Account will be established for the Participant's interest in the Plan as of the time of the distribution; and

(b) At any relevant time the Participant's vested portion of the separate Account will be equal to an amount ("X") determined by the formula:

$X = P (AB + D) - D$

Where:

P is the vested percentage at the relevant time;

AB is the Account Balance at the relevant time; and

D is the amount of the distribution.

6.10 **Forfeiture of Benefits.** A Participant will forfeit the nonvested portion of his/her Employer Contribution and/or Matching Contribution Account upon the occurrence of any of the events described below or at any such time as the Plan Administrator determines. The Plan Administrator has the responsibility to determine the amount of a Participant's forfeiture. Until an amount is forfeited pursuant to this Section 6.10, a Participant's entire Account must remain in the Plan and continue to share in gains and losses of the Trust. A Participant will not forfeit any of his/her nonvested Account until the occurrence of one of the following events.

(a) **Cash-Out Distribution.** Following termination of employment, a Participant may receive a total distribution of his/her vested benefit under the Plan (a Cash-Out Distribution) in accordance with the distribution provisions under Section 7. If a Participant receives a Cash-Out Distribution upon termination of employment, the Participant's nonvested benefit under the Plan will be forfeited in accordance with subsection 6.10(a)(1) below. If at the time of termination, a Participant is totally nonvested in his/her entire Account Balance, the Participant will be deemed to receive a total Cash-Out Distribution of his/her entire vested Account Balance (i.e., a deemed Cash-Out Distribution of zero dollars) as of the date of termination, subject to the forfeiture provisions under subsection 6.10(a)(1) below.

A Cash-Out Distribution does not occur until such time as the Participant receives a distribution of his/her entire vested Account Balance, including amounts attributable to Salary Deferrals. If a Participant receives a distribution of less than the entire vested portion of his/her Account Balance (including any additional amounts to be allocated under subsection 6.10(a)(1)(ii) below), the Participant will not be treated as receiving a Cash-Out Distribution until such time as the Participant receives a distribution of the remainder of the vested portion of his/her Account Balance.

(1) **Timing of forfeiture.** Unless elected otherwise under AA §8-8(b), if a Participant receives a Cash-Out Distribution of his/her vested Account Balance (as defined in subsection (a) above), the Participant will immediately forfeit the nonvested portion of such Account Balance, as of the date of the distribution or deemed distribution (as determined under subsection (i) or (ii) below, whichever applies). (See Section 6.11 below for a discussion of the treatment of forfeitures under the Plan.)

(i) **No further allocations.** For purposes of applying the Cash-Out Distribution rules, a terminated Participant who receives a total distribution of his/her vested Account Balance will be treated as receiving the Cash-Out Distribution as of the date the Participant receives such distribution (or in the case of a deemed Cash-Out Distribution (as described in subsection (a) above) as of the date the Participant terminates employment), provided the Participant is not entitled to any further allocations under the Plan for the Plan Year in which the Participant terminates employment. The Participant' will forfeit his/her nonvested benefit as of the date the Participant receives the Cash-Out Distribution, in accordance with the provisions under Section 6.11.

(ii) **Additional allocations.** For purposes of applying the Cash-Out Distribution rules, if upon termination of employment, a Participant is entitled to an additional allocation for the Plan Year in which the Participant terminates, such Participant will not be deemed to receive a Cash-Out Distribution until such time as the Participant receives a distribution of his/her entire vested Account Balance, including any amounts that are still to be allocated under the Plan. Thus, a terminated Participant who is entitled to an additional allocation (e.g., an additional Employer Contribution) for the Plan Year of termination will not be deemed to have a total Cash-Out Distribution until the Participant receives a distribution of such additional amounts. In the case of a deemed Cash-Out Distribution (as described in subsection (a) above), if the Participant is entitled to an additional allocation under the Plan for the Plan Year in which the Participant terminates employment, the deemed Cash-Out Distribution is deemed to occur on the first day of the Plan Year following the Plan Year in which the termination occurs, provided the Participant is still totally nonvested in his/her Account Balance.

(iii) **Modification of Cash-Out Distribution rules.** The Employer may elect under AA §8-8(a) to modify the Cash-Out Distribution provision under subsection (ii) above to provide that the Cash-Out Distribution and related forfeiture occur immediately upon distribution (or deemed distribution) of the terminated Participant's vested Account Balance, without regard to whether the Participant is entitled to an additional allocation under the Plan.

(2) **Repayment of Cash-Out Distribution.** Unless elected otherwise under AA §8-8(c), if a Participant receives a Cash-Out Distribution (as defined in subsection (a) above) that results in a forfeiture under subsection (1) above, and the Participant resumes employment covered under the Plan, such Participant may repay to the Plan the amount received as a Cash-Out Distribution. For this purpose, unless elected otherwise under AA §8-6, to be entitled to a restoration of benefits (as described in subsection (3) below), the Participant must repay the entire amount of the Cash-Out Distribution, including any amounts attributable to Salary Deferrals. A Participant will only be permitted to repay his/her Cash-Out Distribution if such repayment is made before the earlier of:

(i) five (5) years after the first date on which the Participant is subsequently re-employed by the Employer; or

(ii) the date the Participant incurs a Five-Year Forfeiture Break in Service (as defined in subsection (b) below).

If a Participant receives a deemed Cash-Out Distribution (as described in subsection (a) above), and the Participant resumes employment covered under this Plan before the date the Participant incurs a Five-Year Forfeiture Break in Service, the Participant is deemed to repay the Cash-Out Distribution immediately upon his/her reemployment.

(3) **Restoration of forfeited benefit.** If a rehired Participant repays a Cash-Out Distribution in accordance with subsection (2) above, any amounts that were forfeited on account of such Cash-Out Distribution (unadjusted for any interest that might have accrued on such amounts after the distribution date) will be restored to the Plan no later than the end of the Plan Year following the Plan Year in which the Participant repays the Cash-Out Distribution (or is deemed to repay the Cash-Out Distribution under subsection (2) above). No amount will be restored under the Plan, however, until such time as the Participant repays the entire amount of the Cash-Out Distribution. (However, see subsection (d) below for a discussion of special rules that apply if a Participant's Cash-Out Distribution includes a distribution of Salary Deferrals.) In no event will a Participant be entitled to a restoration under this subsection (3) if the Participant returns to employment after incurring a Five-Year Forfeiture Break in Service (as defined in subsection (b) below).

(4) **Sources of restoration.** If a Participant's forfeited benefit is required to be restored under subsection (3) above, the restoration of such forfeited benefits will occur from the following sources. If the following sources are not sufficient to completely restore the Participant's benefit, the Employer must make an additional contribution to the Plan.

(i) Any unallocated forfeitures for the Plan Year of the restoration.

(ii) Any unallocated earnings for the Plan Year of the restoration.

(iii) Any portion of a discretionary Employer Contribution to the extent such contribution has not been allocated to Participants' Accounts for the Plan Year of the restoration.

(5) **Application of forfeiture rules under the Plan.** As a Governmental Plan (which is not subject to the rules under Code §411, the Plan Administrator has discretion on the manner in which the forfeiture and Cash-Out Distribution rules apply under the Plan.

(b) **Five-Year Forfeiture Break in Service.** If a Participant has five (5) consecutive one-year Breaks in Service (a Five-Year Forfeiture Break in Service), all Years of Service after such Breaks in Service will be disregarded for the purpose of vesting in the portion of the Participant's Employer Contribution Account and/or Matching Contribution Account that accrued before such Breaks in Service. A Participant who incurs a Five-Year Forfeiture Break in Service will forfeit the nonvested portion of his/her Employer Contribution and/or Matching Contribution Account as of the end of the Vesting Computation Period in which the Participant incurs the fifth consecutive Break in Service. Except as provided under Section 6.08, a Participant who is rehired after incurring a Five-Year Forfeiture Break in Service will be credited with both pre-break and post-break service for purposes of determining his/her vested percentage in amounts that accrue under the Plan after the Five-Year Forfeiture Break in Service.

(c) **Missing Participant or Beneficiary.** If a Participant or Beneficiary cannot be located within a reasonable period following a reasonable diligent search, the missing Participant's or Beneficiary's Account may be forfeited. An Employer will be deemed to have performed a reasonable diligent search if it performs the actions described in subsection (1) below. However, the Employer or Plan Administrator will be deemed to have waited a reasonable period following a reasonable diligent search if the Employer or Plan Administrator waits at least 6 months following the completion of the actions described in subsection (1) below.

(1) **Reasonable diligent search.** The Employer or Plan Administrator will be deemed to have performed a reasonable diligent search if it performs the following actions:

(i) Send a certified letter to the Participant's or Beneficiary's last known address.

(ii) Check related plan records of the Employer (e.g., health plan records) to determine if a more current address exists for the Participant or Beneficiary.

(iii) If the Participant cannot be located, the Employer or Plan Administrator may attempt to identify and contact any individual that the Participant has designated as a Beneficiary under the Plan for updated information concerning the location of the missing Participant.

(iv) In addition to the search methods discussed above, the Employer or Plan Administrator may use other search methods, including the use of Internet search tools, commercial locator services, and credit reporting agencies to locate the missing Participant.

(2) **Forfeiture of Account of missing Participant or Beneficiary.** If a Participant or Beneficiary is deemed to be missing (as described in this subsection (c)), the Plan Administrator may forfeit the distributable amount attributable to such missing Participant or Beneficiary, as permitted under applicable laws and regulations. If, after an amount is forfeited under this subsection (2), the missing Participant or Beneficiary is located, the Plan will restore the forfeited amount (unadjusted for gains or losses) to such Participant or Beneficiary within a reasonable time. However, if a missing Participant or Beneficiary has not been located by the time the Plan terminates, the forfeiture of such Participant's or Beneficiary's distributable amount will be irrevocable.

(3) **Expenses attributable to search for missing Participant.** Reasonable expenses attendant to locating a missing Participant may be charged to such Participant's Account, provided that the amount of such expenses is reasonable. The Plan Administrator may take into account the size of a Participant's Account in relation to the cost of the search when deciding how extensive a search is required before declaring such Participant as missing under this subsection (c).

(d) **Excess Deferrals.** If a Participant receives a distribution of Excess Deferrals, the portion of his/her Matching Contribution Account (whether vested or not) which is attributable to such distributed amounts will be forfeited. A forfeiture of Matching Contributions under this subsection (d) occurs in the Plan Year in which the Participant receives the distribution of Excess Deferrals.

6.11 **Allocation of Forfeitures.** The Employer may decide in its discretion how to treat forfeitures under the Plan. Alternatively, the Employer may designate under AA §8-7 how forfeitures occurring during a Plan Year will be treated. Under AA §8-7, the Employer may elect to use forfeitures in the Plan Year in which the forfeitures occur or in the Plan Year following the Plan Year in which the forfeitures occur. The Employer may elect under AA §8-7 to allocate forfeitures in any manner permitted under this Section 6.11.

(a) **Reallocation as additional contributions under Profit Sharing Plan Adoption Agreement.** The Employer may elect in AA §8-7 to reallocate forfeitures as additional contributions under the Plan. If the Employer elects under the Profit Sharing Plan Adoption Agreement to reallocate forfeitures as additional contributions, the Employer may allocate such amounts as additional Employer Contributions and/or additional Matching Contributions. If the forfeitures allocated under this subsection (a) relate to discretionary contributions, such amounts may be allocated in the same manner as selected under AA §6-3 with respect to the contribution type being allocated. If the forfeitures relate to fixed contributions, such amounts may be allocated in addition to such fixed contributions in the ratio that the Plan Compensation of each Participant bears to the Plan Compensation of all Participants. In allocating forfeitures under this subsection (a), the Employer may take into account any limits under AA §6B-4 in determining the amount of forfeitures to be allocated as additional Matching Contributions. In applying the provisions of this subsection (a), no allocation of forfeitures will be made to any Participant with respect to forfeitures that arise out of his/her own Account. A Participant may share in any additional forfeitures to the extent the Participant is eligible to receive an allocation of such forfeitures under AA §8-7.

(b) **Reallocation as additional Employer Contributions under Money Purchase Plan Adoption Agreement.** The Employer may elect in AA §8-7 to reallocate forfeitures as additional Employer Contributions under the Plan. If the Employer elects under the Money Purchase Plan Adoption Agreement to reallocate forfeitures as additional Employer Contributions, such amounts will be allocated in the ratio that the Plan Compensation of each Participant bears to the Plan Compensation of all Participants. In applying the provisions of this subsection (b), no allocation of forfeitures will be made to any Participant with respect to forfeitures that arise out of his/her own Account.

(c) **Reduction of contributions.** The Employer may elect in AA §8-7 to use forfeitures to reduce Employer Contributions and/or Matching Contributions under the Plan. If the Employer elects to use forfeitures to reduce contributions, the Employer may, in its discretion, use such forfeitures to reduce Employer Contributions, Matching Contributions, or both. The Employer may adjust its contribution deposits in any manner, provided the total Employer Contributions and/or Matching Contributions made for the Plan Year properly take into account the forfeitures that are to be used to reduce such contributions for that Plan Year. If contributions are allocated over multiple allocation periods, the Employer may reduce its contribution for any allocation periods within the Plan Year in which the forfeitures are to be allocated so that the total amount allocated for the Plan Year is proper. If the Plan provides for a discretionary Employer or Matching Contribution and the Employer elects not to make an Employer or Matching Contribution for the Plan

Year, any forfeitures will be allocated to eligible Participants as an additional Employer or Matching Contribution, as provided under subsection (a) above.

(d) **Payment of Plan expenses.** The Employer may elect under AA §8-7 to use forfeitures to pay Plan expenses for the Plan Year in which the forfeitures would otherwise be applied. If any forfeitures remain after the payment of Plan expenses under this subsection, the remaining forfeitures will be allocated as selected under AA §8-7. This subsection (d) only applies to the extent Plan expenses are paid by the Plan. Nothing herein affects the ability of the Employer to pay Plan expenses, as authorized under Section 11.04(a). In determining the Plan expenses that may be offset by Plan forfeitures, the Employer may use any reasonable method to determine the Plan expenses attributable to a particular year. In addition, the Employer may elect to use forfeitures first to reduce Employer and/or Matching Contributions or as an additional allocation (as set forth in AA §8-7) prior to using forfeitures to pay Plan expenses.

(e) **Forfeiture rules for other contribution types.**

(1) **Prior Employer and/or Matching Contributions.** If the Plan maintains Employer Contribution and/or Matching Contribution Accounts, but the Plan no longer provides for such contributions, such amounts will continue to vest under the vesting schedule applicable to such contributions under the prior Plan or under any vesting schedule designated under Appendix A of the Adoption Agreement. If there are any forfeitures related to such prior contributions, such amounts may be reallocated as an additional Employer Contribution or as an additional Matching Contribution in accordance with the provisions of subsection (a) or (b) above, to the extent such contributions are authorized under the Plan, or may be used to reduce any Employer Contribution or Matching Contribution, consistent with the provisions of subsection (c) above. If the Plan does not provide for either Employer Contributions or Matching Contributions, the Employer may reallocate forfeitures of prior contributions as an Employer Contribution (using the pro rata allocation formula) or as a discretionary Matching Contribution under the Profit Sharing Plan Adoption Agreement, as applicable, or as a fixed contribution under the Money Purchase Plan Adoption Agreement. Alternatively, the Employer may use such forfeitures to pay Plan expenses as authorized under subsection (d) above. The Employer may elect to use such forfeitures in the Plan Year the forfeiture occurs or in the following Plan Year.

(2) **Other contributions.** If a Participant has any other amounts under the Plan which are treated as forfeited (e.g. a forfeiture for a missing Participant under Section 6.10(c)), and no selections are made under AA §8-7 regarding the treatment of forfeitures under the Plan, such amounts may be forfeited in accordance with any of the forfeiture options described in this Section 6.11.

SECTION 7
PLAN DISTRIBUTIONS

A Participant may receive a distribution of his/her vested Account Balance at the time and in the manner provided under this Section 7. Upon reaching the Required Beginning Date (defined in Section 8.05(e)), a Participant must begin receiving distributions under the Plan (in accordance with the provisions of Section 8.)

7.01 **Available Forms of Distribution.** The Employer may elect under AA §9-1 the forms of distribution that are available to a Participant or Beneficiary under the Plan. Different distribution options may apply depending on whether a distribution is made upon termination of employment, death, disability or as an in-service withdrawal. Available distribution options under AA §9-1 may include a lump sum of all or a portion of the Participant's vested Account Balance, an in-kind distribution of an Annuity Contract, partial lump sums, installments, annuity payments, or any other form designated in AA §9-1. In addition, distribution options may be available as provided under a guaranteed income product to the extent such distribution options are consistent with qualification requirements applicable to such distributions. Any distribution options selected under the Plan must comply with the required minimum distribution rules under Section 8.

If the Plan provides for installment payments as an optional form of distribution, such payments may be made in monthly, quarterly, semi-annual, or annual payments over a period not exceeding the life expectancy of the Participant and his/her designated Beneficiary. The Plan Administrator may permit a Participant or Beneficiary to accelerate the payment of all, or any portion, of an installment distribution. If the Plan provides for annuity payments, the Plan must purchase an annuity that provides for payments over a period that does not extend beyond either the life of the Participant (or the lives of the Participant and his/her designated Beneficiary) or the life expectancy of the Participant (or the life expectancy of the Participant and his/her designated Beneficiary). (The availability of installments and/or annuity payments may be restricted under AA §9-1(d).)

If the Plan holds Employer Contributions and/or Matching Contributions, but the Plan no longer provides for such contributions, the Plan may continue to apply the distribution options applicable to those contributions as determined under the prior Plan document, unless elected otherwise. The Employer may document any prior distribution options in AA Appendix A or AA §10-3.

7.02 **Amount Eligible for Distribution.** For purposes of determining the amount a Participant or Beneficiary may receive as a distribution from the Plan, a Participant's Account Balance is determined as of the Valuation Date (as specified in AA §11-1) immediately preceding the date the Participant or Beneficiary receives his/her distribution from the Plan. For this purpose, the Account Balance must be increased for any contributions allocated to the Participant's Account since the most recent Valuation Date and must be reduced for any distributions made from the Participant's Account since the most recent Valuation Date. A Participant or Beneficiary does not share in any allocation of gains or losses attributable to the period between the most recent Valuation Date and the date of the distribution, unless provided otherwise under uniform funding and valuation procedures established by the Plan Administrator. See Section 10.03.

7.03 **Participant Consent.** To the extent elected under AA §9-2, if the value of a Participant's entire vested Account Balance exceeds the Involuntary Cash-Out threshold (as defined in subsection (a) below), the Participant must consent to any distribution of such Account Balance prior to his/her Required Beginning Date (as defined in Section 8.05(e)) or, if so provided in AA §9-2(a)(4), as of the date the Participant attains (or would have attained if not deceased) the later of Normal Retirement Age or age 62. A failure by the Participant (and Spouse, if applicable) to consent to a distribution while a benefit is immediately distributable shall be deemed to be an election to defer commencement of payment of any benefit sufficient to satisfy this section.

(a) **Involuntary Cash-Out threshold.** For purposes of determining whether a distribution is subject to the Participant consent requirements as described in Section 7.0303, the Involuntary Cash-Out threshold is $5,000 unless a different amount is designated under AA §9-2(a). (See Section 7.05 for a discussion of the Automatic Rollover rules that apply if a Participant does not consent to a distribution that is otherwise available without Participant consent.) For purposes of determining whether a Participant's vested Account Balance exceeds the Involuntary Cash-Out threshold, the value of the Participant's vested Account Balance shall be determined without regard to that portion of the Account Balance that is attributable to Rollover Contributions (and earnings allocable thereto) within the meaning of Code §§402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16). The Employer may elect in AA §9-2(a)(5) to include Rollover Contributions (and earnings allocable thereto) in determining whether the Participant's vested Account Balance exceeds the Involuntary Cash-Out threshold.

(b) **Participant notice.** If a distribution is subject to Participant consent, the Participant must consent in writing to the distribution within a reasonable period prior to the Annuity Starting Date (as defined in Section 1.10). For this purpose, any consent made within the 180-day period ending on the Annuity Starting Date will be deemed to be made within a reasonable period. If the distribution is subject to spousal consent under AA §9-2(b), the Participant's Spouse also must consent to the distribution in accordance with Section 9.02.

Prior to receiving a distribution from the Plan, a Participant must be notified of his/her right to defer any distribution from the Plan. The notification shall include a general description of the material features and the relative values of the optional forms of benefit available under the Plan (consistent with the requirements under Code §417(a)(3)). Effective for Plan Years beginning on or after January 1, 2007, the Participant notice must include a description of the consequences of a Participant's decision not to defer the receipt of a distribution. The notice must be provided no less than 30 days and no more than 180 days prior to the Participant's Annuity Starting Date. However, distribution may commence less than 30 days after the notice is given, if the Participant is clearly informed of his/her right to take 30 days after receiving the notice to decide whether or not to elect a distribution (and, if applicable, a particular distribution option), and the Participant, after receiving the notice, affirmatively elects to receive the distribution prior to the expiration of the 30-day minimum period. The notice requirements described in this paragraph may be satisfied by providing a summary of the required information, so long as the conditions described in applicable regulations for the provision of such a summary are satisfied, and the full notice is also provided (without regard to the 180-day period described in this subsection).

(c) **Special rules.** The consent rules under this Section 7.03 apply to distributions made after the Participant's termination of employment and to distributions made prior to the Participant's termination of employment. However, the consent of the Participant (and the Participant's Spouse, if applicable) shall not be required to the extent that a distribution is required to satisfy the required minimum distribution rules under Section 8 or to satisfy the requirements of Code §415, as described in Section 5.02. A Participant also will not be required to consent to a corrective distribution of Excess Deferrals.

7.04 **Direct Rollovers.** Notwithstanding any provision in the Plan to the contrary, a Participant may elect, at the time and the manner prescribed by the Plan Administrator, to have all or any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan in a Direct Rollover. If an Eligible Rollover Distribution is less than $500, the Participant may not elect a Direct Rollover of only a portion of such distribution (i.e., a Participant must elect a complete Direct Rollover if the Eligible Rollover Distribution is less than $500). For purposes of this Section 7.0404, a Participant includes a Participant or former Participant. In addition, this Section applies to any distribution from the Plan made to a Participant's surviving Spouse or to a Participant's Spouse or former Spouse who is the Alternate Payee under a QDRO, as defined in Section 1.80. This Section 7.0404 also applies to distributions made to a Participant's non-Spouse beneficiary, as set forth in subsection (c) below.

(a) **Definitions.**

(1) **Eligible Rollover Distribution.** An Eligible Rollover Distribution is any distribution of all or any portion of a Participant's Account Balance, except an Eligible Rollover Distribution does not include:

(i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Participant or the joint lives (or joint life expectancies) of the Participant and the Participant's Beneficiary, or for a specified period of ten years or more;

(ii) any distribution to the extent such distribution is a required minimum distribution under Code §401(a)(9), as described under Section 8;

(iii) any Hardship distribution, as described in Section 7.10(e);

(iv) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to Employer securities);

(v) any distribution if it is reasonably expected (at the time of the distribution) that the total amount the Participant will receive as a distribution during the calendar year will total less than $200;

(vi) a distribution made to satisfy the requirements of Code §415 (as described in Section 5.02) or a distribution to correct Excess Deferrals.

(2) **Eligible Retirement Plan.** For purposes of applying the Direct Rollover provisions under this Section 7.0404, an Eligible Retirement Plan is:

(i) a qualified plan described in Code §401(a);

(ii) an individual retirement account described in Code §408(a);

(iii) an individual retirement annuity described in Code §408(b);

(iv) an annuity plan described in Code §403(a);

(v) an annuity contract described in Code §403(b);

(vi) an eligible plan under Code §457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan; or

(vii) for rollovers made on or after December 31, 2015, a SIMPLE IRA described in Code §408(p). However, the following restrictions apply: (1) the provision does not allow SIMPLE IRAs to accept rollovers from designated Roth accounts, and (2) the change applies only to rollovers made after the two-year period beginning on the date the Participant first participated in their employer's SIMPLE IRA plan.

The definition of Eligible Retirement Plan also applies in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is the Alternate Payee under a QDRO.

To the extent any portion of an Eligible Rollover Distribution is attributable to Roth Deferrals (as defined in Section 3.02(c)(2)(v)), an Eligible Retirement Plan with respect to such portion of the distribution shall include only another designated Roth account of the Participant or a Roth IRA. To the extent any portion of an Eligible Rollover Distribution is attributable to After-Tax Employee Contributions, an Eligible Retirement Plan with respect to such portion of the distribution shall include only an individual retirement account or annuity described in Code §408(a) or (b) or a qualified Defined Contribution Plan described in Code §401(a) or §403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not includible in gross income.

(3) **Direct Rollover.** A Direct Rollover is a payment made directly from the Plan to the Eligible Retirement Plan specified by the Participant. The Plan Administrator may develop reasonable procedures for accommodating Direct Rollover requests.

(b) **Direct Rollover notice.** A Participant entitled to an Eligible Rollover Distribution must receive a written explanation of his/her right to a Direct Rollover, the tax consequences of not making a Direct Rollover, and if applicable, any available special income tax elections. The notice must be provided within 30 –180 days prior to the Participant's Annuity Starting Date in the same manner as described in Section 7.03(b). The Direct Rollover notice must be provided to all Participants, unless the total amount the Participant will receive as a distribution during the calendar year is expected to be less than $200.

If a Participant terminates employment and is eligible for a distribution which is not subject to Participant consent, and the Participant does not respond to the Direct Rollover notice indicating whether a Direct Rollover is desired and the name of the Eligible Retirement Plan to which the Direct Rollover is to be made, the Plan Administrator may distribute the Participant's entire vested Account Balance in the form of an Automatic Rollover (pursuant to Section 7.0505). If a distribution would qualify for Automatic Rollover, the Direct Rollover notice must describe the procedures for making an Automatic Rollover, including the name, address, and telephone number of the IRA trustee and information regarding IRA maintenance and withdrawal fees and how the IRA funds will be invested. The Direct Rollover notice also must describe the timing of the Automatic Rollover and the Participant's ability to affirmatively opt out of the Automatic Rollover.

(c) **Direct Rollover by non-Spouse beneficiary.** The Plan must permit a non-Spouse beneficiary (as defined in Code §401(a)(9)(E)) to make a direct rollover of an eligible rollover distribution to an individual retirement account under Code §408(a) or an individual retirement annuity under Code §408(b) that is established on behalf of the designated beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Code §402(c)(11). A non-Spouse rollover will be subject to the direct rollover requirements under Code §401(a)(31), the rollover notice requirements under Code §402(f) or the mandatory withholding requirements under Code §3405(c).

(d) **Direct Rollover of non-taxable amounts.** Notwithstanding any other provision of the Plan, an Eligible Rollover Distribution may include the portion of any distribution that is not includible in gross income. For this purpose, an Eligible Retirement Plan includes a Defined Contribution or Defined Benefit Plan qualified under Code §401(a) and a tax-sheltered annuity plan under Code §403(b), provided the rollover is accomplished through a direct rollover and the recipient Eligible Retirement Plan separately accounts for any amounts attributable to the rollover of any nontaxable distribution and earnings thereon.

(e) **Rollovers to Roth IRA.** A Participant or beneficiary (including a non-spousal beneficiary to the extent permitted under subsection (c) above), may rollover an Eligible Rollover Distribution (as defined in subsection (a)(1) above) to a Roth

IRA, provided the Participant (or beneficiary) satisfies the requirements for making a Roth contribution under Code §408A(c)(3)(B). Any amounts rolled over to a Roth IRA will be included in gross income to the extent such amounts would have been included in gross income if not rolled over (as required under Code §408A(d)(3)(A)). For purposes of this subsection (e), the Plan Administrator is not responsible for assuring the Participant (or beneficiary) is eligible to make a rollover to a Roth IRA.

7.05 Automatic Rollover.

(a) Automatic Rollover requirements. If a Participant is entitled to an Involuntary Cash-Out Distribution (as defined in subsection (b) below), and the Participant does not elect to receive a distribution of such amount (either as a Direct Rollover to an Eligible Retirement Plan or as a direct distribution to the Participant), then the Plan Administrator may pay the distribution in a Direct Rollover to an individual retirement plan (IRA) designated by the Plan Administrator. (The Automatic Rollover provisions under this subsection (a) apply to any Involuntary Cash-Out Distribution for which the Participant fails to consent to a distribution, without regard to whether the Participant can be located. See Section 6.10(c) for alternatives if the Participant cannot be located after a reasonable diligent search.). For purposes of applying the Automatic Rollover provisions under this Section 7.05, a Participant's Roth Deferral Account and the Participant's other Accounts are treated as accounts held under separate plans. (See Treas. Reg. §1.401(k)-1(f)(4)(ii).)

(b) Involuntary Cash-Out Distribution. An Involuntary Cash-Out Distribution is any distribution that is made from the Plan without the Participant's consent. Unless elected otherwise under AA §9-2(a)(3), an Involuntary Cash-Out Distribution, for purposes of applying the Automatic Rollover requirements under this Section 7.0505 does not include any amounts below $1,000. (See Section 7.0303 for the Participant consent requirements with respect to distributions under the Plan.) The Plan Administrator may decide whether or not to provide for an Automatic Rollover for a distribution if it is reasonably expected (at the time of the distribution) that the total amount the Participant will receive as a distribution during the calendar year will total less than $200.

(c) Treatment of Rollover Contributions. Unless elected otherwise under AA §9-2(a)(5), for purposes of determining whether a mandatory distribution is greater than $1,000, the portion of the Participant's distribution attributable to any Rollover Contribution is excluded.

7.06 Distribution Upon Termination of Employment. Subject to the required minimum distribution provisions under Section 8, a Participant who terminates employment for any reason (other than death) is entitled to receive a distribution of his/her vested Account Balance in accordance with this Section 7.0606. (See Section 7.0707 for the applicable rules when a Participant dies before distribution of his/her vested Account Balance is completed.)

(a) Account Balance not exceeding Cash-Out threshold. If a Participant's vested Account Balance does not exceed $5,000 (or other Cash-Out threshold designated under AA §9-2(a)(2)) at the time of distribution, the only distribution option available under the Plan is a lump sum option. The Participant will be eligible to receive a distribution of his/her vested Account Balance as of the date selected in AA §9-3(b).

(b) Account Balance exceeding Cash-Out threshold. If a Participant's vested Account Balance exceeds $5,000 (or other Cash-Out threshold designated under AA §9-2(a)(2)) at the time of distribution, the Participant may elect to receive a distribution of his/her vested Account Balance in any form permitted under AA §9-1. The Participant will be eligible to receive a distribution of his/her vested Account Balance as of the date selected in AA §9-3(a). The Employer may elect to accelerate the distribution to Employees upon special circumstances, such as termination after attainment of Normal Retirement Age or other special circumstances.

7.07 Distribution Upon Death. Subject to the Required Minimum Distribution rules in Section 8, a Participant's vested Account Balance will be distributed to the Participant's Beneficiary(ies) in accordance with this Section 7.0707. (See subsection (c) below for rules regarding the determination of Beneficiaries upon the death of the Participant.) The form of benefit payable with respect to a deceased Participant will depend on whether the Participant dies before or after distribution of his/her Account Balance has commenced.

(a) Death after commencement of benefits. If a Participant begins receiving a distribution of his/her benefits under the Plan, and subsequently dies prior to receiving the full value of his/her vested Account Balance, the remaining benefit will continue to be paid to the Participant's Beneficiary(ies) in accordance with the form of payment that has already commenced. If a Participant commences distribution prior to death only with respect to a portion of his/her Account Balance, then the rules in subsection (b) below apply to the rest of the Account Balance.

(b) Death before commencement of benefits. If a Participant dies before commencing distribution of his/her benefits under the Plan, the form and timing of any death benefits will depend on whether the value of the death benefit exceeds $5,000 (or other threshold designated under AA §9-2(a)(2)).

(1) **Death benefit not exceeding $5,000.** If the value of the death benefit does not exceed $5,000, such benefit will be paid to the Participant's Beneficiary(ies) in a single sum as soon as administratively feasible following the Participant's death.

(2) **Death benefit exceeding $5,000.** If the value of the death benefit exceeds $5,000, such benefit will be paid in a lump sum as soon as administratively feasible following the Participant's death. However, the death benefit may be payable in a different form if prescribed by the Participant's Beneficiary designation, or the Beneficiary, before a lump sum payment of the benefit is made, elects to receive the distribution in an alternative form of benefit permitted under Section 7.011.

In no event will any death benefit be paid in a manner that is inconsistent with the Required Minimum Distribution rules under Section 8. The Beneficiary of any pre-retirement death benefit described in this subsection (b) may postpone the commencement of the death benefit to a date that is not later than the latest commencement date permitted under Section 8.

(c) **Determining a Participant's Beneficiary.** The determination of a Participant's (or Beneficiary's, if applicable) Beneficiary(ies) to receive any death benefits under the Plan will be based on the Participant's (or Beneficiary's, if applicable) Beneficiary designation under the Plan. If a Participant (or Beneficiary, if applicable) does not designate a Beneficiary to receive the death benefits under the Plan, distribution will be made to the default Beneficiaries, as set forth in subsection (3) below.

(1) **Post-retirement death benefit.** If a Participant dies after commencing distribution of benefits under the Plan (but prior to receiving a distribution of his/her entire vested Account Balance under the Plan), the Beneficiary of any post-retirement death benefit is determined in accordance with the Beneficiary selected under the distribution option in effect prior to death.

(2) **Pre-retirement death benefit.** If a Participant dies before commencing distribution of his/her benefits under the Plan, the surviving Spouse (determined at the time of the Participant's death) will be treated as the sole Beneficiary, unless:

(i) there is a valid contrary Beneficiary designation;

(ii) there is no surviving Spouse (determined under applicable laws at the time of Participant's death); or

(iii) the Spouse makes a valid disclaimer.

(3) **Default beneficiaries.** To the extent a Beneficiary has not been named by the Participant, and is not designated under the terms of the Investment Arrangement(s), this Plan, or the Adoption Agreement to receive all or any portion of the deceased Participant's death benefit, such amount shall be distributed to the Participant's surviving Spouse (if the Participant was married at the time of death) who shall be considered the designated Beneficiary. If a Participant is legally divorced, the former Spouse is not considered the default Beneficiary. If the Participant does not have a surviving Spouse at the time of death, distribution will be made to the Participant's surviving children (including legally adopted children, but not including step-children), as designated Beneficiaries, in equal shares. If the Participant has no surviving children, distribution will be made to the Participant's estate. The Employer may modify the default beneficiary rules described in this subparagraph under AA §9-5(a).

(4) **Identification of Beneficiaries.** The Plan Administrator may request proof of the Participant's death and may require the Beneficiary to provide evidence of his/her right to receive a distribution from the Plan in any form or manner the Plan Administrator may deem appropriate. The Plan Administrator's determination of the Participant's death and of the right of a Beneficiary to receive payment under the Plan shall be conclusive. If a distribution is to be made to a minor or incompetent Beneficiary, payments may be made to the person's legal guardian or conservator recognized under state law, or custodian in accordance with the Uniform Gifts to Minors Act or similar law as permitted under the laws of the state where the Beneficiary resides. The Plan Administrator or Trustee will not be liable for any payments made in accordance with this subsection (4) and will not be required to make any inquiries with respect to the competence of any person entitled to benefits under the Plan. (See Section 9.03 for a special one-year marriage rule that may apply under AA §9-5(b).)

(5) **Death of Beneficiary.** Unless specified otherwise in the Participant's (or Beneficiary's, if applicable) Beneficiary designation form or under AA §9-5, if a Beneficiary does not predecease the Participant but dies before distribution of the death benefit is made to the Beneficiary, the death benefit will be paid to the Beneficiary's estate. If the Participant and the Participant's Beneficiary die simultaneously, and the Participant's

Beneficiary designation form does not address simultaneous death, the determination of the death beneficiary will be determined under any state simultaneous death laws, to the extent applicable. If no applicable state law applies, the death benefit will be paid to the contingent beneficiaries named under the Participant's beneficiary designation. If there are no contingent beneficiaries, the death benefit will be paid to the Participant's default beneficiaries, as described in subsection (3) above.

(6) **Divorce from Spouse.** Except as otherwise provided in an Investment Arrangement, and unless designated otherwise under AA §9-5(c), if a Participant designates his/her Spouse as Beneficiary and subsequent to such Beneficiary designation, the Participant and Spouse are divorced, the designation of the Spouse as Beneficiary under the Plan is automatically rescinded unless specifically provided otherwise under a divorce decree or QDRO, or unless the Participant enters into a new Beneficiary designation naming the prior Spouse as Beneficiary. In addition, the provisions under this subsection (6) will not apply if the Participant has entered into a Beneficiary designation that specifically overrides the provisions of this subsection (6).

(d) **Slayer Rule.** Notwithstanding anything to the contrary in the Plan, if the Plan Administrator receives notice prior to distribution of a Participant's vested Account that an individual is responsible for the death of such Participant, then no payment of benefits with respect to such Participant will be made under any provision of the Plan to such individual. An individual will be treated as being responsible for the death of a Participant for purposes of the foregoing sentence only if, by virtue of such individual's involvement in the death of the Participant, such individual's entitlement to any interest in assets of the deceased could be denied (whether or not there is in fact any such entitlement) under any applicable state law, including, without limitation, laws governing intestate succession, wills, jointly-owned property, bonds, and life insurance. For purposes of the Plan, any such responsible individual will be deemed to have predeceased the Participant. The Plan Administrator shall withhold distribution of benefits otherwise payable under the Plan for such period of time as is necessary or appropriate under the circumstances to make a determination with regard to the application of this section.

7.08 **Distribution to Disabled Employees.** Unless elected otherwise under AA §9-4, no special distribution rules apply to Disabled Employees. However, the Employer may elect in AA §9-4 to permit a distribution at an earlier date for Disabled Employees.

7.09 **Qualified Distributions for Retired Public Safety Officers.** If permitted under separate administrative procedures, a Participant who is an eligible retired public safety officer may elect, after separation from service, to have qualified health insurance premiums deducted from amounts to be distributed from the Plan that would otherwise be includible in gross income, and to have such amounts paid directly to the insurer or group health plan. The distribution may be excluded from the Participant's gross income to the extent that the aggregate amount of the distribution does not exceed the lesser of the amount used to pay the qualified health insurance premiums of the Participant, the Participant's spouse, and the Participant's dependents (as defined in Code §152), or $3,000, determined by aggregating all distributions with respect to the Participant that are used to pay qualified health insurance premiums from all eligible retirement plans of the Employer as defined in Code §414(d).

(a) **Qualified health insurance premiums.** The term "qualified health insurance premiums" means premiums for coverage for the Participant, the Participant's spouse, and the Participant's dependents (as defined in Code §152) by an accident or health insurance plan (including under a self-insured plan) or qualified long-term care insurance contract (within the meaning of Code §7702B(b)).

(b) **Eligible retired public safety officer.** The term "eligible retired public safety officer" means an individual who separated from service, either by reason of disability or after attainment of Normal Retirement Age, as a public safety officer with the Employer. For this purpose, a public safety officer is an individual serving the Employer in an official capacity, with or without compensation, as a law enforcement officer, a firefighter, a chaplain, or a member of a rescue squad or ambulance crew.

7.10 **In-Service Distributions.** The Employer may elect under AA §10 to permit in-service distributions under the Plan. Except to the extent provided under subsection (a) below, if an in-service distribution is not specifically permitted under AA §10, a Participant may not receive a distribution from the Plan until termination of employment, death or disability.

(a) **After-Tax Employee Contributions and Rollover Contributions.** Unless designated otherwise under AA §10-2, a Participant may withdraw at any time, upon written request, all or any portion of his/her Account Balance attributable to After-Tax Employee Contributions or Rollover Contributions. No forfeiture will occur solely as a result of an Employer's withdrawal of After-Tax Employee Contributions.

(b) **Employer Contributions and Matching Contributions.** The Employer may elect under AA §10 the extent to which in-service distributions will be permitted from Employer Contributions (including Matching Contributions, if applicable) under the Plan. If permitted under AA §10 of the Profit Sharing Plan Adoption Agreement, Employer Contributions may be withdrawn upon the occurrence of a specified event (such as attainment of a designated age or the occurrence of a Hardship, as defined in subsection (e) below). In addition, a Participant may withdraw his/her Employer

Contributions (and Matching Contributions, if applicable) upon the completion of a certain number of years, provided no distribution solely on account of years may be made with respect to Employer Contributions that have been accumulated in the Plan for less than 2 years, unless the Participant has been a Participant in the Plan for at least 5 years. (See Section 6.09 for special vesting rules that apply if a Participant takes an in-service distribution prior to becoming 100% vested in such contributions.)

For Plan Years beginning after January 1, 2007, if the Plan is a pension plan (e.g., a money purchase plan or if the Plan holds transferred assets from a money purchase plan), a Participant may not receive an in-service distribution of his/her vested Account Balance prior to the earlier of the attainment of Normal Retirement Age or age 62 (to the extent permitted under AA §10-1 or AA §10-2).

(c) **Salary Deferrals under Grandfathered 401(k) Arrangement.** If the Plan qualifies as a Grandfathered 401(k) Arrangement, as designated under AA §2-3 of the Profit Sharing Adoption Agreement, any Salary Deferrals (including any earnings on such amounts) generally may not be distributed prior to the Participant's severance from employment, death, or disability. However, the Employer may elect under AA §10 to permit an in-service distribution of such amounts upon attainment of a specified age (no earlier than age 59½, upon a Hardship (as defined in subsection (e) below) or upon a Qualified Reservist Distribution, as defined under subsection (d) below.

If Normal Retirement Age or Early Retirement Age is earlier than age 59½ and an in-service distribution is permitted upon attainment of Normal Retirement Age or Early Retirement Age from Salary Deferrals, the Normal Retirement Age and/or Early Retirement Age will be deemed to be age 59½ for purposes of determining eligibility to distribute Salary Deferrals.

(d) **Penalty-free withdrawals for individuals called to active duty.** Effective September 11, 2001, the distribution provisions applicable to Salary Deferrals include a Qualified Reservist Distribution, as defined in subsection (1) below. If a Participant takes a Qualified Reservist Distribution, such distributions will not be subject to the 10% penalty tax under Code §72(t). A Qualified Reservist Distribution is only available if permitted under AA §10-1.

(1) **Qualified Reservist Distribution.** For purposes of this subsection (d), a Qualified Reservist Distribution means any distribution to an individual if:

(i) such distribution is from amounts attributable to elective deferrals described in Code §402(g)(3)(A) or (C) or Code §501(c)(18)(D)(iii),

(ii) such individual was (by reason of being a member of a reserve component (as defined in §101 of Title 37 of the United States Code)) ordered or called to active duty for a period in excess of 179 days or for an indefinite period, and

(iii) such distribution is made during the period beginning on the date of such order or call, and ending at the close of the active duty period.

(2) **Active duty.** A Qualified Reservist Distribution will only be available for individuals who are ordered or called into active duty after September 11, 2001.

(e) **Hardship distribution.** The Employer may elect under AA §10-1 or AA §10-2 of the Profit Sharing Plan Adoption Agreement to authorize an in-service distribution upon the occurrence of a Hardship event. A Hardship distribution of Salary Deferrals must meet the requirements of a safe harbor Hardship as described under subsection (1) below. For other contribution types, the Employer may elect to apply the safe harbor Hardship rules under subsection (1) below or the non-safe harbor Hardship provisions under subsection (2) below.

(1) **Safe harbor Hardship distribution.** To qualify for a safe harbor Hardship, a Participant must demonstrate an immediate and heavy financial need, as described in subsection (i) below, and the distribution must be necessary to satisfy such need, as described in subsection 0 below.

(i) **Immediate and heavy financial need.** To be considered an immediate and heavy financial need, the Hardship distribution must be made to satisfy one of the following financial needs:

(A) to pay expenses incurred or necessary for medical care (as described in Code §213(d)) of the Participant, the Participant's Spouse or dependents (determined without regard to whether the expenses exceed 7.5% of adjusted gross income);

(B) for the purchase (excluding mortgage payments) of a principal residence for the Participant;

(C) for payment of tuition and related educational fees (including room and board) for the next 12 months of post-secondary education for the Participant, the Participant's Spouse, children or dependents;

(D) to prevent the eviction of the Participant from, or a foreclosure on the mortgage of, the Participant's principal residence;

(E) to pay funeral or burial expenses for the Participant's deceased parent, Spouse, child or dependent;

(F) to pay expenses to repair damage to the Participant's principal residence that would qualify for a casualty loss deduction under Code §165 (determined without regard to whether the loss exceeds the 10% of adjusted gross income limit); or

(G) for any other event that the IRS recognizes as a safe harbor Hardship distribution event under ruling, notice or other guidance of general applicability.

For purposes of determining eligibility of a Hardship distribution under this subsection (i), a dependent is determined under Code §152. However, for taxable years beginning on or after January 1, 2005, the determination of dependent for purposes of tuition and education fees under subsection (C) above will be made without regard to Code §152(b)(1), (b)(2), and (d)(1)(B), and the determination of dependent for purposes of funeral or burial expenses under subsection (E) above will be made without regard to Code §152(d)(1)(B).

A Participant must provide the Plan Administrator with a written request for a Hardship distribution. The Plan Administrator may require written documentation, as it deems necessary, to sufficiently document the existence of a proper Hardship event.

(ii) **Distribution necessary to satisfy need.** A distribution will be considered as necessary to satisfy an immediate and heavy financial need of the Participant if:

(A) The distribution is not in excess of the amount of the immediate and heavy financial need (including amounts necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the distribution);

(B) The Participant has obtained all available distributions, other than Hardship distributions, and all nontaxable loans under the Plan and all plans maintained by the Employer; and

(C) The Participant is suspended from making Salary Deferrals (and After-Tax Employee Contributions) for at least 6 months after the receipt of the Hardship distribution.

(2) **Non-safe harbor Hardship distribution.** The Employer may elect in AA §10-1(e) or AA §10-2(e) of the Profit Sharing Plan Adoption Agreement to permit Participants to take a Hardship distribution without satisfying the requirements of subsection (1) above.

(i) **Immediate and heavy financial need.** For purposes of determining whether a Hardship exists under this subsection (2), the same Hardship distribution events described in subsection (i) will qualify as a Hardship distribution event under this subsection (2). The Employer may modify the permissible Hardship distribution events under AA §10-3(f) of the Profit Sharing Plan Adoption Agreement.

(ii) **Distribution necessary to satisfy need.** A Hardship distribution under this subsection (2) need not satisfy the requirements under subsection 0 above. Instead, all relevant facts and circumstances are considered to determine whether the Employee has other resources reasonably available to relieve or satisfy the need. For this purpose, resources include assets of the Employee's Spouse and minor children that are reasonably available to the Employee. In addition, the amount withdrawn for hardship may include amounts necessary to pay federal, state or local income taxes, or penalties reasonably anticipated to result from the distribution.

The Employer or Plan Administrator may rely upon the Employee's written representation that the need cannot be reasonably relieved through the following sources:

(A) Reimbursement or compensation by insurance;

(B) Liquidation of the Employee's assets;

(C) Cessation of Salary Deferrals or After-Tax Employee Contributions under the Plan;

(D) Other currently available distributions or nontaxable loans from the Plan or any other plan maintained by the Employer (or any other employer);

(E) Borrowing from commercial sources on reasonable commercial terms in an amount sufficient to satisfy the need.

The Employer or Plan Administrator may not rely upon the written representation under this subsection 0 if the Employer has actual knowledge to the contrary.

(3) **Amount available for Hardship distribution.** A Participant may receive a Hardship distribution of any portion of his/her vested Employer Contribution Account or Matching Contribution Account (including earnings thereon), as permitted under AA §10. A Participant may receive a Hardship distribution of Salary Deferrals provided such distribution, when added to other Hardship distributions from Salary Deferrals, does not exceed the total Salary Deferrals the Participant has made to the Plan (increased by income allocable to such Salary Deferrals as of the later of December 31, 1988 or the end of the last Plan Year ending before July 1, 1989).

(4) **Availability to terminated Employees.** If a Hardship distribution is permitted under AA §10-1 or AA §10-2, a Participant may take such a Hardship distribution after termination of employment to the extent no other distribution is available from the Plan.

(5) **Application of Hardship distributions rules with respect to primary beneficiaries.** If elected under AA §10-3(e), if the Plan otherwise permits Hardship distributions based on the safe harbor hardship provisions under subsection (1), the existence of an immediate and heavy financial need under subsection (i) may be determined with respect to a primary beneficiary under the Plan. For this purpose, a primary beneficiary is an individual who is named as a beneficiary under the Plan and has an unconditional right to all or a portion of a Participant's Account Balance upon the death of the Participant. Hardship distributions with respect to primary beneficiaries under this subsection (5) are limited to Hardship distributions on account of medical expenses, educational expenses and funeral expenses (as described in subsections (A), (C) and (E), above)). Any Hardship distribution with respect to a primary beneficiary must satisfy all the other requirements applicable to Hardship distributions under subsection (e).

7.11 **Sources of Distribution.** Except as otherwise provided in the Investment Arrangement, and unless provided otherwise in separate administrative provisions adopted by the Plan Administrator, in applying the distribution provisions under this Section 7, distributions will be made on a pro rata basis from all Accounts from which a distribution is permitted. Alternatively, the Plan Administrator may permit Participants to direct the Plan Administrator as to which Account the distribution is to be made. Regardless of a Participant's direction as to the source of any distribution, the tax effect of such a distribution will be governed by Code §72 and the regulations thereunder.

(a) **Exception for Hardship withdrawals.** If the Plan permits a Hardship withdrawal from both Salary Deferrals (including Roth Deferrals) and Employer Contributions, a Hardship distribution will first be treated as having been made from a Participant's Employer Contribution Account and then from the Employer's Matching Contribution Account, to the extent such Hardship distribution is available with respect to such Accounts. Only when all available amounts have been exhausted under the Participant's Employer Contribution Account and/or Matching Contribution Account will a Hardship distribution be made from a Participant's Pre-Tax Salary Deferral Account and/or Roth Deferral Account. (See subsection (b) below for the ordering rules for distributions from the Pre-Tax Salary Deferral and Roth Deferral Accounts.) The Plan Administrator may modify the ordering rules under this subsection (a) under separate administrative procedures.

(b) **Roth Deferrals.** If a Participant has both a Pre-Tax Salary Deferral Account and a Roth Deferral Account, withdrawals and loans from such Accounts will be made in accordance with this subsection (b).

(1) **Distributions and withdrawals.** Unless designated otherwise under AA §6A-5 of the Grandfathered 401(k) Plan Adoption Agreement or separate administrative procedures, if a Participant has both a Pre-Tax Salary Deferral Account and a Roth Deferral Account, the Participant may designate the extent to which a distribution or withdrawal of Salary Deferrals will come from the Pre-Tax Salary Deferral Account or the Roth Deferral Account. Alternatively, the Employer may provide under AA §6A-5 of the Grandfathered 401(k) Plan Adoption Agreement (or under separate administrative procedures) that any distribution or withdrawal of Salary Deferrals will be made on a pro rata basis from the Pre-Tax Salary Deferral Account and the Roth Deferral Account.

Alternatively, the Employer may designate any other order of distribution and withdrawals under AA §6A-5 or separate administrative procedures.

(2) **Distribution of Excess Deferrals.** Unless designated otherwise under AA §6A-5 of the Grandfathered 401(k) Plan Adoption Agreement or separate administrative procedures, if a Participant has both a Pre-Tax Salary Deferral Account and a Roth Deferral Account, and the Plan is required to make a corrective distribution of Excess Deferrals to such Participant, the Participant may designate whether the Plan will make such corrective distribution of Excess Deferrals from the Pre-Tax Salary Deferral Account or the Roth Deferral Account. Alternatively, the Employer may elect under AA §6A-5 of the Grandfathered 401(k) Plan Adoption Agreement (or under separate administrative procedures) that corrective distributions of Salary Deferrals to correct Excess Deferrals will be made pro rata from the Pre-Tax Salary Deferral Account and Roth Deferral Account or first from the Pre-Tax Salary Deferral Account or first from the Roth Deferral Account.

Unless designated otherwise under separate administrative procedures, if a Participant is permitted to designate the extent to which a corrective distribution is made from the Pre-Tax Salary Deferral Account or the Roth Deferral Account, and the Participant fails to designate the appropriate Account by the date the corrective distribution is made from the Plan, such corrective distribution may be withdrawn equally from both the Pre-Tax Salary Deferral Account and the Roth Deferral Account, or the Employer may withdraw such amounts first from either the Pre-Tax Salary Deferral Account or the Roth Deferral Account.

(c) **In-kind distributions.** Nothing in this Section 7 precludes the Plan Administrator from making a distribution in the form of property, or other in-kind distribution. If the Plan invests in Annuity Contracts, the Plan Administrator may make a distribution in the form of distributed Annuity Contracts. An in-kind distribution is only available to the extent such investments are held in the Participant's Account at the time of the distribution. This subsection does not give any Participant the right to request an in-kind distribution if not otherwise authorized by the Plan Administrator.

7.12 **Correction of Qualification Defects.** Nothing in this Section 7 precludes the Plan Administrator from making a distribution to a Participant to correct a qualification defect consistent with the correction procedures under the IRS' voluntary compliance programs. Thus, for example, if an Employee is permitted to enter the Plan prior to his/her proper Entry Date under Section 2.03(b) and the Plan Administrator determines that a corrective distribution is a proper means of correcting the operational violation, nothing in this Section 7 would prevent the Plan from making such corrective distribution. Any such distribution must be made in accordance with the correction procedures applicable under the IRS' voluntary correction programs under Rev. Proc. 2013-12 (or successive guidance).

SECTION 8
REQUIRED MINIMUM DISTRIBUTIONS

8.01 **Required Minimum Distributions.** Unless specified otherwise under Appendix A of the Adoption Agreement, the provisions of this Section apply to calendar years beginning on or after January 1, 2003. A Participant's entire interest under the Plan will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date (as defined in Section 8.05(e)). All distributions required under this Section 8 will be determined and made in accordance with the regulations under Code §401(a)(9) and the minimum distribution incidental benefit requirement of Code §401(a)(9)(G). For purposes of applying the required minimum distribution rules under this Section 8, any distribution made in a form other than a lump sum must be made over one of the following periods (or a combination thereof):

(a) the life of the Participant;

(b) the life of the Participant and a Designated Beneficiary;

(c) a period certain not extending beyond the life expectancy of the Participant; or

(d) a period certain not extending beyond the joint and last survivor life expectancy of the Participant and a Designated Beneficiary.

8.02 **Death of Participant before required distributions begin.** If the Participant dies before required distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(a) **Surviving Spouse is sole Designated Beneficiary.** Unless designated otherwise under AA §10-4, if the Participant's surviving Spouse is the Participant's sole Designated Beneficiary, the surviving Spouse may elect to take distributions under the five-year rule (as described in Section 8.06(a) below) or under the life expectancy method. If the life expectancy method applies, distributions to the surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70-1/2, if later.

(b) **Surviving Spouse is not the sole Designated Beneficiary.** Unless designated otherwise under AA §10-4, if the Participant's surviving Spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary may elect to take distributions under the five-year rule (as described in Section 8.06(a) below) or under the life expectancy method. If the life expectancy method applies, 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. If the Designated Beneficiary does not elect to commence distributions by December 31 of the calendar year immediately following the calendar year in which the Participant dies, a complete distribution must be made by December 31 of the calendar year containing the fifth anniversary of the Participant's death. See Section 8.06(a) below.

(c) **No Designated Beneficiary.** If there is no Designated Beneficiary as of the date of the Participant's death who remains a Beneficiary as of September 30 of the year immediately 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) **Death of surviving Spouse.** If the Participant's surviving Spouse is the Participant's sole Designated Beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this Section 8.02 (other than subsection (a) above) will apply as if the surviving Spouse were the Participant.

For purposes of this Section 8.02 and AA §10-4, unless subsection (d) above applies, distributions are considered to begin on the Participant's Required Beginning Date. If subsection (d) above applies, distributions are considered to begin on the date distributions are required to begin to the surviving Spouse under subsection (a) above. If distributions under an annuity purchased from an insurance company irrevocably commence to the participant before the Participant's Required Beginning Date (or to the Participant's surviving Spouse before the date distributions are required to begin to the surviving Spouse under subsection (a) above), the date distributions are considered to begin is the date distributions actually commence.

8.03 **Required Minimum Distributions during Participant's lifetime.**

(a) **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:

(1) the quotient obtained by dividing the Participant's Account Balance by the distribution period set forth in the Uniform Lifetime Table found in Treas. Reg. §1.401(a)(9)-9, Q&A-2, using the Participant's age as of the Participant's birthday in the Distribution Calendar Year; or

(2) if the Participant's sole Designated Beneficiary for the Distribution Calendar Year is the Participant's Spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in Treas. Reg. §1.401(a)(9)-9, 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.

(b) **Lifetime Required Minimum Distributions continue through year of Participant's death.** Required Minimum Distributions will be determined under this subsection (b) beginning with the first Distribution Calendar Year and continuing up to, and including, the Distribution Calendar Year that includes the Participant's date of death.

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

(a) **Death on or after date required distributions begin.**

(1) **Participant survived by Designated Beneficiary.** If the Participant dies on or after the date required distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's Designated Beneficiary, determined as follows:

(i) The Participant's remaining life expectancy is calculated in accordance with the Single Life Table found in Treas. Reg. §1.401(a)(9)-9, Q&A-1, 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 using the Single Life Table found in Treas. Reg. §1.401(a)(9)-9, Q&A-1, for each Distribution Calendar Year after the year of the Participant's death using the surviving Spouse's age as of the Spouse's birthday in that year. For Distribution Calendar Years after the year of the surviving Spouse's death, the remaining life expectancy of the surviving Spouse is calculated using the age of the surviving Spouse as of the Spouse's birthday in the calendar year of the Spouse's death, reduced by one for each subsequent calendar year.

(iii) If the Participant's surviving Spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining life expectancy is calculated under the Single Life Table using the age of the Designated Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(2) **No Designated Beneficiary.** If the participant dies on or after the date required distributions begin and there is no Designated Beneficiary as of the Participant's date of death who remains a Designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the Participant's remaining life expectancy under the Single Life Table calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(b) **Death before date required distributions begin.**

(1) **Participant survived by Designated Beneficiary.** Unless designated otherwise under AA §10-4, if the Participant dies before the date required distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining life expectancy of the Participant's Designated Beneficiary, determined as provided in subsection (a) above.

(2) **No Designated Beneficiary.** If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of the date of death of the Participant who remains a Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest must be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(3) **Death of surviving Spouse before distributions to surviving Spouse are required to begin.** If the Participant dies before the date distributions begin, the Participant's surviving Spouse is the Participant's sole Designated Beneficiary, and the surviving Spouse dies before distributions are required to begin to the surviving Spouse under Section 8.02(a), this subsection (b) will apply as if the surviving Spouse were the Participant.

8.05 Definitions.

(a) **Designated Beneficiary.** A Beneficiary designated by the Participant (or the Plan), whose life expectancy may be taken into account to calculate minimum distributions, pursuant to Code §401(a)(9) and Treas. Reg. §1.401(a)(9)-4.

(b) **Distribution Calendar Year.** A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year that contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin pursuant to Section 8.02. The Required Minimum Distribution for the Participant's first Distribution Calendar Year will be made on or before the Participant's Required Beginning Date. The Required Minimum Distribution for other Distribution Calendar Years, including the Required Minimum Distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.

(c) **Life expectancy.** For purposes of determining a Participant's Required Minimum Distribution amount, life expectancy is computed using one of the following tables, as appropriate: (1) Single Life Table, (2) Uniform Life Table, or (3) Joint and Last Survivor Table found in Treas. Reg. §1.401(a)(9)-9, Q&A-1.

(d) **Account Balance.** For purposes of determining a Participant's Required Minimum Distribution, the Participant's Account Balance is determined based on the Account Balance as of the last Valuation Date in the calendar year immediately preceding the Distribution Calendar Year (the "valuation calendar year"), increased by the amount of any contributions or forfeitures allocated to the Account Balance as of dates in the calendar year after the Valuation Date, and decreased by distributions made in the calendar year after the Valuation Date. The Account Balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the Distribution Calendar Year, if distributed or transferred in the valuation calendar year.

(e) **Required Beginning Date.** Unless designated otherwise under AA §10-4, a Participant's Required Beginning Date under the Plan is April 1 that follows the end of the calendar year in which the later of the following two events occurs:

(1) the Participant attains age 70½; or

(2) the Participant terminates employment.

A Participant may begin in-service distributions prior to his/her Required Beginning Date only to the extent authorized under Section 7.100 and AA §10. However, if this Plan were amended to add the Required Beginning Date rules under this subsection (e), a Participant who attained age 70½ prior to January 1, 1999 (or, if later, January 1 following the date the Plan is first amended to contain the Required Beginning Date rules under this subsection (e)) may receive in-service minimum distributions in accordance with the terms of the Plan in existence prior to such amendment.

8.06 Special Rules.

(a) **Election to apply 5-year rule to required distributions after death.** If the Participant dies before distributions begin and there is a Designated Beneficiary, the Employer may elect under AA §10-4, instead of applying the provisions of Sections 8.02 and 8.04, to require the Participant's entire interest to be distributed to the Designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death. If the Participant's surviving Spouse is the Participant's sole Designated Beneficiary and the surviving Spouse dies after the Participant but before distributions to either the Participant or the surviving Spouse begin, this election will apply as if the surviving Spouse were the Participant.

(b) **Election to allow Participants or Beneficiaries to elect 5-year rule.** If a Participant or Designated Beneficiary is permitted under AA §10-4 to elect whether to apply the life expectancy rule under Section 8.02 above or the five year rule under subsection (a) above, the election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 8.02 or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving Spouse's) death. If neither the Participant nor Beneficiary makes an election under this paragraph, distributions will be made in accordance with the five-year rule under subsection (a) above, unless the Employer specifies otherwise under AA §10-4(b).

(c) **Forms of Distribution.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a lump sum on or before the Required Beginning Date, as of the first Distribution Calendar Year distributions will be made in accordance with Sections 8.02 and 8.04. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code §401(a)(9) and the regulations.

(d) **Treatment of trust beneficiaries as Designated Beneficiaries.** If a trust is properly named as a Beneficiary under the Plan, the beneficiaries of the trust will be treated as the Designated Beneficiaries of the Participant solely for purposes of determining the distribution period under this Section 8 with respect to the trust's interests in the Participant's vested Account Balance. The beneficiaries of a trust will be treated as Designated Beneficiaries for this purpose only if, during any period during which required minimum distributions are being determined by treating the beneficiaries of the trust as Designated Beneficiaries, the following requirements are met:

(1) the trust is a valid trust under state law, or would be but for the fact there is no corpus;

(2) the trust is irrevocable or will, by its terms, become irrevocable upon the death of the Participant;

(3) the beneficiaries of the trust who are beneficiaries with respect to the trust's interests in the Participant's vested Account Balance are identifiable from the trust instrument; and

(4) the Plan Administrator receives the documentation described in subsection (e)(1) below.

If the foregoing requirements are satisfied and the Plan Administrator receives such additional information as it may request, the Plan Administrator may treat such beneficiaries of the trust as Designated Beneficiaries.

(e) **Special rules applicable to trust beneficiaries.**

(1) **Information that must be supplied to Plan Administrator.**

(i) **Required minimum distribution before death where Spouse is sole beneficiary.** If a Participant designates a trust as the beneficiary of his/her entire benefit and the Participant's Spouse is the sole beneficiary of the trust, the Participant must provide the information under (A) or (B) below to satisfy the information requirements under subsection (d)(4) above.

(A) The Participant must provide to the Plan Administrator a copy of the trust instrument and agree that if the trust instrument is amended at any time in the future, the Participant will, within a reasonable time, provide to the Plan Administrator a copy of each such amendment; or

(B) The Participant must:

(I) provide to the Plan Administrator a list of all of the beneficiaries of the trust (including contingent and remaindermen beneficiaries with a description of the conditions on their entitlement sufficient to establish that the Spouse is the sole beneficiary) for purposes of Code §401(a)(9);

(II) certify that, to the best of the Participant's knowledge, the list under subsection (I) above is correct and complete and that the requirements of subsection (d) above are satisfied;

(III) agree that, if the trust instrument is amended at any time in the future, the Participant will, within a reasonable time, provide to the Plan Administrator corrected certifications to the extent that the amendment changes any information previously certified; and

(IV) agree to provide a copy of the trust instrument to the Plan Administrator upon demand.

(ii) **Required minimum distribution after death.** In order to satisfy the documentation requirement of subsection (d)(4) above for required minimum distributions after the death of the Participant (or Spouse in a case to which Treas. Reg. §.401(a)(9)-3, Q&A-5 applies), the trustee of the trust must satisfy the requirements of subsection (A) or (B) below by October 31 of the calendar year immediately following the calendar year in which the Participant died.

(A) The trustee of the trust must:

(I) provide the Plan Administrator with a final list of all beneficiaries of the trust (including contingent and remaindermen beneficiaries with a description of the conditions on their entitlement) as of September 30 of the calendar year following the calendar year of the Participant's death;

(II) certify that, to the best of the trustee's knowledge, the list in subsection (I) above is correct and complete and that the requirements of subsection (d) above are satisfied; and

(III) agree to provide a copy of the trust instrument to the Plan Administrator upon demand.

(B) The trustee of the trust must provide the Plan Administrator with a copy of the actual trust document for the trust that is named as a beneficiary of the Participant under the Plan as of the Participant's date of death.

(2) **Relief for discrepancy.** If required minimum distributions are determined based on the information provided to the Plan Administrator in certifications or trust instruments described in subsection (1) above, the Plan will not fail to satisfy Code §401(a)(9) merely because the actual terms of the trust instrument are inconsistent with the information in those certifications or trust instruments previously provided to the Plan Administrator, provided the Plan Administrator reasonably relied on the information provided and the required minimum distributions for calendar years after the calendar year in which the discrepancy is discovered are determined based on the actual terms of the trust instrument.

8.07 **Transitional Rule.** Notwithstanding the other requirements of this Section 8, distribution on behalf of any Employee may be made in accordance with all of the following requirements (regardless of when such distribution commences):

(a) The distribution by the Plan is one that would not have disqualified the Plan under Code §401(a)(9) as in effect prior to amendment by the Deficit Reduction Act of 1984;

(b) The distribution is in accordance with a method of distribution designated by the Participant whose interest in the Plan is being distributed or, if the Participant is deceased, by a Beneficiary of such Participant;

(c) Such designation was in writing, was signed by the Participant or the beneficiary, and was made before January 1, 1984;

(d) The Participant had accrued a benefit under the Plan as of December 31, 1983; and

(e) The method of distribution designated by the Participant or the beneficiary specifies the time at which distribution will commence, the period over which distributions will be made, and in the case of any distribution upon the Participant's death, the beneficiaries of the Participant listed in order of priority.

A distribution upon death will not be covered by this transitional rule unless the information in the designation contains the required information described above with respect to the distributions to be made upon the death of the Participant.

For any distribution which commences before January 1, 1984, but continues after December 31, 1983, the Participant, or the Beneficiary, to whom such distribution is being made, will be presumed to have designated the method of distribution under which the distribution is being made if the method of distribution was specified in writing and the distribution satisfies the requirements in subsections (a) - (e) above.

If a designation is revoked any subsequent distribution must satisfy the requirements of Code §401(a)(9) and the proposed regulations thereunder. If a designation is revoked subsequent to the date distributions are required to begin, the Plan must distribute by the end of the calendar year following the calendar year in which the revocation occurs the total amount not yet distributed which would have been required to have been distributed to satisfy Code §401(a)(9) and the proposed regulations thereunder, but for the TEFRA §242(b)(2) election. For calendar years beginning after December 31, 1988, such distributions must meet the minimum distribution incidental benefit requirements. Any changes in the designation will be considered to be a revocation of the designation. However, the mere substitution or addition of another Beneficiary (one not named in the designation) under the designation will not be considered to be a revocation of the designation, so long as such substitution or addition does not alter the period over which distributions are to be made under the designation, directly or indirectly (for example, by altering the relevant measuring life). In the case in which an amount is transferred or rolled over from one plan to another plan, the rules in Treas. Reg. §1.401(a)(9)-8, Q&A-14 and Q&A-15 shall apply.

8.08 **Modification of Minimum Distribution Rules Relating to Qualified Longevity Annuity Contracts.** The following provisions modify the required minimum distribution rules under this Section 8 of the Plan to conform the rules to final Treasury Regulation §1.401(a)(9)-6 relating to the purchase of Qualifying Longevity Annuity Contracts (QLACs). The Plan will apply the provisions consistent with the requirements under the Treas. Reg. §§1.401(a)(9)-5 and 1.401(a)(9)-6, as amended.

(a) The following provisions modify the required minimum distribution rules under this Section 8 of the Plan to conform the rules to final Treasury Regulation §1.401(a)(9)-6 relating to the purchase of Qualifying Longevity Annuity

Contracts (QLACs). The Plan will apply the provisions consistent with the requirements under the Treas. Reg. §§1.401(a)(9)-5 and 1.401(a)(9)-6, as amended.

(b) Effective/Applicability Dates.

(1) General effective dates. This Section 8.08 applies to contracts purchased on or after July 2, 2014. If on or after July 2, 2014 an existing contract is exchanged for a contract that satisfies the requirements of this Section 8.08, the new contract will be treated as purchased on the date of the exchange, and the fair market value of the contract that is exchanged for a QLAC will be treated as a premium paid with respect to the QLAC.

(2) Delayed applicability date for requirement that contract state that it is intended to be QLAC. An annuity contract purchased before January 1, 2016, will not fail to be a QLAC merely because the contract does not satisfy the requirement of subsection (d)(1)(vi), provided that:

(i) When the contract (or a certificate under a group annuity contract) is issued, the Employee is notified that the annuity contract is intended to be a QLAC; and

(ii) The contract is amended (or a rider, endorsement or amendment to the certificate is issued) no later than December 31, 2016, to state that the annuity contract is intended to be a QLAC.

(c) Account Balance for Determining Minimum Distributions. For purposes of determining a Participant's Required Minimum Distribution as described under this Section 8.08 of the Plan, the Participant's Account Balance as defined under Section 8.05(d) of the Plan, does not include the value of any Qualifying Longevity Annuity Contract (QLAC), described under subsection (d) below and Treas. Reg. §1.401(a)(9)–6, Q&A - 17, that is held under the Plan.

(d) Rules Applicable to Qualifying Longevity Annuity Contracts.

(1) Definition of Qualifying Longevity Annuity Contracts. A Qualifying Longevity Annuity Contract (QLAC) is an annuity contract that is purchased from an insurance company for an Employee and that, in accordance with the rules of application of this Article II and Treas. Reg. §1.401(a)(9)-6, Q&A - 17, satisfies each of the following requirements:

(i) Premiums for the contract satisfy the requirements of subsection (2) of this subsection (d);

(ii) The contract provides that distributions under the contract must commence not later than a specified annuity starting date that is no later than the first day of the month next following the 85th anniversary of the Employee's birth;

(iii) The contract provides that, after distributions under the contract commence, those distributions must satisfy the requirements of this Article and Treas. Reg. §1.401(a)(9) (other than the requirement that annuity payments commence on or before the Required Beginning Date);

(iv) The contract does not make available any commutation benefit, cash surrender right, or other similar feature;

(v) No benefits are provided under the contract after the death of the employee other than the benefits described in Subsection (3) of this subsection (d);

(vi) When the contract is issued, the contract (or a rider or endorsement with respect to that contract) states that the contract is intended to be a QLAC; and

(vii) The contract is not a variable contract under Code §817, an indexed contract, or a similar contract, except to the extent provided by the Commissioner of the Internal Revenue Service in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin.

(2) Limitations on premiums.

(i) In general. The premiums paid with respect to the contract on a date satisfy the requirements of this subsection (2) if they do not exceed the lesser of the dollar limitation in subsection (ii) below or the percentage limitation in subsection (iii) below.

(ii) Dollar limitation. The dollar limitation is an amount equal to the excess of:

(A) $125,000 (as adjusted under Section (d)(2) of Treas. Reg. §1.401(a)(9)-6, Q&A - 17), over

(B) The sum of:

(I) The premiums paid before that date with respect to the contract, and

(II) The premiums paid on or before that date with respect to any other contract that is intended to be a QLAC and that is purchased for the Employee under the Plan, or any other plan, annuity, or account described in Code §§ 401(a), 403(a), 403(b), or 408 or eligible governmental plan under Code §457(b).

(iii) Percentage limitation. The percentage limitation is an amount equal to the excess of:

(A) 25 percent of the Employee's Account Balance under the Plan (including the value of any QLAC held under the plan for the Employee) as of that date, determined in accordance with Treas. Reg. §1.401(a)(9)-6, Q&A - 17 (d)(1)(iii), over

(B) The sum of:

(I) The premiums paid before that date with respect to the contract, and

(II) The premiums paid on or before that date with respect to any other contract that is intended to be a QLAC and that is held or was purchased for the employee under the plan.

(3) Payments after death of the Employee.

(i) Surviving spouse is sole beneficiary.

(A) Death on or after annuity starting date. If the Employee dies on or after the annuity starting date for the contract, and the Employee's surviving spouse is the sole beneficiary under the contract, then except as provided in Treas. Reg. §1.401(a)(9)-6, Q&A - 17 (c)(4), the only benefit permitted to be paid after the Employee's death is a life annuity payable to the surviving spouse where the periodic annuity payment is not in excess of 100 percent of the periodic annuity payment that is payable to the Employee.

(B) Death before annuity starting date.

(I) Amount of annuity. If the employee dies before the annuity starting date and the employee's surviving spouse is the sole beneficiary under the contract then, except as provided in paragraph in Treas. Reg. §1.401(a)(9)-6, Q&A - 17 (c)(4), the only benefit permitted to be paid after the Employee's death is a life annuity payable to the surviving spouse where the periodic annuity payment is not in excess of 100 percent of the periodic annuity payment that would have been payable to the Employee as of the date that benefits to the surviving spouse commence. However, the annuity is permitted to exceed 100 percent of the periodic annuity payment that would have been payable to the employee to the extent necessary to satisfy the requirement to provide a Qualified Preretirement Survivor Annuity.

(II) Commencement date for annuity. Any life annuity payable to the surviving spouse under Subsection (I) above must commence no later than the date on which the annuity payable to the Employee would have commenced under the contract if the Employee had not died.

(ii) Surviving spouse is not sole beneficiary.

(A) **Death on or after annuity starting date.** If the Employee dies on or after the annuity starting date for the contract and the Employee's surviving spouse is not the sole beneficiary under the contract then, except as provided in Treas. Reg. §1.401(a)(9)-6, Q&A - 17 (c)(4), the only benefit permitted to be paid after the Employee's death is a life annuity payable to the designated beneficiary where the periodic annuity payment is not in excess of the applicable percentage (determined under paragraph Treas. Reg. §1.401(a)(9)-6, Q&A - 17 (c)(2)(iii)) of the periodic annuity payment that is payable to the Employee.

(B) **Death before annuity starting date.**

(I) **Amount of annuity.** If the Employee dies before the annuity starting date and the Employee's surviving spouse is not the sole beneficiary under the contract then, except as provided in Treas. Reg. §1.401(a)(9)-6, Q&A - 17 (c)(4), the only benefit permitted to be paid after the Employee's death is a life annuity payable to the designated beneficiary where the periodic annuity payment is not in excess of the applicable percentage (determined under Treas. Reg. §1.401(a)(9)-6, Q&A - 17(c)(2)(iii) of the periodic annuity payment that would have been payable to the Employee as of the date that benefits to the designated beneficiary commence under this subsection (I)

(II) **Commencement date for annuity.** In any case in which the employee dies before the annuity starting date, any life annuity payable to a designated beneficiary under this subsection (II) must commence by the last day of the calendar year immediately following the calendar year of the Employee's death.

(4) **Rules of application.**

(i) **Rules relating to premiums.**

(A) **Reliance on representations.** For purposes of the limitation on premiums described in Subsections (2)(ii) and (2)(iii) above, unless the Plan Administrator has actual knowledge to the contrary, the Plan Administrator may rely on an Employee's representation (made in writing or such other form as may be prescribed by the Commissioner of the Internal revenue Service) of the amount of the premiums described in subsections (2)(ii)(B)(II) and (2)(iii)(B)(II) above, but only with respect to premiums that are not paid under a plan, annuity, or contract that is maintained by the Employer or Related Employer.

(B) **Consequences of excess premiums.**

(I) **General Rule.** If an annuity contract fails to be a QLAC solely because a premium for the contract exceeds the limits under subsection (II) below, then the contract is not a QLAC beginning on the date that premium payment is made unless the excess premium is returned to the non-QLAC portion of the Employee's account in accordance with Treas. Reg. §1.401(a)(9)-6, Q&A - 17 (d)(1)(ii)(B). If the contract fails to be a QLAC, then the value of the contract may not be disregarded under A–3(d) of Treas. Reg. §1.401(a)(9)–5 as of the date on which the contract ceases to be a QLAC.

(II) **Correction in year following year of excess.** If the excess premium is returned (either in cash or in the form of a contract that is not intended to be a QLAC) to the non-QLAC portion of the Employee's account by the end of the calendar year following the calendar year in which the excess premium was originally paid, then the contract will not be treated as exceeding the limits under this subsection (II) at any time, and the value of the contract will not be included in the Employee's Account Balance. If the excess premium (including the fair market value of an annuity contract that is not intended to be a QLAC, if applicable) is returned to the non-QLAC portion of the Employee's account after the last valuation date for the calendar year in which the excess premium was originally paid, then the Employee's account balance for that calendar year must be increased to reflect that excess premium in the same manner as an Employee's Account Balance is increased under Treas. Reg. §1.401(a)(9)–7, A–2 to reflect a rollover received after the last valuation date.

(III) **Return of excess premium not a commutation benefit.** If the excess premium is returned to the non-QLAC portion of the Employee's account as described in Treas. Reg.

§1.401(a)(9)-6, Q&A - 17 (d)(1)(ii)(B), it will not be treated as a violation of the requirement in subsection (d)(1)(iv) that the contract not provide a commutation benefit.

(C) **Application of 25-percent limit.** For purposes of the 25-percent limit under subsection (2)(iii)(A) above, an Employee's Account Balance on the date on which premiums for a contract are paid is the account balance as of the last valuation date preceding the date of the premium payment, adjusted as follows. The Account Balance is increased for contributions allocated to the account during the period that begins after the valuation date and ends before the date the premium is paid, and decreased for distributions made from the account during that period.

(ii) **Dollar and age limitations subject to adjustments.**

(A) **Dollar limitation.** In the case of calendar years beginning on or after January 1, 2015, the $125,000 amount under subsection (2)(ii)(A) above will be adjusted at the same time and in the same manner as the limits are adjusted under Code §415(d), except that the base period shall be the calendar quarter beginning July 1, 2013, and any increase under this subsection that is not a multiple of $10,000 will be rounded to the next lowest multiple of $10,000.

(B) **Age limitation.** The maximum age set forth in subsection (1)(ii) above may be adjusted to reflect changes in mortality, with any such adjusted age to be prescribed by the Commissioner of the Internal Revenue Service in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin.

(C) **Prospective application of adjustments.** If a contract fails to be a QLAC because it does not satisfy the dollar limitation in subsection (2)(ii) above, or the age limitation in subsection (1)(ii) above, any subsequent adjustment that is made pursuant to Subsections (A) or (B) above will not cause the contract to become a QLAC.

(iii) **Determination of whether contract is intended to be a QLAC.** If a contract fails to be a QLAC at any time for a reason other than an excess premium described in Treas. Reg. §1.401(a)(9)-6, Q&A - 17 (d)(1)(ii), then as of the date of purchase the contract will not be treated as a QLAC (for purposes of A–3(d) of Treas. Reg. §1.401(a)(9)–5), or as a contract that is intended to be a QLAC as of the date of purchase.

(iv) **Group annuity contract certificates.** The requirement under subsection (d)(1)(vi) above, that the contract state that it is intended to be a QLAC when issued is satisfied if a certificate is issued under a group annuity contract and the certificate, when issued, states that the Employee's interest under the group annuity contract is intended to be a QLAC.

SECTION 9
SPOUSAL CONSENT RULES

9.01 **Application of Joint and Survivor Annuity Rules.** As a Governmental Plan, the Qualified Joint and Survivor Annuity rules under Code §§401(a)(11) and 417 do not apply to the Plan. The Employer may elect to require spousal consent for Plan distributions under AA §9-2(b).

9.02 **Spousal consent.** If the Employer elects under AA §9-2(b) to require spousal consent to a Plan distribution, the Spouse's consent will be required with respect to a distribution as designated in AA §9-2(b). A Spouse's consent, if required, must be provided pursuant to a Qualified Election. For this purpose, a Qualified Election is a written election signed by both the Participant and the Participant's Spouse that specifically acknowledges the effect of the election. The Spouse's consent must be witnessed by a plan representative or notary public. If the Qualified Election permits the Participant to change a payment form or Beneficiary designation without any further consent by the Spouse, the Qualified Election must acknowledge that the Spouse has the right to limit consent to a specific Beneficiary, and a specific form of benefit, as applicable, and that the Spouse voluntarily elects to relinquish either or both of such rights.

9.03 **One-year marriage rule.** The Employer may elect under AA §9-5(b), for purposes of identifying a Beneficiary under Section 7.07(c) and for purposes of applying the spousal consent rules under this Section 9, that an individual will not be considered the surviving Spouse of the Participant if the Participant and the surviving Spouse have not been married for the entire one-year period ending on the date of the Participant's death.

SECTION 10
PLAN ACCOUNTING AND INVESTMENTS

10.01 **Participant Accounts.** The Plan Administrator will maintain a separate Account for each Participant to reflect the Participant's entire interest under the Plan. The Plan Administrator may maintain any (or all) of the following separate sub-Accounts:

- Employer Contribution Account
- Matching Contribution Account
- After-Tax Employee Contribution Account
- Rollover Contribution Account
- Transfer Account.

In addition, if this Plan qualifies as a Grandfathered 401(k) Arrangement (as designated under AA §2-3 of the Profit Sharing Plan Adoption Agreement), the Plan Administrator may also maintain the following separate Accounts:

- Pre-Tax Salary Deferral Account
- Roth Deferral Account
- Roth Rollover Contribution Account
- In-Plan Roth Conversion Account

The Plan Administrator may establish other Accounts, as it deems necessary, for the proper administration of the Plan.

10.02 **Valuation of Accounts.** A Participant's portion of the Trust assets is determined as of each Valuation Date under the Plan. The value of a Participant's Account consists of the fair market value of the Participant's share of the Trust assets. The Trustee must value Plan assets at least annually. The Trustee's determination of the value of Trust assets shall be final and conclusive.

(a) **Periodic valuation.** The Employer may elect under AA §11-1 or may elect operationally to value assets on a periodic basis. The Trustee and the Plan Administrator may adopt reasonable procedures for performing such valuations.

(b) **Daily valuation.** The Employer may elect under AA §11-1 or may elect operationally to value assets on a daily basis. The Plan Administrator may adopt reasonable procedures for performing such valuations. Unless otherwise set forth in the written procedures, a daily valued Plan will have its assets valued at the end of each business day during which the New York Stock Exchange is open. The Plan Administrator has authority to interpret the provisions of this Plan in the context of a daily valuation procedure. This includes, but is not limited to, the determination of the value of the Participant's Account for purposes of Participant loans, distribution and consent rights, and corrective distributions.

(c) **Interim valuations.** The Plan Administrator may request the Trustee to perform interim valuations.

10.03 **Adjustments to Participant Accounts.** Unless the Plan Administrator adopts other reasonable administrative procedures, as of each Valuation Date under the Plan, each Participant's Account is adjusted in the following manner.

(a) **Distributions and forfeitures from a Participant's Account.** A Participant's Account will be reduced by any distributions, forfeitures and other reductions from the Account since the previous Valuation Date.

(b) **Life insurance premiums and dividends.** A Participant's Account will be reduced by the amount of any life insurance premium payments under the Plan made for the benefit of the Participant since the previous Valuation Date. The Account will be credited with any dividends or credits paid on any life insurance policy held by the Trust for the benefit of the Participant.

(c) **Contributions and forfeitures allocated to a Participant's Account.** A Participant's Account will be credited with any contribution, forfeiture or other additions allocated to the Participant since the previous Valuation Date.

(d) **Net income or loss.** A Participant's Account will be adjusted for any net income or loss in accordance with any reasonable procedures that the Plan Administrator may establish. Such procedures may be reflected in a funding agreement governing the applicable investments under the Plan. To the extent the Plan Administrator does not establish separate written procedures, net income or loss will be allocated to Participants' Accounts in accordance with the following provisions.

(1) **Net income or loss attributable to General Trust Account.** To the extent a Participant's Account is invested as part of a General Trust Account, such Account is adjusted for its allocable share of net income or loss experienced by the General Trust Account. The net income or loss of the General Trust Account is allocated to the Participant Accounts in the ratio that each Participant's Account bears to all Accounts, based on the value of each Participant's Account as of the prior Valuation Date, as adjusted in subsections (a) - (c) above. In

determining Participant Account Balances as of the prior Valuation Date, the Employer may apply a weighted average method that credits each Participant's Account with a portion of the contributions made since the prior Valuation Date. The Plan's investment procedures may designate the specific type(s) of contributions eligible for a weighted allocation of net income or loss and may designate alternative methods for determining the weighted allocation. If the Employer elects to apply a weighted average method, such method will be applied uniformly to all Participant Accounts under the General Trust Account.

(2) **Net income or loss attributable to a Directed Account.** If the Participant or Beneficiary is entitled to direct the investment of all or part of his/her Account (see Section 10.07), the Account (or the portion of the Account which is subject to such direction) will be maintained as a Directed Account, which reflects the value of the directed investments as of any Valuation Date. The assets held in a Directed Account may be (but are not required to be) segregated from the other investments held in the Trust. Net income or loss attributable to the investments made by a Directed Account is allocated to such Account in a manner that reasonably reflects the investment experience of such Directed Account. Where a Directed Account reflects segregated investments, the manner of allocating net income or loss shall not result in a Participant (or Beneficiary) being entitled to distribution from the Directed Account that exceeds the value of such Account as of the date of distribution.

10.04 **Share or unit accounting.** The Plan's investment procedures may provide for share or unit accounting to reflect the value of Accounts, if such method is appropriate for the investments allocable to such Accounts.

10.05 **Suspense accounts.** The Plan's investment procedures also may provide for special valuation procedures for suspense accounts that are properly established under the Plan.

10.06 **Investments under the Plan.**

(a) **Investment options.** The person(s) responsible for the investment of Plan assets is authorized to invest Plan assets in any prudent investment. Investment options include, but are not limited to, the following:

- common and preferred stock or other equity securities (including stock bought and sold on margin);
- corporate bonds;
- open-end or closed-end mutual funds (including funds for which a Volume Submitter Sponsor, Trustee, or affiliate serves as investment advisor or other capacity);
- money market accounts;
- certificates of deposit;
- debentures;
- commercial paper;
- put and call options;
- limited partnerships;
- mortgages;
- U.S. Government obligations, including U.S. Treasury notes and bonds;
- real and personal property having a ready market;
- life insurance or annuity policies;
- commodities;
- savings accounts;
- notes; and
- securities issued by the Trustee and/or its affiliates, as permitted by law.

(b) **Investment of tax deductible Employee contributions in life insurance and collectibles.** No portion of any voluntary, tax deductible Employee contributions being held under the Plan (or any earnings thereon) may be invested in life insurance contracts or, as with any Participant-directed investment, in tangible personal property characterized by the IRS as a collectible.

10.07 **Participant-directed investments.** Unless otherwise indicated in the Adoption Agreement or in separate procedures, and except as otherwise required in an Investment Arrangement, each Participant shall have the exclusive right, in accordance with the provisions of the Plan, to direct the investment of all or a portion of the amounts allocated to the separate Accounts of the Participant under the Plan. (A reference to Participant under this Section 10.07 also applies to any Beneficiary or Alternate Payee eligible to direct investments under the Plan.)

(a) **Limits on participant investment direction.** The Employer may elect under AA §C-1 or under separate investment procedures to limit Participant direction of investment to specific types of contributions or with respect to specific

investment options. The terms of an Investment Arrangement may impose additional limitations. In no case may Participants direct that investments be made in collectibles, other than U.S. Government or State issued gold and silver coins. (See Section 10.03(d)(2) for rules regarding allocation of net income or loss to a Directed Account.)

(b) **Failure to direct investment.** If Participant direction of investments is permitted, the Plan Administrator will designate how accounts will be invested in the absence of proper affirmative direction from the Participant. The Plan or Plan Administrator may designate a default fund under the Plan on behalf of Participants who have been identified by the Plan Administrator as having not specified investment choices under the Plan.

10.08 **Investment in Life Insurance.** A group or individual life insurance policy purchased by the Plan may be issued on the life of a Participant, a Participant's Spouse, a Participant's child or children, a family member of the Participant, or any other individual with an insurable interest. If this Plan is a money purchase plan, a life insurance policy may only be issued on the life of the Participant. A life insurance policy includes any type of policy, including a second-to-die policy, provided that the holding of a particular type of policy is not prohibited under rules applicable to qualified plans.

Any premiums on life insurance held for the benefit of a Participant will be charged against such Participant's vested Account Balance. Unless directed otherwise, the Plan Administrator will reduce each of the Participant's Accounts under the Plan equally to pay premiums on life insurance held for such Participant's benefit. Any premiums paid for life insurance policies must satisfy the incidental life insurance rules under subsection (a) below.

(a) **Incidental Life Insurance Rules.** Any life insurance purchased under the Plan must meet the following requirements:

(1) **Ordinary life insurance policies.** The aggregate premiums paid for ordinary life insurance policies (i.e., policies with both nondecreasing death benefits and nonincreasing premiums) for the benefit of a Participant must be at any time less than 50% of the aggregate amount of Employer Contributions (including Salary Deferrals) and forfeitures that have been allocated to the Account of such Participant.

(2) **Life insurance policies other than ordinary life.** The aggregate premiums paid for term, universal or other life insurance policies (other than ordinary life insurance policies) for the benefit of a Participant shall not at any time exceed 25% of the aggregate amount of Employer Contributions (including Salary Deferrals) and forfeitures that have been allocated to the Account of such Participant.

(3) **Combination of ordinary and other life insurance policies.** The sum of one-half (½) of the aggregate premiums paid for ordinary life insurance policies plus all the aggregate premiums paid for any other life insurance policies for the benefit of a Participant shall not at any time exceed 25% of the aggregate amount of Employer Contributions (including Salary Deferrals) and forfeitures which have been allocated to the Account of such Participant.

(4) **Exception for certain Profit Sharing Plans.** If the Plan is a Profit Sharing Plan, the limitations in this Section do not apply to the extent life insurance premiums are paid only with Employer Contributions and forfeitures that have been accumulated in the Participant's Account for at least two years or are paid with respect to a Participant who has been a Participant for at least five years. For purposes of applying this special limitation, Employer Contributions do not include any Salary Deferrals, QMACs, QNECs or Safe-Harbor Contributions under a 401(k) plan.

(5) **Exception for After-Tax Employee Contributions and Rollover Contributions.** The Plan Administrator also may invest, with the Participant's consent, any portion of the Participant's After-Tax Employee Contribution Account or Rollover Contribution Account in a group or individual life insurance policy for the benefit of such Participant, without regard to the incidental life insurance rules under this Section.

(b) **Ownership of Life Insurance Policies.** The Trustee is the owner of any life insurance policies purchased under the Plan. Any life insurance policy purchased under the Plan must designate the Trustee as owner and beneficiary under the policy. The Trustee will pay all proceeds of any life insurance policies to the Beneficiary of the Participant for whom such policy is held in accordance with the distribution provisions under Section 7. In no event shall the Trustee retain any part of the proceeds from any life insurance policies for the benefit of the Plan.

(c) **Evidence of Insurability.** Prior to purchasing a life insurance policy, the Plan Administrator may require the individual whose life is being insured to provide evidence of insurability, such as a physical examination, as may be required by the Insurer.

(d) **Distribution of Insurance Policies.** Life insurance policies under the Plan, which are held on behalf of a Participant, must be distributed to the Participant or converted to cash upon the later of the Participant's Annuity Starting Date (as defined in Section 1.10) or termination of employment. Any life insurance policies that are held on behalf of a

terminated Participant must continue to satisfy the incidental life insurance rules under subsection (a) above. If a life insurance policy is purchased on behalf of an individual other than the Participant, and such individual dies, the Participant may withdraw any or all life insurance proceeds from the Plan, to the extent such proceeds exceed the cash value of the life insurance policy determined immediately before the death of the insured individual.

(e) **Discontinuance of Insurance Policies.** Investments in life insurance may be discontinued at any time, either at the direction of the Trustee or other fiduciary responsible for making investment decisions. If the Plan provides for Participant direction of investments, life insurance as an investment option may be eliminated at any time by the Plan Administrator. Where life insurance investment options are being discontinued, the Plan Administrator, in its sole discretion, may offer the sale of the insurance policies to the Participant, or to another person, provided that the prohibited transaction exemption requirements prescribed by the Department of Labor are satisfied.

(f) **Protection of Insurer.** An Insurer (as defined in Section 1.59) that issues a life insurance policy under the terms of this Section 10.08, shall not be responsible for the validity of this Plan and shall be protected and held harmless for any actions taken or not taken by the Trustee or any actions taken in accordance with written directions from the Trustee or the Employer (or any duly authorized representatives of the Trustee or Employer). An Insurer shall have no obligation to determine the propriety of any premium payments or to guarantee the proper application of any payments made by the insurance company to the Trustee.

The Insurer is not and shall not be considered a party to this Plan and is not a fiduciary with respect to the Plan solely as a result of the issuance of life insurance policies under this Section 10.08.

(g) **No Responsibility for Act of Insurer.** Neither the Employer, the Plan Administrator nor the Trustee shall be responsible for the validity of the provisions under a life insurance policy issued under this Section 10.08 or for the failure or refusal by the Insurer to provide benefits under such policy. The Employer, the Plan Administrator and the Trustee are also not responsible for any action or failure to act by the Insurer or any other person which results in the delay of a payment under the life insurance policy or which renders the policy invalid or unenforceable in whole or in part.

SECTION 11
PLAN ADMINISTRATION AND OPERATION

11.01 **Plan Administrator.** The Employer is the Plan Administrator, unless the Employer designates in writing an alternative Plan Administrator. The Plan Administrator has the responsibilities described in this Section 11.

11.02 **Designation of Alternative Plan Administrator.** The Employer may designate another person or persons as the Plan Administrator by name, by reference to the person or group of persons holding a particular position, by reference to a procedure under which the Plan Administrator is designated, or by reference to a person or group of persons charged with the specific responsibilities of Plan Administrator.

(a) **Acceptance of responsibility by designated Plan Administrator.** If the Employer designates an alternative Plan Administrator, the designated Plan Administrator must accept its responsibilities in writing. The Employer and the designated Plan Administrator jointly will determine the time period for which the alternative Plan Administrator will serve.

(b) **Multiple alternative Plan Administrators.** If the Employer designated more than one person as an alternative Plan Administrator, such Plan Administrators shall act by majority vote, unless the group delegates particular Plan Administrator duties to a specific person.

(c) **Resignation or removal of designated Plan Administrator.** A designated Plan Administrator may resign by delivering a written notice of resignation to the Employer. The Employer may remove a designated Plan Administrator by delivering a written notice of removal. If a designated Plan Administrator resigns or is removed, and no new alternative Plan Administrator is designated, the Employer is the Plan Administrator.

(d) **Employer responsibilities.** If the Employer designates an alternative Plan Administrator, the Employer will provide in a timely manner all appropriate information necessary for the Plan Administrator to perform its duties. This information includes, but is not limited to, Participant compensation data, Employee employment, service and termination information, and other information the Plan Administrator may require. The Plan Administrator may rely on the accuracy of any information and data provided by the Employer.

(e) **Indemnification of Plan Administrator.** The Employer will indemnify, defend and hold harmless the Plan Administrator (including the individual members of any administrative committee appointed by the Employer to handle administrative functions of the Plan or any Employees who have administrative responsibility for the Plan) with respect to any liability, loss, damage or expense resulting from any act or omission (except willful misconduct or gross negligence) in their official capacities in the administration of this Plan, including attorney, accountant and advisory fees and all other expenses reasonably incurred in their defense.

11.03 **Duties, Powers and Responsibilities of the Plan Administrator.** The Plan Administrator will administer the Plan for the exclusive benefit of the Plan Participants and Beneficiaries, and in accordance with the terms of the Plan. If the terms of the Plan are unclear, the Plan Administrator may interpret the Plan, provided such interpretation is consistent with the rules of Code §401(a) and subject to the limitations of the Investment Arrangement(s). This right to interpret the Plan is an express grant of discretionary authority to resolve ambiguities in the Plan document and to make discretionary decisions regarding the interpretation of the Plan's terms, including who is eligible to participate under the Plan, and the benefit rights of a Participant or Beneficiary. Unless an interpretation or decision is determined to be arbitrary and capricious, the Plan Administrator will not be held liable for any interpretation of the Plan terms or decision regarding the application of a Plan provision.

(a) **Delegation of duties, powers and responsibilities.** The Plan Administrator may delegate its duties, powers or responsibilities to one or more persons. Such delegation must be in writing and accepted by the person or persons receiving the delegation. The Employer must agree to such delegation by an alternative Plan Administrator.

(b) **Specific Plan Administrator responsibilities.** The Plan Administrator has the general responsibility to control and manage the operation of the Plan. This responsibility includes, but is not limited to, the following:

(1) To interpret and enforce the provisions of the Plan, including those related to Plan eligibility, vesting and benefits;

(2) To communicate with the Trustee and other responsible persons with respect to the crediting of Plan contributions, the disbursement of Plan distributions and other relevant matters;

(3) To develop separate procedures (if necessary) consistent with the terms of the Plan to assist in the administration of the Plan, including the adoption of a separate or modified loan policy (see Section 13), procedures for direction of investment by Participants (see Section 10.07), procedures for determining whether domestic

relations orders are QDROs, and procedures for the determination of investment earnings to be allocated to Participants' Accounts (see Section 10.03(d));

(4) To maintain all records necessary for tax and other administration purposes;

(5) To furnish and to file all appropriate notices, reports and other information to Participants, Beneficiaries, the Employer, the Trustee and government agencies (as necessary);

(6) To provide information relating to Plan Participants and Beneficiaries;

(7) To retain the services of other persons, including investment managers, attorneys, consultants, advisers and others, to assist in the administration of the Plan;

(8) To review and decide on claims for benefits under the Plan; and

(9) To correct any defect or error in the operation of the Plan;

11.04 Plan Administration Expenses.

(a) **Reasonable Plan administration expenses.** All reasonable expenses related to plan administration may be paid from Plan assets, except to the extent the expenses are paid (or reimbursed) by the Employer. For this purpose, Plan expenses include, but are not limited to, all reasonable costs, charges and expenses incurred by the Trustee in connection with the administration of the Trust (including such reasonable compensation to the Trustee as may be agreed upon from time to time between the Employer or Plan Administrator and the Trustee and any fees for legal services rendered to the Trustee).

(b) **Plan expense allocation.** The Plan Administrator may allocate plan expenses among the accounts of Plan Participants. The Plan Administrator has authority to allocate these expenses either proportionally based on the value of the Account Balances or pro rata based on the number of Participants in the Plan. The Plan Administrator will determine the proper method for allocating expenses in accordance with such reasonable nondiscriminatory rules as the Plan Administrator deems appropriate under the circumstances. Unless the Plan Administrator decides otherwise, the following expenses will be allocated to the Participant's Account relative to which the expense is incurred: distribution expenses, including those relating to lump sums, installments, QDROs, hardship, in-service and required minimum distributions; loan expenses; participant direction expenses, including brokerage fees; and benefit calculations.

(c) **Expenses related to administration of former Employee or surviving Spouse.** The Plan may charge reasonable Plan administrative expenses to the Account of that former Employee or surviving Spouse, but only if the administrative expenses are on a pro rata basis. Under the pro rata basis, the expenses are based on the amount in each account of a former Employee or surviving Spouse receiving benefits from the Plan. The Plan Administrator may use another reasonable basis for charging the expenses.

(d) **Reimbursement Spending Account.** The Employer may maintain a reimbursement spending account to hold certain miscellaneous amounts that are remitted to the Plan. Any amounts allocated to the reimbursement spending account will be applied to pay reasonable Plan expenses no later than the end of the Plan Year following the Plan Year in which such amounts were allocated to the reimbursement spending account and any remaining amounts held in the reimbursement spending account may be allocated to Participants as an allocation of earnings for the Plan Year. Such excess amounts held under the reimbursement spending account may be allocated in a reasonable manner. For example, such excess amounts may be allocated to all Participants under the Plan pro-rata on the basis of Account Balances or under any other reasonable method.

11.05 **Qualified Domestic Relations Orders (QDROs).** As a Governmental Plan, the requirements of Code §414(p) do not apply to the Plan. The Employer may elect under AA §C-4 to use the rules set forth below (which are patterned after the rules under Code §414(p)) for domestic relations orders or may elect under AA §C-4 or under separate administrative procedures to develop its process for addressing domestic relations orders received by the Plan.

(a) **In general.** Upon receipt of an order which appears to be a QDRO, the Plan Administrator will notify the Participant involved and each Alternate Payee under the order. The Plan Administrator will determine whether the order is a QDRO and will notify each affected individual of such determination.

(b) **Definitions related to Qualified Domestic Relations Orders (QDROs).**

(1) **QDRO.** A QDRO is a domestic relations order that creates or recognizes the existence of an Alternate Payee's right to receive, or assigns to an Alternate Payee the right to receive, all or a portion of the benefits payable with

respect to a Participant under the Plan. The QDRO must contain certain information and meet other requirements described in this Section 11.05.

(2) **Domestic relations order.** A domestic relations order is a judgment, decree, or order (including the approval of a property settlement) that is made pursuant to state domestic relations law (including community property law).

(3) **Alternate Payee.** An Alternate Payee must be a Spouse, former Spouse, child, or other dependent of a Participant.

(c) **Recognition as a QDRO.** To be a QDRO, an order must be a domestic relations order (as defined in subsection (b)(2) above) that relates to the provision of child support, alimony payments, or marital property rights for the benefit of an Alternate Payee. The Plan Administrator is not required to determine whether the court or agency issuing the domestic relations order had jurisdiction to issue an order, whether state law is correctly applied in the order, whether service was properly made on the parties, or whether an individual identified in an order as an Alternate Payee is a proper Alternate Payee under state law.

A domestic relations order otherwise meeting the requirements to be a QDRO shall not fail to be treated as a QDRO solely because:

(1) the order is issued after, or revises, another domestic relations order or QDRO; or

(2) of the time at which the order is issued, including orders issued after the death of the Participant.

Any QDRO described in this Section 11.05 shall be subject to the same requirements and protections which apply to QDROs under Code §414(p)(7).

(d) **Contents of QDRO.** A QDRO must contain the following information:

(1) the name and last known mailing address of the Participant and each Alternate Payee;

(2) the name of each plan to which the order applies;

(3) the dollar amount or percentage (or the method of determining the amount or percentage) of the benefit to be paid to the Alternate Payee; and

(4) the number of payments or time period to which the order applies.

(e) **Impermissible QDRO provisions.**

(1) The order must not require the Plan to provide an Alternate Payee or Participant with any type or form of benefit, or any option, not otherwise provided under the Plan;

(2) The order must not require the Plan to provide for increased benefits (determined on the basis of actuarial value);

(3) The order must not require the Plan to pay benefits to an Alternate Payee that are required to be paid to another Alternate Payee under another order previously determined to be a QDRO; and

(4) The order must not require the Plan to pay benefits to an Alternate Payee in the form of a Qualified Joint and Survivor Annuity for the lives of the Alternate Payee and his or her subsequent Spouse.

(f) **Immediate distribution to Alternate Payee.** Even if a Participant is not eligible to receive an immediate distribution from the Plan, an Alternate Payee may receive a QDRO benefit immediately in a lump sum, provided such distribution is consistent with the QDRO provisions.

(g) **Fee for QDRO determination.** The Plan Administrator may condition the making of a QDRO determination on the payment of a fee by a Participant or an Alternate Payee (either directly or as a charge against the Participant's Account).

(h) **QDRO procedure.**

(1) **Access to information.** The Plan Administrator will provide access to Plan and Participant benefit information sufficient for a prospective Alternate Payee to prepare a QDRO. Such information might include the summary plan description, other relevant plan documents, and a statement of the Participant's benefit entitlements. The

disclosure of this information is conditioned on the prospective Alternate Payee providing to the Plan Administrator information sufficient to reasonably establish that the disclosure request is being made in connection with a domestic relations order.

(2) **Notifications to Participant and Alternate Payee.** The Plan Administrator will promptly notify the affected Participant and each Alternate Payee named in the domestic relations order of the receipt of the order. The Plan Administrator will send the notification to the address included in the domestic relations order. Along with the notification, the Plan Administrator will provide a copy of the Plan's procedures for determining whether a domestic relations order is a QDRO.

(3) **Alternate Payee representative.** The prospective Alternate Payee may designate a representative to receive copies of notices and Plan information that are sent to the Alternate Payee with respect to the domestic relations order.

(4) **Evaluation of domestic relations order.** Within a reasonable period of time, the Plan Administrator will evaluate the domestic relations order to determine whether it is a QDRO. A reasonable period will depend on the specific circumstances. The domestic relations order must contain the information described in subsection (d) above. If the order is only deficient in a minor respect, the Plan Administrator may supplement information in the order from information within the Plan Administrator's control or through communication with the prospective Alternate Payee.

(i) **Separate accounting.** Upon receipt of a domestic relations order, the Plan Administrator will separately account for and preserve the amounts that would be payable to an Alternate Payee until a determination is made with respect to the status of the order. During the period in which the status of the order is being determined, the Plan Administrator will take whatever steps are necessary to ensure that amounts that would be payable to the Alternate Payee, if the order were a QDRO, are not distributed to the Participant or any other person. The separate accounting requirement may be satisfied, at the Plan Administrator's discretion, by a segregation of the assets that are subject to separate accounting.

(ii) **Separate accounting until the end of 18-month period.** The Plan Administrator will continue to separately account for amounts that are payable under the QDRO until the end of an 18-month period. The 18-month period will begin on the first date following the Plan's receipt of the order upon which a payment would be required to be made to an Alternate Payee under the order. If, within the 18-month period, the Plan Administrator determines that the order is a QDRO, the Plan Administrator must pay the Alternate Payee in accordance with the terms of the QDRO. If, however, the Plan Administrator determines within the 18-month period that the order is not a QDRO, or, if the status of the order is not resolved by the end of the 18-month period, the Plan Administrator may pay out the amounts otherwise payable under the order to the person or persons who would have been entitled to such amounts if there had been no order. If the order is later determined to be a QDRO, the order will apply only prospectively; that is, the Alternate Payee will be entitled only to amounts payable under the order after the subsequent determination.

(iii) **Preliminary review.** The Plan Administrator will perform a preliminary review of the domestic relations order to determine if it is a QDRO. If this preliminary review indicates the order is deficient in some manner, the Plan Administrator will allow the parties to attempt to correct any deficiency before issuing a final decision on the domestic relations order. The ability to correct is limited to a reasonable period of time.

(iv) **Notification of determination.** The Plan Administrator will notify in writing the Participant and each Alternate Payee of the Plan Administrator's decision as to whether a domestic relations order is a QDRO. In the case of a determination that an order is not a QDRO, the written notice will contain the following information:

(A) references to the Plan provisions on which the Plan Administrator based its decision;

(B) an explanation of any time limits that apply to rights available to the parties under the Plan (such as the duration of any protective actions the Plan Administrator will take); and

(C) a description of any additional material, information, or modifications necessary for the order to be a QDRO and an explanation of why such material, information, or modifications are necessary.

(v) **Treatment of Alternate Payee.** If an order is accepted as a QDRO, the Plan Administrator will act in accordance with the terms of the QDRO as if it were a part of the Plan. Except as designated otherwise under this subsection (v), an Alternate Payee will be considered a Beneficiary under the Plan and be afforded the same rights as a Beneficiary. The Plan Administrator will provide any appropriate disclosure information relating to the Plan to the Alternate Payee. In determining the rights of an Alternate Payee, unless designated otherwise under AA §C-4(b), the following rules apply:

(A) **Loans.** An Alternate Payee is not permitted to take a loan from the Plan.

(B) **Death benefits.** If an Alternate Payee dies prior to receiving the entire amount designated under the QDRO, such benefits will be paid in accordance with Section 7.0707, treating the Alternate Payee as the Beneficiary. If the Alternate Payee dies without a designated Beneficiary, the benefits will be paid to the Alternate Payee's estate. Any death benefit will be paid in a single sum as soon as administratively feasible after the Alternate Payee's death.

(C) **Direction of investments.** An Alternate Payee has the right to direct the investment of the portion of the Participant's benefit that is segregated for the Alternate Payee's benefit pursuant to a QDRO in the same manner as the Participant.

11.06 **Claims Procedure.** The Plan Administrator may establish procedures for administering benefit claims. Such benefit claims procedures should provide claimants with a reasonable opportunity to have a full and fair review of a denied claim. The Plan Administrator is authorized to conduct an examination of the relevant facts to determine the merits of a Participant's or Beneficiary's claim for Plan benefits.

SECTION 12
TRUST AND OTHER PLAN FUNDING

12.01 **Establishment of Trust or Other Funding Mechanism.** In conjunction with the establishment of this Plan, the Employer will establish and maintain a domestic Trust in the United States consisting of such sums as shall from time to time be paid to the Trustee under the Plan and such earnings, income and appreciation as may accrue thereon.

The Employer, in lieu of a Trust, may establish an alternative funding mechanism, as allowed for plans qualified under Code §401(a).

12.02 **Conflicting Trust Provisions.** In the event of any conflict between the terms of this Plan and any conflicting provision contained in any associated Trust, custodial account document or any document that is incorporated by reference, the terms of this Plan will govern.

12.03 **More than One Trustee.** If the Plan has more than one person acting as Trustee, the Trustees may allocate the Trustee responsibilities by mutual agreement. The Trustees may agree to make decisions by a majority vote or may permit any one of the Trustees to make any decision, undertake any action or execute any documents affecting this Trust without the approval of the remaining Trustees. The Trustees may agree to the allocation of responsibilities in a separate trust agreement or other binding document.

12.04 **Annual Valuation.** The Plan assets will be valued at least on an annual basis. The Employer may designate more frequent Valuation Dates under AA §11-1. Notwithstanding any election under AA §11-1, the Trustee and Plan Administrator may agree to value the Trust on a more frequent basis, and/or to perform an interim valuation of the Trust.

12.05 **Appointment of Custodian.** The Plan Administrator may appoint a Custodian to hold all or any portion of the Plan assets. A Custodian has the powers, rights and responsibilities similar to those of a Directed Trustee. The Custodian will be protected from any liability with respect to actions taken pursuant to the direction of the Trustee, Plan Administrator, the Employer, an investment manager, or other third party with authority to provide direction to the Custodian. The Employer may enter into a separate agreement with the Custodian. Such separate agreement must be consistent with the responsibilities and obligations set forth in this Plan document.

12.06 **Custodial Accounts, Annuity Contracts and Insurance Contracts.** As provided under Code §401(f), a custodial account, an annuity contract or a contract issued by an Insurer is treated as a qualified trust under the Plan if (i) the custodial account or contract would, except for the fact that it is not a trust, constitute a qualified trust under Code §401(a) and (ii) in the case of a custodial account the assets thereof are held by a bank (as defined in Code §408(n)) or another person who demonstrates to the IRS that the manner in which the assets are held are consistent with the requirements of Code §401(a).

No insurance contract will be purchased under the Plan unless such contract or a separate definite written agreement between the Employer and the Insurer provides that no value under contracts providing benefits under the Plan or credits determined by the Insurer (on account of dividends, earnings, or other experience rating credits, or surrender or cancellation credits) with respect to such contracts may be paid or returned to the Employer or diverted to or used for other than the exclusive benefit of the Participants or their Beneficiaries. However, any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year of the contribution.

If this Plan is funded by individual contracts that provide a Participant's benefit under the Plan, such individual contracts shall constitute the Participant's Account Balance. If this Plan is funded by group contracts, under the group annuity or group insurance contract, premiums or other consideration received by the insurance company must be allocated to Participants' accounts under the Plan.

SECTION 13
PARTICIPANT LOANS

13.01 **Availability of Participant Loans.** The Employer may elect under Appendix B of the Adoption Agreement to permit Participants to take loans from their vested Account Balance under the Plan. Participant loans may be treated as a segregated investment on behalf of each individual Participant for whom the loan is made or may be treated as a general investment of the Plan. If the Employer elects to permit loans under the Plan, the Employer may elect to use the default loan policy under this Section 13, as modified under Appendix B of the Adoption Agreement, or an outside loan policy for purposes of administering Participant loans under the Plan. If a separate written loan policy is adopted, the terms of such separate loan policy will control over the terms of this Plan with respect to the administration of any Participant loans. Any separate written loan policy must satisfy the requirements under Code §72(p) and the regulations thereunder. All loans are subject to the terms of the Investment Arrangement(s)

To receive a Participant loan, a Participant must sign (including, where applicable, using electronic or other means recognized as sufficient) a promissory note along with a pledge or assignment of the portion of the Account Balance used for security on the loan. The loan will be evidenced by a legally enforceable agreement which specifies the amount and term of the loan, and the repayment schedule.

13.02 **Must be Available in Reasonably Equivalent Manner.** Participant loans must be made available to Participants in a reasonably equivalent manner. The Employer may elect under AA §B-8 to limit the availability of Participant loans to specified events. For example, the availability of Participant loans may be limited to the occurrence of a hardship event as described in Section (i).

13.03 **Loan Limitations.** A Participant loan may not be made to the extent such loan (when added to the outstanding balance of all other loans made to the Participant) exceeds the lesser of:

(a) $50,000 (reduced by the excess, if any, of the Participant's highest outstanding balance of loans from the Plan during the one-year period ending on the day before the date on which such loan is made, over the Participant's outstanding balance of loans from the Plan as of the date such loan is made) or

(b) one-half (½) of the Participant's vested Account Balance, determined as of the Valuation Date coinciding with or immediately preceding such loan, adjusted for any contributions or distributions made since such Valuation Date.

If so elected under AA §B-4, a Participant may take a loan equal to the greater of $10,000 or 50% of the Participant's vested Account Balance. However, if a Participant takes a loan in excess of 50% of the Participant's vested Account Balance, such loan is still subject to the adequate security requirements under Section 13.06.

In applying the limitations under this Section 13.03, all plans maintained by the Employer are aggregated and treated as a single plan. In addition, any assignment or pledge of any portion of the Participant's interest in the Plan and any loan, pledge, or assignment with respect to any insurance contract purchased under the Plan will be treated as loan under this Section.

13.04 **Limit on Amount and Number of Loans.** Unless elected otherwise under AA §B-5 and/or AA §B-6, or under a separate written loan policy, a Participant may not receive a Participant loan of less than $1,000 nor may a Participant have more than one Participant loan outstanding at any time.

(a) **Loan renegotiation.** Unless designated otherwise under AA §B-14, a Participant may be permitted to renegotiate a loan without violating the one outstanding loan requirement to the extent such renegotiated loan is a new loan (i.e., the renegotiated loan separately satisfies the reasonable interest rate requirement under Section 13.05, the adequate security requirement under Section 13.06, and the periodic repayment requirement under Section 13.07) and the renegotiated loan does not exceed the limitations under Section 13.03 above, treating both the replaced loan and the renegotiated loan as outstanding at the same time. However, if the term of the renegotiated loan does not end later than the original term of the replaced loan, the replaced loan may be ignored in applying the limitations under Section 13.03 above.

(b) **Participant must be creditworthy.** The Plan Administrator may refuse to make a loan to any Participant who is determined to be not creditworthy. For this purpose, a Participant is not creditworthy if, based on the facts and circumstances, it is reasonable to believe that the Participant will not repay the loan. A Participant who has defaulted on a previous loan from the Plan and has not repaid such loan (with accrued interest) at the time of any subsequent loan will be treated as not creditworthy until such time as the Participant repays the defaulted loan (with accrued interest).

13.05 **Reasonable Rate of Interest.** All Participant loans will be charged a reasonable rate of interest. Alternative methods for determining a reasonable rate of interest may be identified under AA §B-7 or under a separate written loan policy. The interest rate assumptions must be periodically reviewed to ensure the interest rate charged on Participant loans is reasonable.

If a Participant is in military service while he/she has an outstanding Participant loan, the applicable interest charged on such loan during the period while the Participant is in military service will not exceed 6% per year provided the Participant provides written notice and a copy of his/her call-up or extension orders to the Plan Administrator within 180 days following the Participant's termination or release from military service. For this purpose, military service is as defined in the Soldier's and Sailor's Civil Relief Act of 1940 as modified by the Servicemembers Civil Relief Act of 2003. The Participant may voluntarily waive this 6% interest limitation and the Plan Administrator may petition the court to retain the original interest rate if the ability to repay is not affected by the Participant's activation to military duty.

13.06 **Adequate Security.** All Participant loans must be adequately secured. The Participant's vested Account Balance shall be used as security for a Participant loan provided the outstanding balance of all Participant loans made to such Participant does not exceed 50% of the Participant's vested Account Balance, determined immediately after the origination of each loan. The Plan Administrator may require a Participant to provide additional collateral to receive a Participant loan if the Plan Administrator determines such additional collateral is required to protect the interests of Plan Participants. A separate loan policy or written modifications to this loan policy may prescribe alternative rules for obtaining adequate security.

13.07 **Periodic Repayment.** A Participant loan must provide for level amortization with payments to be made not less frequently than quarterly. A Participant loan must be payable within a period not exceeding five (5) years, unless the loan is for the purchase of the Participant's principal residence, in which case the loan may be payable within ten (10) years or such longer period that is commensurate with the repayment period permitted by commercial lenders for similar loans. Loan repayments must be made through payroll withholding, ACH and/or coupon payment.

(a) **Leave of absence.** A Participant with an outstanding Participant loan may suspend loan payments to the Plan for up to 12 months for any period during which the Participant's pay is insufficient to fully repay the required loan payments. Upon the Participant's return to employment (or after the end of the 12-month period, if earlier), the Participant's outstanding loan will be re-amortized over the remaining period of such loan to make up for the missed payments. The re-amortized loan may extend beyond the original loan term so long as the loan is paid in full by whichever of the following dates comes first:

(1) the date which is five (5) years from the original date of the loan (or the end of the suspension, if sooner); or

(2) the original loan repayment deadline (or the end of the suspension period, if later) plus the length of the suspension period.

Alternatively, upon a Participant's return to employment (or after the end of the 12-month period, if earlier), the Plan Administrator may allow the Participant's outstanding loan payments to resume at the same loan payment amount as of the time of the loan suspension, with a balloon payment of the remaining balance due by the earlier of (1) the date which is five (5) years from the original date of the loan (or the end of the suspension, if sooner), or (2) the original loan repayment deadline (or the end of the suspension period, if later) plus the length of the suspension period.

(b) **Military leave.** A Participant with an outstanding Participant loan also may suspend loan payments for any period such Participant is on military leave, in accordance with Code §414(u)(4). Upon the Participant's return from military leave (or the expiration of five years from the date the Participant began his/her military leave, if earlier), loan payments will recommence under the amortization schedule in effect prior to the Participant's military leave, without regard to the five-year maximum loan repayment period. Alternatively, the loan may be re-amortized to require a different level of loan payment, as long as the amount and frequency of such payments are not less than the amount and frequency under the amortization schedule in effect prior to the Participant's military leave.

13.08 **Designation of Accounts.** A Participant loan will be treated as a segregated investment on behalf of the individual Participant for whom the loan is made or may be treated as a general investment of the Plan. Unless designated otherwise under AA §B-9 or under a separate loan procedure, loan amounts may be taken from any available contribution source under the Plan. The Plan Administrator may determine the contribution sources from which a loan is taken or may follow directions of the Participant.

Each payment of principal and interest paid by a Participant on his/her Participant loan shall be credited to the same Participant Accounts and investment funds within such Accounts from which the loan was taken.

13.09 **Procedures for Loan Default.** Except as otherwise provided in the Investment Arrangement and in any loan agreement, and subject to applicable requirements in Code §72(p) and the regulations thereunder, the following loan default provisions will apply. A Participant will be considered to be in default with respect to a loan if any scheduled repayment with respect to such loan is not made by the end of the calendar quarter following the calendar quarter in which the missed payment was due. The Employer may apply a shorter cure period under AA §B-10.

If a Participant defaults on a Participant loan, the Plan may not offset the Participant's Account Balance until the Participant is otherwise entitled to an immediate distribution of the portion of the Account Balance which will be offset and such amount

being offset is available as security on the loan, pursuant to Section 13.06. For this purpose, a loan default is treated as an immediate distribution event to the extent the law does not prohibit an actual distribution of the type of contributions which would be offset as a result of the loan default). The Participant may repay the outstanding balance of a defaulted loan (including accrued interest through the date of repayment) at any time.

Pending the offset of a Participant's Account Balance following a defaulted loan, the following rules apply to the amount in default.

(a) Interest continues to accrue on the amount in default until the time of the loan offset or, if earlier, the date the loan repayments are made current or the amount is satisfied with other collateral.

(b) A subsequent offset of the amount in default is not reported as a taxable distribution, except to the extent the taxable portion of the default amount was not previously reported by the Plan as a taxable distribution.

(c) The post-default accrued interest included in the loan offset is not reported as a taxable distribution at the time of the offset.

A separate loan policy or written modifications to this loan policy may modify the procedures for determining a loan default.

13.10 Termination of Employment.

(a) **Offset of outstanding loan.** If permitted under the Investment Arrangement, the loan agreement and any loan policy and unless elected otherwise under AA §B-12 or if a Participant requests a Direct Rollover as allowed under Section 13.10(b), a Participant loan becomes due and payable in full immediately upon the Participant's termination of employment. Upon a Participant's termination, the Participant may repay the entire outstanding balance of the loan (including any accrued interest) within a reasonable period following termination of employment. If the Participant does not repay the entire outstanding loan balance, the Participant's vested Account Balance will be reduced by the remaining outstanding balance of the loan to the extent such Account Balance is available as security on the loan, pursuant to Section 13.06, and the remaining vested Account Balance will be distributed in accordance with the distribution provisions under Section 7. If the outstanding loan balance of a deceased Participant is not repaid, the outstanding loan balance shall be treated as a distribution to the Participant and shall reduce the death benefit amount payable to the Beneficiary under Section 7.0707.

(b) **Direct Rollover.** Unless elected otherwise under AA §B-13, upon termination of employment, a Participant may request a Direct Rollover of the loan note (provided the distribution is an Eligible Rollover Distribution as defined in Section 7.04(a)(1)) to another qualified plan which agrees to accept a Direct Rollover of the loan note. A Participant may not engage in a Direct Rollover of a loan to the extent the Participant has already received a deemed distribution with respect to such loan. (See the rules regarding deemed distributions upon a loan default under Section 13.09.)

13.11 Mergers, Transfers or Direct Rollovers from another Plan/Change in Loan Record Keeper. Except as otherwise provided in an Investment Arrangement and related loan agreement, and subject to applicable requirements in Code §72(p) and the regulations thereunder, any Participant loan transferred into the Plan as the result of a merger, consolidation, or plan to plan transfer, or rolled over to the Plan from another plan, shall be administered in accordance with the provisions of the note reflecting such loan, and shall remain outstanding until repaid in accordance with its terms, except that the Participant may be permitted to renegotiate the terms of the loan to the extent necessary to ensure the administration of such loan continues to satisfy the requirements of Code §72(p) and the regulations thereunder. In addition, if there is a change in the person or persons to whom the record keeping of Participant loans has been delegated, a loan shall continue to be administered in accordance with the provisions of the note reflecting such loan, and shall remain outstanding until repaid in accordance with its terms, except that the Participant may be permitted to renegotiate the terms of a loan to the extent necessary to ensure the administration of the loan after the change in the loan record keeper continues to satisfy the requirements of Code §72(p) and the regulations thereunder, regardless of any contrary election under AA §B-14.

13.12 Amendment of Plan to Eliminate Participant Loans. The Plan may be amended at any time to eliminate Participant loans on a prospective basis. However, the elimination of a Participant loan feature may not result in the acceleration of payment of any existing Participant loans, unless the terms of the Participant loan permit such acceleration.

SECTION 14
PLAN AMENDMENTS, TERMINATION, MERGERS AND TRANSFERS

14.01 Plan Amendments.

(a) **Amendment by the Provider.** The Provider (as described in §4.08 of Revenue Procedure 2017-41 or its successor) may amend any part of the plan. However, for purposes of reliance on an Opinion Letter, the Provider will no longer have the authority to amend the plan on behalf of the Employer as of the date (1) the employer amends the plan to incorporate a type of plan described in §6.03 of Rev. Proc. 2017-41 that is not permitted under the Pre-approved Plan program, or (2) the Internal Revenue Service notifies the employer, in accordance with §8.06(3) of Rev. Proc. 2017-41, that the Plan is an individually designed plan due to the nature and extent of Employer amendments to the Plan.

For purposes of Provider amendments, the Mass Submitter shall be recognized as the agent of the Provider. If the Provider does not adopt the amendments made by the Mass Submitter, it will no longer be identical to or a minor modifier of the Mass Submitter plan.

The Provider will maintain, or have maintained on its behalf, a record of the Employers that have adopted the Plan, and the Provider will make reasonable and diligent efforts to ensure that adopting Employers have actually received and are aware of all Plan amendments and that such Employers adopt new documents when necessary.

(b) **Amendment by the Employer.** The Employer shall have the right at any time to amend the Adoption Agreement in the following manner without affecting the Plan's status as a Pre-Approved Plan. (The ability to amend the Plan as authorized under this subsection (b) applies only to the Employer that executes the Employer Signature Page of the Adoption Agreement. Any amendment to the Plan by the Employer under this subsection (b) also applies to any other Employer that participates under the Plan as a Participating Employer.)

(1) The Employer may change any optional selections under the Adoption Agreement.

(2) The Employer may add overriding language to the Adoption Agreement when such language is necessary to satisfy Code §415 because of the required aggregation of multiple plans.

(3) The Employer may change the Employer Information in Section 1 of the Adoption Agreement and/or the administrative selections under Appendix C of the Adoption Agreement by replacing the appropriate page(s) within the Adoption Agreement. Such amendment does not require re-execution of the Employer Signature Page of the Adoption Agreement and any such change will not affect the Employer's reliance on the Favorable IRS Letter.

(4) The Employer may amend administrative provisions of the trust or custodial document, including the name of the Plan, Employer, Trustee or Custodian, Plan Administrator and other fiduciaries, the trust year, and the name of any pooled trust in which the Plan's trust will participate.

(5) The Employer may add certain sample or model amendments published by the IRS which specifically provide that their adoption will not cause the Plan to be treated as an individually designed plan.

(6) The Employer may add or change provisions permitted under the Plan and/or specify or change the effective date of a provision as permitted under the Plan.

(7) The Employer may adopt any amendments that it deems necessary to satisfy the requirements for resolving qualification failures under the IRS' compliance resolution programs.

The Employer may amend the Plan at any time for any other reason. If such amendment is not deemed to be significant, the Plan will not lose its status as a Pre-Approved Plan. However, if the Employer modifies the language of the Plan or Adoption Agreement (other than the completion of optional selections (e.g., Describe lines), the Employer will not be able to rely on the Favorable IRS Letter issued with respect to the Plan and will need to submit the Plan to the IRS for a favorable determination letter to retain reliance. If an amendment to the Plan is deemed significant, such amendment could cause the Plan to lose its status as a Pre-Approved Plan and become an individually designed plan.

(c) **Method of amendment.** An amendment to the Plan may be adopted as a modification to the Adoption Agreement and/or Basic Plan Document or as a separate snap-on amendment. An amendment to the Plan may be adopted as part of

a properly executed board resolution. Any such amendment must be executed by the board of directors or an authorized representative of the Employer.

(d) **Effective date of Plan Amendments.** If the Plan is restated or amended, such restatement or amendment is generally effective as of the Effective Date of the restatement or amendment (as designated on the Employer Signature Page with respect to such amendment), except where the context indicates a reference to an earlier Effective Date. The Employer may designate special effective dates for individual provisions under the Plan where provided in the Adoption Agreement or under Appendix A of the Adoption Agreement.

(1) **Retroactive Effective Date.** If the Plan is amended retroactively (e.g., to add language required to comply with IRS guidance or law), the provisions of this Plan generally override the provisions of any prior Plan. However, if the provisions of this Plan are different from the provisions of the Employer's prior plan and, after the retroactive Effective Date of this Plan, the Employer operated in compliance with the provisions of the prior plan, the provisions of such prior plan are incorporated into this Plan for purposes of determining whether the Employer operated the Plan in compliance with its terms, provided operation in compliance with the terms of the prior plan do not violate any qualification requirements under the Code, regulations, or other IRS guidance.

(2) **Retroactive effect of certain provisions.** This Plan is designed to comply with the Code, regulations, and general guidance applicable to qualified retirement plans in effect as of the Effective Date of the Plan. Certain provisions of the Plan are retroactively effective as indicated in the specific provisions. If the Plan is being restated within the remedial amendment period for retroactive compliance, the special effective dates for such provisions will apply, even if such special effective dates precede the Effective Date of the restatement designated on the Employer Signature Page of the Adoption Agreement. If the Effective Date of this restatement or amendment is later than the applicable special effective date, such special effective dates will apply and any prior plan being replaced by this Plan will be considered to have been timely amended for the applicable provisions.

(3) **Merged plans.** Except for retroactive application of the provisions under this subsection (d), if one or more qualified retirement plans have been merged into this Plan, the provisions of the merging plan(s) will remain in full force and effect until the Effective Date of the Plan merger(s), unless provided otherwise under Appendix A of the Adoption Agreement.

14.02 **Plan Termination.** The Employer may terminate this Plan at any time by delivering to the Trustee and Plan Administrator written notice of such termination.

(a) **Full and immediate vesting.** Upon a full or partial termination of the Plan (or in the case of a Profit Sharing Plan, the complete discontinuance of contributions), all amounts credited to an affected Participant's Account become 100% vested, regardless of the Participant's vested percentage determined under Section 6.02. The Plan Administrator has discretion to determine whether a partial termination has occurred.

(b) **Distribution upon Plan termination.** Upon the termination of the Plan, the Plan Administrator shall direct the distribution of Plan assets to Participants in accordance with the provisions under Section 7. For purposes of applying the provisions of this subsection (b), distribution may be delayed until the Employer receives a favorable determination letter from the IRS as to the qualified status of the Plan upon termination, provided the determination letter request is made within a reasonable period following the termination of the Plan. Until all Plan assets have been distributed from the Plan, the Employer must amend the Plan in order to comply with current laws and regulations and may take any other actions necessary to retain the qualified status of the Plan.

(c) **Missing Participants.** Upon termination of the Plan, if any Participant cannot be located after a reasonable diligent search (as defined in Section 6.10(c)(1)), the Plan Administrator may make a direct rollover to an IRA selected by the Plan Administrator. For this purpose, the Plan Administrator will adopt procedures similar to the procedures required under Section 7.0505 for making Automatic Rollovers in applying the provisions under this subsection (c). An Automatic Rollover under this subsection (c) may be made on behalf of any missing Participant, regardless of the value of his/her vested Account Balance under the Plan.

(d) **Partial Termination.** In determining whether a Plan has experienced a partial termination, the Plan Administrator will apply the principals set forth under IRS Revenue Ruling 2007-43.

14.03 **Merger or Consolidation.** In the event the Plan is merged or consolidated with another plan, each Participant must be entitled to a benefit immediately after such merger or consolidation that is at least equal to the benefit the Participant was entitled to immediately before such merger or consolidation (had the Plan terminated).

If the Employer amends the Plan from one type of Defined Contribution Plan (e.g., a Money Purchase Plan) into another type of Defined Contribution Plan (e.g., a Profit Sharing Plan) that will not result in a partial termination or any other event that would require full vesting of some or all Plan Participants.

14.04 **Transfer of Assets.** Subject to the terms governing the applicable Investment Arrangement, the Plan Administrator may, but is not required to, permit plan-to-plan transfers to and from the Plan.

The Plan Administrator may, but is not required to, accept a transfer of assets from another qualified retirement plan on behalf of any Employee, even if such Employee is not eligible to receive other contributions under the Plan. If a transfer of assets is made on behalf of an Employee prior to the Employee's becoming a Participant, the Employee shall be treated as a Participant for all purposes with respect to such transferred amount. Any assets transferred to this Plan from another plan must be accompanied by written instructions designating the name of each Employee for whose benefit such amounts are being transferred, the current value of such assets, and the sources from which such amounts are derived. The Plan Administrator will deposit any transferred assets in the appropriate Participant's Transfer Account. The Transfer Account will contain any sub-Accounts necessary to separately track the sources of the transferred assets. Each sub-Account will be treated in the same manner as the corresponding Plan Account.

If the Plan is a Profit Sharing Plan or a Grandfathered 401(k) Arrangement and the Plan accepts a transfer of assets from a money purchase plan, the amounts transferred (and any gains attributable to such transferred amounts) continue to be subject to the distribution restrictions applicable to money purchase plan assets under the transferor plan. Such amounts may not be distributed for reasons other than death, disability, attainment of Normal Retirement Age, attainment of age 62, or termination of employment, regardless of any distribution provisions under this Plan that would otherwise permit a distribution prior to such events.

The Plan Administrator may refuse to accept a transfer of assets if the Plan Administrator reasonably believes the transfer (1) is not being made from a proper qualified plan; (2) could jeopardize the tax-exempt status of the Plan; or (3) could create adverse tax consequences for the Plan or the Employer. Prior to accepting a transfer of assets, the Plan Administrator may require evidence documenting that the transfer of assets meets the requirements of this Section. The Trustee will have no responsibility to determine whether the transfer of assets meets the requirements of this Section; to verify the correctness of the amount and type of assets being transferred to the Plan; or to perform a due diligence review with respect to such transfer.

(a) **Trustee's right to refuse transfer.** If the assets to be transferred to the Plan under this Section 14.04 are not susceptible to proper valuation and identification or are of such a nature that their valuation is incompatible with other Plan assets, the Trustee may refuse to accept the transfer of all or any specific asset, or may condition acceptance of the assets on the sale or disposition of any specific asset.

(b) **Transfer of Plan to unrelated Employer.** The Employer may not transfer sponsorship of the Plan to an unrelated employer if the transfer is not in connection with a transfer of business assets or operations from the Employer to the unrelated employer.

SECTION 15
MISCELLANEOUS

15.01 **Exclusive Benefit.** Plan assets will not be used for, or diverted to, a purpose other than the exclusive benefit of Participants or their Beneficiaries.

No amendment may authorize or permit any portion of the assets held under the Plan to be used for or diverted to a purpose other than the exclusive benefit of Participants or their Beneficiaries, except to the extent such assets are used to pay taxes or administrative expenses of the Plan. An amendment also may not cause or permit any portion of the assets held under the Plan to revert to or become property of the Employer.

15.02 **Return of Employer Contributions.** Upon written request by the Employer, the Trustee may return any Employer Contributions provided that the circumstances and the time frames described below are satisfied. The Trustee may request the Employer to provide additional information to ensure the amounts may be properly returned. Any amounts returned shall not include earnings, but must be reduced by any losses.

(a) **Mistake of fact.** Any Employer Contributions made because of a mistake of fact must be returned to the Employer within one year of the contribution.

(b) **Failure to initially qualify.** Employer Contributions to the Plan are made with the understanding, in the case of a new Plan, that the Plan satisfies the qualification requirements of Code §401(a) as of the Plan's Effective Date. In the event that the Internal Revenue Service determines that the Plan is not initially qualified under the Code, any Employer Contributions (and allocable earnings) made incident to that initial qualification must be returned to the Employer within one year after the date the initial qualification is denied, but only if the application for the qualification is made by the time prescribed by law for filing the employer's return for the taxable year in which the Plan is adopted, or such later date as the Secretary of the Treasury may prescribe.

15.03 **Participants' Rights.** The adoption of this Plan by the Employer does not give any Participant, Beneficiary, or Employee a right to continued employment with the Employer and does not affect the Employer's right to discharge an Employee or Participant at any time. This Plan also does not create any legal or equitable rights in favor of any Participant, Beneficiary, or Employee against the Employer, Plan Administrator or Trustee. Unless the context indicates otherwise, any amendment to this Plan is not applicable to determine the benefits accrued (and the extent to which such benefits are vested) by a Participant or former Employee whose employment terminated before the effective date of such amendment, except where application of such amendment to the terminated Participant or former Employee is required by statute, regulation or other guidance of general applicability. Where the provisions of the Plan are ambiguous as to the application of an amendment to a terminated Participant or former Employee, the Plan Administrator has the authority to make a final determination on the proper interpretation of the Plan.

15.04 **Military Service.** To the extent required under Code §414(u), an Employee who returns to employment with the Employer following a period of qualified military service will receive any contributions, benefits and service credit required under Code §414(u), provided the Employee satisfies all applicable requirements under the Code and regulations. In determining the amount of contributions under Code §414(u), Plan Compensation will be deemed to be the compensation the Employee would have received during the period while in military service based on the rate of pay the Employee would have received from the Employer but for the absence due to military leave. If the compensation the Employee would have received during the leave is not reasonably certain, Plan Compensation will be equal to the Employee's average compensation from the Employer during the twelve (12) month period immediately preceding the military leave, or, if shorter, the Employee's actual period of employment with the Employer.

(a) **Death benefits under qualified military service.** In the case of a Participant who dies while performing qualified military service (as defined in Code §414(u)), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as though the Participant resumed and then terminated employment on account of death.

(b) **Benefit accruals.** If elected under AA §11-3, for benefit accrual purposes, the Plan will treat an individual who dies or becomes disabled (as defined under the terms of the Plan) while performing qualified military service (as defined in Code §414(u)) with respect to the Employer, as if the individual has resumed employment in accordance with the individual's reemployment rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA) on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability.

(1) This subsection (b) shall apply only if all individuals performing qualified military service with respect to the Employer maintaining the Plan who die or became disabled as a result of performing qualified military service prior to reemployment by the employer are credited with service and benefits on reasonably equivalent terms.

(2) The amount of employee contributions and the amount of elective deferrals of an individual treated as reemployed under this subsection (b) shall be determined on the basis of the individual's average actual employee contributions or elective deferrals for the lesser of:

(i) the 12-month period of service with the Employer immediately prior to qualified military service; or

(ii) if service with the Employer is less than such 12-month period, the actual length of continuous service with the Employer.

(c) **Plan distributions.** Notwithstanding the provisions regarding the treatment of Differential Pay and unless otherwise elected under AA §10-1(l), an individual may be treated as having been severed from employment during any period the individual is on active duty for a period of at least 30 days while performing service in the Uniformed Services for purposes of receiving a Plan distribution under Code §401(k)(2)(B)(i)(I). If an individual elects to receive a distribution while on military leave, the individual may not make Salary Deferrals or Employee After-Tax Employee Contributions under the Plan during the 6-month period beginning on the date of the distribution. However, a distribution under this provision that is also a Qualified Reservist Distribution is not subject to the 6-month suspension.

(d) **Make-Up Contributions.** A Participant who is reemployed following a qualified military leave shall have the right to make up any Salary Deferrals or After-Tax Employee Contributions to which he/she would have been entitled but for the fact the Participant was on qualified military leave. To the extent a Participant returning from qualified military leave would have been required to make Employer Pick-Up Contributions, as described in Section 3.03, the Participant will be required to make such Employer Pick-Up Contributions upon his/her return to employment based on the amount that would have been contributed but for the fact the Participant was on qualified military leave. The Employer will also make any Employer Contributions and Matching Contributions the Participant would have earned during the period of qualified military leave had the Participant remained employed during such period. The Employer will only be required to make Matching Contributions if the reemployed Participant makes up the underlying contributions that were eligible for the Matching Contributions.

In determining the amount of Make-Up Contributions a Participant may make under this subsection (d), a Participant will be treated as earning Plan Compensation during the period the Participant was on qualified military leave equal to:

(1) the rate of pay the Participant would have received from the Employer during such period had the Participant not been on qualified military leave; or

(2) if the Plan Compensation the Participant would have received during such period was not reasonably certain, the Participant's average Plan Compensation during the 12-month period immediately preceding the qualified military leave (or the entire period of employment, if shorter).

If the Employer is required under this subsection (d) to make Employer Contributions for a reemployed Participant, the Employer must make such Employer Contributions not later than 90 days after the date of reemployment or the date the Employer Contributions are otherwise due for the year in which the military service was performed. For Salary Deferrals and After-Tax Employee Contributions, a Participant who is reemployed following a qualified military leave may make up such contributions during the period beginning on the date of reemployment and ending on the earlier of the date that is three times the length of the military service period or 5 years from the date of reemployment. Any required Matching Contributions must be made in the same manner as other Matching Contributions under the Plan following the Participant's contribution of the amounts eligible for the Matching Contributions.

Any make up contributions under this subsection (d) are subject to the Code §415 Limitation under Section 5.02 and the Elective Deferral Dollar Limitation under Section 5.03 for the year for which the make-up contribution would have been made had the Participant not been on qualified military leave.

15.05 **Annuity Contract.** Any annuity contract distributed under the Plan must be nontransferable. In addition, the terms of any annuity contract purchased and distributed to a Participant, or to a Participant's Spouse, must comply with all requirements under the Code and regulations thereunder.

15.06 **Use of IRS Compliance Programs.** Nothing in this Plan document should be construed to limit the availability of the IRS' voluntary compliance programs. An Employer may take whatever corrective actions are permitted under the IRS voluntary compliance programs, as is deemed appropriate by the Plan Administrator or Employer. If the Employer's Plan fails to attain or retain qualification, such Plan will no longer participate in this Volume Submitter Plan and will be considered an individually designed plan.

15.07 **Governing Law.** The provisions of this Plan shall be construed, administered, and enforced in accordance with the provisions of applicable Federal Law and, to the extent applicable, the laws of the state in which the Trustee has its principal place of business. The foregoing provisions of this Section shall not preclude the Employer and the Trustee from agreeing to a different state law with respect to the construction, administration and enforcement of the Plan.

15.08 **Waiver of Notice.** Any person entitled to a notice under the Plan may waive the right to receive such notice, to the extent such a waiver is not prohibited by law, regulation or other pronouncement.

15.09 **Use of Electronic Media.** The Employer, Plan Administrator, Trustee and any other designated individual responsible for providing applicable notices or disclosures under the Plan, and any Participant or beneficiary making an election under the Plan may use telephonic or electronic media to satisfy any notice requirements required by this Plan. Any use of electronic medium under the Plan must comply with the requirements outlined in Treas. Reg. §1.401(a)-21 or other general guidance concerning the use of telephonic or electronic media. The Plan Administrator also may use telephonic or electronic media to conduct plan transactions such as enrolling participants, making (and changing) Salary Deferral Elections, electing (and changing) investment allocations, applying for Plan loans, and other transactions, to the extent permissible under regulations (or other generally applicable guidance).

15.10 **Severability of Provisions.** In the event that any provision of this Plan shall be held to be illegal, invalid or unenforceable for any reason, the remaining provisions under the Plan shall be construed as if the illegal, invalid or unenforceable provisions had never been included in the Plan.

15.11 **Binding Effect.** The Plan, and all actions and decisions made thereunder, shall be binding upon all applicable parties, and their heirs, executors, administrators, successors and assigns.

SECTION 16
PARTICIPATING EMPLOYERS

16.01 **Participation by Participating Employers.** An Employer (other than the Employer that executes the Employer Signature Page of the Adoption Agreement) may elect to participate under this Plan by executing a Participating Employer Adoption Page under the Adoption Agreement. A Participating Employer (including a Related Employer defined in Section 1.83) may not contribute to this Plan unless it (or its authorized representative) executes the Participating Employer Adoption Page.

16.02 **Participating Employer Adoption Page.**

(a) **Application of Plan provisions.** By executing a Participating Employer Adoption Page, a Participating Employer adopts all the provisions of the Plan, including the elective choices made by the signatory Employer under the Adoption Agreement. The Participating Employer may elect under the Participating Employer Adoption Page to modify the elective provisions under the Adoption Agreement as they apply to the Participating Employer.

(b) **Plan amendments.** In addition, unless provided otherwise under the Participating Employer Adoption Page, a Participating Employer is bound by any amendments made to the Plan in accordance with Section 14.01.

(c) **Trustee designation.** The Participating Employer agrees to use the same Trustee as is designated on the Trust Declaration under the Agreement, except as provided in a separate trust agreement.

16.03 **Compensation of Related Employers.** In applying the provisions of this Plan, Total Compensation (as defined in Section 1.94) includes amounts earned with a Related Employer, regardless of whether such Related Employer executes a Participating Employer Adoption Page. The Employer may elect under AA §5-3(h) to exclude amounts earned with a Related Employer that does not execute a Participating Employer Adoption Page for purposes of determining an Employee's Plan Compensation.

16.04 **Allocation of Contributions and Forfeitures.** Unless selected otherwise under the Participating Employer Adoption Page, any contributions made by a Participating Employer (and any forfeitures relating to such contributions) will be allocated to all Participants employed by the Employer and Participating Employers in accordance with the provisions under this Plan. A Participating Employer may elect under the Participating Employer Adoption Page to allocate its contributions (and forfeitures relating to such contributions) only to the Participants employed by the Participating Employer making such contributions. If so elected, Employees of the Participating Employer will not share in an allocation of contributions (or forfeitures relating to such contributions) made by any other Participating Employer (except in such individual's capacity as an Employee of that other Participating Employer). Thus, for example, a Participating Employer may make a different discretionary contribution and allocate such contribution only to its Employees. Where contributions are allocated only to the Employees of a contributing Participating Employer, a separate accounting must be maintained of Employees' Account Balances attributable to the contributions of a particular Participating Employer. This separate accounting is necessary only for contributions that are not 100% vested, so that the allocation of forfeitures attributable to such contributions can be allocated for the benefit of the appropriate Employees.

16.05 **Discontinuance of Participation by a Participating Employer.** A Participating Employer may discontinue its participation under the Plan at any time. To document a Participating Employer's cessation of participation, the following procedures should be followed:

(a) the Participating Employer should adopt a resolution that formally terminates active participation in the Plan as of a specified date;

(b) the Employer that has executed the Employer Signature Page of the Adoption Agreement should re-execute such page, indicating an amendment by page substitution through the deletion of the Participating Employer Adoption Page executed by the withdrawing Participating Employer; and

(c) the withdrawing Participating Employer should provide any notices to its Employees that are required by law.

Discontinuance of participation means that no further benefits accrue after the effective date of such discontinuance with respect to employment with the withdrawing Participating Employer. The portion of the Plan attributable to the withdrawing Participating Employer may continue as a separate plan, under which benefits may continue to accrue, through the adoption by the Participating Employer of a successor plan (which may be created through the execution of a separate Adoption Agreement by the Participating Employer) or by spin-off of the portion of the Plan attributable to such Participating Employer followed by a merger or transfer into another existing plan, as specified in a merger or transfer agreement.

16.06 **Operational Rules for Related Employer Groups.** If an Employer has one or more Related Employers, the Employer and such Related Employer(s) constitute a Related Employer group. In such case, the following rules apply to the operation of the Plan.

(a) If the term Employer is used in the context of administrative functions necessary to the operation, establishment, maintenance, or termination of the Plan, only the Employer executing the Employer Signature Page under the Adoption Agreement, and any Related Employer executing a Participating Employer Adoption Page, is treated as the Employer.

(b) Hours of Service are determined by treating all members of the Related Employer group as the Employer.

(c) The term Excluded Employee is determined by treating all members of the Related Employer group as the Employer, except as specifically provided in the Plan.

(d) Compensation is determined by treating all members of the Related Employer group as the Employer, except as specifically provided in the Plan.

(e) An Employee is not treated as terminated from employment if the Employee is employed by any member of the Related Employer group.

(f) The Code §415 Limitation described in Section 5.02 is applied by treating all members of the Related Employer group as the Employer.

In all other contexts, the term Employer generally means a reference to all members of the Related Employer group, unless the context requires otherwise. If the terms of the Plan are ambiguous with respect to the treatment of the Related Employer group as the Employer, the Plan Administrator has the authority to make a final determination on the proper interpretation of the Plan.

16.07 **Multiple Employer Plans.** Regardless of any election under AA §2-6, if an Employer (other than a Related Employer) executes a Participating Employer Adoption Page under the Adoption Agreement, the Plan is treated as a Multiple Employer Plan. Treatment of the Plan as a Multiple Employer Plan will not affect reliance on the Favorable IRS Letter issued to the Provider or any determination letter issued on the Plan.

(a) **Application of qualification rules to Multiple Employer Plans.** If the Plan is a Multiple Employer Plan, the following qualification rules apply, as applicable to a Governmental Plan.

(1) **Eligibility requirements.** If the Plan is a Multiple Employer Plan, the eligibility rules under the Plan are applied as if the Employees of all Employers participating in the Multiple Employer Plan are employed by a single Employer.

(2) **Vesting rules.** If the Plan is a Multiple Employer Plan, the vesting rules under the Plan are applied as if the Employees of all Employers participating in the Multiple Employer Plan are employed by a single Employer.

(3) **Code §415 Limit.** If the Employer is a Multiple Employer Plan, the Code §415 Limit under the Plan is applied as if the Employees of all Employers participating in the Multiple Employer Plan are employed by a single Employer. Thus, if a Participant receives contributions from more than one Employer within the Multiple Employer Plan, such contributions must be aggregated for purposes of applying the Code §415 Limit. For this purpose, Total Compensation from all Participating Employers may be considered in applying the Code §415 Limit.

(4) **Other rules applicable to Multiple Employer Plans.** To the extent not addressed in this Section 16.07, the rules under Code §413(c) and applicable regulations will apply to a Governmental Multiple Employer Plan.

(b) **Definitions that apply to Multiple Employer Plans.**

(1) **Lead Employer.** The signatory Employer under the Adoption Agreement. See subsection (c)(2) below for rules regarding the ability of the Lead Employer to amend the Plan on behalf of Participating Employers.

(2) **Participating Employer.** An Employer which, with the consent of the Lead Employer, executes a Participating Employer Adoption Page. To the extent permitted by the Lead Employer, a Participating Employer may modify the selections made by the Lead Employer under the Adoption Agreement. Any modifications made by a Participating Employer may be described as an attachment to the Participating Employer Signature Page for that Participating Employer.

(3) **Professional Employer Organization (PEO).** An organization described in Rev. Proc. 2002-21 and any successor legislation or regulation. If the Lead Employer is a PEO, each Participating Employer is a Client Organization as defined in Rev. Proc. 2002-21. Any Employee on the PEO's payroll who receives amounts from the PEO for providing services pursuant to a service agreement between the PEO and the Client Organization shall be deemed to be the Employee of the Client Organization for whom the Employee performs services, and

not of the PEO. Any amounts paid by a PEO to an Employee of a Client Organization shall be treated as paid by the Client Organization for all purposes under the Plan.

(c) **Special rules for Multiple Employer Plans.** The Lead Employer is the Plan Administrator under the Plan, unless specifically designated otherwise under AA §11-12 or under separate written procedures assigning such responsibilities to another party. The underlying Participating Employers are co-sponsors of the Multiple Employer Plan.

(1) **Allocation of contributions.** Any contributions (and forfeitures relating to such contributions) made by a Participating Employer will be allocated only to the Participants employed by the Participating Employer making such contributions. By adopting the Plan, a Participating Employers agrees to make any contributions required under the Plan to maintain the qualified status of the Plan.

(2) **Amendment of Plan document.** The Lead Employer reserves the right to amend the Plan on behalf of all Participating Employers. Each Employer signing a Participating Employer Signature Page shall be bound by the provisions in this Plan document and any selections made under the Adoption Agreement, except to the extent the Participating Employer makes a contrary election under the Adoption Agreement, as set forth under subsection (b)(2) above.

(i) **Plan amendments.** The Lead Employer shall be responsible for ensuring the Plan is updated for any required amendments. Unless provided otherwise under the Participating Employer Signature Page, a Participating Employer is bound by any amendments made to the Plan by the Lead Employer.

(ii) **Trustee designation.** The Participating Employer agrees to use the same Trustee as is designated on the Trust Declaration under the Lead Employer Adoption Agreement, except as provided in a separate trust agreement.

(iii) **Plan termination.** The Lead Employer may terminate this Plan at any time by delivering to the Trustee and each Participating Employer a written notice of such termination.

(iv) **Execution of Participating Employer Adoption Page.** The Employer that has executed the Employer Signature Page of the Adoption Agreement, or its designated representative, is authorized to sign the Participating Employer Adoption Page on behalf of a Participating Employer to adopt an amendment or subsequent Plan restatement, unless otherwise provided under the Participating Employer Adoption Page.

(3) **Ability of Lead Employer to Remove Participating Employers.** The Lead Employer may remove any Participating Employer from the Plan if the Participating Employer refuses to correct a qualification defect under the Plan maintained by such Participating Employer. Upon removal from the Plan, the Participating Employer may continue to maintain its portion of the Plan as a single-Employer Plan. Upon removal of a Participating Employer, Employees of such terminated Participating Employer will cease to be eligible to accrue additional benefits under this Plan with respect to Plan Compensation earned on or after the date of termination.

The Lead Employer may develop reasonable administrative procedures outlining the procedures for removing a Participating Employer from the Plan. By adopting this Plan, each Participating Employer authorizes the Lead Employer to exercise the option to remove a Participating Employer from the Plan in accordance with such administrative procedures.

Upon removal of a Participating Employer, the terminated Participating Employer may elect to have the assets associated with Accounts of its Employees to be transferred to a separate Defined Contribution Plan maintained by the terminated Participating Employer consistent with the requirements under Code §414(l). If the Participating Employer does not establish a Defined Contribution Plan to accept the transfer of assets from this Plan, the Lead Employer may establish a new Defined Contribution Plan on behalf of the Participating Employer to which the assets attributable to the Employees of the terminating Participating Employer may be transferred consistent with the requirements under Code §414(l). Any new plan established by the Lead Employer will contain provisions consistent with the selections applicable to the Participating Employer under this Plan. The terminated Participating Employer will be responsible for designating the Trustee of the new Plan. If no such designation is made, the Trustee will be the highest ranking officer or representative of the Employer or such other financial institution designated by the Lead Employer to protect the interests of Plan Participants. Reasonable expenses associated with the establishment of the new plan may be charged to the Accounts of Participants of the terminated Participating Employer.

(4) **Withdrawal from Plan.** Upon thirty (30) days written notice to the other party, either the Lead Employer or Participating Employer may voluntarily withdraw from the Plan. If a Participating Employer withdraws from the Plan, the Participating Employer may continue to maintain the Plan as a single-Employer Plan. Plan assets

attributable to the Employees of the Participating Employer will be transferred to the Participating Employer's Plan, consistent with the requirements of Code §414(l). No distributions will be permitted from the Plan solely on account of a Participating Employer's withdrawal from the Plan. The withdrawing Employer will bear all reasonable costs associated with the withdrawal and transfer of assets to a new plan. Employees of a withdrawing Employer will cease to be eligible to accrue additional benefits under this Plan with respect to Plan Compensation earned on or after the date of withdrawal. The withdrawal of a Participating Employer from the Plan is not considered a Plan termination which allows distributions to the Participants of the withdrawing Participating Employer.

(5) **Indemnification of Lead Employer.** Each Participating Employer will indemnify and hold harmless the Plan Administrator, the Lead Employer and its subsidiaries; officers, directors, shareholders, employees, and agents of the Lead Employer; the Plan; the Trustees, Fiduciaries, Participants and Beneficiaries of the Plan, as well as their respective successors and assigns, against any cause of action, loss, liability, damage, cost, or expense of any nature whatsoever (including, but not limited to, attorney's fees and costs, whether or not suit is brought, as well as IRS plan disqualifications, other sanctions or compliance fees) arising out of, or relating to, the Participating Employer's noncompliance with any of the Plan's terms or requirements; any intentional or negligent act or omission the Participating Employer commits with regard to the Plan; and any omission or provision of incorrect information with regard to the Plan which causes the Plan to fail to satisfy the requirements of a tax-qualified plan.

APPENDIX A
ACTUARIAL FACTORS
(For use with age-based contribution formula)

Actuarial Factor Table. The following table sets forth Actuarial Factors based on a testing age of 65, an interest rate of 8.5% and an UP-1984 mortality table. The Actuarial Factors in this table must be modified if the Employer uses a testing age other than age 65 or selects a different interest rate or mortality table under the age-based contribution formula. To determine a Participant's Actuarial Factor, use the factor corresponding to the number of years to the Participant's testing age. The number of years to the testing age is determined by counting the number of years from the last day of the current plan year to the last day of the Plan Year in which the Participant reaches the testing age. If the Participant has reached the testing age as of the last day of the current Plan Year, the number of years is 0 for that year and all subsequent years.

Years to Testing Age	Actuarial Factor		Years to Testing Age	Actuarial Factor
0	0.07949		25	0.01034
1	0.07326		26	0.00953
2	0.06752		27	0.00878
3	0.06223		28	0.00810
4	0.05736		29	0.00746
5	0.05286		30	0.00688
6	0.04872		31	0.00634
7	0.04490		32	0.00584
8	0.04139		33	0.00538
9	0.03814		34	0.00496
10	0.03516		35	0.00457
11	0.03240		36	0.00422
12	0.02986		37	0.00389
13	0.02752		38	0.00358
14	0.02537		39	0.00330
15	0.02338		40	0.00304
16	0.02155		41	0.00280
17	0.01986		42	0.00258
18	0.01831		43	0.00238
19	0.01687		44	0.00219
20	0.01555		45	0.00202
21	0.01433		46	0.00186
22	0.01321		47	0.00172
23	0.01217		48	0.00158
24	0.01122		49	0.00146

APPENDIX B
INTERIM AMENDMENT #1
FINAL REGULATIONS RELATING TO HARDSHIP DISTRIBUTIONS

B-1.01 **Change in Hardship Distribution requirements.** The IRS has issued Final Regulations that amend the rules relating to Hardship distributions from the Plan. This Interim Amendment #1 (Interim Amendment) sets forth the provisions of the Final Regulations and their application to the Plan by amending Section 7.10(e) of the Plan and providing appropriate Elective Provisions under Interim Amendment - Hardship Distributions Elective Provisions in the Adoption Agreement (Elective Provisions). The Plan Administrator shall administer the provisions of this Interim Amendment, and its Elective Provisions, consistent with a good-faith interpretation of the requirements of the Final Regulations as set forth under Treas. Reg. §§1.401(k)-1, 1.401(k)-3 and 1.401(m)-3, as amended.

(a) **Effective Dates.** Except as otherwise provided in this Interim Amendment, and its Elective Provisions, the Final Regulations and this Interim Amendment apply to Hardship distributions made on or after January 1, 2020. For Hardship distributions made before January 1, 2020, the rules applicable to Hardship distributions prior to the Final Regulations apply, unless the Employer elects earlier application as permitted under subsections (a) and (b) below.

(1) **Options for earlier application.** If elected under the Elective Provisions, the provisions of this Interim Amendment may be applied to distributions made in Plan Years beginning after December 31, 2018. The Employer may elect to apply the prohibition on the suspension of Salary Deferrals and After-Tax Employee Contributions as of the first day of the first Plan Year beginning after December 31, 2018, even if the Hardship distribution was made in a prior year. In addition, the Employer may operationally apply the revised deemed immediate and heavy financial need expenses under Section 7.10(e)(1) of the Plan, as amended by this Interim Amendment, to distributions made on or after a date as early as January 1, 2018.

(2) **Certain rules optional in 2019.** If, in accordance with the provisions of Section B-1.01(a)(1) of this Interim Amendment, the Employer applies certain Hardship distribution provisions to distributions made before January 1, 2020, then the Employer may disregard the rules relating to the employee representation, as described under Section 7.10(e)(3)(ii)(B) of the Plan, as amended by this Interim Amendment, and the rules prohibiting the suspension of contributions, as described under Section 7.10(e)(3)(iii) of the Plan, as amended by this Interim Amendment, to such distributions.

(3) **2020 effective date for employee representations and suspension prohibition.** In any event, the rules relating to the employee representation, as described under Section 7.10(e)(3)(ii)(B) of the Plan, as amended by this Interim Amendment, and the rules prohibiting the suspension of contributions, as described under Section 7.10(e)(3)(iv) of the Plan, as amended by this Interim Amendment, are formally made effective for Hardship distributions made on or after January 1, 2020.

B-2.01 **Amendment of Section 7.10(e) of the Plan.** Section 7.10(e) of the Plan is deleted and replaced with the following:

(e) **Hardship distribution.** The Employer may elect under AA §10-1 or AA §10-2 of the Profit Sharing/401(k) Plan Adoption Agreement or under Section HD-1 of the Elective Provisions to authorize an in-service distribution upon the occurrence of Hardship. A distribution is made on account of Hardship only if the distribution both is made on account of an immediate and heavy financial need and is necessary to satisfy the financial need.

(1) **Deemed immediate and heavy financial need.** A distribution is deemed to be made on account of an immediate and heavy financial need of the Employee if the distribution satisfies one of the following needs:

(i) Expenses incurred or necessary for medical care (as described in Code §213(d)) of the Participant, the Participant's Spouse or dependents (determined without regard to whether the expenses exceed 7.5% of adjusted gross income);

(ii) Costs directly related to the purchase (excluding mortgage payments) of a principal residence for the Participant;

(iii) Payment of tuition, related educational fees and room and board for up to the next 12 months of post-secondary education for the Participant, the Participant's Spouse, children or dependents;

(iv) Payments necessary to prevent the eviction of the Participant from, or a foreclosure on the mortgage of, the Participant's principal residence;

(v) Payments for funeral or burial expenses for the Participant's deceased parent, Spouse, child or dependent;

(vi) Expenses for the repair of damage to the Participant's principal residence that would qualify for the

casualty deduction under Code §165 (determined without regard to Code §165(h)(5) and whether the loss exceeds 10% of adjusted gross income);

(vii) Expenses and losses (including loss of income) incurred by the Participant on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 100-707, provided that the Participant's principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster; or

(viii) for any other event that the IRS recognizes as a deemed immediate and heavy financial need Hardship distribution event under ruling, notice or other guidance of general applicability.

For purposes of determining eligibility for a Hardship distribution under this subsection (1), a dependent is determined under Code §152. However, the determination of dependent for purposes of tuition and related educational fees under subsection (iii) above will be made without regard to Code §§152(b)(1), (b)(2), and (d)(1)(B) and the determination of dependent for purposes of funeral or burial expenses under subsection (v) above will be made without regard to Code §152(d)(1)(B).

A Participant must provide the Plan Administrator with a written request for a Hardship distribution. The Plan Administrator may require written documentation, as it deems necessary, to sufficiently document the existence of a proper Hardship event.

(2) **Non-deemed immediate and heavy financial need.** The Employer may elect under in the Profit Sharing/401(k) Plan Adoption Agreement to permit Participants to take a Hardship distribution without satisfying one of the needs in subsection (1) above by setting forth nondiscriminatory and objective standards under AA §10-3(f).

(3) **Distribution necessary to satisfy financial need.**

(i) **Distribution may not exceed amount of need.** A distribution is treated as necessary to satisfy an immediate and heavy financial need of an Employee only to the extent the amount of the distribution is not in excess of the amount required to satisfy the financial need (including any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution).

(ii) **No alternative means reasonably available.** A distribution is not treated as necessary to satisfy an immediate and heavy financial need of an employee unless each of the following requirements is satisfied:

(A) The Employee has obtained all other currently available distributions (including distributions of ESOP dividends under Code §404(k), but not Hardship distributions) under the Plan and all other plans of deferred compensation, whether qualified or nonqualified, maintained by the Employer;

(B) The Employee has provided to the Plan Administrator a representation in writing (including the use of an electronic medium as defined in Treas. Reg. §1.401(a)- 21(e)(3)), or in such other form as may be prescribed by the IRS, that he or she has insufficient cash or other liquid assets reasonably available to satisfy the need; and

(C) The Plan Administrator does not have actual knowledge that is contrary to the representation.

(iii) **Additional conditions.** The Plan generally may provide for additional conditions to demonstrate that a distribution is necessary to satisfy an immediate and heavy financial need of an employee. For example, a plan may provide that, before a Hardship distribution may be made, an Employee must obtain all nontaxable loans (determined at the time a loan is made) available under the Plan and all other plans maintained by the Employer.

(iv) **No suspensions allowed for Hardship distributions made on or after January 1, 2020.** The Plan may not provide for a suspension of an Employee's Salary Deferrals or After-Tax Employee Contributions under any plan described in Code §§401(a) or 403(a), any Code §403(b) plan, or any eligible governmental plan described in Treas. Reg. §1.457-2(f) as a condition of obtaining a Hardship distribution for Hardship distributions made on or after January1, 2020.

(4) **Sources for Hardship distributions.** For Plan Years beginning after December 31, 2018 (or such later date specified under the AA §10-1 or under §HD-1(a) and/or (b) of Elective Provisions, the Employer may permit Hardship distributions from the vested portion of a Participant's Employer Contribution Account, Matching

Contribution Account, Pre-Tax Salary Deferral Account, Roth Deferral Account, Qualified Nonelective Employer Contribution (QNEC) Account, Qualified Matching Contribution (QMAC) Account, Safe Harbor Employer Contribution Account, Safe Harbor Matching Contribution Account, QACA Safe Harbor Contribution Account and QACA Safe Harbor Matching Contribution Account. The Hardship distribution may include earnings on these Accounts, regardless of when amounts were contributed or earned. The Employer may designate the Accounts (including earnings) from which a Participant may receive a Hardship distribution under §HD-1 of the Elective Provisions. The Plan Administrator may adopt distribution ordering rules consistent with the sources available for Hardship distributions under separate administrative procedures. This subsection (4) supersedes any contrary provisions under the Plan, including any provision that limits the sources for Hardship distribution.

(5) **Availability to terminated Employees.** If a Hardship distribution is permitted under AA §10-1 or AA §10-2 or under §HD-1 of the Interim Amendment, a Participant may take such a Hardship distribution after termination of employment to the extent no other distribution is available from the Plan.

(6) **Application of Hardship distributions rules with respect to primary beneficiaries.** If elected under AA §10-3(e) of the Profit Sharing/401(k) Plan, if the Plan otherwise permits Hardship distributions based on the deemed immediate and heavy needs under subsection 7.10(e)(1)(i) (medical expenses), (1)(iii) (educational expenses) or (1)(v) (funeral expenses) above, the existence of an immediate and heavy financial need may be determined with respect to a primary beneficiary under the Plan. For this purpose, a primary beneficiary is an individual who is named as a beneficiary under the Plan and has an unconditional right to all or a portion of a Participant's Account Balance upon the death of the Participant. Any Hardship distribution with respect to a primary beneficiary must satisfy all the other requirements applicable to Hardship distributions under Section 7.10(e) of the Plan, as amended by this Interim Amendment.

B-3.01 **Relief for Victims of Certain Qualified Natural Disasters.** Notwithstanding other provisions of the Plan, the Employer may operate the Plan to provide relief from certain qualification rules relating to Hardship distributions and loans for Participants who are victims of certain Qualified Natural Disasters, as set forth under applicable IRS or legislative guidance.

B-3.02 **Qualified Natural Disasters.** For purposes of this section, Qualified Natural Disasters, in addition to the Qualified Natural Disasters listed under the 2017 Pre-Approved Defined Contribution Plan Interim Amendment previously adopted by the Pre-Approved Plan Provider, include Hurricane Michael and Hurricane Florence, as provided under the preamble to the Final Regulations.

B-3.03 **General Rules.** If the Employer and the Plan Administrator make good-faith efforts to apply the Plan provisions in conformance with the relief provided under applicable guidance, the Plan will not be treated as failing to satisfy the requirements of the Code or regulations. In general, the following rules apply:

(a) In order to make a loan or distribution (including a Hardship distribution), the Plan must provide for loans or distributions, as applicable.

(b) Participants (victims) for whom the relief is available are determined under the appropriate IRS or legislative guidance.

(c) The amount available for Hardship distribution is limited to the maximum amount that would be available for a Hardship distribution under the Plan. However, the relief provided applies to any Hardship distribution of the Participant and no post-distribution contribution restrictions apply.

(d) To qualify for relief under this section, a Hardship distribution must be made on account of a Hardship resulting from the applicable Qualified Natural Disaster and within the time frame provided under the applicable guidance relating to the Qualified Natural Disaster.

(e) The Plan will not be treated as failing to follow Plan procedural requirements for loans or distributions during the periods provided under guidance relating to the applicable Qualified Natural Disaster, which for Hurricane Michael and Hurricane Florence ended on March 15, 2019.

Leon County, Board of County Commissioners
NONSTANDARDIZED GOVERNMENTAL PROFIT SHARING/401(k) PLAN
ADOPTION AGREEMENT #001

By executing this Nonstandardized Governmental Profit Sharing/401(k) Plan Adoption Agreement (the "Adoption Agreement" or "AA"), the undersigned Employer agrees to establish or continue a Governmental Profit Sharing/401(k) Plan for its Employees. The Governmental Profit Sharing/401(k) Plan adopted by the Employer consists of the Governmental Defined Contribution Pre-Approved Plan Basic Plan Document #03 (the "BPD") and the elections made under this Adoption Agreement (collectively referred to as the "Plan"). An Employer may jointly co-sponsor the Plan by signing a Participating Employer Adoption Page, which is attached to this Adoption Agreement. **This Plan is effective as of the Effective Date identified on the Signature Page of this Adoption Agreement.**

SECTION 1
EMPLOYER INFORMATION

1-1 **EMPLOYER INFORMATION.**

Name: Leon County, Board of County Commissioners

Address: 315 S Calhoun Street
Ste 502
Tallahassee, Florida 32302

Telephone: (850) 606-2400

1-2 **EMPLOYER IDENTIFICATION NUMBER (EIN).** 59-6000708

1-3 **FORM OF BUSINESS.**

☑ State or political subdivision of a State
☐ State agency or instrumentality
☐ Indian Tribal Government
☐ Describe other Employer qualified to adopt a Governmental Plan: _____

1-4 **EMPLOYER'S TAX YEAR END.** The Employer's tax year ends September 30

1-5 **RELATED EMPLOYERS.** Is the Employer part of a group of Related Employers (as defined in Section 1.83 of the Plan)?

☐ Yes
☑ No

If yes, Related Employers may be listed below. A Related Employer must execute a Participating Employer Adoption Page for Employees of that Related Employer to participate in this Plan.

_____

[***Note:*** *This AA §1-5 is for informational purposes and the Employer need not list Related Employers. The failure to identify all Related Employers will not jeopardize the qualified status of the Plan.*]

SECTION 2
PLAN INFORMATION

2-1 **PLAN NAME.** Leon County BOCC 401(a) Matching Program

Original Effective Date: October 1, 2006

Restatement Effective Date: October 1, 2021

2-2 **PLAN NUMBER.** 002

2-3 **TYPE OF PLAN.**

☑ (a) This Plan is a Profit Sharing Plan. *(**Note:** May also include Matching Contributions under AA §6B.*)

☐ (b) This Plan is a Grandfathered Profit Sharing/401(k) Plan. [***Note*****:** *To qualify as a Grandfathered Profit Sharing/401(k) Plan, the Employer must have maintained a 401(k) plan as of May 6, 1986. A Grandfathered Profit Sharing/401(k) Plan may also include a plan of an Indian Tribal Government, as defined in Section 1.58 of the Plan. See Section 1.55 of the Plan for a more detailed description of a Grandfathered Profit Sharing/401(k) Plan.]*

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☐ (c) The Plan is intended to be a FICA Replacement Plan (as described under Section 4.03 of the Plan). [***Note:*** *If this subsection (c) is checked, elections under this AA must be consistent with the requirements of a FICA Replacement Plan as described under Section 4.03 of the Plan.*]

2-4 **PLAN YEAR.**

☐ (a) Calendar year.

☑ (b) The 12-consecutive month period ending on September 30 each year.

☐ (c) The Plan has a Short Plan Year running from ____ to ____.

2-5 **FROZEN PLAN.** Check this AA §2-5 if the Plan is a frozen Plan to which no contributions will be made.

☐ This Plan is a frozen Plan effective _____. (See Section 3.02(a)(2) of the Plan.)

[***Note:*** *As a frozen Plan, the Employer will not make any contributions with respect to Plan Compensation earned after such date and no Participant will be permitted to make any contributions to the Plan after such date. In addition, no Employee will become a Participant after the date the Plan is frozen.*]

2-6 **MULTIPLE EMPLOYER PLAN.** Is this Plan a Multiple Employer Plan as defined in Section 16.07 of the Plan? (See Section 16.07 of the Plan for special rules applicable to Multiple Employer Plans.)

☐ Yes

☑ No

2-7 **PLAN ADMINISTRATOR.**

☑ (a) The Employer identified in AA §1-1.

☐ (b) Name: _____

Address: _____

Telephone: _____

2-8 **DEFINITION OF DISABLED.** An individual is considered Disabled for purposes of applying the provisions of this Plan if:

☐ (a) The individual is covered by the Employer's disability insurance plan and is determined to be disabled under such plan.

☑ (b) The individual is determined to be disabled by the Social Security Administration under Section 223(d) of the Social Security Act for purposes of determining eligibility for Social Security benefits.

☐ (c) The Plan Administrator determines an individual is unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment that can be expected to result in death or which has lasted, or can be expected to last, for a continuous period of not less than 12 months. The permanence and degree of such impairment shall be supported by medical evidence. The Plan Administrator may establish reasonable procedures for determining whether a Participant is Disabled.

[***Note:*** *An Employer may elect any or all of (a), (b) and (c) above. If more than one of (a), (b) and (c) is selected, the hierarchy for determining whether an individual is considered Disabled is (a), then (b) and then (c), unless described otherwise under separate administrative procedures or under subsection (d) below.*]

☐ (d) Alternative definition of Disabled: _____

[***Note:*** *Any alternative definition described in this subsection (d) will apply uniformly to all Participants under the Plan and will be applied in a nondiscretionary manner. The Employer may describe different definitions of Disabled for different purposes under the plan.*]

SECTION 3
ELIGIBLE EMPLOYEES

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

Deferral	**Match**	**ER**	
☐	☐	☐	(a) No exclusions

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Deferral	Match	ER		
☐	☐	☐	(b)	Collectively Bargained Employees
☐	☐	☐	(c)	Non-resident aliens who receive no compensation from the Employer which constitutes U.S. source income
☐	☐	☐	(d)	Leased Employees
☐	☐	☐	(e)	Employees paid on an hourly basis
☐	☐	☐	(f)	Employees paid on a salaried basis
☐	☐	☐	(g)	Employees in an elected or appointed position.
☐	☐	☐	(h)	Part-Time Employees (as defined in Section 1.71 of the Plan)
☐	☐	☐	(i)	Seasonal Employees (as defined in Section 1.89 of the Plan)
☐	☐	☐	(j)	Temporary Employees (as defined in Section 1.93 of the Plan)
☐	☐	☐	(k)	Employees eligible for another qualified plan sponsored by the Employer or a Related Employer Specify name of other qualified plan (optional): _____
☐	☑	☑	(l)	Other: (1) All Employees except Leon County Board of County Commissioner Employees & Supervisor of Election Employees. (2) All regular full & part-time Employees (working 20 or more hours per week) and earning less than $50,000 in base annual earnings.

[***Note:*** *The elections under the ER column apply to any Pick-Up Contributions and any After-Tax Employee Contributions authorized under AA §6-7, unless elected otherwise under subsection (l) above. The exclusions inserted may not result in a specifically named individual or a finite group (such as employees hired before a certain date) being the only employee or employees participating under the plan in violation of the permanency requirements or Treas. Reg. §1.401-1(b)(2). It is permissible to limit participation under the plan to an employee or employees of a specifically named position or positions.*]

SECTION 4
MINIMUM AGE AND SERVICE REQUIREMENTS

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

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

Deferral	Match	ER		
☐	☐	☐	(1)	There is no minimum service requirement for participation in the Plan.
☐	☐	☐	(2)	___ Year(s) of Service (as defined in Section 2.03(a)(1) of the Plan and AA §4-3).
☐	☐	☐	(3)	The completion of at least ___ Hours of Service during the first ___ months of employment (or the first ___ days of employment) or the completion of a Year of Service (as defined in AA §4-3), if earlier. ☐ (i) An Employee who completes the required Hours of Service satisfies eligibility at the end of the designated period, regardless if the Employee actually works for the entire period. ☐ (ii) An Employee who completes the required Hours of Service must also be employed continuously during the designated period of employment. See Section 2.03(a)(2) of the Plan for rules regarding the application of this subsection (ii).
☐	☐	☐	(4)	The completion of ___ Hours of Service during an Eligibility Computation Period. [***Note:*** *An Employee satisfies the service requirement immediately upon completion of the designated Hours of Service rather than at the end of the Eligibility Computation Period.*]

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Deferral	Match	ER	
☐	☐	☐	(5) Full-time Employees are eligible to participate as set forth in subsection (i) below. Employees who are "part-time" Employees must complete a Year of Service (as defined in AA §4-3). For this purpose, a full-time Employee is any Employee not defined in subsection (ii) below.

(i) Full-time Employees must complete the following minimum service requirements to participate in the Plan:

☐ (A) There is no minimum service requirement for participation in the Plan.

☐ (B) The completion of at least ____ Hours of Service during the first ____ months of employment or the completion of a Year of Service (as defined in AA §4-3), if earlier.

☐ (C) Under the Elapsed Time method as defined in AA §4-3(c) below.

☐ (D) Describe: _____

[***Note:*** *Any conditions provided under this subsection (D) must be definitely determinable.*]

(ii) Part-time Employees must complete a Year of Service (as defined in AA §4-3). For this purpose, a part-time Employee is any Employee (including a temporary or seasonal Employee) whose normal work schedule is less than:

☐ (A) For this purpose, a part-time Employee is any Employee (including a temporary or seasonal Employee) whose normal work schedule is less than:

☐ (I) ____ hours per week.

☐ (II) ____ hours per month.

☐ (III) ____ hours per year.

☐ (B) Describe part-time Employees for this purpose: _____

[***Note:*** *A part-time employee must be described as an individual who works less than a specified number of hours (no greater than 40) during a standard work week.*]

☐	☐	☐	(6) Under the Elapsed Time method as described in AA §4-3(c) below.
☐	☑	☑	(7) Describe eligibility conditions: Completion of six (6) months of service

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

Deferral	Match	ER	
☐	☑	☑	(1) There is no minimum age for Plan eligibility.
☐	☐	☐	(2) Age 21.
☐	☐	☐	(3) Age ___.

☐ (c) **Special eligibility rules.** The following special eligibility rules apply with respect to the Plan: _____

[***Note:*** *Any elections under the ER column under this AA §4-1 apply to any Pick-Up Contributions authorized under AA §6-1(d) and any After-Tax Employee Contributions authorized under AA §6-7, unless elected otherwise under subsection (c) above. Subsection (c) above may be used to apply the eligibility conditions selected under this AA §4-1 separately with respect to different Employee groups or different contribution formulas under the Plan. Any special rules under subsection (c) above must be definitely determinable.*]

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4-2 **ENTRY DATE.** An Eligible Employee (as defined in AA §3-1) who satisfies the minimum age and service requirements in AA §4-1 shall be eligible to participate in the Plan as of his/her Entry Date. For this purpose, the Entry Date is the following date with respect to the contribution source(s) identified under this AA §4-2.

Deferral	Match	ER	
☐	☑	☑	(a) **Immediate.** The date the minimum age and service requirements are satisfied (or date of hire, if no minimum age and service requirements apply).
☐	☐	☐	(b) **Semi-annual.** The first day of the 1st and 7th month of the Plan Year.
☐	☐	☐	(c) **Quarterly.** The first day of the 1st, 4th, 7th and 10th month of the Plan Year.
☐	☐	☐	(d) **Monthly.** The first day of each calendar month.
☐	☐	☐	(e) **Payroll period.** The first day of the payroll period.
☐	☐	☐	(f) **The first day of the Plan Year.**
☐	☐	☐	(g) Describe Entry Date: _____ [***Note:*** *Entry Date under this subsection (g) must be no later than 3 years after the date described under (a).*]

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

Deferral	Match	ER	
☐	☐	☐	(h) **next following** satisfaction of the minimum age and service requirements.
☐	☐	☐	(i) **coinciding with or next following** satisfaction of the minimum age and service requirements.
N/A	☐	☐	(j) **nearest** the satisfaction of the minimum age and service requirements.
N/A	☐	☐	(k) **preceding** the satisfaction of the minimum age and service requirements.

This section may be used to describe any special rules for determining Entry Dates under the Plan. For example, if different Entry Date provisions apply for the same contribution sources with respect to different groups of Employees, such different Entry Date provisions may be described below.

Deferral	Match	ER	
☐	☐	☐	(l) **Describe** any special rules that apply with respect to the Entry Dates under this AA §4-2: _____

[***Note:*** *The elections under the ER column under this AA §4-2 apply to any Pick-Up Contributions selected under AA §6-1(d) and any After-Tax Employee Contributions selected under AA §6-7, unless elected otherwise under subsection (l) above. Any special rules under subsection (l) above must be definitely determinable.*]

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

- **Year of Service.** An Employee earns a Year of Service for eligibility purposes upon completing 1,000 Hours of Service during an Eligibility Computation Period. Hours of Service are calculated based on actual hours worked during the Eligibility Computation Period. (See Section 1.57 of the Plan for the definition of Hour of Service.)
- **Eligibility Computation Period.** If one Year of Service is required for eligibility, the Plan will determine subsequent Eligibility Computation Periods on the basis of Plan Years. (See Section 2.03(a)(3)(i) of the Plan). If more than one Year of Service is required for eligibility, the Plan will determine subsequent Eligibility Computation Periods on the basis of Anniversary Years. (See Section 2.03(a)(3)(ii) of the Plan.)

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

Deferral	Match	ER	
☐	☐	☐	(a) **Year of Service.** Instead of 1,000 Hours of Service, an Employee earns a Year of Service upon the completion of ____ Hours of Service during an Eligibility Computation Period.

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Deferral	Match	ER	
☐	☐	☐	(b) **Eligibility Computation Period (ECP).** The Plan will use Anniversary Years, unless more than one Year of Service is required under AA §4-1(a), in which case the Plan will shift to Plan Years if the Employee does not earn a Year of Service during the first Eligibility Computation Period. (See Section 2.03(a)(3)(ii) of the Plan.)
☐	☐	☐	(c) **Elapsed Time method.** Eligibility service will be determined under the Elapsed Time method. An Eligible Employee (as defined in AA §3-1) must complete a period of service, as designated below, to participate in the Plan. (See Section 2.03(a)(6) of the Plan.) ☐ (1) For Deferral, must complete a ____ period of service ☐ (2) For Match, must complete a _____ period of service ☐ (3) For ER, must complete a ____ period of service [***Note:*** *Under the Elapsed Time method, service will be measured from the Employee's employment commencement date (or reemployment commencement date, if applicable) without regard to the Eligibility Computation Period designated in Section 2.03(a)(3) of the Plan.*]
☐	☑	☑	(d) **Equivalency Method**. For purposes of determining an Employee's Hours of Service for eligibility, the Plan will use the Equivalency Method (as defined in Section 2.03(a)(5) of the Plan). The Equivalency Method will apply to: ☐ (1) All Employees. ☑ (2) Only Employees for whom the Employer does not maintain hourly records. For Employees for whom the Employer maintains hourly records, eligibility will be determined based on actual hours worked. Hours of Service for eligibility will be determined under the following Equivalency Method. ☑ (3) **Monthly.** 190 Hours of Service for each month worked. ☐ (4) **Weekly.** 45 Hours of Service for each week worked. ☐ (5) **Daily.** 10 Hours of Service for each day worked. ☐ (6) **Semi-monthly.** 95 Hours of Service for each semi-monthly period worked. ☐ (7) **Describe Equivalency Method:** _____ [***Note:*** *Any description of an Equivalency Method under this subsection (7) must be definitely determinable*.]
☐	☐	☐	(e) **Special eligibility provisions.** _____

[***Note:*** *The elections under the ER column under this AA §4-3 apply to any Pick-Up Contributions authorized under AA §6-1(d) and any After-Tax Employee Contributions selected under AA §6-7, unless elected otherwise under subsection (e) above. Any special rules under subsection (e) above must be definitely determinable.*]

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

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

Deferral	Match	ER	
☐	☐	☐	An Eligible Employee who is employed by the Employer on the following designated date will enter the Plan on the designated date without regard to minimum age and/or service requirements (as designated below): ☐ (a) the Effective Date of this Plan (as designated in the Employer Signature Page). ☐ (b) the date the Plan is executed by the Employer (as indicated on the Employer Signature Page). ☐ (c) _____ [*insert date no earlier than the Effective Date of this Plan*] An Eligible Employee who is employed on the designated date will enter the Plan on the designated date without regard to the minimum age and service requirements under AA

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§4-1. If both minimum age and service conditions are not waived, select subsection (d) or (e) below to designate which condition is waived under this AA §4-4.

☐ (d) This AA §4-4 only applies to the minimum service condition.

☐ (e) This AA §4-4 only applies to the minimum age condition.

The provisions of this AA §4-4 apply to all Eligible Employees employed on the designated date unless designated otherwise under subsection (f) or (g) below.

☐ (f) The provisions of this AA §4-4 apply to the following group of Employees employed on the designated date: _____

☐ (g) Describe special rules: _____

[***Note:*** *An Employee who is employed as of the designated date described in this AA §4-4 will enter the Plan as of such date unless a different Entry Date is designated under subsection (g) above. The elections under the ER column apply to any Pick-Up Contributions authorized under AA §6-1(d) and any After-Tax Employee Contributions selected under AA §6-7, unless elected otherwise under subsection (g) above. Any special rules under subsection (g) above must be definitely determinable.*]

4-5 **SERVICE WITH PREDECESSOR EMPLOYER.** Service with the following Predecessor Employers will be counted for purposes of determining eligibility, vesting and allocation conditions under this Plan, unless designated otherwise under subsection (a) or (b) below. (See Sections 2.06, 3.07(b) and 6.07 of the Plan.)

☐ (a) The Plan will count service with the following Predecessor Employers:

	Name of Predecessor Employer	Eligibility	Vesting	Allocation Conditions
☐ (1)	_____	☐	☐	☐

☐ (b) **Describe** any special provisions applicable to Predecessor Employer service: _____

4-6 **BREAKS IN SERVICE.** Generally, an Employee will be credited with all service earned with the Employer, including service earned prior to a Break in Service. To disregard service earned prior to a Break in Service for eligibility purposes, complete this AA §4-6. (See Section 2.07 of the Plan.)

☐ (a) If an Employee incurs at least one Break in Service, the Plan will disregard all service earned prior to such Break in Service for purposes of determining eligibility to participate.

☐ (b) If an Employee incurs at least _____ Breaks in Service, the Plan will disregard all service earned prior to such Break in Service for purposes of determining eligibility to participate. [*Enter "0" if prior service will be disregarded for all rehired Employees.*]

☐ (c) The Nonvested Participant Break in Service rule applies to all Employees, including Employees who have not terminated employment.

☐ (d) Describe: _____

SECTION 5
COMPENSATION DEFINITIONS

5-1 **TOTAL COMPENSATION.** Total Compensation is based on the definition set forth under this AA §5-1. See Section 1.94 of the Plan for a specific definition of the various types of Total Compensation.

☑ (a) W-2 Wages

☐ (b) Code §415 Compensation

☐ (c) Wages under Code §3401(a)

[***Note:*** *For purposes of determining Total Compensation, each definition includes Elective Deferrals as defined in Section 1.36 of the Plan, pre-tax contributions to a Code §125 cafeteria plan or a Code §457 plan, and qualified transportation fringes under Code §132(f)(4).*]

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5-2 **POST-SEVERANCE COMPENSATION.** Total Compensation includes post-severance compensation, to the extent provided in Section 1.94(b) of the Plan, unless otherwise elected below.

☐ (a) **Exclusion of post-severance compensation from Total Compensation.** The following amounts paid after a Participant's severance of employment are excluded from Total Compensation.

☐ (1) **Unused leave payments.** Payment for unused accrued bona fide sick, vacation, or other leave, but only if the Employee would have been able to use the leave if employment had continued.

☐ (2) **Deferred compensation.** Payments received by an Employee pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid to the Employee at the same time if the Employee had continued in employment and only to the extent that the payment is includible in the Employee's gross income.

[***Note:*** *Plan Compensation (as defined in Section 1.75 of the Plan) includes any post-severance compensation amounts that are includible in Total Compensation. The Employer may elect to exclude all compensation paid after severance of employment from the definition of Plan Compensation under AA §5-3(j) below or may elect to exclude specific types of post-severance compensation from Plan Compensation under AA §5-3(l) below.*]

☐ (b) **Continuation payments for disabled Participants.** If this subsection (b) is not elected, Total Compensation does not include continuation payments for disabled Participants. If this subsection (b) is elected, Total Compensation shall include post-severance compensation paid to a Participant who is permanently and totally disabled, as provided in Section 1.94(c) of the Plan.

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

Deferral	Match	ER		
☐	☑	☑	(a)	No exclusions.
N/A	☐	☐	(b)	Elective Deferrals (as defined in Section 1.36 of the Plan), pre-tax contributions to a cafeteria plan or a Code §457 plan, and qualified transportation fringes under Code §132(f)(4) are excluded.
☐	☐	☐	(c)	All fringe benefits (cash and noncash), reimbursements or other expense allowances, moving expenses, deferred compensation, and welfare benefits are excluded.
☐	☐	☐	(d)	Compensation above $___ is excluded.
☐	☐	☐	(e)	Amounts received as a bonus are excluded.
☐	☐	☐	(f)	Amounts received as commissions are excluded.
☐	☐	☐	(g)	Overtime payments are excluded.
☐	☐	☐	(h)	Amounts received for services performed for a non-signatory Related Employer are excluded. (See Section 2.02(c) of the Plan.) [***Note****: If this subsection (h) is not elected, amounts received for services performed for a non-signatory Related Employer are INCLUDED in Plan Compensation.*]
☐	☐	☐	(i)	"Deemed §125 compensation" as defined in Section 1.94(d) of the Plan.
☐	☐	☐	(j)	Amounts received after termination of employment are excluded. (See Section 1.94(b) of the Plan.)
☐	☐	☐	(k)	Differential Pay (as defined in Section 1.94(e) of the Plan).
☐	☐	☐	(l)	Describe adjustments to Plan Compensation: _____

[***Note:*** *Any modification under subsection (l) must be definitely determinable and preclude Employer discretion. The elections under the ER column under this AA §5-3 apply to any Pick-Up Contributions authorized under AA §6-1(d) and any After-Tax Employee Contributions selected under AA §6-7, unless elected otherwise under subsection (l).*]

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

(a) **Compensation Period.** Plan Compensation will be determined on the basis of the following period(s) for the contribution sources identified in this AA §5-4. [***Note:*** *If a period other than the Plan Year applies for any contribution source, any reference to the Plan Year as it refers to Plan Compensation for that contribution source will be deemed to be a reference to the period designated under this AA §5-4.*]

Deferral	Match	ER	
☐	☑	☑	(1) The Plan Year.
☐	☐	☐	(2) The calendar year ending in the Plan Year.
☐	☐	☐	(3) The Employer's fiscal tax year ending in the Plan Year.
☐	☐	☐	(4) The 12-month period ending on _____ which ends during the Plan Year.

(b) **Compensation while a Participant.** Unless provided otherwise under this subsection (b), in determining Plan Compensation, only compensation earned while an individual is a Participant under the Plan with respect to a particular contribution source will be taken into account.

To count compensation for the entire Plan Year for a particular contribution source, including compensation earned while an individual is not a Participant with respect to such contribution source, check below. (See Section 1.75(b) of the Plan.)

Deferral	Match	ER	
☐	☐	☐	All compensation earned during the Plan Year will be taken into account, including compensation earned while an individual is not a Participant.

(c) **Few weeks rule.** The few weeks rule (as described in Section 5.02(c)(7)(i) of the Plan) will not apply unless designated otherwise under this subsection (c).

☐ Amounts earned but not paid during a Limitation Year solely because of the timing of pay periods and pay dates shall be included in Total Compensation for the Limitation Year, provided the amounts are paid during the first few weeks of the next Limitation Year, the amounts are included on a uniform and consistent basis with respect to all similarly situated Employees, and no amounts are included in more than one Limitation Year.

SECTION 6
EMPLOYER AND EMPLOYEE CONTRIBUTIONS

6-1 **EMPLOYER / EMPLOYEE CONTRIBUTIONS.** The Employer/Employee may make the following contributions under the Plan:

☑ (a) Employer Contributions under AA §6-2

☐ (b) Voluntary After-Tax Employee Contributions under AA §6-7(a)

☐ (c) Mandatory After-Tax Employee Contributions under AA §6-7(b)

☐ (d) Employer Pick-Up Contributions under AA §6-7(c)

☐ (e) N/A. No Employer/Employee Contributions are permitted under the Plan [*Skip to Section 6A*]

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

☑ (a) **Discretionary contribution.** The Employer will determine in its sole discretion how much, if any, it will make as an Employer Contribution.

☐ (b) **Fixed contribution.**

☐ (1) **Fixed percentage.** __% of each Participant's Plan Compensation.

☐ (2) **Fixed dollar.** $____ for each Participant.

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☐ (3) **Determined in accordance with the terms of the Employment contract** between an Eligible Employee and the Employer. [***Note:*** *If this subsection (3) is checked, the provisions of an Employment contract addressing retirement benefits will override any selection under this AA §6-2.*]

☐ (c) **Contributions under Collective Bargaining Agreement, employment contract or equivalent arrangement.** The Employer will make an Employer Contribution based on a Collective Bargaining Agreement, employment agreement or equivalent arrangement as follows: _____

[***Note***: *Insert the appropriate contribution formula (and allocation formula, if applicable) from the Collective Bargaining Agreement, employment agreement or equivalent arrangement. The formula must be definitely determinable as required under Treas. Reg. §1.401-1.*]

☐ (d) **Service-based contribution.** The Employer will make the following contribution:

☐ (1) **Discretionary.** A discretionary contribution determined as a uniform percentage of Plan Compensation for each period of service designated below.

☐ (2) **Fixed percentage.** ___% of Plan Compensation paid for each period of service designated below.

☐ (3) **Fixed dollar.** $___ for each period of service designated below.

The service-based contribution will be based on the following periods of service:

☐ (4) Each Hour of Service

☐ (5) Each week of employment

☐ (6) Describe period: _____

The service-based contribution is subject to the following rules.

☐ (7) Describe any special provisions that apply to service-based contribution: _____

☐ (e) **Describe special rules for determining contributions under Plan:** _____

[***Note:*** *Any special rules under this subsection (e) may only describe the basis for determining a discretionary service-based contribution, such as a uniform dollar amount, and must be definitely determinable.*]

6-3 **ALLOCATION FORMULA.**

☑ (a) **Pro rata allocation.** The discretionary Employer Contribution under AA §6-2(a) will be allocated:

☑ (1) as a uniform percentage of Plan Compensation.

☐ (2) as a uniform dollar amount.

☐ (b) **Fixed contribution.** The fixed Employer Contribution under AA §6-2 will be allocated in accordance with the selections made with respect to fixed Employer Contributions under AA §6-2.

☐ (c) **Permitted disparity allocation.** The discretionary Employer Contribution under AA §6-2(a) will be allocated under the two-step method (as defined in Section 3.02(a)(1)(i)(B)(I) of the Plan), using the Taxable Wage Base (as defined in Section 1.92 of the Plan) as the Integration Level.

To modify these default rules, complete the appropriate provision(s) below.

☐ (1) **Integration Level.** Instead of the Taxable Wage Base, the Integration Level is:

☐ (i) ___% of the Taxable Wage Base, increased (but not above the Taxable Wage Base) to the next higher:

☐ (A) N/A ☐ (B) $1

☐ (C) $100 ☐ (D) $1,000

☐ (ii) $_____ (not to exceed the Taxable Wage Base)

☐ (iii) 20% of the Taxable Wage Base

[***Note:*** *See Section 3.02(a)(1)(i)(B)(IV) of the Plan for rules regarding the Maximum Disparity Rate that may be used where an Integration Level other than the Taxable Wage Base is selected.*]

☐ (2) **Describe** special rules for applying permitted disparity allocation formula: _____

[***Note:*** *Any special rules under subsection (2) must be definitely determinable.*]

☐ (d) **Uniform points allocation.** The discretionary Employer Contribution designated in AA §6-2(a) will be allocated to each Participant in the ratio that each Participant's total points bears to the total points of all Participants. A Participant will receive the following points:

☐ (1) ____ point(s) for each ____ year(s) of age (attained as of the end of the Plan Year).

☐ (2) ____ points for each $____ of Plan Compensation.

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☐ (3) ____ point(s) for each ____ Year(s) of Service. For this purpose, Years of Service are determined:

☐ (i) In the same manner as determined for eligibility.

☐ (ii) In the same manner as determined for vesting.

☐ (iii) Points will not be provided with respect to Years of Service in excess of ____.

☐ (e) **Employee group allocation.** The Employer may make a separate discretionary Employer Contribution to the Participants in the following allocation groups. The Employer must notify the Trustee in writing of the amount of the contribution to be allocated to each allocation group.

☐ (1) A separate discretionary Employer Contribution may be made to each Participant of the Employer (i.e., each Participant is in his/her own allocation group).

☐ (2) A separate discretionary or fixed Employer Contribution may be made to the following allocation groups. If no fixed amount is designated for a particular allocation group, the contribution made for such allocation group will be allocated as a uniform percentage of Plan Compensation to all Participants within that allocation group, unless otherwise designated as a uniform dollar amount below.

☐ The contribution made for each allocation group will be allocated as a uniform dollar amount to all Participants within the allocation group.

Group 1: _____

[***Note**: The Employee allocation groups designated above must be clearly defined in a manner that will not violate the definite allocation formula requirement of Treas. Reg. §1.401-1(b)(1)(ii).*]

(3) **Special rules.** Unless designated otherwise under this subsection (3), if a Participant is in more than one allocation group described in (2) above during the Plan Year, the Participant will receive an Employer Contribution based on the Participant's status on the last day of the Plan Year. (See Section 3.02(a)(1)(i)(D) of the Plan.)

☐ (i) **Determined separately for each Employee group.** If a Participant is in more than one allocation group during the Plan Year, the Participant's share of the Employer Contribution will be based on the Participant's status for the part of the year the Participant is in each allocation group.

☐ (ii) **Describe:** _____

[***Note:** This subsection (ii) may only describe the amount of the Employer Contribution a Participant will receive when such Participant is in more than one allocation group. Any language under this subsection (ii) must be definitely determinable.*]

☐ (f) **Age-based allocation.** The discretionary Employer Contribution designated in AA §6-2(a) will be allocated under the age-based allocation formula so that each Participant receives a pro rata allocation based on adjusted Plan Compensation. For this purpose, a Participant's adjusted Plan Compensation is determined by multiplying the Participant's Plan Compensation by an Actuarial Factor (as described in Section 1.03 of the Plan).

A Participant's Actuarial Factor is determined based on a specified interest rate and mortality table. Unless designated otherwise under subsection (1) or (2) below, the Plan will use an applicable interest rate of 8.5% and a UP-1984 mortality table.

☐ (1) **Applicable interest rate.** Instead of 8.5%, the Plan will use an interest rate of ___% (must be between 7.5% and 8.5%) in determining a Participant's Actuarial Factor.

☐ (2) **Applicable mortality table.** Instead of the UP-1984 mortality table, the Plan will use the following mortality table in determining a Participant's Actuarial Factor: _____

☐ (3) **Describe special rules applicable to age-based allocation:** _____

[***Note:** See Appendix A of the Plan for sample Actuarial Factors based on an 8.5% applicable interest rate and the UP-1984 mortality table. If an interest rate or mortality table other than 8.5% or UP-1984 is selected, appropriate Actuarial Factors must be calculated. Subsection (3) must provide for a definitely determinable allocation method.*]

☐ (g) **Service-based allocation formula.** The service-based Employer Contribution selected in AA §6-2(d) will be allocated in accordance with the selections made in AA §6-2(d).

☐ (h) **Describe special rules for determining allocation formula:** _____

[***Note:** Any special rules under this subsection (h) must be described in a manner that precludes Employer discretion.*]

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6-4 **CONTRIBUTIONS OF ACCRUED SICK, PTO AND/OR VACATION LEAVE.** [***Note:*** *Do not complete this AA §6-4 and instead use AA§6-7(c) if this is an Employer Pick-Up Contribution.*]

☐ (a) The Employer will make and allocate Employer Contributions of amounts of accrued unpaid sick leave, as described below: _____

☐ (b) The Employer will make and allocate Employer Contributions of amounts of accrued unpaid vacation leave, as described below: _____

[***Note:*** *The Employer must describe an Employer Contribution of accrued unpaid sick, and/or vacation leave that meets the following requirements:*

- *The leave converted under the arrangement can only be accrued unpaid leave;*
- *The leave converted can only be sick and/or vacation leave;*
- *The Employer must designate how often the conversions occur under this AA §6-4;*
- *The eligibility requirements for participation in the plan cannot be such that an Employee becomes a Participant only in the plan year in which the Employee terminates employment;*
- *The only accrued unpaid leave which can be converted under the arrangement must only be leave for which the Employee has no right to request a cash payment;*
- *The leave conversion formula can only be one which involves multiplying an Employee's current daily rate of pay against the amount of accrued unpaid leave being converted; and*
- *The leave conversion formula is definitely determinable.*]

6-5 **SPECIAL RULES.** No special rules apply with respect to Employer/Employee Contributions under the Plan, except to the extent designated under this AA §6-5. Unless designated otherwise, in determining the amount of the Employer/Employee Contributions to be allocated under this AA §6, the contribution will be based on Plan Compensation earned during the Plan Year.

☐ (a) **Period for determining Employer/Employee Contributions.** Instead of the Plan Year, Employer/Employee Contributions will be determined based on Plan Compensation earned during the following period: [***Note:*** *The Plan Year must be used if the permitted disparity allocation method is selected under AA §6-3(c) above.*]

☐ (1) Plan Year quarter

☐ (2) calendar month

☐ (3) payroll period

☐ (4) Other: _____

[***Note:*** *Although Employer Contributions are determined on the basis of Plan Compensation earned during the period designated under this subsection (a), this does not require the Employer to actually make contributions or allocate contributions on the basis of such period. Employer Contributions may be contributed and allocated to Participants at any time within the contribution period permitted under Treas. Reg. §1.415(c)-1(b)(6)(B), regardless of the period selected under this subsection (a).*]

☐ (b) **Limit on Employer Contributions.** The Employer Contribution elected in AA §6-2 may not exceed:

☐ (1) ___% of Plan Compensation

☐ (2) $___

☐ (3) A discretionary amount determined by the Employer applied in a uniform manner for all eligible Participants for the Plan Year.

☐ (c) **Offset of Employer Contribution.**

☐ (1) A Participant's allocation of Employer Contributions under AA §6-2 of this Plan is reduced by contributions under _____ [*insert name of plan(s)*]. (See Section 3.02(a)(1) of the Plan.)

☐ (2) In applying the offset under this subsection (c), the following rules apply: _____

☐ (d) **Special rules:** _____

[***Note:*** *Any special rules under this subsection (d) must be definitely determinable.*]

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6-6 **ALLOCATION CONDITIONS.** A Participant must satisfy any allocation conditions designated under this AA §6-6 to receive an allocation of Employer Contributions under the Plan. [***Note**: No allocation conditions apply to After-Tax Employee Contributions or Employer Pick-Up Contributions under AA §6-7.*]

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

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

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

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

☐ (i) Hours of Service are determined using actual Hours of Service.

☐ (ii) Hours of Service are determined using the following Equivalency Method (as defined under Section 2.03(a)(5) of the Plan):

☐ (A) Monthly ☐ (B) Weekly

☐ (C) Daily ☐ (D) Semi-monthly

☐ (E) Describe**:** _____

[***Note:** Any description under this subsection (E) must be definitely determinable*.]

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

☐ (d) **Exceptions.**

☐ (1) The above allocation condition(s) will **not** apply if the Employee:

☐ (i) dies.

☐ (ii) terminates employment due to becoming Disabled.

☐ (iii) becomes Disabled.

☐ (iv) terminates employment after attaining Normal Retirement Age.

[***Note:** This waiver of allocation conditions applies only once during the Participant's employment with the Employer. Thus, if an Employee is rehired after such a waiver was applied to such Employee, the waiver of allocation conditions will not apply to a subsequent termination of employment. The Employer may modify this rule in subsection (e) below*.]

☐ (v) terminates employment after attaining Early Retirement Age.

[***Note:** This waiver of allocation conditions applies only once during the Participant's employment with the Employer. Thus, if an Employee is rehired after such a waiver was applied to such Employee, the waiver of allocation conditions will not apply to a subsequent termination of employment. The Employer may modify this rule in subsection (e) below*.]

☐ (vi) is on an authorized leave of absence from the Employer.

☐ (2) The exceptions selected under subsection (1) above will apply even if an Employee has not terminated employment at the time of the selected event(s).

☐ (3) The exceptions selected under subsection (1) above do not apply to:

☐ (i) an employment condition under subsection (b) above.

☐ (ii) a minimum service condition under subsection (c) above.

☐ (e) **Describe** any special rules governing the allocation conditions under the Plan: _____

[***Note:** Any special rules under this subsection (e) must be definitely determinable.*]

6-7 **AFTER-TAX EMPLOYEE CONTRIBUTIONS AND EMPLOYER PICK-UP CONTRIBUTIONS.**

☐ (a) **Voluntary After-Tax Employee Contributions.** If permitted under this subsection (a), a Participant may contribute any amount as Voluntary After-Tax Employee Contributions up to the Code §415 Limitation (as defined in Section 5.02 of the Plan), except as limited under this subsection (a).

☐ (1) **Limits on Voluntary After-Tax Employee Contributions.** If this subsection (1) is checked, the following limits apply to Voluntary After-Tax Employee Contributions:

☐ (i) **Maximum limit.** A Participant may make Voluntary After-Tax Employee Contributions up to:

☐ (A) _____% of Plan Compensation

☐ (B) $_____

for the following period:

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☐ (C) the entire Plan Year.

☐ (D) the portion of the Plan Year during which the Employee is eligible to participate.

☐ (E) each separate payroll period during which the Employee is eligible to participate.

☐ (ii) **Minimum limit.** The amount of Voluntary After-Tax Employee Contributions a Participant may make for any payroll period may not be less than:

☐ (A) _____% of Plan Compensation

☐ (B) $_____

(2) **Change or revocation of Voluntary After-Tax Employee Contributions.** In addition to the Participant's Entry Date under the Plan, a Participant's election to change or resume an after-tax election will be effective as set forth under the After-Tax Employee Contributions election form or other written procedures adopted by the Plan Administrator. A Participant must be permitted to change or revoke an after-tax election at least once per year. Unless the After-Tax Employee Contributions election form or other written procedures adopted by the Plan Administrator provide otherwise, a Participant may revoke an after-tax election (on a prospective basis) at any time. Unless designated otherwise in a Participant's after-tax election form, a Participant's affirmative election to make an After-Tax Employee Contribution will cease upon termination of employment and the Participant will need to make a new election upon rehire.

☐ (3) **Other limits or special rules relating to Voluntary After-Tax Employee Contributions:** _____

[***Note:*** *Any limits described under this subsection (3) must be consistent with the provisions of Section 3.04 of the Plan.*]

☐ (b) **Mandatory After-Tax Employee Contributions.** If this subsection (b) is checked, Employees are required to make Mandatory After-Tax Employee Contributions in order to participate under the Plan.

☐ (1) **Amount of Mandatory After-Tax Employee Contributions.** Employees are required to contribute the following amount in order to participate in the Plan:

☐ (i) _____% of each Employee's Total Compensation.

☐ (ii) $_____ for each Participant.

☐ (iii) Describe rate or amount: _____

☐ (2) **Special rules** applicable to Mandatory After-Tax Employee Contributions: _____

☐ (c) **Employer Pick-Up Contributions.** Each Participant will be required to make a Pick-up Contribution to the Plan equal to the amount specified under this subsection (c). Any amounts contributed pursuant to this subsection (c) will be picked up by the Employer pursuant to Code §414(h) and will be treated as Employer Contributions under the Plan. Such contributions and earnings thereon will be 100% vested at all times. (See Section 3.03 of the Plan.)

☐ (1) The following amounts will be contributed to the Plan as an Employer Pick-Up Contribution:

☐ (i) _____% of Plan Compensation.

☐ (ii) $_____ per pay period.

☐ (iii) Any amount from _____% to _____% of Plan Compensation, as designated by the Employee.

[*Note: This subsection (iii) may only be selected if the Employee designates the amount as a one-time irrevocable election*.]

☐ (2) Elect this subsection (2) if an Employee may make a one-time irrevocable election not to make Employer Pick-Up Contributions under the Plan.

☐ (3) Special rules applicable to Employer Pick-Up Contributions: _____

[***Note:*** *Any Employer Pick-Up Contributions made under this subsection (c) must satisfy the requirements of Section 3.03 of the Plan. See AA §11-4 for an Employee's ability to elect out of making Employer Pick-Up Contributions.*]

SECTION 6A
SALARY DEFERRALS

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

☐ Yes.

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☑ No. [*If "No" is checked, skip to Section 6B.*]

6A-2 **MAXIMUM LIMIT ON SALARY DEFERRALS.** Unless designated otherwise under this AA §6A-2, a Participant may defer any amount up to the Elective Deferral Dollar Limit and the Code §415 Limitation (as set forth in Sections 5.02 and 5.03 of the Plan).

☐ (a) **Salary Deferral Limit.** A Participant may not defer an amount in excess of:

☐ (1) _____% of Plan Compensation.

☐ (2) $_____.

[***Note:*** *If both subsection (1) and (2) above are checked, the deferral limit is the lesser of the amounts selected.*]

Any limit described in subsection (1) or (2) above applies with respect to the following period:

☐ (3) Plan Year.

☐ (4) the portion of the Plan Year during which the individual is eligible to participate.

☐ (5) each separate payroll period during which the individual is eligible to participate.

☐ (b) **Limits on deferrals on bonus payments.** [***Note:*** *This §6A-2(b) only may be selected, if bonus payments are not excluded under AA §5-3.*]

☐ (1) The same limits specified in (a)(1) and (a)(2) above apply to bonus and non-bonus Plan Compensation, Employees may defer any amounts out of bonus payments, subject to the Elective Deferral Dollar Limit and the Code §415 Limitation (as defined in Sections 5.02 and 5.03 of the Plan) and any other limit on Salary Deferrals under this AA 6A-2. The Employer may impose special limits on bonus payments or may impose special limits on bonus payments under the Salary Deferral Election. (See Section 3.02(c)(2) of the Plan.)

☐ (2) A Participant may defer up to ____% (*not to exceed 100%*) of any bonus payment (subject to the Elective Deferral Dollar Limit and the Code §415 Limitation), without regard to any other limits described under this AA §6A-2. The Employer may impose special limits on bonus payments under the Salary Deferral Election. (See Section 3.02(c)(2) of the Plan.)

☐ (3) Describe special rules applicable to deferrals on bonus payments: _____

[***Note:*** *If this subsection (b) is checked, bonus payments may not be excluded from Plan Compensation in the Deferral column under AA §5-3(e).*]

☐ (c) **Describe** any other limits that apply with respect to Salary Deferrals under the Plan: _____

6A-3 **MINIMUM DEFERRAL RATE.** Unless designated otherwise under this AA §6A-3, no minimum deferral requirement applies under the Plan. Alternatively, a Participant must defer at least the following amount in order to make Salary Deferrals under the Plan.

☐ (a) ____% of Plan Compensation for a payroll period.

☐ (b) $____ for a payroll period.

☐ (c) Describe: _____

[***Note:*** *If more than one limit applies under this AA §6A-3, the minimum deferral rate is the lesser of the amounts designated under this AA §6A-3.*]

6A-4 **CATCH-UP CONTRIBUTIONS.** Catch-Up Contributions (as defined in Section 3.02(c)(2)(iv) of the Plan) are permitted under the Plan, unless designated otherwise under this AA §6A-4.

☐ Catch-Up Contributions are not permitted under the Plan.

6A-5 **ROTH DEFERRALS**. Roth Deferrals (as defined in Section 3.02(c)(2)(v) of the Plan) are not permitted under the Plan, unless designated otherwise under this AA §6A-5.

☐ (a) **Availability of Roth Deferrals.** Roth Deferrals are permitted under the Plan. [***Note:*** *If Roth Deferrals are effective as of a date later than the Effective Date of the Plan, designate such special Effective Date in AA §6A-8(b) below. Roth Deferrals may not be made prior to January 1, 2006.*]

(b) **Distribution of Roth Deferrals.** Unless designated otherwise under this subsection (b), to the extent a Participant takes a distribution or withdrawal from his/her Salary Deferral Account(s), the Participant may designate the extent to which such distribution is taken from the Pre-Tax Deferral Account or from the Roth Deferral Account. (As described under Section 7.11(b)(2) of the Plan for default distribution rules if a Participant fails to designate the appropriate

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Account for corrective distributions from the Plan, such distribution may be withdrawn equally from both the Pre-Tax Salary Deferral Account and the Roth Deferral Account or the Employer may withdraw such amounts first from either the Pre-Tax Salary Deferral Account or the Roth Deferral Account.)

Alternatively, the Employer may designate the order of distributions as listed below:

☐ (1) Any distribution will be taken on a pro rata basis from the Participant's Pre-Tax Deferral Account and Roth Deferral Account.

☐ (2) Any distribution will be taken first from the Participant's Roth Deferral Account and then from the Participant's Pre-Tax Deferral Account.

☐ (3) Any distribution will be taken first from the Participant's Pre-Tax Deferral Account and then from the Participant's Roth Deferral Account.

(c) **In-Plan Roth Conversions.** Unless elected under this AA §6A-5(c), the Plan does not permit a Participant to make an In-Plan Roth Conversion under the Plan. To override this provision to allow Participants to make an In-Plan Roth Conversion, subsection (1) below must be checked.

☐ (1) **Effective date.** Effective _____ [*not earlier than 1/1/2013*], a Participant may elect to convert all or any portion of his/her non-Roth vested Account Balance to an In-Plan Roth Conversion Account.

[***Note:*** *The Plan must provide for Roth Deferrals under AA §6A-5(a) above as of the effective date designated in this subsection (1). An election under this subsection (1) does not affect an In-Plan Roth Conversion that was allowed under prior Plan provisions.*]

(2) **In-Service Distribution.**

☐ (i) For a Participant to convert his/her eligible contributions to Roth Deferrals through an In-Plan Roth Conversion, the Participant need not be eligible to take a distribution from the Plan. [***Note****: If this subsection (i) is checked, a Participant may convert any or all of the eligible contribution sources to Roth Deferrals through an In-Plan Roth Conversion*.]

☐ (ii) For a Participant to convert his/her eligible contributions to Roth Deferrals through an In-Plan Roth Conversion, a Participant must be eligible for a distribution of any amounts converted to Roth Deferrals through an In-Plan Roth Conversion. Thus, only amounts that are eligible for distribution under AA §9 or AA §10 are eligible for In-Plan Roth Conversion.

(3) **Contribution sources.** An Employee may elect to make an In-Plan Roth Conversion from all available contribution sources under the Plan.

To override this default provision to limit the contributions sources available for In-Plan Roth Conversion, select the applicable contribution sources from which an In-Plan Roth Conversion is available:

☐ (i) Pre-tax Salary Deferrals

☐ (ii) Employer Contributions

☐ (iii) Matching Contributions

☐ (iv) After-Tax Contributions

☐ (v) Rollover Contributions

☐ (vi) Employer Pick-Up Contributions

☐ (vii) Describe: _____

[***Note:*** *Any contribution sources described in this subsection (vii) must be definitely determinable and not subject to Employer discretion.*]

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(4) **Limits applicable to In-Plan Roth Conversions.** No limits apply with respect to In-Plan Roth Conversions, unless designated otherwise under this subsection (4).

☐ (i) Roth conversions may only be made from contribution sources that are fully vested (i.e., 100% vested).

[***Note:*** *If an In-Plan Roth Conversion is permitted from partially-vested sources, special rules apply for determining the vested percentage of such amounts after conversion. See Section 6.09 of the Plan.*]

☐ (ii) A Participant may not make an In-Plan Roth Conversion of less than $___ (may not exceed $1,000).

☐ (iii) A Participant may not make an In-Plan Roth Conversion of any outstanding loan amount.

[***Note:*** *If this subsection (iii) is not checked, a Participant may convert amounts that are attributable to an outstanding loan, to the extent the loan relates to a contribution source that is eligible for conversion under subsection (3) above.*]

☐ (iv) Describe: _____

[***Note:*** *Any selection in this subsection (iv) must be definitely determinable and not subject to Employer discretion.*]

(5) **Amounts available to pay federal and state taxes generated from an In-Plan Roth Conversion.** No special provisions apply to allow Participants to withdraw funds to pay federal or state taxes generated from an In-Plan Roth Conversion, except as provided otherwise under this subsection (5).

☐ (i) **In-service distribution.** If the Plan does not otherwise permit an in-service distribution at the time of the In-Plan Roth Conversion and this subsection (i) is checked, a Participant may elect to take an in-service distribution solely to pay taxes generated from the In-Plan Roth Conversion to the extent such in-service distribution would otherwise be permitted under Section 7.10 of the Plan.

[***Note:*** *If this subsection (i) is checked, a Participant may take an in-service distribution only to the extent such distribution would otherwise be permitted under the provisions of Section 7.10 of the Plan. Thus, for example, a Participant may not take an in-service distribution of amounts attributable to Salary Deferrals prior to age 59½.*]

☐ (ii) **Participant loan.** Generally, a Participant may request a loan from the Plan to the extent permitted under Section 13 of the Plan and AA §B. However, to the extent a Participant loan is not otherwise allowed and this subsection (ii) is selected, a Participant may receive a Participant loan solely to pay taxes generated from an In-Plan Roth Conversion.

[***Note:*** *If this subsection (ii) is selected and Participant loans are not otherwise authorized under the Plan, any Participant loan made pursuant to this subsection (ii) will be made in accordance with the default loan policy described in Section 13 of the Plan.*]

(6) **Distribution from In-Plan Roth Conversion Account.** Distributions from the In-Plan Roth Conversion Account will be permitted at the same time as permitted for Roth Deferrals, as set forth under AA §10-1, unless designated otherwise under this subsection (6).

☐ (i) In-service distributions will not be permitted from an In-Plan Roth Conversion Account.

☐ (ii) An in-service distribution may be made from the In-Plan Roth Conversion Account at any time.

☐ (iii) Describe distribution options: _____

☐ (d) **Describe** any special rules that apply to Roth Deferrals under the Plan: _____

6A-6 **SALARY DEFERRAL ELECTIONS.**

(a) **Change or revocation of deferral election:** In addition to the Participant's Entry Date under the Plan, a Participant's election to change or resume a deferral election will be effective as set forth under the Salary Reduction Agreement or other written procedures adopted by the Plan Administrator. A Participant must be permitted to change or revoke a deferral election at least once per year. Unless the Salary Reduction Agreement or other written procedures adopted by the Plan Administrator provide otherwise, a Participant may revoke a deferral election (on a prospective basis) at any time.

(b) **Salary deferral elections of rehired participants:** Unless designated otherwise below, a Participant's affirmative election to defer (or to not defer) will cease upon termination of employment and the Participant will need to make a new election upon rehire.

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☐ **Participant's affirmative election does not cease upon termination of employment.** If this subsection (b) is selected, a terminated Participant's affirmative election to defer (or to not defer) **will not cease** upon termination of employment and the Participant's affirmative election to defer (or to not defer) in effect at the time of employment termination will apply upon rehire.

[***Note:*** *The Employer may modify the rules applicable to rehired employees under the Salary Reduction Agreement or other administrative procedures*.]

6A-7 **AUTOMATIC CONTRIBUTION ARRANGEMENT.** No automatic contribution provisions apply under Section 3.02(c)(2)(iii) of the Plan, unless provided otherwise under this AA §6A-7.

☐ (a) **Automatic deferral election.** Upon becoming eligible to make Salary Deferrals under the Plan (pursuant to AA §3 and AA §4), a Participant will be deemed to have entered into a Salary Deferral Election for each payroll period, unless the Participant completes a Salary Deferral Election (subject to the limitations under AA §6A-2 and AA §6A-3) in accordance with procedures adopted by the Plan Administrator.

☐ (1) **Effective date of Automatic Contribution Arrangement.** The automatic deferral provisions under this AA §6A-7 are effective as of:

☐ (i) The Effective Date of this Plan as set forth under the Employer Signature Page.

☐ (ii) _____ [*insert date no earlier than the Effective Date of the Plan*]

☐ (iii) As set forth under a prior Plan document. [***Note:*** *If this subsection (iii) is checked, the automatic deferral provisions under this AA §6A-7 will apply as of the original Effective Date of the automatic contribution arrangement. Unless provided otherwise under this AA §6A-7, an Employee who is automatically enrolled under a prior Plan document will continue to be automatically enrolled under the current Plan document.*]

☐ (2) **Automatic Contribution Arrangement.** Check this subsection (2) if the Plan is designated as an Automatic Contribution Arrangement, as described under Section 3.02(c)(2)(iii) of the Plan. [***Note:*** *Unless an election is made under this AA §6A-7 that is inconsistent with the requirements of an Eligible Automatic Contribution Arrangement (EACA), the Automatic Contribution Arrangement will qualify as an EACA, as described in Code §414(w).*]

☐ (i) **Automatic deferral amount.**

☐ (A) ___% of Plan Compensation.

☐ (B) $___.

☐ (ii) **Automatic increase.** If elected under this subsection (ii), the automatic deferral amount will increase each Plan Year by the following amount.

☐ (A) ___% of Plan Compensation.

☐ (B) $____.

☐ (C) If this (C) and subsection (3)(iii) below (relating to the expiration of affirmative deferral elections) are both elected, the automatic increase will apply to all Participants, including those Participants whose affirmative deferral elections have expired and no subsequent affirmative election is made.

Any automatic increase elected under this subsection (ii) will not cause the automatic deferral amount to exceed:

☐ (D) ___% of Plan Compensation.

☐ (E) $_____.

☐ (F) Describe: _____

[***Note:*** *Any special application of the automatic increase provisions must be definitely determinable and must provide for Employer discretion*.]

(3) **Application of automatic deferral provisions.** The automatic deferral election under subsection (2) will apply to new Participants and existing Participants as set forth under this subsection (3):

(i) **New Participants.** The automatic deferral provisions apply to all Participants who become eligible on or after the effective date.

(ii) **Current Participants.** The automatic deferral provisions apply to all other eligible Participants as follows:

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☐ (A) Automatic deferral provisions apply to all current Participants who have not entered into a Salary Deferral Election (including an election not to defer under the Plan).

☐ (B) Automatic deferral provisions apply to all current Participants who have not entered into a Salary Deferral Election that is at least equal to the automatic deferral amount under subsection (2)(i) above. Current Participants who have made a Salary Deferral Election that is less than the automatic deferral amount or who have not made a Salary Deferral Election will automatically be increased to the automatic deferral amount unless the Participant enters into a new Salary Deferral election on or after the effective date of the automatic deferral provisions.

☐ (C) Automatic deferral provisions do not apply to current Participants. Only new Participants described in subsection (i) above are subject to the automatic deferral provisions.

☐ (D) Describe: _____

☐ (iii) **Expiration of affirmative deferral elections.** Unless this subsection (iii) is elected, for purposes of the automatic deferral provisions of the Plan, a Participant's affirmative elective deferral election will not expire. If this subsection (iii) is elected, a Participant's affirmative deferral election will expire:

☐ (A) at the end of each Plan Year.

☐ (B) Describe date that the affirmative election will expire: _____

[***Note:*** *The date must be definite and not discriminate in favor of Highly Compensated Employees*.]

If a Participant fails to complete a new affirmative deferral election subsequent to the prior election expiring, the Participant becomes subject to the automatic deferral percentage as specified in the Plan pursuant to the automatic contribution arrangement provisions. Each year, the Participant can always complete a new affirmative election and designate a new deferral percentage.

(iv) **Treatment of automatic deferrals.** Any Salary Deferrals made pursuant to an automatic deferral election will be treated as Pre-Tax Salary Deferrals, unless designated otherwise under this subsection (iv).

☐ Any Salary Deferrals made pursuant to an automatic deferral election will be treated as Roth Deferrals. [***Note:*** *This subsection (iv) may only be checked if Roth Deferrals are permitted under AA §6A-5.*]

☐ (v) **Special rules:** _____

[***Note:*** *Any Salary Deferral Election (including an election not to defer under the Plan) made after the effective date of the automatic deferral provisions will override such automatic deferral provisions.*]

(4) **Application of automatic increase.** Unless designated otherwise under this subsection (4), if an automatic increase is selected under subsection (2)(ii) above, the automatic increase will take effect as of the first day of the second Plan Year following the Plan Year in which the automatic deferral election first becomes effective with respect to a Participant.

☐ (i) **First Plan Year.** Instead of applying as of the second Plan Year, the automatic increase described in subsection (2)(ii) above takes effect as of the appropriate date within the first Plan Year following the date automatic contributions begin.

☐ (ii) **Designated Plan Year.** Instead of applying as of the second Plan Year, the automatic increase described in subsection (2)(ii) above takes effect as of the appropriate date within the _____ Plan Year following the Plan Year in which the automatic deferral election first becomes effective with respect to a Participant.

☐ (iii) **Effective date.** The automatic increase described under subsection (2)(ii) above is generally effective as of the first day of the Plan Year. If this subsection (iii) is checked, instead of becoming effective on the first day of the Plan Year, the automatic increase will be effective on:

☐ (A) The anniversary of the Participant's date of hire.

☐ (B) The anniversary of the Participant's first automatic deferral contribution.

☐ (C) The first day of each calendar year.

☐ (D) Other date: _____

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☐ (iv) **Special rules:** _____

(5) **Treatment of terminated Employees who are rehired.** Unless designated otherwise below, in applying the automatic deferral provisions under this AA§6A-7, including the automatic increase provisions, a rehired Participant is treated as a new Employee (regardless of the amount of time since the rehired Employee terminated employment).

☐ (i) **Rehired Employees not treated as new Employee.** In applying the automatic deferral provisions under this AA§6A-7, including the automatic increase provisions, a rehired Participant is not treated as a new Employee. Thus, for example, a rehired Participant's deferral percentage will be calculated based on the date the individual first began making automatic deferrals under the Plan.

☐ (ii) **Describe special rules applicable to rehired employees:** _____

[***Note:*** *Any special rules under this subsection (ii) must satisfy the rules applicable to automatic enrollment under Treas. Reg. §1.401(k)-1, if applicable.*]

(b) **Permissible Withdrawals under Automatic Contribution Arrangement.**

☐ (1) **Permissible withdrawals allowed.** An Employee who has Salary Deferrals contributed to the Plan pursuant to an automatic deferral election under this AA §6A-7 may elect to withdraw such contributions (and earnings attributable thereto) within 90 days after the date such Salary Deferrals would otherwise have been included in gross income, unless designated otherwise under subsection (3) below. Unless elected otherwise below, if an Employee does not make automatic deferrals to the Plan for an entire Plan Year (e.g., due to termination of employment), the Plan may allow such Employee to take a permissive withdrawal, but only with respect to default contributions made after the Employee's return to employment.).

☐ The ability to take permissible withdrawals does not apply to rehired Employees, even if such Employees have not made automatic deferrals to the Plan for an entire Plan Year due to termination of employment.

☐ (2) **No permissible withdrawals.** The permissible withdrawal provisions under this subsection (b) are not available.

☐ (3) **Time period for electing a permissible withdrawal.** Instead of a 90-day election period, a Participant must request a permissible withdrawal no later than ____ days after the date the Plan Compensation from which such Salary Deferrals are withheld would otherwise have been included in gross income.

☐ (c) **Other automatic deferral provisions:** _____

6A-8 **SPECIAL DEFERRAL EFFECTIVE DATES.** Unless designated otherwise under this AA §6A-8, a Participant is eligible to make Salary Deferrals under the Plan as of the Effective Date of the Plan (as designated in the Employer Signature Page). However, in no case may a Participant begin making Salary Deferrals prior to the later of the date the Employee becomes a Participant, the date the Participant executes a Salary Reduction Agreement or the date the Plan is adopted or effective. (See Section 3.02(c)(2)(i) of the Plan.)

To designate a later Effective Date for Salary Deferrals or Roth Deferrals, complete this AA §6A-8.

☐ (a) **Salary Deferrals.** A Participant is eligible to make Salary Deferrals under the Plan as of:

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

☐ (2) _____ (insert date no earlier than the date the Plan is executed by the Employer).

☐ (b) **Roth Deferrals.** The Roth Deferral provisions under AA §6A-5 are effective as of _____. [*If Roth Deferrals are permitted under AA §6A-5 above, Roth Deferrals are effective as of the Effective Date applicable to Salary Deferrals under this AA §6A-8, unless a later date is designated under this subsection.*]

SECTION 6B
MATCHING CONTRIBUTIONS

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

☑ **Yes.**

☐ **No.** [*If "No" is checked, skip to Section 7.*]

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6B-2 **MATCHING CONTRIBUTION FORMULA:** For the period designated in AA §6B-5 below, the Employer will make the following Matching Contribution on behalf of Participants who satisfy the allocation conditions under AA §6B-6 below. [*See AA §6B-3 for the definition of Eligible Contributions for purposes of the Matching Contributions under the Plan.*]

☑ (a) **Discretionary match.** The Employer will determine in its sole discretion how much, if any, it will make as a Matching Contribution. Such amount will be allocated as a uniform percentage of Eligible Contributions, unless designated otherwise below. (See AA §6B-5 relating to period for determining Matching Contributions and true-up requirements.)

☐ (1) Discretionary matching contributions will be allocated as a flat dollar amount.

☐ (2) Allocation of discretionary Matching Contribution determined by written instructions to Plan Administrator (or Trustee). If a discretionary Matching Contribution formula applies (i.e., a formula that provides an Employer with discretion regarding how to allocate a Matching Contribution to Participants) and the Employer makes a discretionary Matching Contribution to the Plan, the Employer must provide the Plan Administrator (or Trustee, if applicable), written instructions describing: (1) how the discretionary Matching Contribution formula will be allocated to Participants (e.g., a uniform percentage of Eligible Contributions or a flat dollar amount), (2) the computation period(s) to which the discretionary Matching Contribution formula applies (unless otherwise designated under AA §6B-5), and (3) if applicable, a description of each business location or business classification subject to separate discretionary Matching Contribution allocation formulas.

Such instructions must be provided no later than the date on which the discretionary Matching Contribution is made to the Plan. A summary of these instructions must be communicated to Participants who receive discretionary Matching Contributions no later than 60 days following the last date on which the discretionary Matching Contribution is made to the Plan for the Plan Year. If this AA §6B-2(a)(2) is elected, the written instruction requirement does not take effect until the first day of the Plan Year following the Plan Year in which this Plan's Cycle 3 restatement is executed.

☐ (b) **Fixed match.** The Employer will make a Matching Contribution for each Participant equal to:

☐ (1) ____% of Eligible Contributions made for each period designated in AA §6B-5 below.

☐ (2) $____ for each period designated in AA §6B-5 below.

☐ (c) **Matching Contributions under Collective Bargaining Agreement, employment contract or equivalent arrangement.** The Employer will make a Matching Contribution based on a Collective Bargaining Agreement, employment agreement or equivalent arrangement as follows: _____

[***Note***: Insert the appropriate Matching Contribution formula from the Collective Bargaining Agreement, employment agreement or equivalent arrangement. The formula must be definitely determinable as required under Treas. Reg. §1.401-1.]

☐ (d) **Tiered match.** The Employer may make a Matching Contribution to all Participants based on the following tiers of Eligible Contributions as a percentage of Plan Compensation. If discretionary Match is elected, the discretionary Matching Contribution will be allocated as a uniform percentage of Eligible Contributions within each tier.

Eligible Contributions	Fixed Match	Discretionary Match
☐ (1) Up to ___% of Plan Compensation	_____%	☐
☐ (2) From __% up to __% of Plan Compensation	_____%	☐
☐ (3) From __% up to __% of Plan Compensation	_____%	☐
☐ (4) From __% up to __% of Plan Compensation	_____%	☐

☐ (e) **Year of Service match.** The Employer will make a Matching Contribution as a uniform percentage of Eligible Contributions to all Participants based on Years of Service with the Employer. If discretionary Match is elected, the discretionary Matching Contribution will be allocated as a uniform percentage of Eligible Contributions within each Year of Service level.

Years of Service	Fixed Match	Discretionary Match
☐ (1) From ____ up to ____ Years of Service	_____%	☐
☐ (2) From ____ up to ____ Years of Service	_____%	☐

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Years of Service	Fixed Match	Discretionary Match
☐ (3) From ____ up to ____ Years of Service	_____%	☐
☐ (4) From ____ up to ____ Years of Service	_____%	☐
☐ (5) Years of Service equal to and above ____	_____%	☐

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

[***Note:*** *Any alternative definition of a Year of Service must meet the requirements of a Year of Service as defined in Section 2.03(a)(1) of the Plan.*]

☐ (f) **Different Employee groups.** The Employer may make a different Matching Contribution to the Employee groups designated under subsection (1) below. The Matching Contribution will be allocated separately to each designated Employee group in accordance with the formula designated under subsection (2) below.

(1) **Designated Employee groups.**

_____

[***Note:*** *Each group designation must describe a group of Employees which is definitely determinable with no Employer discretion.*]

(2) **Matching Contribution formulas.**

☐ (i) **Discretionary Matching Contribution.** The Employer may make a different discretionary Matching Contribution for each Employee group designated under subsection (1) above. The discretionary Matching Contribution will be allocated as a uniform percentage of Eligible Contributions within each Employee group. (See AA §6B-5 relating to period for determining Matching Contributions and true-up requirements.)

☐ (ii) **Different Matching Contribution formula.** The following Matching Contribution will apply for each Employee group designated under subsection (1) above.

[***Note:*** *Each separate rate of Matching Contribution must be definitely determinable and will be allocated uniformly to the members of the group.*]

☐ (g) **Describe special rules for determining Matching Contribution formula:** _____

[***Note:*** *Any special rules may not provide for a discretionary Matching Contribution allocation formula, must be described in a manner that precludes Employer discretion and must satisfy the definitely determinable requirements of Treas. Reg. §1.401-1.*]

6B-3 **ELIGIBLE CONTRIBUTIONS.** Unless designated otherwise under this AA §6B-3, the Matching Contribution described in AA §6B-2 will apply to all Eligible Contributions authorized under AA §6-7 and/or AA §6A.

☐ (a) **Designated Eligible Contributions.** If this subsection (a) is checked, the Matching Contribution described in AA §6B-2 will apply only to the Eligible Contributions selected below:

☐ (1) Pre-tax Salary Deferrals under AA §6A.

☐ (2) Roth Deferrals under AA §6A-5.

☐ (3) Catch-Up Contributions under AA §6A-4.

☐ (4) Voluntary After-Tax Employee Contributions under AA §6-7(a).

☐ (5) Mandatory After-Tax Employee Contributions under AA §6-7(b).

☐ (6) Employer Pick-Up Contributions under AA §6-7(c).

☑ (b) **Elective deferrals under another plan.** If this subsection (b) is checked, the Matching Contributions described in AA §6B-2 will apply to elective deferrals made under another plan maintained by the Employer.

☑ (1) The Matching Contribution designated in AA §6B-2 above will apply to elective deferrals under the following plan maintained by the Employer: Leon County Board of County Commissioners 457 Plan

☐ (2) The following special rules apply in determining the amount of Matching Contributions under this Plan with respect to elective deferrals under the plan described in subsection (1) above: _____

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[***Note:*** *This subsection (b) may be used to describe special provisions applicable to Matching Contributions provided with respect to elective deferrals under another plan maintained by the Employer, including another qualified plan or Code §403(b) or Code §457(b) plan.*]

(c) **Calculation of Matching Contributions if Plan uses dual eligibility and/or multiple entry dates.** Unless designated otherwise below, if the Plan has dual eligibility and/or multiple entry dates (or the Employer choses to use the Plan's optional true-up provisions), the Matching Contribution formula(s) will be based on Eligible Contributions and Plan Compensation for the period designated under AA §6B-5.

☐ The Plan will make Matching Contributions only on Salary Deferrals and After-Tax Employee Contributions (if applicable) made after the Participant becomes eligible for Matching Contributions, regardless of the period designated under AA §6B-5.

☐ (d) **Special rules.** The following special rules apply for purposes of determining the Matching Contribution under this AA §6B-3: _____

[***Note:*** *Any special rules under this subsection (d) must be definitely determinable.*]

6B-4 **LIMITS ON MATCHING CONTRIBUTIONS.** In applying the Matching Contribution formula(s) selected under AA §6B-2 above, all Eligible Contributions designated under AA §6B-3 are eligible for Matching Contributions, unless elected otherwise under this AA §6B-4.

☑ (a) **Limit on amount of Eligible Contributions.** The Matching Contribution formula(s) selected in AA §6B-2 above apply only to Eligible Contributions under AA §6B-3 that do not exceed:

☑ (1) 3_____% of Plan Compensation.

☐ (2) $_____.

☐ (3) A discretionary amount determined by the Employer that will be applied in a uniform manner for all eligible Participants for the Plan Year.

[***Note:*** *If both subsections (1) and (2) above are selected, the limit under this subsection (a) is the lesser of the percentage selected in subsection (1) or the dollar amount selected in subsection (2).*]

☐ (b) **Limit on Matching Contributions.** The total Matching Contribution provided under the formula(s) selected in AA §6B-2 above will not exceed:

☐ (1) __% of Plan Compensation.

☐ (2) $_____.

☐ (c) **Special limits applicable to Matching Contributions:** _____

6B-5 **PERIOD FOR DETERMINING MATCHING CONTRIBUTIONS.** The Matching Contribution formula(s) selected in AA §6B-2 above (including any limitations on such amounts under AA §6B-4) are based on Eligible Contributions under AA §6B-3 and Plan Compensation for the Plan Year. To apply a different period for determining the Matching Contributions and limits under AA §6B-2 and AA §6B-4, complete this AA §6B-5.

☐ (a) payroll period

☐ (b) Plan Year quarter

☐ (c) calendar month

☐ (d) Other: _____

[***Note:*** *Although Matching Contributions (and any limits on those Matching Contributions) will be determined on the basis of the period designated under this AA §6B-5, this does not require the Employer to actually make contributions or allocate contributions on the basis of such period. Matching Contributions may be contributed and allocated to Participants at any time within the contribution period permitted under Treas. Reg. §1.415(c)-1(b)(6)(B), regardless of the period selected under this AA §6B-5.*]

[***Note:*** *In determining the amount of Matching Contributions for a particular period, if the Employer actually makes Matching Contributions to the Plan on a more frequent basis than the period selected in this AA §6B-5, a Participant will be entitled to a true-up contribution to the extent he/she does not receive a Matching Contribution based on the Eligible Contributions and/or Plan Compensation for the entire period selected in this AA §6B-5. If a period other than the Plan Year is selected under this AA §6B-5, the Employer may make an additional discretionary Matching Contribution equal to the true-up contribution that would otherwise be required if Plan Year was selected under this AA §6B-5. See Section 3.02(c)(3)(iii) of the Plan.*]

6B-6 **ALLOCATION CONDITIONS.** A Participant must satisfy any allocation conditions designated under this AA §6B-6 to receive an allocation of Matching Contributions under the Plan.

☑ (a) **Application of allocation conditions.**

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

☐ (2) Allocation conditions only apply to discretionary Matching Contributions under the Plan.

☐ (3) Allocation conditions only apply to fixed Matching Contributions under the Plan.

[***Note:*** *(2) or (3) above should be selected only if the Plan provides for both Fixed and Discretionary Matching Contributions.*]

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

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

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

☐ (i) Hours of Service are determined using actual Hours of Service.

☐ (ii) Hours of Service are determined using the following Equivalency Method (as defined under AA §4-3):

☐ (A) Monthly ☐ (B) Weekly

☐ (C) Daily ☐ (D) Semi-monthly

☐ (E) Describe**:** _____

[***Note****: Any description under subsection (E) above must be definitely determinable*.]

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

☐ (d) **Exceptions.**

☐ (1) The above allocation condition(s) will **not** apply if the Employee, during the Plan Year:

☐ (i) dies.

☐ (ii) terminates employment due to becoming Disabled.

☐ (iii) becomes Disabled.

☐ (iv) terminates employment after attaining Normal Retirement Age.

[***Note****: This waiver of allocation conditions applies only once during the Participant's employment with the Employer. Thus, if an Employee is rehired after such a waiver was applied to such Employee, the waiver of allocation conditions will not apply to a subsequent termination of employment. The Employer may modify this rule in (e) below*.]

☐ (v) terminates employment after attaining Early Retirement Age.

[***Note****: This waiver of allocation conditions applies only once during the Participant's employment with the Employer. Thus, if an Employee is rehired after such a waiver was applied to such Employee, the waiver of allocation conditions will not apply to a subsequent termination of employment. The Employer may modify this rule in (e) below*.]

☐ (vi) is on an authorized leave of absence from the Employer.

☐ (2) The exceptions selected under subsection (1) above will apply even if an Employee has not terminated employment at the time of the selected event(s).

☐ (3) The exceptions selected under subsection (1) above do not apply to:

☐ (i) an employment condition designated under subsection (b) above.

☐ (ii) a minimum service condition designated under subsection (c) above.

☐ (e) **Describe** any special rules governing the allocation conditions under the Plan: _____

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SECTION 7
RETIREMENT AGES

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

☐ (a) Age ___ (not to exceed 65).

☐ (b) The later of age ___ (not to exceed 65) or the _____ (not to exceed 5th) anniversary of:

☐ (1) the Employee's participation commencement date (as defined in Section 1.68 of the Plan).

☐ (2) the Employee's employment commencement date.

☑ (c) Describe Normal Retirement Age: Normal Retirement Age is defined as the date of the Participant's 62nd birthday, or completion of 30 Years of Service following Florida Retirement System Guidelines.

[***Note*:** *The Normal Retirement Age must be reasonably representative of the typical retirement age for the industry in which the Plan Participants work. A Normal Retirement Age of at least age 62 is deemed to be reasonable while a Normal Retirement Age under age 55 is presumed not to satisfy this requirement unless facts and circumstances show otherwise. Whether a Normal Retirement Age between 55 and 62 satisfies this requirement depends on the facts and circumstances. A Governmental Plan must comply with the final Normal Retirement Age regulations under Treas. Reg. §1.401(a)-1, as amended, effective for Annuity Starting Dates occurring in Plan Years beginning on or after the later of the two dates described in IRS Notice 2012-29. The Employer may use AA §7-1(c), for example, to describe a reasonable Normal Retirement Age that is between age 55 and 62 that takes into account service as well as age.*]

7-2 **EARLY RETIREMENT AGE.** Unless designated otherwise under this AA §7-2, there is no Early Retirement Age under the Plan.

☐ (a) A Participant reaches Early Retirement Age if he/she is still employed after attainment of each of the following:

☐ (1) Attainment of age ___

☐ (2) The ___ anniversary of the date the Employee commenced participation in the Plan, and/or

☐ (3) The completion of ___ Years of Service, determined as follows:

☐ (i) Same as for eligibility.

☐ (ii) Same as for vesting

☐ (b) **Describe.** _____

SECTION 8
VESTING AND FORFEITURES

8-1 **CONTRIBUTIONS SUBJECT TO VESTING.** Does the Plan provide for any Employer and/or Matching Contributions that are subject to a vesting schedule under AA §8-2?

☑ Yes

☐ No [*If "No" is checked, skip to Section 9.*]

[***Note:*** *"Yes" should be checked under this AA §8-1 if the Plan provides for Employer Contributions and/or Matching Contributions that are subject to a vesting schedule, even if such contributions are always 100% vested under AA §8-2. "No" should be checked if the only contributions under the Plan are Salary Deferrals, After-Tax Employee Contributions and/or Employer Pick-Up Contributions. If the Plan holds Employer Contributions and/or Matching Contributions that are subject to vesting but the Plan no longer provides for such contributions, see Sections 6.03(d) and 6.11(e) of the Plan for default rules for applying the vesting and forfeiture rules to such contributions.*]

8-2 **VESTING SCHEDULE.** The vesting schedule under the Plan is as follows for both Employer Contributions and Matching Contributions, to the extent authorized under the Plan. See Section 6.02 of the Plan for a description of the various vesting schedules under this AA §8-2.

☑ (a) **Vesting schedule for Employer Contributions and Matching Contributions:**

ER	Match	
☑	☑	(1) Full and immediate vesting.
☐	☐	(2) Three-year cliff vesting schedule
☐	☐	(3) Six-year graded vesting schedule

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ER	Match	
☐	☐	(4) Modified vesting schedule
		____% immediately on Plan participation
		____% after 1 Year of Service
		____% after 2 Years of Service
		____% after 3 Years of Service
		____% after 4 Years of Service
		____% after 5 Years of Service
		____% after 6 Years of Service
		____% after 7 Years of Service
		____% after 8 Years of Service
		____% after 9 Years of Service
		100% after 10 Years of Service
☐	☐	(5) Other: vesting schedule: _____

[***Note:*** *If a modified vesting schedule is selected under this subsection (a), the vested schedule must satisfy the pre-ERISA Code vesting requirements*.]

☐ (b) **Special provisions applicable to vesting schedule:** _____

[***Note:*** *This subsection (b) may be used to apply a different vesting schedule for different contribution formulas or different Employee groups under the Plan. Any special provision must satisfy the pre-ERISA Code vesting requirements.*]

8-3 **VESTING SERVICE.** In applying the vesting schedules under this AA §8, all service with the Employer counts for vesting purposes, unless designated otherwise under this AA §8-3.

☐ (a) Service before the original Effective Date of this Plan (or a Predecessor Plan) is excluded.

☐ (b) Service completed before the Employee's ____ birthday is excluded.

☐ (c) Describe vesting service exclusions: _____

[***Note:*** *See Section 6.07 of the Plan and AA §4-5 for rules regarding the crediting of service with Predecessor Employers for purposes of vesting under the Plan.*]

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

☐ (a) dies

☐ (b) terminates employment due to becoming Disabled

☐ (c) becomes Disabled

☐ (d) reaches Early Retirement Age

☑ (e) Not applicable. No increase in vesting applies.

8-5 **DEFAULT VESTING RULES.** In applying the vesting requirements under this AA §8, the following default rules apply. [***Note:*** *No election should be made under this AA §8-5 if all contributions are 100% vested.*]

- **Year of Service.** An Employee earns a Year of Service for vesting purposes upon completing 1,000 Hours of Service during a Vesting Computation Period. Hours of Service are calculated based on actual hours worked during the Vesting Computation Period. (See Section 1.57 of the Plan for the definition of Hour of Service.)
- **Vesting Computation Period.** The Vesting Computation Period is the Plan Year.

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

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ER	Match	
☐	☐	(a) **Year of Service.** Instead of 1,000 Hours of Service, an Employee earns a Year of Service upon the completion of ___ Hours of Service during a Vesting Computation Period.
☐	☐	(b) **Vesting Computation Period.** Instead of the Plan Year, the Vesting Computation Period is: ☐ (1) The 12-month period beginning with the Employee's Employment Commencement Date and, for subsequent Vesting Computation Periods, the 12-month period beginning with the anniversary of the Employee's Employment Commencement Date. ☐ (2) Describe: _____ [***Note:*** *Any Vesting Computation Period described in this subsection (2) must be a 12-consecutive month period and must apply uniformly to all Participants.*]
☐	☐	(c) **Elapsed Time Method.** Instead of determining vesting service based on actual Hours of Service, vesting service will be determined under the Elapsed Time Method. If this subsection (c) is checked, service will be measured from the Employee's Employment Commencement Date (or Reemployment Commencement Date, if applicable) without regard to the Vesting Computation Period designated in Section 6.05 of the Plan. (See Section 6.04(b) of the Plan.)
☐	☐	(d) **Equivalency Method**. For purposes of determining an Employee's Hours of Service for vesting, the Plan will use the Equivalency Method (as defined in Section 6.04(a)(2) of the Plan). The Equivalency Method will apply to: ☐ (1) All Employees. ☐ (2) Only to Employees for whom the Employer does not maintain hourly records. For Employees for whom the Employer maintains hourly records, vesting will be determined based on actual hours worked. Hours of Service for vesting will be determined under the following Equivalency Method. ☐ (3) **Monthly.** 190 Hours of Service for each month worked. ☐ (4) **Weekly.** 45 Hours of Service for each week worked. ☐ (5) **Daily.** 10 Hours of Service for each day worked. ☐ (6) **Semi-monthly.** 95 Hours of Service for each semi-monthly period. ☐ (7) **Describe Equivalency Method:** _____ [***Note:*** *An*y *description* of *an Equivalency Method must be definitely determinable*.]
☐	☐	(e) **Special rules:** _____ [***Note:*** *Any special rules under this subsection (e) must be definitely determinable.*]

8-6 **BREAKS IN SERVICE.** Generally, an Employee will be credited with all service earned with the Employer, including service earned prior to a Break in Service. To disregard service earned prior to a Break in Service for vesting purposes, complete this AA §8-6. (See Section 6.08 of the Plan.)

☐ (a) If an Employee incurs at least one Break in Service, the Plan will disregard all service earned prior to such Break in Service for purposes of determining vesting under the Plan.

☐ (b) If an Employee incurs at least _____ consecutive Breaks in Service, the Plan will disregard all service earned prior to such consecutive Breaks in Service for purposes of determining vesting under the Plan. [*Enter "0" if prior service will be disregarded for all rehired Employees.*]

☐ (c) The Nonvested Participant Break in Service rule applies to all Employees, including Employees who have not terminated employment.

☐ (d) Describe any special rules for applying the vesting Break in Service rules: _____

[***Note:*** *Any special rules under this subsection (d) must be definitely determinable.*]

8-7 **ALLOCATION OF FORFEITURES.**

The Employer may decide in its discretion how to treat forfeitures under the Plan. Alternatively, the Employer may designate under this AA §8-7 how forfeitures occurring during a Plan Year will be treated. (See Section 6.11 of the Plan.)

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ER	Match		
☑	☑	(a)	N/A. All contributions are 100% vested. [*Do not complete the rest of this AA §8-7.*]
☐	☐	(b)	Reallocated as additional Employer Contributions or as additional Matching Contributions.
☐	☐	(c)	Used to reduce Employer and/or Matching Contributions.

For purposes of subsection (b) or (c) above, forfeitures will be applied:

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

Prior to applying forfeitures under subsection (b) or (c):

☐	☐	(f)	Forfeitures may be used to pay Plan expenses. (See Section 6.11(d) of the Plan.)
☐	☐	(g)	Forfeitures may not be used to pay Plan expenses.

In determining the amount of forfeitures to be allocated under subsection (b) above, the same allocation conditions apply as for the source for which the forfeiture is being allocated, unless designated otherwise below.

☐	☐	(h)	Forfeitures are not subject to any allocation conditions.
☐	☐	(i)	Forfeitures are subject to a last day of employment allocation condition.
☐	☐	(j)	Forfeitures are subject to a ____ Hours of Service minimum service requirement.

In determining the treatment of forfeitures under this AA §8-7, the following special rules apply:

☐	☐	(k)	Describe: _____

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

(a) **Additional allocations.** If a terminated Participant receives a complete distribution of his/her vested Account Balance while still entitled to an additional allocation, the Cash-Out Distribution forfeiture provisions do not apply until the Participant receives a distribution of the additional amounts to be allocated. (See Section 6.10(a)(1) of the Plan.)

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

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

(b) **Timing of forfeitures.** A Participant who receives a Cash-Out Distribution (as defined in Section 6.10(a) of the Plan) is treated as having an immediate forfeiture of his/her nonvested Account Balance.

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

☐ A forfeiture will occur upon the completion of ____ consecutive Breaks in Service (as defined in Section 6.08 of the Plan).

(c) **Repayment of Cash-Out Distribution.** Unless elected otherwise under this AA §8-8(c), if a Participant receives a Cash-Out Distribution that results in a forfeiture, and the Participant resumes employment covered under the Plan, such Participant may repay to the Plan the amount received as a Cash-Out Distribution.

☐ If a Participant receives a Cash-Out Distribution that results in a forfeiture, and the Participant resumes employment covered under the Plan, such Participant may NOT repay to the Plan the amount received as a Cash-Out Distribution and the provisions of Section 6.10(a)(2) do not apply.

8-9 **SPECIAL RULE FOR FORFEITURE UPON DEATH OF A PARTICIPANT.** Unless elected below, no vested benefits are forfeited upon the death of a Participant.

To modify this default forfeiture rule, check to box below.

☐ The Plan will forfeit benefits (including vested benefits) upon the death of a Participant, if not precluded by law. In no event may the Plan forfeit any amounts attributable to a Participant's Salary Deferrals or After-Tax Employee Contributions under the Plan or if the Plan has commenced distributions prior to the Participant's death.

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SECTION 9
DISTRIBUTION PROVISIONS – TERMINATION OF EMPLOYMENT

9-1 **AVAILABLE FORMS OF DISTRIBUTION.**

Lump sum distribution. A Participant may take a distribution of his/her entire vested Account Balance in a single lump sum upon termination of employment. In addition, the Plan Administrator may permit a Participant to take partial distributions or installment distributions solely to the extent necessary to satisfy the required minimum distribution rules under Section 8 of the Plan.

Additional distribution options. To provide for additional distribution options, check the applicable distribution forms under this AA §9-1.

☑ (a) **Installment distributions.** A Participant may take a distribution over a specified period not to exceed the life or life expectancy of the Participant (and a designated beneficiary).

☑ (b) **Partial lump sum.** A Participant may take a distribution of less than the entire vested Account Balance upon termination of employment.

☐ Minimum distribution amount. A Participant may not take a partial lump sum distribution of less than $____.

☑ (c) **Annuity distributions.** A Participant may elect to have the Plan Administrator use the Participant's vested Account Balance to purchase an annuity as described in Section 7.01 of the Plan.

☐ (d) **Describe distribution options:** _____

[***Note:*** *Any distribution option described in this subsection (d) may not be subject to the discretion of the Employer or Plan Administrator.*]

9-2 **PARTICIPANT AND SPOUSAL CONSENT.**

☑ (a) **Involuntary Cash-Out Distribution.** A Participant who terminates employment with a vested Account Balance of $5,000 or less will receive an Involuntary Cash-Out Distribution, unless elected otherwise under this AA §9-2. If a Participant's vested Account Balance exceeds $5,000, the Participant generally must consent to a distribution from the Plan, except to the extent provided otherwise under this AA §9-2. See Section 7.03 of the Plan for additional rules regarding the Participant consent requirements under the Plan.

☑ (1) **No Involuntary Cash-Out Distributions.** The Plan does not provide for Involuntary Cash-Out Distributions. A terminated Participant must consent to any distribution from the Plan. (See Section 14.02(b) of the Plan for special rules upon Plan termination.)

☐ (2) **Involuntary Cash-Out Distribution threshold.** A terminated Participant will receive an Involuntary Cash-Out Distribution only if the Participant's vested Account Balance is less than or equal to $_____.

☐ (3) **Application of Automatic Rollover rules.** The Automatic Rollover rules described in Section 7.05 of the Plan do not apply to any Involuntary Cash-Out Distribution below $1,000, unless elected otherwise under this subsection (3). If this subsection (3) is checked, the Automatic Rollover provisions apply to all Involuntary Cash-Out Distributions (including those below $1,000).

☐ (4) **Distribution upon attainment of stated age.** Participant consent will not be required with respect to distributions made upon attainment of Normal Retirement Age (or age 62, if later), regardless of the value of the Participant's vested Account Balance.

☐ (5) **Treatment of Rollover Contributions**. Unless elected otherwise under this subsection (5), Rollover Contributions will be excluded in determining whether a Participant's vested Account Balance exceeds the Involuntary Cash-Out threshold for purposes of applying the distribution rules under this AA §9 and the Automatic Rollover provisions under Section 7.05 of the Plan. To include Rollover Contributions in determining whether a Participant's vested Account Balance exceeds the Involuntary Cash-Out threshold, check this subsection (5).

☐ (b) **Spousal consent.** Spousal consent is not required for a Participant to receive a distribution or name an alternate beneficiary, unless designated otherwise under this subsection (b). See Section 9.02 of the Plan for rules regarding Spousal consent under the Plan.

☐ (1) **Distribution consent.** A Participant's Spouse must consent to any distribution or loan, provided the Participant's vested Account Balance exceeds $_____.

☐ (2) **Beneficiary consent.** A Participant's Spouse must consent to naming someone other than the Spouse as beneficiary under the Plan.

☐ (c) **Describe** any special rules affecting Participant or Spousal consent: _____

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[***Note:*** *Any special rules under this subsection (c) must be definitely determinable.*]

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

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

☑ (1) the date the Participant terminates employment.

☐ (2) the last day of the Plan Year during which the Participant terminates employment.

☐ (3) the first Valuation Date following the Participant's termination of employment.

☐ (4) the end of the calendar quarter following the date the Participant terminates employment.

☐ (5) attainment of Normal Retirement Age, death or becoming Disabled.

☐ (6) Describe: _____

[***Note:*** *Any special rules under this subsection (6) must be definitely determinable.*]

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

☑ (1) the date the Participant terminates employment.

☐ (2) the last day of the Plan Year during which the Participant terminates employment.

☐ (3) the first Valuation Date following the Participant's termination of employment.

☐ (4) the end of the calendar quarter following the date the Participant terminates employment.

☐ (5) Describe: _____

[***Note:*** *Any special rules under this subsection (5) must be definitely determinable.*]

☐ (c) **Alternate Cash-Out distribution threshold.** Instead of a vested Account Balance Cash-Out threshold of $5,000, for purposes of applying the Cash-Out distribution provisions under this AA §9-3, the threshold for distributions upon termination of employment will be based on a vested Account Balance of $_____.

☐ (d) **Describe additional distribution options:** _____

[***Note:*** *Any additional distribution option described in this subsection (d) may not be subject to the discretion of the Employer or Plan Administrator.*]

9-4 **DISTRIBUTION UPON DISABILITY.** Unless designated otherwise under this AA §9-4, a Participant who terminates employment on account of becoming Disabled may receive a distribution of his/her vested Account Balance in the same manner as a regular distribution upon termination.

☐ (a) **Immediate distribution upon termination of employment.** Distribution will be made as soon as reasonable following the date the Participant terminates employment on account of becoming Disabled.

☐ (b) **Following year distribution upon termination of employment.** Distribution will be made as soon as reasonable following the last day of the Plan Year during which the Participant terminates employment on account of becoming Disabled.

☐ (c) **Describe:** _____

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

9-5 **DETERMINATION OF BENEFICIARY.**

(a) **Default beneficiaries.** Under Section 7.07(c) of the Plan, to the extent a Beneficiary has not been named by the Participant (subject to the spousal consent rules) and is not designated under the terms of the Investment Arrangement(s) to receive all or any portion of the deceased Participant's death benefit, such amount shall be distributed to the Participant's surviving Spouse (if the Participant was married at the time of death) who shall be considered the designated Beneficiary. If the Participant does not have a surviving Spouse at the time of death, distribution will be made to the Participant's surviving children (including legally adopted children, but not including step-children), as designated Beneficiaries, in equal shares. If the Participant has no surviving children, distribution will be made to the Participant's estate.

☐ If this subsection (a) is checked, the default beneficiaries under Section 7.07(c)of the Plan are modified as follows:

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☐ (1) The Plan adopts the default beneficiary rules under Section 7.07(c) of the Plan, except, if the Participant does not have a surviving Spouse at the time of death, distribution will be made to the Participant's children (including legally adopted children, but not including step-children), as designated Beneficiaries, **per stirpes.**

☐ (2) Describe other modifications to the default beneficiaries under Section 7.07(c) of the Plan: _____

[***Note**: The description of the modifications to the default beneficiaries must be sufficiently clear for the Plan Administrator to determine the beneficiaries and the method of distribution of the Participant's death benefit.*]

(b) **One-year marriage rule.** For purposes of determining whether an individual is considered the surviving Spouse of the Participant, the determination is based on the marital status as of the date of the Participant's death, unless designated otherwise under this subsection (b).

☐ If this subsection (b) is checked, in order to be considered the surviving Spouse, the Participant and surviving Spouse must have been married for the entire one-year period ending on the date of the Participant's death. If the Participant and surviving Spouse are not married for at least one year as of the date of the Participant's death, the Spouse will not be treated as the surviving Spouse for purposes of applying the distribution provisions of the Plan. (See Section 9.03 of the Plan.)

(c) **Divorce of Spouse.** Unless elected otherwise under this subsection (c), if a Participant designates his/her Spouse as Beneficiary and subsequent to such Beneficiary designation, the Participant and Spouse are divorced, the designation of the Spouse as Beneficiary under the Plan is automatically rescinded as set forth under Section 7.07(c)(6) of the Plan.

☐ If this subsection (c) is checked, a Beneficiary designation will not be rescinded upon divorce of the Participant and Spouse.

[***Note:** Section 7.07(c)(6) of the Plan and this subsection (c) will be subject to the provisions of a Beneficiary designation entered into by the Participant. Thus, if a Beneficiary designation specifically overrides the election under this subsection (c), the provisions of the Beneficiary designation will control. See Section 7.07(c)(6) of the Plan.*]

SECTION 10
IN-SERVICE DISTRIBUTIONS AND REQUIRED MINIMUM DISTRIBUTIONS

10-1 **AVAILABILITY OF IN-SERVICE DISTRIBUTIONS.** A Participant may withdraw all or any portion of his/her vested Account Balance, to the extent designated, upon the occurrence of any of the event(s) selected under this AA §10-1. If more than one option is selected for a particular contribution source under this AA §10-1, a Participant may take an in-service distribution upon the occurrence of any of the selected events, unless designated otherwise under this AA §10-1.

Deferral	Match	ER		
☐	☐	☐	(a)	No in-service distributions are permitted.
☐	☐	☐	(b)	Attainment of age 59½.
☐	☑	☑	(c)	Attainment of age 70½. (Not greater than age 70 1/2)
☐	☐	☐	(d)	A Hardship that satisfies the safe harbor rules under Section 7.10(e)(1) of the Plan.
☐	☐	☐	(e)	A non-safe harbor Hardship described in Section 7.10(e)(2) of the Plan.
☐	☐	☐	(f)	Attainment of Normal Retirement Age.
☐	☐	☐	(g)	Attainment of Early Retirement Age.
N/A	☐	☐	(h)	The Participant has participated in the Plan for at least ____ (cannot be less than 60) months.
N/A	☐	☐	(i)	The amounts being withdrawn have been held in the Trust for at least two years.
☐	☑	☑	(j)	Upon a Participant becoming Disabled (as defined in AA §9-4(b)).
☐	**N/A**	**N/A**	(k)	As a Qualified Reservist Distribution.
☐	**N/A**	**N/A**	(l)	Upon a deemed separation of employment when an individual is on active duty for a period of at least 30 days while performing service in the Uniformed Services.

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Deferral	Match	ER	
☐	☐	☐	(m) Describe: _____

[***Note:*** *No in-service distribution of Salary Deferrals is permitted prior to age 59½, except for Hardship, or Disability. If Normal Retirement Age or Early Retirement Age is earlier than age 59½, such age is deemed to be age 59½ for purposes of determining eligibility to distribute Salary Deferrals (if subsection (f) or (g) above is checked under the Deferral column). If this Plan has accepted a transfer of assets from a pension plan (e.g., a money purchase plan), no in-service distribution from amounts attributable to such transferred assets is permitted prior to age 62, except for Disability.*]

10-2 **APPLICATION TO OTHER CONTRIBUTION SOURCES.** If the Plan allows for Rollover Contributions under AA §C-2 or After-Tax Employee Contributions under AA §6-7, unless elected otherwise under this AA §10-2, a Participant may take an in-service distribution from his/her Rollover Account and After-Tax Employee Contribution Account at any time. Employer Pick-Up Contributions will not be eligible for in-service distribution.

Alternatively, if this AA §10-2 is completed, the following in-service distribution provisions apply for Rollover Contributions, After-Tax Employee Contributions and/or Employer Pick-Up Contributions:

Rollover	After-Tax	Pick-Up	
☐	☐	☐	(a) No in-service distributions are permitted.
☐	☐	☐	(b) Attainment of age 59½.
☐	☐	☐	(c) Attainment of age ____. (Not greater than age 70 1/2)
☐	☐	☐	(d) A Hardship (that satisfies the safe harbor rules under Section 7.10(e)(1) of the Plan).
☐	☐	☐	(e) A non-safe harbor Hardship described in Section 7.10(e)(2) of the Plan.
☐	☐	☐	(f) Attainment of Normal Retirement Age.
☐	☐	☐	(g) Attainment of Early Retirement Age.
☐	☐	☐	(h) Upon a Participant becoming Disabled (as defined in AA §9-4(b)).
☐	☐	☐	(i) Describe: _____

10-3 **SPECIAL DISTRIBUTION RULES.** No special distribution rules apply, unless specifically provided under this AA §10-3.

☑ (a) In-service distributions will only be permitted if the Participant is 100% vested in the source from which the withdrawal is taken.

☐ (b) A Participant may take no more than ____ in-service distribution(s) in a Plan Year.

☐ (c) A Participant may not take an in-service distribution of less than $____.

☐ (d) A Participant may not take an in-service distribution of more than $____.

☐ (e) Unless elected otherwise under this subsection (e), the hardship distribution provisions of the Plan are not expanded to cover primary beneficiaries as set forth in Section 7.10(e)(5) of the Plan. If this subsection (e) is checked, the hardship provisions of the Plan will apply with respect to individuals named as primary beneficiaries under the Plan.

☐ (f) In determining whether a Participant has an immediate and heavy financial need for purposes of applying the non-safe harbor Hardship provisions under Section 7.10(e)(2) of the Plan, the following modifications are made to the permissible events listed under Section 7.10(e)(1) of the Plan: _____

[***Note:*** *This subsection (f) may only be used to the extent a non-safe harbor Hardship distribution is authorized under AA §10-1 or AA §10-2.*]

☐ (g) If the Plan includes Accounts that hold inactive sources of contributions, the Employer may designate under this AA §10-3(g) the in-service distribution options available to such Accounts: _____

☐ (h) Other distribution rules: _____

10-4 **REQUIRED MINIMUM DISTRIBUTIONS.**

(a) **Required distributions after death.** If a Participant dies before distributions begin and there is a Designated Beneficiary, the Participant or Beneficiary may elect on an individual basis whether the 5-year rule (as described in Section 8.06(a) of the Plan) or the life expectancy method described under Sections 8.02 of the Plan applies. See Section 8.06(b) of the Plan for rules regarding the timing of an election authorized under this AA §10-4.

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Alternatively, if selected under this subsection (a), any death distributions to a Designated Beneficiary will be made only under either the 5-year rule or the life expectancy method, as elected below:

☐ (1) The five-year rule under Section 8.06(a) of the Plan applies (instead of the life expectancy method). Thus, the entire death benefit must be distributed by the end of the fifth year following the year of the Participant's death. Death distributions to a Designated Beneficiary may not be made under the life expectancy method.

☐ (2) The life expectancy method under Sections 8.02 and 8.04 of the Plan (and not the 5-year rule).

☐ (b) **Describe any special rules applicable to required minimum distributions:** _____

[***Note:*** *Any special rule under this subsection (b) must satisfy the requirements of Code §401(a)(9). This subsection (b) may be used to override the default provision under Section 8.06(b) of the Plan. For example, the Employer may designate the life expectancy rules as the default rather than the five-year rule when a Participant or Beneficiary fails to make an election*.]

SECTION 11
MISCELLANEOUS PROVISIONS

11-1 **PLAN VALUATION.** The Plan is valued **annually**, as of the last day of the Plan Year.

☑ (a) **Additional valuation dates.** In addition, the Plan will be valued on the following dates:

Deferral	Match	ER	
☐	☑	☑	(1) **Daily.** The Plan is valued at the end of each business day during which the New York Stock Exchange is open.
☐	☐	☐	(2) **Monthly.** The Plan is valued at the end of each month of the Plan Year.
☐	☐	☐	(3) **Quarterly.** The Plan is valued at the end of each Plan Year quarter.
☐	☐	☐	(4) **Describe:** _____

[***Note:*** *The Employer may elect operationally to perform interim valuations, regardless of any selection in this subsection (a)*.]

☐ (b) **Special rules.** The following special rules apply in determining the amount of income or loss allocated to Participants' Accounts: _____

11-2 **SPECIAL RULES FOR APPLYING THE CODE §415 LIMITATION.** The provisions under Section 5.02 of the Plan apply for purposes of determining the Code §415 Limitation.

Complete this AA §11-2 to override the default provisions that apply in determining the Code §415 Limitation under Section 5.02 of the Plan.

☐ (a) **Limitation Year.** Instead of the Plan Year, the Limitation Year is the 12-month period ending _____.

[***Note:*** *If the Plan has a short Plan Year for the first year of establishment, the Limitation Year is deemed to be the 12-month period ending on the last day of the short Plan Year.*]

☐ (b) **Imputed compensation.** For purposes of applying the Code §415 Limitation, Total Compensation includes imputed compensation for a Participant who terminates employment on account of becoming disabled. (See Section 5.02(c)(7)(ii) of the Plan.)

☐ (c) **Special rules:** _____

[***Note:*** *Any special rules under this subsection (c) must be consistent with the requirements of Code §415.*]

11-3 **MILITARY SERVICE PROVISIONS -- BENEFIT ACCRUALS.** The benefit accrual provisions under Section 15.04 of the Plan do not apply. To apply the benefit accrual provisions under Section 15.04 of the Plan, check the box below.

☐ (a) **Eligibility for Plan benefits.** Check this box if the Plan will provide the benefits described in Section 15.04 of the Plan. If this box is checked, an individual who dies or becomes disabled in qualified military service will be treated as reemployed for purposes of determining entitlement to benefits under the Plan.

(b) **Deemed separation from service**. Unless otherwise elected under AA§10-1(l), an individual shall not be treated as having been severed from employment during any period the individual is performing service in the Uniformed Services for purposes of receiving a Plan distribution under Code §401(k)(2)(B)(i)(I).

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11-4 **ELECTION NOT TO PARTICIPATE (see Section 2.08 of the Plan).** All Participants share in any allocation under this Plan and no Employee may waive out of Plan participation.

To allow Employees to make a one-time irrevocable waiver, check below.

☐ An Employee may make a one-time irrevocable election not to participate under the Plan.

11-5 **TREATMENT OF CERTAIN BENEFITS.** The protected benefits rules under Code §411(d)(6)) do not apply to the Plan. However, the Employer may describe below (or in a separate addendum attached to this Adoption Agreement) the treatment of certain benefits following events such as plan merger or consolidation, transfer of assets or similar events.

Describe treatment of benefits: _____

[***Note:*** *If the benefit described here in the Plan or a plan being merged into the Plan is not either (i) available as a provision through the Pre-Approved Plan or (ii) the subject of a prior determination, advisory, or opinion letter, the Employer cannot rely on the Pre-Approved Plan Provider's opinion letter for qualification with respect to such benefit. If the benefit described here in the Plan or a plan being merged into the Plan is not permitted in a pre-approved plan, as described in Section 6.03 of Revenue Procedure 2017-41, such provision must be discontinued no later than the date the Employer adopts this Pre-Approved Plan or, in the case of a merger, the merger date.*]

11-6 **SPECIAL RULES FOR MULTIPLE EMPLOYER PLANS.** If the Plan is a Multiple Employer Plan (as designated under AA §2-6), the rules applicable to Multiple Employer Plans under Section 16.07 of the Plan apply.

☐ The following special rules apply with respect to Multiple Employer Plans: _____

[***Note:*** *Any special rules under this AA §11-6 must satisfy the nondiscrimination requirements under Code §401(a)(4) and must satisfy the rules applicable to Multiple Employer Plans under Code §413(c).*]

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APPENDIX A
SPECIAL EFFECTIVE DATES

[***Note:*** *This Appendix A may be used to memorialize prior Plan provisions that pertain to sources that no longer accept new contributions under the Plan.*]

☐ A-1 **Eligible Employees.** The definition of Eligible Employee under AA §3 is effective as follows:

_____

☐ A-2 **Minimum age and service conditions.** The minimum age and service conditions and Entry Date provisions specified in AA §4 are effective as follows:

_____

☐ A-3 **Compensation definitions.** The compensation definitions under AA §5 are effective as follows:

_____

☐ A-4 **Employer Contributions.** The Employer Contribution provisions under the Plan are effective as follows:

_____

☐ A-5 **After-Tax Employee and Pick-Up Contributions.** The provisions of the Plan addressing Employee After-Tax Contributions and Pick-Up Contribution provisions under the Plan are effective as follows:

_____

☐ A-6 **Salary Deferrals.** The Salary Deferral provisions under AA §6A are effective as follows:

_____

☐ A-7 **Matching Contributions.** The Matching Contribution provisions under AA §6B are effective as follows:

_____

☐ A-8 **Retirement ages.** The retirement age provisions under AA §7 are effective as follows:

_____

☐ A-9 **Vesting and forfeiture rules.** The rules regarding vesting and forfeitures under AA §8 are effective as follows:

_____

☐ A-10 **Distribution provisions.** The distribution provisions under AA §9 are effective as follows:

_____

☐ A-11 **In-service distributions and Required Minimum Distributions.** The provisions regarding in-service distribution and Required Minimum Distributions under AA §10 are effective as follows:

_____

☐ A-12 **Miscellaneous provisions.** The provisions under AA §11 are effective as follows:

_____

☐ A-13 **Special effective date provisions for merged plans.** If any qualified retirement plans have been merged into this Plan, the provisions of Section 14.03 of the Plan apply, as follows:

_____

☐ A-14 **Other special effective dates:**

_____

☐ A-15 **Special effective dates for restated pre-approved plans:** Use this A-15 to memorialize plan operational changes that have occurred after the general effective date of the plan and the actual plan restatement adoption date. Adopting employers may use the above Special Effective Date options (A-1 through A-14) to memorialize these changes or they may use this A-15.

_____

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APPENDIX B
LOAN POLICY

Use this Appendix B to identify elections dealing with the administration of Participant loans. These elections may be changed without amending this Adoption Agreement by substituting an updated Appendix B with new elections. Any modifications to this Appendix B, or any modifications to a separate loan policy describing the loan provisions selected under the Plan, will not affect an Employer's reliance on the IRS Favorable Letter. Loans are subject to any internal limitations or rules imposed by the Investment Arrangement or the service provider or platform.

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

☐ (a) Yes

☑ (b) No

B-2 **LOAN PROCEDURES.**

☐ (a) Loans will be provided under the default loan procedures set forth in Section 13 of the Plan, unless modified under this Appendix B.

☐ (b) Loans will be provided under a separate written loan policy. [***Note:*** *If this subsection (b) is checked, do not complete the rest of this Appendix B.*]

B-3 **AVAILABILITY OF LOANS.** Participant loans are available to all active Participants and Beneficiaries. Participant loans are not available to a former Employee or Beneficiary (including an Alternate Payee under a QDRO). To override this default provision, complete this AA §B-3:

☐ (a) A former Employee or Beneficiary (including an Alternate Payee) who has a vested Account Balance may request a loan from the Plan.

☐ (b) A "limited participant" as defined in Section 3.05 of the Plan may not request a loan from the Plan.

☐ (c) An officer or director of the Employer, as defined for purposes of the Sarbanes-Oxley Act, may **not** request a loan from the Plan.

☐ (d) Describe limitations on receiving loans under the Plan: _____

[***Note:*** *Any limitation under subsection (d) must be definitely determinable and not provide any Employer discretion*.]

B-4 **LOAN LIMITS.** The default loan policy under Section 13.03 of the Plan allows Participants to take a loan provided all outstanding loans do not exceed 50% of the Participant's vested Account Balance. To override the default loan policy to allow loans up to $10,000, even if greater than 50% of the Participant's vested Account Balance, check this AA §B-4.

☐ A Participant may take a loan equal to the greater of $10,000 or 50% of the Participant's vested Account Balance.

[***Note:*** *If this AA §B-4 is checked, the Participant may be required to provide adequate security as required under Section 13.06 of the Plan.*]

B-5 **NUMBER OF LOANS.** The default loan policy under Section 13.04 of the Plan restricts Participants to one loan outstanding at any time. To override the default loan policy and permit Participants to have more than one loan outstanding at any time, complete subsection (a) or (b) below.

☐ (a) A Participant may have ____ loans outstanding at any time.

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

B-6 **LOAN AMOUNT.** The default loan policy under Section 13.04 of the Plan provides that a Participant may not receive a loan of less than $1,000. To modify the minimum loan amount or to add a maximum loan amount, complete this AA §B-6.

☐ (a) There is no minimum loan amount.

☐ (b) The minimum loan amount is $_____.

☐ (c) The maximum loan amount is $_____.

B-7 **INTEREST RATE.** The default loan policy under Section 13.05 of the Plan provides for an interest rate commensurate with the interest rates charged by local commercial banks for similar loans. To override the default loan policy and provide a specific interest rate to be charged on Participant loans, complete this AA §B-7.

☐ (a) The prime interest rate plus ____ percentage point(s).

☐ (b) The interest rate is determined in accordance with the terms of the Investment Arrangement, service provider procedures, or other loan policy document adopted by the Plan Administrator.

☐ (c) Describe: _____

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[***Note:*** *Any interest rate described in this AA §B-7 must be reasonable and must apply uniformly to all Participants.*]

B-8 **PURPOSE OF LOAN.** The default loan policy under Section 13.02 of the Plan provides that a Participant may receive a Participant loan for any purpose. To modify the default loan policy to restrict the availability of Participant loans to hardship events, check this AA §B-8.

☐ (a) A Participant may only receive a Participant loan upon the demonstration of a hardship event, as described in Section 7.10(e)(1)(i) of the Plan.

☐ (b) A Participant may only receive a Participant loan under the following circumstances: _____

B-9 **APPLICATION OF LOAN LIMITS.** If Participant loans are not available from all contribution sources, the limitations under Code §72(p) and the adequate security requirements of the Department of Labor regulations will be applied by taking into account the Participant's entire Account Balance. To override this provision, complete this AA §B-9.

☐ The loan limits and adequate security requirements will be applied by taking into account only those contribution Accounts which are available for Participant loans.

B-10 **CURE PERIOD.** The Plan provides that a Participant incurs a loan default if a Participant does not repay a missed payment by the end of the calendar quarter following the calendar quarter in which the missed payment was due. To override this default provision to apply a shorter cure period, complete this AA §B-10.

☐ The cure period for determining when a Participant loan is treated as in default will be _____ days (cannot exceed 90) following the end of the month in which the loan payment is missed.

☐ (b) The cure period for determining when a Participant loan is treated as in default will be the greater of _____ days (cannot exceed 90) following the end of the month in which the loan payment is missed or the last day of the second calendar quarter following the calendar quarter in which the missed payment was due.

☐ (c) The cure period for determining when a loan is treated as in default will be _____ days (cannot exceed 90) following the first missed loan payment.

B-11 **PERIODIC REPAYMENT – PRINCIPAL RESIDENCE.** If a Participant loan is for the purchase of a Participant's primary residence, the loan repayment period for the purchase of a principal residence may not exceed ten (10) years. To override this default provision, complete this AA §B-11.

☐ (a) The Plan does not permit loan payments to exceed five (5) years, even for the purchase of a principal residence.

☐ (b) The loan repayment period for the purchase of a principal residence may not exceed _____ years (may not exceed 30).

☐ (c) Loans for the purchase of a Participant's primary residence may be payable over any reasonable period commensurate with the period permitted by commercial lenders for similar loans.

B-12 **TERMINATION OF EMPLOYMENT.** Section 13.10(a) of the Plan provides that a Participant loan becomes due and payable in full upon the Participant's termination of employment. To override this default provision, complete this AA §B-12.

☐ A Participant loan will not become due and payable in full upon the Participant's termination of employment.

B-13 **DIRECT ROLLOVER OF A LOAN NOTE.** Section 13.10(b) of the Plan provides that upon termination of employment a Participant may request the Direct Rollover of a loan note. To override this default provision, complete this AA §B-13.

☐ A Participant may **not** request the Direct Rollover of the loan note upon termination of employment.

B-14 **LOAN RENEGOTIATION.** The default loan policy provides that a Participant may renegotiate a loan, provided the renegotiated loan separately satisfies the reasonable interest rate requirement, the adequate security requirement, the periodic repayment requirement and the loan limitations under the Plan. The Employer may restrict the availability of renegotiations to prescribed purposes provided the ability to renegotiate a Participant loan is available on a non-discriminatory basis. To override the default loan policy and restrict the ability of a Participant to renegotiate a loan, complete this AA §B-14.

☐ (a) A Participant may **not** renegotiate the terms of a loan.

☐ (b) The following special provisions apply with respect to renegotiated loans: _____

B-15 **SOURCE OF LOAN.** Participant loans may be made from all available contribution sources, to the extent vested, unless designated otherwise under this AA §B-15.

☐ Participant loans will not be available from the following contribution sources: _____

☐ Participant loans will only be available from the following contribution sources: _____

B-16 **SPOUSAL CONSENT.** Spousal consent is not required for a Participant to receive a loan, unless required by State law. To override this provision, complete this AA §B-16.

☐ Spousal consent is required to receive a Participant loan.

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B-17 **MODIFICATIONS TO DEFAULT LOAN PROVISIONS.**

☐ The following special rules will apply with respect to Participant loans under the Plan: _____

[***Note:*** *Any provision under this AA §B-17 must satisfy the requirements under Code §72(p) and the regulations thereunder and will control over any inconsistent provisions of the Plan dealing with the administration of Participant loans.*]

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APPENDIX C
ADMINISTRATIVE ELECTIONS

Use this Appendix C to identify certain elections dealing with the administration of the Plan. These elections may be changed without amending this Adoption Agreement by substituting an updated Appendix C with new elections. The provisions selected under this Appendix C do not create qualification issues and any changes to the provisions under this Appendix C will not affect the Employer's reliance on the IRS Favorable Letter.

C-1 **DIRECTION OF INVESTMENTS.** Are Participants permitted to **direct investments**? (See Section 10.07 of the Plan.)

☐ (a) No

☑ (b) Yes, but subject to the following restrictions:

☑ (1) No restrictions apply

☐ (2) Only for Accounts that are 100% vested

☐ (3) Specify Accounts: _____

☐ (4) Describe any special rules that apply for purposes of direction of investments: _____

[***Note:*** *This subsection (4) may be used to describe special investment provisions for specific types of investments.*]

C-2 **ROLLOVER CONTRIBUTIONS.** Does the Plan accept **Rollover Contributions**? (See Section 3.05 of the Plan.)

☑ (a) No

☐ (b) Yes

☐ (1) If this subsection (1) is checked, an Employee may make a Rollover Contribution to the Plan prior to becoming a Participant in the Plan.

☐ (2) Check this subsection (2) if the Plan will accept Rollover Contributions from former Employees with an Account Balance under the Plan.

☐ (3) Describe any special rules for accepting Rollover Contributions: _____

[***Note:*** *The Employer may designate in this subsection (3), or in separate written procedures, the extent to which it will accept rollovers from designated plan types. For example, the Employer may decide not to accept rollovers from certain designated plans (e.g., 403(b) plans, §457 plans or IRAs). Any special rollover procedures will apply uniformly to all Participants under the Plan.*]

C-3 **LIFE INSURANCE.** Are **life insurance** investments permitted? (See Section 10.08 of the Plan.)

☑ (a) No

☐ (b) Yes

C-4 **QDRO PROCEDURES.** Although the requirements of Code §414(p) do not apply to the Plan, the Employer may elect to apply the procedures set forth under Section 11.05 of the Plan (which are patterned after the rules under Code §414(p)) by electing subsection (a) below or may elect not to apply the procedures set forth under Section 11.05 of the Plan and instead, describe the Plan's procedures for addressing domestic relations orders below or in separate administrative procedures.

☑ (a) The Employer elects to have the requirements of Section 11.05 of the Plan apply to its Plan.

☐ (b) The requirements of Section 11.05 of the Plan do not apply to the Plan. The procedures for addressing the receipt of domestic relations orders are either set forth below or in separate administrative procedures.

Describe domestic relations procedures: _____

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EMPLOYER SIGNATURE PAGE

PURPOSE OF EXECUTION. This Signature Page is being executed for Leon County BOCC 401(a) Matching Program to effect:

☐ (a) The adoption of a **new plan**, effective [*insert Effective Date of Plan*]. [***Note:*** *Date can be no earlier than the first day of the Plan Year in which the Plan is adopted.*]

☑ (b) The **restatement** of an existing plan in order to comply with the requirements for Cycle 3 Pre-Approved Plans, pursuant to Rev. Proc. 2017-41.

(1) Effective date of restatement: 10-1-2021. [***Note:*** *Date can be no earlier than the first day of the Plan Year in which the restatement is adopted.*]

(2) Name of plan(s) being restated: Leon County BOCC 401(a) Matching Program

(3) The original effective date of the plan(s) being restated: 10-1-2006

☐ (c) An **amendment or restatement** of the Plan (other than to comply with the requirements for Cycle 3 Pre-Approved Plans under Rev. Proc. 2017-41). If this Plan is being amended, a snap-on amendment may be used to designate the modifications to the Plan or the updated pages of the Adoption Agreement may be substituted for the original pages in the Adoption Agreement. All prior Employer Signature Pages should be retained as part of this Adoption Agreement.

(1) Effective Date(s) of amendment/restatement: _____

(2) Name of plan being amended/restated: _____

(3) The original effective date of the plan being amended/restated: _____

(4) If Plan is being amended, identify the Adoption Agreement section(s) being amended: _____

PRE-APPROVED PLAN PROVIDER INFORMATION. The Pre-Approved Plan Provider (or authorized representative) will inform the Employer of any amendments made to the Plan and will notify the Employer if it discontinues or abandons the Plan. To be eligible to receive such notification, the Employer agrees to notify the Pre-Approved Plan Provider (or authorized representative) of any change in address. The Employer may direct inquiries regarding the Plan or the effect of the IRS Opinion Letter to the Pre-Approved Plan Provider (or authorized representative) at the following location:

Name of Pre-Approved Plan Provider (or authorized representative): VALIC Retirement Services Company

Address: 2929 Allen Parkway L-10 Houston, TX 77019

Telephone number: 888-478-7020

IMPORTANT INFORMATION ABOUT THIS PRE-APPROVED PLAN. A failure to properly complete the elections in this Adoption Agreement or to operate the Plan in accordance with applicable law may result in disqualification of the Plan. The Employer may rely on the Favorable IRS Letter issued by the Internal Revenue Service to the Pre-Approved Plan Provider as evidence that the Plan is qualified under Code §401(a), to the extent provided in Rev. Proc. 2017-41. The Employer may not rely on the Favorable IRS Letter in certain circumstances or with respect to certain qualification requirements, which are specified in the Favorable IRS Letter issued with respect to the Plan and in Rev. Proc. 2017-41. In order to obtain reliance in such circumstances or with respect to such qualification requirements, the Employer may need to apply to the Internal Revenue Service for a determination letter.

By executing this Adoption Agreement, the Employer intends to adopt the provisions as set forth in this Adoption Agreement and the related Plan document. By signing this Adoption Agreement, the individual below represents that he/she has the authority to execute this Plan document on behalf of the Employer. This Adoption Agreement may only be used in conjunction with Basic Plan Document #03. The Employer understands that the Pre-Approved Plan Provider has no responsibility or liability regarding the suitability of the Plan for the Employer's needs, or the options elected under this Adoption Agreement. It is recommended that the Employer consult with legal counsel before executing this Adoption Agreement.

Leon County, Board of County Commissioners
(Name of Employer)

_____
(Name of authorized representative) *(Title)*

_____
(Signature) *(Date)*

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TRUST DECLARATION

This Trust Declaration may be used to identify and adopt the Trust associated with the Plan.

[***Note:*** *The Internal Revenue Service does not review the Trust Declaration, or the trust provisions associated with Pre-Approved Plans. Therefore, the provisions of the Trust Declaration, ASC Trust Agreement or any separate Trust agreement have not been approved by the IRS and the IRS opinion letter does not cover such Trust Agreement. The Provider, the Trustee and the adopting Employer should review the applicable Trust provisions, and any modifications thereto, with legal counsel to ensure the provisions are appropriate for the Plan and consistent with Employer elections.*]

Name of Plan. Leon County BOCC 401(a) Matching Program

Name of Employer. Leon County, Board of County Commissioners

Effective date of Trust Agreement: 10-1-2021

(a) **The Trust terms are:**

☐ (1) **Determined under the Trust provisions contained in the ASC Trust Agreement - Standard.**

[***Note:*** *Trustee must complete the Trustee Signature section under Section (b) below*.]

☐ (i) **Directed Trustee.** The Trustee may only invest Plan assets as directed by the Plan Administrator, the Employer, an Investment Manager or other Named Fiduciary or, to the extent authorized under the Plan, a Plan Participant.

☐ (ii) **Discretionary Trustee.** The Trustee has discretion to invest Plan assets, unless specifically directed otherwise by the Plan Administrator, the Employer, an Investment Manager or other Named Fiduciary or, to the extent authorized under the Plan, a Plan Participant.

[**Modification of ASC Trust Agreement Provisions.** The Employer may amend the Trust provisions as provided under Section 1.18 of the ASC Trust Agreement. Plan provisions will override any conflicting provisions in the Trust Agreement, including any modification thereto. The Provider and the adopting Employer should review any modifications of the ASC Trust Agreement with legal counsel to ensure the provisions are appropriate for the Plan and consistent with Employer elections.]

☐ (2) **Determined under a separate Trust agreement(s).** The Trust provisions are contained in a separate Trust Agreement that has been furnished to the Employer. Notwithstanding the terms of the Plan, the terms of the Trust Agreement shall control the rights and responsibilities of the Trustee with respect to the Trust and the assets held in such Trust.

Name of Trustee. _____

Title of Trust Agreement. _____

Address of Trustee. _____

[***Note:*** *In using a separate Trust Agreement, the Trustee may adopt such Trust Agreement by either completing the Trustee Signature section under Section (b) below or may execute the separate Trust Agreement. In either case, the information above – Name of Trustee, Title of Trust Agreement and Address of Trustee – must be* completed.]

☑ (3) **Plan is funded with custodial accounts, annuity contracts and/or insurance contracts.** There is no Trust associated with the Plan because the Plan is funded exclusively with custodial accounts, annuity contracts and/or insurance contracts.

[***Note:*** *No signature is required under this Trust Declaration if the Plan is funded exclusively with custodial accounts, annuity contracts and/or insurance contracts. The Employer or Plan Administrator may enter into a separate agreement with the custodian or insurance company. Such separate agreement must be consistent with the terms of the Plan.*]

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INTERIM AMENDMENT - HARDSHIP DISTRIBUTIONS ELECTIVE PROVISIONS

These Elective Provisions provide for elections as allowed by the Final Regulations and the Hardship Distribution Interim Amendment, attached to the Basic Plan Document. In some cases, the Pre-Approved Plan Provider has Defaults as indicated by the items marked as Default under these Elective Provisions. If the adopting Employer approves of the Defaults of the Pre-Approved Plan Provider, the adopting Employer does not need to execute this Hardship Distribution Interim Amendment. If the adopting Employer wishes to override any of the Defaults of the Pre-Approved Plan Provider, the adopting Employer should make the appropriate election(s) in the Elective Provisions below and sign this Hardship Distribution Interim Amendment. If the Plan does not permit Hardship distributions, no elections should be made below.

HD-1 **SOURCES FOR HARDSHIP DISTRIBUTIONS**

(a) **Source accounts (not including earnings).** For Plan Years beginning after December 31, 2018 (or such later date specified under HD-1(a)(8) or HD-1(a)(9) below or the effective date of a new Plan), a Participant may take an in-service distribution upon the occurrence of a Hardship that satisfies the Hardship distribution rules under Section 8.10(e) of the Plan, as amended by this interim amendment, with respect to the following sources:

- ☐ (1) No change to current Plan sources available for Hardship distributions under AA §§10-1 and 10-2.
- ☐ (2) Qualified Nonelective Contribution (QNEC) Account (Not applicable to 401(a) Governmental Plans)
- ☐ (3) Qualified Matching Contribution (QMAC) Account (Not applicable to 401(a) Governmental Plans)
- ☐ (4) Safe Harbor Employer Contribution Account (Not applicable to 401(a) Governmental Plans)
- ☐ (5) Safe Harbor Matching Contribution Account (Not applicable to 401(a) Governmental Plans)
- ☐ (6) QACA Safe Harbor Employer Contribution Account (Not applicable to 401(a) Governmental Plans)
- ☐ (7) QACA Safe Harbor Matching Contribution Account (Not applicable to 401(a) Governmental Plans)
- ☐ (8) Effective date is January 1, 2020, whether Plan has a calendar or fiscal Plan Year.
- ☐ (9) Describe effective date (if later than the beginning of the Plan Year beginning after December 31, 2018) for which the election(s) above apply: _____

(b) **Earnings on source accounts.** For Plan Years beginning after December 31, 2018 (or such later date specified under HD-1(b)(11) or HD-1(b)(12) below or the effective date of a new Plan), amounts available for Hardship distributions include earnings on the following available sources:

- ☐ (1) Amounts available for Hardship include earnings on all available sources.
- ☐ (2) No change to current Plan rule (i.e., earnings are not available on Salary Deferrals, except for those on grandfathered (pre-1989) earnings, if applicable).
- ☐ (3) Pre-Tax Salary Deferral Account
- ☐ (4) Roth Deferral Account
- ☐ (5) Qualified Nonelective Contribution (QNEC) Account (Not applicable to 401(a) Governmental Plans)
- ☐ (6) Qualified Matching Contribution (QMAC) Account (Not applicable to 401(a) Governmental Plans)
- ☐ (7) Safe Harbor Employer Contribution Account (Not applicable to 401(a) Governmental Plans)
- ☐ (8) Safe Harbor Matching Contribution Account (Not applicable to 401(a) Governmental Plans)
- ☐ (9) QACA Safe Harbor Employer Contribution Account (Not applicable to 401(a) Governmental Plans)
- ☐ (10) QACA Safe Harbor Matching Contribution Account (Not applicable to 401(a) Governmental Plans)
- ☐ (11) Effective date is January 1, 2020, whether Plan has a calendar or fiscal Plan Year.
- ☐ (12) Describe effective date (if later than the beginning of the Plan Year beginning after December 31, 2018) for which the election(s) above apply: _____

HD-2 **NEED TO OBTAIN ALL AVAILABLE LOANS** (Complete only if Employer maintains any qualified plan(s) that permits Participant loans.)

- ☐ (a) For Plan Years beginning after December 31, 2018 (or such later date specified in HD-2(d) or HD-2(e) below or the effective date of a new Plan), if a Participant requests a Hardship distribution from any of the Accounts specified in HD-1 above and AA §§10-1 and 10-2, the Participant is **NO LONGER** required to obtain all nontaxable loans available under the Plan and all other plans maintained by the Employer.
- ☐ (b) No change to current Plan provisions. Participants are required to obtain all nontaxable loans available under the Plan and all plans maintained by the Employer.
- ☐ (c) Describe any special requirements with respect to the need to first obtain all available loans: _____
- ☐ (d) Effective date is January 1, 2020, whether Plan has a calendar or fiscal Plan Year.
- ☐ (e) Describe other effective date (if later than the beginning of the Plan Year beginning after December 31, 2018) for which the election(s) above apply. _____

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HD-3 **SUSPENSION OF ABILITY TO MAKE SALARY DEFERRALS AND AFTER-TAX EMPLOYEE CONTRIBUTIONS DURING 2019.** (Applicable only to Plans that were using the safe harbor Hardship distribution suspension rule.)

[***Note:*** *Under the Final Regulations, adopting Employers may continue to apply the suspension of Salary Deferrals and After-Tax Employee Contributions rules for the 2019 Plan Year. However, in no event, may the Plan provide for a suspension of an Employee's Salary Deferrals or After-Tax Employee Contributions as a condition of obtaining a Hardship distribution for Hardship distributions made on or after January 1, 2020.]*

☐ (a) For Plan Years beginning after December 31, 2018 (or such later date specified in HD-3(d) below) and applicable to Hardship distributions made before January 1, 2020, if a Participant takes a Hardship distribution as permitted under the Plan, the Participant was NOT suspended from making Salary Deferrals (and After-Tax Employee Contributions, if applicable) for any period of time after the receipt of the Hardship distribution.

☐ (b) No change to current Plan provisions. For Hardship distributions made before January 1, 2020, the Participant continued to be suspended from making Salary Deferrals (and After-Tax Employee Contributions, if applicable) for a period of 6 months after the receipt of the Hardship distribution.

☐ Suspensions on Hardship distributions made after July 1, 2019 will cease effective January 1, 2020.

☐ (c) Describe any special requirements with respect to the suspension from making Salary Deferrals (and After-Tax Employee Contributions, if applicable): _____

☐ (d) Describe the effective date (if later than the beginning of the Plan Year beginning after December 31, 2018) for which the election(s) above apply: _____

HD-4 **APPLICATION OF SUSPENSION REQUIREMENT FOR PRE-2019 PLAN YEAR HARDSHIP DISTRIBUTIONS.** (Applicable only to Plans that were using the Hardship distribution suspension rule as of the last day of the 2018 Plan Year.)

☐ (a) No change to current Plan provisions. A Participant who received a Hardship distribution prior to the beginning of the 2019 Plan Year continued to be suspended from making Salary Deferrals (and After-Tax Employee Contributions, if applicable) for a period of 6 months after the receipt of the Hardship distribution.

☐ (b) Effective on the first day of the Plan Year beginning after December 31, 2018 (or such later date specified in HD-4(d) below), a Participant who received a Hardship distribution prior to the beginning of the 2019 Plan Year was no longer suspended from making Salary Deferrals (and After-Tax Employee Contributions, if applicable).

☐ (c) Describe any special rules with respect to the suspension from making Salary Deferrals (and After-Tax Employee Contributions, if applicable) for Participants who have received pre-2019 Hardship distributions: _____

☐ (d) Describe the effective date (if later than the beginning of the Plan Year beginning after December 31, 2018) for which the election(s) above apply: _____

HD-5 **OTHER APPLICABLE RULES.** Describe any other rules, such as conditions for receiving a Hardship distribution, not otherwise reflected in the Plan or Hardship Distribution Interim Amendment: _____

HD-6 **MEMORIALIZATION OF PRIOR OPERATION.** The elections in this Hardship Distribution Interim Amendment should reflect current Plan operations. The Employer may memorialize prior plan operations relevant to the implementation of the Final Regulations by describing such operations below: _____

APPLICATION OF AMENDMENT

Pursuant to Revenue Procedure 2015-36 and Revenue Procedure 2017-41 (as applicable), these Hardship Distribution Interim Amendment Elective Provisions have been adopted by the Pre-Approved Plan Provider on behalf of all adopting Employers. This amendment supersedes any contrary provisions under the Plan. If the Employer wishes to override the Default elections of the Pre-Approved Plan Provider, the Employer (or the authorized representative of the Employer) must execute this Hardship Distribution Interim Amendment by signing below. This amendment applies to the signatory Employer and all Participating Employers under the Plan.

Leon County, Board of County Commissioners
(Name of Employer)

_____
(Name of Authorized Representative, if applicable) *(Title)*

_____
(Signature) *(Date)*

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Leon County, Board of County Commissioners
NONSTANDARDIZED GOVERNMENTAL MONEY PURCHASE PLAN
ADOPTION AGREEMENT #002

By executing this Nonstandardized Governmental Money Purchase Plan Adoption Agreement (the "Adoption Agreement" or "AA"), the undersigned Employer agrees to establish or continue a Governmental Money Purchase Plan for its Employees. The Governmental Money Purchase Plan adopted by the Employer consists of the Governmental Defined Contribution Pre-Approved Plan Basic Plan Document #03 (the "BPD") and the elections made under this Adoption Agreement (collectively referred to as the "Plan"). An Employer may jointly co-sponsor the Plan by signing a Participating Employer Adoption Page, which is attached to this Adoption Agreement. **This Plan is effective as of the Effective Date identified on the Signature Page of this Adoption Agreement.**

SECTION 1
EMPLOYER INFORMATION

1-1 **EMPLOYER INFORMATION.**

Name: Leon County, Board of County Commissioners

Address: 315 S Calhoun Street

Ste 502

Tallahassee, Florida 32302

Telephone: (850) 606-2400

1-2 **EMPLOYER IDENTIFICATION NUMBER (EIN).** 59-6000708

1-3 **FORM OF BUSINESS.**

☑ State or political subdivision of a State

☐ State agency or instrumentality

☐ Indian Tribal Government

☐ Describe other Employer qualified to adopt a Governmental Plan: _____

1-4 **EMPLOYER'S TAX YEAR END.** The Employer's tax year ends September 30

1-5 **RELATED EMPLOYERS.** Is the Employer part of a group of Related Employers (as defined in Section 1.83 of the Plan)?

☐ Yes

☑ No

If yes, Related Employers may be listed below. A Related Employer must execute a Participating Employer Adoption Page for Employees of that Related Employer to participate in this Plan.

_____

[***Note:*** *This AA §1-5 is for informational purposes and Employers need not list Related Employers. The failure to identify all Related Employers will not jeopardize the qualified status of the Plan.*]

SECTION 2
PLAN INFORMATION

2-1 **PLAN NAME.** Leon County Government Plan (formerly Leon County, Brd of Comm)

Original Effective Date: July 1, 2003

Restatement Effective Date: January 1, 2022

2-2 **PLAN NUMBER.** 004

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2-3 **TYPE OF PLAN.** This Plan is a Money Purchase Defined Contribution Plan.

☐ The Plan is intended to be a FICA Replacement Plan (as defined under Section 4.03 of the Plan).

[***Note:*** *Elections under this AA must be consistent with the requirements of a FICA Replacement Plan as described under Section 4.03 of the Plan.*]

2-4 **PLAN YEAR.**

☑ (a) Calendar year.

☐ (b) The 12-consecutive month period ending on _____ each year.

☐ (c) The Plan has a Short Plan Year running from ____ to ____.

2-5 **FROZEN PLAN.** Check this AA §2-5 if the Plan is a frozen Plan to which no contributions will be made.

☐ This Plan is a frozen Plan effective _____. (See Section 3.02(b)(6) of the Plan.)

[***Note:*** *As a frozen Plan, the Employer will not make any contributions with respect to Plan Compensation earned after such date and no Participant will be permitted to make any contributions to the Plan after such date. In addition, no Employee will become a Participant after the date the Plan is frozen.*]

2-6 **MULTIPLE EMPLOYER PLAN.** Is this Plan a Multiple Employer Plan as defined in Section 16.07 of the Plan? (See Section 16.07 of the Plan for special rules applicable to Multiple Employer Plans.)

☐ Yes

☑ No

2-7 **PLAN ADMINISTRATOR.**

☑ (a) The Employer identified in AA §1-1.

☐ (b) Name: _____

Address: _____

Telephone: _____

2-8 **DEFINITION OF DISABLED.** An individual is considered Disabled for purposes of applying the provisions of this Plan if:

☐ (a) The individual is covered by the Employer's disability insurance plan and is determined to be disabled under such plan.

☑ (b) The individual is determined to be disabled by the Social Security Administration under Section 223(d) of the Social Security Act for purposes of determining eligibility for Social Security benefits.

☐ (c) The Plan Administrator determines an individual is unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment that can be expected to result in death or which has lasted, or can be expected to last, for a continuous period of not less than 12 months. The permanence and degree of such impairment shall be supported by medical evidence. The Plan Administrator may establish reasonable procedures for determining whether a Participant is Disabled.

[***Note:*** *An Employer may elect any or all of (a), (b) and (c) above. If more than one of (a), (b) and (c) is selected, the hierarchy for determining whether an individual is considered Disabled is (a), then (b) and then (c), unless described otherwise under separate administrative procedures or under subsection (d) below.*]

☐ (d) Alternative definition of Disabled: _____

[***Note:*** *Any alternative definition described above will apply uniformly to all Participants under the Plan and will be applied in a nondiscretionary manner. The Employer may describe different definitions of Disabled for different purposes under the plan.*]

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SECTION 3
ELIGIBLE EMPLOYEES

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

☐ (a) No exclusions

☐ (b) Collectively Bargained Employees

☐ (c) Non-resident aliens who receive no compensation from the Employer which constitutes U.S. source income

☐ (d) Leased Employees

☐ (e) Employees paid on an hourly basis

☐ (f) Employees paid on a salaried basis

☐ (g) Employees in an elected or appointed position

☐ (h) Part-Time Employees (as defined in Section 1.71 of the Plan)

☐ (i) Seasonal Employees (as defined in Section 1.89 of the Plan

☐ (j) Temporary Employees (as defined in Section 1.93 of the Plan)

☐ (k) Employees eligible for another qualified plan sponsored by the Employer or a Related Employer

Specify name of other qualified plan (optional): _____

☑ (l) Other: All Employees not classified as County Administrator and County Attorney

[***Note:*** *The elections under this AA §3-1 apply to any Pick-Up Contributions and any After-Tax Employee Contributions authorized under AA §6-6, unless elected otherwise under subsection (l) above. The exclusions inserted may not result in a specifically named individual or a finite group (such as employees hired before a certain date) being the only employee or employees participating under the plan in violation of the permanency requirements or Treas. Reg. §1.401-1(b)(2). It is permissible to limit participation under the plan to an employee or employees of a specifically named position or positions.*]

SECTION 4
MINIMUM AGE AND SERVICE REQUIREMENTS

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

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

☑ (1) There is no minimum service requirement for participation in the Plan.

☐ (2) ___ Year(s) of Service (as defined in Section 2.03(a)(1) of the Plan and AA §4-3).

☐ (3) The completion of at least ___ Hours of Service during the first __ months of employment (or the first __ days of employment) or the completion of a Year of Service (as defined in AA §4-3), if earlier.

☐ (i) An Employee who completes the required Hours of Service satisfies eligibility at the end of the designated period, regardless if the Employee actually works for the entire period.

☐ (ii) An Employee who completes the required Hours of Service must also be employed continuously during the designated period of employment. See Section 2.03(a)(2) of the Plan for rules regarding the application of this subsection (ii).

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☐ (4) The completion of ___ Hours of Service during an Eligibility Computation Period. [***Note:*** *An Employee satisfies the service requirement immediately upon completion of the designated Hours of Service rather than at the end of the Eligibility Computation Period.*]

☐ (5) Full-time Employees are eligible to participate as set forth in subsection (i) below. Employees who are "part-time" Employees must complete a Year of Service (as defined in AA §4-3). For this purpose, a full-time Employee is any Employee not defined in subsection (ii) below.

(i) Full-time Employees must complete the following minimum service requirements to participate in the Plan:

☐ (A) There is no minimum service requirement for participation in the Plan.

☐ (B) The completion of at least ____ Hours of Service during the first ____ months of employment or the completion of a Year of Service (as defined in AA §4-3), if earlier.

☐ (C) Under the Elapsed Time method as defined in AA §4-3(c) below.

☐ (D) Describe: _____

[***Note:*** *Any conditions provided under this subsection (D) must be definitely determinable.*]

(ii) Part-time Employees must complete a Year of Service (as defined in AA §4-3).

☐ (A) For this purpose, a part-time Employee is any Employee (including a temporary or seasonal Employee) whose normal work schedule is less than:

☐ (I) ____ hours per week.

☐ (II) ____ hours per month.

☐ (III) ____ hours per year.

☐ (B) Describe part-time Employees for this purpose: _____

[***Note:*** *A part-time employee must be described as an individual who works less than a specified number of hours (no greater than 40) during a standard work week.*]

☐ (6) Under the Elapsed Time method as defined in AA §4-3(c) below.

☐ (7) Describe eligibility conditions: _____

(b) **Minimum Age Requirement.** An Eligible Employee (as defined in AA §3-1) must have attained the following age to participate under the Plan.

☑ (1) There is no minimum age for Plan eligibility.

☐ (2) Age 21.

☐ (3) Age 20½.

☐ (4) Age ___.

☐ (c) **Special eligibility rules.** The following special eligibility rules apply with respect to the Plan: _____

[***Note:*** *The elections under this AA §4-1 apply to any Pick-Up Contributions and any After-Tax Employee Contributions authorized under AA §6-6, unless elected otherwise under subsection (c) above. Subsection (c) may be used to apply the eligibility conditions selected under this AA §4-1 separately with respect to different Employee groups or different contribution formulas under the Plan. Any special eligibility rules must be definitely determinable.*]

4-2 **ENTRY DATE.** An Eligible Employee (as defined in AA §3-1) who satisfies the minimum age and service requirements in AA §4-1 shall be eligible to participate in the Plan as of his/her Entry Date. For this purpose, the Entry Date is the following date.

☑ (a) **Immediate.** The date the minimum age and service requirements are satisfied (or date of hire, if no minimum age and service requirements apply).

☐ (b) **Semi-annual.** The first day of the 1st and 7th month of the Plan Year.

☐ (c) **Quarterly.** The first day of the 1st, 4th, 7th and 10th month of the Plan Year.

☐ (d) **Monthly.** The first day of each calendar month.

☐ (e) **Payroll period.** The first day of the payroll period.

☐ (f) **The first day of the Plan Year.**

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☐ (g) **Describe Entry Date:** _____

[***Note:*** *Any Entry Date under this subsection (g) must be within the dates described under (a) – (f)*.]

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

☐ (h) **next following** satisfaction of the minimum age and service requirements.

☐ (i) **coinciding with or next following** satisfaction of the minimum age and service requirements.

☐ (j) **nearest** the satisfaction of the minimum age and service requirements.

☐ (k) **preceding** the satisfaction of the minimum age and service requirements.

This section may be used to describe any special rules for determining Entry Dates under the Plan. For example, if different Entry Date provisions apply for different groups of Employees, such different Entry Date provisions may be described below.

☐ (l) **Describe** any special rules that apply with respect to the Entry Dates under this AA §4-2: _____

[***Note:*** *The elections under this AA §4-2 apply to any Pick-Up Contributions and any After-Tax Employee Contributions selected under AA §6-6, unless elected otherwise under subsection (l) above. Any special rules under subsection (l) must be definitely determinable.*]

4-3 **DEFAULT ELIGIBILITY RULES.** In applying the minimum age and service requirements under AA §4-1 above, the following default rules apply:

- **Year of Service.** An Employee earns a Year of Service for eligibility purposes upon completing 1,000 Hours of Service during an Eligibility Computation Period. Hours of Service are calculated based on actual hours worked during the Eligibility Computation Period. (See Section 1.57 of the Plan for the definition of Hours of Service.)
- **Eligibility Computation Period.** If one Year of Service is required for eligibility, the Plan will determine subsequent Eligibility Computation Periods on the basis of Plan Years. (See Section 2.03(a)(3)(i) of the Plan.) If more than one Year of Service is required for eligibility, the Plan will determine subsequent Eligibility Computation Periods on the basis of Anniversary Years. (See Section 2.03(a)(3)(ii) of the Plan.)

To override the default eligibility rules, complete the applicable sections of this AA §4-3. **If this AA §4-3 is not completed, the default eligibility rules apply.**

☐ (a) **Year of Service.** Instead of 1,000 Hours of Service, an Employee earns a Year of Service upon the completion of ___ Hours of Service during an Eligibility Computation Period.

☐ (b) **Eligibility Computation Period (ECP).** The Plan will use Anniversary Years, unless more than one Year of Service is required under AA §4-1(a), in which case the Plan will shift to Plan Years if the Employee does not earn a Year of Service during the first Eligibility Computation Period. (See Section 2.03(a)(3)(ii) of the Plan.)

☐ (c) **Elapsed Time method.** Eligibility service will be determined under the Elapsed Time method. An Eligible Employee (as defined in AA §3-1) must complete a ___ period of service to participate in the Plan. (See Section 2.03(a)(6) of the Plan.)

[***Note:*** *Under the Elapsed Time method, service will be measured from the Employee's employment commencement date (or reemployment commencement date, if applicable) without regard to the Eligibility Computation Period designated in Section 2.03(a)(3) of the Plan.*]

☐ (d) **Equivalency Method**. For purposes of determining an Employee's Hours of Service for eligibility, the Plan will use the Equivalency Method (as defined in Section 2.03(a)(5) of the Plan). The Equivalency Method will apply to:

☐ (1) All Employees.

☐ (2) Only Employees for whom the Employer does not maintain hourly records. For Employees for whom the Employer maintains hourly records, eligibility will be determined based on actual hours worked.

Hours of Service for eligibility will be determined under the following Equivalency Method.

☐ (3) **Monthly.** 190 Hours of Service for each month worked.

☐ (4) **Weekly.** 45 Hours of Service for each week worked.

☐ (5) **Daily.** 10 Hours of Service for each day worked.

☐ (6) **Semi-monthly.** 95 Hours of Service for each semi-monthly period worked.

☐ (7) **Describe Equivalency Method:** _____

☐ (e) **Special eligibility provisions:** _____

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[***Note:*** *The elections under this AA §4-3 apply to any Pick-Up Contributions and any After-Tax Employee Contributions selected under AA §6-6, unless elected otherwise under subsection (e) above. Any special rules under subsection (e) must be definitely determinable.*]

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

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

☐ An Eligible Employee who is employed by the Employer on the following designated date will enter the Plan on the designated date without regard to minimum age and/or service requirements (as designated below):

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

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

☐ (c) _____ [*insert date no earlier than the Effective Date of this Plan*]

An Eligible Employee who is employed on the designated date will enter the Plan on the designated date without regard to the minimum age and service requirements under AA §4-1. If both minimum age and service conditions are not waived, select subsection (d) or (e) below to designate which condition is waived under this AA §4-4.

☐ (d) This AA §4-4 only applies to the minimum service condition.

☐ (e) This AA §4-4 only applies to the minimum age condition.

The provisions of this AA §4-4 apply to all Eligible Employees employed on the designated date unless designated otherwise under subsection (f) or (g) below.

☐ (f) The provisions of this AA §4-4 apply to the following group of Employees employed on the designated date: .

☐ (g) Describe special rules: _____

[***Note:*** *An Employee who is employed as of the designated date described in this AA §4-4 will enter the Plan as of such date unless a different Entry Date is designated under subsection (g) above. Any special rules under subsection (g) above must be definitely determinable.*]

4-5 **SERVICE WITH PREDECESSOR EMPLOYER.** Service with the following Predecessor Employers will be counted for purposes of determining eligibility, vesting and allocation conditions under this Plan, unless designated otherwise under subsection (a) or (b) below. (See Sections 2.06, 3.07(b) and 6.07 of the Plan.)

☐ (a) The Plan will count service with the following Predecessor Employers:

	Name of Predecessor Employer	Eligibility	Vesting	Allocation Conditions
☐ (1)	_____	☐	☐	☐

☐ (b) **Describe** any special provisions applicable to Predecessor Employer service: _____

4-6 **BREAKS IN SERVICE.** Generally, an Employee will be credited with all service earned with the Employer, including service earned prior to a Break in Service. To disregard service earned prior to a Break in Service for eligibility purposes, complete this AA §4-6. (See Section 2.07 of the Plan.)

☐ (a) If an Employee incurs at least one Break in Service, the Plan will disregard all service earned prior to such Break in Service for purposes of determining eligibility to participate.

☐ (b) If an Employee incurs at least _____ Breaks in Service, the Plan will disregard all service earned prior to such Break in Service for purposes of determining eligibility to participate. [*Enter "0" if prior service will be disregarded for all rehired Employees.*]

☐ (c) The Nonvested Participant Break in Service rule applies to all Employees, including Employees who have not terminated employment.

☐ (d) Describe: _____

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SECTION 5
COMPENSATION DEFINITIONS

5-1 **TOTAL COMPENSATION.** Total Compensation is based on the definition set forth under this AA §5-1. See Section 1.94 of the Plan for a specific definition of the various types of Total Compensation.

☑ (a) W-2 Wages

☐ (b) Code §415 Compensation

☐ (c) Wages under Code §3401(a)

[***Note:*** *For purposes of determining Total Compensation, each definition includes Elective Deferrals, as defined in Section 1.36 of the Plan, pre-tax contributions to a Code §125 cafeteria plan or a Code §457 plan, and qualified transportation fringes under Code §132(f)(4).*]

5-2 **POST-SEVERANCE COMPENSATION.** Total Compensation includes post-severance compensation, to the extent provided in Section 1.94(b) of the Plan.

☐ (a) **Exclusion of post-severance compensation from Total Compensation.** The following amounts paid after a Participant's severance of employment are excluded from Total Compensation.

☐ (1) **Unused leave payments.** Payment for unused accrued bona fide sick, vacation, or other leave, but only if the Employee would have been able to use the leave if employment had continued.

☐ (2) **Deferred compensation.** Payments received by an Employee pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid to the Employee at the same time if the Employee had continued in employment and only to the extent that the payment is includible in the Employee's gross income.

[***Note:*** *Plan Compensation (as defined in Section 1.75 of the Plan) includes any post-severance compensation amounts that are includible in Total Compensation. The Employer may elect to exclude all compensation paid after severance of employment from the definition of Plan Compensation under AA §5-3(j) below or may elect to exclude specific types of post-severance compensation from Plan Compensation under AA §5-3(l) below.*]

☐ (b) **Continuation payments for disabled Participants.** If this subsection (b) is not elected, Total Compensation does not include continuation payments for disabled Participants. If this subsection (b) is elected, Total Compensation shall include post-severance compensation paid to a Participant who is permanently and totally disabled, as provided in Section 1.94(c) of the Plan.

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

☐ (a) No exclusions.

☐ (b) Elective Deferrals (as defined in Section 1.36 of the Plan), pre-tax contributions to a cafeteria plan or a Code §457 plan, and qualified transportation fringes under Code §132(f)(4) are excluded.

☐ (c) All fringe benefits (cash and noncash), reimbursements or other expense allowances, moving expenses, deferred compensation, and welfare benefits are excluded.

☐ (d) Compensation above $___ is excluded.

☐ (e) Amounts received as a bonus are excluded.

☐ (f) Amounts received as commissions are excluded.

☑ (g) Overtime payments are excluded.

☐ (h) Amounts received for services performed for a non-signatory Related Employer are excluded. (See Section 2.02(c) of the Plan.)

[***Note****: If this subsection (h) is not elected, amounts received for services performed for a non-signatory Related Employer are INCLUDED in Plan Compensation.*]

☐ (i) "Deemed §125 compensation" as defined in Section 1.94(d) of the Plan.

☐ (j) Amounts received after termination of employment are excluded. (See Section 1.94(b) of the Plan.)

☐ (k) Differential Pay (as defined in Section 1.94(e) of the Plan).

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☐ (l) Describe adjustments to Plan Compensation: _____

[***Note:*** *Any modification under subsection (l) above must be definitely determinable and preclude Employer discretion. The elections under this AA §5-3 apply to any Pick-Up Contributions and any After-Tax Employee Contributions selected under AA §6-6, unless elected otherwise under subsection (l).*]

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

(a) **Compensation Period.** Plan Compensation will be determined on the basis of the following period(s). [***Note:*** *If a period other than the Plan Year applies, any reference to the Plan Year as it refers to Plan Compensation will be deemed to be a reference to the period designated under this AA §5-4.*]

☑ (1) The Plan Year.

☐ (2) The calendar year ending in the Plan Year.

☐ (3) The Employer's fiscal tax year ending in the Plan Year.

☐ (4) The 12-month period ending on _____ which ends during the Plan Year.

(b) **Compensation while a Participant.** Unless provided otherwise under this subsection (b), in determining Plan Compensation, only compensation earned while an individual is a Participant under the Plan will be taken into account.

To count compensation for the entire Plan Year, including compensation earned while an individual is not a Participant, check below. (See Section 1.75(b) of the Plan.)

☐ All compensation earned during the Plan Year will be taken into account, including compensation earned while an individual is not a Participant.

(c) **Few weeks rule.** The few weeks rule (as described in Section 5.02(c)(7)(i) of the Plan) will not apply unless designated otherwise under this subsection (c).

☐ Amounts earned but not paid during a Limitation Year solely because of the timing of pay periods and pay dates shall be included in Total Compensation for the Limitation Year, provided the amounts are paid during the first few weeks of the next Limitation Year, the amounts are included on a uniform and consistent basis with respect to all similarly situated Employees, and no amounts are included in more than one Limitation Year.

SECTION 6
EMPLOYER AND EMPLOYEE CONTRIBUTIONS

6-1 **EMPLOYER / EMPLOYEE CONTRIBUTIONS.** The Employer will contribute to the Plan each Plan Year the amount determined under the Employer Contribution formula designated in AA §6-2 below. If so elected under AA §6-6, the Employer also may authorize Employees to make After-Tax Employee Contributions and/or Employer Pick-Up Contributions under the Plan.

6-2 **EMPLOYER CONTRIBUTION FORMULA.** For the period designated in AA §6-4 below, the Employer will make the following Employer Contributions on behalf of Participants who satisfy the allocation conditions designated in AA §6-5 below.

☑ (a) **Fixed contribution.**

☑ (1) **Fixed percentage.** 7____ % of each Participant's Plan Compensation.

☐ (2) **Fixed dollar.** $ ___ for each Participant.

☐ (b) **Contributions under Collective Bargaining Agreement, employment contract or equivalent arrangement.** The Employer will make an Employer Contribution based on a Collective Bargaining Agreement, employment agreement or equivalent arrangement as follows: _____

[***Note***: *Insert the appropriate contribution formula (and allocation formula, if applicable) from the Collective Bargaining Agreement, employment agreement or equivalent arrangement. The formula must be definitely determinable as required under Treas. Reg. §1.401-1.*]

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☐ (c) **Permitted disparity contribution.**

☐ (1) **Individual method.** The Employer will contribute:

☐ (i) ____% of each Participant's Plan Compensation plus

☐ (ii) ____% of each Participant's Excess Compensation.

[***Note:*** *The percentage of Excess Compensation may not exceed the Maximum Disparity Rate. See Section 3.02(b)(2)(i)(C) of the Plan.*]

☐ (2) **Group method.** The Employer will contribute ____% (not more than 25%) of total Plan Compensation of all Participants who satisfy the allocation conditions under AA §6-5 below. The Employer Contribution will be allocated under the two-step method (as defined in Section 3.02(a)(1)(i)(B)(I) of the Plan).

☐ (3) **Modification of permitted disparity rules.**

☐ (i) **Integration Level.** For purposes of determining the permitted disparity contribution under subsection (1) or (2) above, instead of the Taxable Wage Base (as defined in Section 1.92 of the Plan), the Integration Level is:

☐ (A) ____% of the Taxable Wage Base, increased (but not above the Taxable Wage Base) to the next higher:

☐ (I) N/A ☐ (II) $1

☐ (III) $100 ☐ (IV) $1,000

☐ (B) $____ (not to exceed the Taxable Wage Base)

☐ (C) 20% of the Taxable Wage Base

[***Note:*** *See Section 3.02(b)(2)(i)(C) of the Plan for rules regarding the Maximum Disparity Rate that may be used where an Integration Level other than the Taxable Wage Base is selected.*]

☐ (d) **Contribution for designated Employee groups.** The Employer will make an Employer Contribution to the Participants in the following designated groups. The amount to be contributed with respect to a designated Employee group will be determined under subsection (2) below.

(1) **Designated Employee groups.** A separate Employer Contribution will be made to the following Employee groups:

[***Note****: The Employee groups designated above must be clearly defined in a manner that will not violate the definite allocation formula requirement of Treas. Reg. §1.401-1(b)(1)(i).*]

(2) **Employer Contribution percentages.**

(3) **Special rules – More than one Employee group.** Unless designated otherwise under subsection (i), if a Participant is in more than one allocation group described in subsection (1) above during the Plan Year, the Participant will receive an Employer Contribution based on the Participant's status on the last day of the Plan Year. (See Section 3.02(b)(3) of the Plan.)

☐ (i) **Determined separately for each Employee group.** If a Participant is in more than one allocation group during the Plan Year, the Participant's share of the Employer Contribution will be based on the Participant's status for the part of the year the Participant is in each allocation group.

☐ (ii) **Describe:** _____

[***Note:*** *The language under this subsection (ii) may only describe the amount of the Employer Contribution a Participant will receive when such Participant is in more than one allocation group. Any language under this subsection (ii) must be definitely determinable.*]

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☐ (e) **Age-based contribution.** The Employer will contribute ___% of each Participant's adjusted Plan Compensation. For this purpose, a Participant's adjusted Plan Compensation is determined by multiplying the Participant's Plan Compensation by an Actuarial Factor (as described in Section 1.03 of the Plan).

A Participant's Actuarial Factor is determined based on a specified interest rate and mortality table. Unless designated otherwise under subsection (1) or (2) below, the Plan will use an applicable interest rate of 8.5% and a UP-1984 mortality table.

☐ (1) **Applicable interest rate.** Instead of 8.5%, the Plan will use an interest rate of ___% (must be between 7.5% and 8.5%) in determining a Participant's Actuarial Factor.

☐ (2) **Applicable mortality table.** Instead of the UP-1984 mortality table, the Plan will use the following mortality table in determining a Participant's Actuarial Factor: _____

☐ (3) **Describe special rules applicable to age-based allocation:** _____

[***Note:*** *See Appendix A of the Plan for sample Actuarial Factors based on an 8.5% applicable interest rate and the UP-1984 mortality table. If an interest rate or mortality table other than 8.5% or UP-1984 is selected, appropriate Actuarial Factors must be calculated. Subsection (3) must provide for a definitely determinable allocation method.*]

☐ (f) **Service-based contribution.** The Employer will make the following contribution based on units of service designated under subsections (3) – (5) below.

☐ (1) **Fixed percentage.** ___% of Plan Compensation paid for each period of service designated below.

☐ (2) **Fixed dollar.** $___ for each period of service designated below.

The service-based contribution will be based on the following periods of service:

☐ (3) Each Hour of Service

☐ (4) Each week of employment

☐ (5) Describe period: _____

The service-based contribution is subject to the following rules.

☐ (6) Describe any special provisions that apply to service-based contribution: _____

[***Note:*** *Subsection (6) may only be used to describe a definite allocation formula. Any period described in subsection (5) must apply uniformly to all Participants.*]

6-3 **SPECIAL RULES.** No special rules apply with respect to Employer Contributions under the Plan, except to the extent designated under this AA §6-3.

☐ (a) **Limit on Employer Contributions.** The Employer Contribution elected in AA §6-2 may not exceed:

☐ (1) ____% of Plan Compensation

☐ (2) $____

☐ (b) **Offset of Employer Contribution.**

☐ (1) A Participant's contribution of Employer Contributions under AA §6-2 above is reduced by contributions under _____ [*insert name of plan(s)*]. (See Section 3.02(b) of the Plan.)

☐ (2) In applying the offset under this subsection (b), the following rules apply: _____

☐ (c) **Special rules:** _____

[***Note:*** *Any special rules under this subsection (c) must be definitely determinable.*]

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6-4 **PERIOD FOR DETERMINING EMPLOYER/EMPLOYEE CONTRIBUTION.** Unless designated otherwise in this AA §6-4, in determining the amount of the Employer/Employee Contributions to be allocated under this AA §6, the contribution will be based on Plan Compensation earned during the Plan Year.

Alternatively, instead of the Plan Year, the Employer/Employee Contributions will be determined based on Plan Compensation earned during the following period: [***Note:*** *The Plan Year must be used if the permitted disparity contribution formula is selected under AA §6-2(c) above.*]

☐ (a) Plan Year quarter

☐ (b) calendar month

☐ (c) payroll period

☐ (d) Other: _____

[***Note:*** *Although Employer Contributions are determined on the basis of Plan Compensation earned during the period designated under this AA §6-4, this does not require the Employer to actually make contributions on the basis of such period. Employer Contributions may be contributed to Participants at any time within the contribution period permitted under Treas. Reg. §1.415-6, regardless of the period selected under this AA §6-4.*]

6-5 **ALLOCATION CONDITIONS.** A Participant must satisfy any allocation conditions designated under this AA §6-5 to receive an allocation of Employer Contributions under the Plan. [***Note****: No allocation conditions apply to After-Tax Employee Contributions or Employer Pick-Up Contributions under AA §6-6.*]

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

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

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

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

☐ (i) Hours of Service are determined using actual Hours of Service.

☐ (ii) Hours of Service are determined using the following Equivalency Method (as defined under Section 2.03(a)(5) of the Plan):

☐ (A) Monthly ☐ (B) Weekly

☐ (C) Daily ☐ (D) Semi-monthly

☐ (E) Describe**:** _____

[***Note:*** *Any description under this subsection (E) must be definitely determinable*.]

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

☐ (d) **Exceptions.**

☐ (1) The above allocation condition(s) will **not** apply if the Employee, during the Plan Year:

☐ (i) dies.

☐ (ii) terminates employment due to becoming Disabled.

☐ (iii) becomes Disabled.

☐ (iv) terminates employment after attaining Normal Retirement Age.

[***Note:*** *This waiver of allocation conditions applies only once during the Participant's employment with the Employer. The Employer may modify this rule in subsection (e) below*.]

☐ (v) terminates employment after attaining Early Retirement Age.

[***Note:*** *This waiver of allocation conditions applies only once during the Participant's employment with the Employer. The Employer may modify this rule in subsection (e) below*.]

☐ (vi) is on an authorized leave of absence from the Employer.

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☐ (2) The exceptions selected under subsection (1) above will apply even if an Employee has not terminated employment at the time of the selected event(s).

☐ (3) The exceptions selected under subsection (1) above do not apply to:

☐ (i) an employment condition under subsection (b) above.

☐ (ii) a minimum service condition under subsection (c) above.

☐ (e) **Describe** any special rules governing the allocation conditions under the Plan: _____

[***Note:*** *Any special rules under this subsection (e) must be definitely determinable.*]

6-6 **AFTER-TAX EMPLOYEE CONTRIBUTIONS AND EMPLOYER PICK-UP CONTRIBUTIONS.**

☐ (a) **Voluntary After-Tax Employee Contributions.** If permitted under this subsection (a), a Participant may contribute any amount as Voluntary After-Tax Employee Contributions up to the Code §415 Limitation (as defined in Section 5.02 of the Plan), except as limited under this subsection (a).

☐ (1) **Limits on Voluntary After-Tax Employee Contributions.** If this subsection (1) is checked, the following limits apply to Voluntary After-Tax Employee Contributions:

☐ (i) **Maximum limit.** A Participant may make Voluntary After-Tax Employee Contributions up to

☐ (A) _____% of Plan Compensation

☐ (B) $_____

for the following period:

☐ (C) the entire Plan Year.

☐ (D) the portion of the Plan Year during which the Employee is eligible to participate.

☐ (E) each separate payroll period during which the Employee is eligible to participate.

☐ (ii) **Minimum limit.** The amount of Voluntary After-Tax Employee Contributions a Participant may make for any payroll period may not be less than:

☐ (A) _____% of Plan Compensation.

☐ (B) $_____.

(2) **Change or revocation of Voluntary After-Tax Employee Contributions.** In addition to the Participant's Entry Date under the Plan, a Participant's election to change or resume an after-tax election will be effective as set forth under the After-Tax Employee Contributions election form or other written procedures adopted by the Plan Administrator. A Participant must be permitted to change or revoke an after-tax election at least once per year. Unless the After-Tax Contributions election form or other written procedures adopted by the Plan Administrator provide otherwise, a Participant may revoke an after-tax election (on a prospective basis) at any time. Unless designated otherwise in a Participants after-tax election form, a Participant's affirmative election to make an After-Tax Employee Contribution will cease upon termination of employment and the Participant will need to make a new election upon rehire.

☐ (3) **Other limits or special rules relating to Voluntary After-Tax Employee Contributions:** _____

[***Note:*** *Any limits described under this subsection (3) must be consistent with the provisions of Section 3.04 of the Plan.*]

☐ (b) **Mandatory After-Tax Employee Contributions.** If this subsection (b) is checked, Employees are required to make Mandatory After-Tax Employee Contributions in order to participate under the Plan.

☐ (1) **Amount of Mandatory After-Tax Employee Contributions.** Employees are required to contribute the following amount in order to participate in the Plan:

☐ (i) _____% of each Employee's Total Compensation.

☐ (ii) $_____ for each Participant.

☐ (iii) Describe rate or amount: _____

☐ (2) **Special rules** applicable to Mandatory After-Tax Employee Contributions: _____

☐ (c) **Employer Pick-Up Contributions.** Each Participant will be required to make a Pick-up Contribution to the Plan equal to the amount specified under this subsection (c). Any amounts contributed pursuant to this subsection (c) will be

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picked up by the Employer pursuant to Code §414(h) and will be treated as Employer Contributions under the Plan. Such contributions and earnings thereon will be 100% vested at all times. (See Section 3.03 of the Plan.)

☐ (1) The following amounts will be contributed to the Plan as an Employer Pick-Up Contribution:

☐ (i) _____% of Plan Compensation.

☐ (ii) $_____ per pay period.

☐ (iii) Any amount from _____% to _____% of Plan Compensation, as designated by the Employee.

[***Note:*** *This subsection (iii) may only be selected if the Employee designates the amount as a one-time irrevocable election*.]

☐ (2) Elect this subsection (2) if an Employee may make a one-time irrevocable election not to make Employer Pick-Up Contributions under the Plan.

☐ (3) Special rules applicable to Employer Pick-Up Contributions: _____

[***Note:*** *Any Employer Pick-Up Contributions made under this subsection (c) must satisfy the requirements of Section 3.03 of the Plan. See AA §11-4 for an Employee's ability to elect out of making Employer Pick-Up Contributions.*]

SECTION 7
RETIREMENT AGES

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

☑ (a) Age 62____ (not to exceed 65).

☐ (b) The later of age ____ (not to exceed 65) or the _____ (not to exceed 5th) anniversary of:

☐ (1) the Employee's participation commencement date (as defined in Section 1.68 of the Plan).

☐ (2) the Employee's employment commencement date.

☐ (c) Describe Normal Retirement Age: _____

[***Note*****:** *The Normal Retirement Age must be reasonably representative of the typical retirement age for the industry in which the Plan Participants work. A Normal Retirement Age of at least age 62 is deemed to be reasonable while a Normal Retirement Age under age 55 is presumed not to satisfy this requirement unless facts and circumstances show otherwise. Whether a Normal Retirement Age between 55 and 62 satisfies this requirement depends on the facts and circumstances. A Governmental Plan must comply with the final Normal Retirement Age regulations under Treas. Reg. §1.401(a)-1, as amended, effective for Annuity Starting Dates occurring in Plan Years beginning on or after the later of the two dates described in IRS Notice 2012-29. The Employer may use AA §7-1(c), for example, to describe a reasonable Normal Retirement Age that is between age 55 and 62 that takes into account service as well as age.*]

7-2 **EARLY RETIREMENT AGE.** Unless designated otherwise under this AA §7-2, there is no Early Retirement Age under the Plan.

☐ (a) A Participant reaches Early Retirement Age if he/she is still employed after attainment of each of the following:

☐ (1) Attainment of age ____

☐ (2) The ____ anniversary of the date the Employee commenced participation in the Plan, and/or

☐ (3) The completion of ____ Years of Service, determined as follows:

☐ (i) Same as for eligibility.

☐ (ii) Same as for vesting.

☐ (b) **Describe.** _____

SECTION 8
VESTING AND FORFEITURES

8-1 **VESTING OF EMPLOYER CONTRIBUTIONS.** The Employer Contributions authorized under AA §6-2 will vest in accordance with the vesting schedule designated under AA §8-2.

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8-2 **VESTING SCHEDULE.** The vesting schedule under the Plan is as follows. See Section 6.02 of the Plan for a description of the various vesting schedules under this AA §8-2.

☑ (a) **Vesting schedule:**

☐ (1) Full and immediate vesting

☐ (2) Three-year cliff vesting schedule

☐ (3) Six-year graded vesting schedule

☑ (4) Modified vesting schedule

0 % immediately on Plan participation

25 % after 1 Year of Service

50 % after 2 Years of Service

75 % after 3 Years of Service

100 % after 4 Years of Service

100 % after 5 Years of Service

100 % after 6 Years of Service

100 % after 7 Years of Service

100 % after 8 Years of Service

100 % after 9 Years of Service

100% after 10 Years of Service

☐ (5) Other vesting schedule: _____

[***Note:*** *If a modified vesting schedule is selected under this subsection (a), the vested schedule must satisfy the pre-ERISA Code vesting requirements*.]

☐ (b) **Special provisions applicable to vesting schedule:** _____

[***Note:*** *This subsection (b) may be used to apply a different vesting schedule for different contribution formulas or different Employee groups under the Plan. Any special provision must satisfy the pre-ERISA Code vesting requirements.*]

8-3 **VESTING SERVICE.** In applying the vesting schedules under this AA §8, all service with the Employer counts for vesting purposes, unless designated otherwise under this AA §8-3.

☐ (a) Service before the original Effective Date of this Plan (or a Predecessor Plan) is excluded.

☐ (b) Service completed before the Employee's ___ birthday is excluded.

☐ (c) Describe vesting service exclusions: _____

[***Note:*** *See Section 6.07 of the Plan and AA §4-5 for rules regarding the crediting of service with Predecessor Employers for purposes of vesting under the Plan.*]

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

☑ (a) dies

☑ (b) terminates employment due to becoming Disabled

☑ (c) becomes Disabled

☐ (d) reaches Early Retirement Age

☐ (e) Not applicable. No increase in vesting applies.

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8-5 **DEFAULT VESTING RULES.** In applying the vesting requirements under this AA §8, the following default rules apply. [***Note:*** *No election should be made under this AA §8-5 if full and immediate vesting is selected under AA §8-2.*]

- **Year of Service.** An Employee earns a Year of Service for vesting purposes upon completing 1,000 Hours of Service during a Vesting Computation Period. Hours of Service are calculated based on actual hours worked during the Vesting Computation Period. (See Section 1.57 of the Plan for the definition of Hours of Service.)
- **Vesting Computation Period.** The Vesting Computation Period is the Plan Year.

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

☐ (a) **Year of Service.** Instead of 1,000 Hours of Service, an Employee earns a Year of Service upon the completion of ___ Hours of Service during a Vesting Computation Period.

☐ (b) **Vesting Computation Period.** Instead of the Plan Year, the Vesting Computation Period is:

☐ (1) The 12-month period beginning with the Employee's Employment Commencement Date and, for subsequent Vesting Computation Periods, the 12-month period beginning with the anniversary of the Employee's Employment Commencement Date.

☐ (2) Describe: _____

[***Note:*** *Any Vesting Computation Period described in this subsection (2) must be a 12-consecutive month period and must apply uniformly to all Participants.*]

☑ (c) **Elapsed Time Method.** Instead of determining vesting service based on actual Hours of Service, vesting service will be determined under the Elapsed Time Method. If this subsection (c) is checked, service will be measured from the Employee's Employment Commencement Date (or Reemployment Commencement Date, if applicable) without regard to the Vesting Computation Period designated in Section 6. 05 of the Plan. (See Section 6.04(b) of the Plan.)

☐ (d) **Equivalency Method**. For purposes of determining an Employee's Hours of Service for vesting, the Plan will use the Equivalency Method (as defined in Section 6.04(a)(2) of the Plan). The Equivalency Method will apply to:

☐ (1) All Employees.

☐ (2) Only to Employees for whom the Employer does not maintain hourly records. For Employees for whom the Employer maintains hourly records, vesting will be determined based on actual hours worked.

Hours of Service for vesting will be determined under the following Equivalency Method.

☐ (3) **Monthly.** 190 Hours of Service for each month worked.

☐ (4) **Weekly.** 45 Hours of Service for each week worked.

☐ (5) **Daily.** 10 Hours of Service for each day worked.

☐ (6) **Semi-monthly.** 95 Hours of Service for each semi-monthly period.

☐ (7) **Describe Equivalency Method:** _____

[***Note:*** *Any description of an Equivalency Method under this subsection (7) must be definitely determinable.*]

☐ (e) **Special rules:** _____

[***Note:*** *Any special rules under this subsection (e) must be definitely determinable.*]

8-6 **BREAKS IN SERVICE.** Generally, an Employee will be credited with all service earned with the Employer, including service earned prior to a Break in Service. To disregard service earned prior to a Break in Service for vesting purposes, complete this AA §8-6. (See Section 6.08 of the Plan.)

☐ (a) If an Employee incurs at least one Break in Service, the Plan will disregard all service earned prior to such Break in Service for purposes of determining vesting under the Plan.

☐ (b) If an Employee incurs at least _____ consecutive Breaks in Service, the Plan will disregard all service earned prior to such consecutive Breaks in Service for purposes of determining vesting under the Plan. [*Enter "0" if prior service will be disregarded for all rehired Employees.*]

☐ (c) The Nonvested Participant Break in Service rule applies to all Employees, including Employees who have not terminated employment.

☐ (d) Describe any special rules for applying the vesting Break in Service rules: _____

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[***Note:*** *Any special rules under this subsection (d) must be definitely determinable.*]

8-7 **ALLOCATION OF FORFEITURES.**

The Employer may decide in its discretion how to treat forfeitures under the Plan. Alternatively, the Employer may designate under this AA §8-7 how forfeitures occurring during a Plan Year will be treated. (See Section 6.11 of the Plan.)

☐ (a) N/A. All contributions are 100% vested. [*Do not complete the rest of this AA §8-7.*]

☐ (b) Reallocated as additional Employer Contributions.

☐ (c) Used to reduce Employer Contributions.

For purposes of subsection (b) or (c) above, forfeitures will be applied:

☐ (d) for the Plan Year in which the forfeiture occurs.

☐ (e) for the Plan Year following the Plan Year in which the forfeitures occur.

Prior to applying forfeitures under subsection (b) or (c) above.

☐ (f) Forfeitures will be used to pay Plan expenses. (See Section 6.11(d) of the Plan.)

☐ (g) Forfeitures will not be used to pay Plan expenses.

In determining the amount of forfeitures to be allocated under subsection (b) above, the same allocation conditions apply as under AA §6-5, unless designated otherwise below.

☐ (h) Forfeitures are not subject any allocation conditions.

☐ (i) Forfeitures are subject to a last day of employment allocation condition.

☐ (j) Forfeitures are subject to a ____ Hours of Service minimum service requirement.

In determining the treatment of forfeitures under this AA §8-7, the following special rules apply:

☐ (k) Describe: _____

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

(a) **Additional allocations.** If a terminated Participant receives a complete distribution of his/her vested Account Balance while still entitled to an additional allocation, the Cash-Out Distribution forfeiture provisions do not apply until the Participant receives a distribution of the additional amounts to be allocated. (See Section 6.10(a)(1) of the Plan.)

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

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

(b) **Timing of forfeitures.** A Participant who receives a Cash-Out Distribution (as defined in Section 6.10(a) of the Plan) is treated as having an immediate forfeiture of his/her nonvested Account Balance.

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

☐ A forfeiture will occur upon the completion of ____ consecutive Breaks in Service (as defined in Section 6.08 of the Plan).

(c) **Repayment of Cash-Out Distribution.** Unless elected otherwise under this AA §8-8(c), if a Participant receives a Cash-Out Distribution that results in a forfeiture, and the Participant resumes employment covered under the Plan, such Participant may repay to the Plan the amount received as a Cash-Out Distribution.

☐ If a Participant receives a Cash-Out Distribution that results in a forfeiture, and the Participant resumes employment covered under the Plan, such Participant may NOT repay to the Plan the amount received as a Cash-Out Distribution and the provisions of Section 6.10(a)(2) do not apply.

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8-9 **SPECIAL RULE FOR FORFEITURE UPON DEATH OF A PARTICIPANT.** Unless elected below, no vested benefits are forfeited upon the death of a Participant.

To modify this default forfeiture rule, check to box below.

☐ The Plan will forfeit benefits (including vested benefits) upon the death of a Participant, if not precluded by law. In no event may the Plan forfeit any amounts attributable to After-Tax Employee Contributions under the Plan or if the Plan has commenced distributions prior to the Participant's death.

SECTION 9
DISTRIBUTION PROVISIONS – TERMINATION OF EMPLOYMENT

9-1 **AVAILABLE FORMS OF DISTRIBUTION.**

Lump sum distribution. A Participant may take a distribution of his/her entire vested Account Balance in a single lump sum upon termination of employment. In addition, the Plan Administrator may permit a Participant to take partial distributions or installment distributions solely to the extent necessary to satisfy the required minimum distribution rules under Section 8 of the Plan.

Additional distribution options. To provide for additional distribution options, check the applicable distribution forms under this AA §9-1.

☑ (a) **Installment distributions.** A Participant may take a distribution over a specified period not to exceed the life or life expectancy of the Participant (and a designated beneficiary).

☑ (b) **Partial lump sum.** A Participant may take a distribution of less than the entire vested Account Balance upon termination of employment.

☐ Minimum distribution amount. A Participant may not take a partial lump sum distribution of less than $____.

☑ (c) **Annuity distributions.** A Participant may elect to have the Plan Administrator use the Participant's vested Account Balance to purchase an annuity as described in Section 7.01 of the Plan.

☐ (d) **Describe distribution options:** _____

[***Note:*** *Any distribution option described in this subsection (d) may not be subject to the discretion of the Employer or Plan Administrator.*]

9-2 **PARTICIPANT AND SPOUSAL CONSENT.**

☑ (a) **Involuntary Cash-Out Distribution.** A Participant who terminates employment with a vested Account Balance of $5,000 or less will receive an Involuntary Cash-Out Distribution, unless elected otherwise under this AA §9-2. If a Participant's vested Account Balance exceeds $5,000, the Participant generally must consent to a distribution from the Plan, except to the extent provided otherwise under this AA §9-2. See Section 7.03 of the Plan for additional rules regarding the Participant consent requirements under the Plan.

☐ (1) **No Involuntary Cash-Out Distributions.** The Plan does not provide for Involuntary Cash-Out Distributions. A terminated Participant must consent to any distribution from the Plan. (See Section 14.02(b) of the Plan for special rules upon Plan termination.)

☑ (2) **Involuntary Cash-Out Distribution threshold.** A terminated Participant will receive an Involuntary Cash-Out Distribution only if the Participant's vested Account Balance is less than or equal to $1,000.

☐ (3) **Application of Automatic Rollover rules.** The Automatic Rollover rules described in Section 7.05 of the Plan do not apply to any Involuntary Cash-Out Distribution below $1,000, unless elected otherwise under this subsection (3). If this subsection (3) is checked, the Automatic Rollover provisions apply to all Involuntary Cash-Out Distributions (including those below $1,000).

☐ (4) **Distribution upon attainment of stated age.** Participant consent will not be required with respect to distributions made upon attainment of Normal Retirement Age (or age 62, if later), regardless of the value of the Participant's vested Account Balance.

☑ (5) **Treatment of Rollover Contributions**. Unless elected otherwise under this subsection (5), Rollover Contributions will be excluded in determining whether a Participant's vested Account Balance exceeds the Involuntary Cash-Out threshold for purposes of applying the distribution rules under this AA §9 and the Automatic Rollover provisions under Section 7.05 of the Plan. To include Rollover Contributions in determining whether a Participant's vested Account Balance exceeds the Involuntary Cash-Out threshold, check this subsection (5).

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☐ (b) **Spousal consent.** Spousal consent is not required for a Participant to receive a distribution or name an alternate beneficiary, unless designated otherwise under this subsection (b). See Section 9.02 of the Plan for rules regarding Spousal consent under the Plan.

☐ (1) **Distribution consent.** A Participant's Spouse must consent to any distribution or loan, provided the Participant's vested Account Balance exceeds $_____.

☐ (2) **Beneficiary consent.** A Participant's Spouse must consent to naming someone other than the Spouse as beneficiary under the Plan.

☐ (c) **Describe** any special rules affecting Participant or Spousal consent: _____

[***Note:*** *Any special rules under this subsection (c) must be definitely determinable.*]

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

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

☑ (1) the date the Participant terminates employment.

☐ (2) the last day of the Plan Year during which the Participant terminates employment.

☐ (3) the first Valuation Date following the Participant's termination of employment.

☐ (4) the end of the calendar quarter following the date the Participant terminates employment.

☐ (5) attainment of Normal Retirement Age, death or becoming Disabled.

☐ (6) Describe: _____

[***Note:*** *Any special rules under this subsection (6) must be definitely determinable.*]

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

☑ (1) the date the Participant terminates employment.

☐ (2) the last day of the Plan Year during which the Participant terminates employment.

☐ (3) the first Valuation Date following the Participant's termination of employment.

☐ (4) the end of the calendar quarter following the date the Participant terminates employment.

☐ (5) Describe: _____

[***Note:*** *Any special rules under this subsection (5) must be definitely determinable.*]

☐ (c) **Alternate Cash-Out distribution threshold.** Instead of a vested Account Balance Cash-Out threshold of $5,000, for purposes of applying the Cash-Out distribution provisions under this AA §9-3, the threshold for distributions upon termination of employment will be based on a vested Account Balance of $_____**.**

☐ (d) **Describe additional distribution options:** _____

[***Note:*** *Any additional distribution option described in this subsection (d) may not be subject to the discretion of the Employer or Plan Administrator.*]

9-4 **DISTRIBUTION UPON DISABILITY.** Unless designated otherwise under this AA §9-4, a Participant who terminates employment on account of becoming Disabled may receive a distribution of his/her vested Account Balance in the same manner as a regular distribution upon termination.

☐ (a) **Immediate distribution upon termination of employment.** Distribution will be made as soon as reasonable following the date the Participant terminates employment on account of becoming Disabled.

☐ (b) **Following year distribution upon termination of employment.** Distribution will be made as soon as reasonable following the last day of the Plan Year during which the Participant terminates on account of becoming Disabled.

☐ (c) **Describe:** _____

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

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9-5 **DETERMINATION OF BENEFICIARY.**

(a) **Default beneficiaries.** Under Section 7.07(c) of the Plan, to the extent a Beneficiary has not been named by the Participant (subject to the spousal consent rules) and is not designated under the terms of the Investment Arrangement(s) to receive all or any portion of the deceased Participant's death benefit, such amount shall be distributed to the Participant's surviving Spouse (if the Participant was married at the time of death) who shall be considered the designated Beneficiary. If the Participant does not have a surviving Spouse at the time of death, distribution will be made to the Participant's surviving children (including legally adopted children, but not including step-children), as designated Beneficiaries, in equal shares. If the Participant has no surviving children, distribution will be made to the Participant's estate.

☐ If this subsection (a) is checked, the default beneficiaries under Section 7.07(c)of the Plan are modified as follows:

☐ (1) The Plan adopts the default beneficiary rules under Section 7.07(c) of the Plan, except, if the Participant does not have a surviving Spouse at the time of death, distribution will be made to the Participant's children (including legally adopted children, but not including step-children), as designated Beneficiaries, **per stirpes.**

☐ (2) Describe other modifications to the default beneficiaries under Section 7.07(c) of the Plan: _____

[***Note**: The description of the modifications to the default beneficiaries must be sufficiently clear for the Plan Administrator to determine the beneficiaries and the method of distribution of the Participant's death benefit.*]

(b) **One-year marriage rule.** For purposes of determining whether an individual is considered the surviving Spouse of the Participant, the determination is based on the marital status as of the date of the Participant's death, unless designated otherwise under this subsection (b).

☐ If this subsection (b) is checked, in order to be considered the surviving Spouse, the Participant and surviving Spouse must have been married for the entire one-year period ending on the date of the Participant's death. If the Participant and surviving Spouse are not married for at least one year as of the date of the Participant's death, the Spouse will not be treated as the surviving Spouse for purposes of applying the distribution provisions of the Plan. (See Section 9.03 of the Plan.)

(c) **Divorce of Spouse.** Unless elected otherwise under this subsection (c), if a Participant designates his/her Spouse as Beneficiary and subsequent to such Beneficiary designation, the Participant and Spouse are divorced, the designation of the Spouse as Beneficiary under the Plan is automatically rescinded as set forth under Section 7.07(c)(6) of the Plan.

☐ If this subsection (c) is checked, a Beneficiary designation will not be rescinded upon divorce of the Participant and Spouse.

[***Note:** Section 7.07(c)(6) of the Plan and this subsection (c) will be subject to the provisions of a Beneficiary designation entered into by the Participant. Thus, if a Beneficiary designation specifically overrides the election under this subsection (c), the provisions of the Beneficiary designation will control. See Section 7.07(c)(6) of the Plan.*]

SECTION 10
IN-SERVICE DISTRIBUTIONS AND REQUIRED MINIMUM DISTRIBUTIONS

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

☐ (a) No in-service distributions are permitted.

☑ (b) Attainment of age 70.5 [*may not be earlier than age 62*].

☐ (c) Attainment of Normal Retirement Age.

10-2 **APPLICATION TO OTHER CONTRIBUTION SOURCES.** If the Plan allows for Rollover Contributions under AA §C-2 or After-Tax Employee Contributions under AA §6-6, unless elected otherwise under this AA §10-2, a Participant may take an in-service distribution from his/her Rollover Account and After-Tax Employee Contribution Account at any time. Employer Pick-Up Contributions will not be eligible for in-service distribution.

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Alternatively, if this AA §10-2 is completed, the following in-service distribution provisions apply for Rollover Contributions, After-Tax Employee Contributions and/or Employer Pick-Up Contributions:

Rollover	After-Tax	Pick-Up	
☐	☐	☐	(a) No in-service distributions are permitted.
☑	☐	☐	(b) Attainment of age 70½ (Not greater than age 70½).
☐	☐	☐	(c) Attainment of Normal Retirement Age.
☐	☐	☐	(d) Attainment of Early Retirement Age.
☐	☐	☐	(e) Describe: _____

10-3 **SPECIAL DISTRIBUTION RULES.** No special distribution rules apply, unless specifically provided under this AA §10-3.

☐ (a) In-service distributions will only be permitted if the Participant is 100% vested in the amounts being withdrawn.

☐ (b) A Participant may take no more than ____ in-service distribution(s) in a Plan Year.

☐ (c) A Participant may not take an in-service distribution of less than $____.

☐ (d) A Participant may not take an in-service distribution of more than $____.

☐ (e) Other distribution rules: _____

10-4 **REQUIRED MINIMUM DISTRIBUTIONS.**

(a) **Required distributions after death.** If a Participant dies before distributions begin and there is a Designated Beneficiary, the Participant or Beneficiary may elect on an individual basis whether the 5-year rule (as described in Section 8.06(a) of the Plan) or the life expectancy method described under Sections 8.02 of the Plan apply. See Section 8.06(b) of the Plan for rules regarding the timing of an election authorized under this AA §10-4.

Alternatively, if selected under this subsection (a), any death distributions to a Designated Beneficiary will be made only under either the 5-year rule or the life expectancy method, as elected below:

☐ (1) The five-year rule under Section 8.06(a) of the Plan applies (instead of the life expectancy method). Thus, the entire death benefit must be distributed by the end of the fifth year following the year of the Participant's death. Death distributions to a Designated Beneficiary may not be made under the life expectancy method.

☐ (2) The life expectancy method under Sections 8.02 and 8.04 of the Plan (and not the 5-year rule).

☐ (b) **Describe any special rules applicable to required minimum distributions:** _____

[***Note:*** *Any special rule under this subsection (b) must satisfy the requirements of Code §401(a)(9). This subsection (b) may be used to override the default provision under Section 8.06(b) of the Plan. For example, the Employer may designate the life expectancy rules as the default rather than the five-year rule when a Participant or Beneficiary fails to make an election.*]

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SECTION 11
MISCELLANEOUS PROVISIONS

11-1 **PLAN VALUATION.** The Plan is valued **annually**, as of the last day of the Plan Year.

☑ (a) **Additional valuation dates.** In addition, the Plan will be valued on the following dates:

☑ (1) **Daily.** The Plan is valued at the end of each business day during which the New York Stock Exchange is open.

☐ (2) **Monthly.** The Plan is valued at the end of each month of the Plan Year.

☐ (3) **Quarterly.** The Plan is valued at the end of each Plan Year quarter.

☐ (4) **Describe:** _____

[***Note:*** *The Employer may elect operationally to perform interim valuations, regardless of any selection in this subsection (a).*]

☐ (b) **Special rules.** The following special rules apply in determining the amount of income or loss allocated to Participants' Accounts: _____

11-2 **SPECIAL RULES FOR APPLYING THE CODE §415 LIMITATION.** The provisions under Section 5.02 of the Plan apply for purposes of determining the Code §415 Limitation.

Complete this AA §11-2 to override the default provisions that apply in determining the Code §415 Limitation under Section 5.02 of the Plan.

☐ (a) **Limitation Year.** Instead of the Plan Year, the Limitation Year is the 12-month period ending _____.

[***Note:*** *If the Plan has a short Plan Year for the first year of establishment, the Limitation Year is deemed to be the 12-month period ending on the last day of the short Plan Year.*]

☐ (b) **Imputed compensation.** For purposes of applying the Code §415 Limitation, Total Compensation includes imputed compensation for a Participant who terminates employment on account of becoming disabled as described under Section 5.02(c)(7)(ii) of the Plan.

☐ (c) **Special rules:** _____

[***Note:*** *Any special rules under this subsection (c) must be consistent with the requirements of Code §415.*]

11-3 **MILITARY SERVICE PROVISIONS -- BENEFIT ACCRUALS.** The benefit accrual provisions under Section 15.04 of the Plan do not apply. To apply the benefit accrual provisions under Section 15.04 of the Plan, check the box below.

☐ **Eligibility for Plan benefits.** Check this box if the Plan will provide the benefits described in Section 15.04 of the Plan. If this box is checked, an individual who dies or becomes disabled in qualified military service will be treated as reemployed for purposes of determining entitlement to benefits under the Plan.

11-4 **ELECTION NOT TO PARTICIPATE. (See Section 2.08 of the Plan.)** All Participants share in any allocation under this Plan and no Employee may waive out of Plan participation.

To allow Employees to make a one-time irrevocable waiver, check below.

☐ An Employee may make a one-time irrevocable election not to participate under the Plan.

11-5 **TREATMENT OF CERTAIN BENEFITS.** The protected benefits rules under Code §411(d)(6)) do not apply to the Plan. However, the Employer may describe below (or in a separate addendum attached to this Adoption Agreement) the treatment of certain benefits following events such as plan merger or consolidation, transfer of assets or similar events.

Describe treatment of benefits: _____

[***Note:*** *If the benefit described here in the Plan or a plan being merged into the Plan is not either (i) available as a provision through the Pre-Approved Plan or (ii) the subject of a prior determination, advisory, or opinion letter, the Employer cannot rely on the Pre-Approved Plan Provider's opinion letter for qualification with respect to such benefit. If the benefit described here in the Plan or a plan being merged into the Plan is not permitted in a pre-approved plan, as described in Section 6.03 of Revenue Procedure 2017-41, such provision must be discontinued no later than the date the Employer adopts this Pre-Approved Plan or, in the case of a merger, the merger date.*]

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11-6 **SPECIAL RULES FOR MULTIPLE EMPLOYER PLANS.** If the Plan is a Multiple Employer Plan (as designated under AA §2-6), the rules applicable to Multiple Employer Plans under Section 16.07 of the Plan apply.

☐ The following special rules apply with respect to Multiple Employer Plans: _____

[***Note:*** *Any special rules under this AA §11-6 must satisfy the nondiscrimination requirements under Code §401(a)(4) and must satisfy the rules applicable to Multiple Employer Plans under Code §413(c).*]

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APPENDIX A
SPECIAL EFFECTIVE DATES

[***Note:*** *This Appendix A may be used to memorialize prior Plan provisions that pertain to sources that no longer accept new contributions under the Plan.*]

☐ A-1 **Eligible Employees.** The definition of Eligible Employee under AA §3 is effective as follows:

_____

☐ A-2 **Minimum age and service conditions.** The minimum age and service conditions and Entry Date provisions specified in AA §4 are effective as follows:

_____

☐ A-3 **Compensation definitions.** The compensation definitions under AA §5 are effective as follows:

_____

☐ A-4 **Employer Contributions.** The Employer Contribution provisions under AA §6 are effective as follows:

_____

☐ A-5 **After-Tax Employee and Pick-Up Contributions.** The provisions of the Plan addressing Employee After-Tax Contributions and Pick-Up Contribution provisions under AA §6-6 of the Plan are effective as follows:

_____

☐ A-6 **Retirement ages.** The retirement age provisions under AA §7 are effective as follows:

_____

☐ A-7 **Vesting and forfeiture rules.** The rules regarding vesting and forfeitures under AA §8 are effective as follows:

_____

☐ A-8 **Distribution provisions.** The distribution provisions under AA §9 are effective as follows:

_____

☐ A-9 **In-service distributions and Required Minimum Distributions.** The provisions regarding in-service distribution and Required Minimum Distributions under AA §10 are effective as follows:

_____

☐ A-10 **Miscellaneous provisions.** The provisions under AA §11 are effective as follows:

_____

☐ A-11 **Special effective date provisions for merged plans.** If any qualified retirement plans have been merged into this Plan, the provisions of Section 14.03 of the Plan apply as follows:

_____

☐ A-12 **Other special effective dates:**

_____

☐ A-13 **Special effective dates for restated pre-approved plans:** Use this A-13 to memorialize plan operational changes that have occurred after the general effective date of the plan and the actual plan restatement adoption date. Adopting employers may use the above Special Effective Date options (A-1 through A-12) to memorialize these changes or they may use this A-13. If the adopting employer uses this A-13, the changes will be part of the Plan, but will not be reflected in the SPD or plan summary:

_____

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APPENDIX B
LOAN POLICY

Use this Appendix B to identify elections dealing with the administration of Participant loans. These elections may be changed without amending this Adoption Agreement by substituting an updated Appendix B with new elections. Any modifications to this Appendix B, or any modifications to a separate loan policy describing the loan provisions selected under the Plan, will not affect an Employer's reliance on the IRS Favorable Letter. All loans are subject to any internal limitations imposed by the Investment Arrangement or the service provider or platform.

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

☑ (a) Yes

☐ (b) No

B-2 **LOAN PROCEDURES.**

☐ (a) Loans will be provided under the default loan procedures set forth in Section 13 of the Plan, unless modified under this Appendix B.

☑ (b) Loans will be provided under a separate written loan policy.

[***Note:*** *If this subsection (b) is checked, do not complete the rest of this Appendix B.*]

B-3 **AVAILABILITY OF LOANS.** Participant loans are available to all active Participants and Beneficiaries. Participant loans are not available to a former Employee or Beneficiary (including an Alternate Payee under a QDRO). To override this default provision, check subsections (a), (b) and/or (c) below:

☐ (a) A former Employee or Beneficiary (including an Alternate Payee) who has a vested Account Balance may request a loan from the Plan.

☐ (b) A "limited participant" as defined in Section 3.05 of the Plan may not request a loan from the Plan.

☐ (c) An officer or director of the Employer, as defined for purposes of the Sarbanes-Oxley Act, may **not** request a loan from the Plan.

☐ (d) Describe limitations on receiving loans under the Plan: _____

[***Note:*** *Any limitation under subsection (d) must be definitely determinable and not provide any Employer discretion.*]

B-4 **LOAN LIMITS.** The default loan policy under Section 13.03 of the Plan allows Participants to take a loan provided all outstanding loans do not exceed 50% of the Participant's vested Account Balance. To override the default loan policy to allow loans up to $10,000, even if greater than 50% of the Participant's vested Account Balance, check this AA §B-4.

☐ A Participant may take a loan equal to the greater of $10,000 or 50% of the Participant's vested Account Balance.

[***Note:*** *If this AA §B-4 is checked, the Participant may be required to provide adequate security as required under Section 13.06 of the Plan.*]

B-5 **NUMBER OF LOANS.** The default loan policy under Section 13.04 of the Plan restricts Participants to one loan outstanding at any time. To override the default loan policy and permit Participants to have more than one loan outstanding at any time, complete subsection (a) or (b) below.

☐ (a) A Participant may have ____ loans outstanding at any time.

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

B-6 **LOAN AMOUNT.** The default loan policy under Section 13.04 of the Plan provides that a Participant may not receive a loan of less than $1,000. To modify the minimum loan amount or to add a maximum loan amount, complete this AA §B-6.

☐ (a) There is no minimum loan amount.

☐ (b) The minimum loan amount is $_____.

☐ (c) The maximum loan amount is $_____.

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B-7 **INTEREST RATE.** The default loan policy under Section 13.05 of the Plan provides for an interest rate commensurate with the interest rates charged by local commercial banks for similar loans. To override the default loan policy and provide a specific interest rate to be charged on Participant loans, complete this AA §B-7.

☐ (a) The prime interest rate plus ____ percentage point(s).

☐ (b) The interest rate is determined in accordance with the terms of the Investment Arrangement, service provider procedures, or other loan policy document adopted by the Plan Administrator.

☐ (b) Describe: _____

[***Note:*** *Any interest rate described in this AA §B-7 must be reasonable and must apply uniformly to all Participants.*]

B-8 **PURPOSE OF LOAN.** The default loan policy under Section 13.02 of the Plan provides that a Participant may receive a Participant loan for any purpose. To modify the default loan policy to restrict the availability of Participant loans to hardship events, check this AA §B-8.

☐ (a) A Participant may only receive a Participant loan upon the demonstration of a hardship event, as described in Section 7.10(e)(1)(i) of the Plan.

☐ (b) A Participant may only receive a Participant loan under the following circumstances: _____

B-9 **APPLICATION OF LOAN LIMITS.** If Participant loans are not available from all contribution sources, the limitations under Code §72(p) and the adequate security requirements of the Department of Labor regulations will be applied by taking into account the Participant's entire Account Balance. To override this provision, complete this AA §B-9.

☐ The loan limits and adequate security requirements will be applied by taking into account only those contribution Accounts which are available for Participant loans.

B-10 **CURE PERIOD.** The Plan provides that a Participant incurs a loan default if a Participant does not repay a missed payment by the end of the calendar quarter following the calendar quarter in which the missed payment was due. To override this default provision to apply a shorter cure period, complete this AA §B-10.

☐ (a) The cure period for determining when a Participant loan is treated as in default will be _____ days (cannot exceed 90) following the end of the month in which the loan payment is missed.

☐ (b) The cure period for determining when a Participant loan is treated as in default will be the greater of _____ days (cannot exceed 90) following the end of the month in which the loan payment is missed or the last day of the second calendar quarter following the calendar quarter in which the missed payment was due.

☐ (c) The cure period for determining when a loan is treated as in default will be _____ days (cannot exceed 90) following the first missed loan payment.

B-11 **PERIODIC REPAYMENT – PRINCIPAL RESIDENCE.** If a Participant loan is for the purchase of a Participant's primary residence, the loan repayment period for the purchase of a principal residence may not exceed ten (10) years. To override this default provision, complete this AA §B-11.

☐ (a) The Plan does not permit loan payments to exceed five (5) years, even for the purchase of a principal residence.

☐ (b) The loan repayment period for the purchase of a principal residence may not exceed _____ years (may not exceed 30).

☐ (c) Loans for the purchase of a Participant's primary residence may be payable over any reasonable period commensurate with the period permitted by commercial lenders for similar loans.

B-12 **TERMINATION OF EMPLOYMENT.** Section 13.10(a) of the Plan provides that a Participant loan becomes due and payable in full upon the Participant's termination of employment. To override this default provision, complete this AA §B-12.

☐ A Participant loan will not become due and payable in full upon the Participant's termination of employment.

B-13 **DIRECT ROLLOVER OF A LOAN NOTE.** Section 13.10(b) of the Plan provides that upon termination of employment a Participant may request the Direct Rollover of a loan note. To override this default provision, complete this AA §B-13.

☐ A Participant may **not** request the Direct Rollover of the loan note upon termination of employment.

B-14 **LOAN RENEGOTIATION.** The default loan policy provides that a Participant may renegotiate a loan, provided the renegotiated loan separately satisfies the reasonable interest rate requirement, the adequate security requirement, the periodic repayment requirement and the loan limitations under the Plan. The Employer may restrict the availability of renegotiations to prescribed purposes provided the ability to renegotiate a Participant loan is available on a non-discriminatory basis. To override the default loan policy and restrict the ability of a Participant to renegotiate a loan, complete this AA §B-14.

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☐ (a) A Participant may **not** renegotiate the terms of a loan.

☐ (b) The following special provisions apply with respect to renegotiated loans: _____

B-15 **MODIFICATIONS TO DEFAULT LOAN PROVISIONS.**

☐ The following special rules will apply with respect to Participant loans under the Plan: _____

[***Note:*** *Any provision under this AA §B-15 must satisfy the requirements under Code §72(p) and the regulations thereunder and will control over any inconsistent provisions of the Plan dealing with the administration of Participant loans.*]

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APPENDIX C
ADMINISTRATIVE ELECTIONS

Use this Appendix C to identify certain elections dealing with the administration of the Plan. These elections may be changed without amending this Adoption Agreement by substituting an updated Appendix C with new elections. The provisions selected under this Appendix C do not create qualification issues and any changes to the provisions under this Appendix C will not affect the Employer's reliance on the IRS Favorable Letter.

C-1 **DIRECTION OF INVESTMENTS.** Are Participants permitted to **direct investments**? (See Section 10.07 of the Plan.)

☐ (a) No

☑ (b) Yes, but subject to the following restrictions:

☑ (1) No restrictions apply

☐ (2) Only for Accounts that are 100% vested

☐ (3) Specify Accounts: _____

☐ (4) Describe any special rules that apply for purposes of direction of investments: _____

[***Note:*** *This subsection (4) may be used to describe special investment provisions for specific types of investments or for specific Accounts, such as the Rollover Contribution Account.*]

C-2 **ROLLOVER CONTRIBUTIONS.** Does the Plan accept **Rollover Contributions**? (See Section 3.05 of the Plan.)

☐ (a) No

☑ (b) Yes

☑ (1) If this subsection (1) is checked, an Employee may make a Rollover Contribution to the Plan prior to becoming a Participant in the Plan.

☐ (2) Check this subsection (2) if the Plan will accept Rollover Contributions from former Employees with an Account Balance under the Plan.

☐ (3) Describe any special rules for accepting Rollover Contributions: _____

[***Note:*** *The Employer may designate in this subsection (3), or in separate written procedures, the extent to which it will accept rollovers from designated plan types. For example, the Employer may decide not to accept rollovers from certain designated plans (e.g., 403(b) plans, §457 plans or IRAs). Any special rollover procedures will apply uniformly to all Participants under the Plan.*]

C-3 **LIFE INSURANCE.** Are **life insurance** investments permitted? (See Section 10.08 of the Plan.)

☑ (a) No

☐ (b) Yes

C-4 **QDRO PROCEDURES.** Although the requirements of Code §414(p) do not apply to the Plan, the Employer may elect to apply the procedures set forth under Section 11.05 of the Plan (which are patterned after the rules under Code §414(p)) by electing subsection (a) below or may elect not to apply the procedures set forth under Section 11.05 of the Plan and instead, describe the Plan's procedures for addressing domestic relations orders below or in separate administrative procedures.

☑ (a) The Employer elects to have the requirements of Section 11.05 of the Plan apply to its Plan.

☐ (b) The requirements of Section 11.05 of the Plan do not apply to the Plan. The procedures for addressing the receipt of domestic relations orders are either set forth below or in separate administrative procedures.

Describe domestic relations procedures: _____

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EMPLOYER SIGNATURE PAGE

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

☐ (a) The adoption of a **new plan**, effective [*insert Effective Date of Plan*]. [***Note:*** *Date can be no earlier than the first day of the Plan Year in which the Plan is adopted.*]

☑ (b) The **restatement** of an existing plan in order to comply with the requirements for Cycle 3 Pre-Approved Plans, pursuant to Rev. Proc. 2017-41.

(1) Effective date of restatement: 1-1-2022 . [***Note:*** *Date can be no earlier than the first day of the Plan Year in which the restatement is adopted.*]

(2) Name of plan(s) being restated: Leon County Government Plan (formerly Leon County, Brd of Comm)

(3) The original effective date of the plan(s) being restated: 7-1-2003

☐ (c) An **amendment or restatement** of the Plan (other than to comply with the requirements for Cycle 3 Pre-Approved Plans under Rev. Proc. 2017-41). If this Plan is being amended, a snap-on amendment may be used to designate the modifications to the Plan or the updated pages of the Adoption Agreement may be substituted for the original pages in the Adoption Agreement. All prior Employer Signature Pages should be retained as part of this Adoption Agreement.

(1) Effective Date(s) of amendment/restatement: _____

(2) Name of plan being amended/restated: _____

(3) The original effective date of the plan being amended/restated: _____

(4) If Plan is being amended, identify the Adoption Agreement section(s) being amended: _____

PRE-APPROVED PLAN PROVIDER INFORMATION. The Pre-Approved Plan Provider (or authorized representative) will inform the Employer of any amendments made to the Plan and will notify the Employer if it discontinues or abandons the Plan. To be eligible to receive such notification, the Employer agrees to notify the Pre-Approved Plan Provider (or authorized representative) of any change in address. The Employer may direct inquiries regarding the Plan or the effect of the IRS Opinion Letter to the Pre-Approved Plan Provider (or authorized representative) at the following location:

Name of Pre-Approved Plan Provider (or authorized representative): VALIC Retirement Services Company

Address: 2929 Allen Parkway L-10 Houston, TX 77019

Telephone number: 888-478-7020

IMPORTANT INFORMATION ABOUT THIS PRE-APPROVED PLAN. A failure to properly complete the elections in this Adoption Agreement or to operate the Plan in accordance with applicable law may result in disqualification of the Plan. The Employer may rely on the Favorable IRS Letter issued by the Internal Revenue Service to the Pre-Approved Plan Provider as evidence that the Plan is qualified under Code §401(a), to the extent provided in Rev. Proc. 2017-41. The Employer may not rely on the Favorable IRS Letter in certain circumstances or with respect to certain qualification requirements, which are specified in the Favorable IRS Letter issued with respect to the Plan and in Rev. Proc. 2017-41. In order to obtain reliance in such circumstances or with respect to such qualification requirements, the Employer may need to apply to the Internal Revenue Service for a determination letter.

By executing this Adoption Agreement, the Employer intends to adopt the provisions as set forth in this Adoption Agreement and the related Plan document. By signing this Adoption Agreement, the individual below represents that he/she has the authority to execute this Plan document on behalf of the Employer. This Adoption Agreement may only be used in conjunction with Basic Plan Document #03. The Employer understands that the Pre-Approved Plan Provider has no responsibility or liability regarding the suitability of the Plan for the Employer's needs or the options elected under this Adoption Agreement. It is recommended that the Employer consult with legal counsel before executing this Adoption Agreement.

Leon County, Board of County Commissioners
(Name of Employer)

_____
(Name of authorized representative) *(Title)*

_____
(Signature) *(Date)*

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TRUST DECLARATION

This Trust Declaration may be used to identify and adopt the Trust associated with the Plan.

[***Note:*** *The Internal Revenue Service does not review the Trust Declaration, or the trust provisions associated with Pre-Approved Plans. Therefore, the provisions of the Trust Declaration, ASC Trust Agreement or any separate Trust agreement have not been approved by the IRS and the IRS opinion letter does not cover such Trust Agreement. The Provider, the Trustee and the adopting Employer should review the applicable Trust provisions, and any modifications thereto, with legal counsel to ensure the provisions are appropriate for the Plan and consistent with Employer elections.*]

Name of Plan. Leon County Government Plan (formerly Leon County, Brd of Comm)

Name of Employer. Leon County, Board of County Commissioners

Effective date of Trust Agreement: 1-1-2022

(a) **The Trust terms are:**

☐ (1) **Determined under the Trust provisions contained in the ASC Trust Agreement - Standard.**

[***Note:*** *Trustee must complete the Trustee Signature section under Section (b) below*.]

☐ (i) **Directed Trustee.** The Trustee may only invest Plan assets as directed by the Plan Administrator, the Employer, an Investment Manager or other Named Fiduciary or, to the extent authorized under the Plan, a Plan Participant.

☐ (ii) **Discretionary Trustee.** The Trustee has discretion to invest Plan assets, unless specifically directed otherwise by the Plan Administrator, the Employer, an Investment Manager or other Named Fiduciary or, to the extent authorized under the Plan, a Plan Participant.

[**Modification of ASC Trust Agreement Provisions.** The Employer may amend the Trust provisions as provided under Section 1.18 of the ASC Trust Agreement. Plan provisions will override any conflicting provisions in the Trust Agreement, including any modification thereto. The Provider and the adopting Employer should review any modifications of the ASC Trust Agreement with legal counsel to ensure the provisions are appropriate for the Plan and consistent with Employer elections.]

☐ (2) **Determined under a separate Trust agreement(s).** The Trust provisions are contained in a separate Trust Agreement that has been furnished to the Employer. Notwithstanding the terms of the Plan, the terms of the Trust Agreement shall control the rights and responsibilities of the Trustee with respect to the Trust and the assets held in such Trust.

Name of Trustee. _____

Title of Trust Agreement. _____

Address of Trustee. _____

[***Note:*** *In using a separate Trust Agreement, the Trustee may adopt such Trust Agreement by either completing the Trustee Signature section under Section (b) below or may execute the separate Trust Agreement. In either case, the information above – Name of Trustee, Title of Trust Agreement and Address of Trustee – must be* completed.]

☑ (3) **Plan is funded with custodial accounts, annuity contracts and/or insurance contracts.** There is no Trust associated with the Plan because the Plan is funded exclusively with custodial accounts, annuity contracts and/or insurance contracts.

[***Note:*** *No signature is required under this Trust Declaration if the Plan is funded exclusively with custodial accounts, annuity contracts and/or insurance contracts. The Employer or Plan Administrator may enter into a separate agreement with the custodian or insurance company. Such separate agreement must be consistent with the terms of the Plan.*]

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RESOLUTION NO. -__

A RESOLUTION OF THE LEON COUNTY, FLORIDA BOARD OF COUNTY COMMISSIONERS AUTHORIZING AMENDMENT AND RESTATEMENT OF RETIREMENT PLAN VIA ADOPTION OF ICMA RETIREMENT CORPORATION GOVERNMENTAL PROFIT-SHARING PLAN AND TRUST

WHEREAS, the Board of County Commissioners of Leon County, FL (hereinafter, the "Employer"), previously established the Leon County BOCC Governmental Profit-Sharing Plan and Trust (hereinafter, the "Plan") for the exclusive benefit of its employees and their beneficiaries, and

WHEREAS, the Employer has employees rending valuable services; and

WHEREAS, the Employer has established a qualified retirement plan for such employees that serves the interest of the Employers by enabling it to provide reasonable retirement security for its employees, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel; and

WHEREAS, the Employer has determined that the continuance of the qualified retirement plan will serve these objectives; and

NOW THEREFORE, BE IT RESOLVED that the Employer hereby amends and restates the qualified retirement plan,

BE IT FURTHER RESOLVED that the assets of the Plan shall be held in trust, with the Employer service as trustee ("Trustee"), for the exclusive benefit of Plan participants and their beneficiaries, and the assets shall not be diverted to any other purpose. The Trustee's beneficial ownership of Plan assets held in VantageTrust shall be held for the further exclusive benefit of the Plan participants and their beneficiaries;

BE IT FURTHER RESOLVED that the employer hereby agrees to serve as Trustee under the Plan.

Adopted this 10th day of May, 2022.

LEON COUNTY, FLORIDA

BY: _____
Bill Proctor, Chairman
Board of County Commissioners

APPROVED AS TO FORM:
Chasity H. O'Steen, County Attorney
Leon County Attorney's Office

By:_____

ATTEST:
Gwendolyn Marshall Knight, Clerk of the
Court & Comptroller, Leon County, Florida

By:_____

ICMA Retirement Corporation
doing business as

MissionSquare Retirement Governmental Money Purchase Plan

MissionSquare
RETIREMENT

MissionSquare Retirement
Governmental Money Purchase Plan

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I. PURPOSE

The Employer hereby adopts this Plan to provide funds for its Employees' retirement, and to provide funds for their Beneficiaries in the event of death. The benefits provided in this Plan shall be paid from the Trust. The Plan and the Trust shall be maintained for the exclusive benefit of eligible Employees and their Beneficiaries. Except as provided in Sections 4.14 and 14.03, no part of the corpus or income of the Trust shall revert to the Employer or be used for or diverted to purposes other than the exclusive benefit of Participants and their Beneficiaries.

II. DEFINITIONS

2.01 **Account.** A separate record which shall be established and maintained under the Trust for each Participant, and which shall include all Participant subaccounts created pursuant to Article IV, plus any Participant Loan Account created pursuant to Section 13.03. Each subaccount created pursuant to Article IV shall include any earnings of the Trust and adjustments for withdrawals, and realized and unrealized gains and losses allocable thereto. The term "Account" may also refer to any of such separate subaccounts.

2.02 **Accounting Date.** Each day that the New York Stock Exchange is open for trading, and such other dates as may be determined by the Plan Administrator. As of each Accounting Date, the Plan assets held in each investment fund described in Section 6.01 shall be valued at fair market value and the investment income and gains or losses for each fund shall be determined.

2.03 **Adoption Agreement.** The separate agreement executed by the Employer through which the Employer adopts the Plan and elects among the various alternatives provided thereunder, and which upon execution, becomes an integral part of the Plan.

2.04 **Beneficiary.** The person or persons (including a trust) designated by the Participant who shall receive any benefits payable hereunder in the event of the Participant's death. The designation of such Beneficiary shall be in writing to the Plan Administrator. A Participant may designate primary and contingent Beneficiaries. Where no designated Beneficiary survives the Participant or no Beneficiary is otherwise designated by the Participant, the Participant's Beneficiary shall be his/her surviving spouse or, if none, his/her estate.

Notwithstanding the foregoing, the Beneficiary designation is subject to the requirements of Article XII unless the Employer elects otherwise in the Adoption Agreement. Notwithstanding the foregoing, where elected by the Employer in the Adoption Agreement (the "QJSA Election"), the Beneficiary designation is subject to the requirements of Article XVII. Notwithstanding the foregoing, to the extent permitted by the Employer, a Beneficiary receiving required minimum distributions in accordance with Article X and not in a benefit form elected under Article XI or XII, may designate a Beneficiary to receive the required minimum distributions that would have otherwise been payable to the initial Beneficiary but for his or her death.

2.05 Break in Service. A Period of Severance of at least twelve (12) consecutive months. In the case of an individual who is absent from work for maternity or paternity reasons, the twelve (12) consecutive month period beginning on the first anniversary of the first date of such absence shall not constitute a Break in Service. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence (1) by reason of the pregnancy of the individual, (2) by reason of the birth of a child of the individual, (3) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (4) for purposes of caring for such child for a period beginning immediately following such birth or placement.

2.06 Code. The Internal Revenue Code of 1986, as amended from time to time.

2.07 Covered Employment Classification. The group or groups of Employees eligible to make and/or have contributions to this Plan made on their behalf, as specified by the Employer in the Adoption Agreement.

2.08 Disability. A physical or mental impairment which is of such permanence and degree that a Participant is unable because of such impairment to perform any substantial gainful activity for which he/she is suited by virtue of his/her experience, training, or education and that has lasted, or can be expected to last, for a continuous period of not less than twelve (12) months, or can be expected to result in death. The permanence and degree of such impairment shall be supported by medical evidence provided to the Employer. If the Employer maintains a long-term disability plan, the definition of Disability shall be the same as the definition of disability in the long-term disability plan.

2.09 Earnings.

(a) General Rule. Earnings, which form the basis for computing Employer Contributions, are all of each Participant's W-2 earnings which are actually paid to the Participant during the Plan Year, plus any contributions made pursuant to a salary reduction agreement which are not includible in the gross income of the Employee under section 125, 402(e)(3), 402(h)(1)(B), 403(b), 414(h)(2), 457(b), or 132(f)(4) of the Code. Earnings shall include any pre-tax contributions (excluding direct employer contributions) to an integral part trust of the Employer providing retiree health care benefits. Earnings shall also include any other earnings as defined and elected by the Employer in the Adoption Agreement. Unless the Employer elects otherwise in the Adoption Agreement, Earnings shall exclude overtime compensation and bonuses.

(b) Limitation on Earnings. The annual Earnings of each Participant taken into account in determining allocations shall not exceed $200,000, as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. Annual Earnings means Earnings during the Plan Year or such other consecutive 12-month period over which Earnings is otherwise determined under the Plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual Earnings for the determination period that begins with or within such calendar year.

If a determination period consists of fewer than twelve (12) months, the annual Earnings limit is an amount equal to the otherwise applicable annual Earnings limit multiplied by the fraction, the numerator of which is the number of months in the short Plan Year and the denominator of which is twelve (12).

If Earnings for any prior determination period are taken into account in determining a Participant's allocations for the current Plan Year, the Earnings for such prior year are subject to the applicable annual Earnings limit in effect for that prior year.

(c) Limitations for Governmental Plans. In the case of an eligible participant in a governmental plan (within the meaning of section 414(d) of the Code), the dollar limitation shall not apply to the extent the Earnings which are allowed to be taken into account under the Plan would be reduced below the amount which was allowed to be taken into account under the Plan as in effect on July 1, 1993, as adjusted for increases in the cost-of-living in accordance with section 401(a)(17)(B) of the Code. For purposes of this Section, an eligible participant is an individual who first became a Participant in the Plan during a Plan Year beginning before the first Plan Year beginning after December 31, 1993.

(d) Earnings Paid After Severance from Employment. Earnings for purposes of allocations under the Plan shall not include amounts paid after a Participant's severance from Employment with the Employer except as provided in this Section 2.09(d).

(1) Leave Cashouts. Earnings shall include payment for unused accrued bona fide sick, vacation, or other leave, but only if (i) the Participant would have been able to use the leave if employment had continued, and (ii) such amounts are paid by the later of 2½ months after severance from employment with the Employer maintaining the Plan or by the end of the calendar year that includes the date of such severance from employment.

(2) Regular Pay. Earnings shall include regular pay after severance from employment if:

(i) The payment is included in the Participant's W-2 earnings;

(ii) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer; and

(iii) Such amounts are paid by the later of 2½ months after severance from employment with the Employer maintaining the Plan or by the end of the calendar year that includes the date of such severance from employment.

Notwithstanding anything to the contrary in this subsection (b), unless the Employer has specifically elected to include overtime compensation and bonuses in Earnings, Earnings shall exclude overtime compensation and bonuses paid after severance from employment.

2.10 Effective Date. The first day of the Plan Year during which the Employer adopts the Plan, unless the Employer elects in the Adoption Agreement an alternate date as the Effective Date of the Plan.

2.11 Employee. Any individual who has applied for and been hired in an employment position and who is employed by the Employer as a common law employee; provided, however, that Employee shall not include any individual who is not so recorded on the payroll records of the Employer, including any such person who is subsequently reclassified by a court of law or regulatory body as a common law employee of the Employer. For purposes of clarification only and not to imply that the preceding sentence would otherwise cover such person, the term Employee does not include any individual who performs services for the Employer as an independent contractor, or under any other non-employee classification.

2.12 Employer. The unit of state or local government or an agency or instrumentality of one (1) or more states or local governments that executes the Adoption Agreement.

2.13 Hour of Service. Each hour for which an Employee is paid or entitled to payment for the performance of duties for the Employer, or for any entity aggregated with the Employer under sections 414(b), (c), (m), or (o) of the Code.

2.14 Nonforfeitable Interest. The nonforfeitable interest of the Participant or his/her Beneficiary (whichever is applicable) is that percentage of his/her Employer Contribution Account balance, which has vested pursuant to Article VII. A Participant shall, at all times, have a one hundred percent (100%) Nonforfeitable Interest in his/ her Mandatory Participant Contribution, Rollover Contribution, and Voluntary Participant Contribution, Deductible Employee Contribution, Employee Designated Final Pay Contribution, and Employee Designated Accrued Leave Contribution Accounts.

2.15 Normal Retirement Age. The age which the Employer specifies in the Adoption Agreement. If the Employer enforces a mandatory retirement age, the Normal Retirement Age is the lesser of that mandatory age or the age specified in the Adoption Agreement.

2.16 Participant. An Employee or former Employee for whom contributions have been made under the Plan and who has not yet received all of the payments of benefits to which he/she is entitled under the Plan. A Participant is treated as benefiting under the Plan for any Plan Year during which the participant received or is deemed to receive an allocation in accordance with Treas. Reg. section 1.410(b)-3(a).

2.17 Period of Service. For purposes of determining an Employee's initial or continued eligibility to participate in the Plan or the Nonforfeitable Interest in the Participant's Account balance derived from Employer Contributions, an Employee will receive credit for the aggregate of all time period(s) commencing with the Employee's first day of employment or reemployment and ending on the date a Break in Service begins. The first day of employment or reemployment is the first day the Employee performs an Hour of Service. An Employee will also receive credit for any Period of Severance of less than twelve (12) consecutive months. Fractional periods of a year will be expressed in terms of days.

Notwithstanding anything to the contrary herein, if the Plan is an amendment and restatement of a plan that previously calculated service under the hours of service method, each Employee with respect to whom the method of crediting service is changed shall receive, if greater than as provided in the Plan as amended and restated, credited service in the same manner as a transfer described in Treas. Reg. section 1.410(a)-7(f)(1).

2.18 Period of Severance. A continuous period of time during which the Employee is not employed by the Employer. Such period begins on the date the Employee retires, quits or is discharged, or if earlier, the twelve (12) month anniversary of the date on which the Employee was otherwise first absent from service.

2.19 Plan. This Plan, as established by the Employer, including any elected provisions pursuant to the Adoption Agreement.

2.20 Plan Administrator. The person(s) or entity named to carry out certain nondiscretionary administrative functions under the Plan, as hereinafter described, which is the ICMA

Retirement Corporation, doing business as MissionSquare Retirement, or any successor Plan Administrator. Unless otherwise provided in the Plan, the Plan Administrator shall act at the direction of the Employer and shall be fully protected in acting on such direction.

2.21 **Plan Year.** The twelve (12) consecutive month period designated by the Employer in the Adoption Agreement.

2.22 **Trust.** The Trust is the trust designated and adopted by the Employer to receive and hold all of the assets of the Plan derived from Employer and Employee contributions under the Plan, plus any income and gains thereon, less any losses, expenses and distributions to Participants and Beneficiaries.

III. ELIGIBILITY

3.01 **Service.** Except as provided in Sections 3.02 and 3.03 of the Plan, an Employee within the Covered Employment Classification who has completed a twelve (12) month Period of Service shall be eligible to participate in the Plan at the beginning of the payroll period next commencing thereafter. The Employer may elect in the Adoption Agreement to waive or reduce the twelve (12) month Period of Service.

If the Employer maintains the plan of a predecessor employer, service with such employer shall be treated as service for the Employer.

3.02 **Age.** The Employer may designate a minimum age requirement, not to exceed age twenty-one (21), for participation. Such age, if any, shall be declared in the Adoption Agreement.

3.03 **Return to Covered Employment Classification.** In the event a Participant is no longer a member of Covered Employment Classification and becomes ineligible to make contributions and/or have contributions made on his/her behalf, such Employee will become eligible for contributions immediately upon returning to a Covered Employment Classification. If such Participant incurs a Break in Service, eligibility will be determined under the Break in Service rules of the Plan.

In the event an Employee who is not a member of a Covered Employment Classification becomes a member, such Employee will be eligible to participate immediately if such Employee has satisfied the minimum age and service requirements and would have otherwise previously become a Participant.

3.04 **Service Before a Break in Service.** All Periods of Service with the Employer are counted toward eligibility, including Periods of Service before a Break in Service.

IV. CONTRIBUTIONS

4.01 **Employer Contributions.** For each Plan Year, the Employer will contribute to the Trust an amount as specified in the Adoption Agreement. The Employer's full contribution for any Plan

Year shall be due and paid not later than thirty (30) working days after the close of the Plan Year. Each Participant will share in Employer Contributions for the period beginning on the date the Participant commences participation under the Plan and ending on the date on which such Employee severs employment with the Employer or is no longer a member of a Covered Employment Classification, and such contributions shall be accounted for separately in his Employer Contribution Account. Employer Contributions include Fixed Employer Contributions, Employer Matching Contributions, Employer Final Pay Contributions, and Employer Accrued Leave Contributions as selected by the Employer in the Adoption Agreement. Notwithstanding anything to the contrary herein, if so elected by the Employer in the Adoption Agreement, an Employee shall be required to make contributions as provided pursuant to Section 4.03 or 4.04, or to make elective deferrals to the Employer's 457(b) plan in accordance with Section 4.05, in order to be eligible for Employer Contributions to be made on his/her behalf to the Plan.

4.02 Forfeitures. All amounts forfeited by terminated Participants, pursuant to Section 7.06, shall be used no later than the end of the next Plan Year. Forfeitures will be used to reduce dollar for dollar Employer Contributions otherwise required under the Plan. Forfeitures may first be used to pay the reasonable administrative expenses of the Plan, with any remainder being applied to reduce Employer Contributions.

4.03 Mandatory Participant Contributions. If the Employer so elects in the Adoption Agreement, each eligible Employee shall make contributions at a rate prescribed by the Employer or at any of a range of specified rates, as set forth by the Employer in the Adoption Agreement, as a requirement for his/her participation (1) in the Plan or (2) in this portion of the Plan. Once an eligible Employee becomes a Participant and makes an election hereunder, he/she shall not thereafter have the right to discontinue or vary the rate of such Mandatory Participant Contributions. Such contributions shall be accounted for separately in the Mandatory Participant Contribution Account. Such Account shall be at all times nonforfeitable.

If the Employer so elects in the Adoption Agreement, the Mandatory Participant Contributions shall be "picked up" by the Employer in accordance with Code section 414(h)(2). Any contribution picked-up under this Section shall be treated as an employer contribution in determining the tax treatment under the Code, and shall not be included as gross income of the Participant until it is distributed.

To constitute a Pick-Up Contribution, (1) the Employer must specify in a contemporaneous written document by a person duly authorized by the Employer that the contributions are being paid by the Employer in lieu of contributions by the Employee, and (2) the Employee must not be given the option of choosing to receive the contributed amounts directly instead of having them paid by the Employer to the Plan.

4.04 Employer Matching Contributions of After-Tax Voluntary Participant Contributions. If the Employer so elects in the Adoption Agreement, Employer Matching Contributions shall be made on behalf of an eligible Employee for a Plan Year if the Employee agrees to make after-tax Voluntary Participant Contributions for that Plan Year. The rate of Employer Matching Contributions shall, to the extent specified in the Adoption Agreement, be based upon the rate at which after-tax Voluntary Participant Contributions are made for that Plan Year. Employer Matching Contributions shall be accounted for separately in the Employer Contribution Account.

4.05 Employer Matching Contributions of 457(b) Elective Deferrals. If the Employer so elects in the Adoption Agreement, Employer Matching Contributions shall be made on behalf of an

eligible Employee for a Plan Year if the Employee participates in the Employer's 457(b) deferred compensation plan and makes 457(b) elective deferrals for that Plan Year. The rate of Employer Matching Contributions shall, to the extent specified in the Adoption Agreement, be based upon the rate at which elective deferrals to the 457(b) deferred compensation plan are made for that Plan Year. Employer Matching Contributions made pursuant to this section shall be accounted for separately in the Employer Contribution Account.

4.06 Voluntary Participant Contributions. If the Employer so elects in the Adoption Agreement, an eligible Employee may make after-tax voluntary contributions under the Plan for any Plan Year in any amount up to twenty-five percent (25%) of his/her Earnings for such Plan Year. Matched and unmatched contributions shall be accounted for separately in the Voluntary Participant Contribution Account. Such Account shall be at all times nonforfeitable.

4.07 Deductible Employee Contributions. The Plan will not accept deductible employee contributions which are made for a taxable year beginning after December 31, 1986. Contributions made prior to that date will be maintained in a Deductible Employee Contribution Account. The Account will share in the gains and losses under the Plan. Such Account shall be at all times nonforfeitable. No part of the Deductible Employee Contribution Account will be used to purchase life insurance.

4.08 Final Pay Contributions. If the Employer so elects in the Adoption Agreement, eligible Participants shall be eligible to make or receive Final Pay Contributions under this Plan in accordance with Article XVIII. This election may be made even if the Employer does not elect to make other contributions under Section 4.01.

4.09 Accrued Leave Contributions. If the Employer so elects in the Adoption Agreement, eligible Participants shall be eligible to make or receive Accrued Leave Contributions under this Plan in accordance with Article XIX. This election may be made even if the Employer does not elect to make other contributions under Section 4.01.

4.10 Military Service Contributions. Notwithstanding any provision of the 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.

Notwithstanding any provision of the Plan to the contrary, if the Employer has elected in the Adoption Agreement to make loans available to Participants, loan repayments shall be suspended under the Plan as permitted under section 414(u)(4) of the Code.

4.11 Accrual of Additional Benefits for Qualified Military Service.

(a) Death Benefits with Respect to Qualified Military Service. In the case of a Participant who dies while performing qualified military service (as defined in Code section 414(u)) with respect to the Employer, his/her Beneficiary shall have a Nonforfeitable Interest in the Participant's entire Employer Contribution Account to the extent that he/she would have had had the Participant resumed and then terminated employment on account of death.

(b) Benefit Accruals with Respect to Differential Wage Payments. If the Employer so elects in the Adoption Agreement, effective as elected by the Employer, Plan contributions shall be made based on differential wage payments (as such term is defined in Code section 3401(h)(2)). Solely for purposes of applying the limits of Code section 415, differential wage payments shall be treated as compensation.

(c) Benefit Accruals with Respect to Qualified Military Service. Notwithstanding any provision of the Plan to the contrary, effective as elected by the Employer, if the Employer so elects in the Adoption Agreement, Participants who die or become Disabled while performing qualified military service (as defined in Code section 414(u)) with respect to the Employer shall receive Plan contributions as permitted under Code section 414(u)(9).

4.12 Changes in Participant Election. A Participant may elect to change his/her rate of Voluntary Participant Contributions at any time or during an election period as designated by the Employer. A Participant may discontinue such contributions at any time or during an election period as designated by the Employer.

4.13 Rollover Contributions.

(a) Unless otherwise elected by the Employer in the Adoption Agreement, the Plan will accept Participant (which shall include, for purposes of this subsection, an Employee within the Covered Employment Classification whether or not he/she has satisfied the minimum age and service requirements of Article III) rollover contributions and/or direct rollovers of distributions (including after-tax contributions) that are eligible for rollover in accordance with Section 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), or 457(e)(16) of the Code, from all of the following types of plans:

(1) A qualified plan described in Section 401(a) or 403(a) of the Code;

(2) An annuity contract described in Section 403(b) of the Code;

(3) An eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state; and

(4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Code (including SEPs, and SIMPLE IRAs after two years of participating in the SIMPLE IRA).

(b) Notwithstanding the foregoing, the Employer may reject the rollover contribution if it determines, in its discretion, that the form and nature of the distribution from the other plan does not satisfy the applicable requirements under the Code to make the transfer or rollover a nontaxable transaction to the Participant;

(c) For indirect rollover contributions, the amount distributed from such plan must be rolled over to this Plan no later than the sixtieth (60th) day after the distribution was made from the plan, unless otherwise waived by the IRS pursuant to Section 402(c)(3) of the Code.

(d) The amount transferred shall be deposited in the Trust and shall be credited to a Rollover Contribution Account. Such Account shall be one hundred percent (100%) vested in the Participant.

(e) The Plan will accept accumulated deductible employee contributions as defined in section 72(o)(5) of the Code that were distributed from a qualified retirement plan and transferred (rolled over) pursuant to section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3) of the Code. Notwithstanding the above, this transferred (rolled over) amount shall be deposited to the Trust and shall be credited to a Deductible Employee Contribution Account. Such Account shall be one-hundred percent (100%) vested in the Participant.

(f) A Participant may, upon approval by the Employer and the Plan Administrator, transfer his/her interest in another plan maintained by the Employer that is qualified under section 401(a) of the Code to this Plan, provided the transfer is effected through a one-time irrevocable written election made by the Participant. The amount transferred shall

be deposited in the Trust and shall be credited to sources that maintain the same attributes as the plan from which they are transferred. Such transfer shall not reduce the accrued years or service credited to the Participant for purposes of vesting or eligibility for any Plan benefits or features.

4.14 Return of Employer Contributions. Any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year of the date of contribution.

4.15 Definitions. Unless the context requires otherwise, capitalized defined terms referencing types of contributions that can be made to the Plan will have the meaning given to them in this Section IV.

V. LIMITATION ON ALLOCATIONS

5.01 Participants Only in This Plan.

(a) If the Participant does not participate in, and has never participated in another qualified plan or a welfare benefit fund, as defined in section 419(e) of the Code, maintained by the Employer, or an individual medical account, as defined by section 415(l)(2) of the Code, maintained by the Employer, which provides an Annual Addition, the amount of Annual Additions which may be credited to the Participant's Account for any Limitation Year will not exceed the lesser of the Maximum Permissible Amount or any other limitation contained in this Plan. If the Employer Contribution that would otherwise be contributed or allocated to the Participant's Account would cause the Annual Additions for the Limitation Year to exceed the Maximum Permissible Amount, the amount contributed or allocated will be reduced so that the Annual Additions for the Limitation Year will equal the Maximum Permissible Amount.

(b) Prior to determining the Participant's actual Compensation for the Limitation Year, the Employer may determine the Maximum Permissible Amount for a Participant on the basis of a reasonable estimation of the Participant's Compensation for the Limitation Year, uniformly determined for all Participants similarly situated.

(c) As soon as is administratively feasible after the end of the Limitation Year, the Maximum Permissible Amount for the Limitation Year will be determined on the basis of the Participant's actual Compensation for the Limitation Year.

5.02 Participants in Another Defined Contribution Plan.

(a) Unless the Employer provides other limitations in the Adoption Agreement, this Section applies if, in addition to this Plan, the Participant is covered under another qualified defined contribution plan maintained by the Employer, or a welfare benefit fund, as defined in section 419(e) of the Code, maintained by the Employer, or an individual medical account, as defined by section 415(l)(2) of the Code, maintained by the Employer, which provides an Annual Addition, during any Limitation Year. The Annual Additions which may be credited to a Participant's Account under this Plan for any such Limitation Year will not exceed the Maximum Permissible Amount reduced by the Annual Additions credited to a Participant's Account under the other plans and welfare benefit funds for the same Limitation Year. If the Annual Additions with respect to the Participant

under other defined contribution plans and welfare benefit funds maintained by the Employer are less than the Maximum Permissible Amount and the Employer contribution that would otherwise be contributed or allocated to the Participant's Account under this Plan would cause the Annual Additions for the Limitation Year to exceed this limitation, the amount contributed or allocated will be reduced so that the Annual Additions under all such plans and funds for the Limitation Year will equal the Maximum Permissible Amount. If the Annual Additions with respect to the Participant under such other defined contribution plans and welfare benefit funds in the aggregate are equal to or greater than the Maximum Permissible Amount, no amount will be contributed or allocated to the Participant's Account under this Plan for the Limitation Year.

(b) Prior to determining the Participant's actual Compensation for the Limitation Year, the Employer may determine the Maximum Permissible Amount for a Participant in the manner described in Section 5.01(b).

(c) As soon as is administratively feasible after the end of the Limitation Year, the Maximum Permissible Amount for the Limitation Year will be determined on the basis of the Participant's actual Compensation for the Limitation Year.

(d) If, pursuant to Subsection (c) or as a result of the allocation of forfeitures, a Participant's Annual Additions under this Plan and such other plans would result in an Excess Amount for a Limitation Year, the Excess Amount will be deemed to consist of the Annual Additions last allocated, except that Annual Additions attributable to a welfare benefit fund or individual medical account will be deemed to have been allocated first regardless of the actual allocation date.

(e) If an Excess Amount was allocated to a Participant on an allocation date of this Plan which coincides with an allocation date of another plan, the Excess Amount attributed to this Plan will be the product of,

(1) The total Excess Amount allocated as of such date, multiplied by

(2) The ratio of (i) the Annual Additions allocated to the Participant for the Limitation Year as of such date under this Plan to (ii) the total Annual Additions allocated to the Participant for the Limitation Year as of such date under this and all the other qualified defined contribution plans.

5.03 Definitions. For the purposes of this Article, the following definitions shall apply:

(a) Annual Additions. The sum of the following amounts credited to a Participant's Account for the Limitation Year:

(1) Employer contributions (including contributions "picked up" by the Employer under Section 4.03);

(2) Forfeitures;

(3) Employee contributions (including after-tax Voluntary Participant Contributions under Section 4.06 and Mandatory Participant Contributions under Section 4.03 not "picked up" by the Employer); and

(4) Allocations under a simplified employee pension. Amounts allocated, after March 31, 1984, to an individual medical account, as defined in section 415(l)(2) of the Code, which is part of a pension or annuity plan maintained by the Employer, are treated as Annual Additions to a defined contribution plan.

(5) Notwithstanding the above, the term Annual Additions does not include the following:

(i) Restorative Payments. Annual Additions for purposes of Code section 415 shall not include restorative payments. For this purpose, restorative payments are payments made to restore losses to a plan resulting from actions by a fiduciary for which there is reasonable risk of liability for breach of a fiduciary duty under applicable federal or state law, where Participants who are similarly situated are treated similarly with respect to the payments. Generally, payments to a defined contribution plan are restorative payments only if the payments are made in order to restore some or all of the plan's losses due to an action (or a failure to act) that creates a reasonable risk of liability for such a breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the plan). This includes payments to a plan made pursuant to a court-approved settlement to restore losses to a qualified defined contribution plan on account of the breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the plan). Payments made to a plan to make up for losses due merely to market fluctuations and other payments that are not made on account of a reasonable risk of liability for breach of a fiduciary duty are not restorative payments and generally constitute contributions that give rise to Annual Additions.

(ii) Other Amounts. Annual Additions for purposes of Code section 415 shall not include (i) the direct transfer of a benefit or employee contributions from a qualified plan to this Plan; (ii) rollover contributions (as described in Code sections 401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d) (3), and 457(e)(16)); (iii) repayments of loans made to a Participant from the Plan; (iv) repayments of amounts described in Code section 411(a)(7)(B) (in accordance with Code sections 411(a)(7)(C)) and 411(a)(3)(D) or repayment of contributions to a governmental plan (as defined in Code section 414(d)) as described in Code section 415(k)(3), as well as Employer restorations of benefits that are required pursuant to such repayments; (v) employee contributions to a qualified cost of living arrangement within the meaning of Code section 415(k)(2)(B); (vi) catch-up contributions made in accordance with section 414(v) and §1.414(v)-1 and (vii) excess deferrals that are distributed in accordance with §1.402(g)-1(e)(2) or (3).

(iii) Date of Employer Contributions. Notwithstanding anything in the Plan to the contrary, employer contributions are treated as credited to a Participant's Account for a particular Limitation Year only if the contributions are actually made to the Plan no later than the 15th day of the tenth calendar month following the end of the calendar year or fiscal year (as applicable, depending on the basis on which the Employer keeps its books) with or within which the particular Limitation Year ends.

(b) Compensation. Participant's wages, salaries, fees for professional services, and other amounts received (without regard to whether an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer, to the extent that the amounts are includible in gross income (or to the extent amounts would have been received and includible in gross income but for an election under Code section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b)). These amounts include, but are not limited to, bonuses, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan as described in Treas. Reg. section 1.62-2(c).

(1) Notwithstanding the foregoing, Compensation does not include:

(i) Contributions (other than elective contributions described in Code section 402(e)(3), 408(k)(6), 408(p)(2)(A)(i), or 457(b)) made by the Employer to a plan of deferred compensation (including a simplified employee pension described in Code section 408(k) or a simple retirement account described in Code section 408(p), and whether or not qualified) to the extent that the contributions are not includible in the gross income of the Participant for the taxable year in which contributed. In addition, any distributions from a plan of deferred compensation (whether or not qualified) are not considered as Compensation for Code section 415 purposes, regardless of whether such amounts are includible in the gross income of the Participant when distributed; and

(ii) Other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the gross income of the Participant and are not salary reduction amounts that are described in Code section 125).

(iii) Other items of remuneration that are similar to the items listed in subparagraph (i) or (ii) of this subsection (b).

(2) Compensation Paid After Severance or Deemed Severance from Employment. Compensation shall be adjusted as set forth herein for the following types of compensation paid after a Participant's severance from employment (as determined under section 415 of the Code and the regulations thereunder) with the Employer. Any payment that is not described in subsection (i), (ii), (iii), or (iv) of this Section is not considered Compensation within the meaning of section 415 of the Code if paid after severance from employment with the Employer.

(i) Regular Pay.

(A) Compensation shall include regular pay after severance of employment if the payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments;

(B) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer; and

(C) Such amounts are paid by the later of 2½ months after severance from employment with the Employer maintaining the Plan or the end of the calendar year that includes the date of such severance from employment.

(ii) Leave Cashouts.

(A) Compensation shall include payment for unused accrued bona fide sick, vacation, or other leave, but only if (I) the Participant would have been able to use the leave if employment had continued, (II) such amounts are paid by the later of 2½ months after severance from employment with the Employer maintaining the Plan or by the end of the calendar year that includes the date of such severance from employment, and (III) such amounts would be included in Compensation if the individual had continued to perform services for the Employer.

(iii) Salary Continuation Payments for Military Service Participants.

(A) Compensation includes payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code section 414(u)(1)) to the extent:

1. Those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service; and

2. Those payments would be included in Compensation if the individual had continued to perform services for the Employer rather than entering qualified military service.

(B) Notwithstanding the foregoing, Compensation does not include distributions from this Plan to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code section 414(u)(1)).

(iv) Salary Continuation Payments for Disabled Participants.

(A) Compensation includes amounts paid to a Participant who is permanently and totally disabled (as defined in Code section 22(e)(3)) to the extent:

1. Salary continuation applies to all Participants who are permanently and totally disabled for a fixed or determinable period or the Participant was not a Highly Compensated Employee immediately before becoming disabled.

2. Those amounts would be included in Compensation if the Participant had continued to perform services for the Employer.

(B) Notwithstanding the foregoing, Compensation does not include distributions from this Plan to a Participant who is permanently and totally disabled (as defined in Code section 22(e)(3)).

For purposes of applying the limitations of this Article, Compensation for a Limitation Year is the Compensation actually paid or made available during such year. Compensation for a

Limitation Year shall not include amounts earned but not paid during the Limitation Year solely because of the timing of pay periods and pay dates.

(c) Defined Contribution Dollar Limitation: $40,000, as adjusted for increases in the cost-of-living in accordance with section 415(d) of the Code.

(d) Employer: The Employer that adopts this Plan.

(e) Excess Amount: The excess of the Participant's Annual Additions for the Limitation Year over the Maximum Permissible Amount. Any Excess Amount shall include allocable income. The income allocable to an Excess Amount is equal to the sum of allocable gain or loss for the Plan Year and the allocable gain or loss for the period between the end of the Plan Year and the date of distribution (the gap period). The Plan may use any

reasonable method for computing the income allocable to an Excess Amount, provided that the method is used consistently for all Participants and for all corrective distributions under the Plan for the Plan Year, and is used by the Plan for allocating income to Participants' Accounts. Excess Amounts may also be corrected through the Employee Plans Compliance Resolution System, Rev. Proc. 2019-19 or its successor.

(f) Highly Compensated Employee: Highly Compensated Employee means any Employee who, for the preceding year, had Compensation from the Employer in excess of $80,000 (as adjusted).

(g) Limitation Year: A calendar year, or the twelve (12) consecutive month period elected by the Employer in section IX. 2 of the Adoption Agreement. All qualified plans maintained by the Employer must use the same Limitation Year. If the Limitation Year is amended to a different twelve (12) consecutive month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made. The Limitation Year may only be changed by Plan amendment. Furthermore, if the Plan is terminated effective as of a date other than the last day of the Plan's Limitation Year, then the Plan is treated as if the Plan had been amended to change its Limitation Year and the maximum permissible amount shall be prorated for the resulting short Limitation Year.

(h) Maximum Permissible Amount: The maximum Annual Addition that may be contributed or allocated to a Participant's Account under the Plan for any Limitation Year shall not exceed the lesser of:

(1) The Defined Contribution Dollar Limitation, or

(2) One hundred percent (100%) of the Participant's Compensation for the Limitation Year.

The compensation limit referred to in (2) shall not apply to any contribution for medical benefits after separation from service (within the meaning of section 401(h) or section 419A(f)(2) of the Code) which is otherwise treated as an annual addition.

If a short Limitation Year is created because of an amendment changing the Limitation Year to a different twelve (12) consecutive month period, the Maximum Permissible Amount will not exceed the Defined Contribution Dollar Limitation multiplied by the following fraction:

$$\frac{\text{Number of months in the short Limitation Year}}{12}$$

5.04 Aggregation and Disaggregation of Plans.

(a) Generally. For purposes of applying the limitations of Code section 415, all defined contribution plans (without regard to whether a plan has been terminated) ever maintained by the Employer (or a "predecessor employer") under which the Participant receives Annual Additions are treated as one defined contribution plan. The "Employer" means the Employer that adopts this Plan and any other entity which the Employer determines, based on a reasonable, good faith interpretation of existing law in accordance with Notice 89- 23, 1989-1 C.B. 654, as modified by Notice 96-64, 1996-2 C.B. 229, should be aggregated for purposes of applying the limitations of Code section 415. For purposes of this Section:

(1) A former employer is a "predecessor employer" with respect to a Participant if the Employer maintains a plan under which the Participant had accrued a benefit while performing services for the former employer, but only if that benefit is provided

under the Plan maintained by the Employer. For this purpose, the formerly affiliated plan rules in Treas. Reg. section 1.415(f)-1(b)(2) apply as if the Employer and predecessor employer constituted a single employer under the rules described in Treas. Reg. section 1.415(a)-1(f)(1) and (2) immediately prior to the cessation of affiliation (and as if they constituted two, unrelated employers under the rules described in Treas. Reg. section 1.415(a)-1(f)(1) and (2) immediately after the cessation of affiliation) and cessation of affiliation was the event that gives rise to the predecessor employer relationship, such as a transfer of benefits or plan sponsorship.

(2) With respect to an Employer, a former entity that antedates the Employer is a "predecessor employer" with respect to a Participant if, under the facts and circumstances, the Employer constitutes a continuation of all or a portion of the trade or business of the former entity.

(b) Midyear Aggregation. Two or more defined contribution plans that are not required to be aggregated pursuant to Code section 415(f) and the Treasury Regulations thereunder as of the first day of a Limitation Year do not fail to satisfy the requirements of Code section 415 with respect to a Participant for the Limitation Year merely because they are aggregated later in that Limitation Year, provided that no Annual Additions are credited to the Participant's Account after the date on which the plans are required to be aggregated.

VI. INVESTMENT OF ACCOUNTS

6.01 Investment Funds. In accordance with uniform and nondiscriminatory rules established by the Employer and the Plan Administrator, the Participant may direct his/her Accounts to be invested in one (1) or more investment funds available under the Plan; provided, however, that the Participant's investment directions shall not violate any investment restrictions established by the Employer and shall not include any investment in collectibles, as defined in section 408(m) of the Code.

VII. VESTING

7.01 Vesting Schedule. The portion of a Participant's Account attributable to Mandatory Participant Contributions, Rollover Contributions, Voluntary Participant Contributions, Deductible Employee Contributions Employee Designated Final Pay Contributions, and Employee Designated Accrued Leave Contributions, and the earnings thereon, shall be at all times nonforfeitable. A Participant shall have a Nonforfeitable Interest in the percentage of his/her Employer Contribution Account established under Section 4.01, 4.04, 4.05, 18.02(a) and 19.02(a) determined pursuant to the schedule elected by the Employer in the Adoption Agreement.

7.02 Crediting Periods of Service. Except as provided in Section 7.03, all of an Employee's Periods of Service with the Employer are counted to determine the nonforfeitable percentage in the Employee's Account balance derived from Employer Contributions. If the Employer maintains

the plan of a predecessor employer, service with such employer will be treated as service for the Employer.

For purposes of determining years of service and Breaks in Service for the purposes of computing a Participant's nonforfeitable right to the Account balance derived from Employer Contributions, the twelve (12) consecutive month period will commence on the date the Employee first performs an Hour of Service and each subsequent twelve (12) consecutive month period will commence on the anniversary of such date.

7.03 Service After Break in Service. In the case of a Participant who has a Break in Service of at least five (5) consecutive years, all Periods of Service after such Breaks in Service will be disregarded for the purpose of determining the nonforfeitable percentage of the Employer-derived Account balance that accrued before such Break in Service, but service before and after such Break in Service will count for the purposes of vesting the Employer-derived Account balance that accrues after such Break in Service. Both Accounts will share in the earnings and losses of the fund.

In the case of a Participant who does not have a Break in Service of at least five (5) consecutive years, service before and after the Break in Service will count in vesting the Employer-derived Account balance accrued for service before and after the Break in Service.

In the case of a Participant who does not have any nonforfeitable right to the Account balance derived from Employer Contributions, years of service before a period of consecutive one (1) year Breaks in Service will not be taken into account in computing eligibility service if the number of consecutive one (1) year Breaks in Service in such period equals or exceeds the greater of five (5) or the aggregate number of years of service. Such aggregate number of years of service will not include any years of service disregarded under the preceding sentence by reason of prior Breaks in Service.

If a Participant's years of service are disregarded pursuant to the preceding paragraph, such Participant will be treated as a new Employee for eligibility purposes. If a Participant's years of service may not be disregarded pursuant to the preceding paragraph, such Participant shall continue to participate in the Plan, or, if terminated, shall participate immediately upon reemployment.

7.04 Vesting Upon Normal Retirement Age. Notwithstanding Section 7.01 of the Plan, a Participant shall have a Nonforfeitable Interest in his/her entire Employer Contribution Account, to the extent that the balance of such Account has not previously been forfeited pursuant to Section 7.06 of the Plan, if he/she is employed on or after his/her Normal Retirement Age. If a Participant forfeits amounts because of a Break in Service, then if the Participant later vests upon Normal Retirement Age, the amount forfeited due to the Break in Service is not restored.

7.05 Vesting Upon Death or Disability. Notwithstanding Section 7.01 of the Plan, in the event of Disability or death, a Participant or his/her Beneficiary shall have a Nonforfeitable Interest in his/her entire Employer Contribution Account, to the extent that the balance of such Account has not previously been forfeited pursuant to Section 7.06 of the Plan. If a Participant forfeits amounts because of a Break in Service, then if the Participant later vests upon Disability or death, the amount forfeited due to the Break in Service is not restored.

7.06 Forfeitures. Except as provided in Sections 7.04 and 7.05 of the Plan or as otherwise provided in this Section 7.06, a Participant who experiences a severance from employment prior to obtaining full vesting shall forfeit that percentage of his/ her Employer Contribution Account

balance which has not vested as of the date such Participant incurs a Break in Service of five (5) consecutive years or, if earlier, the date such Participant receives, or is deemed under the provisions of Section 9.04 to have received, distribution of the entire Nonforfeitable Interest in his/her Employer Contribution Account. No forfeiture will occur solely as a result of a Participant's withdrawal of employee contributions. Forfeitures shall be allocated in the manner described in Section 4.02.

7.07 **Reinstatement of Forfeitures.** If the Participant returns to the employment of the Employer before incurring a Break in Service of five (5) consecutive years, any amounts forfeited pursuant to Section 7.06 shall be reinstated to the Participant's Employer Contribution Account on the date of repayment by the Participant of the amount distributed to such Participant from his/her Employer Contribution Account (without regard to gains/losses); provided, however, that if such Participant forfeited his/her Account balance by reason of a deemed distribution, pursuant to Section 9.04, such amounts shall be automatically restored upon the reemployment of such Participant. Such repayment must be made before the earlier of five (5) years after the first date on which the Participant is subsequently reemployed by the Employer, or the date the Participant incurs a Break in Service of five (5) consecutive years.

VIII. BENEFITS CLAIM

8.01 **Claim of Benefits.** A Participant or Beneficiary shall notify the Plan Administrator in writing of a claim of benefits under the Plan. The Plan Administrator shall take such steps as may be necessary to facilitate the payment of such benefits to the Participant or Beneficiary.

8.02 **Appeal Procedure.** If any claim for benefits is initially denied by the Plan Administrator, the claimant shall file the appeal with the Employer, whose decision shall be final, to the extent provided by Section 15.07.

IX. COMMENCEMENT OF BENEFITS

9.01 **Normal and Elective Commencement of Benefits.** A Participant who retires, becomes Disabled or incurs a severance from employment for any other reason may elect by written notice to the Plan Administrator to have his or her vested Account balance benefits commence on any date, provided that such distribution complies with Section 9.02. Such election must be made in writing during the one-hundred eighty (180) day period ending on the date as of which benefit payments are to commence. A Participant's election shall be revocable and may be amended by the Participant.

The failure of a Participant to consent to a distribution while a benefit is immediately distributable, within the meaning of section 9.02 of the Plan, shall be deemed to be an election to defer commencement of payment of any benefit sufficient to satisfy this section.

9.02 **Restrictions on Immediate Distributions.** Notwithstanding anything to the contrary contained in Section 9.01 of the Plan, if the value of a Participant's vested Account balance is at least $1,000, and the Account balance is immediately distributable, the Participant must consent to any distribution of such Account balance. The Participant's consent shall be

obtained in writing during the one-hundred eighty (180) day period ending on the date as of which benefit payments are to commence. No consent shall be required, however, to the extent that a distribution is required to satisfy section 401(a)(9) or 415 of the Code.

The Plan Administrator shall notify the Participant of the right to defer any distribution until the Participant's Account balance is no longer immediately distributable. Such notification shall include a general description of the material features, and an explanation of the relative values of, the optional forms of benefit available under the Plan in a manner that would satisfy section 417(a)(3) of the Code, and shall be provided no less than thirty (30) and no more than one-hundred eighty (180) days before the date as of which benefit payments are to commence. However, distribution may commence less than thirty (30) days after the notice described in the preceding sentence is given, provided (i) the distribution is one to which sections 401(a)(11) and 417 of the Code do not apply or, if the QJSA Election is made by the Employer in the Adoption Agreement, the waiver requirements of Section 17.05(a) are met; (ii) the Plan Administrator clearly informs the Participant that the Participant has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option); and (iii) the Participant, after receiving the notice, affirmatively elects a distribution.

In addition, upon termination of this Plan, if the Plan does not offer an annuity option (purchased from a commercial provider) and if the Employer does not maintain another 401(a) defined contribution plan, the Participant's Account balance will, without the Participant's consent, be distributed to the Participant in a lump sum. However, if the Employer maintains another 401(a) defined contribution plan, the Participant's Account will be transferred, without the Participant's consent, to the other plan if the Participant does not consent to an immediate distribution.

An Account balance is immediately distributable if any part of the Account balance could be distributed to the Participant (or surviving spouse) before the Participant attains or would have attained (if not deceased) the later of Normal Retirement Age or age sixty-two (62).

9.03 Transfer to Another Plan.

(a) If a Participant becomes eligible to participate in another plan maintained by the Employer that is qualified under section 401(a) of the Code, the Plan Administrator shall, at the written election of such Participant, transfer all or part of such Participant's Account to such plan, provided the Plan Administrator for such plan certifies to the Plan Administrator that its plan provides for the acceptance of such a transfer. Such transfers shall include those transfers of the Nonforfeitable Interest of a Participant's Account made for the purchase of service credit in defined benefit plans maintained by the Employer. For purposes of this Plan, any such transfer shall not be considered a distribution to the Participant subject to spousal consent as described in Section 9.10.

(b) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section, a Distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

(c) Definitions. For the purposes of Section 9.03, the following definitions shall apply:

(1) Eligible Rollover Distribution. Any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include:

(i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated Beneficiary, or for a specified period of ten years or more;

(ii) any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and

(iii) the portion of any other distribution(s) that is not includible in gross income.

A portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to a traditional individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a Roth individual retirement account or annuity described in § 408A of the Code, or to a qualified defined contribution plan described in section 401(a) or a qualified annuity contract described in section 403(b) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(2) Eligible Retirement Plan.

(i) an individual retirement account described in section 408(a) of the Code or an individual retirement annuity described in section 408(b) of the Code (collectively, an "IRA");

(ii) an annuity plan described in section 403(a) of the Code;

(iii) an annuity contract described in section 403(b) of the Code;

(iv) an eligible plan under section 457(b) of the Code 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 and which agrees to separately account for amounts transferred into such plan from this Plan;

(v) a qualified plan described in section 401(a) of the Code, that accepts the Distributee's Eligible Rollover Distribution; or

(vi) Roth IRA described in Code section 408A. The definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code.

If any portion of an Eligible Rollover Distribution is attributable to payments or distributions from a designated Roth account, an Eligible Retirement Plan with respect to such portion shall include only another designated Roth account of the individual from whose Account the payments or distributions were made, or a Roth IRA of such individual.

(3) Distributee. Participant; in addition, the Participant's surviving spouse and the spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are Distributees with regard to the interest of the spouse or former spouse. A distributee includes the Employee's or former Employee's nonspouse designated Beneficiary, in which case, the distribution can only be transferred to a traditional or Roth IRA

established on behalf of the nonspouse designated Beneficiary for the purpose of receiving the distribution.

(4) Direct Rollover. A payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

(d) Rollover by a Non-Spouse Designated Beneficiary.

A non-spouse Beneficiary who qualifies as a "designated beneficiary" under Code section 401(a)(9)(E) may establish an individual retirement plan that will be treated as an inherited IRA pursuant to the provisions of Code section 402(c)(11) into which all or a portion of a death benefit distribution from this Plan can be transferred directly. A trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a designated Beneficiary.

Notwithstanding anything herein to the contrary, a death benefit distribution shall not be eligible for transfer to an inherited IRA to the extent such distribution is a required minimum distribution under Code section 401(a)(9).

(e) Rollover by a Surviving Spouse Distributee. If any distribution attributable to a Participant is paid to the Participant's surviving spouse, section 402(c) applies to the distribution in the same manner as if the spouse were the Participant. However, a qualified plan (as defined in Treasury Regulation section 1.402(c)-2 Q&A-2) is not treated as an Eligible Retirement Plan with respect to a surviving spouse. Only an individual retirement plan is treated as an Eligible Retirement Plan with respect to an Eligible Rollover Distribution to a surviving spouse.

9.04 De Minimis Accounts. Notwithstanding the foregoing provisions of this Article, if a Participant terminates service, and the value of his/her Nonforfeitable Interest in his/her Account is less than $1,000, the Participant's benefit shall be paid as soon as practicable to the Participant in a single lump sum distribution. If the value of the Participant's Account is at least $1,000 but not more than the dollar limit under section 411(a)(11)(A) of the Code, the Participant may elect to receive his/her Nonforfeitable Interest in his/her Account. Such distribution shall be made as soon as practicable following the request, in a lump sum.

For purposes of this Section, if a Participant's Nonforfeitable Interest in his/her Account is zero, the Participant shall be deemed to have received a distribution of such Nonforfeitable Interest in his/her Account.

9.05 Withdrawal of Voluntary Participant Contributions. A Participant may upon written request withdraw a part of or the full amount of his/her Voluntary Participant Contribution Account. Such withdrawals may be made at any time, provided that, for withdrawals prior to the adoption date of this Plan document (or such earlier date adopted by the Employer in a separate amendment), no more than two (2) such withdrawals may be made during any calendar year. No forfeiture will occur solely as the result of any such withdrawal.

9.06 Withdrawal of Deductible Employee Contributions. A Participant may upon written request withdraw a part of or the full amount of his/her Deductible Employee Contribution Account. Such withdrawals may be made at any time, provided, for withdrawals prior to the adoption date of this Plan document (or such earlier date adopted by the Employer in a separate amendment), that no more than two (2) such withdrawals may be made during any calendar year. No forfeiture will occur solely as the result of any such withdrawal.

9.07 In-Service Distribution from Rollover Contribution Account. Where elected by the Employer in the Adoption Agreement, a Participant that has a separate Account attributable to Rollover Contributions to the Plan, may at any time elect to receive a distribution of all or any portion of the amount held in the Rollover Contribution Account.

9.08 In-Service Distributions.

(a) Unless otherwise elected by the Employer in the Adoption Agreement, a Participant who has reached age 70½ regardless of his Nonforfeitable Interest in his/her entire Employer Contribution Account, shall, upon written request, receive a distribution of a part of or the full amount of the balance in any or all of his vested Accounts.

(b) If elected by the Employer, in-service distributions may be made to a Participant who has attained Normal Retirement Age or an alternate age (after Normal Retirement Age) elected by the Employer, and who has not yet incurred a severance from employment.

(c) A Participant's benefit under the Plan may not be distributed before the Participant attains age 62 or, if earlier, the Participant separates from employment (or has a deemed separation), attains Normal Retirement Age under the Plan, dies, or becomes disabled, or upon termination of the Plan.

(d) Distributions under Section 9.08 may be requested at any time, provided that, for withdrawals prior to the adoption date of this Plan document (or such earlier date adopted by the Employer in a separate amendment), no more than two (2) such distributions may be made during any calendar year.

9.09 Latest Commencement of Benefits. Notwithstanding anything to the contrary in this Article, benefits shall begin no later than the Participant's Required Beginning Date, as defined under Section 10.05, or as otherwise provided in Section 10.04.

9.10 Spousal Consent. Notwithstanding the foregoing, if the Employer elected the QJSA Election in the Adoption Agreement, a married Participant must first obtain his or her spouse's notarized consent to request a distribution (other than a Qualified Joint and Survivor Annuity), withdrawal, or rollover under this Article IX.

9.11 Deemed Severance from Employment.

(a) Unless otherwise elected by the Employer in the Adoption Agreement, a Participant shall be deemed to have a severance from employment solely for purposes of eligibility to receive distributions from the Plan during any period the individual is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code) for more than 30 days.

(b) If a Participant receives a distribution pursuant to subsection (a), then the Participant shall not be permitted to make an after-tax Voluntary Participant Contribution during the six-month period beginning on the date of the distribution.

(c) If a Participant receives a distribution which could be attributable to:

1. a deemed severance from employment described in subsection (a); or
2. another distribution event under the Plan, then the distribution shall be considered made pursuant to the distribution event referenced in paragraph (2), and the Participant shall not be subject to the limitation on after-tax Voluntary Participant Contributions set forth in subsection (b).

9.12 Distributions for Health and Long-Term Care Insurance for Public Safety Officers.

(a) If elected by the Employer in the Adoption Agreement, Eligible Retired Public Safety Officers may elect after separation from service to have up to $3,000 distributed tax-free annually from the Plan in order to pay for Qualified Health Insurance Premiums for an accident or health plan (including a self-insured plan) or a qualified long-term care insurance contract. The Plan shall make such distributions directly to the provider of the accident or health plan or qualified long-term care insurance contract.

(b) The term "Eligible Retired Public Safety Officer" means an individual who, by reason of disability or attainment of Normal Retirement Age, is separated from service as a Public Safety Officer with the Employer who maintains the eligible retirement plan from which distributions pursuant to this Section are made. For purposes of this Section 9.12, the term "Public Safety Officer" means an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew.

(c) The term "Qualified Health Insurance Premiums" means premiums for coverage for the Eligible Retired Public Safety Officer, his spouse, and dependents, by an accident or health insurance plan or qualified long- term care insurance contract (as defined in Code section 7702(B)).

X. DISTRIBUTION REQUIREMENTS

10.01 General Rules.

(a) Generally. Subject to the provisions of Article XII or XVII if so elected by the Employer in the Adoption Agreement, the requirements of this Article shall apply to any distribution of a Participant's interest and will take precedence over any inconsistent provisions of this Plan.

(b) Distributions in Accordance with 401(a)(9). All distributions required under this Article shall be determined and made in accordance with the regulations under section 401(a)(9) of the Code, and the minimum distribution incidental benefit requirement of section 401(a)(9)(G) of the Code.

(c) Limits on Distribution Periods. As of the first Distribution Calendar Year, distributions to a Participant, if not made in a single-sum, may only be made over one of the following periods:

(1) The life of the Participant,

(2) The joint lives of the Participant and a designated Beneficiary,

(3) A period certain not extending beyond the life expectancy of the Participant, or

(4) A period certain not extending beyond the joint and last survivor expectancy of the Participant and a designated Beneficiary.

(d) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this Article X, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.

10.02 Time and Manner of Distribution.

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

(b) 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:

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

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

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

(4) If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 10.02(b), other than Section 10.02(b)(1), will apply as if the surviving spouse were the Participant.

For purposes of this Section 10.02(b) and Section 10.04, unless Section 10.02(b)(4) applies, distributions are considered to begin on the Participant's required beginning date. If Section 10.02(b)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 10.02(b)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 10.02(b)(1)), the date distributions are considered to begin is the date distributions actually commence.

(c) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Sections 10.03 and 10.04. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury Regulations.

10.03 Required Minimum Distributions During Participant's Lifetime.

(a) 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:

(1) the quotient obtained by dividing the Participant's Account Balance by the distribution period set forth in the Uniform Lifetime Table found in Section 1.401(a)(9)-9, Q&A-2, of the Final Income Tax Regulations using the Participant's age as of the Participant's birthday in the distribution calendar year; or

(2) if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9, Q&A-3, of the regulations using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(b) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this Section 10.03 beginning with the first distribution calendar year and continuing up to, and including, the distribution calendar year that includes the Participant's date of death.

(c) Qualified Longevity Contract. For purposes of computing minimum required distributions that must be made to a Participant or Beneficiary in each distribution calendar year in order to satisfy section 401(a)(9) of the Code, a Participant's Account Balance does not include the value of any qualifying longevity annuity contract (QLAC). A QLAC is an annuity contract, purchased from an insurance company on or after July 2, 2014, for the benefit of an Employee under the Plan, stating its intent to be a QLAC and otherwise meeting all of the requirements of Section 1.401(a)(9)-6 of the Treasury Regulations. The amount of the premiums paid for the QLAC under the Plan will not exceed the lesser of:

(1) an amount equal to the excess of $125,000 (as adjusted by the Commissioner) over the sum of

(i) The premiums paid before that date with respect to the contract, and

(ii) premiums paid on or before that date with respect to any other contract that is intended to be a QLAC and that is purchased for the Employee under the Plan, or any other plan, annuity, or account described in section 401(a), 403(a), 403(b), or 408 or eligible governmental plan under section 457(b); or

(2) an amount equal to the excess of

(i) 25 percent of the Employee's Account Balance (as of the last Accounting Date preceding the date of the premium payment) under the Plan (including the value of any QLAC held under the Plan for the Employee) as of the contract date, over.

(ii) The sum of premiums paid before that date with respect to the contract and premiums paid on or before that date with respect to any other contract that is intended to be a QLAC and that is held or was purchased for the Employee under the Plan.

Distributions under the QLAC portion of the Participant's Account will commence not later than the first day of the month next following the Participant's 85th birthday. After distributions commence, those distributions will satisfy all applicable minimum distribution requirements from that point forward (other than the requirement that annuity payments commence on or before the Required Beginning Date.)

If an annuity contract fails to be a QLAC solely because a premium for the contract exceeds the above limits, the excess premium will be returned (either in cash or in the form of a contract that is not intended to be a QLAC) to the non-QLAC portion of the Employee's Account by the end of the calendar year following the calendar year in which the excess premium was originally paid.

10.04 Required Minimum Distributions After Participant's Death.

(a) Death On or After Date Distributions Begin.

(1) 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 Balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:

(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 age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(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.

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

(b) Death Before Date Required Distributions Begin.

(1) Participant Survived by Designated Beneficiary. If the Participant dies before the date required distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 10.04(a).

(2) 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.

(3) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the

Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 10.02(b)(1), this Section 10.04(b) will apply as if the surviving spouse were the Participant.

10.05 Definitions.

For purposes of Section 10, the following definitions shall apply:

(a) Designated Beneficiary. The individual who is designated by the Participant (or the Participant's surviving spouse) as the Beneficiary of the Participant's interest under the Plan and who is the designated Beneficiary under Code Section 401(a)(9) and Section 1.401(a)(9)-4 of the regulations.

(b) Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 10.02(b). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

(c) Life Expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9, Q&A- 1, of the regulations.

(d) Participant's Account Balance. The Account balance as of the last Accounting Date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Account Balance as of dates in the valuation calendar year after the Accounting Date and decreased by distributions made in the valuation calendar year after the Accounting Date. The Account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(e) Required Beginning Date. The Required Beginning Date of a Participant is April 1 of the calendar year following the later of the calendar year in which the Participant attains age seventy and one-half (70½), or the calendar year in which the Participant retires.

XI. MODES OF DISTRIBUTION OF BENEFITS

11.01 Normal Mode of Distribution. Unless an elective mode of distribution is elected as provided in Section 11.02, benefits shall be paid to the Participant in the form of a lump sum payment.

Notwithstanding the foregoing, where the Employer made the "QJSA Election" in the Adoption Agreement, unless an elective mode of distribution is elected in accordance with Article XVII, benefits shall be paid to the Participant in the form provided for in Article XVII.

11.02 Elective Mode of Distribution. Subject to the requirements of Articles X, XII and XVII, a Participant may revocably elect to have his/her Account distributed in any one (1) of the following modes in lieu of the mode described in Section 11.01:

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

(b) Period Certain. Approximately equal monthly, quarterly, semi-annual, or annual payments, calculated to continue for a period certain chosen by the Participant.

(c) Other. Any other sequence of payments requested by the Participant.

(d) Lump Sum. Where the Employer did make the QJSA Election in the Adoption Agreement, a Participant may also elect a lump sum payment.

11.03 Election of Mode. A Participant's election of a payment option must be made in writing between thirty (30) and one-hundred eighty (180) days before the payment of benefits is to commence.

11.04 Death Benefits. Subject to Article X (and Article XII or XVII if so elected by the Employer in the Adoption Agreement),

(a) In the case of a Participant who dies before he/she has begun receiving benefit payments, the Participant's entire Nonforfeitable Interest shall then be payable to his/ her Beneficiary within ninety (90) days of the Participant's death. A Beneficiary who is entitled to receive benefits under this Section may elect to have benefits commence at a later date, subject to the provisions of Article X. The Beneficiary may elect to receive the death benefit in any of the forms available to the Participant under Sections 11.01 and 11.02. If the Beneficiary is the Participant's surviving spouse, and such surviving spouse dies before payment commences, then this Section shall apply to the beneficiary of the surviving spouse as though such surviving spouse were the Participant.

(b) Should the Participant die after he/she has begun receiving benefit payments, the Beneficiary shall receive the remaining benefits, if any, that are payable, under the payment schedule elected by the Participant. Notwithstanding the foregoing, the Beneficiary may elect to accelerate payments of the remaining balances, including but not limited to, a lump sum distribution.

XII. SPOUSAL DEATH BENEFIT REQUIREMENTS

12.01 Application. Unless otherwise elected by the Employer in the Adoption Agreement, the provisions of this Article shall take precedence over any conflicting provision in this Plan. The provisions of this Article, known as the "Beneficiary Spousal Consent Election," shall apply to any Participant who is credited with any Period of Service with the Employer on or after August 23, 1984, and such other Participants as provided in Section 12.04.

12.02 Spousal Death Benefit.

(a) On the death of a Participant, the Participant's Vested Account Balance will be paid to the Participant's Surviving Spouse. If there is no Surviving Spouse, or if the Participant has waived the spousal death benefit, as provided in Section 12.03, such Vested Account Balance will be paid to the Participant's designated Beneficiary.

(b) The Surviving Spouse may elect to have distribution of the Vested Account Balance commence within the one-hundred eighty (180) day period following the date of the Participant's death, or as otherwise provided under Section 11.04. The Account balance shall be adjusted for gains or losses occurring after the Participant's death in accordance with the provisions of the Plan governing the adjustment of Account balances for other types of distributions.

12.03 Waiver of Spousal Death Benefit.

The Participant may waive the spousal death benefit described in Section 12.02 at any time; provided that no such waiver shall be effective unless: (a) the Participant's Spouse consents in writing to the election; (b) the election designates a specific Beneficiary, including any class of Beneficiaries or any contingent Beneficiaries, which may not be changed without spousal consent (or the Spouse expressly permits designations by the Participant without any further spousal consent); (c) the Spouse's consent acknowledges the effect of the election; and (d) the Spouse's consent is witnessed by a Plan representative or notary public. If it is established to the satisfaction of a Plan representative that there is no Spouse or that the Spouse cannot be located, a waiver will be deemed to meet the requirements of this Section.

Any consent by a Spouse obtained under this provision (or establishment that the consent of a Spouse may not be obtained) shall be effective only with respect to such Spouse. A consent that permits designations by the Participant without any requirement of further consent by such Spouse must acknowledge that the Spouse has the right to limit consent to a specific Beneficiary, and a specific form of benefit where applicable, and that the Spouse voluntarily elects to relinquish either or both of such rights. A revocation of a prior waiver may be made by a Participant without the consent of the Spouse at any time before the commencement of benefits. The number of revocations shall not be limited.

12.04 Definitions. For the purposes of this Section, the following definitions shall apply:

(a) Spouse (Surviving Spouse). The Spouse or Surviving Spouse of the Participant, provided that a former Spouse will be treated as the Spouse or Surviving Spouse and a current Spouse will not be treated as the Spouse or Surviving Spouse to the extent provided under a qualified domestic relations order as described in section 414(p) of the Code.

(b) Vested Account Balance. The aggregate value of the Participant's vested Account balances derived from Employer and Employee contributions (including rollovers), whether vested before or upon death, including the proceeds of insurance contracts, if any, on the Participant's life. The provisions of this Article shall apply to a Participant who is vested in amounts attributable to Employer contributions, Employee contributions (or both) at the time of death or distribution.

XIII. LOANS TO PARTICIPANTS

13.01 Availability of Loans to Participants.

(a) If the Employer has elected in the Adoption Agreement to make loans available to Participants, a Participant may apply for a loan from the Plan subject to the limitations and other provisions of this Article.

(b) The Employer shall establish written guidelines governing the granting of loans, provided that such guidelines are approved by the Plan Administrator and are not

inconsistent with the provisions of this Article, and that loans are made available to all applicable Participants on a reasonably equivalent basis.

13.02 Terms and Conditions of Loans to Participants. Any loan by the Plan to a Participant under Section 13.01 of the Plan shall satisfy the following requirements:

(a) Availability. Loans shall be made available to all Participants who are active Employees on a reasonably equivalent basis. Loans shall not be made available to terminated Employees, Beneficiaries, or alternate payees.

(b) Nondiscrimination. Loans shall not be made to Highly Compensated Employees in an amount greater than the amount made available to other Employees. For this purpose, Highly Compensated Employee means any Employee who, for the preceding year, had Compensation from the Employer in excess of $80,000 (as adjusted).

(c) Interest Rate. Loans must be adequately secured and bear a reasonable interest rate.

(d) Loan Limit. No Participant loan shall exceed the present value of the Participant's Nonforfeitable Interest in his/her Account.

(e) Foreclosure. In the event of default, foreclosure on the note and attachment of security will not occur until a distributable event occurs in the Plan.

(f) Reduction of Account. Notwithstanding any other provision of this Plan, the portion of the Participant's vested Account balance used as a security interest held by the Plan by reason of a loan outstanding to the Participant shall be taken into account for purposes of determining the amount of the Account balance payable at the time of death or distribution, but only if the reduction is used as repayment of the loan. If less than one hundred percent (100%) of the Participant's nonforfeitable Account balance (determined without regard to the preceding sentence) is payable to the surviving spouse, then the Account balance shall be adjusted by first reducing the nonforfeitable Account balance by the amount of the security used as repayment of the loan, and then determining the benefit payable to the surviving spouse.

(g) Amount of Loan. At the time the loan is made, the principal amount of the loan plus the outstanding balance (principal plus accrued interest) due on any other outstanding loans to the Participant or Beneficiary from the Plan and from all other plans of the Employer that are qualified employer plans under section 72(p)(4) of the Code shall not exceed the lesser of:

(1) $50,000, reduced by the excess (if any) of

(i) The highest outstanding balance of loans from the Plan during the one (1) year period ending on the day before the date on which the loan is made, over

(ii) The outstanding balance of loans from the Plan on the date on which such loan is made; or

(2) One-half (½) of the value of the Participant's Nonforfeitable Interest in all of his/her Accounts under this Plan

For the purpose of the above limitation, all loans from all qualified employer plans of the Employer, including 457(b) plans, under Code section 72(p)(4) are aggregated.

(h) Application for Loan. The Participant must give the Employer adequate written notice, as determined by the Employer, of the amount and desired time for receiving a loan. No

more than one (1) loan may be made by the Plan to a Participant in any calendar year. No loan shall be approved if an existing loan from the Plan to the Participant is in default to any extent.

(i) Length of Loan. The terms of any loan issued or renegotiated after December 31, 1993, shall require the Participant to repay the loan in substantially equal installments of principal and interest, at least quarterly (except as otherwise provided in Treasury Regulation section 1.72(p)-1, Q&A-9 for certain leave of absence and military leave), over a period that does not exceed five (5) years from the date of the loan; provided, however, that if the proceeds of the loan are applied by the Participant to acquire any dwelling unit that is to be used within a reasonable time after the loan is made as the principal residence of the Participant, the five (5) year limit shall not apply. In this event, the period of repayment shall not exceed a reasonable period determined by the Employer. Principal installments and interest payments otherwise due may be suspended for up to one (1) year during an authorized leave of absence, if the promissory note so provides, but not beyond the original term permitted under this Subsection (i), with a revised payment schedule (within such term) instituted at the end of such period of suspension. If the Participant fails to make any installment payment, the Plan Administrator may, according to Treasury Regulation 1.72(p)-1, allow a cure period, which cure period cannot continue beyond the last day of the calendar quarter following the calendar quarter in which the required installment payment was due.

(j) Prepayment. The Participant shall be permitted to repay the loan in whole or in part at any time prior to maturity, without penalty.

(k) Note. The loan shall be evidenced by a promissory note executed by the Participant and delivered to the Employer, and shall bear interest at a reasonable rate determined by the Employer. Unless waived by a Participant, any plan loan that is outstanding on the date that active duty military service begins will accrue interest at a rate of no more than 6% during the period of military service in accordance with the provisions of the Service members Civil Relief Act (SCRA), 50 USC App. § 526 and subject to the notice requirements contained therein. This limitation applies even if loan payments are suspended during the period of military service as permitted under the Plan and Treasury regulations.

(l) Security. The loan shall be secured by an assignment of that portion the Participant's right, title and interest in and to his/her Account that is equal to fifty percent (50%) of the Participant's Account (to the extent vested).

(m) Assignment or Pledge. For the purposes of paragraphs (h) and (i), assignment or pledge of any portion of the Participant's interest in the Plan and a loan, pledge, or assignment with respect to any insurance contract purchased under the Plan, will be treated as a loan.

(n) Spousal Consent. If the Employer elected the QJSA Election in the Adoption Agreement, the Participant must first obtain his or her spouse's notarized consent to the loan. Spousal consent shall be obtained no earlier than the beginning of the one-hundred eighty (180) day period that ends on the date on which the loan is to be so secured. The consent must be in writing, must acknowledge the effect of the loan, and must be witnessed by a Plan representative or notary public. Such consent shall thereafter be binding with respect to the consenting spouse or any subsequent spouse with respect to that loan. A new consent shall be required if the Account balance is used for renegotiation, extension, renewal, or other revision of the loan.

(o) Other Terms and Conditions. The Employer shall fix such other terms and conditions of the loan as it deems necessary to comply with legal requirements, to maintain the

qualification of the Plan under section 401(a) of the Code, or to prevent the treatment of the loan for tax purposes as a distribution to the Participant. The Employer, in its discretion for any reason, may fix other terms and conditions of the loan, not inconsistent with the provisions of this Article, including:

(1) the circumstances under which a loan becomes immediately due and payable, provided, however, with respect to loans issued after December 31, 2012, that the loan program shall not provide that a loan becomes due and payable solely because the Participant requests or receives a partial distribution of the Participant's Account balance after termination of employment;

(2) rules relating to reamortization of loans; and

(3) rules relating to refinance of loans.

13.03 Participant Loan Accounts.

(a) Upon approval of a loan to a Participant by the Employer, an amount not in excess of the loan shall be transferred from the Participant's other investment fund(s), described in Section 6.01 of the Plan, to the Participant's Loan Account as of the Accounting Date immediately preceding the agreed upon date on which the loan is to be made.

(b) The assets of a Participant's Loan Account may be invested and reinvested only in promissory notes received by the Plan from the Participant as consideration for a loan permitted by Section 13.01 of the Plan or in cash. Uninvested cash balances in a Participant's Loan Account shall not bear interest. No person who is otherwise a fiduciary of the Plan shall be liable for any loss, or by reason of any breach, that results from the Participant's exercise of such control.

(c) Repayment of principal and payment of interest shall be made by payroll deduction or Automated Clearing House (ACH) transfer, or with respect to a terminated Employee solely by ACH, and shall be invested in one or more other investment funds, in accordance with Section 6.01 of the Plan, as of the next Accounting Date after payment thereof to the Trust. The amount so invested shall be deducted from the Participant's Loan Account. A payment intended to be a Prepayment or payment of the loan in full may also be made by cashier's check or money order, and shall be invested in accordance with this provision.

(d) The Employer shall have the authority to establish other reasonable rules, not inconsistent with the provisions of the Plan, governing the establishment and maintenance of Participant Loan Accounts.

XIV. PLAN AMENDMENT, TERMINATION, AND OPTIONAL PROVISIONS

14.01 Amendment by Employer. The Employer reserves the right, subject to Section 14.02 of the Plan, to amend the Plan from time to time by either:

(a) Filing an amended Adoption Agreement to change, delete, or add any optional provision, or

(b) Continuing the Plan in the form of an amended and restated Plan.

No amendment to the Plan shall be effective to the extent that it has the effect of decreasing a Participant's accrued benefit. Notwithstanding the preceding sentence, a Participant's Account balance may be reduced to the extent permitted under section 412(d)(2) of the Code. For purposes of this paragraph, a Plan amendment which has the effect of decreasing a Participant's Account balance or eliminating an optional form of benefit, with respect to benefits attributable to service before the amendment shall be treated as reducing an accrued benefit. Furthermore, if the vesting schedule of the Plan is amended, in the case of an Employee who is a Participant as of the later of the date such amendment is adopted or the date it becomes effective, the nonforfeitable percentage (determined as of such date) of such Employee's right to his/her Employer- derived accrued benefit will not be less than his percentage computed under the Plan without regard to such amendment.

No amendment to the Plan shall be effective to eliminate or restrict an optional form of benefit. The preceding sentence shall not apply to a Plan amendment that eliminates or restricts the ability of a Participant to receive payment of his or her Account balance under a particular optional form of benefit if the amendment provides a single-sum distribution form that is otherwise identical to the optional form of benefit being eliminated or restricted. For this purpose, a single-sum distribution form is otherwise identical only if the single-sum distribution form is identical in all respects to the eliminated or restricted optional form of benefit (or would be identical except that it provides greater rights to the Participant) except with respect to the timing of payments after commencement.

The Employer may (1) change the choice of options in the Adoption Agreement; (2) specify or change the effective date of a provision as permitted under the Plan; (3) add overriding language in the Adoption Agreement when such language is necessary to satisfy § 415 or § 416 of the Code because of the required aggregation of multiple plans; (4) amend administrative provisions of the Plan such as provisions relating to investments, Plan claims procedures, and Employer contact information provided the amended provisions are not in conflict with any other provision of the Plan and do not cause the Plan to fail to qualify under Code § 401; (5) adopt sample or model plan amendments published by the Internal Revenue Service which provide that their adoption will not result in the Employer losing reliance on the Opinion Letter; (6) amend to adjust for limitations provided under Code §§ 415, 402(g), 401(a)(17) and 414(q)(1)(B) to reflect annual cost of living increases, other than to add automatic cost-of-living adjustments to the Plan; and (7) make interim amendments or discretionary amendments that are related to a change in qualification requirements. An Employer that amends the Plan for any other reason will no longer have reliance on the Opinion Letter.

14.02 Amendment of Vesting Schedule. If the Plan's vesting schedule is amended, or the Plan is amended in any way that directly or indirectly affects the computation of the Participant's nonforfeitable percentage, each Participant may elect, within a reasonable period after the adoption of the amendment or change, to have the nonforfeitable percentage computed under the Plan without regard to such amendment or change.

The period during which the election may be made shall commence with the date the amendment is adopted or deemed to be made and shall end on the latest of:

(a) Sixty (60) days after the amendment is adopted;

(b) Sixty (60) days after the amendment becomes effective; or

(c) Sixty (60) days after the Participant is issued written notice of the amendment by the Employer or Plan Administrator.

14.03 Termination by Employer. The Employer reserves the right to terminate this Plan. However, in the event of such termination no part of the Trust shall be used or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries, except as provided in this Section.

Upon Plan termination or partial termination, all Account balances shall be valued at their fair market value and the Participant's right to his/her Employer Contribution Account shall be one hundred percent (100%) vested and nonforfeitable. Such amount and any other amounts held in the Participant's other Accounts shall be maintained for the Participant until paid pursuant to the terms of the Plan.

Any amounts held in a suspense account, after all liabilities of the Plan to Participants and Beneficiaries have been satisfied or provided for, shall be paid to the Employer in accordance with the Code and regulations thereunder.

In the event that the Commissioner of Internal Revenue determines that the Plan is not initially qualified under the Internal Revenue Code, any contribution made by the Employer incident to that initial qualification must be returned to the Employer within one year after the date the initial qualification is denied, but only if the application for the qualification is made by the time prescribed by law for filing the Employer's return for the year in which the Plan is adopted, or such later date as the Secretary of the Treasury may prescribe.

14.04 Discontinuance of Contributions. A permanent discontinuance of contributions to the Plan by the Employer, unless an amended and restated Plan is established, shall constitute a Plan termination. In the event of a complete discontinuance of contributions under the Plan, the Account balance of each affected Participant shall be nonforfeitable.

14.05 Amendment by Plan Administrator. The Plan Administrator may amend this Plan upon thirty (30) days written notification to the Employer; provided, however, that any such amendment must be for the express purpose of maintaining compliance with applicable federal laws and regulations, revenue rulings, other statements published by the Internal Revenue Service (including model and sample amendments that specifically provide that their adoption will not cause such Plan to be individually designed), or corrections of prior approved Plans may be applied to all Employers who have adopted the Plan. Such amendment shall become effective unless, within such 30-day period, the Employer notifies the Administrator, in writing, that it disapproves such amendment, in which case such amendment shall not become effective. In the event of such disapproval, or in the event of the resignation or removal of the Plan Administrator pursuant to Section 15.05, the Administrator shall be under no obligation to continue acting as Administrator hereunder.

However, for purposes of reliance on an Opinion Letter, the Plan Administrator will no longer have the authority to amend the Plan on behalf of the Employer as of the date (1) the Employer amends the Plan to incorporate a type of plan described in section 6.03 of Rev. Proc. 2017-41 that is not permitted under the Pre- approved Plan program, or (2) the Internal Revenue Service notifies the Employer, in accordance with section 8.06(3) of Rev. Proc. 2017-41, that the Plan is an individually designed plan due to the nature and extent of Employer amendments to the Plan.

14.06 Optional Provisions. Any provision which is optional under this Plan shall become effective if and only if elected by the Employer and agreed to by the Plan Administrator.

14.07 Failure of Qualification. The Employer may rely on an Opinion Letter issued by the Internal Revenue Service as evidence that the Plan is qualified under § 401 of the Internal Revenue

Code only to the extent provided in Rev. Proc. 2017-41. If the Employer's plan fails to attain or retain qualification, such plan will no longer participate in this Plan and will be considered an individually designed plan.

XV. ADMINISTRATION

15.01 Powers of the Employer. The Employer shall have the following powers and duties:

(a) To appoint and remove, with or without cause, the Plan Administrator;

(b) To amend or terminate the Plan pursuant to the provisions of Article XIV;

(c) To appoint a committee to facilitate administration of the Plan and communications to Participants;

(d) To decide all questions of eligibility (1) for Plan participation, and (2) upon appeal by any Participant, Employee or Beneficiary, for the payment of benefits;

(e) To engage an independent qualified public accountant, when required to do so by law, to prepare annually the audited financial statements of the Plan's operation;

(f) To take all actions and to communicate to the Plan Administrator in writing all necessary information to carry out the terms of the Plan; and

(g) To notify the Plan Administrator in writing of the termination of the Plan.

15.02 Duties of the Plan Administrator. The Plan Administrator shall have the following powers and duties, subject to the oversight by the Employer:

(a) To construe and interpret the provisions of the Plan;

(b) To maintain and provide such returns, reports, schedules, descriptions, and individual Account statements as are required by law within the times prescribed by law; and to furnish to the Employer, upon request, copies of any or all such materials, and further, to make copies of such instruments, reports, descriptions, and statements as are required by law available for examination by Participants and such of their Beneficiaries who are or may be entitled to benefits under the Plan in such places and in such manner as required by law;

(c) To obtain from the Employer such information as shall be necessary for the proper administration of the Plan;

(d) To determine the amount, manner, and time of payment of benefits hereunder;

(e) To appoint and retain such agents, counsel, and accountants for the purpose of properly administering the Plan;

(f) To distribute assets of the Trust to each Participant and Beneficiary in accordance with Article X of the Plan;

(g) To pay expenses from the Trust; and

(h) To do such other acts reasonably required to administer the Plan in accordance with its provisions or as may be provided for or required by the Code.

15.03 Protection of the Employer. The Employer shall not be liable for the acts or omissions of the Plan Administrator, but only to the extent that such acts or omissions do not result from the Employer's failure to provide accurate or timely information as required or necessary for proper administration of the Plan.

15.04 Protection of the Plan Administrator. The Plan Administrator may rely upon any certificate, notice or direction purporting to have been signed on behalf of the Employer which the Plan Administrator believes to have been signed by a duly designated official of the Employer.

15.05 Resignation or Removal of Plan Administrator. The Plan Administrator may resign at any time effective upon sixty (60) days prior written notice to the Employer. The Plan Administrator may be removed by the Employer at any time upon sixty (60) days prior written notice to the Plan Administrator. Upon the resignation or removal of the Plan Administrator, the Employer may appoint a successor Plan Administrator; failing such appointment, the Employer shall assume the powers and duties of Plan Administrator. Upon the resignation or removal of the Plan Administrator, any Trust assets invested by or held in the name of the Plan Administrator shall be transferred to the trustee in cash or property, at fair market value, except that the return of Trust assets invested in a contract issued by an insurance company shall be governed by the terms of that contract.

15.06 No Termination Penalty. The Plan Administrator shall have no authority or discretion to impose any termination penalty upon its removal.

15.07 Decisions of the Plan Administrator. All constructions, determinations, and interpretations made by the Plan Administrator pursuant to Section 15.02(a) or (d) or by the Employer pursuant to Section 15.01(d) shall be final and binding on all persons participating in the Plan, given deference in all courts of law to the greatest extent allowed by applicable law, and shall not be overturned or set aside by any court of law unless found to be arbitrary or capricious, or made in bad faith.

XVI. MISCELLANEOUS

16.01 Nonguarantee of Employment. Nothing contained in this Plan shall be construed as a contract of employment between the Employer and any Employee, or as a right of an Employee to be continued in the employment of the Employer, as a limitation of the right of the Employer to discharge any of its Employees, with or without cause.

16.02 Rights to Trust Assets. No Employee or Beneficiary shall have any right to, or interest in, any assets of the Trust upon termination of his/her employment or otherwise, except as provided from time to time under this Plan, and then only to the extent of the benefits payable under the Plan to such Employee or Beneficiary out of the assets of the Trust. All payments of benefits as provided for in this Plan shall be made solely out of the assets of the Trust and none of the fiduciaries shall be liable therefor in any manner.

16.03 Nonalienation of Benefits. Except as provided in Sections 16.04 and 16.06 of the Plan, benefits payable under this Plan shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution, or levy of

any kind, either voluntary or involuntary, prior to actually being received by the person entitled to the benefit under the terms of the Plan; and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any right to benefits payable hereunder, shall be void. The Trust shall not in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person entitled to benefits hereunder.

16.04 Qualified Domestic Relations Order. Notwithstanding Section 16.03 of the Plan, amounts may be paid with respect to a Participant pursuant to a domestic relations order, but if and only if the order is determined to be a qualified domestic relations order within the meaning of section 414(p) of the Code or any domestic relations order entered before January 1, 1985.

16.05 Nonforfeitability of Benefits. Subject only to the specific provisions of this Plan, nothing shall be deemed to deprive a Participant of his/her right to the Nonforfeitable Interest to which he/she becomes entitled in accordance with the provisions of the Plan.

16.06 Incompetency of Payee. In the event any benefit is payable, on or after the adoption date of this Plan, to a minor or incompetent, to a person otherwise under legal disability, or to a person who, in the sole judgment of the Employer, is by reason of advanced age, illness, or other physical or mental incapacity incapable of handling the disposition of his/her property, the Employer may apply the whole or any part of such benefit directly to the care, comfort, maintenance, support, education, or use of such person or pay or distribute the whole or any part of such benefit to:

(a) a valid power of attorney;

(b) a court appointed guardian;

(c) or any other person authorized under the state law to receive the benefit.

The receipt of the person to whom any such payment or distribution is so made shall be full and complete discharge therefor.

16.07 Inability to Locate Payee. Anything to the contrary herein notwithstanding, if the Employer is unable, after reasonable effort, to locate any Participant or Beneficiary to whom an amount is payable hereunder, such amount shall be forfeited and held in the Trust for application against the next succeeding Employer Contribution or Contributions required to be made hereunder. Notwithstanding the foregoing, however, such amount shall be reinstated, by means of an additional Employer contribution, if and when a claim for the forfeited amount is subsequently made by the Participant or Beneficiary or if the Employer receives proof of death of such person, satisfactory to the Employer. To the extent not inconsistent with applicable law, any benefits lost by reason of escheat under applicable state law shall be considered forfeited and shall not be reinstated.

16.08 Mergers, Consolidations, and Transfer of Assets. The Plan shall not be merged into or consolidated with any other plan, nor shall any of its assets or liabilities be transferred into any such other plan, unless each Participant in the Plan would (if the Plan then terminated) receive a benefit immediately after the merger, consolidation, or transfer that is equal to or greater than the benefit he/she would have been entitled to receive immediately before the merger, consolidation, or transfer (if the Plan had then terminated).

16.09 Employer Records. Records of the Employer as to an Employee's or Participant's Period of Service, termination of service and the reason therefor, leaves of absence, reemployment,

Earnings, and compensation will be conclusive on all persons, unless determined to be incorrect.

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

16.11 Applicable Law. The Plan shall be construed under the laws of the State where the Employer is located, except to the extent superseded by federal law. The Plan is established with the intent that it meets the requirements under the Code. The provisions of this Plan shall be interpreted in conformity with these requirements.

In the event of any conflict between the Plan and a policy or contract issued hereunder, the Plan provisions shall control; provided, however, no Plan amendment shall supersede an existing policy or contract unless such amendment is required to maintain qualification under section 401(a) and 414(d) of the Code.

In the event of any conflict between the terms of this Plan and any conflicting provision contained in any associated trust, custodial account document or any document that is incorporated by reference, the terms of this Plan will govern.

16.12 Electronic Communication and Consent. Unless expressly provided otherwise, where this Plan provides that a document, election, notification, direction, signature, or consent will be in writing, such writing may occur through an electronic medium, including but not limited to electronic mail, intranet or internet web posting and online account access, to the fullest extent permitted by applicable law.

XVII. SPOUSAL BENEFIT REQUIREMENTS

17.01 Application. If elected by the Employer in the Adoption Agreement (the "QJSA Election"), the provisions of this Article shall take precedence over any conflicting provision in this Plan. If elected, the provisions of this Article shall apply to any Participant who is credited with any Period of Service with the Employer on or after August 23, 1984, and such other Participants as provided in Section 17.06.

17.02 Qualified Joint and Survivor Annuity. Unless an optional form of benefit is selected pursuant to a Qualified Election within the one-hundred eighty (180) day period ending on the Annuity Starting Date, a married Participant's Vested Account Balance will be paid in the form of a Qualified Joint and Survivor Annuity and an unmarried Participant's Vested Account Balance will be paid in the form of a Straight Life Annuity. The Participant may elect to have such annuity distributed upon the attainment of the Earliest Retirement Age under the Plan.

17.03 Qualified Optional Survivor Annuity. If a married Participant elects to waive the Qualified Joint and Survivor Annuity, the Participant may elect the qualified optional survivor annuity at any time during the applicable election period, provided, however, that this Section shall apply only to the extent the Plan makes another survivor annuity available.

17.04 Qualified Preretirement Survivor Annuity. If a Participant dies before the Annuity Starting Date, then fifty percent (50%) of the Participant's Vested Account Balance shall be applied toward the purchase of an annuity for the life of the Surviving Spouse; the remaining portion shall be paid to such Beneficiaries (which may include such Spouse) designated by the Participant. Notwithstanding the foregoing, the Participant may waive the spousal annuity by designating a different Beneficiary within the Election Period pursuant to a Qualified Election. To the extent that less than one hundred percent (100%) of the Vested Account Balance is paid to the Surviving Spouse, the amount of the Participant's Account derived from employee contributions will be allocated to the Surviving Spouse in the same proportion as the amount of the Participant's Account derived from employee contributions is to the Participant's total Vested Account Balance. The Surviving Spouse may elect to have such annuity distributed within a reasonable period after the Participant's death. Further, such Spouse may elect to receive any death benefit payable to him/her hereunder in any of the forms available to the Participant under Section 11.02.

17.05 Notice Requirements.

(a) In the case of a Qualified Joint and Survivor Annuity as described in Section 17.02, the Plan Administrator shall, no less than thirty (30) days and no more than one-hundred eighty (180) days prior to the Annuity Starting Date, provide each Participant a written explanation of: (i) the terms and conditions of a Qualified Joint and Survivor Annuity;(ii) the Participant's right to make and the effect of an election to waive the Qualified Joint and Survivor Annuity form of benefit; (iii) the rights of a Participant's Spouse; and (iv) the right to make, and the effect of, a revocation of a previous election to waive the Qualified Joint and Survivor Annuity. However, if the Participant, after having received the written explanation, affirmatively elects a form of distribution and the Spouse consents to that form of distribution (if necessary), benefit payments may commence less than thirty (30) days after the written explanation was provided to the Participant, provided that the following requirements are met:

(1) The Plan Administrator provides information to the Participant clearly indicating that the Participant has a right to at least thirty (30) days to consider whether to waive the Qualified Joint and Survivor Annuity and consent to a form of distribution other than a Qualified Joint and Survivor Annuity;

(2) The Participant is permitted to revoke an affirmative distribution election at least until the Annuity Starting Date, or if later, at any time prior to the expiration of the 7-day period that begins the day after the explanation of the Qualified Joint and Survivor Annuity is provided to the Participant;

(3) The Annuity Starting Date is after the date that the explanation of the Qualified Joint and Survivor Annuity is provided to the Participant; and

(4) Distribution in accordance with the affirmative election does not commence before the expiration of the 7-day period that begins after the day after the explanation of the Qualified Joint and Survivor Annuity is provided to the Participant.

(b) In the case of a Qualified Preretirement Survivor Annuity as described in Section 17.04, the Plan Administrator shall provide each Participant within the applicable period for such Participant a written explanation of the Qualified Preretirement Survivor Annuity in such terms and in such manner as would be comparable to the explanation provided for meeting the requirements of Subsection (a) applicable to a Qualified Joint and Survivor Annuity.

The applicable period for a Participant is whichever of the following periods ends last:

1. the period beginning with the first day of the Plan Year in which the Participant attains age thirty-two (32) and ending with the close of the Plan Year preceding the Plan Year in which the Participant attains age thirty-five (35);
2. a reasonable period ending after the individual becomes a Participant;
3. a reasonable period ending after Subsection (c) ceases to apply to the Participant;
4. a reasonable period ending after this Article first applies to the Participant. Notwithstanding the foregoing, notice must be provided within a reasonable period ending after separation from service in the case of a Participant who separates from service before attaining age thirty-five (35).

For purposes of applying the preceding paragraph, a reasonable period ending after the enumerated events described in (2), (3) and (4) is the end of the two (2) year period beginning one (1) year prior to the date the applicable event occurs, and ending one (1) year after that date. In the case of a Participant who separates from service before the Plan Year in which age thirty-five (35) is attained, notice shall be provided within the two (2) year period beginning one (1) year prior to separation and ending one (1) year after separation. If such a Participant thereafter returns to employment with the Employer, the applicable period for such Participant shall be redetermined.

(c) Notwithstanding the other requirements of this Section, the respective notices prescribed by this Section need not be given to a Participant if (1) the Plan "fully subsidizes" the costs of a Qualified Joint and Survivor Annuity or Qualified Preretirement Survivor Annuity, and (2) the Plan does not allow the Participant to waive the Qualified Joint and Survivor Annuity or Qualified Preretirement Survivor Annuity and does not allow a married Participant to designate a non-Spouse Beneficiary. For purposes of this Subsection (c), a plan fully subsidizes the costs of a benefit if no increase in cost or decrease in benefits to the Participant may result from the Participant's failure to elect another benefit.

17.06 Definitions. For the purposes of this Section, the following definitions shall apply:

(a) Annuity Starting Date. The first day of the first period for which an amount is paid as an annuity or any other form.

(b) Election Period. The period which begins on the first day of the Plan Year in which the Participant attains age thirty-five (35) and ends on the date of the Participant's death. If a Participant separates from service prior to the first day of the Plan Year in which age thirty-five (35) is attained, with respect to the Account balance as of the date of separation, the Election Period shall begin on the date of separation. Pre-age thirty- five (35) waiver: A Participant who will not yet attain age thirty-five (35) as of the end of any current Plan Year may make a special Qualified Election to waive the Qualified Preretirement Survivor Annuity for the period beginning on the date of such election and ending on the first day of the Plan Year in which the Participant will attain age thirty-five (35). Such election shall not be valid unless the Participant receives a written explanation of the Qualified Preretirement Survivor Annuity in such terms as are comparable to the explanation required under Section 17.05(a). Qualified Preretirement Survivor Annuity coverage will be automatically reinstated as of the first day of the Plan Year in which the Participant attains age thirty-five (35). Any new waiver on or after such date shall be subject to the full requirements of this Article.

(c) Earliest Retirement Age. The earliest date on which, under the Plan, the Participant could elect to receive retirement benefits.

(d) Qualified Election. A waiver of a Qualified Joint and Survivor Annuity or a Qualified Preretirement Survivor Annuity. Any waiver of a Qualified Joint and Survivor Annuity or a

Qualified Preretirement Survivor Annuity shall not be effective unless: (a) the Participant's Spouse consents in writing to the election; (b) the election designates a specific Beneficiary, including any class of Beneficiaries or any contingent Beneficiaries, which may not be changed without spousal consent (or the Spouse expressly permits designations by the Participant without any further spousal consent); (c) the Spouse's consent acknowledges the effect of the election; and (d) the Spouse's consent is witnessed by a Plan representative or notary public. Additionally, a Participant's waiver of the Qualified Joint and Survivor Annuity shall not be effective unless the election designates a form of benefit payment which may not be changed without spousal consent (or the Spouse expressly permits designations by the Participant without any further Spousal consent). If it is established to the satisfaction of a Plan representative that there is no Spouse or that the Spouse cannot be located, a waiver will be deemed a Qualified Election.

Any consent by a Spouse obtained under this provision (or establishment that the consent of a Spouse may not be obtained) shall be effective only with respect to such Spouse. A consent that permits designations by the Participant without any requirement of further consent by such Spouse must acknowledge that the Spouse has the right to limit consent to a specific Beneficiary, and a specific form of benefit where applicable, and that the Spouse voluntarily elects to relinquish either or both of such rights. A revocation of a prior waiver may be made by a Participant without the consent of the Spouse at any time before the commencement of benefits. The number of revocations shall not be limited. No consent obtained under this provision shall be valid unless the Participant has received notice as provided in Section 17.05.

(e) Qualified Joint and Survivor Annuity. An immediate annuity for the life of the Participant with a survivor annuity for the life of the Spouse which is fifty percent (50%) of the amount of the annuity which is payable during the joint lives of the Participant and the Spouse and which is the amount of benefit which can be purchased with the Participant's Vested Account Balance.

(f) Spouse (Surviving Spouse). The Spouse or Surviving Spouse of the Participant, provided that a former Spouse will be treated as the Spouse or Surviving Spouse and a current Spouse will not be treated as the Spouse or Surviving Spouse to the extent provided under a qualified domestic relations order as described in section 414(p) of the Code.

(g) Straight Life Annuity. An annuity payable in equal installments for the life of the Participant that terminates upon the Participant's death.

(h) Vested Account Balance. The aggregate value of the Participant's vested Account balances derived from Employer and Employee contributions (including rollovers), whether vested before or upon death, including the proceeds of insurance contracts, if any, on the Participant's life. The provisions of this Article shall apply to a Participant who is vested in amounts attributable to Employer contributions, Employee contributions (or both) at the time of death or distribution.

17.07 Annuity Contracts. Where benefits are to be paid in the form of a life annuity pursuant to the terms of this Article, a nontransferable annuity contract shall be purchased from a life insurance company and distributed to the Participant or Surviving Spouse, as applicable. The terms of any annuity contract purchased and distributed by the Plan shall comply with the requirements of this Plan and section 417 of the Code.

XVIII. FINAL PAY CONTRIBUTIONS

18.01 Eligibility. If elected by the Employer in the Adoption Agreement, Final Pay Contributions on behalf of each eligible Participant equal to the equivalent of the accrued unpaid Final Pay, as defined in the Adoption Agreement ("Final Pay"), shall be contributed to the Plan. Eligibility for Final Pay Contributions is limited to only those Participants or class of Participants that the Employer elects in the Adoption Agreement.

18.02 Contribution Amount. At the election of the Employer in the Adoption Agreement, the Final Pay Contributions may be made as either (a) Employer Final Pay Contributions, or (b) Employee Designated Final Pay Contributions, as described below.

(a) Employer Final Pay Contributions. The Employer shall contribute to the Plan for each eligible Participant the equivalent of a designated amount of accrued unpaid Final Pay upon termination of employment of the Participant, as the Employer so elects in the Adoption Agreement. The Employer's contribution for any Plan Year shall be due and paid not later than the time prescribed by applicable law. The Employer Final Pay Contributions shall be accounted for in the Employer Contribution Account.

(b) Employee Designated Final Pay Contributions. The Employer shall contribute to the Plan for each eligible Participant all or any portion of a Participant's Final Pay, as elected by the Participant. The Employer may limit the amount of Final Pay to be elected to be contributed to the Plan. Once elected, an Employee's election shall remain in force and may not be revised or revoked.

The Employee Designated Final Pay Contributions shall be accounted for in the Employee Designated Final Pay Contribution Account, and are nonforfeitable at all times.

The Employee Designated Final Pay Contributions shall be "picked up" by the Employer in accordance with Code section 414(h)(2). The contributions shall be treated as an employer contribution in determining the tax treatment under the Code, and shall not be included as gross income of the Participant until it is distributed.

A Participant cannot elect to receive cash in lieu of any Final Pay Contribution.

18.03 Equivalencies. The Final Pay Contribution shall be determined by multiplying the Participant's current daily rate of pay from the Employer times the amount of accrued unpaid leave being converted.

18.04 Excess Contributions. Final Pay Contributions are limited to the extent of applicable law and any Code limitation. No Final Pay Contribution shall be made to the extent that it would exceed the applicable Code section 415 limitation, as set forth in Article V. Any excess contributions as a result of the Code section 415 limitation shall remain in the Participant's leave bank.

XIX. ACCRUED LEAVE CONTRIBUTIONS

19.01 Eligibility. If elected by the Employer in the Adoption Agreement, Accrued Leave Contributions on behalf of each eligible Participant equal to the equivalent of the accrued unpaid leave, as defined in the Adoption Agreement ("Accrued Leave"), shall be contributed to the Plan. Eligibility for Accrued Leave Contributions is limited to only those Participants or class of Participants that the Employer elects in the Adoption Agreement.

19.02 Contribution Amount. At the election of the Employer in the Adoption Agreement, the Accrued Leave Contributions may be made as either (a) Employer Accrued Leave Contributions, or (b) Employee Designated Accrued Leave Contributions, as described below.

(a) Employer Accrued Leave Contributions. The Employer shall contribute to the Plan for each eligible Participant the equivalent of a designated amount of accrued unpaid leave each year, as the Employer so elects in the Adoption Agreement. The Employer's contribution for any Plan Year shall be due and paid not later than the time prescribed by applicable law. The Employer Accrued Leave Contributions shall be accounted for in the Employer Contribution Account.

(b) Employee Designated Accrued Leave Contributions. The Employer shall contribute to the Plan for each eligible Participant all or any portion of a Participant's Accrued Leave, as elected by the Participant. The Employer may limit the amount of Accrued Leave to be elected to be contributed to the Plan. Once elected, an Employee's election shall remain in force and may not be revised or revoked.

The Employee Designated Accrued Leave Contributions shall be accounted for in the Employee Designated Accrued Leave Contribution Account, and are nonforfeitable at all times.

The Employee Designated Accrued Leave Contributions shall be "picked up" by the Employer in accordance with Code section 414(h)(2). The contributions shall be treated as an employer contribution in determining the tax treatment under the Code, and shall not be included as gross income of the Participant until it is distributed.

A Participant cannot elect to receive cash in lieu of any Accrued Leave Contribution.

19.03 Equivalencies. The Accrued Leave Contribution shall be determined by multiplying the Participant's current daily rate of pay from the Employer times the amount of accrued unpaid leave being converted.

19.04 Excess Contributions. Accrued Leave Contributions are limited to the extent of applicable law and any Code limitation. No Accrued Leave Contribution shall be made to the extent that it would exceed the applicable Code section 415 limitation, as set forth in Article V. Any excess contributions as a result of the Code section 415 limitation shall remain in the Participant's leave bank.

MISSIONSQUARE RETIREMENT

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TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Plan Description: Non-Standardized Pre-Approved Money Purchase Pension Plan
FFN: 317D0880002-001 Case: 201900121 EIN: 23-7268394
Letter Serial No: Q702378a
Date of Submission: 12/31/2018

MISSIONSQUARE RETIREMENT
777 NORTH CAPITOL ST. NE, SUITE 600
WASHINGTON, DC 20002

Contact Person:
Janell Hayes
Telephone Number:
513-975-6319
In Reference To: TEGE:EP:7521
Date: 06/30/2020

Dear Applicant:

In our opinion, the form of the plan identified above is acceptable for use by employers for the benefit of their employees under Internal Revenue Code (IRC) Section 401.

We considered the changes in qualification requirements in the 2017 Cumulative List of Notice 2017-37, 2017-29 Internal Revenue Bulletin (IRB) 89. Our opinion relates only to the acceptability of the form of the plan under the IRC. We did not consider the effect of other federal or local statutes.

You must provide the following to each employer who adopts this plan:
. A copy of this letter
. A copy of the approved plan
. Copies of any subsequent amendments including their dates of adoption
. Direct contact information including address and telephone number of the plan provider

Our opinion on the acceptability of the plan's form is a determination as to the qualification of the plan as adopted by a particular employer only under the circumstances, and to the extent, described in Revenue Procedure (Rev. Proc.) 2017-41, 2017-29 I.R.B. 92. The employer who adopts this plan can generally rely on this letter to the extent described in Rev. Proc. 2017-41. Thus, Employee Plans Determinations, except as provided in Section 12 of Rev. Proc. 2020-4, 2020-01 I.R.B. 148 (as updated annually), will not issue a determination letter to an employer who adopts this plan. Review Rev. Proc. 2020-4 to determine the eligibility of an adopting employer, and the items needed, to submit a determination letter application. The employer must also follow the terms of the plan in operation.

Except as provided below, our opinion doesn't apply to the requirements of IRC Sections 401(a)(4), 401(l), 410(b), and 414(s). Our opinion doesn't apply to IRC Sections 415 and 416 if an employer maintains or ever maintained another qualified plan for one or more employees covered by this plan. For this purpose, we will not consider the employer to have maintained another defined contribution plan provided both of the following are true:
. The employer terminated the other plan before the effective date of this plan
. No annual additions have been credited to any participant's account under the other plan as of any date within the limitation year of this plan

Also, for this purpose, we'll consider an employer as maintaining another defined contribution plan, if the employer maintains any of the following:
. A welfare benefit fund defined in IRC Section 419(e), which provides post-retirement medical benefits allocated to separate accounts for key employees as defined in IRC Section 419A(d)

. An individual medical account as defined in IRC Section 415(l)(2), which is part of a pension or annuity plan maintained by the employer
. A simplified employee pension plan

Our opinion doesn't apply to Treasury Regulations Section 1.401(a)-1(b)(2) requirements for a money purchase plan or target benefit plan where the normal retirement age under the employer's plan is lower than age 62.

Our opinion doesn't constitute a determination that the plan is an IRC Section 414(d) governmental plan. This letter is not a ruling with respect to the tax treatment to be given contributions which are picked up by the governmental employing unit within the meaning of IRC Section 414(h)(2).

Our opinion doesn't constitute a determination that the plan is an IRC Section 414(e) church plan.

Our opinion may not be relied on by a non-electing church plan for rules governing pre-ERISA participation and coverage.

Our opinion applies to the requirements of IRC Section 410(b) if 100 percent of all non-excludable employees benefit under the plan.

Employers who choose a safe harbor allocation formula and a safe harbor compensation definition may also rely on this opinion letter for the non-discriminatory amounts requirement under IRC Section 401(a)(4).

If this plan includes a cash or deferred arrangement (CODA) or otherwise provides for contributions subject to IRC Sections 401(k) and/or 401(m), the employer may rely on the opinion letter regarding the form of the non-discrimination tests of IRC Sections 401(k)(3) and 401(m)(2), if the employer uses a safe harbor compensation definition. For plans described in IRC Sections 401(k)(12) or (13) and/or 401(m)(11) or (12), employers may rely on the opinion letter regarding whether the plan's form satisfies the requirements of those sections unless the plan provides for the safe harbor contribution to be made under another plan. For SIMPLE plans described in IRC Sections 401(k)(11) and 401(m)(10), employers may also rely on the opinion letter regarding whether the plan's form satisfies the requirements of those sections.

The provisions of this plan override any conflicting provision contained in the trust or custodial account documents used with the plan, and an adopting employer may not rely on this letter to the extent that provisions of a trust or custodial account that are a separate portion of the plan override or conflict with the provisions of the plan document. This opinion letter does not cover any provisions in trust or custodial account documents.

An employer who adopts this plan may not rely on this letter when:
. the plan is being used to amend or restate a plan of the employer which was not previously qualified
. the employer's adoption of the plan precedes the issuance of the letter
. the employer doesn't correctly complete the adoption agreement or other elective provisions in the plan
. the plan is not identical to the pre-approved plan (that is, the employer has made amendments that cause the plan not to be considered identical to the pre-approved plan, as described in Section 8.03 of Rev. Proc. 2017-41)

Our opinion doesn't apply to what is contained in any documents referenced outside the plan or adoption agreement, if applicable, such as a collective bargaining agreement.

Our opinion doesn't consider issues under Title I of the Employee Retirement Income Security Act (ERISA) which are administered by the Department of Labor.

If you, the pre-approved plan provider, have questions about the status of this case, you can call the telephone number at the top of the first page of this letter. This number is only for the provider's use.

Individual participants or adopting eligible employers with questions about the plan should contact you.

You must include your address and telephone number on the pre-approved plan or the plan's adoption agreement, if applicable, so that adopting employers can contact you directly.

If you write to us about this plan, provide your telephone number and the best time to call if we need more information. Whether you call or write, refer to the letter serial number and file folder number at the top of the first page of this letter.

Let us know if you change or discontinue sponsorship of this plan.

Keep this letter for your records.

Sincerely Yours,

Khin M. Chow

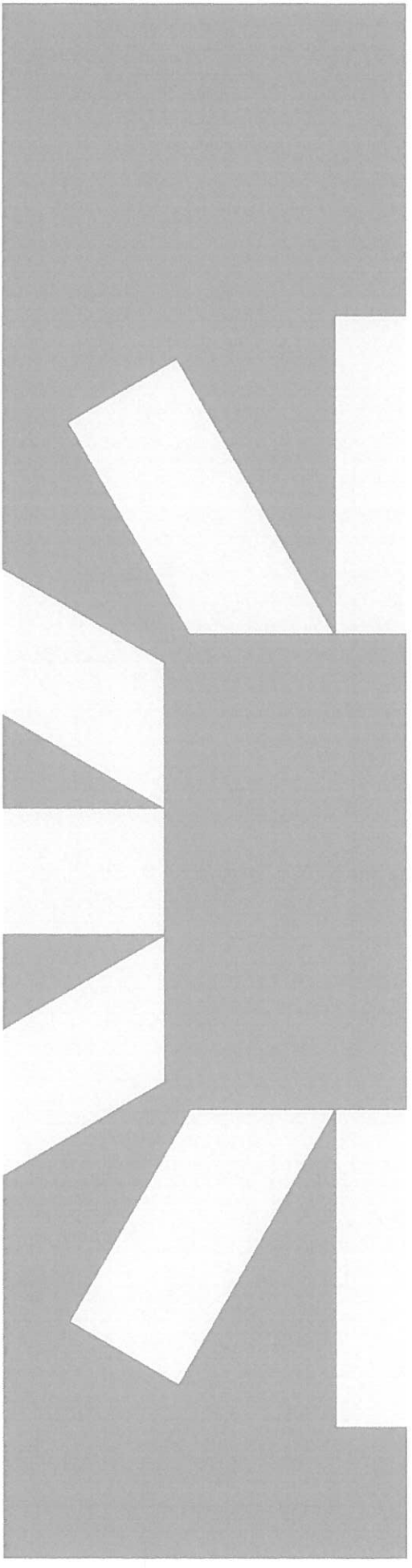
Khin M. Chow
Director, EP Rulings & Agreements

Letter 6186 (June-2020)
Catalog Number 72434C

MissionSquare
RETIREMENT

ICMA Retirement Corporation
doing business as

MissionSquare Retirement Governmental Profit Sharing Plan



MissionSquare Retirement Governmental Profit-Sharing Plan

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I. PURPOSE

The Employer hereby adopts this Plan to provide funds for its Employees' retirement, and to provide funds for their Beneficiaries in the event of death. The benefits provided in this Plan shall be paid from the Trust. The Plan and the Trust shall be maintained for the exclusive benefit of eligible Employees and their Beneficiaries. Except as provided in Sections 4.15 and 14.03, no part of the corpus or income of the Trust shall revert to the Employer or be used for or diverted to purposes other than the exclusive benefit of Participants and their Beneficiaries.

II. DEFINITIONS

2.01 **Account.** A separate record which shall be established and maintained under the Trust for each Participant, and which shall include all Participant subaccounts created pursuant to Article IV, plus any Participant Loan Account created pursuant to Section 13.03. Each subaccount created pursuant to Article IV shall include any earnings of the Trust and adjustments for withdrawals, and realized and unrealized gains and losses allocable thereto. The term "Account" may also refer to any of such separate subaccounts.**Error! Bookmark not defined.Accounting Date.** Each day that the New York Stock Exchange is open for trading, and such other dates as may be determined by the Plan Administrator. As of each Accounting Date, the Plan assets held in each investment fund described in Section 6.01 shall be valued at fair market value and the investment income and gains or losses of each fund shall be determined.

2.03 **Adoption Agreement.** The separate agreement executed by the Employer through which the Employer adopts the Plan and elects among the various alternatives provided thereunder, and which upon execution, becomes an integral part of the Plan.

2.04 **Beneficiary.** The person or persons (including a trust) designated by the Participant who shall receive any benefits payable hereunder in the event of the Participant's death. The designation of such Beneficiary shall be in writing to the Plan Administrator. A Participant may designate primary and contingent Beneficiaries. Where no designated Beneficiary survives the Participant or no Beneficiary is otherwise designated by the Participant, the Participant's Beneficiary shall be his/her surviving spouse or, if none, his/her estate.

Notwithstanding the foregoing, the Beneficiary designation is subject to the requirements of Article XII unless the Employer elects otherwise in the Adoption Agreement.

Notwithstanding the foregoing, where elected by the Employer in the Adoption Agreement (the "QJSA Election"), the Beneficiary designation is subject to the requirements of Article XVII.

Notwithstanding the foregoing, to the extent permitted by the Employer, a Beneficiary receiving required minimum distributions in accordance with Article X and not in a benefit form elected under Article XI or XII, may designate a Beneficiary to receive the required minimum distributions that would have otherwise been payable to the initial Beneficiary but for his or her death.

For purposes of Section 9.07, relating to hardship distributions, the term Primary Beneficiary means an individual who is named as a Beneficiary under the Plan and who has an

unconditional right to all or a portion of the Participant's Account balance under the Plan upon the death of the Participant.

2.05 Break in Service. A Period of Severance of at least twelve (12) consecutive months. In the case of an individual who is absent from work for maternity or paternity reasons, the twelve (12) consecutive month period beginning on the first anniversary of the first date of such absence shall not constitute a Break in Service. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence (1) by reason of the pregnancy of the individual, (2) by reason of the birth of a child of the individual, (3) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (4) for purposes of caring for such child for a period beginning immediately following such birth or placement.

2.06 Catch-up Contributions. Elective Deferrals made to the Plan that are in excess of an otherwise applicable plan limit and that are made by Participants who are age 50 or over by the end of their taxable years. An otherwise applicable plan limit is a limit in the Plan that applies to Elective Deferrals without regard to Catch-up Contributions, such as the limits on annual additions and the dollar limitation on Elective Deferrals under Code section 402(g) (not counting Catch-up Contributions). Catch-up Contributions for a Participant for a taxable year may not exceed (1) the dollar limit on Catch-up Contributions under Code section 414(v)(2)(B)(i) for the taxable year or (2) when added to other Elective Deferrals, 75 percent of the Participant's Earnings for the taxable year. The dollar limit on Catch-up Contributions under Code section 414(v)(2)(B)(i) was $5,000 for taxable years beginning in 2006. After 2006, the $5,000 limit will be adjusted by the Secretary of the Treasury for cost- of-living increases under Code section 414(v)(2)(C). Any such adjustments will be in multiples of $500. Catch- up Contributions are not subject to the limits on annual additions. Provisions in the Plan relating to Catch-up Contributions apply to Elective Deferrals made after 2001.

2.07 Code. The Internal Revenue Code of 1986, as amended from time to time.

2.08 Covered Employment Classification. The group or groups of Employees eligible to make and/ or have contributions to this Plan made on their behalf, as specified by the Employer in the Adoption Agreement.

2.09 Disability. A physical or mental impairment which is of such permanence and degree that a Participant is unable because of such impairment to perform any substantial gainful activity for which he/she is suited by virtue of his/her experience, training, or education and that has lasted, or can be expected to last, for a continuous period of not less than twelve (12) months, or can be expected to result in death. The permanence and degree of such impairment shall be supported by medical evidence provided to the Employer. If the Employer maintains a long-term disability plan, the definition of Disability shall be the same as the definition of disability in the long-term disability plan.

2.10 Earnings.

(a) General Rule. Earnings, which form the basis for computing Employer Contributions, are all of each Participant's W-2 earnings which are actually paid to the Participant during the Plan Year, plus any contributions made pursuant to a salary reduction agreement which are not includible in the gross income of the Employee under section 125, 402(e)(3), 402(h)(1)(B), 403(b), 414(h)(2), 457(b), or 132(f)(4) of the Code. Earnings shall include any pre-tax contributions (excluding direct employer contributions) to an integral part trust of

the Employer providing retiree health care benefits. Earnings shall also include any other earnings as defined and elected by the Employer in the Adoption Agreement. Unless the Employer elects otherwise in the Adoption Agreement, Earnings shall exclude overtime compensation and bonuses.

(b) Limitation on Earnings. The annual Earnings of each Participant taken into account in determining allocations shall not exceed $200,000, as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. Annual Earnings means Earnings during the Plan Year or such other consecutive 12-month period over which Earnings is otherwise determined under the Plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual Earnings for the determination period that begins with or within such calendar year.

If a determination period consists of fewer than twelve (12) months, the annual Earnings limit is an amount equal to the otherwise applicable annual Earnings limit multiplied by the fraction, the numerator of which is the number of months in the short Plan Year and the denominator of which is twelve (12).

If Earnings for any prior determination period are taken into account in determining a Participant's allocations for the current Plan Year, the Earnings for such prior year are subject to the applicable annual Earnings limit in effect for that prior year.

(c) Limitations for Governmental Plans. In the case of an eligible participant in a governmental plan (within the meaning of section 414(d) of the Code), the dollar limitation shall not apply to the extent the Earnings which are allowed to be taken into account under the Plan would be reduced below the amount which was allowed to be taken into account under the Plan as in effect on July 1, 1993, as adjusted for increases in the cost-of-living in accordance with section 401(a)(17)(B) of the Code. For purposes of this Section, an eligible participant is an individual who first became a Participant in the Plan during a Plan Year beginning before the first Plan Year beginning after December 31, 1993.

(d) Earnings Paid After Severance from Employment. Earnings for purposes of allocations under the Plan shall not include amounts paid after a Participant's severance from Employment with the Employer except as provided in this Section 2.10(d).

(1) Leave Cashouts. Earnings shall include payment for unused accrued bona fide sick, vacation, or other leave, but only if (i) the Participant would have been able to use the leave if employment had continued, and (ii) such amounts are paid by the later of 2½ months after severance from employment with the Employer maintaining the Plan or by the end of the calendar year that includes the date of such severance from employment.

(2) Regular Pay. Earnings shall include regular pay after severance from employment if:

(i) The payment is included in the Participant's W-2 earnings;

(ii) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer; and

(iii) Such amounts are paid by the later of 2½ months after severance from employment with the Employer maintaining the Plan or by the end of the calendar year that includes the date of such severance from employment.

Notwithstanding anything to the contrary in this subsection (b), unless the Employer has specifically elected to include overtime compensation and

bonuses in Earnings, Earnings shall exclude overtime compensation and bonuses paid after severance from employment.

2.11 Effective Date. The first day of the Plan Year during which the Employer adopts the Plan, unless the Employer elects in the Adoption Agreement an alternate date as the Effective Date of the Plan.

2.12 Elective Deferrals. Contributions made by the Employer on behalf of the Participant pursuant to Section 4.03.

2.13 Employee. Any individual who has applied for and been hired in an employment position and who is employed by the Employer as a common law employee; provided, however, that Employee shall not include any individual who is not so recorded on the payroll records of the Employer, including any such person who is subsequently reclassified by a court of law or regulatory body as a common law employee of the Employer. For purposes of clarification only and not to imply that the preceding sentence would otherwise cover such person, the term Employee does not include any individual who performs services for the Employer as an independent contractor, or under any other non-employee classification.

2.14 Employer. The unit of state or local government or an agency or instrumentality of one (1) or more states or local governments that executes the Adoption Agreement.

2.15 Hour of Service. Each hour for which an Employee is paid or entitled to payment for the performance of duties for the Employer, or for any entity aggregated with the Employer under sections 414(b), (c), (m), or (o) of the Code.

2.16 Nonforfeitable Interest. The nonforfeitable interest of the Participant or his/her Beneficiary (whichever is applicable) is that percentage of his/her Employer Contribution Account balance, which has vested pursuant to Article VII. A Participant shall, at all times, have a one hundred percent (100%) Nonforfeitable Interest in his/ her Elective Deferral, Mandatory Participant Contribution, Rollover Contribution, Voluntary Participant Contribution, Deductible Employee Contribution, Employee Designated Final Pay Contribution, and Employee Designated Accrued Leave Contribution Accounts.

2.17 Normal Retirement Age. The age which the Employer specifies in the Adoption Agreement. If the Employer enforces a mandatory retirement age, the Normal Retirement Age is the lesser of that mandatory age or the age specified in the Adoption Agreement.

2.18 Participant. An Employee or former Employee for whom contributions have been made under the Plan and who has not yet received all of the payments of benefits to which he/she is entitled under the Plan. A Participant is treated as benefiting under the Plan for any Plan Year during which the participant received or is deemed to receive an allocation in accordance with Treas. Reg. section 1.410(b)-3(a).

2.19 Period of Service. For purposes of determining an Employee's initial or continued eligibility to participate in the Plan or the Nonforfeitable Interest in the Participant's Account balance derived from Employer Contributions, an Employee will receive credit for the aggregate of all time period(s) commencing with the Employee's first day of employment or reemployment and ending on the date a Break in Service begins. The first day of employment or

reemployment is the first day the Employee performs an Hour of Service. An Employee will also receive credit for any Period of Severance of less than twelve (12) consecutive months. Fractional periods of a year will be expressed in terms of days.

Notwithstanding anything to the contrary herein, if the Plan is an amendment and restatement of a plan that previously calculated service under the hours of service method, each Employee with respect to whom the method of crediting service is changed shall receive, if greater than as provided in the Plan as amended and restated, credited service in the same manner as a transfer described in Treas. Reg. section 1.410(a)-7(f)(1).

2.20 **Period of Severance.** A continuous period of time during which the Employee is not employed by the Employer. Such period begins on the date the Employee retires, quits or is discharged, or if earlier, the twelve (12) month anniversary of the date on which the Employee was otherwise first absent from service.

2.21 **Plan.** This Plan, as established by the Employer, including any elected provisions pursuant to the Adoption Agreement. If the Employer has elected in the Adoption Agreement to permit Participants to make Elective Deferrals, this Plan is a profit-sharing plan containing a 401(k) arrangement.

2.22 **Plan Administrator.** The person(s) or entity named to carry out certain nondiscretionary administrative functions under the Plan, as hereinafter described, which is the ICMA Retirement Corporation, doing business as MissionSquare Retirement, or any successor Plan Administrator. Unless otherwise provided in the Plan, the Plan Administrator shall act at the direction of the Employer and shall be fully protected in acting on such direction.

2.23 **Plan Year.** The twelve (12) consecutive month period designated by the Employer in the Adoption Agreement.

2.24 **Trust.** The Trust is the trust designated and adopted by the Employer to receive and hold all of the assets of the Plan derived from Employer and Employee contributions under the Plan, plus any income and gains thereon, less any losses, expenses and distributions to Participants and Beneficiaries.

III. ELIGIBILITY

3.01 **Service.** Except as provided in Sections 3.02 and 3.03 of the Plan, an Employee within the Covered Employment Classification who has completed a twelve (12) month Period of Service shall be eligible to participate in the Plan at the beginning of the payroll period next commencing thereafter. The Employer may elect in the Adoption Agreement to waive or reduce the twelve (12) month Period of Service.

If the Employer maintains the plan of a predecessor employer, service with such employer shall be treated as service for the Employer.

3.02 **Age.** The Employer may designate a minimum age requirement, not to exceed age twenty-one (21), for participation. Such age, if any, shall be declared in the Adoption Agreement.

3.03 **Return to Covered Employment Classification.** In the event a Participant is no longer a member of Covered Employment Classification and becomes ineligible to make contributions and/or have contributions made on his/her behalf, such Employee will become eligible for contributions immediately upon returning to a Covered Employment Classification. If such Participant incurs a Break in Service, eligibility will be determined under the Break in Service rules of the Plan.

In the event an Employee who is not a member of a Covered Employment Classification becomes a member, such Employee will be eligible to participate immediately if such Employee has satisfied the minimum age and service requirements and would have otherwise previously become a Participant.

3.04 **Service Before a Break in Service.** All Periods of Service with the Employer are counted toward eligibility, including Periods of Service before a Break in Service.

IV. CONTRIBUTIONS

4.01 **Employer Contributions.** For each Plan Year, the Employer will contribute to the Trust an amount as specified in the Adoption Agreement. The Employer's full contribution for any Plan Year shall be due and paid not later than thirty (30) working days after the close of the Plan Year. Each Participant will share in Employer Contributions for the period beginning on the date the Participant commences participation under the Plan and ending on the date on which such Employee severs employment with the Employer or is no longer a member of a Covered Employment Classification, and such contributions shall be accounted for separately in his Employer Contribution Account. Employer Contributions include Fixed Employer Contributions, Discretionary Employer Contributions, Employer Matching Contributions, Employer Final Pay Contributions, and Employer Accrued Leave Contributions as selected by the Employer in the Adoption Agreement. Notwithstanding anything to the contrary herein, if so elected by the Employer in the Adoption Agreement, an Employee shall be required to make contributions as provided pursuant to Section 4.04 or 4.05, or to make elective deferrals to the Employer's 457(b) plan in accordance with Section 4.06, in order to be eligible for Employer Contributions to be made on his/her behalf to the Plan.

4.02 **Forfeitures.** All amounts forfeited by terminated Participants, pursuant to Section 7.06, shall be used no later than the end of the next Plan Year. Forfeitures will be used to reduce dollar for dollar Employer Contributions otherwise required under the Plan. Forfeitures may first be used to pay the reasonable administrative expenses of the Plan, with any remainder being applied to reduce Employer Contributions. If no Employer Contributions are required under the Plan, forfeitures will be allocated in the ratio that the Earnings of each Participant bears to that of all Participants.

4.03 **Elective Deferrals and Catch-up Contributions.** If the Employer so elects in the Adoption Agreement, and subject to the limitations provided in Article V, a Participant may elect after he/she meets the eligibility requirements provided in Article III to have the Employer make payments either (1) as Elective Deferrals on his/ her behalf, pursuant to a properly executed salary reduction agreement, whereby the Employee agrees to reduce his/her future Earnings by a specific amount, and the Employer to contribute such Elective Deferrals to the Trust on

behalf of the Employee or (2) to the Employee directly in cash. Such a Participant, if age 50 or over by the end of his or her taxable year, is also permitted to make Catch-up Contributions. Elective Deferrals (and Catch- up Contributions) shall be made by payroll reduction, and shall be accounted for separately in the Participant's Elective Deferral Account. Such Account shall be at all times nonforfeitable.

The Employer must provide a period(s), as elected in the Adoption Agreement, of not less than thirty (30) days at least once each calendar year during which a Participant may elect to commence Elective Deferrals and Catch- up Contributions. Such election may not be made retroactively. A Participant's election to commence Elective Deferrals must remain in effect until modified or terminated.

Notwithstanding anything to the contrary elsewhere contained in this Plan, Elective Deferrals and Catch-up Contributions are intended to be employer contributions within the meaning of the Code and regulations, not employee contributions, and relevant provisions shall be construed accordingly.

Elective Deferrals and Catch-up Contributions are available only to an Employer who established a cash or deferred arrangement under section 401(k) of the Code on or before May 6, 1986.

4.04 Mandatory Participant Contributions. If the Employer so elects in the Adoption Agreement, each eligible Employee shall make contributions at a rate prescribed by the Employer or at any of a range of specified rates, as set forth by the Employer in the Adoption Agreement, as a requirement for his/her participation (1) in the Plan or (2) in this portion of the Plan. Once an eligible Employee becomes a Participant and makes an election hereunder, he/she shall not thereafter have the right to discontinue or vary the rate of such Mandatory Participant Contributions. Such contributions shall be accounted for separately in the Mandatory Participant Contribution Account. Such Account shall be at all times nonforfeitable.

If the Employer so elects in the Adoption Agreement, the Mandatory Participant Contributions shall be "picked up" by the Employer in accordance with Code section 414(h)(2). Any contribution "picked up" under this Section shall be treated as an employer contribution in determining the tax treatment under the Code, and shall not be included as gross income of the Participant until it is distributed.

To constitute a Pick-Up Contribution, (1) the Employer must specify in a contemporaneous written document by a person duly authorized by the Employer that the contributions are being paid by the Employer in lieu of contributions by the Employee, and (2) the Employee must not be given the option of choosing to receive the contributed amounts directly instead of having them paid by the Employer to the Plan.

4.05 Employer Matching Contributions of After-Tax Voluntary Participant Contributions or Elective Deferrals. If the Employer so elects in the Adoption Agreement, Employer Matching Contributions shall be made on behalf of an eligible Employee for a Plan Year if the Employee agrees to make after-tax Voluntary Participant Contributions or Elective Deferrals for that Plan Year. The rate of Employer Matching Contributions shall, to the extent specified in the Adoption Agreement, be based upon the rate at which after-tax Voluntary Participant Contributions or Elective Deferrals are made for that Plan Year. Employer Matching Contributions shall be accounted for separately in the Employer Contribution Account.

4.06 Employer Matching Contributions of 457(b) Elective Deferrals. If the Employer so elects in the Adoption Agreement, Employer Matching Contributions shall be made on behalf of an eligible Employee for a Plan Year if the Employee participates in the Employer's 457(b)

deferred compensation plan and makes 457(b) elective deferrals for that Plan Year. The rate of Employer Matching Contributions shall, to the extent specified in the Adoption Agreement, be based upon the rate at which elective deferrals to the 457(b) deferred compensation plan are made for that Plan Year. Employer Matching Contributions made pursuant to this section shall be accounted for separately in the Employer Contribution Account.

4.07 Voluntary Participant Contributions. If the Employer so elects in the Adoption Agreement, an eligible Employee may make after-tax voluntary contributions under the Plan for any Plan Year in any amount up to twenty-five percent (25%) of his/her Earnings for such Plan Year. Matched and unmatched contributions shall be accounted for separately in the Voluntary Participant Contribution Account. Such Account shall be at all times nonforfeitable.

4.08 Deductible Employee Contributions. The Plan will not accept deductible employee contributions which are made for a taxable year beginning after December 31, 1986. Contributions made prior to that date will be maintained in a Deductible Employee Contribution Account. The Account will share in the gains and losses under the Plan. Such Account shall be at all times nonforfeitable. No part of the Deductible Employee Contribution Account will be used to purchase life insurance.

4.09 Final Pay Contributions. If the Employer so elects in the Adoption Agreement, eligible Participants shall be eligible to make or receive Final Pay Contributions under this Plan in accordance with Article XVIII. This election may be made even if the Employer does not elect to make any other contributions under the Plan.

4.10 Accrued Leave Contributions. If the Employer so elects in the Adoption Agreement, eligible Participants shall be eligible to make or receive Accrued Leave Contributions under this Plan in accordance with Article XIX. This election may be made even if the Employer does not elect to make any other contributions under the Plan.

4.11 Military Service Contributions. Notwithstanding any provision of the 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.

Notwithstanding any provision of the Plan to the contrary, if the Employer has elected in the Adoption Agreement to make loans available to Participants, loan repayments shall be suspended under the Plan as permitted under section 414(u)(4) of the Code.

4.12 Accrual of Additional Benefits for Qualified Military Service.

(a) Death Benefits with Respect to Qualified Military Service. In the case of a Participant who dies while performing qualified military service (as defined in Code section 414(u)) with respect to the Employer, his/her Beneficiary shall have a Nonforfeitable Interest in the Participant's entire Employer Contribution Account to the extent that he/she would have had had the Participant resumed and then terminated employment on account of death.

(b) Benefit Accruals with Respect to Differential Wage Payments. If the Employer so elects in the Adoption Agreement, effective as elected by the Employer, Plan contributions shall be made based on differential wage payments (as such term is defined in Code section 3401(h)(2)). Solely for purposes of applying the limits of Code section 415, differential wage payments shall be treated as compensation.

(c) Benefit Accruals with Respect to Qualified Military Service. Notwithstanding any provision of the Plan to the contrary, effective as elected by the Employer , if the Employer so elects in the Adoption Agreement, Participants who die or become Disabled while performing qualified military service (as defined in Code section 414(u)) with respect to the Employer shall receive Plan contributions as permitted under Code section 414(u)(9).

4.13 Changes in Participant Election. A Participant may elect to change his/her rate of Elective Deferrals, Catch-up Contributions, or Voluntary Participant Contributions at any time or during an election period as designated by the Employer. A Participant may discontinue such contributions at any time or during an election period as designated by the Employer.

The Employer must provide a period of not less than thirty (30) days at least once each calendar year during which a Participant may elect to terminate an election or to modify the amount or frequency of his/her Elective Deferrals, Catch-up Contributions, or Voluntary Participant Contributions.

4.14 Rollover Contributions.

(a) Unless otherwise elected by the Employer in the Adoption Agreement, the Plan will accept Participant (which shall include, for purposes of this subsection, an Employee within the Covered Employment Classification whether or not he/she has satisfied the minimum age and service requirements of Article III) rollover contributions and/or direct rollovers of distributions (including after-tax contributions) that are eligible for rollover in accordance with Section 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), or 457(e)(16) of the Code, from all of the following types of plans:

(1) A qualified plan described in Section 401(a) or 403(a) of the Code;

(2) An annuity contract described in Section 403(b) of the Code;

(3) An eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state; and

(4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Code (including SEPs, and SIMPLE IRAs after two years of participating in the SIMPLE IRA).

(b) Notwithstanding the foregoing, the Employer may reject the rollover contribution if it determines, in its discretion, that the form and nature of the distribution from the other plan does not satisfy the applicable requirements under the Code to make the transfer or rollover a nontaxable transaction to the Participant;

(c) For indirect rollover contributions, the amount distributed from such plan must be rolled over to this Plan no later than the sixtieth (60th) day after the distribution was made from the plan, unless otherwise waived by the IRS pursuant to Section 402(c)(3) of the Code.

(d) The amount transferred shall be deposited in the Trust and shall be credited to a Rollover Contribution Account. Such Account shall be one hundred percent (100%) vested in the Participant.

(e) The Plan will accept accumulated deductible employee contributions as defined in section 72(o)(5) of the Code that were distributed from a qualified retirement plan and transferred (rolled over) pursuant to section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3) of the Code. Notwithstanding the above, this transferred (rolled over) amount shall be deposited to the Trust and shall be credited to a Deductible Employee Contribution Account. Such Account shall be one-hundred percent (100%) vested in the Participant.

(f) A Participant may, upon approval by the Employer and the Plan Administrator, transfer his/her interest in another plan maintained by the Employer that is qualified under section 401(a) of the Code to this Plan, provided the transfer is effected through a one-time irrevocable written election made by the Participant. The amount transferred shall be deposited in the Trust and shall be credited to sources that maintain the same attributes as the plan from which they are transferred. Such transfer shall not reduce the accrued years or service credited to the Participant for purposes of vesting or eligibility for any Plan benefits or features.

4.15 Return of Employer Contributions. Any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year of the date of contribution.

4.16 Definitions. Unless the context requires otherwise, capitalized defined terms referencing types of contributions that can be made to the Plan will have the meaning given to them in this Section IV.

V. LIMITATION ON ELECTIVE DEFERRALS AND ALLOCATIONS

5.01 Maximum Elective Deferrals. Notwithstanding anything to the contrary herein, no Participant shall be permitted to have Elective Deferrals made under this Plan, or Elective Deferrals under any other plan, contract or arrangement maintained by the Employer, during any calendar year, in excess of the dollar limitation contained in section 402(g) of the Code in effect for the Participant's taxable year beginning in such calendar year. In the case of a Participant age 50 or over by the end of the taxable year, the dollar limitation described in the preceding sentence includes the amount of Elective Deferrals that can be Catch-up Contributions. The dollar limitation contained in Code section 402(g) was $15,000 for taxable years beginning in 2006. After 2006, the $15,000 limit will be adjusted by the Secretary of the Treasury for cost-of-living increases under section 402(g)(4). Any such adjustments will be in multiples of $500.

5.02 Distribution of Excess Elective Deferrals.

(a) A Participant may assign to this Plan any Excess Elective Deferrals made during a preceding taxable year of the Participant by providing the Plan Administrator with written notice on or before March 1 of the amount of Excess Elective Deferrals to be assigned to the Plan. A Participant is deemed to notify the Plan Administrator of any Excess Elective Deferrals that arise by taking into account only those Elective Deferrals made to this Plan and any other plan, contract or arrangement of this Employer. Notwithstanding any other provisions of the Plan, Excess Elective Deferrals, plus any income and minus any loss allocable thereto, shall be distributed no later than April 15 to any Participant whose Excess Elective Deferrals were assigned for the preceding year and who claims Excess Elective Deferrals for such taxable year or calendar year. Participants who claim Excess Elective Deferrals for the preceding taxable year must submit their claims in writing to the Plan Administrator on or before March 1. Distribution of Excess Elective Deferrals for a year shall be made first from a Participant's pre-tax Elective Deferral account, to the extent Pre-tax Elective Deferrals were made for the year, unless a Participant specifies otherwise.

(b) Excess Elective Deferrals shall be adjusted for any income or loss. The income or loss allocable to Excess Elective Deferrals is the income or loss allocable to a Participant's Elective Deferral Account for the taxable year multiplied by a fraction, the numerator of which is such Participant's Excess Elective Deferrals for the year and the denominator is a Participant's Account balance attributable to Elective Deferrals without regard to any income or loss occurring during such taxable year.

5.03 Participants Only in This Plan.

(a) If the Participant does not participate in, and has never participated in another qualified plan or a welfare benefit fund, as defined in section 419(e) of the Code, maintained by the Employer, or an individual medical account, as defined by section 415(l)(2) of the Code, maintained by the Employer, which provides an Annual Addition, the amount of Annual Additions which may be credited to the Participant's Account for any Limitation Year will not exceed the lesser of the Maximum Permissible Amount or any other limitation contained in this Plan. If the Employer Contribution that would otherwise be contributed or allocated to the Participant's Account would cause the Annual Additions for the Limitation Year to exceed the Maximum Permissible Amount, the amount contributed or allocated will be reduced so that the Annual Additions for the Limitation Year will equal the Maximum Permissible Amount.

(b) Prior to determining the Participant's actual Compensation for the Limitation Year, the Employer may determine the Maximum Permissible Amount for a Participant on the basis of a reasonable estimation of the Participant's Compensation for the Limitation Year, uniformly determined for all Participants similarly situated.

(c) As soon as is administratively feasible after the end of the Limitation Year, the Maximum Permissible Amount for the Limitation Year will be determined on the basis of the Participant's actual Compensation for the Limitation Year.

5.04 Participants in Another Defined Contribution Plan.

(a) Unless the Employer provides other limitations in the Adoption Agreement, this Section applies if, in addition to this Plan, the Participant is covered under another qualified defined contribution plan maintained by the Employer, or a welfare benefit fund, as defined in section 419(e) of the Code, maintained by the Employer, or an individual medical account, as defined by section 415(l)(2) of the Code, maintained by the Employer, which provides an Annual Addition, during any Limitation Year. The Annual Additions which may be credited to a Participant's Account under this Plan for any such Limitation Year will not exceed the Maximum Permissible Amount reduced by the Annual Additions credited to a Participant's Account under the other plans and welfare benefit funds for the same Limitation Year. If the Annual Additions with respect to the Participant under other defined contribution plans and welfare benefit funds maintained by the Employer are less than the Maximum Permissible Amount and the Employer contribution that would otherwise be contributed or allocated to the Participant's Account under this Plan would cause the Annual Additions for the Limitation Year to exceed this limitation, the amount contributed or allocated will be reduced so that the Annual Additions under all such plans and funds for the Limitation Year will equal the Maximum Permissible Amount. If the Annual Additions with respect to the Participant under such other defined contribution plans and welfare benefit funds in the aggregate are equal to or greater than the Maximum Permissible Amount, no amount will be contributed or allocated to the Participant's Account under this Plan for the Limitation Year.

(b) Prior to determining the Participant's actual Compensation for the Limitation Year, the Employer may determine the Maximum Permissible Amount for a Participant in the manner described in Section 5.03(b).

(c) As soon as is administratively feasible after the end of the Limitation Year, the Maximum Permissible Amount for the Limitation Year will be determined on the basis of the Participant's actual Compensation for the Limitation Year.

(d) If, pursuant to Subsection (c) or as a result of the allocation of forfeitures, a Participant's Annual Additions under this Plan and such other plans would result in an Excess Amount for a Limitation Year, the Excess Amount will be deemed to consist of the Annual Additions last allocated, except that Annual Additions attributable to a welfare benefit fund or individual medical account will be deemed to have been allocated first regardless of the actual allocation date.

(e) If an Excess Amount was allocated to a Participant on an allocation date of this Plan which coincides with an allocation date of another plan, the Excess Amount attributed to this Plan will be the product of,

(1) The total Excess Amount allocated as of such date, multiplied by

(2) The ratio of (i) the Annual Additions allocated to the Participant for the Limitation Year as of such date under this Plan to (ii) the total Annual Additions allocated to the Participant for the Limitation Year as of such date under this and all the other qualified defined contribution plans.

5.05 Definitions. For the purposes of this Article, the following definitions shall apply:

(a) Annual Additions: The sum of the following amounts credited to a Participant's Account for the Limitation Year:

(1) Employer contributions (including Elective Deferrals and contributions "picked up" by the Employer under Section 4.04);

(2) Forfeitures;

(3) Employee contributions (including after-tax Voluntary Participant Contributions under Section 4.07 and Mandatory Participant Contributions under Section 4.04 not "picked up" by the Employer); and

(4) Allocations under a simplified employee pension. Amounts allocated, after March 31, 1984, to an individual medical account, as defined in section 415(l)(2) of the Code, which is part of a pension or annuity plan maintained by the Employer, are treated as Annual Additions to a defined contribution plan.

(5) Notwithstanding the above, the term Annual Additions does not include the following:

(i) Restorative Payments. Annual Additions for purposes of Code section 415 shall not include restorative payments. For this purpose, restorative payments are payments made to restore losses to a plan resulting from actions by a fiduciary for which there is reasonable risk of liability for breach of a fiduciary duty under applicable federal or state law, where Participants who are similarly situated are treated similarly with respect to the payments. Generally, payments to a defined contribution plan are restorative payments only if the payments are made in order to restore some or all of the plan's losses due to an action (or a failure to act) that creates a reasonable risk of liability for such a breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit

contributions to the plan). This includes payments to a plan made pursuant to a court-approved settlement to restore losses to a qualified defined contribution plan on account of the breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the plan). Payments made to a plan to make up for losses due merely to market fluctuations and other payments that are not made on account of a reasonable risk of liability for breach of a fiduciary duty are not restorative payments and generally constitute contributions that give rise to Annual Additions.

(ii) Other Amounts. Annual Additions for purposes of Code section 415 shall not include (i) the direct transfer of a benefit or employee contributions from a qualified plan to this Plan; (ii) rollover contributions (as described in Code sections 401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)); (iii) repayments of loans made to a Participant from the Plan; (iv) repayments of amounts described in Code section 411(a)(7)(B) (in accordance with Code sections 411(a)(7)(C)) and 411(a)(3)(D) or repayment of contributions to a governmental plan (as defined in Code section 414(d)) as described in Code section 415(k)(3), as well as Employer restorations of benefits that are required pursuant to such repayments; (v) employee contributions to a qualified cost of living arrangement within the meaning of Code section 415(k)(2)(B); (vi) catch-up contributions made in accordance with section 414(v) and §1.414(v)-1 and (vii) excess deferrals that are distributed in accordance with §1.402(g)-1(e)(2) or (3).

(iii) Date of Employer Contributions. Notwithstanding anything in the Plan to the contrary, employer contributions are treated as credited to a Participant's Account for a particular Limitation Year only if the contributions are actually made to the Plan no later than the 15th day of the tenth calendar month following the end of the calendar year or fiscal year (as applicable, depending on the basis on which the Employer keeps its books) with or within which the particular Limitation Year ends.

(b) Compensation: Participant's wages, salaries, fees for professional services, and other amounts received (without regard to whether an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer, to the extent that the amounts are includible in gross income (or to the extent amounts would have been received and includible in gross income but for an election under Code section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b)). These amounts include, but are not limited to, bonuses, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan as described in Treas. Reg. section 1.62-2(c).

(1) Notwithstanding the foregoing, Compensation does not include:

(i) Contributions (other than elective contributions described in Code section 402(e)(3), 408(k)(6), 408(p)(2)(A)(i), or 457(b)) made by the Employer to a plan of deferred compensation (including a simplified employee pension described in Code section 408(k) or a simple retirement account described in Code section 408(p), and whether or not qualified) to the extent that the contributions are not includible in the gross income of the Participant for the taxable year in which contributed. In addition, any distributions from a plan of deferred compensation (whether or not qualified) are not considered as Compensation for Code

section 415 purposes, regardless of whether such amounts are includible in the gross income of the Participant when distributed; and

(ii) Other amounts that receive special tax benefits, such as premiums for group-term life insurance (but only to the extent that the premiums are not includible in the gross income of the Participant and are not salary reduction amounts that are described in Code section 125).

(iii) Other items of remuneration that are similar to the items listed in subparagraph (i) or (ii) of this subsection (b).

(2) Compensation Paid After Severance or Deemed Severance from Employment. Compensation shall be adjusted as set forth herein for the following types of compensation paid after a Participant's severance from employment (as determined under section 415 of the Code and the regulations thereunder) with the Employer. Any payment that is not described in subsection (i), (ii), (iii), or (iv) of this Section is not considered Compensation within the meaning of section 415 of the Code if paid after severance from employment with the Employer.

(i) Regular Pay.

(A) Compensation shall include regular pay after severance of employment if the payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments;

(B) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer; and

(C) Such amounts are paid by the later of 2½ months after severance from employment with the Employer maintaining the Plan or the end of the calendar year that includes the date of such severance from employment.

(ii) Leave Cashouts.

(A) Compensation shall include payment for unused accrued bona fide sick, vacation, or other leave, but only if (I) the Participant would have been able to use the leave if employment had continued, (II) such amounts are paid by the later of 2½ months after severance from employment with the Employer maintaining the Plan or by the end of the calendar year that includes the date of such severance from employment, and (III) such amounts would be included in Compensation if the individual had continued to perform services for the Employer.

(iii) Salary Continuation Payments for Military Service Participants.

(A) Compensation includes payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code section 414(u)(1)) to the extent:

1. Those payments do not exceed the amounts the individual would have received if the individual had continued to

perform services for the Employer rather than entering qualified military service; and

2. Those payments would be included in Compensation if the individual had continued to perform services for the Employer rather than entering qualified military service.

(B) Notwithstanding the foregoing, Compensation does not include distributions from this Plan to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code section 414(u)(1)).

(iv) Salary Continuation Payments for Disabled Participants.

(A) Compensation includes amounts paid to a Participant who is permanently and totally disabled (as defined in Code section 22(e)(3)) to the extent:

1. Salary continuation applies to all Participants who are permanently and totally disabled for a fixed or determinable period or the Participant was not a Highly Compensated Employee immediately before becoming disabled.

2. Those amounts would be included in Compensation if the Participant had continued to perform services for the Employer.

(B) Notwithstanding the foregoing, Compensation does not include distributions from this Plan to a Participant who is permanently and totally disabled (as defined in Code section 22(e)(3)).

For purposes of applying the limitations of this Article, Compensation for a Limitation Year is the Compensation actually paid or made available during such year. Compensation for a Limitation Year shall not include amounts earned but not paid during the Limitation Year solely because of the timing of pay periods and pay dates.

(c) Defined Contribution Dollar Limitation: $40,000, as adjusted for increases in the cost of-living in accordance with section 415(d) of the Code.

(d) Elective Deferrals: Any employer contributions made to the Plan at the election of the Participant, in lieu of cash compensation. With respect to any taxable year, a Participant's Elective Deferrals is the sum of all employer contributions made on behalf of such Participant pursuant to an election to defer under any qualified CODA described in section 401(k) of the Code, any salary reduction simplified employee pension described in section 408(k)(6) of the Code, any SIMPLE IRA described in section 408(p), and any plan described under section 501(c)(18) of the Code, and any employer contributions made on the behalf of the Participant for the purchase of an annuity contract under section 403(b) of the Code pursuant to a salary reduction agreement. Elective Deferrals shall not include any deferrals properly distributed as excess Annual Additions.

(e) Employer: The Employer that adopts this Plan.

(f) Excess Amount: The excess of the Participant's Annual Additions for the Limitation Year over the Maximum Permissible Amount. Any Excess Amount shall include allocable income. The income allocable to an Excess Amount is equal to the sum of allocable gain or loss for the Plan Year and the allocable gain or loss for the period between the end of the Plan Year and the date of distribution (the gap period). The Plan may use any

reasonable method for computing the income allocable to an Excess Amount, provided that the method is used consistently for all Participants and for all corrective distributions under the Plan for the Plan Year, and is used by the Plan for allocating income to Participants' Accounts. Excess Amounts may also be corrected through the Employee Plans Compliance Resolution System, Rev. Proc. 2019-19 or its successor.

(g) Excess Elective Deferrals: Those Elective Deferrals of a Participant that either (1) are made during the Participant's taxable year and exceed the dollar limitation under Code section 402(g) (including, if applicable, the dollar limitation on Catch-up Contributions defined in section 414(v) for such year); or (2) are made during a calendar year and exceed the dollar limitation under Code section 402(g) (including, if applicable, the dollar limitation on Catch-up Contributions defined in section 414(v)) for the Participant's taxable year beginning in such calendar year, counting only Elective Deferrals made under this Plan and any other plan, contract or arrangement maintained by the Employer. Excess Elective Deferrals shall be treated as Annual Additions, as defined under Section 5.05, unless such amounts are distributed no later than the first April 15 following the close of the Participant's taxable year.

(h) Highly Compensated Employee: Highly Compensated Employee means any Employee who, for the preceding year, had Compensation from the Employer in excess of $80,000 (as adjusted).

(i) Limitation Year: A calendar year, or the twelve (12) consecutive month period elected by the Employer in section X. 2 of the Adoption Agreement. All qualified plans maintained by the Employer must use the same Limitation Year. If the Limitation Year is amended to a different twelve (12) consecutive month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made. The Limitation Year may only be changed by a Plan amendment. Furthermore, if the Plan is terminated effective as of a date other than the last day of the Plan's Limitation Year, then the Plan is treated as if the Plan had been amended to change its Limitation Year and the maximum permissible amount shall be prorated for the resulting short Limitation Year.

(j) Maximum Permissible Amount: Except for Catch-up Contributions described in Code section 414(v), the maximum Annual Addition that may be contributed or allocated to a Participant's Account under the Plan for any Limitation Year shall not exceed the lesser of:

(1) The Defined Contribution Dollar Limitation, or

(2) One hundred percent (100%)) of the Participant's Compensation for the Limitation Year.

The compensation limit referred to in (2) shall not apply to any contribution for medical benefits after separation from service (within the meaning of section 401(h) or section 419A(f)(2) of the Code) which is otherwise treated as an annual addition.

If a short Limitation Year is created because of an amendment changing the Limitation Year to a different twelve (12) consecutive month period, the Maximum Permissible Amount will not exceed the Defined Contribution Dollar Limitation multiplied by the following fraction:

$$\frac{\text{Number of months in the short Limitation Year}}{12}$$

5.06 Aggregation and Disaggregation of Plans.

(a) Generally. For purposes of applying the limitations of Code section 415, all defined contribution plans (without regard to whether a plan has been terminated) ever maintained by the Employer (or a "predecessor employer") under which the Participant receives Annual Additions are treated as one defined contribution plan. The "Employer" means the Employer that adopts this Plan and any other entity which the Employer determines, based on a reasonable, good faith interpretation of existing law in accordance with Notice 89-23, 1989-1 C.B. 654, as modified by Notice 96-64, 1996-2 C.B. 229, should be aggregated for purposes of applying the limitations of Code section 415. For purposes of this Section:

(1) A former employer is a "predecessor employer" with respect to a Participant if the Employer maintains a plan under which the Participant had accrued a benefit while performing services for the former employer, but only if that benefit is provided under the Plan maintained by the Employer. For this purpose, the formerly affiliated plan rules in Treas. Reg. section 1.415(f)-1(b)(2) apply as if the Employer and predecessor employer constituted a single employer under the rules described in Treas. Reg. section 1.415(a)-1(f)(1) and (2) immediately prior to the cessation of affiliation (and as if they constituted two, unrelated employers under the rules described in Treas. Reg. section 1.415(a)-1(f)(1) and (2) immediately after the cessation of affiliation) and cessation of affiliation was the event that gives rise to the predecessor employer relationship, such as a transfer of benefits or plan sponsorship.

(2) With respect to an Employer, a former entity that antedates the Employer is a "predecessor employer" with respect to a Participant if, under the facts and circumstances, the Employer constitutes a continuation of all or a portion of the trade or business of the former entity.

(b) Midyear Aggregation. Two or more defined contribution plans that are not required to be aggregated pursuant to Code section 415(f) and the Treasury Regulations thereunder as of the first day of a Limitation Year do not fail to satisfy the requirements of Code section 415 with respect to a Participant for the Limitation Year merely because they are aggregated later in that Limitation Year, provided that no Annual Additions are credited to the Participant's Account after the date on which the plans are required to be aggregated.

VI. INVESTMENT OF ACCOUNTS

6.01 Investment Funds. In accordance with uniform and nondiscriminatory rules established by the Employer and the Plan Administrator, the Participant may direct his/her Accounts to be invested in one (1) or more investment funds available under the Plan; provided, however, that the Participant's investment directions shall not violate any investment restrictions established by the Employer and shall not include any investment in collectibles, as defined in section 408(m) of the Code.

VII. VESTING

7.01 Vesting Schedule. The portion of a Participant's Account attributable to Elective Deferrals, Catch-up Contributions, Mandatory Participant Contributions, Rollover Contributions, Voluntary Participant Contributions, Deductible Employee Contributions, Employee Designated Final Pay Contributions, and Employee Designated Accrued Leave Contributions, and the earnings thereon, shall be at all times nonforfeitable. A Participant shall have a Nonforfeitable Interest in the percentage of his/her Employer Contribution Account established under Section 4.01, 4.05, 4.06, 18.02(a), and 19.02(a) determined pursuant to the schedule elected by the Employer in the Adoption Agreement.

7.02 Crediting Periods of Service. Except as provided in Section 7.03, all of an Employee's Periods of Service with the Employer are counted to determine the nonforfeitable percentage in the Employee's Account balance derived from Employer Contributions. If the Employer maintains the plan of a predecessor employer, service with such employer will be treated as service for the Employer.

For purposes of determining years of service and Breaks in Service for the purposes of computing a Participant's nonforfeitable right to the Account balance derived from Employer Contributions, the twelve (12) consecutive month period will commence on the date the Employee first performs an Hour of Service and each subsequent twelve (12) consecutive month period will commence on the anniversary of such date.

7.03 Service After Break in Service. In the case of a Participant who has a Break in Service of at least five (5) consecutive years, all Periods of Service after such Breaks in Service will be disregarded for the purpose of determining the nonforfeitable percentage of the Employer-derived Account balance that accrued before such Break in Service, but service before and after such Break in Service will count for the purposes of vesting the Employer-derived Account balance that accrues after such Break in Service. Both Accounts will share in the earnings and losses of the fund.

In the case of a Participant who does not have a Break in Service of at least five (5) consecutive years, service before and after the Break in Service will count in vesting the Employer-derived Account balance accrued for service before and after the Break in Service.

In the case of a Participant who does not have any nonforfeitable right to the Account balance derived from Employer Contributions, years of service before a period of consecutive one (1) year Breaks in Service will not be taken into account in computing eligibility service if the number of consecutive one (1) year Breaks in Service in such period equals or exceeds the greater of five (5) or the aggregate number of years of service. Such aggregate number of years of service will not include any years of service disregarded under the preceding sentence by reason of prior Breaks in Service.

If a Participant's years of service are disregarded pursuant to the preceding paragraph, such Participant will be treated as a new Employee for eligibility purposes. If a Participant's years of service may not be disregarded pursuant to the preceding paragraph, such Participant shall continue to participate in the Plan, or, if terminated, shall participate immediately upon reemployment.

7.04 Vesting Upon Normal Retirement Age. Notwithstanding Section 7.01 of the Plan, a Participant shall have a Nonforfeitable Interest in his/her entire Employer Contribution Account, to the extent that the balance of such Account has not previously been forfeited

pursuant to Section 7.06 of the Plan, if he/she is employed on or after his/her Normal Retirement Age. If a Participant forfeits amounts because of a Break in Service, then if the Participant later vests upon Normal Retirement Age, the amount forfeited due to the Break in Service is not restored.

7.05 Vesting Upon Death or Disability. Notwithstanding Section 7.01 of the Plan, in the event of Disability or death, a Participant or his/her Beneficiary shall have a Nonforfeitable Interest in his/her entire Employer Contribution Account, to the extent that the balance of such Account has not previously been forfeited pursuant to Section 7.06 of the Plan. If a Participant forfeits amounts because of a Break in Service, then if the Participant later vests upon Disability or death, the amount forfeited due to the Break in Service is not restored.

7.06 Forfeitures. Except as provided in Sections 7.04 and 7.05 of the Plan or as otherwise provided in this Section 7.06, a Participant who experiences a severance from employment prior to obtaining full vesting shall forfeit that percentage of his/her Employer Contribution Account balance which has not vested as of the date such Participant incurs a Break in Service of five (5) consecutive years or, if earlier, the date such Participant receives, or is deemed under the provisions of Section 9.04 to have received, distribution of the entire Nonforfeitable Interest in his/ her Employer Contribution Account. No forfeiture will occur solely as a result of a Participant's withdrawal of employee contributions. Forfeitures shall be allocated in the manner described in Section 4.02.

7.07 Reinstatement of Forfeitures. If the Participant returns to the employment of the Employer before incurring a Break in Service of five (5) consecutive years, any amounts forfeited pursuant to Section 7.06 shall be reinstated to the Participant's Employer Contribution Account on the date of repayment by the Participant of the amount distributed to such Participant from his/her Employer Contribution Account (without regard to gains/losses); provided, however, that if such Participant forfeited his/her Account balance by reason of a deemed distribution, pursuant to Section 9.04, such amounts shall be automatically restored upon the reemployment of such Participant. Such repayment must be made before the earlier of five (5) years after the first date on which the Participant is subsequently reemployed by the Employer, or the date the Participant incurs a Break in Service of five (5) consecutive years.

VIII. BENEFITS CLAIM

8.01 Claim of Benefits. A Participant or Beneficiary shall notify the Plan Administrator in writing of a claim of benefits under the Plan. The Plan Administrator shall take such steps as may be necessary to facilitate the payment of such benefits to the Participant or Beneficiary.

8.02 Appeal Procedure. If any claim for benefits is initially denied by the Plan Administrator, the claimant shall file the appeal with the Employer, whose decision shall be final, to the extent provided by Section 15.07.

IX. COMMENCEMENT OF BENEFITS

9.01 Normal and Elective Commencement of Benefits. A Participant who retires, becomes Disabled or incurs a severance from employment for any other reason may elect by written notice to the Plan Administrator to have his or her vested Account balance benefits commence on any date, provided that such distribution complies with Section 9.02. Such election must be made in writing during the one-hundred eighty (180) day period ending on the date as of which benefit payments are to commence. A Participant's election shall be revocable and may be amended by the Participant.

Except as otherwise provided under the Plan, a Participant's Elective Deferrals and income allocable thereto are not distributable to a Participant or his/her Beneficiary(ies), in accordance with such Participant's or Beneficiary(ies) election, earlier than upon the Participant's severance from employment, death, or Disability.

The failure of a Participant to consent to a distribution while a benefit is immediately distributable, within the meaning of section 9.02 of the Plan, shall be deemed to be an election to defer commencement of payment of any benefit sufficient to satisfy this section.

9.02 Restrictions on Immediate Distributions. Notwithstanding anything to the contrary contained in Section 9.01 of the Plan, if the value of a Participant's vested Account balance is at least $1,000, and the Account balance is immediately distributable, the Participant must consent to any distribution of such Account balance. The Participant's consent shall be obtained in writing during the one-hundred eighty (180) day period ending on the date as of which benefit payments are to commence. No consent shall be required, however, to the extent that a distribution is required to satisfy section 401(a)(9) or 415 of the Code.

The Plan Administrator shall notify the Participant of the right to defer any distribution until the Participant's Account balance is no longer immediately distributable. Such notification shall include a general description of the material features, and an explanation of the relative values of, the optional forms of benefit available under the Plan in a manner that would satisfy section 417(a)(3) of the Code, and shall be provided no less than thirty (30) and no more than one-hundred eighty (180) days before the date as of which benefit payments are to commence. However, distribution may commence less than thirty (30) days after the notice described in the preceding sentence is given, provided (i) the distribution is one to which sections 401(a)(11) and 417 of the Code do not apply or, if the QJSA Election is made by the Employer in the Adoption Agreement, the waiver requirements of Section 17.05(a) are met; (ii) the Plan Administrator clearly informs the Participant that the Participant has a right to a period of at least thirty(30) days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option); and (iii) the Participant, after receiving the notice, affirmatively elects a distribution.

In addition, upon termination of this Plan, if the Plan does not offer an annuity option (purchased from a commercial provider) and if the Employer does not maintain another 401(a) defined contribution plan, the Participant's Account balance will, without the Participant's consent, be distributed to the Participant in a lump sum. However, if the Employer maintains another 401(a) defined contribution plan, the Participant's Account will be transferred, without the Participant's consent, to the other plan if the Participant does not consent to an immediate distribution.

An Account balance is immediately distributable if any part of the Account balance could be distributed to the Participant (or surviving spouse) before the Participant attains or would have attained (if not deceased) the later of Normal Retirement Age or age sixty-two (62).

9.03 Transfer to Another Plan.

(a) If a Participant becomes eligible to participate in another plan maintained by the Employer that is qualified under section 401(a) of the Code, the Plan Administrator shall, at the written election of such Participant, transfer all or part of such Participant's Account to such plan, provided the Plan Administrator for such plan certifies to the Plan Administrator that its plan provides for the acceptance of such a transfer. Such transfers shall include those transfers of the Nonforfeitable Interest of a Participant's Account made for the purchase of service credit in defined benefit plans maintained by the Employer. For purposes of this Plan, any such transfer shall not be considered a distribution to the Participant subject to spousal consent as described in Section 9.11.

(b) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section, a Distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

(c) Definitions. For the purposes of Section 9.3, the following definitions shall apply:

(1) Eligible Rollover Distribution. Any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include:

(i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated Beneficiary, or for a specified period of ten years or more;

(ii) any distribution to the extent such distribution is required under section 401(a)(9) of the Code;

(iii) any hardship distribution; and

(iv) the portion of any other distribution(s) that is not includible in gross income.

A portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to a traditional individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a Roth individual retirement account or annuity described in § 408A of the Code, or to a qualified defined contribution plan described in section 401(a) or a qualified annuity contract described in section 403(b) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(2) Eligible Retirement Plan.

(i) an individual retirement account described in section 408(a) of the Code or an individual retirement annuity described in section 408(b) of the Code (collectively, an "IRA");

(ii) an annuity plan described in section 403(a) of the Code;

(iii) an annuity contract described in section 403(b) of the Code;

(iv) an eligible plan under section 457(b) of the Code 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 and which agrees to separately account for amounts transferred into such plan from this Plan;

(v) a qualified plan described in section 401(a) of the Code, that accepts the Distributee's Eligible Rollover Distribution; or

(vi) a Roth IRA described in Code section 408A. The definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code.

If any portion of an Eligible Rollover Distribution is attributable to payments or distributions from a designated Roth account, an Eligible Retirement Plan with respect to such portion shall include only another designated Roth account of the individual from whose Account the payments or distributions were made, or a Roth IRA of such individual.

(3) Distributee. Participant; in addition, the Participant's surviving spouse and the spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are Distributees with regard to the interest of the spouse or former spouse. A distributee includes the Employee's or former Employee's nonspouse designated Beneficiary, in which case, the distribution can only be transferred to a traditional or Roth IRA established on behalf of the nonspouse designated Beneficiary for the purpose of receiving the distribution.

(4) Direct Rollover. A payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

(d) Rollover by a Non-Spouse Designated Beneficiary.

(1) A non-spouse Beneficiary who qualifies as a "designated beneficiary" under Code section 401(a)(9)(E) may establish an individual retirement plan that will be treated as an inherited IRA pursuant to the provisions of Code section 402(c)(11) into which all or a portion of a death benefit distribution from this Plan can be transferred directly. A trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a designated Beneficiary.

(2) Notwithstanding anything herein to the contrary, a death benefit distribution shall not be eligible for transfer to an inherited IRA to the extent such distribution is a required minimum distribution under Code section 401(a)(9).

(e) Rollover by a Surviving Spouse Distributee. If any distribution attributable to a Participant is paid to the Participant's surviving spouse, section 402(c) applies to the distribution in the same manner as if the spouse were the Participant. However, a qualified plan (as defined in Treasury Regulation section 1.402(c)-2 Q&A-2) is not treated as an Eligible Retirement Plan with respect to a surviving spouse. Only an individual retirement plan is treated as an Eligible Retirement Plan with respect to an Eligible Rollover Distribution to a surviving spouse.

9.04 De Minimis Accounts. Notwithstanding the foregoing provisions of this Article, if a Participant terminates service, and the value of his/her Nonforfeitable Interest in his/her Account is less

than $1,000, the Participant's benefit shall be paid as soon as practicable to the Participant in a single lump sum distribution. If the value of the Participant's Account is at least $1,000 but not more than the dollar limit under section 411(a)(11)(A) of the Code, the Participant may elect to receive his/her Nonforfeitable Interest in his/her Account. Such distribution shall be made as soon as practicable following the request, in a lump sum.

For purposes of this Section, if a Participant's Nonforfeitable Interest in his/her Account is zero, the Participant shall be deemed to have received a distribution of such Nonforfeitable Interest in his/her Account.

9.05 Withdrawal of Voluntary Participant Contributions. A Participant may upon written request withdraw a part of or the full amount of his/her Voluntary Participant Contribution Account. Such withdrawals may be made at any time, provided that, for withdrawals prior to the adoption date of this Plan document (or such earlier date adopted by the Employer in a separate amendment), no more than two (2) such withdrawals may be made during any calendar year. No forfeiture will occur solely as the result of any such withdrawal.

9.06 Withdrawal of Deductible Employee Contributions. A Participant may upon written request withdraw a part of or the full amount of his/her Deductible Employee Contribution Account. Such withdrawals may be made at any time, provided that, for withdrawals prior to the adoption date of this Plan document (or such earlier date adopted by the Employer in a separate amendment), no more than two (2) such withdrawals may be made during any calendar year. No forfeiture will occur solely as the result of any such withdrawal.

9.07 Hardship Withdrawals.

(a) Where elected by the Employer in the Adoption Agreement for a profit-sharing plan containing a 401(k) arrangement, distribution of nonforfeitable amounts attributable to Employer Contributions and/or Elective Deferrals (including Catch-up Contributions but not including earnings attributable to Elective Deferrals accrued after December 31, 1988) may be made to a Participant in the event of hardship. A hardship distribution may only be made on account of an immediate and heavy financial need of the Employee and where the distribution is necessary to satisfy the immediate and heavy financial need.

(b) Special Rules:

(1) The following are the only financial needs considered immediate and heavy (or as otherwise provided for under Treasury Regulation section 1.401(k)-1(d)(3)(iii)(B) or any subsequence guidance thereto):

(i) Expenses for medical care (within the meaning of section 213(d) of the Code) previously incurred or necessary to obtain medical care for the Employee, the Employee's spouse or dependents;

(ii) Costs directly related to the purchase (excluding mortgage payments) of a principal residence for the Employee;

(iii) Payment of tuition and related educational fees for the next twelve (12) months of post- secondary education for the Employee, the Employee's spouse, children or dependents;

(iv) Payments necessary to prevent the eviction of the Employee from, or a foreclosure on the mortgage of, the Employee's principal residence; or

(v) Payments for funeral or burial expenses for the Employee's deceased parent, spouse, child or dependent and expenses to repair damage to

the Employee's principal residence that would qualify for a casualty loss deduction under Code section 165 (determined without regard to whether the loss exceeds 10 percent of adjusted gross income).

(2) A distribution will be considered as necessary to satisfy an immediate and heavy financial need of the Employee only if:

(i) The distribution is not in excess of the amount of an immediate and heavy financial need, including amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution;

(ii) The Employee has obtained all distributions, other than hardship distributions, and all nontaxable loans under all plans maintained by the Employer; and

(iii) All plans maintained by the Employer provide that the Employee's Elective Deferrals (and employee contributions) will be suspended for six (6) months after the receipt of the hardship distribution, provided that Employee contributions that are "picked up" by the Employer pursuant to Section 4.4 of the Plan shall not be considered Employee contributions for this purpose.

(3) Distributions for Financial Hardship. Unless otherwise elected by the Employer, the determination of any deemed immediate and heavy financial need described in Treasury Regulation section 1.401(k)- 1(d)(3)(iii)(B)(1), (3), or (5) (relating to medical, tuition, and funeral expenses, respectively) will be expanded to include any immediate and heavy financial need of a Participant's Primary Beneficiary.

9.08 In-Service Distributions. If elected by the Employer in the Adoption Agreement, a Participant who has attained age 59½ and has a Nonforfeitable Interest in his/her entire Employer Contribution Account shall, upon written request, receive a distribution of a part of or the full amount of the balance in any or all of his vested Accounts. Such distributions may be requested at any time, provided that, for withdrawals prior to the adoption date of this Plan document (or such earlier date adopted by the Employer in a separate amendment), no more than two (2) such distributions may be made during any calendar year.

Unless otherwise elected by the Employer in the Adoption Agreement, a Participant who has reached age 70½ regardless of his Nonforfeitable Interest in his/her entire Employer Contribution Account, shall, upon written request, receive a distribution of a part of or the full amount of the balance in any or all of his vested Accounts. Such distributions may be requested at any time, provided that, for withdrawals prior to the adoption date of this Plan document (or such earlier date adopted by the Employer in a separate amendment), no more than two (2) such distributions may be made during any calendar year.

9.09 In-Service Distribution from Rollover Contribution Account. Where elected by the Employer in the Adoption Agreement, a Participant that has a separate Account attributable to Rollover Contributions to the Plan, may at any time elect to receive a distribution of all or any portion of the amount held in the Rollover Contribution Account.

9.10 Latest Commencement of Benefits. Notwithstanding anything to the contrary in this Article, benefits shall begin no later than the Participant's Required Beginning Date, as defined under Section 10.05, or as otherwise provided in Section 10.04.

9.11 Spousal Consent. Notwithstanding the foregoing, if the Employer elected the QJSA Election in the Adoption Agreement, a married Participant must first obtain his or her spouse's notarized consent to request a distribution (other than a Qualified Joint and Survivor Annuity), withdrawal, or rollover under this Article IX.

9.12 Qualified Reservist Distribution Available under the Plan. Unless otherwise elected by the Employer, Qualified Reservist Distributions will be available under the Plan.

(a) Qualified Reservist Distribution. The term "Qualified Reservist Distribution" means any distribution of Elective Deferrals to a Qualified Reservist that is made during the period beginning on the date that the Qualified Reservist is ordered or called to duty and ending on the last day of active duty. A Qualified Reservist Distribution may be made to a Qualified Reservist under any circumstance and/or for any reason without violating the distribution restrictions of Code section 401(k)(2)(B)(i).

(b) Qualified Reservist. The term "Qualified Reservist" means an individual who is a member of a reserve component, as defined in section 101 of title 37, United States Code, and who is ordered or called to active duty either for a period in excess of 179 days or for an indefinite period.

9.13 Deemed Severance from Employment.

(a) Unless otherwise elected by the Employer in the Adoption Agreement, effective January 1, 2009, a Participant shall be deemed to have a severance from employment solely for purposes of eligibility to receive distributions from the Plan during any period the individual is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code) for more than 30 days.

(b) If a Participant receives a distribution pursuant to subsection (a), then the Participant shall not be permitted to make an Elective Deferral or after-tax Voluntary Participant Contributions during the six-month period beginning on the date of the distribution.

(c) If a Participant receives a distribution which could be attributable to:

1. a deemed severance from employment described in subsection (a); or

2. another distribution event under the Plan, then the distribution shall be considered made pursuant to the distribution event referenced in paragraph (2), and the Participant shall not be subject to the limitation on Elective Deferrals or after-tax Voluntary Participant Contributions set forth in subsection (b).

9.14 Distributions for Health and Long-Term Care Insurance for Public Safety Officers.

(a) If elected by the Employer in the Adoption Agreement, Eligible Retired Public Safety Officers may elect after separation from service to have up to $3,000 distributed tax-free annually from the Plan in order to pay for Qualified Health Insurance Premiums for an accident or health plan (including a self-insured plan) or a qualified long-term care insurance contract. The Plan shall make such distributions directly to the provider of the accident or health plan or qualified long-term care insurance contract.

(b) The term "Eligible Retired Public Safety Officer" means an individual who, by reason of disability or attainment of Normal Retirement Age, is separated from service as a Public Safety Officer with the Employer who maintains the eligible retirement plan from which distributions pursuant to this Section are made. For purposes of this Section 9.14, the term "Public Safety Officer" means an individual serving a public agency in an official

capacity, with or without compensation, as a law enforcement officer, firefighter, chaplain, or member of a rescue squad or ambulance crew.

(c) The term "Qualified Health Insurance Premiums" means premiums for coverage for the Eligible Retired Public Safety Officer, his spouse, and dependents, by an accident or health insurance plan or qualified long- term care insurance contract (as defined in Code section 7702(B)).

X. DISTRIBUTION REQUIREMENTS

10.01 General Rules.

(a) Generally. Subject to the provisions of Article XII or XVII if so elected by the Employer in the Adoption Agreement, the requirements of this Article shall apply to any distribution of a Participant's interest and will take precedence over any inconsistent provisions of this Plan.

(b) Distributions in Accordance with 401(a)(9). All distributions required under this Article shall be determined and made in accordance with the regulations under section 401(a)(9) of the Code, and the minimum distribution incidental benefit requirement of section 401(a)(9)(G) of the Code.

(c) Limits on Distribution Periods. As of the first Distribution Calendar Year, distributions to a Participant, if not made in a single-sum, may only be made over one of the following periods:

(1) The life of the Participant,

(2) The joint lives of the Participant and a designated Beneficiary,

(3) A period certain not extending beyond the life expectancy of the Participant, or

(4) A period certain not extending beyond the joint and last survivor expectancy of the Participant and a designated Beneficiary.

(d) TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this Article X, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.

10.02 Time and Manner of Distribution.

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

(b) 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:

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

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

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

(4) If the Participant's surviving spouse is the Participant's sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 10.02(b), other than Section 10.02(b)(1), will apply as if the surviving spouse were the Participant.

For purposes of this Section 10.02(b) and Section 10.04, unless Section 10.02(b)(4) applies, distributions are considered to begin on the Participant's required beginning date. If Section 10.02(b)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 10.02(b)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 10.02(b)(1)), the date distributions are considered to begin is the date distributions actually commence.

(c) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Sections 10.03 and 10.04. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury Regulations.

10.03 Required Minimum Distributions During Participant's Lifetime.

(a) 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:

(1) the quotient obtained by dividing the Participant's Account Balance by the distribution period set forth in the Uniform Lifetime Table found in Section 1.401(a)(9)-9, Q&A-2, of the Final Income Tax Regulations using the Participant's age as of the Participant's birthday in the distribution calendar year; or

(2) if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9, Q&A-3, of the regulations using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(b) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this Section 10.03 beginning with the first distribution calendar year and continuing up to, and including, the distribution calendar year that includes the Participant's date of death.

(c) Qualified Longevity Contract. For purposes of computing minimum required distributions that must be made to a Participant or Beneficiary in each distribution calendar year in order to satisfy section 401(a)(9) of the Code, a Participant's Account Balance does not include the value of any qualifying longevity annuity contract (QLAC). A QLAC is an annuity contract, purchased from an insurance company on or after July 2, 2014, for the benefit of an Employee under the Plan, stating its intent to be a QLAC and otherwise meeting all of the requirements of Section 1.401(a)(9)-6 of the Treasury Regulations. The amount of the premiums paid for the QLAC under the Plan will not exceed the lesser of:

(1) an amount equal to the excess of $125,000 (as adjusted by the Commissioner) over the sum of

(i) The premiums paid before that date with respect to the contract, and

(ii) premiums paid on or before that date with respect to any other contract that is intended to be a QLAC and that is purchased for the Employee under the Plan, or any other plan, annuity, or account described in section 401(a), 403(a), 403(b), or 408 or eligible governmental plan under section 457(b); or

(2) an amount equal to the excess of

(i) 25 percent of the Employee's Account Balance (as of the last Accounting Date preceding the date of the premium payment) under the Plan (including the value of any QLAC held under the Plan for the Employee) as of the contract date, over.

(ii) The sum of premiums paid before that date with respect to the contract and premiums paid on or before that date with respect to any other contract that is intended to be a QLAC and that is held or was purchased for the Employee under the Plan.

Distributions under the QLAC portion of the Participant's Account will commence not later than the first day of the month next following the Participant's 85th birthday. After distributions commence, those distributions will satisfy all applicable minimum distribution requirements from that point forward (other than the requirement that annuity payments commence on or before the Required Beginning Date.)

If an annuity contract fails to be a QLAC solely because a premium for the contract exceeds the above limits, the excess premium will be returned (either in cash or in the form of a contract that is not intended to be a QLAC) to the non-QLAC portion of the Employee's Account by the end of the calendar year following the calendar year in which the excess premium was originally paid.

10.04 Required Minimum Distributions After Participant's Death.

(a) Death On or After Date Distributions Begin.

(1) 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 Balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated Beneficiary, determined as follows:

(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 age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(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.

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

(b) Death Before Date Required Distributions Begin.

(1) Participant Survived by Designated Beneficiary. If the Participant dies before the date required distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 10.04(a).

(2) 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.

(3) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 10.02(b)(1), this Section 10.04(b) will apply as if the surviving spouse were the Participant.

10.05 Definitions.

For purposes of Section 10, the following definitions shall apply:

(a) Designated Beneficiary. The individual who is designated by the Participant (or the Participant's surviving spouse) as the Beneficiary of the Participant's interest under the

Plan and who is the designated Beneficiary under Code Section 401(a)(9) and Section 1.401(a)(9)-4 of the regulations.

(b) Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 10.02(b). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

(c) Life Expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9, Q&A- 1, of the regulations.

(d) Participant's Account Balance. The Account balance as of the last Accounting Date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Account Balance as of dates in the valuation calendar year after the Accounting Date and decreased by distributions made in the valuation calendar year after the Accounting Date. The Account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(e) Required Beginning Date. The Required Beginning Date of a Participant is April 1 of the calendar year following the later of the calendar year in which the Participant attains age seventy and one-half (70½), or the calendar year in which the Participant retires.

XI. MODES OF DISTRIBUTION OF BENEFITS

11.01 Normal Mode of Distribution. Unless an elective mode of distribution is elected as provided in Section 11.02, benefits shall be paid to the Participant in the form of a lump sum payment. Notwithstanding the foregoing, where the Employer made the "QJSA Election" in the Adoption Agreement, unless an elective mode of distribution is elected in accordance with Article XVII, benefits shall be paid to the Participant in the form provided for in Article XVII.

11.02 Elective Mode of Distribution. Subject to the requirements of Articles X, XII and XVII, a Participant may revocably elect to have his/her Account distributed in any one (1) of the following modes in lieu of the mode described in Section 11.01:

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

(b) Period Certain. Approximately equal monthly, quarterly, semi-annual, or annual payments, calculated to continue for a period certain chosen by the Participant.

(c) Other. Any other sequence of payments requested by the Participant.

(d) Lump Sum. Where the Employer did make the QJSA Election in the Adoption Agreement, a Participant may also elect a lump sum payment.

11.03 Election of Mode. A Participant's election of a payment option must be made in writing between thirty (30) and one-hundred eighty (180) days before the payment of benefits is to commence.

11.04 Death Benefits. Subject to Article X (and Article XII or XVII if so elected by the Employer in the Adoption Agreement),

(a) In the case of a Participant who dies before he/she has begun receiving benefit payments, the Participant's entire Nonforfeitable Interest shall then be payable to his/ her Beneficiary within ninety (90) days of the Participant's death. A Beneficiary who is entitled to receive benefits under this Section may elect to have benefits commence at a later date, subject to the provisions of Article X. The Beneficiary may elect to receive the death benefit in any of the forms available to the Participant under Sections 11.01 and 11.02. If the Beneficiary is the Participant's surviving spouse, and such surviving spouse dies before payment commences, then this Section shall apply to the beneficiary of the surviving spouse as though such surviving spouse were the Participant.

(b) Should the Participant die after he/she has begun receiving benefit payments, the Beneficiary shall receive the remaining benefits, if any, that are payable, under the payment schedule elected by the Participant. Notwithstanding the foregoing, the Beneficiary may elect to accelerate payments of the remaining balances, including but not limited to, a lump sum distribution.

XII. SPOUSAL DEATH BENEFIT REQUIREMENTS

12.01 Application. Unless otherwise elected by the Employer in the Adoption Agreement, the provisions of this Article shall take precedence over any conflicting provision in this Plan. The provisions of this Article, known as the "Beneficiary Spousal Consent Election," shall apply to any Participant who is credited with any Period of Service with the Employer on or after August 23, 1984, and such other Participants as provided in Section 12.04.

12.02 Spousal Death Benefit.

(a) On the death of a Participant, the Participant's Vested Account Balance will be paid to the Participant's Surviving Spouse. If there is no Surviving Spouse, or if the Participant has waived the spousal death benefit, as provided in Section 12.03, such Vested Account Balance will be paid to the Participant's designated Beneficiary.

(b) The Surviving Spouse may elect to have distribution of the Vested Account Balance commence within the one-hundred eighty (180) day period following the date of the Participant's death, or as otherwise provided under Section 11.04. The Account balance shall be adjusted for gains or losses occurring after the Participant's death in accordance with the provisions of the Plan governing the adjustment of Account balances for other types of distributions.

12.03 Waiver of Spousal Death Benefit.

The Participant may waive the spousal death benefit described in Section 12.02 at any time; provided that no such waiver shall be effective unless: (a) the Participant's Spouse consents in writing to the election; (b) the election designates a specific Beneficiary, including any class of Beneficiaries or any contingent Beneficiaries, which may not be changed without spousal consent (or the Spouse expressly permits designations by the Participant without any further spousal consent); (c) the Spouse's consent acknowledges the effect of the election; and (d) the Spouse's consent is witnessed by a Plan representative or notary public. If it is established to the satisfaction of a Plan representative that there is no Spouse or that the Spouse cannot be located, a waiver will be deemed to meet the requirements of this Section.

Any consent by a Spouse obtained under this provision (or establishment that the consent of a Spouse may not be obtained) shall be effective only with respect to such Spouse. A consent that permits designations by the Participant without any requirement of further consent by such Spouse must acknowledge that the Spouse has the right to limit consent to a specific Beneficiary, and a specific form of benefit where applicable, and that the Spouse voluntarily elects to relinquish either or both of such rights. A revocation of a prior waiver may be made by a Participant without the consent of the Spouse at any time before the commencement of benefits. The number of revocations shall not be limited.

12.04 Definitions. For the purposes of this Section, the following definitions shall apply:

(a) Spouse (Surviving Spouse). The Spouse or Surviving Spouse of the Participant, provided that a former Spouse will be treated as the Spouse or Surviving Spouse and a current Spouse will not be treated as the Spouse or Surviving Spouse to the extent provided under a qualified domestic relations order as described in section 414(p) of the Code.

(b) Vested Account Balance. The aggregate value of the Participant's vested Account balances derived from Employer and Employee contributions (including rollovers), whether vested before or upon death, including the proceeds of insurance contracts, if any, on the Participant's life. The provisions of this Article shall apply to a Participant who is vested in amounts attributable to Employer contributions, Employee contributions (or both) at the time of death or distribution.

XIII. LOANS TO PARTICIPANTS

13.01 Availability of Loans to Participants.

(a) If the Employer has elected in the Adoption Agreement to make loans available to Participants, a Participant may apply for a loan from the Plan subject to the limitations and other provisions of this Article.

(b) The Employer shall establish written guidelines governing the granting of loans, provided that such guidelines are approved by the Plan Administrator and are not inconsistent with the provisions of this Article, and that loans are made available to all applicable Participants on a reasonably equivalent basis.

13.02 Terms and Conditions of Loans to Participants. Any loan by the Plan to a Participant under Section 13.01 of the Plan shall satisfy the following requirements:

(a) Availability. Loans shall be made available to all Participants who are active Employees on a reasonably equivalent basis. Loans shall not be made available to terminated Employees, Beneficiaries, or alternate payees.

(b) Nondiscrimination. Loans shall not be made to Highly Compensated Employees in an amount greater than the amount made available to other Employees. For this purpose, Highly Compensated Employee means any Employee who, for the preceding year, had Compensation from the Employer in excess of $80,000 (as adjusted).

(c) Interest Rate. Loans must be adequately secured and bear a reasonable interest rate.

(d) Loan Limit. No Participant loan shall exceed the present value of the Participant's Nonforfeitable Interest in his/her Account.

(e) Foreclosure. In the event of default, foreclosure on the note and attachment of security will not occur until a distributable event occurs in the Plan.

(f) Reduction of Account. Notwithstanding any other provision of this Plan, the portion of the Participant's vested Account balance used as a security interest held by the Plan by reason of a loan outstanding to the Participant shall be taken into account for purposes of determining the amount of the Account balance payable at the time of death or distribution, but only if the reduction is used as repayment of the loan. If less than one hundred percent (100%) of the Participant's nonforfeitable Account balance (determined without regard to the preceding sentence) is payable to the surviving spouse, then the Account balance shall be adjusted by first reducing the nonforfeitable Account balance by the amount of the security used as repayment of the loan, and then determining the benefit payable to the surviving spouse.

(g) Amount of Loan. At the time the loan is made, the principal amount of the loan plus the outstanding balance (principal plus accrued interest) due on any other outstanding loans to the Participant or Beneficiary from the Plan and from all other plans of the Employer that are qualified employer plans under section 72(p)(4) of the Code shall not exceed the lesser of:

(1) $50,000, reduced by the excess (if any) of

(i) The highest outstanding balance of loans from the Plan during the one (1) year period ending on the day before the date on which the loan is made, over

(ii) The outstanding balance of loans from the Plan on the date on which such loan is made; or

(2) One-half (½) of the value of the Participant's Nonforfeitable Interest in all of his/her Accounts under this Plan

For the purpose of the above limitation, all loans from all qualified employer plans of the Employer, including 457(b) plans, under Code section 72(p)(4) are aggregated.

(h) Application for Loan. The Participant must give the Employer adequate written notice, as determined by the Employer, of the amount and desired time for receiving a loan. No more than one (1) loan may be made by the Plan to a Participant in any calendar year. No loan shall be approved if an existing loan from the Plan to the Participant is in default to any extent.

(i) Length of Loan. The terms of any loan issued or renegotiated after December 31, 1993, shall require the Participant to repay the loan in substantially equal installments of principal and interest, at least quarterly (except as otherwise provided in Treasury

Regulation section 1.72(p)-1, Q&A-9 for certain leave of absence and military leave), over a period that does not exceed five (5) years from the date of the loan; provided, however, that if the proceeds of the loan are applied by the Participant to acquire any dwelling unit that is to be used within a reasonable time after the loan is made as the principal residence of the Participant, the five (5) year limit shall not apply. In this event, the period of repayment shall not exceed a reasonable period determined by the Employer. Principal installments and interest payments otherwise due may be suspended for up to one (1) year during an authorized leave of absence, if the promissory note so provides, but not beyond the original term permitted under this Subsection (i), with a revised payment schedule (within such term) instituted at the end of such period of suspension. If the Participant fails to make any installment payment, the Plan Administrator may, according to Treasury Regulation 1.72(p)-1, allow a cure period, which cure period cannot continue beyond the last day of the calendar quarter following the calendar quarter in which the required installment payment was due.

(j) Prepayment. The Participant shall be permitted to repay the loan in whole or in part at any time prior to maturity, without penalty.

(k) Note. The loan shall be evidenced by a promissory note executed by the Participant and delivered to the Employer, and shall bear interest at a reasonable rate determined by the Employer. Unless waived by a Participant, any plan loan that is outstanding on the date that active duty military service begins will accrue interest at a rate of no more than 6% during the period of military service in accordance with the provisions of the Service members Civil Relief Act (SCRA), 50 USC App. § 526 and subject to the notice requirements contained therein. This limitation applies even if loan payments are suspended during the period of military service as permitted under the Plan and Treasury regulations.

(l) Security. The loan shall be secured by an assignment of that portion the Participant's right, title and interest in and to his/her Account that is equal to fifty percent (50%) of the Participant's Account (to the extent vested).

(m) Assignment or Pledge. For the purposes of paragraphs (h) and (i), assignment or pledge of any portion of the Participant's interest in the Plan and a loan, pledge, or assignment with respect to any insurance contract purchased under the Plan, will be treated as a loan.

(n) Spousal Consent. If the Employer elected the QJSA Election in the Adoption Agreement, the Participant must first obtain his or her spouse's notarized consent to the loan. Spousal consent shall be obtained no earlier than the beginning of the one-hundred eighty (180) day period that ends on the date on which the loan is to be so secured. The consent must be in writing, must acknowledge the effect of the loan, and must be witnessed by a Plan representative or notary public. Such consent shall thereafter be binding with respect to the consenting spouse or any subsequent spouse with respect to that loan. A new consent shall be required if the Account balance is used for renegotiation, extension, renewal, or other revision of the loan.

(o) Other Terms and Conditions. The Employer shall fix such other terms and conditions of the loan as it deems necessary to comply with legal requirements, to maintain the qualification of the Plan under section 401(a) of the Code, or to prevent the treatment of the loan for tax purposes as a distribution to the Participant. The Employer, in its discretion for any reason, may fix other terms and conditions of the loan, not inconsistent with the provisions of this Article, including:

(1) the circumstances under which a loan becomes immediately due and payable, provided, however, with respect to loans issued after December 31, 2012, that the

loan program shall not provide that a loan becomes due and payable solely because the Participant requests or receives a partial distribution of the Participant's Account balance after termination of employment;

(2) rules relating to reamortization of loans; and

(3) rules relating to refinance of loans.

13.03 Participant Loan Accounts.

(a) Upon approval of a loan to a Participant by the Employer, an amount not in excess of the loan shall be transferred from the Participant's other investment fund(s), described in Section 6.01 of the Plan, to the Participant's Loan Account as of the Accounting Date immediately preceding the agreed upon date on which the loan is to be made.

(b) The assets of a Participant's Loan Account may be invested and reinvested only in promissory notes received by the Plan from the Participant as consideration for a loan permitted by Section 13.01 of the Plan or in cash. Uninvested cash balances in a Participant's Loan Account shall not bear interest. No person who is otherwise a fiduciary of the Plan shall be liable for any loss, or by reason of any breach, that results from the Participant's exercise of such control.

(c) Repayment of principal and payment of interest shall be made by payroll deduction or Automated Clearing House (ACH) transfer, or with respect to a terminated Employee solely by ACH, and shall be invested in one or more other investment funds, in accordance with Section 6.01 of the Plan, as of the next Accounting Date after payment thereof to the Trust. The amount so invested shall be deducted from the Participant's Loan Account. A payment intended to be a Prepayment or payment of the loan in full may also be made by cashier's check or money order, and shall be invested in accordance with this provision.

(d) The Employer shall have the authority to establish other reasonable rules, not inconsistent with the provisions of the Plan, governing the establishment and maintenance of Participant Loan Accounts.

XIV. PLAN AMENDMENT, TERMINATION, AND OPTIONAL PROVISIONS

14.01 Amendment by Employer. The Employer reserves the right, subject to Section 14.02 of the Plan, to amend the Plan from time to time by either:

(a) Filing an amended Adoption Agreement to change, delete, or add any optional provision, or

(b) Continuing the Plan in the form of an amended and restated Plan.

No amendment to the Plan shall be effective to the extent that it has the effect of decreasing a Participant's accrued benefit. Notwithstanding the preceding sentence, a Participant's Account balance may be reduced to the extent permitted under section 412(d)(2) of the Code. For purposes of this paragraph, a Plan amendment which has the effect of decreasing a Participant's Account balance or eliminating an optional form of benefit, with respect to benefits attributable to service before the amendment shall be treated as reducing an accrued benefit. Furthermore, if the vesting schedule of the Plan is

amended, in the case of an Employee who is a Participant as of the later of the date such amendment is adopted or the date it becomes effective, the nonforfeitable percentage (determined as of such date) of such Employee's right to his/her Employer- derived accrued benefit will not be less than his percentage computed under the Plan without regard to such amendment.

No amendment to the Plan shall be effective to eliminate or restrict an optional form of benefit. The preceding sentence shall not apply to a Plan amendment that eliminates or restricts the ability of a Participant to receive payment of his or her Account balance under a particular optional form of benefit if the amendment provides a single-sum distribution form that is otherwise identical to the optional form of benefit being eliminated or restricted. For this purpose, a single-sum distribution form is otherwise identical only if the single-sum distribution form is identical in all respects to the eliminated or restricted optional form of benefit (or would be identical except that it provides greater rights to the Participant) except with respect to the timing of payments after commencement.

The Employer may (1) change the choice of options in the Adoption Agreement; (2) specify or change the effective date of a provision as permitted under the Plan; (3) add overriding language in the Adoption Agreement when such language is necessary to satisfy § 415 or § 416 of the Code because of the required aggregation of multiple plans; (4) amend administrative provisions of the Plan such as provisions relating to investments, Plan claims procedures, and Employer contact information provided the amended provisions are not in conflict with any other provision of the Plan and do not cause the Plan to fail to qualify under Code § 401; (5) adopt sample or model plan amendments published by the Internal Revenue Service which provide that their adoption will not result in the Employer losing reliance on the Opinion Letter; (6) amend to adjust for limitations provided under Code §§ 415, 402(g), 401(a)(17) and 414(q)(1)(B) to reflect annual cost of living increases, other than to add automatic cost-of-living adjustments to the Plan; and (7) make interim amendments or discretionary amendments that are related to a change in qualification requirements. An Employer that amends the Plan for any other reason will no longer have reliance on the Opinion Letter.

14.02 Amendment of Vesting Schedule. If the Plan's vesting schedule is amended, or the Plan is amended in any way that directly or indirectly affects the computation of the Participant's nonforfeitable percentage, each Participant may elect, within a reasonable period after the adoption of the amendment or change, to have the nonforfeitable percentage computed under the Plan without regard to such amendment or change.

The period during which the election may be made shall commence with the date the amendment is adopted or deemed to be made and shall end on the latest of:

(a) Sixty (60) days after the amendment is adopted;

(b) Sixty (60) days after the amendment becomes effective; or

(c) Sixty (60) days after the Participant is issued written notice of the amendment by the Employer or Plan Administrator.

14.03 Termination by Employer. The Employer reserves the right to terminate this Plan. However, in the event of such termination no part of the Trust shall be used or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries, except as provided in this Section.

Upon Plan termination or partial termination, all Account balances shall be valued at their fair market value and the Participant's right to his/her Employer Contribution Account shall be one hundred percent (100%) vested and nonforfeitable. Such amount and any other amounts held in the Participant's other Accounts shall be maintained for the Participant until paid pursuant to the terms of the Plan.

Any amounts held in a suspense account, after all liabilities of the Plan to Participants and Beneficiaries have been satisfied or provided for, shall be paid to the Employer in accordance with the Code and regulations thereunder.

In the event that the Commissioner of Internal Revenue determines that the Plan is not initially qualified under the Internal Revenue Code, any contribution made by the Employer incident to that initial qualification must be returned to the Employer within one year after the date the initial qualification is denied, but only if the application for the qualification is made by the time prescribed by law for filing the Employer's return for the year in which the Plan is adopted, or such later date as the Secretary of the Treasury may prescribe.

14.04 Discontinuance of Contributions. A permanent discontinuance of contributions to the Plan by the Employer, unless an amended and restated Plan is established, shall constitute a Plan termination. In the event of a complete discontinuance of contributions under the Plan, the Account balance of each affected Participant shall be nonforfeitable.

14.05 Amendment by Plan Administrator. The Plan Administrator may amend this Plan upon thirty (30) days written notification to the Employer; provided, however, that any such amendment must be for the express purpose of maintaining compliance with applicable federal laws and regulations, revenue rulings, other statements published by the Internal Revenue Service (including model and sample amendments that specifically provide that their adoption will not cause such Plan to be individually designed), or corrections of prior approved Plans may be applied to all Employers who have adopted the Plan. Such amendment shall become effective unless, within such 30-day period, the Employer notifies the Administrator, in writing, that it disapproves such amendment, in which case such amendment shall not become effective. In the event of such disapproval, or in the event of the resignation or removal of the Plan Administrator pursuant to Section 15.05, the Administrator shall be under no obligation to continue acting as Administrator hereunder.

However, for purposes of reliance on an Opinion Letter, the Plan Administrator will no longer have the authority to amend the Plan on behalf of the Employer as of the date (1) the Employer amends the Plan to incorporate a type of plan described in section 6.03 of Rev. Proc. 2017-41 that is not permitted under the Pre- approved Plan program, or (2) the Internal Revenue Service notifies the Employer, in accordance with section 8.06(3) of Rev. Proc. 2017-41, that the Plan is an individually designed plan due to the nature and extent of Employer amendments to the Plan.

14.06 Optional Provisions. Any provision which is optional under this Plan shall become effective if and only if elected by the Employer and agreed to by the Plan Administrator.

14.07 Failure of Qualification. The Employer may rely on an Opinion Letter issued by the Internal Revenue Service as evidence that the Plan is qualified under § 401 of the Internal Revenue Code only to the extent provided in Rev. Proc. 2017-41. If the Employer's plan fails to attain or retain qualification, such plan will no longer participate in this Plan and will be considered an individually designed plan.

XV. ADMINISTRATION

15.01 Powers of the Employer. The Employer shall have the following powers and duties:

(a) To appoint and remove, with or without cause, the Plan Administrator;

(b) To amend or terminate the Plan pursuant to the provisions of Article XIV;

(c) To appoint a committee to facilitate administration of the Plan and communications to Participants;

(d) To decide all questions of eligibility (1) for Plan participation, and (2) upon appeal by any Participant, Employee or Beneficiary, for the payment of benefits;

(e) To engage an independent qualified public accountant, when required to do so by law, to prepare annually the audited financial statements of the Plan's operation;

(f) To take all actions and to communicate to the Plan Administrator in writing all necessary information to carry out the terms of the Plan; and

(g) To notify the Plan Administrator in writing of the termination of the Plan.

15.02 Duties of the Plan Administrator. The Plan Administrator shall have the following powers and duties, subject to the oversight by the Employer:

(a) To construe and interpret the provisions of the Plan;

(b) To maintain and provide such returns, reports, schedules, descriptions, and individual Account statements as are required by law within the times prescribed by law; and to furnish to the Employer, upon request, copies of any or all such materials, and further, to make copies of such instruments, reports, descriptions, and statements as are required by law available for examination by Participants and such of their Beneficiaries who are or may be entitled to benefits under the Plan in such places and in such manner as required by law;

(c) To obtain from the Employer such information as shall be necessary for the proper administration of the Plan;

(d) To determine the amount, manner, and time of payment of benefits hereunder;

(e) To appoint and retain such agents, counsel, and accountants for the purpose of properly administering the Plan;

(f) To distribute assets of the Trust to each Participant and Beneficiary in accordance with Article X of the Plan;

(g) To pay expenses from the Trust; and

(h) To do such other acts reasonably required to administer the Plan in accordance with its provisions or as may be provided for or required by the Code.

15.03 Protection of the Employer. The Employer shall not be liable for the acts or omissions of the Plan Administrator, but only to the extent that such acts or omissions do not result from the Employer's failure to provide accurate or timely information as required or necessary for proper administration of the Plan.

15.04 Protection of the Plan Administrator. The Plan Administrator may rely upon any certificate, notice or direction purporting to have been signed on behalf of the Employer which the Plan Administrator believes to have been signed by a duly designated official of the Employer.

15.05 Resignation or Removal of Plan Administrator. The Plan Administrator may resign at any time effective upon sixty (60) days prior written notice to the Employer. The Plan Administrator may be removed by the Employer at any time upon sixty (60) days prior written notice to the Plan Administrator. Upon the resignation or removal of the Plan Administrator, the Employer may appoint a successor Plan Administrator; failing such appointment, the Employer shall assume the powers and duties of Plan Administrator. Upon the resignation or removal of the Plan Administrator, any Trust assets invested by or held in the name of the Plan Administrator shall be transferred to the trustee in cash or property, at fair market value, except that the return of Trust assets invested in a contract issued by an insurance company shall be governed by the terms of that contract.

15.06 No Termination Penalty. The Plan Administrator shall have no authority or discretion to impose any termination penalty upon its removal.

15.07 Decisions of the Plan Administrator. All constructions, determinations, and interpretations made by the Plan Administrator pursuant to Section 15.02(a) or (d) or by the Employer pursuant to Section 15.01(d) shall be final and binding on all persons participating in the Plan, given deference in all courts of law to the greatest extent allowed by applicable law, and shall not be overturned or set aside by any court of law unless found to be arbitrary or capricious, or made in bad faith.

XVI. MISCELLANEOUS

16.01 Nonguarantee of Employment. Nothing contained in this Plan shall be construed as a contract of employment between the Employer and any Employee, or as a right of an Employee to be continued in the employment of the Employer, as a limitation of the right of the Employer to discharge any of its Employees, with or without cause.

16.02 Rights to Trust Assets. No Employee or Beneficiary shall have any right to, or interest in, any assets of the Trust upon termination of his/her employment or otherwise, except as provided from time to time under this Plan, and then only to the extent of the benefits payable under the Plan to such Employee or Beneficiary out of the assets of the Trust. All payments of benefits as provided for in this Plan shall be made solely out of the assets of the Trust and none of the fiduciaries shall be liable therefor in any manner.

16.03 Nonalienation of Benefits. Except as provided in Sections 16.04 and 16.06 of the Plan, benefits payable under this Plan shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution, or levy of any kind, either voluntary or involuntary, prior to actually being received by the person entitled to the benefit under the terms of the Plan; and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any right to benefits payable hereunder, shall be void. The Trust shall not in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person entitled to benefits hereunder.

16.04 Qualified Domestic Relations Order. Notwithstanding Section 16.03 of the Plan, amounts may be paid with respect to a Participant pursuant to a domestic relations order, but if and only if the order is determined to be a qualified domestic relations order within the meaning of section 414(p) of the Code or any domestic relations order entered before January 1, 1985.

16.05 Nonforfeitability of Benefits. Subject only to the specific provisions of this Plan, nothing shall be deemed to deprive a Participant of his/her right to the Nonforfeitable Interest to which he/she becomes entitled in accordance with the provisions of the Plan.

16.06 Incompetency of Payee. In the event any benefit is payable, on or after the adoption date of this Plan, to a minor or incompetent, to a person otherwise under legal disability, or to a person who, in the sole judgment of the Employer, is by reason of advanced age, illness, or other physical or mental incapacity incapable of handling the disposition of his/her property, the Employer may apply the whole or any part of such benefit directly to the care, comfort, maintenance, support, education, or use of such person or pay or distribute the whole or any part of such benefit to:

(a) a valid power of attorney;

(b) a court appointed guardian;

(c) or any other person authorized under the state law to receive the benefit.

The receipt of the person to whom any such payment or distribution is so made shall be full and complete discharge therefor.

16.07 Inability to Locate Payee. Anything to the contrary herein notwithstanding, if the Employer is unable, after reasonable effort, to locate any Participant or Beneficiary to whom an amount is payable hereunder, such amount shall be forfeited and held in the Trust for application against the next succeeding Employer Contribution or Contributions required to be made hereunder. Notwithstanding the foregoing, however, such amount shall be reinstated, by means of an additional Employer contribution, if and when a claim for the forfeited amount is subsequently made by the Participant or Beneficiary or if the Employer receives proof of death of such person, satisfactory to the Employer. To the extent not inconsistent with applicable law, any benefits lost by reason of escheat under applicable state law shall be considered forfeited and shall not be reinstated.

16.08 Mergers, Consolidations, and Transfer of Assets. The Plan shall not be merged into or consolidated with any other plan, nor shall any of its assets or liabilities be transferred into any such other plan, unless each Participant in the Plan would (if the Plan then terminated) receive a benefit immediately after the merger, consolidation, or transfer that is equal to or greater than the benefit he/she would have been entitled to receive immediately before the merger, consolidation, or transfer (if the Plan had then terminated).

16.09 Employer Records. Records of the Employer as to an Employee's or Participant's Period of Service, termination of service and the reason therefor, leaves of absence, reemployment, Earnings, and compensation will be conclusive on all persons, unless determined to be incorrect.

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

16.11 Applicable Law. The Plan shall be construed under the laws of the State where the Employer is located, except to the extent superseded by federal law. The Plan is established with the intent that it meets the requirements under the Code. The provisions of this Plan shall be interpreted in conformity with these requirements.

In the event of any conflict between the Plan and a policy or contract issued hereunder, the Plan provisions shall control; provided, however, no Plan amendment shall supersede an existing policy or contract unless such amendment is required to maintain qualification under section 401(a) and 414(d) of the Code.

In the event of any conflict between the terms of this Plan and any conflicting provision contained in any associated trust, custodial account document or any document that is incorporated by reference, the terms of this Plan will govern.

16.12 Electronic Communication and Consent. Unless expressly provided otherwise, where this Plan provides that a document, election, notification, direction, signature, or consent will be in writing, such writing may occur through an electronic medium, including but not limited to electronic mail, intranet or internet web posting and online account access, to the fullest extent permitted by applicable law.

XVII. SPOUSAL BENEFIT REQUIREMENTS

17.01 Application. If elected by the Employer in the Adoption Agreement (the "QJSA Election"), the provisions of this Article shall take precedence over any conflicting provision in this Plan. If elected, the provisions of this Article shall apply to any Participant who is credited with any Period of Service with the Employer on or after August 23, 1984, and such other Participants as provided in Section 17.06.

17.02 Qualified Joint and Survivor Annuity. Unless an optional form of benefit is selected pursuant to a Qualified Election within the one-hundred eighty (180) day period ending on the Annuity Starting Date, a married Participant's Vested Account Balance will be paid in the form of a Qualified Joint and Survivor Annuity and an unmarried Participant's Vested Account Balance will be paid in the form of a Straight Life Annuity. The Participant may elect to have such annuity distributed upon the attainment of the Earliest Retirement Age under the Plan.

17.03 Qualified Optional Survivor Annuity. If a married Participant elects to waive the Qualified Joint and Survivor Annuity, the Participant may elect the qualified optional survivor annuity at any time during the applicable election period, provided, however, that this Section shall apply only to the extent the Plan makes another survivor annuity available.

17.04 Qualified Preretirement Survivor Annuity. If a Participant dies before the Annuity Starting Date, then fifty percent (50%) of the Participant's Vested Account Balance shall be applied toward the purchase of an annuity for the life of the Surviving Spouse; the remaining portion shall be paid to such Beneficiaries (which may include such Spouse) designated by the Participant. Notwithstanding the foregoing, the Participant may waive the spousal annuity by designating a different Beneficiary within the Election Period pursuant to a Qualified Election. To the extent that less than one hundred percent (100%) of the Vested Account Balance is paid to the Surviving Spouse, the amount of the Participant's Account derived from employee contributions will be allocated to the Surviving Spouse in the same proportion as the amount

of the Participant's Account derived from employee contributions is to the Participant's total Vested Account Balance. The Surviving Spouse may elect to have such annuity distributed within a reasonable period after the Participant's death. Further, such Spouse may elect to receive any death benefit payable to him/her hereunder in any of the forms available to the Participant under Section 11.02.

17.05 Notice Requirements.

(a) In the case of a Qualified Joint and Survivor Annuity as described in Section 17.02, the Plan Administrator shall, no less than thirty (30) days and no more than one-hundred eighty (180) days prior to the Annuity Starting Date, provide each Participant a written explanation of: (i) the terms and conditions of a Qualified Joint and Survivor Annuity;(ii) the Participant's right to make and the effect of an election to waive the Qualified Joint and Survivor Annuity form of benefit; (iii) the rights of a Participant's Spouse; and (iv) the right to make, and the effect of, a revocation of a previous election to waive the Qualified Joint and Survivor Annuity. However, if the Participant, after having received the written explanation, affirmatively elects a form of distribution and the Spouse consents to that form of distribution (if necessary), benefit payments may commence less than thirty (30) days after the written explanation was provided to the Participant, provided that the following requirements are met:

(1) The Plan Administrator provides information to the Participant clearly indicating that the Participant has a right to at least thirty (30) days to consider whether to waive the Qualified Joint and Survivor Annuity and consent to a form of distribution other than a Qualified Joint and Survivor Annuity;

(2) The Participant is permitted to revoke an affirmative distribution election at least until the Annuity Starting Date, or if later, at any time prior to the expiration of the 7-day period that begins the day after the explanation of the Qualified Joint and Survivor Annuity is provided to the Participant;

(3) The Annuity Starting Date is after the date that the explanation of the Qualified Joint and Survivor Annuity is provided to the Participant; and

(4) Distribution in accordance with the affirmative election does not commence before the expiration of the 7-day period that begins after the day after the explanation of the Qualified Joint and Survivor Annuity is provided to the Participant.

(b) In the case of a Qualified Preretirement Survivor Annuity as described in Section 17.04, the Plan Administrator shall provide each Participant within the applicable period for such Participant a written explanation of the Qualified Preretirement Survivor Annuity in such terms and in such manner as would be comparable to the explanation provided for meeting the requirements of Subsection (a) applicable to a Qualified Joint and Survivor Annuity.

The applicable period for a Participant is whichever of the following periods ends last:

1. the period beginning with the first day of the Plan Year in which the Participant attains age thirty-two (32) and ending with the close of the Plan Year preceding the Plan Year in which the Participant attains age thirty-five (35);
2. a reasonable period ending after the individual becomes a Participant;
3. a reasonable period ending after Subsection (c) ceases to apply to the Participant;
4. a reasonable period ending after this Article first applies to the Participant. Notwithstanding the foregoing, notice must be provided within a reasonable

period ending after separation from service in the case of a Participant who separates from service before attaining age thirty-five (35).

For purposes of applying the preceding paragraph, a reasonable period ending after the enumerated events described in (2), (3) and (4) is the end of the two (2) year period beginning one (1) year prior to the date the applicable event occurs, and ending one (1) year after that date. In the case of a Participant who separates from service before the Plan Year in which age thirty-five (35) is attained, notice shall be provided within the two (2) year period beginning one (1) year prior to separation and ending one (1) year after separation. If such a Participant thereafter returns to employment with the Employer, the applicable period for such Participant shall be redetermined.

(c) Notwithstanding the other requirements of this Section, the respective notices prescribed by this Section need not be given to a Participant if (1) the Plan "fully subsidizes" the costs of a Qualified Joint and Survivor Annuity or Qualified Preretirement Survivor Annuity, and (2) the Plan does not allow the Participant to waive the Qualified Joint and Survivor Annuity or Qualified Preretirement Survivor Annuity and does not allow a married Participant to designate a non-Spouse Beneficiary. For purposes of this Subsection (c), a plan fully subsidizes the costs of a benefit if no increase in cost or decrease in benefits to the Participant may result from the Participant's failure to elect another benefit.

17.06 Definitions. For the purposes of this Section, the following definitions shall apply:

(a) Annuity Starting Date. The first day of the first period for which an amount is paid as an annuity or any other form.

(b) Election Period. The period which begins on the first day of the Plan Year in which the Participant attains age thirty-five (35) and ends on the date of the Participant's death. If a Participant separates from service prior to the first day of the Plan Year in which age thirty-five (35) is attained, with respect to the Account balance as of the date of separation, the Election Period shall begin on the date of separation. Pre-age thirty- five (35) waiver: A Participant who will not yet attain age thirty-five (35) as of the end of any current Plan Year may make a special Qualified Election to waive the Qualified Preretirement Survivor Annuity for the period beginning on the date of such election and ending on the first day of the Plan Year in which the Participant will attain age thirty-five (35). Such election shall not be valid unless the Participant receives a written explanation of the Qualified Preretirement Survivor Annuity in such terms as are comparable to the explanation required under Section 17.05(a). Qualified Preretirement Survivor Annuity coverage will be automatically reinstated as of the first day of the Plan Year in which the Participant attains age thirty-five (35). Any new waiver on or after such date shall be subject to the full requirements of this Article.

(c) Earliest Retirement Age. The earliest date on which, under the Plan, the Participant could elect to receive retirement benefits.

(d) Qualified Election. A waiver of a Qualified Joint and Survivor Annuity or a Qualified Preretirement Survivor Annuity. Any waiver of a Qualified Joint and Survivor Annuity or a Qualified Preretirement Survivor Annuity shall not be effective unless: (a) the Participant's Spouse consents in writing to the election; (b) the election designates a specific Beneficiary, including any class of Beneficiaries or any contingent Beneficiaries, which may not be changed without spousal consent (or the Spouse expressly permits designations by the Participant without any further spousal consent); (c) the Spouse's consent acknowledges the effect of the election; and (d) the Spouse's consent is witnessed by a Plan representative or notary public. Additionally, a Participant's waiver of the Qualified Joint and Survivor Annuity shall not be effective unless the election

designates a form of benefit payment which may not be changed without spousal consent (or the Spouse expressly permits designations by the Participant without any further Spousal consent). If it is established to the satisfaction of a Plan representative that there is no Spouse or that the Spouse cannot be located, a waiver will be deemed a Qualified Election.

Any consent by a Spouse obtained under this provision (or establishment that the consent of a Spouse may not be obtained) shall be effective only with respect to such Spouse. A consent that permits designations by the Participant without any requirement of further consent by such Spouse must acknowledge that the Spouse has the right to limit consent to a specific Beneficiary, and a specific form of benefit where applicable, and that the Spouse voluntarily elects to relinquish either or both of such rights. A revocation of a prior waiver may be made by a Participant without the consent of the Spouse at any time before the commencement of benefits. The number of revocations shall not be limited. No consent obtained under this provision shall be valid unless the Participant has received notice as provided in Section 17.05.

(e) Qualified Joint and Survivor Annuity. An immediate annuity for the life of the Participant with a survivor annuity for the life of the Spouse which is fifty percent (50%) of the amount of the annuity which is payable during the joint lives of the Participant and the Spouse and which is the amount of benefit which can be purchased with the Participant's Vested Account Balance.

(f) Spouse (Surviving Spouse). The Spouse or Surviving Spouse of the Participant, provided that a former Spouse will be treated as the Spouse or Surviving Spouse and a current Spouse will not be treated as the Spouse or Surviving Spouse to the extent provided under a qualified domestic relations order as described in section 414(p) of the Code.

(g) Straight Life Annuity. An annuity payable in equal installments for the life of the Participant that terminates upon the Participant's death.

(h) Vested Account Balance. The aggregate value of the Participant's vested Account balances derived from Employer and Employee contributions (including rollovers), whether vested before or upon death, including the proceeds of insurance contracts, if any, on the Participant's life. The provisions of this Article shall apply to a Participant who is vested in amounts attributable to Employer contributions, Employee contributions (or both) at the time of death or distribution.

17.07 Annuity Contracts. Where benefits are to be paid in the form of a life annuity pursuant to the terms of this Article, a nontransferable annuity contract shall be purchased from a life insurance company and distributed to the Participant or Surviving Spouse, as applicable. The terms of any annuity contract purchased and distributed by the Plan shall comply with the requirements of this Plan and section 417 of the Code.

XVIII. FINAL PAY CONTRIBUTIONS

18.01 Eligibility. If elected by the Employer in the Adoption Agreement, Final Pay Contributions on behalf of each eligible Participant equal to the equivalent of the accrued unpaid Final Pay, as defined in the Adoption Agreement ("Final Pay"), shall be contributed to the Plan. Eligibility for Final Pay Contributions is limited to only those Participants or class of Participants that the Employer elects in the Adoption Agreement.

18.02 Contribution Amount. At the election of the Employer in the Adoption Agreement, the Final Pay Contributions may be made as either (a) Employer Final Pay Contributions, or (b) Employee Designated Final Pay Contributions, as described below.

(a) Employer Final Pay Contributions. The Employer shall contribute to the Plan for each eligible Participant the equivalent of a designated amount of accrued unpaid Final Pay upon termination of employment of the Participant, as the Employer so elects in the Adoption Agreement. The Employer's contribution for any Plan Year shall be due and paid not later than the time prescribed by applicable law. The Employer Final Pay Contributions shall be accounted for in the Employer Contribution Account.

(b) Employee Designated Final Pay Contributions. The Employer shall contribute to the Plan for each eligible Participant all or any portion of a Participant's Final Pay, as elected by the Participant. The Employer may limit the amount of Final Pay to be elected to be contributed to the Plan. Once elected, an Employee's election shall remain in force and may not be revised or revoked.

The Employee Designated Final Pay Contributions shall be accounted for in the Employee Designated Final Pay Contribution Account, and are nonforfeitable at all times.

The Employee Designated Final Pay Contributions shall be "picked up" by the Employer in accordance with Code section 414(h)(2). The contributions shall be treated as an employer contribution in determining the tax treatment under the Code, and shall not be included as gross income of the Participant until it is distributed.

A Participant cannot elect to receive cash in lieu of any Final Pay Contribution.

18.03 Equivalencies. The Final Pay Contribution shall be determined by multiplying the Participant's current daily rate of pay from the Employer times the amount of accrued unpaid leave being converted.

18.04 Excess Contributions. Final Pay Contributions are limited to the extent of applicable law and any Code limitation. No Final Pay Contribution shall be made to the extent that it would exceed the applicable Code section 415 limitation, as set forth in Article V. Any excess contributions as a result of the Code section 415 limitation shall remain in the Participant's leave bank.

XIX. ACCRUED LEAVE CONTRIBUTIONS

19.01 Eligibility. If elected by the Employer in the Adoption Agreement, Accrued Leave Contributions on behalf of each eligible Participant equal to the equivalent of the accrued unpaid leave, as defined in the Adoption Agreement ("Accrued Leave"), shall be contributed to the Plan. Eligibility for Accrued Leave Contributions is limited to only those Participants or class of Participants that the Employer elects in the Adoption Agreement.

19.02 Contribution Amount. At the election of the Employer in the Adoption Agreement, the Accrued Leave Contributions may be made as either (a) Employer Accrued Leave Contributions, or (b) Employee Designated Accrued Leave Contributions, as described below.

(a) Employer Accrued Leave Contributions. The Employer shall contribute to the Plan for each eligible Participant the equivalent of a designated amount of accrued unpaid leave

each year, as the Employer so elects in the Adoption Agreement. The Employer's contribution for any Plan Year shall be due and paid not later than the time prescribed by applicable law. The Employer Accrued Leave Contributions shall be accounted for in the Employer Contribution Account.

(b) Employee Designated Accrued Leave Contributions. The Employer shall contribute to the Plan for each eligible Participant all or any portion of a Participant's Accrued Leave, as elected by the Participant. The Employer may limit the amount of Accrued Leave to be elected to be contributed to the Plan. Once elected, an Employee's election shall remain in force and may not be revised or revoked. The Employee Designated Accrued Leave Contributions shall be accounted for in the Employee Designated Accrued Leave Contribution Account, and are nonforfeitable at all times.

The Employee Designated Accrued Leave Contributions shall be "picked up" by the Employer in accordance with Code section 414(h)(2). The contributions shall be treated as an employer contribution in determining the tax treatment under the Code, and shall not be included as gross income of the Participant until it is distributed.

A Participant cannot elect to receive cash in lieu of any Accrued Leave Contribution.

19.03 Equivalencies. The Accrued Leave Contribution shall be determined by multiplying the Participant's current daily rate of pay from the Employer times the amount of accrued unpaid leave being converted.

19.04 Excess Contributions. Accrued Leave Contributions are limited to the extent of applicable law and any Code limitation. No Accrued Leave Contribution shall be made to the extent that it would exceed the applicable Code section 415 limitation, as set forth in Article V. Any excess contributions as a result of the Code section 415 limitation shall remain in the Participant's leave bank.

XX. ROTH PROVISIONS

20.01 Effective Date. This Article XX has no effect unless and until the Employer affirmatively elects to permit Roth Elective Deferrals under Article VII.4 in the Adoption Agreement. An Employer may elect to permit Roth Elective Deferrals under Section 20.03 only if the Plan offers Elective Deferrals.

20.02 Definitions. The following definitions shall apply for purposes of this Article XX.

(a) Designated Roth Account. A bookkeeping account established and maintained to record the Participant's Roth Elective Deferrals, In-Plan Roth Conversions, rollovers from a designated Roth account under an applicable retirement plan, and the income gains and losses thereon. Unless specifically stated otherwise, all references in the Plan to a Participant's Account shall include a Participant's Designated Roth Account.

(b) In-Plan Roth Conversion. A distribution from a Participant's Account, other than the Participant's Designated Roth Account, that is rolled over or transferred to the Participant's Designated Roth Account under the Plan, pursuant to Code section 402A(c)(4). Thus, for example, amounts that are not fully vested are not eligible for an In-Plan Roth Conversion.

(c) Pre-Tax Account. A bookkeeping account established and maintained to record the portion of the Participant's Account attributable to amounts other than Roth Elective Deferrals, In-Plan Roth Conversions, rollovers from designated Roth accounts under other applicable retirement plans, and the income gains and losses thereon. Unless specifically stated otherwise, all references in the Plan to a Participant's Account shall include a Participant's Pre-Tax Account.

(d) Qualified Roth Contribution Program. A program described in paragraph (1) of Code section 402A(b), under which a Participant may make Roth Elective Deferrals in lieu of all or a portion of the Elective Deferrals the Participant is otherwise eligible to make under the Plan.

(e) Roth Elective Deferrals. Amounts contributed pursuant to Section 20.03 by a Participant, which amounts are:

(1) designated irrevocably by the Participant at the time of the cash or deferred election as a Roth elective deferral that is being made in lieu of all or a portion of the pre-tax Elective Deferrals the Participant is otherwise eligible to make under the Plan; and

(2) treated by the Employer as includible in the Participant's income at the time the Participant otherwise would have received that amount as compensation.

20.03 Permitted Roth Elective Deferrals.

(a) As of the effective date, a Participant shall be permitted to make Roth Elective Deferrals from his or her compensation in such amount or percentage as may be specified in a salary reduction agreement executed by the Participant. A Participant's Roth Elective Deferrals will be allocated to a separate Designated Roth Account maintained for such deferrals as defined in Section 20.02(a) above.

(b) Unless specifically stated otherwise, Roth Elective Deferrals will be treated as Elective Deferrals for all purposes under the Plan.

20.04 Separate Accounting.

(a) Contributions and withdrawals of Roth Elective Deferrals, In-Plan Roth Conversions, and rollovers from a designated Roth account under an applicable retirement plan will be credited and debited to a participant's Designated Roth Account.

(b) The Plan will maintain a record of the amount of Roth Elective Deferrals, In-Plan Roth Conversions, and rollovers from a designated Roth account under an applicable retirement plan in each Participant's Designated Roth Account.

(c) Gains, losses, and other credits or charges must be separately allocated on a reasonable and consistent basis to each Participant's Designated Roth Account and the Participant's other Accounts under the Plan.

(d) No contributions other than Roth Elective Deferrals, In-Plan Roth Conversions, rollovers from a designated Roth account under an applicable retirement plan, and properly attributable earnings will be credited to each Participant's Designated Roth Account.

20.05 Direct Rollovers.

(a) Notwithstanding anything to the contrary in the Plan, a direct rollover of a distribution from a Designated Roth Account under the Plan shall be made only to another designated Roth account under an applicable retirement plan described in section

402A(e)(1) of the Code or to a Roth IRA described in section 408A of the Code, and only to the extent the rollover is permitted under the rules of section 402(c) of the Code.

(b) Notwithstanding anything to the contrary in the Plan, unless otherwise provided by the Employer in the Adoption Agreement, the Plan will accept a rollover contribution to a Designated Roth Account only if it is a direct rollover from another designated Roth account under an applicable retirement plan described in section 402A(e)(1) of the Code, or if the rollover is an In-Plan Conversion defined in section 20.06 of this document.

(c) Eligible rollover distributions from a Participant's Designated Roth Account are taken into account in determining whether the total amount of the Participant's Account balances under the Plan exceeds $1,000 for purposes of mandatory distributions from the Plan.

20.06 In-Plan Roth Conversions. Unless otherwise elected by the Employer in the Adoption Agreement, as of the effective date of this Article, the Plan shall allow for In-Plan Roth Conversions, including, after December 31, 2012, rollovers of amounts that are not otherwise distributable under the Plan; provided, however, that only amounts that are vested may be included in an In-Plan Roth Conversion. The amount rolled over and applicable earnings remain subject to the distribution restrictions that were applicable to the amount before the In-plan Roth Conversion.

(a) Tax Treatment. The amount of an In-Plan Roth Conversion shall be includible in the Participant's gross income, as though it were not part of a qualified rollover contribution.

(b) Irrevocability. Any election made by the Participant to do an In -Plan Roth Conversion shall be irrevocable.

(c) Treatment of Loans. Outstanding plan loans shall be excluded from In-Plan Roth Conversions. Notwithstanding anything herein to the contrary, an In-Plan Roth Conversion shall not accelerate or otherwise cause a Participant to default on an outstanding plan loan.

(d) Spousal Consent. Notwithstanding anything herein to the contrary, if the Plan requires spousal consent to distribution, a married Participant shall not be required to obtain spousal consent in connection with an election to make an In-Plan Roth Conversion.

(e) Availability of Loans from Designated Roth Accounts. A Participant's Designated Roth Account balance can be included to determine a Participant loan amount under Article XIII. However, unless the Employer elects otherwise in the Adoption Agreement, Designated Roth Accounts will not be available as a source for loans under the Plan.

MISSIONSQUARE RETIREMENT

777 NORTH CAPITOL STREET, NE
WASHINGTON, DC 20002-4240

800-669-7400
WWW.MISSIONSQ.ORG
52582-0621-W1372



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Plan Description: Non-Standardized Pre-Approved Profit Sharing Plan With CODA
FFN: 317D0880001-001 Case: 201900044 EIN: 23-7268394
Letter Serial No: Q702366a
Date of Submission: 12/31/2018

MISSIONSQUARE RETIREMENT
777 NORTH CAPITOL ST. NE, SUITE 600
WASHINGTON, DC 20002

Contact Person:
Janell Hayes
Telephone Number:
513-975-6319
In Reference To: TEGE:EP:7521
Date: 06/30/2020

Dear Applicant:

In our opinion, the form of the plan identified above is acceptable for use by employers for the benefit of their employees under Internal Revenue Code (IRC) Section 401.

We considered the changes in qualification requirements in the 2017 Cumulative List of Notice 2017-37, 2017-29 Internal Revenue Bulletin (IRB) 89. Our opinion relates only to the acceptability of the form of the plan under the IRC. We did not consider the effect of other federal or local statutes.

You must provide the following to each employer who adopts this plan:
. A copy of this letter
. A copy of the approved plan
. Copies of any subsequent amendments including their dates of adoption
. Direct contact information including address and telephone number of the plan provider

Our opinion on the acceptability of the plan's form is a determination as to the qualification of the plan as adopted by a particular employer only under the circumstances, and to the extent, described in Revenue Procedure (Rev. Proc.) 2017-41, 2017-29 I.R.B. 92. The employer who adopts this plan can generally rely on this letter to the extent described in Rev. Proc. 2017-41. Thus, Employee Plans Determinations, except as provided in Section 12 of Rev. Proc. 2020-4, 2020-01 I.R.B. 148 (as updated annually), will not issue a determination letter to an employer who adopts this plan. Review Rev. Proc. 2020-4 to determine the eligibility of an adopting employer, and the items needed, to submit a determination letter application. The employer must also follow the terms of the plan in operation.

Except as provided below, our opinion doesn't apply to the requirements of IRC Sections 401(a)(4), 401(l), 410(b), and 414(s). Our opinion doesn't apply to IRC Sections 415 and 416 if an employer maintains or ever maintained another qualified plan for one or more employees covered by this plan. For this purpose, we will not consider the employer to have maintained another defined contribution plan provided both of the following are true:
. The employer terminated the other plan before the effective date of this plan
. No annual additions have been credited to any participant's account under the other plan as of any date within the limitation year of this plan

Also, for this purpose, we'll consider an employer as maintaining another defined contribution plan, if the employer maintains any of the following:
. A welfare benefit fund defined in IRC Section 419(e), which provides post-retirement medical benefits allocated to separate accounts for key employees as defined in IRC Section 419A(d)

. An individual medical account as defined in IRC Section 415(l)(2), which is part of a pension or annuity plan maintained by the employer
. A simplified employee pension plan

Our opinion doesn't apply to Treasury Regulations Section 1.401(a)-1(b)(2) requirements for a money purchase plan or target benefit plan where the normal retirement age under the employer's plan is lower than age 62.

Our opinion doesn't constitute a determination that the plan is an IRC Section 414(d) governmental plan. This letter is not a ruling with respect to the tax treatment to be given contributions which are picked up by the governmental employing unit within the meaning of IRC Section 414(h)(2).

Our opinion doesn't constitute a determination that the plan is an IRC Section 414(e) church plan.

Our opinion may not be relied on by a non-electing church plan for rules governing pre-ERISA participation and coverage.

Our opinion applies to the requirements of IRC Section 410(b) if 100 percent of all non-excludable employees benefit under the plan.

Employers who choose a safe harbor allocation formula and a safe harbor compensation definition may also rely on this opinion letter for the non-discriminatory amounts requirement under IRC Section 401(a)(4).

If this plan includes a cash or deferred arrangement (CODA) or otherwise provides for contributions subject to IRC Sections 401(k) and/or 401(m), the employer may rely on the opinion letter regarding the form of the non-discrimination tests of IRC Sections 401(k)(3) and 401(m)(2), if the employer uses a safe harbor compensation definition. For plans described in IRC Sections 401(k)(12) or (13) and/or 401(m)(11) or (12), employers may rely on the opinion letter regarding whether the plan's form satisfies the requirements of those sections unless the plan provides for the safe harbor contribution to be made under another plan. For SIMPLE plans described in IRC Sections 401(k)(11) and 401(m)(10), employers may also rely on the opinion letter regarding whether the plan's form satisfies the requirements of those sections.

The provisions of this plan override any conflicting provision contained in the trust or custodial account documents used with the plan, and an adopting employer may not rely on this letter to the extent that provisions of a trust or custodial account that are a separate portion of the plan override or conflict with the provisions of the plan document. This opinion letter does not cover any provisions in trust or custodial account documents.

An employer who adopts this plan may not rely on this letter when:
. the plan is being used to amend or restate a plan of the employer which was not previously qualified
. the employer's adoption of the plan precedes the issuance of the letter
. the employer doesn't correctly complete the adoption agreement or other elective provisions in the plan
. the plan is not identical to the pre-approved plan (that is, the employer has made amendments that cause the plan not to be considered identical to the pre-approved plan, as described in Section 8.03 of Rev. Proc. 2017-41)

Our opinion doesn't apply to what is contained in any documents referenced outside the plan or adoption agreement, if applicable, such as a collective bargaining agreement.

Our opinion doesn't consider issues under Title I of the Employee Retirement Income Security Act (ERISA) which are administered by the Department of Labor.

If you, the pre-approved plan provider, have questions about the status of this case, you can call the telephone number at the top of the first page of this letter. This number is only for the provider's use.

Individual participants or adopting eligible employers with questions about the plan should contact you.

You must include your address and telephone number on the pre-approved plan or the plan's adoption agreement, if applicable, so that adopting employers can contact you directly.

If you write to us about this plan, provide your telephone number and the best time to call if we need more information. Whether you call or write, refer to the letter serial number and file folder number at the top of the first page of this letter.

Let us know if you change or discontinue sponsorship of this plan.

Keep this letter for your records.

Sincerely Yours,

Khin M. Chow

Khin M. Chow
Director, EP Rulings & Agreements

Letter 6186 (June-2020)
Catalog Number 72434C

LEON COUNTY BOARD OF COUNTY COMMISSIONERS

MISSIONSQUARE (ICMA) RETIREMENT

GOVERNMENTAL PROFIT-SHARING PLAN & ADOPTION AGREEMENT

PLAN NUMBER 106290

ATTACHMENT A – ELIGIBILITY

All regular full-time and regular part-time employees of the Leon County Board of County Commissioners and Supervisor of Elections working 20 or more hours per week and earning less than $50,000 in base annual earnings.

ICMA Retirement Corporation
doing business as

MissionSquare Retirement Governmental Profit Sharing Plan Adoption Agreement

MissionSquare
RETIREMENT

Posted May 2, 2022

MissionSquare Retirement
Governmental Profit Sharing Plan Adoption Agreement

Plan Number: 106290

The Employer hereby establishes a Profit Sharing Plan to be known as LEON COUNTY BOARD OF COUNTY COMM _____ (the "Plan") in the form of the MissionSquare Retirement Governmental Profit Sharing Plan.

New Plan or Amendment and Restatement ***(Check One):***

[X] Amendment and Restatement

This Plan is an amendment and restatement of an existing defined contribution profit sharing plan. Please specify the name of the defined contribution profit sharing plan which this Plan hereby amends and restates:
LEON COUNTY BOARD OF COUNTY COMM

Effective Date of Restatement. The effective date of the Plan shall be:

*(**Note:** The effective date can be no earlier than the first day of the Plan Year in which this restatement is adopted. If no date is provided, by default, the effective date will be the first day of the Plan Year in which the restatement is adopted.)*

[ ] New Plan

Effective Date of New Plan. The effective date of the Plan shall be the first day of the Plan Year during which the Employer adopts the Plan, unless an alternate effective date is hereby specified: _____

*(**Note:** An alternate effective date can be no earlier than the first day of the Plan Year in which the Plan is adopted.)*

I. EMPLOYER: LEON COUNTY

(The Employer must be a governmental entity under Internal Revenue Code § 414(d))

II. SPECIAL EFFECTIVE DATES

Please note here any elections in the Adoption Agreement with an effective date that is different from that noted above.

(Note provision and effective date.)

III. PLAN YEAR

The Plan Year will be:

[ ] January 1 – December 31 (***Default***)

[X] The 12 month period ending Sep (*Month*) 30 (*Day*)

IV. Normal Retirement Age shall be age 62 (not to exceed age 65).

V. COVERED EMPLOYMENT CLASSIFICATIONS

1. The following group or groups of Employees are eligible to participate in the Plan:

[ ] All Employees
[ ] All Full Time Employees
[ ] Salaried Employees
[ ] Non union Employees
[ ] Management Employees
[ ] Public Safety Employees
[ ] General Employees
[X] Other Employees (Specify the group(s) of eligible Employees below. Do not specify Employees by name. Specific positions are acceptable.) See attachment A for Eligibility.

The group specified must correspond to a group of the same designation that is defined in the statutes, ordinances, rules, regulations, personnel manuals or other material in effect in the state or locality of the Employer. The eligibility requirements cannot be such that an Employee becomes eligible only in the Plan Year in which the Employee terminates employment. Note: As stated in Sections 4.09 and 4.10, the Plan may, however, provide that Final Pay Contributions or Accrued Leave Contributions are the only contributions made under the Plan.

2. Period of Service required for participation

[ ] N/A – The Employer hereby waives the requirement of a Period of Service for participation. Employees are eligible to participate upon employment. ***("N/A" is the default provision under the Plan if no selection is made.)***

[X] Yes. The required Period of Service shall be 6 Months months (not to exceed 12 months).

The Period of Service selected by the Employer shall apply to all Employees within the Covered Employment Classification.

3. Minimum Age (Select One) – A minimum age requirement is hereby specified for eligibility to participate.

[ ] Yes. Age _____ *(not to exceed age 21).*

[X] N/A – No minimum age applies ***("N/A" is the default provision under the Plan if no selection is made.)***

VI. CONTRIBUTION PROVISIONS

1. The Employer shall contribute as follows (Choose all that apply):

Fixed Employer Contributions With or Without Mandatory Participant Contributions.
(If Option B is chosen, please complete section C.)

[ ] A. Fixed Employer Contributions. The Employer shall contribute on behalf of each Participant _____ % of Earnings or $_____ for the Plan Year (subject to the limitations of Article V of the Plan).

Mandatory Participant Contributions

[ ] are required [ ] are not required

to be eligible for this Employer Contribution.

[ ] B. Mandatory Participant Contributions for Plan Participation

Required Mandatory Contributions. A Participant is required to contribute (subject to the limitations of Article V of the Plan) the specified amounts designated in items (i) through (iii) of the Contribution Schedule below:

[ ] Yes [ ] No

Employee Opt-In Mandatory Contributions. To the extent that Mandatory Participant Contributions are not required by the Plan, each Employee eligible to participate in the Plan shall be given the opportunity, when first eligible to participate in the Plan or any other plan or arrangement of the Employer described in Code section 219(g)(5)(A) to irrevocably elect to contribute Mandatory Participant Contributions by electing to contribute the specified amounts designated in items (i) through (iii) of the Contribution Schedule below for each Plan Year (subject to the limitations of Article V of the Plan):

[ ] Yes [ ] No

Contribution Schedule. (Any percentage or dollar amount entered below must be greater than 0% or $0.)

i. _____% of Earnings,

ii. $ _____, or

iii. a whole percentage of Earnings between the range of _____ (*insert range of percentages between 1% and 20% inclusive (e.g., 3%, 6%, or 20%; 5% to 7%)),* as designated by the Employee in accordance with guidelines and procedures established by the Employer for the Plan Year as a condition of participation in the Plan. A Participant must pick a single percentage and shall not have the right to discontinue or vary the rate of such contributions after becoming a Plan Participant.

Employer "Pick up". The Employer hereby elects to "pick up" the Mandatory Participant Contributions[1].

[ ] Yes [ ] No ***("Yes" is the default provision under the Plan if no selection is made.)***

[ ] C. Election Window (Complete if Option B is selected):

Newly eligible Employees shall be provided an election window of _____ days (no more than 60 calendar–days) from the date of initial eligibility during which they may make the election to participate in the Mandatory Participant Contribution portion of the Plan. Participation in the Mandatory Participant Contribution portion of the Plan shall begin the first of the month following the end of the election window.

An Employee's election is irrevocable and shall remain in force until the Employee terminates employment or ceases to be eligible to participate in the Plan. In the event of re-employment to an eligible position, the Employee's original election will resume. In no event does the Employee have the option of receiving the pick-up contribution amount directly.

[1] *Neither an IRS opinion letter nor a determination letter issued to an adopting Employer is a ruling by the Internal Revenue Service that Participant contributions that are "picked up" by the Employer are not includable in the Participant's gross income for federal income tax purposes. Pick-up contributions are not mandated to receive private letter rulings; however, if an adopting Employer wishes to receive a ruling on pick-up contributions they may request one in accordance with Revenue Procedure 2012-4 (or subsequent guidance).*

[X] Discretionary Employer Contributions

The Employer will determine the amount of Employer Contributions to be made to the Plan for each Plan Year. The amount of Employer Contributions to be allocated to the Account of each Participant will be based on the ratio for the Plan Year that such Participant's Earnings bears to the Earnings of all Participants eligible for such contributions.

[ ] Fixed Employer Match of After-Tax Voluntary Participant Contributions. (Do not complete this section unless the Plan permits after-tax Voluntary Participant Contributions under Section VI.2 of the Adoption Agreement.)

The Employer shall contribute on behalf of each Participant _____ % of Earnings for the Plan Year (subject to the limitations of Article V of the Plan) for each Plan Year that such Participant has contributed _____% of Earnings or $_____. Under this option, there is a single, fixed rate of Employer Contributions, but a Participant may decline to make the Voluntary Participant Contributions in any Plan Year, in which case no Employer Contribution will be made on the Participant's behalf in that Plan Year.

[ ] Variable Employer Match of After-Tax Voluntary Participant Contributions. (Do not complete unless the Plan permits after-tax Voluntary Participant Contributions under Section VI.2 of the Adoption Agreement.)

The Employer shall contribute on behalf of each Participant an amount determined as follows (subject to the limitations of Article V of the Plan):

_____% of the Voluntary Participant Contributions made by the Participant for the Plan Year (not including Voluntary Participant Contributions exceeding _____% of Earnings or $_____);

PLUS _____% of the contributions made by the Participant for the Plan Year in excess of those included in the above paragraph (but not including Voluntary Participant Contributions exceeding in the aggregate _____% of Earnings or $_____).

Employer Matching Contributions on behalf of a Participant for a Plan Year shall not exceed $_____ or _____ % of Earnings, whichever is [ ] more or [ ] less.

[ ] Fixed Employer Match of Participant 457(b) Plan Deferrals. The Employer shall contribute on behalf of each Participant _____% of Earnings for the Plan Year (subject to the limitations of Article V of the Plan) for each Plan Year that such Participant has deferred _____% of Earnings or $_____ to the Employer's 457(b) deferred compensation plan. Under this option, there is a single, fixed rate of Employer Contributions, but a Participant may decline to make the required 457(b) deferrals in any Plan Year, in which case no Employer Contribution will be made on the Participant's behalf in that Plan Year.

[ ] Variable Employer Match of Participant 457(b) Plan Deferrals.

The Employer shall contribute on behalf of each Participant an amount determined as follows (subject to the limitations of Article V of the Plan):

_____% of the elective deferrals made by the Participant to the Employer's 457(b) plan for the Plan Year (not including Participant contributions exceeding _____% of Earnings or $_____);

PLUS _____% of the elective deferrals made by the Participant to the Employer's 457(b) plan for the Plan Year in excess of those included in the above paragraph (but not including elective deferrals made by a Participant to the Employer's 457(b) plan exceeding in the aggregate _____% of Earnings or $_____).

Employer Matching Contributions on behalf of a Participant for a Plan Year shall not exceed $_____ or _____ % of Earnings, whichever is [ ] more or [ ] less.

2. Each Participant may make a Voluntary Participant Contribution, subject to the limitations of Section 4.07 and Article V of the Plan

   [ ] Yes [ ] No ***("No" is the default provision under the Plan if no selection is made.)***

3. Employer contributions for a Plan Year shall be contributed to the Trust in accordance with the following payment schedule (no later than the 15th day of the tenth calendar month following the end of the calendar year or fiscal year (as applicable depending on the basis on which the Employer keeps its books) with or within which the particular Limitation Year ends, or in accordance with applicable law):

   [ ] Weekly [X] Biweekly [ ] Monthly [ ] Annually in _____ (*specify month)*

4. Participant contributions for a Plan Year shall be contributed to the Trust in accordance with the following payment schedule (no later than the 15th day of the tenth calendar month following the end of the calendar year or fiscal year (as applicable depending on the basis on which the Employer keeps its books) with or within which the particular Limitation Year ends, or in accordance with applicable law):

   [ ] Weekly [X] Biweekly [ ] Monthly [ ] Annually in _____ (*specify month)*

5. In the case of a Participant performing qualified military service (as defined in Code section 414(u)) with respect to the Employer:

   A. Plan contributions will be made based on differential wage payments:

      [X] Yes [ ] No ***("Yes" is the default provision under the Plan if no selection is made.)***

   B. Participants who die or become disabled will receive Plan contributions with respect to such service:

      [ ] Yes [X] No ***("No" is the default provision under the Plan if no selection is made.)***

VII. CASH OR DEFERRED ARRANGEMENT UNDER SECTION 401(K)

(Please note this is only applicable to certain grandfathered 401(k) plans.)

1. This Plan will include a cash or deferred arrangement allowing for Elective Deferrals under section 401(k) of the Code:[2]

   [ ] Yes [X] No ***("No" is the default provision under the Plan if no selection is made.)***

   (If "no" is selected, skip to section VIII.)

   Each Participant may elect to make Elective Deferrals, not to exceed _____% of Earnings for the Plan Year, subject to the limitations of Article V of the Plan.

   The provisions of the cash or deferred arrangement (the "401(k) feature") may be made effective as of the first day of the Plan Year in which the 401(k) feature is adopted. However, under no circumstances may a salary reduction agreement or other deferral mechanism be adopted retroactively.

2. The Employer will match Elective Deferrals:

   [ ] Yes [ ] No ***("No" is the default provision under the Plan if no selection is made.)***

   The Employer will contribute as follows (choose one, if applicable):

[ ] Employer Percentage Match of Elective Deferrals.

The Employer shall contribute on behalf of each Participant an amount determined as follows (subject to the limitations of Article V of the Plan):

_____% of the Elective Deferrals made on behalf of the Participant for the Plan Year (not including Elective Deferrals exceeding _____% of Earnings or $_____);

PLUS _____% of the Elective Deferrals made on behalf of the Participant for the Plan Year in excess of those included in the above paragraph (but not including Elective Deferrals exceeding in the aggregate _____% of Earnings or $_____).

Employer Contributions on behalf of a Participant for a Plan Year shall not exceed $_____ or _____% of Earnings, whichever is [ ] more or [ ] less.

[ ] Employer Dollar Match of Elective Deferrals.

The Employer shall contribute on behalf of each Participant an amount determined as follows (subject to the limitations of Article V of the Plan):

$_____ for each _____% of Earnings or $_____ that the Employer contributes on behalf of the Participant as Elective Deferrals for the Plan Year (not including Elective Deferrals exceeding _____% of Earnings or $_____);

PLUS $_____ for each _____% of Earnings or $_____ that the Employer contributes on behalf of the Participant as Elective Deferrals for the Plan Year in excess of those included in the above paragraph (but not including Elective Deferrals exceeding in the aggregate _____% of Earnings or $_____).

Employer Contributions on behalf of a Participant for a Plan Year shall not exceed $_____ or _____% of Earnings, whichever is [ ] more or [ ] less.

[2] *Under current law, the cash or deferred arrangement option under section 401(k) of the Code is not available to an employer that is a State or local government or political subdivision thereof, or any agency or instrumentality thereof, unless that employer adopted a cash or deferred arrangement before May 6, 1986.*

3. The Employer will permit Elective Deferrals and Catch-up Contributions elections to be made during the annual election window of _____ days (at least 30 calendar days). The election window will run from _____ to ___ (insert annual time frame for the election window or multiple time periods) and will not apply retroactively.

4. **Roth Provisions.** As provided in Section 20.03, Participants are permitted to make Roth Elective Deferrals from compensation in the amount or percentage specified in a salary reduction agreement:

   [ ] Yes [ ] No ***("No" is the default provision under the Plan if no selection is made.)***

VIII. Earnings

Earnings, as defined under Section 2.10 of the Plan, shall include:

1. Overtime

   [ ] Yes [X] No ***("No" is the default provision under the Plan if no selection is made.)***

2. Bonuses

   [ ] Yes [X] No ***("No" is the default provision under the Plan if no selection is made.)***

3. Other Pay (specifically describe any other types of pay to be included below)

   _____

IX. ROLLOVER PROVISIONS

1. The Employer will permit Rollover Contributions in accordance with Section 4.14 of the Plan:

   [X] Yes [ ] No ***("Yes" is the default provision under the Plan if no selection is made.)***

2. The Plan will accept a direct rollover contribution to a Designated Roth Account as permitted in Section 20.05(b)

   (401(k) plans with Roth feature only)

   [ ] Yes [ ] No ***("Yes" is the default provision under the Plan if no selection is made.)***

3. The Plan will allow In-Plan Roth Conversions as provided in Section 20.06 (401(k) plans with Roth feature only):

   [ ] Yes [ ] No ***("Yes" is the default provision under the Plan if no selection is made.)***

X. LIMITATION ON ALLOCATIONS

If the Employer maintains or ever maintained another qualified plan in which any Participant in this Plan is (or was) a participant or could possibly become a participant, the Employer hereby agrees to limit contributions to all such plans as provided herein, if necessary in order to avoid excess contributions (as described in Section 5.04 of the Plan).

1. If the Participant is covered under another qualified defined contribution plan maintained by the Employer, the provisions of Section 5.04(a) through (e) of the Plan will apply, unless another method has been indicated below.

   [X] Other Method. (Provide the method under which the plans will limit total Annual Additions to the Maximum Permissible Amount, and will properly reduce any Excess Amounts, in a manner that precludes Employer discretion.)

   N/A Employer contributions only

2. The Limitation Year is the following 12 consecutive month period: _____

XI. VESTING PROVISIONS

The Employer hereby specifies the following vesting schedule, subject to (1) the Code's vesting requirements in effect on September 1, 1974 and (2) the concurrence of the Plan Administrator. *(For the blanks below, enter the applicable percentage - from 0 to 100 (with no entry after the year in which 100% is entered), in ascending order.)*

The following vesting schedule may apply to a Participant's interest in his/her Employer Contribution Account. The vesting schedule does not apply to Elective Deferrals, Catch-up Contributions, Mandatory Participant Contributions, Rollover Contributions, Voluntary Participant Contributions, Deductible Employee Contributions, Employee Designated Final Pay Contributions, and Employee Designated Accrued Leave Contributions, and the earnings thereon.

Period of Service Completed	Percent Vested
Zero	100%
One	%
Two	%
Three	%
Four	%
Five	%
Six	%
Seven	%
Eight	%
Nine	%
Ten	%

XII. WITHDRAWALS AND LOANS

1. Qualified reservist distributions are available under the Plan***(401(k) plans only):***

   [ ] Yes [ ] No ***("Yes" is the default provision under the Plan if no selection is made.)***

2. In-service distributions are permitted under the Plan, as provided in Section 9.08, after a Participant attains age (select one of the below options):

   [ ] 59 ½
   [X] 70 ½ ***("70 ½" is the default provision under the Plan if no selection is made.)***
   [ ] Not permitted at any age

3. A Participant shall be deemed to have a severance from employment solely for purposes of eligibility to receive distributions from the Plan during any period the individual is performing service in the uniformed services for more than 30 days.

   [X] Yes [ ] No ***("Yes" is the default provision under the Plan if no selection is made.)***

4. Tax-free distributions of up to $3,000 for the direct payment of Qualified Health Insurance Premiums for Eligible Retired Public Safety Officers are available under the Plan.

   [ ] Yes [X] No ***("No" is the default provision under the Plan if no selection is made.)***

5. In-service distributions of the Rollover Account are permitted under the Plan as provided in Section 9.09

   [ ] Yes [X] No ***("No" is the default provision under the Plan if no selection is made.)***

6. The Plan will provide the following with respect to loans:

   a. Loans are permitted under the Plan, as provided in Article XIII of the Plan:

   [ ] Yes [X] No ***("No" is the default provision under the Plan if no selection is made.)***

   b. Designated Roth Accounts will be available as a source for loans under the Plan (401(k) plans with Roth feature only):

   [ ] Yes [X] No ***("No" is the default provision under the Plan if no selection is made.)***

7. (401(k) plans only) Hardship withdrawals are permitted under the Plan as provided in Section 9.07 but only if specifically elected by the Employer.

   [ ] Yes [ ] No ***("No" is the default provision under the Plan if no selection is made.)***

   If selected, hardship distributions will be available for the following Accounts:

   a. Employer Contribution Account (Nonforfeitable Interest):

   [ ] Yes [ ] No ***("No" is the default provision under the Plan if no selection is made.)***

   b. Participant Elective Deferral Account (not including earnings thereon accrued after December 31, 1988):

   [ ] Yes [ ] No ***("Yes" is the default provision under the Plan if no selection is made.)***

   c. The determination of any deemed immediate and heavy financial need will be expanded to include any immediate and heavy financial need of the Participant's Primary Beneficiary, as provided in Section 9.07(b)(3):
   [ ] Yes [ ] No ***("Yes" is the default provision under the Plan if no selection is made.)***

XIII. SPOUSAL PROTECTION

The Plan will provide the following level of spousal protection (select one):

[ ] 1. Participant Directed Election. The normal form of payment of benefits under the Plan is a lump sum. The Participant can name any person(s) as the Beneficiary of the Plan, with no spousal consent required.

[X] 2. Beneficiary Spousal Consent Election (Article XII of the Plan will apply if option 2 is selected). The normal form of payment of benefits under the Plan is a lump sum. Upon death, the surviving spouse is the Beneficiary, unless he or she consents to the Participant's naming another Beneficiary. (***"Beneficiary Spousal Consent Election" is the default provision under the Plan if no selection is made.)***

[ ] 3. QJSA Election (Article XVII). The normal form of payment of benefits under the Plan is a 50% qualified joint and survivor annuity with the spouse (or life annuity, if single). In the event of the Participant's death prior to commencing payments, the spouse will receive an annuity for his or her lifetime. (If option 3 is selected, the spousal consent requirements in Article XII of the Plan also will apply.)

XIV. FINAL PAY CONTRIBUTIONS

(Under the Plan's definitions, Earnings automatically include leave cashouts paid by the later of 2 ½ months after severance from employment or the end of the calendar year. If the Plan will provide additional contributions based on the Participant's final paycheck attributable to Accrued Leave, please provide instructions in this section. Otherwise, leave this section blank.)

The Plan will provide for Final Pay Contributions if either 1 or 2 below is selected.

The following group of Employees shall be eligible for Final Pay Contributions:

[ ] 1. Employees within the Covered Employment Classification identified in section V of the Adoption Agreement.

[ ] 2. Other: _____
(This must be a subset of the Covered Employment Classification identified in section V of the Adoption Agreement.)

Final Pay shall be defined as (select one):

[ ] A. Accrued unpaid vacation
[ ] B. Accrued unpaid sick leave
[ ] C. Accrued unpaid vacation and sick leave
[ ] D. Other *(insert definition of Final Pay - must be leave that Employee would have been able to use if employment had continued and must be bona fide vacation and/or sick leave)*:
_____

[ ] 1. Employer Final Pay Contribution. The Employer shall contribute on behalf of each Participant _____% of their Final Pay to the Plan (subject to the limitations of Article V of the Plan).

[ ] 2. Employee Designated Final Pay Contribution. Each Employee eligible to participate in the Plan shall be given the opportunity at enrollment to irrevocably elect to contribute _____% (insert fixed percentage of Final Pay to be contributed) or up to _____% (insert maximum percentage of Final Pay to be contributed) of Final Pay to the Plan (subject to the limitations of Article V of the Plan). Once elected, an Employee's election shall remain in force and may not be revised or revoked.

Once elected, an Employee's election shall remain in force and may not be revised or revoked.

XV. ACCRUED LEAVE CONTRIBUTIONS

The Plan will provide for unpaid Accrued Leave Contributions annually if either 1 or 2 is selected below. The following group of Employees shall be eligible for Accrued Leave Contributions:

[ ] 1. Employees within the Covered Employment Classification identified in section V of the Adoption Agreement.

[ ] 2. Other: _____
(This must be a subset of the Covered Employment Classification identified in section V of the Adoption Agreement.)

Accrued Leave shall be defined as (select one):

[ ] A. Accrued unpaid vacation
[ ] B. Accrued unpaid sick leave
[ ] C. Accrued unpaid vacation and sick leave
[ ] D. Other (insert definition of Accrued Leave that is bona fide vacation and/or sick leave):
_____

[ ] **1. Employer Accrued Leave Contribution.** The Employer shall contribute as follows (choose one of the following options):

[ ] For each Plan Year, the Employer shall contribute on behalf of each eligible Participant the unused Accrued Leave in excess of _____ _____ (insert number of hours/days/weeks (circle one)) to the Plan (subject to the limitations of Article V of the Plan).

[ ] For each Plan Year, the Employer shall contribute on behalf of each eligible Participant _____ % of un- used Accrued Leave to the Plan (subject to the limitations of Article V of the Plan).

[ ] **2. Employee Designated Accrued Leave Contribution**

Each eligible Participant shall be given the opportunity at enrollment to irrevocably elect to annually contribute _____% (insert fixed percentage of unpaid Accrued Leave to be contributed) or up to _____% (insert maximum percentage of unpaid Accrued Leave to be contributed) of unpaid Accrued Leave to the Plan (subject to the limitations of Article V of the Plan). Once elected, an Employee's election shall remain in force and may not be revised or revoked.

XVI. The Employer hereby attests that it is a unit of state or local government or an agency or instrumentality of one or more units of state or local government.

XVII. The Employer understands that this Adoption Agreement is to be used with only the MissionSquare Retirement Corporation Governmental Profit Sharing Plan. This MissionSquare Retirement Corporation Governmental Profit Sharing Plan is a restatement of a previous plan, which was submitted to the Internal Revenue Service for approval on 12/31/2018, and received approval on 6/30/2020.

The The Plan Administrator will inform the Employer of any amendments to the Plan made pursuant to Section 14.05 of the Plan or of the discontinuance or abandonment of the Plan. The Employer understands that an amendment(s) made pursuant to Section 14.05 of the Plan will become effective within 30 days of notice of the amendment(s) unless the Employer notifies the Plan Administrator, in writing, that it disapproves of the amendment(s). If the Employer so disapproves, the Plan Administrator will be under no obligation to act as Administrator under the Plan.

XVIII. The Employer hereby appoints the MissionSquare Retirement Corporation as the Plan Administrator pursuant to the terms and conditions of the MissionSquare Retirement Corporation Governmental Profit Sharing Plan.

The Employer hereby agrees to the provisions of the Plan.

XIX. The Employer understands that it must complete a new Adoption Agreement upon first adoption of the Plan. Additionally, upon any modifications to a prior election, making of new elections, or restatements of the Plan, a new Adoption Agreement must be completed. The Employer hereby acknowledges it understands that failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

XX. An adopting Employer may rely on an Opinion Letter issued by the Internal Revenue Service as evidence that the Plan is qualified under section 401 of the Internal Revenue Code only to the extent provided in Rev. Proc. 2017-41. The Employer may not rely on the Opinion Letter in certain other circumstances or with respect to certain qualification requirements, which are specified in the Opinion Letter issued with respect to the Plan and in Rev. Proc. 2017-41.

In Witness Whereof, the Employer hereby causes this Profit Sharing Plan Adoption Agreement to be executed.

EMPLOYER SIGNATURE & DATE

Signature of Authorized Plan Representative: _____

Print Name: _____

Title: _____

Attest: _____

Date: _____/_____ /_____.

For inquiries regarding adoption of the plan, the meaning of plan provisions, or the effect of the Opinion Letter, contact:

MissionSquare Retirement
777 N. Capitol St. NE Suite 600
Washington, DC 20002
800-326-7272

52582-0621-W1304

ICMA Retirement Corporation
doing business as

MissionSquare Retirement Governmental Money Purchase Plan Adoption Agreement

MissionSquare
RETIREMENT

MissionSquare Retirement
Governmental Money Purchase Plan Adoption Agreement

Plan Number: 108429

The Employer hereby establishes a Money Purchase Plan to be known as Leon County, Brd of Comm _____ (the "Plan") in the form of the MissionSquare Retirement Governmental Money Purchase Plan.

New Plan or Amendment and Restatement *(Check One):*

[X] Amendment and Restatement

This Plan is an amendment and restatement of an existing defined contribution Money Purchase Plan. Please specify the name of the defined contribution Money Purchase Plan which this Plan hereby amends and restates:
Leon County, Brd of Comm

Effective Date of Restatement. The effective date of the Plan shall be:

*(**Note:** The effective date can be no earlier than the first day of the Plan Year in which this restatement is adopted. If no date is provided, by default, the effective date will be the first day of the Plan Year in which the restatement is adopted.)*

[ ] New Plan

Effective Date of New Plan. The effective date of the Plan shall be the first day of the Plan Year during which the Employer adopts the Plan, unless an alternate effective date is hereby specified: _____

*(**Note:** An alternate effective date can be no earlier than the first day of the Plan Year in which the Plan is adopted.)*

I. EMPLOYER: Leon County, Brd of Comm

(The Employer must be a governmental entity under Internal Revenue Code § 414(d))

II. SPECIAL EFFECTIVE DATES

Please note here any elections in the Adoption Agreement with an effective date that is different from that noted above.

(Note provision and effective date.)

III. PLAN YEAR

The Plan Year will be:

[ ] January 1 – December 31 (***Default***)

[X] The 12 month period ending 06 (*Month*) 30 (*Day*)

IV. Normal Retirement Age shall be age 62 (not less than 55 nor in excess of 65).

Important Note to Employers: Normal Retirement Age is significant for determining the earliest date at which the Plan may allow for in-service distributions. Normal Retirement Age also defines the latest date at which a Participant must have a fully vested right to his/her Account. There are IRS rules that limit the age that may be specified as the Plan's Normal Retirement Age. The Normal Retirement Age cannot be earlier than what is reasonably representative of the typical retirement age for the industry in which the covered workforce is employed.

In 2016, the Internal Revenue Service proposed regulations that would provide rules for determining whether a governmental pension plan's normal retirement age satisfies the Internal Revenue Code's qualification requirements. A normal retirement age that is age 62 or later is deemed to be not earlier than the earliest age that is reasonably representative of the typical retirement age for the industry in which the covered workforce is employed. Whether an age below 62 satisfies this requirement depends on the facts and circumstances, but an Employer's good faith, reasonable determination will generally be given deference. A special rule, however, says that a normal retirement age that is age 50 or later is deemed to be not earlier than the earliest age that is reasonably representative of the typical retirement age for the industry in which the covered workforce is employed if the participants to which this normal retirement age applies are qualified public safety employees (within the meaning of section 72(t)(10)(B)). These regulations are proposed to be effective for employees hired during plan years beginning on or after the later of: (1) January 1, 2017; or (2) the close of the first regular legislative session of the legislative body with the authority to amend the plan that begins on or after the date that is 3 months after the final regulations are published in the Federal Register. In the meantime, however, governmental plan sponsors may rely on these proposed regulations.

In lieu of age-based Normal Retirement Age, the Plan shall use the following age and service-based Normal Retirement Age _____

Important Note to Employers: *Before using a Normal Retirement Age based on age and service, a plan sponsor should review the proposed regulations (81 Fed. Reg. 4599 (Jan. 27, 2016)) and consult counsel.*

V. COVERED EMPLOYMENT CLASSIFICATIONS

1. The following group or groups of Employees are eligible to participate in the Plan:

   [ ] All Employees
   [ ] All Full Time Employees
   [ ] Salaried Employees
   [ ] Non union Employees
   [ ] Management Employees
   [ ] Public Safety Employees
   [ ] General Employees
   [X] Other Employees (Specify the group(s) of eligible Employees below. Do not specify Employees by name. Specific positions are acceptable.) County Administrator and County Attorney

   The group specified must correspond to a group of the same designation that is defined in the statutes, ordinances, rules, regulations, personnel manuals or other material in effect in the state or locality of the Employer. The eligibility requirements cannot be such that an Employee becomes eligible only in the Plan Year in which the Employee terminates employment.

   Note: As stated in Sections 4.08 and 4.09, the Plan may, however, provide that Final Pay Contributions or Accrued Leave Contributions are the only contributions made under the Plan.

2. Period of Service required for participation

[X] N/A – The Employer hereby waives the requirement of a Period of Service for participation. Employees are eligible to participate upon employment. ***("N/A" is the default provision under the Plan if no selection is made.)***

[ ] Yes. The required Period of Service shall be _____ months (not to exceed 12 months).

The Period of Service selected by the Employer shall apply to all Employees within the Covered Employment Classification.

3. Minimum Age (Select One) – A minimum age requirement is hereby specified for eligibility to participate.

[ ] Yes. Age _____ *(not to exceed age 21).*

[X] N/A – No minimum age applies ***("N/A" is the default provision under the Plan if no selection is made.)***

VI. CONTRIBUTION PROVISIONS

1. The Employer shall contribute as follows: (Choose all that apply, but at least one of Options A or B. If Option A is not selected, Employer must pick up Mandatory Participant Contributions under Option B.)

Fixed Employer Contributions With or Without Mandatory Participant Contributions. (If Option B is chosen, please complete section C.)

[X] A. Fixed Employer Contributions. The Employer shall contribute on behalf of each Participant 7_____ % of Earnings or $_____ for the Plan Year (subject to the limitations of Article V of the Plan).

Mandatory Participant Contributions

[ ] are required [ ] are not required

to be eligible for this Employer Contribution.

[ ] B. Mandatory Participant Contributions for Plan Participation

Required Mandatory Contributions. A Participant is required to contribute (subject to the limitations of Article V of the Plan) the specified amounts designated in items (i) through (iii) of the Contribution Schedule below:

[ ] Yes [ ] No

Employee Opt-In Mandatory Contributions. To the extent that Mandatory Participant Contributions are not required by the Plan, each Employee eligible to participate in the Plan shall be given the opportunity, when first eligible to participate in the Plan or any other plan or arrangement of the Employer described in Code section 219(g)(5)(A) to irrevocably elect to contribute Mandatory Participant Contributions by electing to contribute the specified amounts designated in items (i) through (iii) of the Contribution Schedule below for each Plan Year (subject to the limitations of Article V of the Plan):

[ ] Yes [ ] No

Contribution Schedule. (Any percentage or dollar amount entered below must be greater than 0% or $0.)

i. _____% of Earnings,

ii. $ _____, or

iii. a whole percentage of Earnings between the range of _____ (*insert range of percentages between 1% and 20% inclusive (e.g., 3%, 6%, or 20%; 5% to 7%)),* as designated by the Employee in accordance with guidelines and procedures established by the Employer for the Plan Year as a condition of participation in the Plan. A Participant must pick a single percentage and shall not have the right to discontinue or vary the rate of such contributions after becoming a Plan Participant.

Employer "Pick up". The Employer hereby elects to "pick up" the Mandatory Participant Contributions[1] (pickup is required if Option A is not selected)

[ ] Yes [ ] No ***("Yes" is the default provision under the Plan if no selection is made.)***

[ ] C. Election Window (Complete if Option B is selected):

Newly eligible Employees shall be provided an election window of _____ days (no more than 60 calendar–days) from the date of initial eligibility during which they may make the election to participate in the Mandatory Participant Contribution portion of the Plan. Participation in the Mandatory Participant Contribution portion of the Plan shall begin the first of the month following the end of the election window.

An Employee's election is irrevocable and shall remain in force until the Employee terminates employment or ceases to be eligible to participate in the Plan. In the event of re-employment to an eligible position, the Employee's original election will resume. In no event does the Employee have the option of receiving the pick-up contribution amount directly.

2. The Employer may also elect to make Employer Matching Contributions as follows:

[ ] Fixed Employer Match of After-Tax Voluntary Participant Contributions. (Do not complete this section unless the Plan permits after-tax Voluntary Participant Contributions under Section VI.3 of the Adoption Agreement.)

The Employer shall contribute on behalf of each Participant _____ % of Earnings for the Plan Year (subject to the limitations of Article V of the Plan) for each Plan Year that such Participant has contributed _____% of Earnings or $_____. Under this option, there is a single, fixed rate of Employer Contributions, but a Participant may decline to make the Voluntary Participant Contributions in any Plan Year, in which case no Employer Contribution will be made on the Participant's behalf in that Plan Year.

[1] *Neither an IRS opinion letter nor a determination letter issued to an adopting Employer is a ruling by the Internal Revenue Service that Participant contributions that are "picked up" by the Employer are not includable in the Participant's gross income for federal income tax purposes. Pick-up contributions are not mandated to receive private letter rulings; however, if an adopting Employer wishes to receive a ruling on pick-up contributions they may request one in accordance with Revenue Procedure 2012-4 (or subsequent guidance).*

[ ] Variable Employer Match of After-Tax Voluntary Participant Contributions. (Do not complete unless the Plan permits after-tax Voluntary Participant Contributions under Section VI.3 of the Adoption Agreement.)

The Employer shall contribute on behalf of each Participant an amount determined as follows (subject to the limitations of Article V of the Plan):

_____% of the Voluntary Participant Contributions made by the Participant for the Plan Year (not including Voluntary Participant Contributions exceeding _____% of Earnings or $_____);

PLUS _____% of the contributions made by the Participant for the Plan Year in excess of those included in the above paragraph (but not including Voluntary Participant Contributions exceeding in the aggregate _____% of Earnings or $_____).

Employer Matching Contributions on behalf of a Participant for a Plan Year shall not exceed $_____ or _____ % of Earnings, whichever is [ ] more or [ ] less.

[ ] Fixed Employer Match of Participant 457(b) Plan Deferrals. The Employer shall contribute on behalf of each Participant _____% of Earnings for the Plan Year (subject to the limitations of Article V of the Plan) for each Plan Year that such Participant has deferred _____% of Earnings or $_____ to the Employer's 457(b) deferred compensation plan. Under this option, there is a single, fixed rate of Employer Contributions, but a Participant may decline to make the required 457(b) deferrals in any Plan Year, in which case no Employer Contribution will be made on the Participant's behalf in that Plan Year.

[ ] Variable Employer Match of Participant 457(b) Plan Deferrals.

The Employer shall contribute on behalf of each Participant an amount determined as follows (subject to the limitations of Article V of the Plan):

_____% of the elective deferrals made by the Participant to the Employer's 457(b) plan for the Plan Year (not including Participant contributions exceeding _____% of Earnings or $_____);

PLUS _____% of the elective deferrals made by the Participant to the Employer's 457(b) plan for the Plan Year in excess of those included in the above paragraph (but not including elective deferrals made by a Participant to the Employer's 457(b) plan exceeding in the aggregate _____% of Earnings or $_____).

Employer Matching Contributions on behalf of a Participant for a Plan Year shall not exceed $_____ or _____ % of Earnings, whichever is [ ] more or [ ] less.

3. Each Participant may make a Voluntary Participant Contribution, subject to the limitations of Section 4.06 and Article V of the Plan

[ ] Yes [ ] No ***("No" is the default provision under the Plan if no selection is made.)***

4. Employer contributions for a Plan Year shall be contributed to the Trust in accordance with the following payment schedule (no later than the 15th day of the tenth calendar month following the end of the calendar year or fiscal year (as applicable depending on the basis on which the Employer keeps its books) with or within which the particular Limitation Year ends, or in accordance with applicable law):

[ ] Weekly [X] Biweekly [ ] Monthly [ ] Annually in _____ (*specify month)*

5. Participant contributions for a Plan Year shall be contributed to the Trust in accordance with the following payment schedule (no later than the 15th day of the tenth calendar month following the end of the calendar year or fiscal year (as applicable depending on the basis on which the Employer keeps its books) with or within which the particular Limitation Year ends, or in accordance with applicable law):

   [ ] Weekly [X] Biweekly [ ] Monthly [ ] Annually in _____ (*specify month)*

6. In the case of a Participant performing qualified military service (as defined in Code section 414(u)) with respect to the Employer:

   A. Plan contributions will be made based on differential wage payments:

      [ ] Yes [ ] No ***("Yes" is the default provision under the Plan if no selection is made.)***

   B. Participants who die or become disabled will receive Plan contributions with respect to such service:

      [ ] Yes [ ] No ***("No" is the default provision under the Plan if no selection is made.)***

VII. Earnings

Earnings, as defined under Section 2.09 of the Plan, shall include:

1. Overtime

   [ ] Yes [X] No ***("No" is the default provision under the Plan if no selection is made.)***

2. Bonuses

   [X] Yes [ ] No ***("No" is the default provision under the Plan if no selection is made.)***

3. Other Pay (specifically describe any other types of pay to be included below)

   _____

VIII. ROLLOVER PROVISIONS

1. The Employer will permit Rollover Contributions in accordance with Section 4.13 of the Plan:

   [X] Yes [ ] No ***("Yes" is the default provision under the Plan if no selection is made.)***

IX. LIMITATION ON ALLOCATIONS

If the Employer maintains or ever maintained another qualified plan in which any Participant in this Plan is (or was) a participant or could possibly become a participant, the Employer hereby agrees to limit contributions to all such plans as provided herein, if necessary in order to avoid excess contributions (as described in Section 5.02 of the Plan).

1. If the Participant is covered under another qualified defined contribution plan maintained by the Employer, the provisions of Section 5.02(a) through (e) of the Plan will apply, unless another method has been indicated below.

   [X] Other Method. (Provide the method under which the plans will limit total Annual Additions to the Maximum Permissible Amount, and will properly reduce any Excess Amounts, in a manner that precludes Employer discretion.) July to June

2. The Limitation Year is the following 12 consecutive month period: _____

X. VESTING PROVISIONS

The Employer hereby specifies the following vesting schedule, subject to (1) the Code's vesting requirements in effect on September 1, 1974 and (2) the concurrence of the Plan Administrator. (For the blanks below, enter the applicable percentage - from 0 to 100 (with no entry after the year in which 100% is entered), in ascending order.)

The following vesting schedule may apply to a Participant's interest in his/her Employer Contribution Account. The vesting schedule does not apply to Elective Deferrals, Catch-up Contributions, Mandatory Participant Contributions, Rollover Contributions, Voluntary Participant Contributions, Deductible Employee Contributions, Employee Designated Final Pay Contributions, and Employee Designated Accrued Leave Contributions, and the earnings thereon.

Period of Service Completed	Percent Vested
Zero	%
One	25%
Two	50%
Three	75%
Four	100%
Five	%
Six	%
Seven	%
Eight	%
Nine	%
Ten	%

XI. WITHDRAWALS AND LOANS

1. In-service distributions are permitted under the Plan after a Participant attains (select one of the below options):

   [ ] Normal Retirement Age

   [X] 70 ½ ***("70 ½" is the default provision under the Plan if no selection is made.)***

   [ ] Alternate age (after Normal Retirement Age): _____

   [ ] Not permitted at any age

2. A Participant shall be deemed to have a severance from employment solely for purposes of eligibility to receive distributions from the Plan during any period the individual is performing service in the uniformed services for more than 30 days.

   [ ] Yes [ ] No ***("Yes" is the default provision under the Plan if no selection is made.)***

3. Tax-free distributions of up to $3,000 for the direct payment of Qualified Health Insurance Premiums for Eligible Retired Public Safety Officers are available under the Plan.

   [ ] Yes [X] No ***("No" is the default provision under the Plan if no selection is made.)***

4. In-service distributions of the Rollover Account are permitted under the Plan as provided in Section 9.07

   [ ] Yes [X] No ***("No" is the default provision under the Plan if no selection is made.)***

5. Loans are permitted under the Plan, as provided in Article XIII of the Plan:

   [X] Yes [ ] No ***("No" is the default provision under the Plan if no selection is made.)***

XII. SPOUSAL PROTECTION

The Plan will provide the following level of spousal protection (select one):

[ ] 1. Participant Directed Election. The normal form of payment of benefits under the Plan is a lump sum. The Participant can name any person(s) as the Beneficiary of the Plan, with no spousal consent required.

[X] 2. Beneficiary Spousal Consent Election (Article XII of the Plan will apply if option 2 is selected). The normal form of payment of benefits under the Plan is a lump sum. Upon death, the surviving spouse is the Beneficiary, unless he or she consents to the Participant's naming another Beneficiary. (***"Beneficiary Spousal Consent Election" is the default provision under the Plan if no selection is made.)***

[ ] 3. QJSA Election (Article XVII). The normal form of payment of benefits under the Plan is a 50% qualified joint and survivor annuity with the spouse (or life annuity, if single). In the event of the Participant's death prior to commencing payments, the spouse will receive an annuity for his or her lifetime. (If option 3 is selected, the spousal consent requirements in Article XII of the Plan also will apply.)

XIII. FINAL PAY CONTRIBUTIONS

(Under the Plan's definitions, Earnings automatically include leave cashouts paid by the later of 2 ½ months after severance from employment or the end of the calendar year. If the Plan will provide additional contributions based on the Participant's final paycheck attributable to Accrued Leave, please provide instructions in this section. Otherwise, leave this section blank.)

The Plan will provide for Final Pay Contributions if either 1 or 2 below is selected. The following group of Employees shall be eligible for Final Pay Contributions:

[ ] 1. Employees within the Covered Employment Classification identified in section V of the Adoption Agreement.

[ ] 2. Other: _____
(This must be a subset of the Covered Employment Classification identified in section V of the Adoption Agreement.)

Final Pay shall be defined as (select one):

[ ] A. Accrued unpaid vacation
[ ] B. Accrued unpaid sick leave
[ ] C. Accrued unpaid vacation and sick leave
[ ] D. Other *(insert definition of Final Pay - must be leave that Employee would have been able to use if employment had continued and must be bona fide vacation and/or sick leave)*:
_____

[ ] 1. Employer Final Pay Contribution. The Employer shall contribute on behalf of each Participant _____% of their Final Pay to the Plan (subject to the limitations of Article V of the Plan).

[ ] 2. Employee Designated Final Pay Contribution. Each Employee eligible to participate in the Plan shall be given the opportunity at enrollment to irrevocably elect to contribute _____% (insert fixed percentage of Final Pay to be contributed) or up to _____% (insert maximum percentage of Final Pay to be contributed) of Final Pay to the Plan (subject to the limitations of Article V of the Plan).

Once elected, an Employee's election shall remain in force and may not be revised or revoked.

XIV. ACCRUED LEAVE CONTRIBUTIONS

The Plan will provide for unpaid Accrued Leave Contributions annually if either 1 or 2 is selected below. The following group of Employees shall be eligible for Accrued Leave Contributions:

[ ] 1. Employees within the Covered Employment Classification identified in section V of the Adoption Agreement.

[ ] 2. Other: _____
(This must be a subset of the Covered Employment Classification identified in section V of the Adoption Agreement.)

Accrued Leave shall be defined as (select one):

[ ] A. Accrued unpaid vacation
[ ] B. Accrued unpaid sick leave
[ ] C. Accrued unpaid vacation and sick leave
[ ] D. Other (insert definition of Accrued Leave that is bona fide vacation and/or sick leave):
_____

[ ] 1. Employer Accrued Leave Contribution. The Employer shall contribute as follows (choose one of the following options):

[ ] For each Plan Year, the Employer shall contribute on behalf of each eligible Participant the unused Accrued Leave in excess of _____ _____ (insert number of hours/days/weeks (circle one)) to the Plan (subject to the limitations of Article V of the Plan).

[ ] For each Plan Year, the Employer shall contribute on behalf of each eligible Participant _____% of un- used Accrued Leave to the Plan (subject to the limitations of Article V of the Plan).

[ ] **2. Employee Designated Accrued Leave Contribution**

Each eligible Participant shall be given the opportunity at enrollment to irrevocably elect to annually contribute _____% (insert fixed percentage of unpaid Accrued Leave to be contributed) or up to _____ % (insert maximum percentage of unpaid Accrued Leave to be contributed) of unpaid Accrued Leave to the Plan (subject to the limitations of Article V of the Plan). Once elected, an Employee's election shall remain in force and may not be revised or revoked.

XV. The Employer hereby attests that it is a unit of state or local government or an agency or instrumentality of one or more units of state or local government.

XVI. The Employer understands that this Adoption Agreement is to be used with only the MissionSquare Retirement Money Purchase Plan. This MissionSquare Retirement Governmental Money Purchase Plan is a restatement of a previous plan, which was submitted to the Internal Revenue Service for approval on December 31, 2018 and received approval on June 30, 2020.

The Plan Administrator will inform the Employer of any amendments to the Plan made pursuant to Section 14.05 of the Plan or of the discontinuance or abandonment of the Plan. The Employer understands that an amendment(s) made pursuant to Section 14.05 of the Plan will become effective within 30 days of notice of the amendment(s) unless the Employer notifies the Plan Administrator, in writing, that it disapproves of the amendment(s). If the Employer so disapproves, the Plan Administrator will be under no obligation to act as Administrator under the Plan.

XVII. The Employer hereby appoints the ICMA Retirement Corporation, doing business as MissionSquare Retirement, as the Plan Administrator pursuant to the terms and conditions of the MISSIONSQUARE RETIREMENT GOVERNMENTAL MONEY PURCHASE PLAN.

The Employer hereby agrees to the provisions of the Plan.

XVIII. The Employer understands that it must complete a new Adoption Agreement upon first adoption of the Plan. Additionally, upon any modifications to a prior election, making of new elections, or restatements of the Plan, a new Adoption Agreement must be completed. The Employer hereby acknowledges it understands that failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

XIX. An adopting Employer may rely on an Opinion Letter issued by the Internal Revenue Service as evidence that the Plan is qualified under section 401 of the Internal Revenue Code only to the extent provided in Rev. Proc. 2017-41. The Employer may not rely on the Opinion Letter in certain other circumstances or with respect to certain qualification requirements, which are specified in the Opinion Letter issued with respect to the Plan and in Rev. Proc. 2017-41.

In Witness Whereof, the Employer hereby causes this Money Purchase Plan Adoption Agreement to be executed.

EMPLOYER SIGNATURE & DATE

Signature of Authorized Plan Representative: _____

Print Name: _____

Title: _____

Attest: _____

Date: _____/_____ /_____.

For inquiries regarding adoption of the plan, the meaning of plan provisions, or the effect of the Opinion Letter, contact:

MissionSquare Retirement
777 N. Capitol St. NE Suite 600
Washington, DC 20002
800-326-7272

52582-0621-W1304

ICMA-RC is now

MissionSquare RETIREMENT

MISSIONSQUARE RETIREMENT GOVERNMENTAL PROFIT-SHARING PLAN HARDSHIP WITHDRAWAL AMENDMENT #1 (AMENDMENT #1)

Regulations published by the Department of the Treasury and Internal Revenue Service in 2019 (TD 9875) require certain changes to the Plan's hardship withdrawal feature for hardship withdrawals made on or after January 1, 2020. The amendment below incorporates these required changes into the terms of the MissionSquare Retirement Governmental Profit-Sharing Plan (the Plan).

Plan Section 9.07, Hardship Withdrawals, is amended in its entirety to read as follows, effective as of January 1, 2020 unless a different date is specified:

9.07 Hardship Withdrawals.

(a) Where elected by the Employer in the Adoption Agreement for a profit-sharing plan containing a 401(k) arrangement, distribution of nonforfeitable amounts attributable to Employer Contributions and/or Elective Deferrals (including Catch-up Contributions but not including earnings attributable to Elective Deferrals accrued after December 31, 1988, unless the Employer elects to permit Employees to distribute earnings attributable to Elective Deferrals for hardship withdrawals made on or after January 1, 2020) may be made to a Participant in the event of hardship. A hardship distribution may only be made on account of an immediate and heavy financial need of the Employee and where the distribution is necessary to satisfy the immediate and heavy financial need.

(b) Special Rules:

(1) The following are the only financial needs considered immediate and heavy (or as otherwise provided for under Treasury Regulation section 1.401(k)-1(d)(3) (ii)(B) or any subsequent guidance thereto):

(i) Expenses for medical care (within the meaning of section 213(d) of the Code) previously incurred or necessary to obtain medical care for the Employee, the Employee's spouse or dependents;

(ii) Costs directly related to the purchase (excluding mortgage payments) of a principal residence for the Employee;

(iii) Payment of tuition and related educational fees for the next twelve (12) months of post-secondary education for the Employee, the Employee's spouse, children or dependents;

(iv) Payments necessary to prevent the eviction of the Employee from, or a foreclosure on the mortgage of, the Employee's principal residence;

(v) Payments for funeral or burial expenses for the Employee's deceased parent, spouse, child or dependent;

(vi) Expenses to repair damage to the Employee's principal residence that would qualify for a casualty loss deduction under Code section 165 (determined without regard to whether the loss exceeds 10 percent of adjusted gross income and for distributions made on or after January 1, 2018, determined without regard to Code section 165(h)); and

(vii) For distributions made on or after January 1, 2020, expenses and losses (including loss of income) incurred by the Employee on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, provided that the Employee's principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster.

Posted May 2, 2022

(2) For hardship withdrawals made on or after January 1, 2020, a distribution will be considered as necessary to satisfy an immediate and heavy financial need of the Employee only if:

(i) The distribution is not in excess of the amount of an immediate and heavy financial need, including amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution;

(ii) The Employee has obtained all distributions, other than hardship distributions, and unless the employer elects otherwise for hardship withdrawals made on or after January 1, 2020, all nontaxable loans under all plans maintained by the Employer; and

(iii) The Employee has provided to the Plan Administrator a representation, in writing (including by using an electronic medium as defined in Treasury Regulation section 1.401(a)-21(e)(3)), that he or she has insufficient cash or other liquid assets reasonably available to satisfy the need and the Plan Administrator does not have actual knowledge that is contrary to the representation.

(3) Distributions for Financial Hardship. Unless otherwise elected by the Employer, the determination of any deemed immediate and heavy financial need described in Treasury Regulation section 1.401(k)-1(d)(3)(ii)(B)(1), (3), or (5) (relating to medical, tuition, and funeral expenses, respectively) includes any immediate and heavy financial need of a Participant's Primary Beneficiary.

EMPLOYER SIGNATURE & DATE

Signature of Authorized Plan Representative: _____

Print Name: _____

Title: _____

Attest: _____

Date: __ __ / __ __ / __ __ __ __ *(MM/DD/YYYY)*

RESOLUTION NO. ___

A RESOLUTION OF THE LEON COUNTY, FLORIDA BOARD OF COUNTY COMMISSIONERS AUTHORIZING AMENDMENT AND RESTATEMENT OF RETIREMENT PLAN VIA ADOPTION OF NATIONWIDE RETIREMENT SERVICES COMPANY RETIREMENT PLAN FOR GOVERNMENTAL EMPLOYERS

WHEREAS, the Board of County Commissioners of Leon County, FL (the Employer) hereby certifies that the following resolution was duly adopted by the Employer on May 10, 2022, and that such resolution has not been modified or rescinded as of the date hereof:

RESOLVED, that the form of amended Plan and Trust effective October 1, 2021, presented to this meeting is hereby approved and adopted and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more counterparts of the Plan.

The undersigned further certifies that attached hereto are true copies of Leon County Board of County Commissioners' 401(a) Matching Program as amended and restated, and the Summary of Plan Provisions, which are hereby approved and adopted.

Adopted this **10th** day of **May, 2022**.

LEON COUNTY, FLORIDA

BY: _____
Bill Proctor, Chairman
Board of County Commissioners

ATTEST:
Gwendolyn Marshall Knight, Clerk of the
Court & Comptroller, Leon County,
Florida

By:_____

APPROVED AS TO LEGAL SUFFICIENCY:
Chasity H. O'Steen, County Attorney
Leon County Attorney's Office

By:_____

NATIONWIDE FINANCIAL SERVICES, INC.

NON-STANDARDIZED GOVERNMENTAL 401(a) PRE-APPROVED PLAN

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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 "Account" means any separate notational account established and maintained by the Administrator for each Participant under the Plan. To the extent applicable, a Participant may have any (or all) of the following notational Accounts:

(a) "Combined Account" means the account representing the Participant's total interest under the Plan resulting from Employer contributions. In addition, Forfeitures are part of the Combined Account to the extent they are reallocated.

(b) "Mandatory Contribution Account" means the account established hereunder to which mandatory Employee contributions made pursuant to Section 4.8 are allocated, to the extent such contributions are not picked-up by the Employer pursuant to Code §414(h). A Participant's Mandatory Contribution Account shall be fully Vested at all times.

(c) "Rollover Account" means the account established hereunder to which amounts transferred from a qualified plan or individual retirement account in accordance with Section 4.6 are allocated.

(d) "Transfer Account" means the account established hereunder to which amounts transferred to this Plan from a direct plan-to-plan transfer in accordance with Section 4.7 are allocated.

(e) "Voluntary Contribution Account" means the account established hereunder to which after-tax voluntary Employee contributions made pursuant to Section 4.9 are allocated.

1.2 "Administrator" means the Employer unless another person, entity or committee has been designated by the Employer pursuant to Section 2.2 to administer the Plan on behalf of the Employer.

1.3 "Adoption Agreement" means the separate agreement which is executed by the Employer and sets forth the elective provisions of this Plan as specified by the Employer.

1.4 "Affiliated Employer" means any entity required to be aggregated with the Employer pursuant to Code §414.

1.5 "**Alternate Payee**" means an alternate payee pursuant to a qualified domestic relations order that meets the requirements of Code §414(p).

1.6 "Anniversary Date" means the last day of the Plan Year.

1.7 "Annuity Starting Date" means, with respect to any Participant, the first day of the first period for which an amount is paid as an annuity, or, in the case of a benefit not payable in the form of an annuity, the first day on which all events have occurred which entitles the Participant to such benefit.

1.8 "Beneficiary" means the person (or entity) to whom all or a portion of a deceased Participant's interest in the Plan is, or may become, payable upon the Participant's death as identified in records maintained by the Plan, subject to the restrictions of Sections 6.2 and 6.6.

1.9 "Code" means the Internal Revenue Code of 1986, as it may be amended from time to time and includes applicable Internal Revenue Service (IRS) guidance.

1.10 "Compensation" means, with respect to any Participant, the amount determined in accordance with the following provisions, except as otherwise provided in the Adoption Agreement.

(a) **Base definition.** One of the following, as elected in the Adoption Agreement:

(1) Information required to be reported under Code §§6041, 6051 and 6052 (Wages, tips and other compensation as reported on Form W-2). Compensation means wages, within the meaning of Code §3401(a), and all other payments of compensation to an Employee by the Employer (in the course of the Employer's trade or business) for which the Employer is required to furnish the Employee a written statement under Code §§6041(d), 6051(a)(3) and 6052. Compensation must be determined without regard to any rules under Code §3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code §3401(a)(2)).

(2) Code §3401(a) Wages. Compensation means an Employee's wages within the meaning of Code §3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in

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wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code §3401(a)(2)).

(3) 415 safe harbor compensation. Compensation means wages, salaries, Military Differential Pay, and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer maintaining the Plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements, or other expense allowances under a nonaccountable plan (as described in Regulation §1.62-2(c))), and excluding the following:

(i) Employer contributions to a plan of deferred compensation which are not includible in the Employee's gross income for the taxable year in which contributed, or Employer contributions under a simplified employee pension plan to the extent such contributions are excludable from the Employee's gross income, or any distributions from a plan of deferred compensation;

(ii) Amounts realized from the exercise of a nonqualified stock option, or when restricted stock (or property) held by the Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;

(iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and

(iv) Other amounts which receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includible in the gross income of the Employee and are not salary reduction amounts under Code §125), whether or not the contributions are actually excludable from the gross income of the Employee.

(b) **Paid during "determination period."** Compensation shall include only that Compensation which is actually paid to the Participant during the "determination period". Except as otherwise provided in this Plan, the "determination period" is the period elected by the Employer in the Adoption Agreement. If the Employer makes no election, the "determination period" shall be the Plan Year.

(c) **Inclusion of deferrals.** Notwithstanding the above, unless otherwise elected in the Adoption Agreement, Compensation shall include all of the following types of elective contributions and all of the following types of deferred compensation:

(1) Elective contributions that are made by the Employer on behalf of a Participant that are not includible in gross income under Code §§125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k) and 403(b). If specified in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), amounts under Code §125 shall be deemed to include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he or she has other health coverage. An amount will be treated as an amount under Code §125 pursuant to the preceding sentence only if the Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

(2) Compensation deferred under an eligible deferred compensation plan within the meaning of Code §457(b).

(3) Employee contributions described in Code §414(h)(2) that are picked-up by the employing unit and thus are treated as Employer contributions.

(d) **Post-severance compensation – Code §415 Regulations.** The Administrator shall adjust Compensation for amounts that would otherwise be included in the definition of Compensation but are paid by the later of 2 1/2 months after a Participant's severance from employment with the Employer or the end of the Plan Year that includes the date of the Participant's severance from employment with the Employer, in accordance with the following, as elected in the Compensation Section of the Adoption Agreement. The preceding time period, however, does not apply with respect to payments described in Subsections (4) and (5) below. Any other payment of compensation paid after severance of employment that is not described in the following types of compensation is not considered Compensation, even if payment is made within the time period specified above.

(1) **Regular pay.** Compensation shall include regular pay after severance of employment (to the extent otherwise included in the definition of Compensation) if:

(i) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and

(ii) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer.

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(2) **Leave cash-outs.** Compensation shall include leave cash-outs if those amounts would have been included in the definition of Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued.

(3) **Deferred compensation.** Compensation shall include deferred compensation if those amounts would have been included in the definition of Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid at the same time if the Participant had continued in employment with the Employer and only to the extent the payment is includible in the Participant's gross income.

(4) **Military Differential Pay.** Compensation shall include payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code §414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

(5) **Disability pay.** Compensation shall include compensation paid to a Participant who is permanently and totally disabled, as defined in Code §22(e)(3), provided, as elected by the Employer in the Compensation Section of the Adoption Agreement, salary continuation applies to all Participants who are permanently and totally disabled.

(e) **Compensation Dollar limitation.** For any Plan Year (or other applicable determination period) Compensation in excess of $290,000 shall be disregarded for all. The dollar amount shall be adjusted by the Commissioner for increases in the cost-of-living in accordance with Code §401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any "determination period" beginning with or within such calendar year. If a "determination period" consists of fewer than twelve (12) months, the $290,000 annual Compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the "determination period," and the denominator of which is twelve (12). In applying any Plan limitation on the amount of matching contributions, where such limits are expressed as a percentage of Compensation, the Administrator may apply the Compensation limit under this Section annually, even if the matching contribution formula is applied on any time interval which is less than the full Plan Year or the Administrator may pro rate the Compensation limit.

In the case of an "eligible Participant," the dollar limitation under Code §401(a)(17) shall not apply to the extent the amount under the Plan would be reduced below the amount which was allowed to be taken into account under the Plan as in effect on July 1, 1993. For purposes of this provision, an "eligible Participant" is an individual who first became a Participant before the first Plan Year beginning after the earlier of (i) the Plan Year in which the Plan was amended to reflect Code §401(a)(17), or (ii) December 31, 1995.

(f) **Non-eligible Employee.** If, in the Adoption Agreement, the Employer elects to exclude a class of Employees from the Plan, then Compensation for any Employee who becomes eligible or ceases to be eligible to participate during a "determination period" shall only include Compensation while the Employee is an Eligible Employee.

(g) **Amendment.** If, in connection with the adoption of any amendment, the definition of Compensation has been modified, then, except as otherwise provided herein, for Plan Years prior to the Plan Year which includes the adoption date of such amendment, Compensation means compensation determined pursuant to the terms of the Plan then in effect.

(h) **Affiliated Employers.** Affiliated Employers are treated as one Employer for purposes of Compensation. If, however, one or more Affiliated Employers are Participating Employers and the Plan (including the Adoption Agreement or a participation agreement) allocate Employer Contributions separately among the Employees directly employed by a Participating Employer, then, in computing such allocations, Compensation paid by other Participating Employers is excluded Compensation.

1.11 "Contract" or "Policy" means any life insurance policy, retirement income policy, or annuity contract (group or individual) issued by the Insurer. In the event of any conflict between the terms of this Plan and the terms of any contract purchased hereunder, the Plan provisions shall control.

1.12 "Custodian" means a person or entity that has custody of all or any portion of the Plan assets.

1.13 "Directed Trustee" means a Trustee who, with respect to the investment of Plan assets, is subject to the direction of the Administrator, the Employer, a properly appointed Investment Manager, or Plan Participant.

1.14 "Discretionary Trustee" means a Trustee who has the authority and discretion to invest, manage or control any portion of the Plan assets.

1.15 "Early Retirement Date" means the date specified in the Adoption Agreement on which a Participant has satisfied the requirements specified in the Adoption Agreement (Early Retirement Age). If elected in the Adoption Agreement, a Participant shall become fully Vested upon satisfying such requirements if the Participant is still employed at the Early Retirement Age.

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A Participant who severs from employment after satisfying any service requirement but before satisfying the age requirement for Early Retirement Age and who thereafter reaches the age requirement contained herein shall be entitled to receive benefits under this Plan (other than any accelerated vesting and allocations of Employer contributions) as though the requirements for Early Retirement Age had been satisfied.

1.16 "Effective Date" means the date this Plan, including any restatement or amendment of this Plan, is effective. Where the Plan is restated or amended, a reference to Effective Date is the effective date of the restatement or amendment, except where the context indicates a reference to an earlier Effective Date. If any provision of this Plan is retroactively effective, the provisions of this Plan generally control. However, if the provision of this Plan is different from the provision of the Employer's prior plan document and, after the retroactive Effective Date of this Plan, the Employer operated in compliance with the provisions of the prior plan, then the provision of such prior plan is incorporated into this Plan for purposes of determining whether the Employer operated the Plan in compliance with its terms, provided operation in compliance with the terms of the prior plan do not violate any qualification requirements under the Code, Regulations, or other IRS guidance.

The Employer may designate special effective dates for individual provisions under the Plan where provided in the Adoption Agreement or under Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections). If one or more qualified retirement plans have been merged into this Plan, the provisions of the merging plan(s) will remain in full force and effect until the effective date of the plan merger(s).

1.17 "Eligible Employee" means any Eligible Employee as elected in the Adoption Agreement and as provided herein.

(a) **"Reclassified Employees."** An individual shall not be an Eligible Employee (unless otherwise elected in Appendix A to the Adoption Agreement) if such individual is a "Reclassified Employee." A "Reclassified Employee" is any person the Employer does not treat as a common law employee or as a self-employed individual (including, but not limited to, independent contractors, persons the Employer pays outside of its payroll system and out-sourced workers) for federal income tax withholding purposes under Code §3401(a), irrespective of whether there is a binding determination that the individual is an Employee or a Leased Employee of the Employer. Self-Employed Individuals are not "Reclassified Employees."

(b) **Affiliated Employers.** Employees of an Affiliated Employer will not be treated as Eligible Employees prior to the date the Affiliated Employer adopts the Plan as a Participating Employer.

(c) **Union Employees.** If, in the Adoption Agreement, the Employer elects to exclude union employees, then Employees whose employment is governed by a collective bargaining agreement between the Employer and "employee representatives" under which retirement benefits were the subject of good faith bargaining, shall not be eligible to participate in this Plan to the extent of employment covered by such agreement, unless the agreement provides for coverage in the Plan (see Section 4.1(d)). For this purpose, the term "employee representatives" does not include any organization more than half of whose members are employees who are owners, officers, or executives of the Employer. If a Participant performs services both as a collectively bargained Employee and as a non-collectively bargained Employee, then the Participant's Hours of Service in each respective category are treated separately.

(d) **Nonresident Employees.** If, in the Adoption Agreement, the Employer elects to exclude nonresident aliens, then Employees who are nonresident aliens (within the meaning of Code §7701(b)(1)(B)) who received no earned income (within the meaning of Code §911(d)(2)) from the Employer which constitutes income from sources within the United States (within the meaning of Code §861(a)(3)) shall not be eligible to participate in this Plan. In addition, this paragraph shall also apply to exclude from participation in the Plan an Employee who is a nonresident alien (within the meaning of Code §7701(b)(1)(B)) but who receives earned income (within the meaning of Code §911(d)(2)) from the Employer that constitutes income from sources within the United States (within the meaning of Code §861(a)(3)), if all of the Employee's earned income from the Employer from sources within the United States is exempt from United States income tax under an applicable income tax convention. The preceding sentence will apply only if all Employees described in the preceding sentence are excluded from the Plan.

1.18 "Employee" means any person who is employed by the Employer. The term "Employee" shall also include any person who is an employee of an Affiliated Employer and any Leased Employee deemed to be an Employee as provided in Code §414(n) or (o).

1.19 "Employer" means the governmental entity specified in the Adoption Agreement, any successor which shall maintain this Plan and any predecessor which has maintained this Plan. In addition, unless the context means otherwise, the term "Employer" shall include any Participating Employer which shall adopt this Plan. This plan may only be adopted a state or local governmental entity, or agency thereof, including an Indian tribal government, and may not be adopted by any other entity, including a federal government and any agency or instrumentality thereof.

1.20 "Fiscal Year" means the Employer's accounting year.

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1.21 "Forfeiture" means that portion of a Participant's Account that is not Vested and is disposed of in accordance with the provisions of the Plan.

A Forfeiture will occur on the following, as elected by the Employer in the Adoption Agreement:

(a) The last day of the Plan Year in which a Participant incurs five (5) consecutive 1-Year Breaks in Service, or

(b) The distribution of the entire Vested portion of the Participant's Account of a Participant who has severed employment with the Employer. For purposes of this provision, if the Participant has a Vested benefit of zero, then such Participant shall be deemed to have received a distribution of such Vested benefit as of the year in which the severance of employment occurs. For this purpose, a Participant's Vested benefit shall not include: (i) qualified voluntary employee contributions within the meaning of Code §72(o)(5)(B), and (ii) the Participant's Rollover Account.

(c) As soon as reasonably practical after the date a Participant severs employment.

Regardless of the preceding, if a Participant is eligible to share in the allocation of Forfeitures in the year in which the Forfeiture would otherwise occur, then the Forfeiture will not occur until the end of the first Plan Year for which the Participant is not eligible to share in the allocation of Forfeitures. Furthermore, the term "Forfeiture" shall also include amounts deemed to be Forfeitures pursuant to any other provision of this Plan.

1.22 "Former Employee" means an individual who has severed employment with the Employer or an Affiliated Employer.

1.23 "415 Compensation" means, with respect to any Participant, such Participant's (a) Wages, tips and other compensation on Form W-2, (b) Code §3401(a) wages or (c) 415 safe harbor compensation as elected in the Adoption Agreement for purposes of Compensation (and as defined in Subsections 1.10(a)(1)-3 respectively). 415 Compensation shall be based on the full Limitation Year regardless of when participation in the Plan commences. Furthermore, regardless of any election made in the Adoption Agreement, 415 Compensation shall include any elective deferral (as defined in Code §§402(e)(3), 402(k) and 402(h)(1)(B)) and any amount which is contributed or deferred by the Employer at the election of the Participant and which is not includible in the gross income of the Participant by reason of Code §§125, 457, and 132(f)(4). If the Plan contains pick-up provisions (certain contributions designated as employee contributions, that are then "picked-up" by the Employer), then those pick-up contributions are not includible as Compensation for purposes of IRC §415 & Reg. §1.415-2(d)(2)(i). In addition, Military Differential Pay is treated as 415 Compensation.

(a) **Deemed 125 compensation.** If elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), 415 Compensation shall also include deemed §125 compensation. Deemed §125 compensation is an amount that is excludable under §106 that is not available to a participant in cash in lieu of group health coverage under a §125 arrangement solely because the participant is unable to certify that he or she has other health coverage. An amount will be treated as an amount under Code §125 pursuant to the preceding sentence only if the Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

(b) **Post-severance compensation.** The Administrator shall adjust 415 Compensation for amounts that would otherwise be included in the definition of 415 Compensation but are paid by the later of 2 1/2 months after a Participant's severance from employment with the Employer or the end of the Limitation Year that includes the date of the Participant's severance from employment with the Employer, in accordance with the following, as elected in the Compensation Section of the Adoption Agreement. The preceding time period, however, does not apply with respect to payments described in Subsections (4) and (5) below. Any other payment of compensation paid after severance of employment that is not described in the following types of compensation is not considered 415 Compensation, even if payment is made within the time period specified above.

(1) **Regular pay.** 415 Compensation shall include regular pay after severance of employment (to the extent otherwise included in the definition of 415 Compensation) if:

(i) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and

(ii) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer.

(2) **Leave cash-outs.** 415 Compensation shall include leave cash-outs if those amounts would have been included in the definition of 415 Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued.

(3) **Deferred compensation.** 415 Compensation shall include deferred compensation if those amounts would have been included in the definition of 415 Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are received pursuant to a nonqualified unfunded deferred compensation plan, but only if the

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payment would have been paid if the Participant had continued in employment with the Employer and only to the extent the payment is includible in the Participant's gross income.

(4) **Military Differential Pay.** 415 Compensation shall include payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code §414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

(5) **Disability pay.** 415 Compensation shall include compensation paid to a Participant who is permanently and totally disabled, as defined in Code §22(e)(3), provided, as elected by the Employer in the Compensation Section of the Adoption Agreement, salary continuation applies to all Participants who are permanently and totally disabled for a fixed or determinable period, or the Participant was not a highly compensated employee (within the meaning of Code §414(q)) immediately before becoming disabled.

(c) **Back pay.** Back pay, within the meaning of Regulations §1.415(c)-2(g)(8), shall be treated as Compensation for the Limitation Year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(d) **Dollar limitation.** 415 Compensation will be limited to the same dollar limitations set forth in Section 1.10(e) adjusted in such manner as permitted under Code §415(d).

(e) **Amendment.** Except as otherwise provided herein, if, in connection with the adoption of any amendment, the definition of 415 Compensation has been modified, then for Plan Years prior to the Plan Year which includes the adoption date of such amendment, 415 Compensation means compensation determined pursuant to the terms of the Plan then in effect.

1.24 "Hour of Service" means (a) each hour for which an Employee is directly or indirectly compensated or entitled to compensation by the Employer for the performance of duties during the applicable computation period (these hours will be credited to the Employee for the computation period in which the duties are performed); (b) each hour for which an Employee is directly or indirectly compensated or entitled to Compensation by the Employer (irrespective of whether the employment relationship has terminated) for reasons other than performance of duties (such as vacation, holidays, sickness, incapacity (including disability), jury duty, lay-off, military duty or leave of absence) during the applicable computation period; (c) each hour for which back pay is awarded or agreed to by the Employer without regard to mitigation of damages (these hours will be credited to the Employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement or payment is made). The same Hours of Service shall not be credited both under (a) or (b), as the case may be, and under (c).

Notwithstanding (b) above, (1) no more than 501 Hours of Service will be credited to an Employee on account of any single continuous period during which the Employee performs no duties (whether or not such period occurs in a single computation period); (2) an hour for which an Employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed is not required to be credited to the Employee if such payment is made or due under a plan maintained solely for the purpose of complying with applicable workers' compensation, or unemployment compensation or disability insurance laws; and (3) Hours of Service are not required to be credited for a payment which solely reimburses an Employee for medical or medically related expenses incurred by the Employee. Furthermore, for purposes of (b) above, a payment shall be deemed to be made by or due from the Employer regardless of whether such payment is made by or due from the Employer directly, or indirectly through, among others, a trust fund, or insurer, to which the Employer contributes or pays premiums and regardless of whether contributions made or due to the trust fund, insurer, or other entity are for the benefit of particular Employees or are on behalf of a group of Employees in the aggregate.

Hours of Service will be credited for employment with all Affiliated Employers and for any individual considered to be a Leased Employee pursuant to Code §414(n) or 414(o) and the Regulations thereunder.

Hours of Service will be determined using the actual hours method unless one of the methods below is elected in the Adoption Agreement. If the **actual hours** method is used to determine Hours of Service, an Employee is credited with the actual Hours of Service the Employee completes with the Employer or the number of Hours of Service for which the Employee is paid (or entitled to payment).

If the **days worked** method is elected, an Employee will be credited with ten (10) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the day.

If the **weeks worked** method is elected, an Employee will be credited with forty-five (45) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the week.

If the **semi-monthly payroll periods worked** method is elected, an Employee will be credited with ninety-five (95) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the semi-monthly payroll period.

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If the **months worked** method is elected, an Employee will be credited with one hundred ninety (190) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the month.

If the **bi-weekly payroll periods worked** method is elected, an Employee will be credited with ninety (90) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the bi-weekly payroll period.

1.25 "Insurer" means any legal reserve insurance company which has issued or shall issue one or more Contracts or Policies under the Plan.

1.26 "Investment Manager" means a person or entity which renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or property of the Plan and which is appointed in accordance with Section 2.1(b).

1.27 "Joint and Survivor Annuity" means an immediate annuity for the life of a Participant with a survivor annuity for the life of the Participant's Spouse which is not less than fifty percent (50%), nor more than one hundred percent (100%) of the amount of the annuity payable during the joint lives of the Participant and the Participant's Spouse which can be purchased with the Participant's Vested interest in the Plan reduced by any outstanding loan balances pursuant to Section 7.4.

1.28 "Late Retirement Date" means the date of, or the first day of the month or the Anniversary Date coinciding with or next following, whichever corresponds to the election in the Adoption Agreement for the Normal Retirement Date, a Participant's actual retirement after having reached the Normal Retirement Date.

1.29 "Leased Employee" means any person (other than an Employee of the recipient Employer) who, pursuant to an agreement between the recipient Employer and any other person or entity ("leasing organization"), has performed services for the recipient (or for the recipient and related persons determined in accordance with Code §414(n)(6)) on a substantially full time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient Employer. Contributions or benefits provided a Leased Employee by the leasing organization which are attributable to services performed for the recipient Employer shall be treated as provided by the recipient Employer. Furthermore, Compensation for a Leased Employee shall only include compensation from the leasing organization that is attributable to services performed for the recipient Employer.

A Leased Employee shall not be considered an employee of the recipient Employer if: (a) such employee is covered by a money purchase pension plan providing: (1) a non-integrated employer contribution rate of at least ten percent (10%) of compensation, as defined in Code §415(c)(3), (2) immediate participation, and (3) full and immediate vesting; and (b) leased employees do not constitute more than twenty percent (20%) of the recipient Employer's nonhighly compensated workforce.

1.30 "Limitation Year" means the "determination period" used to determine Compensation. However, the Employer may elect a different Limitation Year in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections). All qualified plans maintained by the Employer must use the same Limitation Year. Furthermore, unless there is a change to a new Limitation Year, the Limitation Year will be a twelve (12) consecutive month period. In the case of an initial Limitation Year, the Limitation Year will be the twelve (12) consecutive month period ending on the last day of the period specified in the Adoption Agreement. If the Limitation Year is amended to a different twelve (12) consecutive month period, the new "Limitation Year" must begin on a date within the "Limitation Year" in which the amendment is made. The Limitation Year may only be changed by a Plan amendment. Furthermore, if the Plan is terminated effective as of a date other than the last day of the Plan's Limitation Year, then the Plan is treated as if the Plan had been amended to change its Limitation Year.

1.31 "Military Differential Pay" means any differential wage payments made to an individual that represents an amount which, when added to the individual's military pay, approximates the amount of Compensation that was paid to the individual while working for the Employer. An individual receiving a differential wage payment, as defined by Code §3401(h)(2), is treated as an Employee of the Employer making the payment.

1.32 "Nonelective Contribution" means the Employer's contributions to the Plan.

1.33 "Normal Retirement Age" means the age elected in the Adoption Agreement at which time a Participant's Account shall be nonforfeitable (if elected in the Adoption Agreement and if the Participant is employed by the Employer on or after that date). For money purchase pension plans, if the employer enforces a mandatory retirement age, then the Normal Retirement Age is the lesser of that mandatory age or the age specified in the Adoption Agreement. Upon attaining Normal Retirement Age or the stated age and completion of the required years of service and any other reasonable requirements set forth in the Plan, the Plan will provide for full vesting of an Employee's interest.

1.34 "Normal Retirement Date" means the date elected in the Adoption Agreement.

1.35 "1-Year Break in Service" means, if the Hour of Service method is used, the applicable computation period that is used to determine a Year of Service during which an Employee or Former Employee has not completed more than 500 Hours of Service. However, if the Employer selected, in the Service Crediting Method Section of the Adoption Agreement, to define a Year of Service as less than 1,000 Hours of Service, then the 500 Hours of Service in this definition of 1-Year Break in Service shall be proportionately reduced. Further, solely for the purpose of determining whether an Employee has incurred a 1-Year Break in Service, Hours of Service shall be

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recognized for "authorized leaves of absence" and "maternity and paternity leaves of absence." For this purpose, Hours of Service shall be credited for the computation period in which the absence from work begins, only if credit therefore is necessary to prevent the Employee from incurring a 1-Year Break in Service, or, in any other case, in the immediately following computation period. The Hours of Service credited for a "maternity or paternity leave of absence" shall be those which would normally have been credited but for such absence, or, in any case in which the Administrator is unable to determine such hours normally credited, eight (8) Hours of Service per day. The total Hours of Service required to be credited for a "maternity or paternity leave of absence" shall not exceed the number of Hours of Service needed to prevent the Employee from incurring a 1-Year Break in Service.

"Authorized leave of absence" means an unpaid, temporary cessation from active employment with the Employer pursuant to an established policy, whether occasioned by illness, military service, or any other reason.

A "maternity or paternity leave of absence" means an absence from work for any period by reason of the Employee's pregnancy, birth of the Employee's child, placement of a child with the Employee in connection with the adoption of such child, or any absence for the purpose of caring for such child for a period immediately following such birth or placement.

If the elapsed time method is elected in the Service Crediting Method Section of the Adoption Agreement, then a "1-Year Break in Service" means a twelve (12) consecutive month period beginning on the severance from service date or any anniversary thereof and ending on the next succeeding anniversary of such date; provided, however, that the Employee or Former Employee does not perform an Hour of Service for the Employer during such twelve (12) consecutive month period.

1.36 "Participant" means any Employee or Former Employee who has satisfied the requirements of Sections 3.1 and 3.2 and entered the Plan and is eligible to accrue benefits under the Plan. In addition, the term "Participant" also includes any individual who was a Participant (as defined in the preceding sentence) and who must continue to be taken into account under a particular provision of the Plan (e.g., because the individual has an Account balance in the Plan).

1.37 "Participant Directed Account" means that portion of a Participant's interest in the Plan with respect to which the Participant has directed the investment in accordance with the Participant Direction Procedures.

1.38 "Participant Direction Procedures" means such instructions, guidelines or policies, the terms of which are incorporated herein, as shall be established pursuant to Section 4.10 and observed by the Administrator and applied and provided to Participants who have Participant Directed Accounts.

1.39 "Participating Employer" means an Employer which, with the consent of the "lead Employer" adopts the Plan pursuant to Section 10.1 or Article XI. In addition, unless the context means otherwise, the term "Employer" shall include any Participating Employer which shall adopt this Plan.

1.40 "Period of Service" means the aggregate of all periods of service commencing with an Employee's first day of employment or reemployment with the Employer or an Affiliated Employer and ending on the first day of a Period of Severance, or for benefit accrual purposes, ending on the severance from service date. The first day of employment or reemployment is the first day the Employee performs an Hour of Service. An Employee who incurs a Period of Severance of twelve (12) months or less will also receive service-spanning credit by treating any such period as a Period of Service for purposes of eligibility and vesting (but not benefit accrual). For purposes of benefit accrual, a Participant's whole year Periods of Service is equal to the sum of all full and partial periods of service, whether or not such service is continuous or contiguous, expressed in the number of whole years represented by such sum. For this purpose, fractional periods of a year will be expressed in terms of days.

Periods of Service with any Affiliated Employer shall be recognized. Furthermore, Periods of Service with any predecessor employer that maintained this Plan shall be recognized. Periods of Service with any other predecessor employer shall be recognized as elected in the Adoption Agreement.

In determining Periods of Service for purposes of vesting under the Plan, Periods of Service will be excluded as elected in the Adoption Agreement and as specified in Section 3.5.

In the event the method of crediting service is amended from the Hour of Service method to the elapsed time method, an Employee will receive credit for a Period of Service consisting of:

(a) A number of years equal to the number of Years of Service credited to the Employee before the computation period during which the amendment occurs; and

(b) The greater of (1) the Periods of Service that would be credited to the Employee under the elapsed time method for service during the entire computation period in which the transfer occurs or (2) the service taken into account under the Hour of Service method as of the date of the amendment.

In addition, the Employee will receive credit for service subsequent to the amendment commencing on the day after the last day of the computation period in which the transfer occurs.

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1.41 "Period of Severance" means a continuous period of time during which an Employee is not employed by the Employer. Such period begins on the date the Employee retires, quits or is discharged, or if earlier, the twelve (12) month anniversary of the date on which the Employee was otherwise first absent from service.

In the case of an individual who is absent from work for "maternity or paternity" reasons, the twelve (12) consecutive month period beginning on the first anniversary of the first day of such absence shall not constitute a one year Period of Severance. For purposes of this paragraph, an absence from work for "maternity or paternity" reasons means an absence (a) by reason of the pregnancy of the individual, (b) by reason of the birth of a child of the individual, (c) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (d) for purposes of caring for such child for a period beginning immediately following such birth or placement.

1.42 "Plan" means this instrument (hereinafter referred to as Nationwide Financial Services, Inc. Non-Standardized Governmental 401(a) Pre-Approved Plan (Basic Plan Document #03 and the Adoption Agreement) as adopted by the Employer, including all amendments thereto and any appendix which is specifically permitted pursuant to the terms of the Plan.

1.43 "Plan Year" means the Plan's accounting year as specified in the Adoption Agreement. Unless there is a Short Plan Year, the Plan Year will be a twelve-consecutive month period.

1.44 "Pre-Retirement Survivor Annuity" means an immediate annuity for the life of a Participant's Spouse, the payments under which must be equal to the benefit which can be provided with the percentage, as specified in the Adoption Agreement, of the Participant's Vested interest in the Plan as of the date of death. If no election is made in the Adoption Agreement, the percentage shall be equal to fifty percent (50%). Furthermore, if less than one hundred percent (100%) of the Participant's Vested interest in the Plan is used to provide the Pre-Retirement Survivor Annuity, a proportionate share of each of the Participant's Accounts subject to the Pre-Retirement Survivor Annuity shall be used to provide the Pre-Retirement Survivor Annuity.

1.45 "Regulation" means the Income Tax Regulations as promulgated by the Secretary of the Treasury or a delegate of the Secretary of the Treasury, and as amended from time to time.

1.46 "Retirement Date" means the date as of which a Participant retires for reasons other than Total and Permanent Disability, regardless of whether such retirement occurs on a Participant's Normal Retirement Date, Early Retirement Date or Late Retirement Date (see Section 6.1).

1.47 "Short Plan Year" means, if specified in the Adoption Agreement or as the result of an amendment, a Plan Year of less than a twelve (12) month period. If there is a Short Plan Year, the following rules shall apply in the administration of this Plan. In determining whether an Employee has completed a Year of Service (or Period of Service if the elapsed time method is used) for benefit accrual purposes in the Short Plan Year, the number of the Hours of Service (or months of service if the elapsed time method is used) required shall be proportionately reduced based on the number of days (or months) in the Short Plan Year.

1.48 "Spouse" means, a spouse as determined under federal tax law. In addition, with respect to benefits or rights not mandated by law, Spouse also includes a spouse as elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections).

1.49 "Terminated Participant" means a person who has been a Participant, but whose employment has been terminated with the Employer (including an Affiliated Employer) or applicable Participating Employer, other than by death, Total and Permanent Disability or retirement.

1.50 "Total and Permanent Disability" means, unless otherwise specified in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months. The disability of a Participant shall be determined by a licensed physician. However, if the condition constitutes total disability under the federal Social Security Acts, the Administrator may rely upon such determination that the Participant is Totally and Permanently Disabled for the purposes of this Plan. The determination shall be applied uniformly to all Participants.

1.51 "Trustee" means any person or entity that has agreed to serve as Trustee pursuant to the terms of the Trust agreement, or any successors thereto. The Employer may designate Trustees by business position or title. In addition, unless the context means, or the Plan provides, otherwise, the term "Trustee" shall mean the Insurer if the Plan is fully insured. The Employer has no reliance on the IRS opinion letter with respect to the separate Trust agreement.

1.52 "Trust Fund" means, if the Plan is funded with a trust, the assets of the Plan and Trust as the same shall exist from time to time.

1.53 "Valuation Date" means the date or dates specified in the Adoption Agreement. Regardless of any election to the contrary, for purposes of the determination and allocation of earnings and losses, the Valuation Date shall include the Anniversary Date and may include any other date or dates deemed necessary or appropriate by the Administrator for the valuation of Participants' Accounts during the Plan

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Year, which may include any day that the Trustee (or Insurer), any transfer agent appointed by the Trustee (or Insurer) or the Employer, or any stock exchange used by such agent, are open for business.

1.54 "Vested" means the nonforfeitable portion of any Account maintained on behalf of a Participant.

1.55 "Year of Service" means the computation period of twelve (12) consecutive months, herein set forth, and during which an Employee has completed at least 1,000 Hours of Service (unless a different number of Hours of Service is specified in the Adoption Agreement).

For purposes of eligibility for participation, the initial computation period shall begin with the date on which the Employee first performs an Hour of Service (employment commencement date). Unless otherwise elected in the Service Crediting Method Section of the Adoption Agreement, the succeeding computation periods shall begin on the anniversary of the Employee's employment commencement date. However, unless otherwise elected in the Adoption Agreement, if one (1) Year of Service or less is required as a condition of eligibility, then the computation period after the initial computation period shall shift to the current Plan Year which includes the anniversary of the date on which the Employee first performed an Hour of Service, and subsequent computation periods shall be the Plan Year. If there is a shift to the Plan Year, an Employee who is credited with the number of Hours of Service to be credited with a Year of Service in both the initial eligibility computation period and the first Plan Year which commences prior to the first anniversary of the Employee's initial eligibility computation period will be credited with two (2) Years of Service for purposes of eligibility to participate.

If two (2) (or more) Years of Service are required as a condition of eligibility, a Participant will only have completed two (2) (or more) Years of Service for eligibility purposes upon completing two (2) or more consecutive Years of Service without an intervening 1-Year Break in Service.

For vesting purposes, and all other purposes not specifically addressed in this Section, the computation period shall be the period elected in the Service Crediting Method Section of the Adoption Agreement. If no election is made in the Service Crediting Method Section of the Adoption Agreement, then the computation period shall be the Plan Year.

In determining Years of Service for purposes of vesting under the Plan, Years of Service will be excluded as elected in the Adoption Agreement and as specified in Section 3.5.

Years of Service and 1-Year Breaks in Service for eligibility purposes will be measured on the same eligibility computation period. Years of Service and 1-Year Breaks in Service for vesting purposes will be measured on the same vesting computation period.

Years of Service with any Affiliated Employer shall be recognized. Furthermore, Years of Service with any predecessor employer that maintained this Plan shall be recognized. Years of Service with any other employer shall be recognized as elected in the Adoption Agreement.

In the event the method of crediting service is amended from the elapsed time method to the Hour of Service method, an Employee will receive credit for Years of Service equal to:

(a) The number of Years of Service equal to the number of 1-year Periods of Service credited to the Employee as of the date of the amendment; and

(b) In the computation period which includes the date of the amendment, a number of Hours of Service (using the Hours of Service equivalency method, if any, elected in the Adoption Agreement) to any fractional part of a year credited to the Employee under this Section as of the date of the amendment.

ARTICLE II
ADMINISTRATION

2.1 POWERS AND RESPONSIBILITIES OF THE EMPLOYER

(a) **Appointment of Trustee (or Insurer) and Administrator.** In addition to the general powers and responsibilities otherwise provided for in this Plan, the Employer shall be empowered to appoint and remove one or more Trustees (or Insurers) and Administrators from time to time as it deems necessary for the proper administration of the Plan to ensure 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. The Employer may appoint counsel, specialists, advisers, agents (including any nonfiduciary agent) and other persons as the Employer deems necessary or desirable in connection with the exercise of its fiduciary duties under this Plan. The Employer may compensate such agents or advisers from the assets of the Plan as fiduciary expenses (but not including any business (settlor) expenses of the Employer), to the extent not paid by the Employer.

(b) **Appointment of Investment Manager.** Unless prohibited by the terms of the Trust agreement, the Employer may appoint, at its option, one or more Investment Managers, investment advisers, or other agents to provide investment direction to the Trustee (or Insurer) with respect to any or all of the Plan assets. Such appointment shall be given by the Employer in writing in a form

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acceptable to the Trustee (or Insurer) and shall specifically identify the Plan assets with respect to which the Investment Manager or other agent shall have the authority to direct the investment.

(c) **Indemnity.** To the extent permitted by the Code, and unless otherwise specified in a separate agreement, the Employer will indemnify and hold harmless the Administrator, officers, directors, shareholders, employees, and agents of the Employer; the Plan; the Trustees, Fiduciaries, Participants and Beneficiaries of the Plan, as well as their respective successors and assigns, against any cause of action, loss, liability, damage, cost, or expense of any nature whatsoever (including, but not limited to, attorney's fees and costs, whether or not suit is brought, as well as IRS plan disqualifications, and other sanctions or compliance fees) arising out of or relating to the Employer's noncompliance with any of the Plan's terms or requirements; any intentional or negligent act or omission the Employer commits with regard to the Plan; and any omission or provision of incorrect information with regard to the Plan which causes the Plan to fail to satisfy the requirements of a tax-qualified plan. This indemnity provision shall continue to apply to the Employer with respect to the period the entity was maintaining this Plan, even if the Employer ceases to maintain the Plan.

2.2 DESIGNATION OF ADMINISTRATIVE AUTHORITY

The Employer may appoint one or more Administrators. If the Employer does not appoint an Administrator, the Employer will be the Administrator. Any person, including, but not limited to, the Employees of the Employer, shall be eligible to serve as an Administrator. Any person so appointed shall signify acceptance by filing written or electronic acceptance with the Employer. An Administrator may resign by delivering a written resignation to the Employer or be removed by the Employer by delivery of written notice of removal, to take effect at a date specified therein, or upon delivery to the Administrator if no date is specified. Upon the resignation or removal of an Administrator, the Employer may designate in writing a successor to this position.

2.3 ALLOCATION AND DELEGATION OF RESPONSIBILITIES

If more than one person is appointed as Administrator, then the responsibilities of each Administrator may be specified by the Employer and accepted in writing by each Administrator. If no such delegation is made by the Employer, then the Administrators may allocate the responsibilities among themselves, in which event the Administrators shall notify the Employer and the Trustee (or Insurer) in writing of such action and specify the responsibilities of each Administrator. The Trustee (or Insurer) thereafter shall accept and rely upon any documents executed by the appropriate Administrator until such time as the Employer or the Administrators file with the Trustee (or Insurer) a written revocation of such designation.

2.4 POWERS AND DUTIES OF THE ADMINISTRATOR

The primary responsibility of the Administrator is to administer the Plan for the exclusive benefit of the Participants and their Beneficiaries, subject to the specific terms of the Plan. The Administrator shall administer the Plan in accordance with its terms and shall 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. Benefits under this Plan will be paid only if the Administrator decides in its discretion that the applicant is entitled to them. Any such determination by the Administrator shall 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 shall be deemed necessary or advisable to carry out the purpose of the Plan; provided, however, that any procedure, discretionary act, interpretation or construction shall be done based upon uniform principles consistently applied and shall be consistent with the intent that the Plan continue to be deemed a qualified plan under the terms of Code §401(a). The Administrator shall have all powers necessary or appropriate to accomplish its duties under this Plan.

The Administrator shall be charged with the duties of the general administration of the Plan and the powers necessary to carry out such duties as set forth under the terms of the Plan, including, but not limited to, the following:

(a) the discretion to determine all questions relating to the eligibility of an Employee to participate or remain a Participant hereunder and to receive benefits under the Plan;

(b) the authority to review and settle all claims against the Plan, including claims where the settlement amount cannot be calculated or is not calculated in accordance with the Plan's benefit formula. This authority specifically permits the Administrator to settle disputed claims for benefits and any other disputed claims made against the Plan;

(c) to compute, certify, and direct agents of the Plan respect to the amount and the kind of benefits to which any Participant shall be entitled hereunder;

(d) to authorize and direct the Trustee (or Insurer) with respect to all discretionary or otherwise directed disbursements from the Trust Fund;

(e) to maintain all necessary records for the administration of the Plan;

(f) to interpret the provisions of the Plan and to make and publish such rules for regulation of the Plan that are consistent with the terms hereof;

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(g) to determine the size and type of any Contract to be purchased from any Insurer, and to designate the Insurer from which such Contract shall be purchased;

(h) to compute and certify to the Employer and to the Trustee (or Insurer) from time to time the sums of money necessary or desirable to be contributed to the Plan;

(i) to consult with the Employer and agents of the Plan regarding the short and long-term liquidity needs of the Plan;

(j) to assist Participants regarding their rights, benefits, or elections available under the Plan; and

(k) to determine the validity of, and take appropriate action with respect to, any "qualified domestic relations order" received by it.

2.5 RECORDS AND REPORTS

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

2.6 APPOINTMENT OF ADVISERS

The Administrator may appoint counsel, specialists, advisers, agents (including nonfiduciary agents such as third party administrative services providers and recordkeepers) and other persons as the Administrator deems necessary or desirable in connection with the administration of this Plan, including but not limited to agents and advisers to assist with the administration and management of the Plan, and thereby to provide, among such other duties as the Administrator may appoint, assistance with maintaining Plan records and the providing of investment information to the Plan's investment fiduciaries and, if applicable, to Plan Participants.

2.7 INFORMATION FROM EMPLOYER

The Employer shall supply full and timely information to the Administrator on all pertinent facts as the Administrator may require in order to perform its functions hereunder and the Administrator shall advise appropriate agents of the Plan of such of the foregoing facts as may be pertinent to the agent's duties with respect to the Plan. The Administrator may rely upon such information as is supplied by the Employer and shall have no duty or responsibility to verify such information.

2.8 PAYMENT OF EXPENSES

All reasonable expenses of administration may be paid out of the Plan assets unless paid by the Employer. Such expenses shall include any expenses incident to the functioning of the Administrator, or any person or persons retained or appointed by any named fiduciary incident to the exercise of their duties under the Plan, including, but not limited to, fees of accountants, counsel, Investment Managers, agents (including nonfiduciary agents such as third party administrative services providers and recordkeepers) appointed for the purpose of assisting the Administrator or Trustee (or Insurer) in carrying out the instructions of Participants as to the directed investment of their Accounts (if permitted) and other specialists and their agents and other costs of administering the Plan. If liquid assets of the Plan are insufficient to cover the fees of the Trustee (or Insurer) or the Administrator, then Plan assets shall be liquidated to the extent necessary for such fees. In the event any part of the Plan assets becomes subject to tax, all taxes incurred will be paid from the Plan assets. Until paid, the expenses shall constitute a liability of the Trust Fund.

Expenses may be charged to Account. Unless specifically prohibited under statute, regulation or other guidance of general applicability, the Administrator may charge to the Account of an individual Participant a reasonable charge to offset the cost of making a distribution to the Participant, Beneficiary, or Alternate Payee.

2.9 MAJORITY ACTIONS

Except where there has been an allocation and delegation of administrative authority pursuant to Section 2.3, if there is more than one Administrator, then they shall act by a majority of their number, but may authorize one or more of them to sign all papers on their behalf.

2.10 CLAIMS PROCEDURES

(a) Non-ERISA provisions. Sections 2.10(a) and (b) apply unless (1) the Administrator has adopted other Plan provisions or other claims procedures that override all or a portion of the provisions set forth in this Plan Section 2.10, or (2) the Employer has elected in the Adoption Agreement to apply all or some of Subsections (c) – (g) below (which are based on provisions of the Employee Retirement Security Act even though ERISA does not apply to this Plan).

Any person who believes that he or she is entitled to a benefit under the Plan shall file with the Administrator a written notice of claim for such benefit within 45 days of such right accruing or shall forever waive entitlement to such benefit. Within 120 days after its receipt of such written notice of claim, the Administrator shall either grant or deny such claim provided, however, any delay on the part of the

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Administrator is arriving at a decision shall not adversely affect benefits payable under a granted claim. The Administrator may, however, implement claims procedures in addition to those provided in this Plan. The implementation of such procedures shall not be considered a Plan amendment that affects an Employer's reliance on this pre-approved plan.

The Administrator and all persons determining or reviewing claims have full discretion to determine benefit claims under the Plan. Any interpretation, determination or other action of such persons shall be subject to review only if it is arbitrary or capricious or otherwise an abuse of discretion. Any review of a final decision or action of the persons reviewing a claim shall be based only on such evidence presented to or considered by such persons at the time they made the decision that is the subject of review.

(b) Plan Administrator discretion; court review. The Administrator and all persons determining or reviewing claims have full discretion to determine benefit claims under the Plan. Any interpretation, determination or other action of such persons shall be subject to review only if it is arbitrary or capricious or otherwise an abuse of discretion. Any review of a final decision or action of the persons reviewing a claim shall be based only on such evidence presented to or considered by such persons at the time they made the decision that is the subject of review.

(c) Initial Claim. Claims for benefits under the Plan may be filed in writing with the Administrator. Written or electronic notice of the disposition of a claim shall be furnished to the claimant within ninety (90) days (45 days if the claim involves disability benefits and disability is not based on the Social Security Acts) after the application is filed, or such period as is required by applicable law or Department of Labor regulation. Any electronic notification shall comply with the standards imposed by Department of Labor Regulation §2520.104b 1(c)(1)(i), (iii) and (iv) or any subsequent guidance. In the event the claim is denied, the reasons for the denial shall be specifically set forth in the notice in language calculated to be understood by the claimant, pertinent provisions of the Plan shall be cited, and, where appropriate, an explanation as to how the claimant can perfect the claim will be provided. In addition, the claimant shall be furnished with an explanation of the Plan's claims review procedure.

(d) Claims review. Any Employee, Former Employee, or Beneficiary of either, who has been denied a benefit by a decision of the Administrator pursuant to Section 2.10 shall be entitled to request the Administrator to give further consideration to the claim by filing with the Administrator a written request. Such request, together with a written statement of the reasons why the claimant believes such claim should be allowed, shall be filed with the Administrator no later than sixty (60) days after receipt of the written notification provided for in this Section 2.10(c). A final decision as to the allowance of the claim shall be made by the Administrator within sixty (60) days (45 days if the claim involves disability benefits and disability is not based on the Social Security Acts) of receipt of the appeal (unless there has been an extension of sixty (60) days (45 days if the claim involves disability benefits and disability is not based on the Social Security Acts) due to special circumstances, provided the delay and the special circumstances occasioning it are communicated to the claimant within the sixty (60) day period (45 days if the claim involves disability benefits and disability is not based on the Social Security Acts)). Such communication shall be written in a manner calculated to be understood by the claimant and shall include specific reasons for the decision and specific references to the pertinent Plan provisions on which the decision is based. The communication may be written or electronic (provided the electronic communication complies with the standards imposed by Department of Labor Regulation §2520.104b 1(c)(1)(i), (iii) and (iv) or any subsequent guidance). Notwithstanding the preceding, to the extent any of the time periods specified in this Section are amended by law or Department of Labor regulation, then the time frames specified herein shall automatically be changed in accordance with such law or regulation.

(e) Deadline to file claim. To be considered timely under the Plan's claims procedures, a claim must be filed under Sections 2.10(c) or (d) above within one year after the claimant knew or reasonably should have known of the principal facts upon which the claim is based. Knowledge of all facts that the Participant knew or reasonably should have known shall be imputed to the claimant for the purpose of applying this deadline.

(f) Exhaustion of administrative remedies. The exhaustion of the claims procedures is mandatory for resolving every claim and dispute arising under this Plan. As to such claims and disputes: (1) no claimant shall be permitted to commence any legal action to recover Plan benefits or to enforce or clarify rights under the Plan or under any other provision of law, whether or not statutory, until the claims procedures set forth in Subsections (a) and (b) above have been exhausted in their entirety; and (2) in any such legal action all explicit and all implicit determinations by the Administrator (including, but not limited to, determinations as to whether the claim, or a request for a review of a denied claim, was timely filed) shall be afforded the maximum deference permitted by law.

(g) Deadline to file action. No legal action to recover Plan benefits or to enforce or clarify rights under the Plan or under any other provision of law, whether or not statutory, may be brought by any claimant on any matter pertaining to this Plan unless the legal action is commenced in the proper forum before the earlier of: (1) thirty (30) months after the claimant knew or reasonably should have known of the principal facts on which the claim is based, or (2) six (6) months after the claimant has exhausted the claims procedure under this Plan. Knowledge of all facts that the Participant knew or reasonably should have known shall be imputed to every claimant who is or claims to be a Beneficiary of the Participant or otherwise claims to derive an entitlement by reference to the Participant for purposes of applying the previously specified periods.

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ARTICLE III
ELIGIBILITY

3.1 CONDITIONS OF ELIGIBILITY

An Eligible Employee shall be eligible to participate hereunder on the date such Employee has satisfied the conditions of eligibility, if any, elected in the Adoption Agreement.

3.2 EFFECTIVE DATE OF PARTICIPATION

(a) **General rule.** An Eligible Employee who has satisfied the conditions of eligibility pursuant to Section 3.1 shall become a Participant effective as of the date elected in the Adoption Agreement.

(b) **Rehired Employee.** This Subsection only applies to the extent the Employer elects to apply the Break-in-Service rules in Appendix A to the Adoption Agreement. If the Break-in-Service rules do not apply, then a rehired Employee is treated as a new hire. If the Break-in-Service rules do apply, then if an Eligible Employee is not employed on the date determined pursuant to (a) above, but is reemployed before a 1-Year Break in Service has occurred, then such Eligible Employee shall become a Participant on the date of reemployment or, if later, the date that the Employee would have otherwise entered the Plan had the Employee not terminated employment. If such Employee incurs a 1-Year Break in Service, then eligibility will be determined under the 1-Year Break in Service rules set forth in Section 3.5.

(c) **Recognition of predecessor service.** Unless specifically provided otherwise in the Adoption Agreement, an Eligible Employee who satisfies the Plan's eligibility requirement conditions by reason of recognition of service with a predecessor employer will become a Participant as of the day the Plan credits service with a predecessor employer or, if later, the date the Employee would have otherwise entered the Plan had the service with the predecessor employer been service with the Employer.

(d) **Noneligible to eligible class.** If an Employee, who has satisfied the Plan's eligibility requirements and would otherwise have become a Participant, shall go from a classification of a noneligible Employee to an Eligible Employee, such Employee shall become a Participant on the date such Employee becomes an Eligible Employee or, if later, the date that the Employee would have otherwise entered the Plan had the Employee always been an Eligible Employee.

(e) **Eligible to noneligible class.** If an Employee, who has satisfied the Plan's eligibility requirements and would otherwise become a Participant, shall go from a classification of an Eligible Employee to a noneligible class of Employees, such Employee shall become a Participant in the Plan on the date such Employee again becomes an Eligible Employee, or, if later, the date that the Employee would have otherwise entered the Plan had the Employee always been an Eligible Employee. However, if such Employee incurs a 1-Year Break in Service, eligibility will be determined under the 1-Year Break in Service rules set forth in Section 3.5 (if applicable to the Plan).

3.3 DETERMINATION OF ELIGIBILITY

The Administrator shall determine the eligibility of each Employee for participation in the Plan based upon information furnished by the Employer. Such determination shall be conclusive and binding upon all persons, as long as the same is made pursuant to the Plan.

3.4 TERMINATION OF ELIGIBILITY

In the event a Participant shall go from a classification of an Eligible Employee to an ineligible Employee, such Participant shall continue to vest in the Plan for each Year of Service (or Period of Service, if the elapsed time method is used) completed while an ineligible Employee, until such time as the Participant's Account is forfeited or distributed pursuant to the terms of the Plan. Additionally, the Participant's interest in the Plan shall continue to share in the earnings of the Trust Fund in the same manner as Participants.

3.5 REHIRED EMPLOYEES AND 1-YEAR BREAKS IN SERVICE

(a) **Application of Break-in Service rules.** The Break-in-Service rules set forth in this Section only apply if the Employer elects to apply the Break-in-Service rules in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections). If the Employer does not elect to apply the Break-in-Service rules, then rehired Employees are treated as new hires.

(b) **Rehired Participant/immediate re-entry.** If any Former Employee who had been a Participant is reemployed by the Employer, then the Employee shall become a Participant as of the reemployment date, unless the Employee is not an Eligible Employee or unless the Employee does not satisfy the eligibility conditions taking into account prior service to the extent such prior service is not disregarded pursuant to Section 3.5(e) below. If such prior service is disregarded, then the rehired Eligible Employee shall be treated as a new hire.

(c) **Rehired Eligible Employee who satisfied eligibility.** If any Eligible Employee had satisfied the Plan's eligibility requirements but, due to a severance of employment, did not become a Participant, then such Eligible Employee shall become a Participant as of the later of (1) the entry date on which he or she would have entered the Plan had there been no severance of

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employment, or (2) the date of his or her re-employment. Notwithstanding the preceding, if the rehired Eligible Employee's prior service is disregarded pursuant to Section 3.5(e) below, then the rehired Eligible Employee shall be treated as a new hire.

(d) **Rehired Eligible Employee who had not satisfied eligibility.** If any Eligible Employee who had not satisfied the Plan's eligibility requirements is rehired after severance from employment, then such Eligible Employee shall become a Participant in the Plan in accordance with the eligibility requirements set forth in the Adoption Agreement and the Plan. However, in applying any shift in an eligibility computation period, the Eligible Employee is not treated as a new hire unless prior service is disregarded in accordance with Section 3.5(e) below.

(e) **Reemployed after five (5) 1-Year Breaks in Service ("rule of parity" provisions).** If the Employer elects in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) to apply the "rule of parity" provisions, then if any Employee is reemployed after five (5) 1-Year Breaks in Service has occurred, Years of Service (or Periods of Service if the elapsed time method is being used) shall include Years of Service (or Periods of Service if the elapsed time method is being used) prior to the 5-Year Break in Service subject to the rules set forth below. The Employer may elect in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) to make the provisions of this paragraph applicable for purposes of eligibility and/or vesting.

(1) In the case of a Former Employee who under the Plan does not have a nonforfeitable right to any interest in the Plan resulting from Employer contributions, Years of Service (or Periods of Service) before a period of 1-Year Breaks in Service will not be taken into account if the number of consecutive 1-Year Breaks in Service equals or exceeds the greater of (i) five (5) or (ii) the aggregate number of pre-break Years of Service (or Periods of Service). Such aggregate number of Years of Service (or Periods of Service) will not include any Years of Service (or Periods of Service) disregarded under the preceding sentence by reason of prior 1-Year Breaks in Service;

(2) A Former Employee who has not had Years of Service (or Periods of Service) before a 1-Year Break in Service disregarded pursuant to (1) above, shall participate in the Plan as of the date of reemployment, or if later, as of the date the Former Employee would otherwise enter the Plan pursuant to Sections 3.1 and 3.2 taking into account all service not disregarded.

(f) **Vesting after five (5) 1-Year Breaks in Service.** If the Employer elects in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) to apply the Break-in-Service rules, then if f. a Participant incurs five (5) consecutive 1-Year Breaks in Service, the Vested portion of such Participant's Account attributable to pre-break service shall not be increased as a result of post-break service. In such case, separate accounts will be maintained as follows:

(1) one account for nonforfeitable benefits attributable to pre-break service; and

(2) one account representing the Participant's Employer-derived Account balance in the Plan attributable to post-break service.

(g) **Waiver of allocation or contribution conditions.** If the Employer elects in the Adoption Agreement to waive allocations or contributions due to retirement (early or normal retirement), then a Participant shall only be entitled to one such waiver. Accordingly, if a Participant retires and allocation or contribution conditions are waived, then the Plan will not waive the allocation or contribution conditions if the Participant is rehired and then retires again.

3.6 ELECTION NOT TO PARTICIPATE

An Employee may, subject to the approval of the Employer, elect voluntarily not to participate in any component of the Plan before the Employee first becomes eligible to participate in any qualified plan (subject to Code §401(a)), or any other plan or arrangement of the employer that is described in Code section 219(g)(5)(A) (whether or not terminated) maintained by the Employer. Such election must be made upon inception of the Plan or such other plan or arrangement or at any time prior to the time the Employee first becomes eligible to participate under any such plan maintained by the Employer. The election not to participate must be irrevocable and communicated to the Employer, in writing, within a reasonable period of time before the date the Employee would have otherwise entered the Plan. Notwithstanding anything in this Section to the contrary, if any prior Plan document of this Plan contained a provision permitting an Employee to make a revocable election not to participate and an Employee made such revocable election not to participate while that prior Plan document was in effect, then such Employee's waiver shall continue to be in effect.

3.7 OMISSION OF ELIGIBLE EMPLOYEE; INCLUSION OF INELIGIBLE EMPLOYEE

If, in any Plan Year, any Employee who should be included as a Participant in the Plan is erroneously omitted and discovery of such omission is not made until after a contribution by the Employer for the year has been made and allocated, or any person who should not have been included as a Participant in the Plan is erroneously included, then the Employer may take corrective actions consistent with, the IRS Employee Plans Compliance Resolution System (i.e., Rev. Proc. 2018-52, Rev. Proc. 2019-19, or any subsequent guidance).

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ARTICLE IV
CONTRIBUTION AND ALLOCATION

4.1 FORMULA FOR DETERMINING EMPLOYER'S CONTRIBUTION

(a) **For a Money Purchase Plan.** All contributions made by the Employer will be made in cash. For each Plan Year, the Employer will contribute to the Plan the following:

(1) The amount of any mandatory Employee contributions and after-tax voluntary Employee contributions made by Participants; plus

(2) On behalf of each Participant eligible to share in allocations, for each year of such Participant's participation in this Plan, the Employer will contribute the amount specified in the Adoption Agreement; plus

(3) If elected in the Adoption Agreement, a matching contribution equal to the amount specified in the Adoption Agreement of each Participant eligible to share in the allocations of the matching contribution, which amount shall be deemed an Employer matching contribution.

(b) **For a 401(a) Plan.** For each Plan Year, the Employer will (or may with respect to any discretionary contributions) contribute to the Plan:

(1) The amount of any mandatory Employee contributions and after-tax voluntary Employee contributions; plus

(2) If elected in the Adoption Agreement, a matching contribution equal to the amount specified in the Adoption Agreement of each Participant eligible to share in the allocations of the matching contribution, which amount shall be deemed an Employer matching contribution; plus

(3) If elected in the Adoption Agreement, an Employer contribution equal to a specified contribution or a discretionary amount determined each year by the Employer.

(c) **Frozen Plans.** The Employer may designate that the Plan is a frozen Plan at the Contribution Types Section of the Adoption Agreement. As a frozen Plan, the Employer will not make any Employer contributions with respect to Compensation earned after the date the Plan is frozen. In addition, once a Plan is frozen, no additional Employees shall become Participants.

(d) **Union Employees**. Regardless of any provision in this Plan to the contrary, Employees whose employment is governed by a collective bargaining agreement between the Employer and "employee representatives" under which retirement benefits were the subject of good faith bargaining shall be eligible to participate in this Plan to the extent of employment covered by such agreement provided the agreement provides for coverage in the Plan. The benefits, including but not limited to, contributions, allocations and vesting, under this Plan shall be those set forth in the Adoption Agreement. For this purpose, the term "employee representatives" does not include any organization more than half of whose members are employees who are owners, officers, or executives of the Employer. If a Participant performs services both as a collectively bargained Employee and as a non-collectively bargained Employee, then the Participant's Hours of Service and Compensation in each respective category are treated separately for purposes of the Plan.

(e) **Social Security Replacement Plan.** The Employer may elect under the Adoption Agreement to indicate its intention to qualify this Plan as a Social Security Replacement Plan under Code §3121(b)(7)(F). If the Employer makes the election to qualify the Plan as a Social Security Replacement Plan, the Plan will allocate a minimum contribution amount (Employer and Employee Contributions) of seven and one-half percent (7.5%) of Compensation. The Plan will consider each Participant a member of a retirement system that provides benefits comparable to the benefits he or she would have received under Social Security. In the case of part-time, seasonal and temporary Employees, the benefit will be nonforfeitable.

4.2 TIME OF PAYMENT OF EMPLOYER'S CONTRIBUTION

Unless otherwise provided by contract or law, the Employer may make its contribution to the Plan for a particular Plan Year at such time as the Employer, in its sole discretion, determines. If the Employer makes a contribution for a particular Plan Year after the close of that Plan Year, the Employer will designate to the Administrator the Plan Year for which the Employer is making its contribution.

4.3 ALLOCATION OF CONTRIBUTION, FORFEITURES AND EARNINGS

(a) **Separate accounting.** The Administrator shall establish and maintain an Account in the name of each Participant to which the Administrator shall credit as of each Anniversary Date, or other Valuation Date, all amounts allocated to each such Participant as set forth herein.

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(b) **Allocation of contributions.** The Employer shall provide the Administrator with all information required by the Administrator to make a proper allocation of the Employer's contribution, if any, for each Plan Year. Within a reasonable period of time after the date of receipt by the Administrator of such information, the Administrator shall allocate any contributions as follows:

(1) **Money Purchase Pension Plan.** For a Money Purchase Plan:

(i) The Employer's contribution shall be allocated to each Participant's Account in the manner set forth in Section 4.1 herein and as specified in the Adoption Agreement.

(ii) Notwithstanding the preceding provisions, a Participant shall only be eligible to share in the allocations of the Employer's contribution for the year if the Participant is an Eligible Employee at any time during the year and the conditions set forth in the Adoption Agreement are satisfied.

(2) **401(a) Plan.** For a 401(a) Plan (which is a profit sharing plan within the meaning of Code §401(a)):

(i) The Employer's contribution shall be allocated to each Participant's Account in accordance with the allocation method that corresponds with the elections in the Adoption Agreement. The Employer shall provide the Administrator with all information required by the Administrator to make a proper allocation of the Employer's contribution for each Plan Year. Within a reasonable period of time after the date of receipt by the Administrator of such information, the allocation shall be made in accordance with the elections in the Adoption Agreement.

(ii) Notwithstanding the preceding provision, a Participant shall only be eligible to share in the allocations of the Employer's contribution for the year if the Participant is an Eligible Employee at any time during the year and the conditions set forth in the Adoption Agreement are satisfied.

(c) **Gains or losses.** Except as otherwise provided in Section 4.10 with respect to Participant Directed Accounts, as of each Valuation Date, before allocation of any Employer contributions and Forfeitures, any earnings or losses (net appreciation or net depreciation) of the Trust Fund (exclusive of assets segregated for distribution) shall be allocated in accordance with such rules and procedures that are established by the Administrator and that are applied in a uniform and nondiscriminatory manner based upon the investments of the Trust Fund and the Participants' accounts to which the net income is allocated. For purposes of this Section, the term "net income" means the net of any interest, dividends, unrealized appreciation and depreciation, capital gains and losses, and investment expenses of the Trust Fund determined on each Valuation Date. However, Participants' accounts which have been segregated for investment purposes (including any Participant Directed Accounts) will only have the net income earned thereon allocated thereto. Policy dividends or credits will be allocated to the Participant's Account for whose benefit the Policy is held.

Recapture account. The Administrator in its discretion may use a "Recapture Account" to pay non settlor Plan expenses and may allocate funds in the "Recapture Account" (or excess funds therein after payment of Plan expenses) as earnings or as otherwise permitted by applicable law. The Administrator will exercise its discretion in a reasonable, uniform and nondiscriminatory manner. A "Recapture Account" is an account designated to receive amounts which a Plan service provider receives in the form of 12b 1 fees, sub transfer agency fees, shareholder servicing fees or similar amounts (also known as "revenue sharing"), which are received by the service provider from a source other than the Plan and which the service provider may remit to the Plan.

Late trading and market timing settlement. In the event the Plan becomes entitled to a settlement from a mutual fund or other investment relating to late trading, market timing or other activities, the Administrator will allocate the settlement proceeds to Participants and Beneficiaries in accordance with Department of Labor Field Assistance Bulletin 2006-01 or other applicable law.

(d) **Contracts.** Participants' Accounts shall be debited for any insurance or annuity premiums paid, if any, and credited with any dividends or interest received on Contracts.

(e) **Forfeitures.** Forfeitures must be disposed of no later than the last day of the Plan Year following the Plan Year in which the Forfeiture occurs. The Employer may direct the Administrator to use Forfeitures to satisfy any contribution that may be required pursuant to Section 6.10 or to pay any Plan expenses. With respect to a Money Purchase Plan, any remaining Forfeitures will be disposed of in accordance with the elections in the Adoption Agreement. With respect to all other plans, the Employer must direct the Administrator to use any remaining Forfeitures in accordance with any combination of the following methods, including a different method based on the source of such Forfeitures. Forfeitures may be:

(1) Added to any Employer discretionary contribution and allocated in the same manner

(2) Used to reduce any Employer contribution

(3) Added to any Employer matching contribution and allocated as an additional matching contribution

(4) Allocated to all Participants in the same proportion that each Participant's Compensation for the Plan Year bears to the Compensation of all Participants for such year

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If Forfeitures are allocated to Participants (rather than used to reduce Employer contributions) then the Employer must also direct the Administrator as to which Participants are eligible to share in such allocation.

(f) **Delay in processing transactions.** Notwithstanding anything in this Section to the contrary, all information necessary to properly reflect a given transaction may not be available until after the date specified herein for processing such transaction, in which case the transaction will be reflected when such information is received and processed. Subject to express limits that may be imposed under the Code, the processing of any contribution, distribution or other transaction may be delayed for any legitimate business reason (including, but not limited to, failure of systems or computer programs, failure of the means of the transmission of data, force majeure, the failure of a service provider to timely receive values or prices, and correction for errors or omissions or the errors or omissions of any service provider). The processing date of a transaction will be binding for all purposes of the Plan.

4.4 MAXIMUM ANNUAL ADDITIONS

(a) **Calculation of "annual additions."**

(1) If a Participant does not participate in, and has never participated in another qualified plan maintained by the "employer," or a welfare benefit fund (as defined in Code §419(e)) maintained by the "employer," or an individual medical benefit account (as defined in Code §415(l)(2)) maintained by the "employer," or a simplified employee pension (as defined in Code §408(k)) maintained by the "employer" which provides "annual additions," the amount of "annual additions" which may be credited to the Participant's Accounts for any Limitation Year shall not exceed the lesser of the "maximum permissible amount" or any other limitation contained in this Plan. If the "employer" contribution that would otherwise be contributed or allocated to the Participant's Accounts would cause the "annual additions" for the Limitation Year to exceed the "maximum permissible amount," the amount contributed or allocated will be reduced so that the "annual additions" for the Limitation Year will equal the "maximum permissible amount," and any amount in excess of the "maximum permissible amount" which would have been allocated to such Participant may be allocated to other Participants.

(2) Prior to determining the Participant's actual 415 Compensation for the Limitation Year, the "employer" may determine the "maximum permissible amount" for a Participant on the basis of a reasonable estimation of the Participant's 415 Compensation for the Limitation Year, uniformly determined for all Participants similarly situated.

(3) As soon as is administratively feasible after the end of the Limitation Year, the Administrator shall determine the "maximum permissible amount" for each Participant for such Limitation Year on the basis of the Participant's actual 415 Compensation for such Limitation Year.

(b) "**Annual additions" if a Participant is in more than one plan.**

(1) Except as provided in Subsection (c) below, this Subsection applies if, in addition to this Plan, a Participant is covered under another "employer" maintained qualified defined contribution plan, welfare benefit fund (as defined in Code §419(e)), individual medical benefit account (as defined in Code §415(l)(2)), or simplified employee pension (as defined in Code §408(k)), which provides "annual additions," during any Limitation Year. The "annual additions" which may be credited to a Participant's Accounts under this Plan for any such Limitation Year shall not exceed the "maximum permissible amount" reduced by the "annual additions" credited to a Participant's Accounts under the other plans and welfare benefit funds, individual medical benefit accounts, and simplified employee pensions for the same Limitation Year. If the "annual additions" with respect to the Participant under other defined contribution plans and welfare benefit funds maintained by the "employer" are less than the "maximum permissible amount" and the "employer" contribution that would otherwise be contributed or allocated to the Participant's Accounts under this Plan would cause the "annual additions" for the Limitation Year to exceed this limitation, the amount contributed or allocated will be reduced so that the "annual additions" under all such plans and welfare benefit funds for the Limitation Year will equal the "maximum permissible amount," and any amount in excess of the "maximum permissible amount" which would have been allocated to such Participant may be allocated to other Participants. If the "annual additions" with respect to the Participant under such other defined contribution plans, welfare benefit funds, individual medical benefit accounts and simplified employee pensions in the aggregate are equal to or greater than the "maximum permissible amount," no amount will be contributed or allocated to the Participant's Account under this Plan for the Limitation Year.

(2) Prior to determining the Participant's actual 415 Compensation for the Limitation Year, the "employer" may determine the "maximum permissible amount" for a Participant on the basis of a reasonable estimation of the Participant's 415 Compensation for the Limitation Year, uniformly determined for all Participants similarly situated.

(3) As soon as is administratively feasible after the end of the Limitation Year, the Administrator shall determine the "maximum permissible amount" for each Participant for such Limitation Year on the basis of the Participant's actual 415 Compensation for the Limitation Year.

(4) If, pursuant to Section 4.4(b)(2), a Participant's "annual additions" under this Plan and such other plans would result in an "excess amount" for a Limitation Year, the "excess amount" will be deemed to consist of the "annual additions" last allocated, except that "annual additions" attributable to a simplified employee pension will be deemed to have been allocated first,

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followed by "annual additions" to a welfare benefit fund or individual medical benefit account, and then by "annual additions" to a plan subject to Code §412, regardless of the actual allocation date.

(5) If an "excess amount" was allocated to a Participant on an allocation date of this Plan which coincides with an allocation date of another plan, the "excess amount" attributed to this Plan will be the product of:

(i) the total "excess amount" allocated as of such date, times

(ii) the ratio of (A) the "annual additions" allocated to the Participant for the Limitation Year as of such date under this Plan to (B) the total "annual additions" allocated to the Participant for the Limitation Year as of such date under this and all the other qualified defined contribution plans.

(c) **Coverage under another plan.** If the Participant is covered under another qualified defined contribution plan maintained by the "employer," "annual additions" which may be credited to the Participant's Accounts under this Plan for any Limitation Year will be limited in accordance with Section 4.4(b), unless the "employer" provides other limitations in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections).

(d) **Time when "annual additions" credited.** An "annual addition" is credited to the Account of a Participant for a particular Limitation Year if it as allocated to the Participant's Account under the Plan as of any date within that Limitation Year. However, an amount is not deemed allocated as of any date within a Limitation Year if such allocation is dependent upon participation in the Plan as of any date subsequent to such date.

For purposes of this subparagraph, "employer" contributions are treated as credited to a Participant's Account for a particular Limitation Year only if the contributions are actually made to the Plan no later than the 15th day of the tenth calendar month following the end of the calendar year or Fiscal Year (as applicable, depending on the basis on which the Employer keeps its books) with or within which the particular Limitation Year ends.

(e) **Definitions.** For purposes of this Section, the following terms shall be defined as follows:

(1) **"Annual additions"** means the sum credited to a Participant's Accounts for any Limitation Year of (a) "employer" contributions, (b) Employee contributions (except as provided below), (c) Forfeitures, (d) amounts allocated to an individual medical benefit account, as defined in Code §415(l)(2), which is part of a pension or annuity plan maintained by the "employer," (e) amounts derived from contributions paid or accrued which are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Code §419A(d)(3)) under a welfare benefit fund (as defined in Code §419(e)) maintained by the "employer" and (f) allocations under a simplified employee pension. Except, however, the Compensation percentage limitation referred to in paragraph (e)(5)(ii) below shall not apply to: (1) any contribution for medical benefits (within the meaning of Code §419A(f)(2)) after separation from service which is otherwise treated as an "annual addition," or (2) any amount otherwise treated as an "annual addition" under Code §415(l)(1).

(i) **Restorative payments.** "Annual additions" for purposes of Code §415 and this Section shall not include restorative payments. A restorative payment is a payment made to restore losses to a Plan resulting from actions by a fiduciary for which there is reasonable risk of liability for breach of a fiduciary duty under applicable federal or state law, where Participants who are similarly situated are treated similarly with respect to the payments. Generally, payments are restorative payments only if the payments are made in order to restore some or all of the Plan's losses due to an action (or a failure to act) that creates a reasonable risk of liability for such a breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the Plan). Payments made to the Plan to make up for losses due merely to market fluctuations and other payments that are not made on account of a reasonable risk of liability for breach of a fiduciary duty are not restorative payments and generally constitute contributions that are considered "annual additions."

(ii) **Other amounts.** "Annual additions" for purposes of Code §415 and this Section shall not include: (A) The direct transfer of a benefit or employee contributions from a qualified plan to this Plan; (B) Rollover contributions (as described in Code §§401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)); (C) Repayments of loans made to a Participant from the Plan; and (D) Repayments of amounts described in Code §411(a)(7)(B) (in accordance with Code §411(a)(7)(C)) and Code §411(a)(3)(D) or repayment of contributions to a governmental plan (as defined in Code §414(d)) as described in Code §415(k)(3), as well as Employer restorations of benefits that are required pursuant to such repayments.

(2) **"Defined contribution dollar limitation"** means $56,000 (or the amount as adjusted under Code §415(d)).

(3) **"Employer"** means, for purposes of this Section, the Employer that adopts this Plan and all Affiliated Employers.

(4) **"Excess amount"** means the excess of the Participant's "annual additions" for the Limitation Year over the "maximum permissible amount."

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(5) **"Maximum permissible amount"** means, except to the extent permitted under this Plan and Code §414(v), the maximum "annual addition" that may be contributed or allocated to a Participant's Accounts under the Plan for any Limitation Year, which shall not exceed the lesser of:

(i) the "defined contribution dollar limitation," or

(ii) one hundred percent (100%) of the Participant's 415 Compensation for the Limitation Year.

The 415 Compensation Limitation referred to in (ii) shall not apply to any contribution for medical benefits after separation from service (within the meaning of Code §§401(h) or 419A(f)(2)) which is otherwise treated as an "annual addition."

If a short Limitation Year is created because of an amendment changing the Limitation Year to a different twelve (12) consecutive month period, the "maximum permissible amount" will not exceed the "defined contribution dollar limitation" multiplied by a fraction, the numerator of which is the number of months in the short Limitation Year and the denominator of which is twelve (12).

(f) **Special rules.**

(1) **Aggregation of plans**. For purposes of applying the limitations of Code §415, all defined contribution plans (without regard to whether a plan has been terminated) ever maintained by the "employer" (or a "predecessor employer") under which the Participant receives "annual additions" (including voluntary employee contribution accounts in a defined benefit plan, mandatory contributions to a defined benefit plan, individual medical benefit accounts under§401(h), key employee accounts under a welfare benefit plan described in §419, and simplified employee pensions under§408(k)) of the employer or a predecessor employer, whether or not terminated, will be treated as one defined contribution plan for purposes of the limitations under§ 415(c). Where the employer is a member of a controlled group of corporations or commonly controlled trades or businesses, or a member of an affiliated service group, within the meaning of §§414(b), (c) or (m) and §415(g) and (h), the plan must provide that all such employers are treated as a single employer for purposes of the Plan's application of the §415 limitations. Notwithstanding the preceding, multiemployer plans are not aggregated with other multiemployer plans for purposes of §415. For purposes of this Section:

(i) A former "employer" is a "predecessor employer" with respect to a participant in a plan maintained by an "employer" if the "employer" maintains a plan under which the participant had accrued a benefit while performing services for the former "employer", but only if that benefit is provided under the plan maintained by the "employer". For this purpose, the "formerly affiliated plan" rules in Regulation §1.415(f)-1(b)(2) apply as if the "employer" and "predecessor employer" constituted a single employer under the rules described in Regulation §1.415(a)-1(f)(1) and (2) immediately prior to the "cessation of affiliation" (and as if they constituted two, unrelated employers under the rules described in Regulation §1.415(a)-1(f)(1) and (2) immediately after the "cessation of affiliation") and "cessation of affiliation" was the event that gives rise to the "predecessor employer" relationship, such as a transfer of benefits or plan sponsorship.

(ii) With respect to an "employer" of a Participant, a former entity that antedates the "employer" is a "predecessor employer" with respect to the Participant if, under the facts and circumstances, the "employer" constitutes a continuation of all or a portion of the trade or business of the former entity.

(2) **Break-up of an affiliated employer or an affiliated service group.** For purposes of aggregating plans for Code §415, a "formerly affiliated plan" of an "employer" is taken into account for purposes of applying the Code §415 limitations to the "employer," but the "formerly affiliated plan" is treated as if it had terminated immediately prior to the "cessation of affiliation." For purposes of this paragraph, a "formerly affiliated plan" of an "employer" is a plan that, immediately prior to the "cessation of affiliation," was actually maintained by one or more of the entities that constitute the "employer" (as determined under the employer affiliation rules described in Regulation §1.415(a)-1(f)(1) and (2)), and immediately after the "cessation of affiliation," is not actually maintained by any of the entities that constitute the "employer" (as determined under the employer affiliation rules described in Regulation §1.415(a)-1(f)(1) and (2)). For purposes of this paragraph, a "cessation of affiliation" means the event that causes an entity to no longer be aggregated with one or more other entities as a single "employer" under the employer affiliation rules described in Regulation §1.415(a)-1(f)(1) and (2) (such as the sale of a subsidiary outside a controlled group), or that causes a plan to not actually be maintained by any of the entities that constitute the "employer" under the employer affiliation rules of Regulation §1.415(a)-1(f)(1) and (2) (such as a transfer of plan sponsorship outside of a controlled group).

(3) **Mid-year aggregation.** Two or more defined contribution plans that are not required to be aggregated pursuant to Code §415(f) and the Regulations thereunder as of the first day of a Limitation Year do not fail to satisfy the requirements of Code §415 with respect to a Participant for the Limitation Year merely because they are aggregated later in that Limitation Year, provided that no "annual additions" are credited to the Participant's Account after the date on which the plans are required to be aggregated.

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4.5 ADJUSTMENT FOR EXCESS ANNUAL ADDITIONS

Notwithstanding any provision of the Plan to the contrary, if the "annual additions" (as defined in Section 4.4) are exceeded for any Participant, then the Plan may only correct such excess in accordance with the Employee Plans Compliance Resolution System (EPCRS) as set forth in Rev. Proc. 2018-52, Rev. Proc. 2019-19, or any superseding guidance.

4.6 ROLLOVERS

(a) **Acceptance of "rollovers" into the Plan.** If elected in the Adoption Agreement and with the consent of the Administrator, the Plan may accept a "rollover," provided the "rollover" will not jeopardize the tax-exempt status of the Plan or create adverse tax consequences for the Employer. The amounts rolled over shall be separately accounted for in a "Participant's Rollover Account." A Participant's Rollover Account shall be fully Vested at all times and shall not be subject to Forfeiture for any reason. For purposes of this Section, the term Participant shall include any Eligible Employee who is not yet a Participant, if, pursuant to the Adoption Agreement, "rollovers" are permitted to be accepted from Eligible Employees. In addition, for purposes of this Section the term Participant shall also include Former Employees elected in the Adoption Agreement. Regardless of whether new loans are permitted, if the Plan permits rollovers, the Administrator may, in a uniform and nondiscriminatory manner, accept rollovers of loans into this Plan if the terms of such loans meet the requirements of being definite, have a reasonable rate of interest, and/or have a definite repayment period (e.g., an asset purchase acquisition whereby the Employer may choose to accept the rollover of Participant loans from a prior employer in a uniform and nondiscriminatory manner).

(b) **Treatment of "rollovers" under the Plan.** Amounts in a Participant's Rollover Account shall be held by the Trustee (or Insurer) pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as elected in the Adoption Agreement and Subsection (c) below. The Trustee (or Insurer) shall have no duty or responsibility to inquire as to the propriety of the amount, value or type of assets transferred, nor to conduct any due diligence with respect to such assets; provided, however, that such assets are otherwise eligible to be held by the Trustee (or Insurer) under the terms of this Plan.

(c) **Distribution of "rollovers."** At such time as the conditions set forth in the Adoption Agreement have been satisfied, the Administrator, at the election of the Participant, shall direct the distribution of up to the entire amount credited to the Rollover Account maintained on behalf of such Participant. Any distribution of amounts held in a Participant's Rollover Account shall be made in a manner which is consistent with and satisfies the provisions of Sections 6.5 and 6.6. Furthermore, unless otherwise elected in the Adoption Agreement, such amounts shall be considered to be part of a Participant's benefit in determining whether an involuntary cash-out of benefits may be made without Participant consent.

(d) **"Rollovers" maintained in a separate account.** The Administrator may direct that "rollovers" made after a Valuation Date be segregated into a separate account for each Participant until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated, invested as part of the general Trust Fund or, if elected in the Adoption Agreement, directed by the Participant.

(e) **Limits on accepting "rollovers."** Prior to accepting any "rollovers" to which this Section applies, the Administrator may require the Employee to establish (by providing opinion of counsel or otherwise) that the amounts to be rolled over to this Plan meet the requirements of this Section. The Employer may instruct the Administrator, operationally, to limit the source of "rollover" contributions that may be accepted by the Plan.

(f) **Definitions.** For purposes of this Section, the following definitions shall apply:

(1) A "rollover" means: (i) amounts transferred to this Plan directly from another "eligible retirement plan;" (ii) distributions received by an Employee from other "eligible retirement plans" which are eligible for tax-free rollover to an "eligible retirement plan" and which are transferred by the Employee to this Plan within sixty (60) days following receipt thereof; and (iii) any other amounts which are eligible to be rolled over to this Plan pursuant to the Code or any other federally enacted legislation.

(2) An "eligible retirement plan" means an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b) (other than an endowment contract), a qualified trust (an employees' trust described in Code §401(a) which is exempt from tax under Code §501(a)), an annuity plan described in Code §403(a), an eligible deferred compensation plan described in Code §457(b) which is maintained by an eligible employer described in Code §457(e)(1)(A), and an annuity contract described in Code §403(b).

(g) **Pre-Participation Rollovers.** If an Eligible Employee makes a Rollover Contribution to the Plan prior to satisfying the Plan's eligibility conditions or prior to reaching his or her Entry Date, then the Administrator will treat the Employee as a limited Participant (as described in Rev. Rul. 96 48). A limited Participant does not share in the Plan's allocation of Employer Contributions nor Forfeitures until the Employee actually becomes a Participant in the Plan.

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4.7 PLAN-TO-PLAN TRANSFERS FROM QUALIFIED PLANS

(a) **Transfers into this Plan.** With the consent of the Administrator, amounts may be transferred (within the meaning of Code §414(l)) to this Plan from other tax qualified plans under Code §401(a), provided the plan from which such funds are transferred permits the transfer to be made and the transfer will not jeopardize the tax-exempt status of the Plan or Trust or create adverse tax consequences for the Employer. Prior to accepting any transfers to which this Section applies, the Administrator may require an opinion of counsel that the amounts to be transferred meet the requirements of this Section. The amounts transferred shall be set up in a separate account herein referred to as a "Participant's Transfer Account." Furthermore, for vesting purposes, the Participant's Transfer Account may be treated as a separate "Participant's Account."

(b) **Accounting of transfers.** Amounts in a Participant's Transfer Account shall be held by the Trustee (or Insurer) pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as elected in the Adoption Agreement and Subsection (d) below, provided the restrictions of Subsection (c) below and Section 6.16 are satisfied. The Trustee (or Insurer) shall have no duty or responsibility to inquire as to the propriety of the amount, value or type of assets transferred, nor to conduct any due diligence with respect to such assets; provided, however, that such assets are otherwise eligible to be held by the Trustee (or Insurer) under the terms of this Plan. Notwithstanding anything in this Section to the contrary, transferred amounts are not required to be separately accounted for and may be combined with the corresponding Account maintained in this Plan provided all rights, benefits and features and other attributes are identical with respect to each account, or are identical after the combination.

(c) **Distribution of plan–to-plan transfer amounts.** At Normal Retirement Date, or such other date when the Participant or the Participant's Beneficiary shall be entitled to receive benefits, the Participant's Transfer Account shall be used to provide additional benefits to the Participant or the Participant's Beneficiary. Any distribution of amounts held in a Participant's Transfer Account shall be made in a manner which is consistent with and satisfies the provisions of Sections 6.5 and 6.6. Furthermore, such amounts shall be considered to be part of a Participant's benefit in determining whether an involuntary cash-out of benefits may be made without Participant consent.

(d) **Segregation.** The Administrator may direct that Employee transfers made after a Valuation Date be segregated into a separate account for each Participant until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated, invested as part of the general Trust Fund or, if elected in the Adoption Agreement, directed by the Participant.

(e) **Pre-Participation Transfers.** The Administrator has the discretion to accept a Transfer of plan assets on behalf of an Employee prior to the date the Employee satisfies the Plan's eligibility conditions or prior to reaching the Entry Date in a uniform and nondiscretionary manner. If the Plan accepts such a direct transfer of plan assets, then the Administrator will treat the Employee as a limited Participant pursuant to Section 4.6(g).

4.8 MANDATORY EMPLOYEE CONTRIBUTIONS

(a) **Mandatory Employee contributions.** An Employer may elect in the Adoption Agreement to provide for mandatory Employee contributions. If the Employer elects to provide for such contributions, each Participant, will make a mandatory Employee contribution in the amount elected in the Adoption Agreement. Alternatively, the Employer may elect to provide a range of mandatory Employee contribution percentages from which the Participant may choose to contribute. Under this option, the Employee, if required as a condition of employment, must make an irrevocable election to contribute a percentage of his or her Compensation no later than his or her effective date of participation. If not required as a condition of employment, such mandatory Employee contribution election shall be made prior to participation in the Plan. During the period of the Participant's participation in the Plan, the Participant may not revoke the election and receive cash in lieu of the contribution, nor may the Participant change the amount of the mandatory Employee contribution. Amounts attributable to mandatory Employee contributions shall be fully Vested.

(b) **Employer pick-up contribution.** Unless otherwise elected in the Adoption Agreement, the Employer will "pick-up" the mandatory Employee contributions and will pay the mandatory Employee contributions to the Plan as an Employer contribution. This provision is effective only after the Employer provides for the treatment of the mandatory Employee contributions as described in this paragraph, through a person authorized to take such action, and evidenced in writing by minutes of a meeting, resolution, ordinance, or other formal action by the Employer, which will effectuate the "pick-up" provision. Furthermore, as of the date of the "pick-up," Participants are not permitted to opt-out of the "pick-up" or to receive the mandatory Employee contributions directly instead of having them paid to the Plan. Mandatory Employee contributions that are "picked-up" by the Employer are excludible from the Employee's gross income.

4.9 AFTER-TAX VOLUNTARY EMPLOYEE CONTRIBUTIONS

(a) **After-tax voluntary Employee contributions.** If elected in the Adoption Agreement, each Participant may, in accordance with procedures established by the Administrator, elect to make after-tax voluntary Employee contributions to this Plan. Such contributions must generally be paid to the Trustee (or Insurer) within a reasonable period of time after being received by the Employer. An after-tax voluntary Employee contribution is any contribution made to the Plan by or on behalf of a Participant that is included in the Participant's gross income in the year in which made and that is separately accounted for under the Plan.

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(b) **Full vesting.** The balance in each Participant's Voluntary Contribution Account shall be fully Vested at all times and shall not be subject to Forfeiture for any reason.

(c) **Distribution at any time.** A Participant may elect at any time to withdraw after-tax voluntary Employee contributions from such Participant's Voluntary Contribution Account and the actual earnings thereon in a manner which is consistent with and satisfies the provisions of Section 6.5. If the Administrator maintains sub-accounts with respect to after-tax voluntary Employee contributions (and earnings thereon) which were made on or before a specified date, a Participant shall be permitted to designate which sub-account shall be the source for the withdrawal. Forfeitures of Employer contributions shall not occur solely as a result of an Employee's withdrawal of after-tax voluntary Employee contributions.

(d) **Used to provide benefits.** At Normal Retirement Date, or such other date when the Participant or the Participant's Beneficiary is entitled to receive benefits, the Participant's Voluntary Contribution Account shall be used to provide additional benefits to the Participant or the Participant's Beneficiary.

4.10 PARTICIPANT DIRECTED INVESTMENTS

(a) **Directed investment options allowed.** If permitted by the Administrator and the terms of the Trust, Participants may direct the Trustee (or Insurer) as to the investment of all or a portion of their individual Account balances in accordance with the Plan's procedures. Participants may direct the Trustee (or Insurer), in writing (or in such other form which is acceptable to the Trustee (or Insurer)), to invest their accounts in specific assets, specific funds or other investments permitted under the Plan and the Participant Direction Procedures. That portion of the Account of any Participant that is subject to investment direction of such Participant will be considered a Participant Directed Account.

(b) **Establishment of Participant Direction Procedures.** The Administrator will establish Participant Direction Procedures, to be applied in a uniform manner, setting forth the permissible investment options under this Section, how often changes between investments may be made, and any other limitations and provisions that the Administrator may impose on a Participant's right to direct investments.

(c) **Administrative discretion.** The Administrator may, in its discretion, include or exclude by amendment or other action from the Participant Direction Procedures such instructions, guidelines or policies as it deems necessary or appropriate to ensure proper administration of the Plan, and may interpret the same accordingly.

(d) **Allocation of gains or losses.** As of each Valuation Date, all Participant Directed Accounts shall be charged or credited with the net earnings, gains, losses and expenses as well as any appreciation or depreciation in the market value using publicly listed fair market values when available or appropriate as follows:

(1) to the extent the assets in a Participant Directed Account are accounted for as pooled assets or investments, the allocation of earnings, gains and losses of each Participant's Account shall be based upon the total amount of funds so invested in a manner proportionate to the Participant's share of such pooled investment; and

(2) to the extent the assets in a Participant Directed Account are accounted for as segregated assets, the allocation of earnings, gains on and losses from such assets shall be made on a separate and distinct basis.

(e) **Plan will follow investment directions.** Investment directions will be processed as soon as administratively practicable after proper investment directions are received from the Participant. No guarantee is made by the Plan, Employer, Administrator or Trustee (or Insurer) that investment directions will be processed on a daily basis, and no guarantee is made in any respect regarding the processing time of an investment direction. Notwithstanding any other provision of the Plan, the Employer, Administrator or Discretionary Trustee (or Insurer) reserves the right to not value an investment option on any given Valuation Date for any reason deemed appropriate by the Employer, Administrator or Discretionary Trustee (or Insurer). Furthermore, the processing of any investment transaction may be delayed for any legitimate business reason (including, but not limited to, failure of systems or computer programs, failure of the means of the transmission of data, the failure of a service provider to timely receive values or prices, and correction for errors or omissions or the errors or omissions of any service provider) or force majeure. The processing date of a transaction will be binding for all purposes of the Plan and considered the applicable Valuation Date for an investment transaction.

(f) **Other documents required by directed investments.** Any information regarding investments available under the Plan, to the extent not required to be described in the Participant Direction Procedures, may be provided to Participants in one or more documents (or in any other form, including, but not limited to, electronic media) which are separate from the Participant Direction Procedures and are not thereby incorporated by reference into this Plan.

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4.11 QUALIFIED MILITARY SERVICE

(a) **USERRA.** Notwithstanding any provisions of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code §414(u). Furthermore, loan repayments may be suspended under this Plan as permitted under Code §414(u)(4).

(b) **Benefit accrual.** If the Employer elects in the Adoption Agreement to apply this Subsection, then effective as of the date specified in the Adoption Agreement, for benefit accrual purposes, the Plan treats an individual who becomes Totally and Permanently disabled while performing "qualified military service" (as defined in Code §414(u)) with respect to the Employer as if the individual had resumed employment in accordance with the individual's reemployment rights under Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA), on the day preceding Total and Permanent Disability and terminated employment on the actual date of death or Total and Permanent Disability.

The Plan will determine the amount of after-tax voluntary Employee contributions of an individual treated as reemployed under this Section for purposes of applying paragraph Code §414(u)(8)(C) on the basis of the individual's average actual after-tax voluntary Employee contributions for the lesser of: (1) the 12-month period of service with the Employer immediately prior to "qualified military service" (as defined in Code §414(u)); or (2) the actual length of continuous service with the Employer.

(c) **Death benefits.** If a Participant dies while performing "qualified military service" (as defined in Code §414(u)), the Participant's Beneficiary is entitled to any additional benefits (other than benefit accruals relating to the period of "qualified military service" but including vesting credit for such period and any other ancillary life insurance or other survivor benefits) provided under the Plan as if the Participant had resumed employment and then terminated employment on account of death. Moreover, the Plan will credit the Participant's "qualified military service" as service for vesting purposes, as though the Participant had resumed employment under Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA) immediately prior to the Participant's death.

(d) **Military Differential Pay.** The following applies with respect to Military Differential Pay: (1) an individual receiving Military Differential Pay is treated as an Employee of the Employer making the payment; (2) the Military Differential Pay is treated as 415 Compensation (and Compensation unless otherwise elected in the Adoption Agreement); and (3) the Plan is not treated as failing to meet the requirements of any provision described in Code §414(u)(1)(C) (or corresponding Plan provisions) by reason of any contribution or benefit which is based on the Military Differential Pay. The Administrator operationally may determine, for purposes of the provisions described in Code §414(u)(1)(C), whether to take into account any matching contributions, attributable to Military Differential Pay.

(e) **Deemed Severance.** Notwithstanding Subsection (b)(1) above, if elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), a Participant who performs service in the uniformed services (as defined in Code §414(u)(12)(B)) on active duty for a period of more than thirty (30) days, the Participant will be deemed to have a severance from employment solely for purposes of eligibility for distribution of amounts not attributable to Employer contributions to a money purchase pension plan. However, the Plan will not distribute such a Participant's Account on account of this deemed severance unless the Participant specifically elects to receive a benefit distribution hereunder. If a Participant elects to receive a distribution on account of this deemed severance, then the individual may not make an after-tax voluntary Employee contribution during the six (6) month period beginning on the date of the distribution. If a Participant would be entitled to a distribution on account of a deemed severance, and a distribution on account of another Plan provision, then the other Plan provision will control and the six (6) month suspension will not apply.

4.12 INSTRUCTIONS TO ADMINISTRATOR AND NOTIFICATION TO PARTICIPANTS

For Plan Years beginning after the end of the Plan Year in which this document is first adopted, if a "Flexible Discretionary Match" contribution formula applies (i.e., a formula that provides an Employer with discretion regarding how to *allocate* a matching contribution to Participants) and the Employer makes a "Flexible Discretionary Match" to the Plan, the Employer must provide the Plan Administrator or Trustee written instructions describing (1) how the "Flexible Discretionary Match" formula will be allocated to Participants (e.g., a uniform percentage of Elective Deferrals or a flat dollar amount), (2) the computation period(s) to which the "Flexible Discretionary Match" formula applies, and (3) if applicable, a description of each business location or business classification subject to separate "Flexible Discretionary Match" allocation formulas. Such instructions must be provided no later than the date on which the "Flexible Discretionary Match" is made to the Plan. A summary of these instructions must be communicated to Participants who receive an allocation of the "Flexible Discretionary Match" no later than 60 days following the date on which the last "Flexible Discretionary Match" contribution is made to the Plan for the Plan Year.

Solely for purposes of this Section, a matching contribution is to be considered as being a "Flexible Discretionary Match" contribution unless the Employer has provided a definitely determinable allocation formula for the matching contribution on the Adoption Agreement. In order to be definitely determinable, then the components of the allocation formula described in the preceding sentence must be specified on the Adoption Agreement and cannot themselves be discretionary. Thus, regardless of whether the contribution formula for the matching contribution is fixed or discretionary, the provisions of the preceding paragraph apply unless the amount to be allocated to the Participant for the Plan Year can be determined without any discretion on the part of the Employer.

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ARTICLE V
VALUATIONS

5.1 VALUATION OF THE TRUST FUND

The Administrator shall direct the Trustee (or Insurer), as of each Valuation Date, to determine the net worth of the assets comprising the Trust Fund as it exists on the Valuation Date. In determining such net worth, the Trustee (or Insurer) shall value the assets comprising the Trust Fund at their fair market value as of the Valuation Date and may deduct all expenses for which the Trustee (or Insurer) has not yet been paid by the Employer or the Trust Fund. The Trustee (or Insurer), when determining the net worth of the assets, may update the value of any shares held in a Participant Directed Account by reference to the number of shares held on behalf of the Participant, priced at the market value as of the Valuation Date.

5.2 METHOD OF VALUATION

Except as otherwise provided in the Trust agreement, in determining the fair market value of securities held in the Trust Fund which are listed on a registered stock exchange, the Administrator shall direct the Trustee (or Insurer) to value the same at the prices they were last traded on such exchange preceding the close of business on the Valuation Date. If such securities were not traded on the Valuation Date, or if the exchange on which they are traded was not open for business on the Valuation Date, then the securities shall be valued at the prices at which they were last traded prior to the Valuation Date. Any unlisted security held in the Trust Fund shall be valued at its bid price next preceding the close of business on the Valuation Date, which bid price shall be obtained from a registered broker or an investment banker. In determining the fair market value of assets other than securities for which trading or bid prices can be obtained, the Trustee, the Administrator (if the Trustee is a directed Trustee), or Insurer may appraise such assets itself (assuming it has the appropriate expertise), or in its discretion, employ one or more appraisers for that purpose and rely on the values established by such appraiser or appraisers.

ARTICLE VI
DETERMINATION AND DISTRIBUTION OF BENEFITS

6.1 DETERMINATION OF BENEFITS UPON RETIREMENT

Every Participant may terminate employment with the Employer and retire for purposes hereof on the Participant's Normal Retirement Date or Early Retirement Date. However, a Participant may postpone the severance of employment with the Employer to a later date, in which event the participation of such Participant in the Plan, including the right to receive allocations pursuant to Section 4.3, shall continue until such Participant's Retirement Date. Upon a Participant's Retirement Date, or if elected in the Adoption Agreement, the attainment of Normal Retirement Date without severance of employment with the Employer (subject to Section 6.11), or as soon thereafter as is practicable, the Administrator shall direct the distribution, at the election of the Participant (unless a distribution is mandatory under the other terms of the Plan), of the Participant's entire Vested interest in the Plan in accordance with Section 6.5.

6.2 DETERMINATION OF BENEFITS UPON DEATH

(a) **100% vesting on death.** Upon the death of a Participant before the Participant's Retirement Date or other severance of employment, all amounts credited to such Participant's Combined Account shall, if elected in the Adoption Agreement, become fully Vested. The Administrator shall direct, in accordance with the provisions of Sections 6.6 and 6.7, the distribution of the deceased Participant's Vested accounts to the Participant's Beneficiary.

(b) **Distribution upon death.** Upon the death of a Participant, the Administrator shall direct, in accordance with the provisions of Sections 6.6 and 6.7, the distribution of any remaining Vested amounts credited to the accounts of such deceased Participant to such Participant's Beneficiary.

(c) **Determination of death benefit by Administrator.** 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 account of a deceased Participant as the Administrator may deem desirable. The Administrator's determination of death and of the right of any person to receive payment shall be conclusive.

(d) **Beneficiary designation.** Each Participant must designate a Beneficiary on a form and in such manner as provided by the Administrator.

(e) **Spousal consent to alternative Beneficiary.** This Subsection applies if the Employer has elected in the Adoption Agreement either to apply the Joint and Survivor Annuity rules or to provide that a Participant's Spouse is the Beneficiary unless the Spouse consents to an alternative Beneficiary. Unless otherwise elected in the manner prescribed in Section 6.6, the Beneficiary of the Pre-Retirement Survivor Annuity (or if applicable, the entire death benefit) shall be the Participant's surviving Spouse. Except, however, the Participant may designate a Beneficiary other than the Spouse if:

(1) the Participant and the Participant's Spouse have validly waived the Pre-Retirement Survivor Annuity in the manner prescribed in Section 6.6, and the Spouse has waived the right to be the Participant's Beneficiary,

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(2) the Participant is legally separated or has been abandoned (within the meaning of local law) and the Participant has a court order to such effect (and there is no "qualified domestic relations order" as defined in Code §414(p) which provides otherwise),

(3) the Participant has no Spouse, or

(4) the Spouse cannot be located.

In such event, the designation of a Beneficiary shall be made on a form satisfactory to the Administrator. A Participant may at any time revoke a designation of a Beneficiary or change a Beneficiary by filing written (or in such other form as permitted by the IRS) notice of such revocation or change with the Administrator. However, the Participant's Spouse must again consent in writing (or in such other form as permitted by the IRS) to any change in Beneficiary unless the original consent acknowledged that the Spouse had the right to limit consent only to a specific Beneficiary and that the Spouse voluntarily elected to relinquish such right.

(f) **Beneficiary if no Beneficiary elected by Participant.** In the event no valid designation of Beneficiary exists, or if the Beneficiary with respect to a portion of a Participant's death benefit is not alive at the time of the Participant's death and no contingent Beneficiary has been designated, then such portion of the death benefit will be paid in the following order of priority, unless the Employer specifies a different order of priority in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), to:

(1) The Participant's surviving Spouse;

(2) The Participant's issue, per stirpes;

(3) The Participant's surviving parents, in equal shares; or

(4) The Participant's estate.

If the Beneficiary does not predecease the Participant, but dies prior to distribution of the death benefit, the death benefit will be paid to the Beneficiary's "designated Beneficiary" (or if there is no "designated Beneficiary," to the Beneficiary's estate). For purposes of these provisions, and with respect to any Beneficiary designations, adopted children shall be treated as children.

(g) **Divorce revokes spousal Beneficiary designation.** Notwithstanding anything in this Section to the contrary, unless otherwise elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) or prohibited by applicable State law, if a Participant has designated the Spouse as a Beneficiary, then a divorce decree that relates to such Spouse shall revoke the Participant's designation of the Spouse as a Beneficiary unless the decree or a "qualified domestic relations order" (within the meaning of Code §414(p)) provides otherwise or a subsequent Beneficiary designation is made.

(h) **Insured death benefit.** If the Plan provides an insured death benefit and a Participant dies before any insurance coverage to which the Participant is entitled under the Plan is effected, the death benefit from such insurance coverage shall be limited to the premium which was or otherwise would have been used for such purpose.

(i) **Plan terms control.** In the event of any conflict between the terms of this Plan and the terms of any Contract issued hereunder, the Plan provisions shall control.

6.3 DETERMINATION OF BENEFITS IN EVENT OF DISABILITY

In the event of a Participant's Total and Permanent Disability prior to the Participant's Retirement Date or other severance of employment, all amounts credited to such Participant's Combined Account shall, if elected in the Adoption Agreement, become fully Vested. In the event of a Participant's Total and Permanent Disability, the Participant's entire Vested interest in the Plan will be distributable and may be distributed in accordance with the provisions of Sections 6.5 and 6.7.

6.4 DETERMINATION OF BENEFITS UPON TERMINATION

(a) **Payment on severance of employment.** If a Participant's employment with the Employer and any Affiliated Employer is severed for any reason other than death, Total and Permanent Disability, or attainment of the Participant's Retirement Date, then such Participant shall be entitled to such benefits as are provided herein.

Distribution of the funds due to a Terminated Participant shall be made on the occurrence of an event which would result in the distribution had the Terminated Participant remained in the employ of the Employer (upon the Participant's death, Total and Permanent Disability, Early or Normal Retirement). However, at the election of the Participant, the Administrator shall direct that the entire Vested portion of the Terminated Participant's Combined Account be payable to such Terminated Participant provided the

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conditions, if any, set forth in the Adoption Agreement have been satisfied. Any distribution under this paragraph shall be made in a manner which is consistent with and satisfies the provisions of Section 6.5.

Regardless of whether distributions in kind are permitted, in the event the amount of the Vested portion of the Terminated Participant's Combined Account equals or exceeds the fair market value of any insurance Contracts, the Administrator may direct the Trustee (or Insurer), when agreed to by the Terminated Participant, to assign, transfer, and set over to such Terminated Participant all Contracts on such Terminated Participant's life in such form or with such endorsements, so that the settlement options and forms of payment are consistent with the provisions of Section 6.5. In the event that the Terminated Participant's Vested portion does not at least equal the fair market value of the Contracts, if any, the Terminated Participant may pay over to the Trustee (or Insurer) the sum needed to make the distribution equal to the value of the Contracts being assigned or transferred, or the Trustee (or Insurer), pursuant to the Participant's election, may borrow the cash value of the Contracts from the Insurer so that the value of the Contracts is equal to the Vested portion of the Terminated Participant's Combined Account and then assign the Contracts to the Terminated Participant.

Notwithstanding the above, unless otherwise elected in the Adoption Agreement, if the value of a Terminated Participant's Vested benefit derived from Employer and Employee contributions does not exceed $5,000 (or such lower amount as elected in the Adoption Agreement), the Administrator shall direct that the entire Vested benefit be paid to such Participant in a single lump-sum as soon as practical without regard to the consent of the Participant, provided the conditions, if any, set forth in the Adoption Agreement have been satisfied. A Participant's Vested benefit shall not include (1) qualified voluntary employee contributions within the meaning of Code §72(o)(5)(B) and (2) if selected in the Conditions for Distributions Upon Severance of Employment Section of the Adoption Agreement, the Participant's Rollover Account. If a mandatory distribution is made pursuant to this paragraph and such distribution is greater than $1,000 and the Participant does not elect to have such distribution paid directly to an "eligible retirement plan" specified by the Participant in a "direct rollover" in accordance with Section 6.14 or to receive the distribution directly, then the Administrator shall transfer such amount to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b) designated by the Administrator. However, if the Participant elects to receive or make a "direct rollover" of such amount, then the Administrator shall direct the Trustee (or Insurer) to cause the entire Vested benefit to be paid to such Participant in a single lump sum, or make a "direct rollover" pursuant to Section 6.14, provided the conditions, if any, set forth in the Adoption Agreement have been satisfied. The Administrator may establish a procedure as to whether a Participant who fails to make an affirmative election with respect to a mandatory distribution of $1,000 or less is treated as having made or not made a "direct rollover" election. For purposes of determining whether the $1,000 threshold set forth in this paragraph is met, the mandatory distribution includes amounts in a Participant's Rollover Account. For purposes of determining whether the $5,000 threshold in this paragraph is met, a Participant's Rollover Account is taken into account unless otherwise elected in the Adoption Agreement.

(b) **Vesting schedule.** The Vested portion of any Participant's Account shall be a percentage of such Participant's Account determined on the basis of the Participant's number of Years of Service (or Periods of Service if the elapsed time method is elected) according to the vesting schedule specified in the Adoption Agreement. However, a Participant's entire interest in the Plan shall be non-forfeitable upon the Participant's Normal Retirement Age (if the Participant is employed by the Employer on or after such date). In addition, Employee contributions (voluntary and mandatory) and contributions for sick leave/vacation leave conversions shall be fully Vested.

6.5 DISTRIBUTION OF BENEFITS

(a) **Forms of distributions.** Subject to the Joint and Survivor Annuity requirements in Subsection (e) below (if the Employer elects to apply such provisions), the Administrator, pursuant to the election of the Participant, shall direct the distribution to a Participant or Beneficiary any amount to which the Participant or Beneficiary is entitled under the Plan in one or more of the following methods which are permitted pursuant to the Adoption Agreement.

(1) One lump-sum payment in cash or in property, provided that if a distribution of property is permitted, it shall be limited to property that is specifically allocated and identifiable with respect to such Participant.

(2) Partial withdrawals.

(3) Payments over a period certain in monthly, quarterly, semi-annual, or annual cash installments. The period over which such payment is to be made shall not extend beyond the earlier of the Participant's life expectancy (or the joint life expectancy of the Participant and the Participant's designated Beneficiary). Once payments have begun, a Participant may elect to accelerate the payments (reduce the term and increase payments).

(4) Purchase of or providing an annuity. However, such annuity may not be in any form that will provide for payments over a period extending beyond either the life of the Participant (or the lives of the Participant and the Participant's designated Beneficiary) or the life expectancy of the Participant (or the life expectancy of the Participant and the Participant's designated Beneficiary).

(b) **Consent to distributions.** Benefits may not be paid without a Participant's consent if the value of the Participant's Accounts exceed the dollar threshold specified in the Adoption Agreement. If the value of the Participant's Accounts does not exceed such

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threshold, then the Administrator may only distribute such benefit in a lump-sum. For purposes of this Subsection, the Participant's Accounts shall not include, if selected in the Conditions for Distributions Upon Severance of Employment Section of the Adoption Agreement, the Participant's Rollover Account.

(c) **Required minimum distributions (Code §401(a)(9)).** Notwithstanding any provision in the Plan to the contrary, the distribution of a Participant's benefits, whether under the Plan or through the purchase of an annuity Contract, shall be made in accordance with the requirements of Section 6.8.

(d) **Annuity Contracts.** All annuity Contracts under this Plan shall be non-transferable when distributed. Furthermore, the terms of any annuity Contract purchased and distributed to a Participant or Spouse shall comply with all of the requirements of this Plan.

(e) **Qualified Joint and Survivor Annuity.**

(1) The provisions of this Subsection (e) apply if the Employer elects to apply the Joint and Survivor Annuity rules in the Adoption Agreement. A Participant who is married on the Annuity Starting Date and who does not die before the Annuity Starting Date shall receive the value of all Plan benefits in the form of a Joint and Survivor Annuity. The Joint and Survivor Annuity is an annuity that commences immediately and shall be equal in value to a single life annuity. Such joint and survivor benefits following the Participant's death shall continue to the Spouse during the Spouse's lifetime at a rate equal to either fifty percent (50%), seventy-five percent (75%) (or, sixty-six and two-thirds percent (66 2/3%) if the Insurer used to provide the annuity does not offer a joint and seventy-five percent (75%) survivor annuity), or one hundred percent (100%) of the rate at which such benefits were payable to the Participant. Unless otherwise elected in the Adoption Agreement, a joint and fifty percent (50%) survivor annuity shall be considered the designated qualified Joint and Survivor Annuity and the normal form of payment for the purposes of this Plan. However, the Participant may, without spousal consent, elect an alternative Joint and Survivor Annuity, which alternative shall be equal in value to the designated qualified Joint and Survivor Annuity. An unmarried Participant shall receive the value of such Participant's benefit in the form of a life annuity. Such unmarried Participant, however, may elect to waive the life annuity. The election must comply with the provisions of this Section as if it were an election to waive the Joint and Survivor Annuity by a married Participant, but without fulfilling the spousal consent requirement. The Participant may elect to have any annuity provided for in this Section distributed upon the attainment of the "earliest retirement age" under the Plan. The "earliest retirement age" is the earliest date on which, under the Plan, the Participant could elect to receive retirement benefits.

(2) Any election to waive the Joint and Survivor Annuity must be made by the Participant in writing (or in such other form as permitted by the IRS) during the election period and be consented to in writing (or in such other form as permitted by the IRS) by the Participant's Spouse. If the Spouse is legally incompetent to give consent, the Spouse's legal guardian, even if such guardian is the Participant, may give consent. Such election shall designate a Beneficiary (or a form of benefits) that may not be changed without spousal consent (unless the consent of the Spouse expressly permits designations by the Participant without the requirement of further consent by the Spouse). Such Spouse's consent shall be irrevocable and must acknowledge the effect of such election and be witnessed by a Plan representative or a notary public. Such consent shall not be required if it is established to the satisfaction of the Administrator that the required consent cannot be obtained because there is no Spouse, the Spouse cannot be located, or other circumstances that may be prescribed by Regulations. The election made by the Participant and consented to by such Participant's Spouse may be revoked by the Participant in writing (or in such other form as permitted by the IRS) without the consent of the Spouse at any time during the election period. A revocation of a prior election shall cause the Participant's benefits to be distributed as a Joint and Survivor Annuity. The number of revocations shall not be limited. Any new election must comply with the requirements of this paragraph. A former Spouse's waiver shall not be binding on a new Spouse.

(3) The election period to waive the Joint and Survivor Annuity shall be the one-hundred eighty (180) day period ending on the Annuity Starting Date.

(4) For purposes of this Section and Section 6.6, Spouse or surviving Spouse means the Spouse or surviving Spouse of the Participant, provided that a former Spouse will be treated as the Spouse or surviving Spouse and a current Spouse will not be treated as the Spouse or surviving Spouse to the extent provided under a "qualified domestic relations order" as described in Code §414(p).

(5) With regard to the election, except as otherwise provided herein, the Administrator shall, in accordance with Regulation §1.417(a)(3)-1, provide to the Participant no less than thirty (30) days and no more than one-hundred eighty (180) days before the Annuity Starting Date a written (or such other form as permitted by the IRS) explanation of:

(i) the terms and conditions of the qualified Joint and Survivor Annuity and the "qualified optional survivor annuity" that is payable in lieu of the qualified Joint and Survivor Annuity,

(ii) the Participant's right to make and the effect of an election to waive the Joint and Survivor Annuity,

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(iii) the right of the Participant's Spouse to consent to any election to waive the Joint and Survivor Annuity, and

(iv) the right of the Participant to revoke such election, and the effect of such revocation.

(6) Any distribution provided for in this Section may commence less than thirty (30) days after the notice required by Code §417(a)(3) is given provided the following requirements are satisfied:

(i) the Administrator clearly informs the Participant that the Participant has a right to a period of thirty (30) days after receiving the notice to consider whether to waive the Joint and Survivor Annuity and to elect (with spousal consent) a form of distribution other than a Joint and Survivor Annuity;

(ii) the Participant is permitted to revoke any affirmative distribution election at least until the Annuity Starting Date or, if later, at any time prior to the expiration of the seven (7) day period that begins the day after the explanation of the Joint and Survivor Annuity is provided to the Participant;

(iii) the Annuity Starting Date is after the time that the explanation of the Joint and Survivor Annuity is provided to the Participant. However, the Annuity Starting Date may be before the date that any affirmative distribution election is made by the Participant and before the date that the distribution is permitted to commence under (iv) below; and

(iv) distribution in accordance with the affirmative distribution election does not commence before the expiration of the seven (7) day period that begins the day after the explanation of the Joint and Survivor Annuity is provided to the Participant.

(f) **Qualified Joint and Survivor Annuity but not the normal form.** The provisions of this Section apply if the Employer has elected in the Adoption Agreement to apply the Joint and Survivor Annuity requirement to a Participant, but the Qualified Joint and Survivor Annuity is not the normal form of distribution.

(1) The Joint and Survivor Annuity provisions of Section 6.5(e) shall not apply if a Participant does not elect an annuity form of distribution. Furthermore, Subsection (3) below shall not apply if a Participant elects an annuity form of distribution.

(2) Notwithstanding anything in Sections 6.2 and 6.6 to the contrary, upon the death of a Participant, the automatic form of distribution will be a lump-sum rather than a Qualified Pre-Retirement Survivor Annuity. Furthermore, the Participant's Spouse will be the Beneficiary of the Participant's entire Vested interest in the Plan unless an election is made to waive the Spouse as Beneficiary. The other provisions in Section 6.2 shall be applied by treating the death benefit in this Subsection as though it is a Qualified Pre-Retirement Survivor Annuity.

(3) Except to the extent otherwise provided in this Section, the provisions of Sections 6.2 and 6.5 regarding spousal consent shall be inoperative with respect to this Plan.

(4) The distribution may commence less than thirty (30) days after the notice required under Regulation §1.411(a)-11(c) is given, provided:

(1) the Administrator clearly informs the Participant that the Participant has a right to a period of at least thirty (30) days after the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and

(2) the Participant, after receiving the notice, affirmatively elects a distribution.

6.6 DISTRIBUTION OF BENEFITS UPON DEATH

(a) **Consent.** If the value of the death benefit derived from Employer and Employee contributions does not exceed $5,000, the Administrator shall direct the distribution of such amount to the Participant's Beneficiary in a single lump-sum as soon as practicable. If the value exceeds $5,000, an immediate distribution of the entire amount may be made to the Beneficiary, provided such Beneficiary consents to the distribution.

(b) **Forms of distribution.** Death benefits may be paid to a Participant's Beneficiary in one of the following optional forms of benefits subject to the rules specified in Section 6.8 and the elections made in the Adoption Agreement. Such optional forms of distributions may be elected by the Participant. However, if no optional form of distribution was elected by the Participant prior to death, then the Participant's Beneficiary may elect the form of distribution.

(1) One lump-sum payment in cash or in property that is allocated to the Accounts of the Participant at the time of the distribution.

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(2) Partial withdrawals.

(3) Payment in monthly, quarterly, semi-annual, or annual cash installments over a period to be determined by the Participant or the Participant's Beneficiary. In order to provide such installment payments, the Administrator may (A) segregate the aggregate amount thereof in a separate, federally insured savings account, certificate of deposit in a bank or savings and loan association, money market certificate or other liquid short-term security or (B) purchase a nontransferable annuity Contract for a term certain (with no life contingencies) providing for such payment. After periodic installments commence, the Beneficiary shall have the right to reduce the period over which such periodic installments shall be made, and the cash amount of such periodic installments shall be adjusted accordingly.

(4) In the form of an annuity over the life expectancy of the Beneficiary.

(c) **Required minimum distributions (Code §401(a)(9)).** Notwithstanding any provision in the Plan to the contrary, distributions upon the death of a Participant shall comply with the requirements of Section 6.8.

(d) **Payment to a child.** For purposes of this Section, any amount paid to a child of the Participant will be treated as if it had been paid to the surviving Spouse if the amount becomes payable to the surviving Spouse when the child reaches the age of majority.

(e) **Voluntary Contribution Account.** In the event that less than one hundred percent (100%) of a Participant's interest in the Plan is distributed to such Participant's Spouse, the portion of the distribution attributable to the Participant's Voluntary Contribution Account shall be in the same proportion that the Participant's Voluntary Contribution Account bears to the Participant's total interest in the Plan.

(f) **TEFRA 242(b)(2) election.** The provisions of this Section shall not apply to distributions made in accordance with Section 6.8(a)(4).

6.7 TIME OF DISTRIBUTION

Except as limited by Section 6.8, whenever a distribution is to be made, or a series of payments are to commence, the distribution or series of payments may be made or begun as soon as practicable. Notwithstanding anything in the Plan to the contrary, unless a Participant otherwise elects, payments of benefits under the Plan will be begin not later than the later of the sixtieth (60th) day after the close of the Plan Year in which the latest of the following events occurs: (a) the date on which the Participant attains the earlier of age 65 or the Normal Retirement Age specified herein; (b) the tenth (10th) anniversary of the year in which the Participant commenced participation in the Plan; or (c) the date the Participant terminates service with the Employer. The failure of a Participant to request a distribution shall be deemed to be an election to defer the commencement of payment of any benefit until the time otherwise permitted under the Plan.

6.8 REQUIRED MINIMUM DISTRIBUTIONS

(a) **General rules**

(1) **Effective Date.** Subject to the good faith interpretation standard, the requirements of this Section shall apply to any distribution of a Participant's interest in the Plan and will take precedence over any inconsistent provisions of this Plan.

(2) **Requirements of Treasury Regulations incorporated.** All distributions required under this Section will be determined and made in accordance with the Regulations under Code §401(a)(9) and the minimum distribution incidental benefit requirement of Code §401(a)(9)(G).

(3) **Limits on distribution periods.** As of the first "distribution calendar year," distributions to a Participant may only be made in accordance with the selections made in the Form of Distributions Section of the Adoption Agreement. If such distributions are not made in a single-sum, then they may only be made over one of the following periods: (i) the life of the Participant, (ii) the joint lives of the Participant and a "designated Beneficiary," (iii) a period certain not extending beyond the "life expectancy" of the Participant, or (iv) a period certain not extending beyond the joint life and last survivor expectancy of the Participant and a "designated Beneficiary."

(4) **TEFRA Section 242(b)(2) elections.**

(i) Notwithstanding the other provisions of this Section, other than the Spouse's right of consent afforded under the Plan, distributions may be made on behalf of any Participant, including a five percent (5%) owner, who has made a designation in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and in accordance with all of the following requirements (regardless of when such distribution commences):

(A) The distribution by the Plan is one which would not have disqualified such Plan under Code §401(a)(9) as in effect prior to amendment by the Deficit Reduction Act of 1984.

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(B) The distribution is in accordance with a method of distribution designated by the Participant whose interest in the Plan is being distributed or, if the Participant is deceased, by a Beneficiary of such Participant.

(C) Such designation was in writing, was signed by the Participant or the Beneficiary, and was made before January 1, 1984.

(D) The Participant had accrued a benefit under the Plan as of December 31, 1983.

(E) The method of distribution designated by the Participant or the Beneficiary specifies the time at which distribution will commence, the period over which distributions will be made, and in the case of any distribution upon the Participant's death, the Beneficiaries of the Participant listed in order of priority.

(ii) A distribution upon death will not be covered by the transitional rule of this Subsection unless the information in the designation contains the required information described above with respect to the distributions to be made upon the death of the Participant.

(iii) For any distribution which commences before January 1, 1984, but continues after December 31, 1983, the Participant, or the Beneficiary, to whom such distribution is being made, will be presumed to have designated the method of distribution under which the distribution is being made if the method of distribution was specified in writing and the distribution satisfies the requirements in (i)(A) and (i)(E) of this Subsection.

(iv) If a designation is revoked, any subsequent distribution must satisfy the requirements of Code §401(a)(9) and the Regulations thereunder. If a designation is revoked subsequent to the date distributions are required to begin, the Plan must distribute by the end of the calendar year following the calendar year in which the revocation occurs the total amount not yet distributed which would have been required to have been distributed to satisfy Code §401(a)(9) and the Regulations thereunder, but for the Section 242(b)(2) election. For calendar years beginning after December 31, 1988, such distributions must meet the minimum distribution incidental benefit requirements. Any changes in the designation will be considered to be a revocation of the designation. However, the mere substitution or addition of another Beneficiary (one not named in the designation) under the designation will not be considered to be a revocation of the designation, so long as such substitution or addition does not alter the period over which distributions are to be made under the designation, directly or indirectly (for example, by altering the relevant measuring life).

(v) In the case in which an amount is transferred or rolled over from one plan to another plan, the rules in Regulation §1.401(a)(9)-8, Q&A-14 and Q&A-15, shall apply.

(5) **Good faith interpretation standard.** In applying any provision of this section, the Plan will apply a reasonable good faith interpretation of Code §401(a)(9).

(b) **Time and manner of distribution**

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

(2) **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 as elected in the Distributions Upon Death Section of the Adoption Agreement (or if no election is made, then the Beneficiary may elect either the lifetime method or the five-year method and if the Beneficiary makes no election, the five-year method shall apply):

(i) **Lifetime method (Spouse).** If the Participant's surviving Spouse is the Participant's sole "designated Beneficiary," then, except as otherwise provided herein, distributions to the surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later.

(ii) **Lifetime method (non-Spouse).** If the Participant's surviving Spouse is not the Participant's sole "designated Beneficiary," then, except as provided in Section 6.8(b)(3) below, distributions to the "designated Beneficiary" will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(iii) **Five-year method.** If there is no "designated Beneficiary" as of September 30 of the year following the year of the Participant's death or if otherwise elected pursuant to the Adoption Agreement with respect to a "designated Beneficiary," the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(iv) **Death of Spouse.** If the Participant's surviving Spouse is the Participant's sole "designated Beneficiary" and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this Section 6.8(b)(2), other than Section 6.8(b)(2)(i), will apply as if the surviving Spouse were the Participant.

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For purposes of this Section 6.8(b)(2) and Section 6.8(b)(3), unless Section 6.8(b)(2)(iv) applies, distributions are considered to begin on the Participant's "required beginning date." If Section 6.8(b)(2)(iv) applies, distributions are considered to begin on the date distributions are required to begin to the surviving Spouse under Section 6.8(b)(2)(i). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's "required beginning date" (or to the Participant's surviving Spouse before the date distributions are required to begin to the surviving Spouse under Section 6.8(b)(2)(i)), the date distributions are considered to begin is the date distributions actually commence.

(3) **Forms of distribution.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the "required beginning date," as of the first "distribution calendar year" distributions will be made in accordance with Sections 6.8(c) and 6.8(d) and only in a form of distribution provided in Section 6.5 or 6.6, as applicable. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code §401(a)(9) and the Regulations thereunder.

(c) **Required minimum distributions during Participant's lifetime**

(1) **Amount of required minimum distribution for each "distribution calendar year."** During the Participant's lifetime, the minimum amount that will be distributed for each "distribution calendar year" is the lesser of the following:

(i) the quotient obtained by dividing the "Participant's account balance" by the distribution period in the Uniform Lifetime Table set forth in Regulation §1.401(a)(9)-9, using the Participant's age as of the Participant's birthday in the "distribution calendar year"; or

(ii) if the Participant's sole "designated Beneficiary" for the "distribution calendar year" is the Participant's Spouse, the quotient obtained by dividing the "Participant's account balance" by the number in the Joint and Last Survivor Table set forth in Regulation §1.401(a)(9)-9, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the "distribution calendar year."

(2) **Lifetime required minimum distributions continue through year of Participant's death.** Required minimum distributions will be determined under this Section 6.8(c) beginning with the first "distribution calendar year" and up to and including the "distribution calendar year" that includes the Participant's date of death.

(d) **Required minimum distributions after Participant's death**

(1) **Death on or after date distributions begin.**

(i) **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 balance" by the longer of the remaining "life expectancy" of the Participant or the remaining "life expectancy" of the Participant's "designated Beneficiary," determined as follows:

(A) The Participant's remaining "life expectancy" is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(B) If the Participant's surviving Spouse is the Participant's sole "designated Beneficiary," the remaining "life expectancy" of the surviving Spouse is calculated for each "distribution calendar year" after the year of the Participant's death using the surviving Spouse's age as of the Spouse's birthday in that year. For "distribution calendar years" after the year of the surviving Spouse's death, the remaining "life expectancy" of the surviving Spouse is calculated using the age of the surviving Spouse as of the Spouse's birthday in the calendar year of the Spouse's death, reduced by one for each subsequent calendar year.

(C) If the Participant's surviving Spouse is not the Participant's sole "designated Beneficiary," the "designated Beneficiary's" remaining "life expectancy" is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

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

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(2) **Death before date distributions begin.**

(i) **Participant survived by "designated Beneficiary."** Except as provided in Section 6.8(b)(3), if the Participant dies before the date distributions begin and there is a "designated Beneficiary," the minimum amount that will be distributed for each "distribution calendar year" after the year of the Participant's death is the quotient obtained by dividing the "Participant's account balance" by the remaining "life expectancy" of the Participant's "designated Beneficiary," determined as provided in Section 6.8(d)(1).

(ii) **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.

(iii) **Death of surviving Spouse before distributions to surviving Spouse are required to begin.** If the Participant dies before the date distributions begin, the Participant's surviving Spouse is the Participant's sole "designated Beneficiary," and the surviving Spouse dies before distributions are required to begin to the surviving Spouse under Section 6.8(b)(2)(i), this Section 6.8(d)(2) will apply as if the surviving Spouse were the Participant.

(e) **Definitions.** For purposes of this Section, the following definitions apply:

(1) "Designated Beneficiary" means the individual who is designated as the Beneficiary under the Plan and is the "designated Beneficiary" under Code §401(a)(9) and Regulation §1.401(a)(9)-4.

(2) "Distribution calendar year" means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first "distribution calendar year" is the calendar year immediately preceding the calendar year which contains the Participant's "required beginning date." For distributions beginning after the Participant's death, the first "distribution calendar year" is the calendar year in which distributions are required to begin under Section 6.8(b). The required minimum distribution for the Participant's first "distribution calendar year" will be made on or before the Participant's "required beginning date." The required minimum distribution for other "distribution calendar years," including the required minimum distribution for the "distribution calendar year" in which the Participant's "required beginning date" occurs, will be made on or before December 31 of that "distribution calendar year."

(3) "Life expectancy" means the life expectancy as computed by use of the Single Life Table in Regulation §1.401(a)(9)-9.

(4) "Participant's account balance" means the Participant's account balance as of the last Valuation Date in the calendar year immediately preceding the "distribution calendar year" (valuation calendar year) increased by the amount of any contributions made and allocated or Forfeitures allocated to the account balance as of the dates in the valuation calendar year after the Valuation Date and decreased by distributions made in the valuation calendar year after the Valuation Date. For this purpose, the Administrator may exclude contributions that are allocated to the account balance as of dates in the valuation calendar year after the Valuation Date, but that are not actually made during the valuation calendar year. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the "distribution calendar year" if distributed or transferred in the valuation calendar year.

(a) **Reduction for QLACs**. A Participant's account balance is reduced by any QLACs (as defined below). This paragraph applies only to QLACs purchased on or after July 2, 2014.

(b) **Definition of QLAC.** A QLAC is qualifying longevity annuity contract as defined in A-17 of Regulation §1.401(a)(9)-6. Pursuant to such Regulation, a QLAC is an annuity contract that is purchased from an insurance company for a Participant and that, in accordance with the rules of application of paragraph (c) below, satisfies each of the following requirements:

(1) The premiums paid with respect to the contract on a date do not exceed the lesser of the following amounts, determined in accordance with the provisions of paragraph (b) of A-17 of Regulation §1.401(a)(9)-6.

(a) An amount equal to the excess of $125,000 (as adjusted under paragraph (d)(2) of A–17 of Regulation §1.401(a)(9)-6), over the sum of the premiums paid before that date with respect to the contract, and the premiums paid on or before that date with respect to any other contract that is intended to be a QLAC and that is purchased for the Participant under the Plan, or any other plan, annuity, or account described in Code §401(a), 403(a), 403(b), or 408 or eligible governmental plan under §457(b).

(b) An amount equal to the excess of 25% of the Participant's account balance under the Plan (including the value of any QLAC held under the Plan for the Participant) as of that date, over the sum of the premiums paid before that date with respect to the contract, and the premiums paid on

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or before that date with respect to any other contract that is intended to be a QLAC and that is held or was purchased for the Participant under the Plan.

(2) The contract provides that distributions under the contract must commence not later than a specified annuity starting date that is no later than the first day of the month next following the eighty-fifth (85th) anniversary of the Employee's birth;

(3) The contract provides that, after distributions under the contract commence, those distributions must satisfy the requirements of paragraph (c) of A-17 of Regulation §1.401(a)(9)-6 (other than the requirement that annuity payments commence on or before the required beginning date (RBD));

(4) The contract does not make available any commutation benefit, cash surrender right, or other similar feature except as otherwise permitted under A-17 of Regulation §1.401(a)(9)-6;

(5) No benefits are provided under the contract after the death of the employee other than the benefits described in paragraph (c) of A-17 of Regulation §1.401(a)(9)-6;

(6) Except as otherwise permitted under A-17 of Regulation §1.401(a)(9)-6, when the contract is issued, the contract (or a rider or endorsement with respect to that contract) states that the contract is intended to be a QLAC; and

(7) The contract is not a variable contract under Code §817, an indexed contract, or a similar contract, except to the extent provided by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin.

(c) **Rules of application relating to premiums.**

(1) Reliance on representations. For purposes of the limitation on premiums described in paragraphs (b)(1) and (2) above, unless the Administrator has actual knowledge to the contrary, the Administrator may rely on an Employee's representation (made in writing or such other form as may be prescribed by the Commissioner) of the amount of the premiums described in such paragraphs, but only with respect to premiums that are not paid under a plan, annuity, or contract that is maintained by the Employer or an entity that is treated as a single employer with the Employer under Code §414(b), (c), (m), or (o).

(2) Consequences of excess premiums. If an annuity contract fails to be a QLAC solely because a premium for the contract exceeds the limits under paragraph (b)(1)(a) above, then the contract is not a QLAC beginning on the date that premium payment is made unless the excess premium is returned to the non-QLAC portion of the Participant's account in accordance with paragraph (d)(1)(ii)(B) of A-17 of Regulation §1.401(a)(9)-6. If the contract fails to be a QLAC, then the value of the contract may not be disregarded under paragraph (a) above as of the date on which the contract ceases to be a QLAC.

If the excess premium is returned (either in cash or in the form of a contract that is not intended to be a QLAC) to the non-QLAC portion of the Participant's account by the end of the calendar year following the calendar year in which the excess premium was originally paid, then the contract will not be treated as exceeding the limits under paragraph (b)(1)(a) above at any time, and the value of the contract will not be included in the employee's account balance under paragraph (a) above. If the excess premium (including the fair market value of an annuity contract that is not intended to be a QLAC, if applicable) is returned to the non-QLAC portion of the Participant's account after the last valuation date for the calendar year in which the excess premium was originally paid, then the Participant's account balance for that calendar year must be increased to reflect that excess premium in the same manner as a Participant's account balance is increased under Regulation §1.401(a)(9)–7, A–2 to reflect a rollover received after the last valuation date.

(3) Application of 25-percent limit. For purposes of the 25% limit under paragraph (b)(1)(b) above, a Participant's account balance on the date on which premiums for a contract are paid is the account balance as of the last valuation date preceding the date of the premium payment, adjusted as follows. The account balance is increased for contributions allocated to the account during the period that begins after the valuation date and ends before the date the premium is paid and decreased for distributions made from the account during that period.

(d) **Dollar and age limitations subject to adjustments.** In the case of calendar years beginning on or after January 1, 2015, the $125,000 amount under paragraph (b)(1)(a) will be adjusted at the same time and in the same manner as the limits are adjusted under Code §415(d), except that the base period shall be the calendar quarter beginning July 1, 2013, and any increase under this paragraph that is not a multiple of $10,000 will be rounded to the next lowest multiple of $10,000. The maximum age set forth in paragraph (b)(2) may be adjusted to reflect changes in mortality, with any such adjusted age to be prescribed by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin and made available by the Superintendent of Documents.

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If a contract fails to be a QLAC because it does not satisfy the dollar limitation in paragraph (b)(1)(a) or the age limitation in paragraph (b)(2), any subsequent adjustment that is made pursuant to this paragraph (d) will not cause the contract to become a QLAC.

(5) "Required beginning date" means, except as otherwise elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), with respect to any Participant, April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70 1/2 or the calendar year in which the Participant retires.

6.9 DISTRIBUTION FOR MINOR OR INCOMPETENT INDIVIDUAL

If, in the opinion of the Administrator, a Participant or Beneficiary entitled to a distribution is not able to care for his her affairs because of a mental condition, a physical condition, or by reason of age in the case of a minor, Administrator shall direct the distribution to the Participant's or Beneficiary's valid power of attorney, court appointed guardian, or any other person authorized under state law to receive the benefit (including a custodian under a Uniform Transfers or Gifts to Minors Act), upon furnishing evidence of such status satisfactory to the Administrator. The Administrator and the Trustee (or Insurer) do not have any liability with respect to payments so made and neither the Administrator nor the Trustee (or Insurer) has any duty to make inquiry as to the competence of any person entitled to receive payments under the Plan.

6.10 LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN

In the event that all, or any portion, of the distribution payable to a Participant or Beneficiary hereunder shall, at the later of the Participant's attainment of age 62 or Normal Retirement Age, remain unpaid solely by reason of the inability of the Administrator to ascertain the whereabouts of such Participant or Beneficiary, the amount so distributable may, in the sole discretion of the Administrator, either be treated as a Forfeiture or be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b). Before treating any Participant as being missing, the Administrator must conduct a reasonable and diligent search for the Participant, using one or more of search methods the Plan Administrator determines are appropriate under the circumstances, such as the methods suggested by DOL Field Assistance Bulletin 2014-01. Such search methods include:

(1) provide a distribution notice to the lost Participant at the Participant's last known address by certified or registered mail;
(2) check with the administrator of other employee benefit plans of the Employer that may have more up-to-date information regarding the Participant's whereabouts;
(3) identify and contact the Participant's Designated Beneficiary;
(4) use one or more free internet search tools;
(5) attempt contact via email or telephone, or
(6) use proprietary internet search tools, commercial locator services, credit reporting agencies, information brokers, or other search methods. Regarding search methods (2) and (3) above, if the Plan Administrator encounters privacy concerns, the Plan Administrator may request that the Employer or other plan fiduciary (under (2)), or the Designated Beneficiary (under (3)), contact the Participant or forward a letter requesting that the Participant contact the Plan Administrator.

In addition, if the Plan provides for mandatory distributions and the amount to be distributed to a Participant or Beneficiary does not exceed $1,000, then the amount distributable may, in the sole discretion of the Administrator, either be treated as a Forfeiture, be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b) or use the PBGC Missing Participant Program, or any successor program, at the time it is determined that the whereabouts of the Participant or the Participant's Beneficiary cannot be ascertained. In the event a Participant or Beneficiary is located subsequent to the Forfeiture and prior to the time the Plan has been terminated, such benefit shall be restored, first from Forfeitures, if any, and then from an additional Employer contribution if necessary. Upon Plan termination, the portion of the distributable amount that is an "eligible rollover distribution" as defined in Section 6.14(b)(1) may be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b). However, regardless of the preceding, a benefit that is lost by reason of escheat under applicable state law is not treated as a Forfeiture for purposes of this Section nor as an impermissible forfeiture under the Code.

6.11 IN-SERVICE DISTRIBUTION

If elected in the Adoption Agreement, at such time as the conditions set forth in the Adoption Agreement have been satisfied, then the Administrator, at the election of a Participant who has not severed employment with the Employer, shall direct the distribution of up to the entire Vested amount then credited to the Accounts as elected in the Adoption Agreement maintained on behalf of such Participant. For purposes of this Section, a Participant shall include an Employee who has an Account balance in the Plan. In the event that the Administrator makes such a distribution, the Participant shall continue to be eligible to participate in the Plan on the same basis as any other Employee. Any distribution made pursuant to this Section shall be made in a manner consistent with Section 6.5. Furthermore, if an in-service distribution is permitted from more than one account type, the Administrator may determine any ordering of a Participant's in-service distribution from such accounts. The Administrator may adopt a policy imposing frequency limitations or other reasonable administrative conditions on in-service distributions made pursuant to this Section.

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6.12 DISTRIBUTION FOR HARDSHIP

(a) **Hardship events.** If elected in the Adoption Agreement, the Administrator, at the election of the Participant, shall direct the distribution to any Participant in any one Plan Year to an amount necessary to satisfy the Participant's immediate and heavy financial need, determined in accordance with the remaining provisions of this Section. A hardship distribution may only be made on account of an immediate and heavy financial need of the Participant and where the distribution is necessary to satisfy the immediate and heavy financial need. Such distributions may also be made from those Accounts from which such distribution are authorized by the remaining provisions of this Section. For purposes of this Section, a Participant shall include an Employee who has an Account balance in the Plan. Any distribution made pursuant to this Section shall be deemed to be made as of the first day of the Plan Year or, if later, the Valuation Date immediately preceding the date of distribution, and the Account from which the distribution is made shall be reduced accordingly. Withdrawal under this Section shall be authorized only if the distribution is for an immediate and heavy financial need. The Administrator will determine whether there is an immediate and heavy financial need based on the facts and circumstances. An immediate and heavy financial need includes, but is not limited to, a distribution for one of the following:

(1) Expenses for (or necessary to obtain) medical care (as defined in Code §213(d));

(2) Costs directly related to the purchase (excluding mortgage payments) of a principal residence for the Participant;

(3) Payments for burial or funeral expenses for the Participant's deceased parent, Spouse, children or dependents (as defined in Code §152, and without regard to Code §152(d)(1)(B));

(4) Payment of tuition, related educational fees, and room and board expenses, for up to the next twelve (12) months of post-secondary education for the Participant, the Participant's Spouse, children, or dependents (as defined in Code §152, and without regard to Code §§152(b)(1), (b)(2), and (d)(1)(B));

(5) Payments necessary to prevent the eviction of the Participant from the Participant's principal residence or foreclosure on the mortgage on that residence; or

(6) Expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty deduction under Code §165 (determined without regard to whether the loss exceeds 10% of adjusted gross income).

(b) **Beneficiary-based distribution.** If elected in the Adoption Agreement, then effective as of the date specified in the Adoption Agreement, a Participant's hardship event includes an immediate and heavy financial need of the Participant's "primary Beneficiary under the Plan," that would constitute a hardship event if it occurred with respect to the Participant's Spouse or dependent as defined under Code §152 (such hardship events being limited to educational expenses, funeral expenses and certain medical expenses). For purposes of this Section, a Participant's "primary Beneficiary under the Plan" is an individual who is named as a Beneficiary under the Plan (by the Participant or pursuant to Section 6.2(d)) and has an unconditional right to all or a portion of the Participant's Account balance under the Plan upon the Participant's death.

(c) **Other limits and conditions.** If elected in the Adoption Agreement, no distribution shall be made pursuant to this Section from the Participant's Account until such Account has become fully Vested. Furthermore, if a hardship distribution is permitted from more than one Account, the Administrator may determine any ordering of a Participant's hardship distribution from such Accounts.

(d) **Distribution rules apply.** Any distribution made pursuant to this Section shall be made in a manner which is consistent with and satisfies the provisions of Section 6.5.

6.13 QUALIFIED DOMESTIC RELATIONS ORDER DISTRIBUTION

All benefits provided to a Participant in this Plan shall be subject to the rights afforded to any Alternate Payee under a "qualified domestic relations order." Furthermore, unless otherwise elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) a distribution to an Alternate Payee shall be permitted if such distribution is authorized by a "qualified domestic relations order," even if the affected Participant has not reached the "earliest retirement age." For the purposes of this Section, "qualified domestic relations order" and "earliest retirement age" shall have the meanings set forth under Code §414(p). For purposes of this Section, however, a distribution that is made pursuant to a domestic relations order which meets the requirements of Code §414(p)(1)(A)(i) will be treated as being made pursuant to a "qualified domestic relations order."

A domestic relations order that otherwise satisfies the requirements for a "qualified domestic relations order" will not fail to be a "qualified domestic relations order": (i) solely because the order is issued after, or revises, another domestic relations order or "qualified domestic relations order"; or (ii) solely because of the time at which the order is issued, including issuance after the Annuity Starting Date or after the Participant's death.

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6.14 DIRECT ROLLOVERS

(a) **Right to direct rollover.** Notwithstanding any provision of the Plan to the contrary that would otherwise limit a "distributee's" election under this Section, a "distributee" may elect, at the time and in the manner prescribed by the Administrator, to have an "eligible rollover distribution" paid directly to an "eligible retirement plan" specified by the "distributee" in a "direct rollover." However, if less than the entire amount of the "eligible rollover distribution" is being paid directly to an "eligible retirement plan," then the Administrator may require that the amount paid directly to such plan be at least $500.

(b) **Definitions.** For purposes of this Section, the following definitions shall apply:

(1) **Eligible rollover distribution.** An "eligible rollover distribution" means any distribution described in Code §402(c)(4) and generally includes any distribution of all or any portion of the balance to the credit of the "distributee," except that an "eligible rollover distribution" does not include: (a) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the "distributee" or the joint lives (or joint life expectancies) of the "distributee" and the "distributee's" "designated Beneficiary," or for a specified period of ten (10) years or more; (b) any distribution to the extent such distribution is required under Code §401(a)(9); (c) any hardship distribution; (d) the portion of any other distribution(s) that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); (e) any loans that are treated as deemed distributions under Code §72(p) which are not also an offset distribution; (f) the costs of life insurance coverage (P.S. 58 costs); (g) any other distributions described in Regulation §1.402(c)-2; and any other distribution reasonably expected to total less than $200 during a year.

Notwithstanding the above, a portion of a distribution shall not fail to be an "eligible rollover distribution" merely because the portion consists of after-tax voluntary Employee contributions which are not includible in gross income. However, such portion may be transferred only to:

(i) a traditional individual retirement account or annuity described in Code §408(a) or (b) (a "traditional IRA")

(ii) for taxable years beginning after December 31, 2006, a Roth individual account or annuity described in Code §408A (a "Roth IRA"), or

(iii) a qualified defined contribution plan or an annuity contract described in Code §401(a) or Code §403(b), respectively, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(2) **Eligible retirement plan.** An "eligible retirement plan" is a "traditional IRA," a "Roth IRA," a qualified trust (an employees' trust) described in Code §401(a) which is exempt from tax under Code §501(a), an annuity plan described in Code §403(a), an eligible plan under Code §457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision and which agrees to separately account for amounts transferred into such plan from this Plan, and an annuity contract described in Code §403(b), and for distributions made after December 18, 2015, a SIMPLE IRA to the extent permitted under Code §408(p)(1)(B), that accepts the "distributee's" "eligible rollover distribution." The definition of "eligible retirement plan" shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is an Alternate Payee. If any portion of an "eligible rollover distribution" is attributable to payments or distributions from a designated Roth account, an "eligible retirement plan" with respect to such portion shall include only another designated Roth account of the individual from whose account the payments or distributions were made, or a Roth IRA of such individual. In the case of a "distributee" who is a non-Spouse designated Beneficiary, (i) the "direct rollover" may be made only to a traditional or Roth individual retirement account or an annuity described in Code §408(b) ("IRA") that is established on behalf of the designated non-Spouse Beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Code §402(c)(11), and (ii) the determination of any required minimum distribution required under Code §401(a)(9) that is ineligible for rollover shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18.

(3) **Distributee.** A "distributee" includes an Employee or Former Employee. In addition, the Employee's or Former Employee's surviving Spouse and the Employee's or Former Employee's Spouse or former Spouse who is the Alternate Payee, are "distributees" with regard to the interest of the Spouse or former Spouse.

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

(c) **Participant notice.** A Participant entitled to an "eligible rollover distribution" must receive a written explanation of the right to a "direct rollover," the tax consequences of not making a "direct rollover," and, if applicable, any available special income tax elections. The notice must be provided no less than thirty (30) days and no more than one-hundred eighty (180) days before the Annuity Starting Date. The "direct rollover" notice must be provided to all Participants, unless the total amount the Participant will receive as a distribution during the calendar year is expected to be less than $200.

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(d) **Non-Spouse Beneficiary rollover right.** A non-Spouse Beneficiary who is a "designated Beneficiary" under Code §401(a)(9)(E) and the Regulations thereunder, by a direct trustee-to-trustee transfer ("direct rollover"), may roll over all or any portion an "eligible rollover distribution" to an IRA the Beneficiary establishes for purposes of receiving the distribution. If the Participant's named Beneficiary is a trust, the Plan may make a direct rollover to an IRA on behalf of the trust, provided the trust satisfies the requirements to be a "designated Beneficiary."

6.15 RESTRICTIONS ON DISTRIBUTION OF ASSETS TRANSFERRED FROM A MONEY PURCHASE PLAN

Notwithstanding any provision of this Plan to the contrary, to the extent that any optional form of benefit under this Plan permits a distribution prior to the Employee's retirement, death, Total and Permanent Disability, or severance from employment, and prior to Plan termination, the optional form of benefit is not available with respect to benefits attributable to assets (including the post-transfer earnings thereon) and liabilities that are transferred, within the meaning of Code §414(l), to this Plan from a money purchase pension plan qualified under Code §401(a) (other than any portion of those assets and liabilities attributable to after-tax voluntary Employee contributions or to a direct or indirect rollover contribution). A Participant may not obtain an in-service distribution with respect to such transferred amounts prior to the earlier of the Participant's Normal Retirement Age or attainment of age 62.

6.16 CORRECTIVE DISTRIBUTIONS

Nothing in this Article shall preclude the Administrator from making a distribution to a Participant, to the extent such distribution is made to correct a qualification defect in accordance with the corrective procedures under the IRS' Employee Plans Compliance Resolution System or any other voluntary compliance programs established by the IRS.

6.17 SERVICE CREDIT PURCHASES

The Administrator, upon Participant request, may direct the transfer of all or a portion of the Participant's Account to a governmental defined benefit plan (as defined in Code §414(d)) in which he or she participates for the purchase of permissive service credit (as defined in Code §415(n)(3)(A)).

6.18 UNCASHED CHECKS

Subject to the provisions of Section 6.10, the Plan Administrator operationally may dispose of an uncashed distribution from the Plan to a lost Participant at the time and in the manner described in this Section). Prior to doing so, the Plan Administrator must make reasonable and diligent efforts to contact the lost Participant, including using such search methods the Plan Administrator determines are appropriate under the circumstances. At the discretion of the Administrator, Plan distributions that remain uncashed, and which the Administrator chooses not to reinvest in the Plan may be: (1) voluntarily remitted to a State unclaimed property department, but no sooner than the appropriate state dormancy period has expired; or (2) deposited for the benefit of the lost Participant either to a: (a) bank account, or (b) individual retirement account if the original distribution was an eligible rollover distribution.

For purposes of this Section 6.18, a distribution is "uncashed" if it remains uncashed by the "cash-by" date on the check or in an accompanying notice, e.g., a date prescribed by the bank or the Plan. This "cash-by" date must be at least forty-five (45) days after the check is issued. If there is no prescribed "cash-by" date, then the amount is considered uncashed if it is not cashed by the check’s stale date.

6.19 HEALTH INSURANCE PAYMENTS FOR PUBLIC SAFETY OFFICERS

An "eligible retired public safety officer" may elect annually for that taxable year to have the Plan deduct an amount from a distribution which the "eligible retired public safety officer" otherwise would receive and include in income. The Plan will pay such deducted amounts directly to pay "qualified health insurance premiums" ed in Code §402(l). Any election made under this Plan must conform to the requirements of Code §402(l). A "qualified retired public safety officer" is a public safety officer (as defined in §1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C 3796b(9)(A)) who, by reason of disability or attainment of Normal Retirement Age, is separated from service as a public safety officer with the Employer. "Qualified health insurance premiums" means the premiums for coverage for the "eligible retired public safety officer," his or her Spouse, and dependents (as defined in Code §152), by an accident or health plan or qualified long-term care insurance contract (as defined in Code §7702B(b)).

ARTICLE VII
TRUSTEE AND CUSTODIAN

7.1 CONFLICT WITH PLAN

In the event of any conflicts between the provisions of this Plan and the Trust agreement, the provisions of this Plan control.

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7.2 POWERS AND DUTIES OF CUSTODIAN

Subject to the terms of the Trust agreement, the Employer may appoint a Custodian of the Plan assets. The duties of the Custodian are those set forth in the agreement with the Custodian. Any reference in the Plan to a Trustee also is a reference to a Custodian unless the Employer has appointed a Custodian separate from the Trustee or the context of the Plan indicates otherwise.

7.3 LIFE INSURANCE

(a) **Permitted insurance.** To the extent not prohibited under the terms of the Trust agreement, the Trustee (or Insurer), in accordance with operational procedures of the Administrator, shall ratably apply for, own, and pay all premiums on Contracts on the lives of the Participants or, in the case of a 401(a) Plan, on the life of a member of the Participant's family or on the joint lives of a Participant and a member of the Participant's family. Furthermore, if a Contract is purchased on the joint lives of the Participant and another person and such other person predeceases the Participant, then the Contract may not be maintained under this Plan. Any initial or additional Contract purchased on behalf of a Participant shall have a face amount of not less than $1,000, an amount set forth in the Administrator's procedures, or the limitation of the Insurer, whichever is greater. If a life insurance Contract is to be purchased for a Participant, then the aggregate premium for ordinary life insurance for each Participant must be less than 50% of the aggregate contributions and Forfeitures allocated to the Participant's Combined Account. For purposes of this limitation, ordinary life insurance Contracts are Contracts with both non-decreasing death benefits and non-increasing premiums. If term insurance or universal life insurance is purchased, then the aggregate premium must be 25% or less of the aggregate contributions and Forfeitures allocated to the Participant's Combined Account. If both term insurance and ordinary life insurance are purchased, then the premium for term insurance plus one-half of the premium for ordinary life insurance may not in the aggregate exceed 25% of the aggregate Employer contributions and Forfeitures allocated to the Participant's Combined Account. Notwithstanding the preceding, the limitations imposed herein with respect to the purchase of life insurance shall not apply, in the case of a 401(a) Plan, to the portion of the Participant's Account that has accumulated for at least two (2) Plan Years or to the entire Participant's Account if the Participant has been a Participant in the Plan for at least five (5) years. In addition, amounts transferred to this Plan in accordance with Section 4.6(f)(1)(ii) or (iii) and a Participant's Voluntary Contribution Account may be used to purchase Contracts without limitation. Thus, amounts that are not subject to the limitations contained herein may be used to purchase life insurance on any person in whom a Participant has an insurable interest or on the joint lives of a Participant and any person in whom the Participant has an insurable interest, and without regard to the amount of premiums paid to purchase any life insurance hereunder.

(b) **Contract conversion at retirement.** The Administrator must direct the Trustee (or Insurer) to distribute any Contracts to the Participant or convert the entire value of the Contracts at or before retirement into cash or provide for a periodic income so that no portion of such value may be used to continue life insurance protection beyond the Participant's actual retirement date.

(c) **Limitations on purchase.** No life insurance Contracts shall be required to be obtained on an individual's life if, for any reason (other than the nonpayment of premiums) the Insurer will not issue a Contract on such individual's life.

(d) **Proceeds payable to plan.** The Trustee (or Insurer) must be the owner of any life insurance Contract purchased under the terms of this Plan. The Contract must provide that the proceeds will be payable to the Trustee (or Insurer); however, the Trustee (or Insurer) shall be required to pay over all proceeds of the Contract to the Participant's "designated Beneficiary" in accordance with the distribution provisions of Article VI as directed by the Administrator. A Participant's Spouse will be the "designated Beneficiary" pursuant to Section 6.2, unless a qualified election has been made in accordance with Sections 6.5 and 6.6 of the Plan, if applicable. Under no circumstances shall the Trust retain any part of the proceeds that are in excess of the cash surrender value immediately prior to death. However, the Trustee (or Insurer) shall not pay the proceeds in a method that would violate the requirements of the Retirement Equity Act of 1984, as stated in Article VI of the Plan, or Code §401(a)(9) and the Regulations thereunder. In the event of any conflict between the terms of this Plan and the terms of any insurance Contract purchased hereunder, the Plan provisions shall control.

(e) **No responsibility for act of Insurer.** The Employer, the Administrator and the Trustee shall not be responsible for the validity of the provisions under a Contract issued hereunder or for the failure or refusal by the Insurer to provide benefits under such Contract. The Employer, Administrator and the Trustee are also not responsible for any action or failure to act by the Insurer or any other person which results in the delay of a payment under the Contract or which renders the Contract invalid or unenforceable in whole or in part.

7.4 LOANS TO PARTICIPANTS

(a) **Permitted Loans.** To the extent not prohibited under the terms of the Trust agreement, the Administrator may, in the Administrator's sole discretion, make loans to Participants. If loans are permitted, then the following shall apply: (1) loans shall be made available to all Participants on a reasonably equivalent basis; (2) loans shall bear a reasonable rate of interest; (3) loans shall be adequately secured; and (4) loans shall provide for periodic repayment over a reasonable period of time. Furthermore, no Participant loan shall exceed the Participant's Vested interest in the Plan. For purposes of this Section, the term Participant shall include any Eligible Employee who is not yet a Participant, if, pursuant to the Adoption Agreement, "rollovers" are permitted to be accepted from Eligible Employees.

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(b) **Loan program.** The Administrator shall be authorized to establish a Participant loan program to provide for loans under the Plan. In order for the Administrator to implement such loan program, a separate written document forming a part of this Plan must be adopted, which document shall specifically include, but need not be limited to, the following:

(1) the identity of the person or positions authorized to administer the Participant loan program;

(2) a procedure for applying for loans;

(3) the basis on which loans will be approved or denied;

(4) limitations, if any, on the types and amounts of loans offered;

(5) the procedure under the program for determining a reasonable rate of interest;

(6) the types of collateral which may secure a Participant loan; and

(7) the events constituting default and the steps that will be taken to preserve Plan assets in the event such default.

(c) **Loan default.** Notwithstanding anything in this Plan to the contrary, if a Participant or Beneficiary defaults on a loan made pursuant to this Section that is secured by the Participant's interest in the Plan, then a Participant's interest may be offset by the amount subject to the security to the extent there is a distributable event permitted by the Code or Regulations. Notwithstanding anything in the Plan's loan policy to the contrary, if a loan is accelerated due to a Participant's termination of employment, then the Plan may direct that the loan note be transferred or directly rolled over to another plan that will accept the transfer or rollover of the note.

(d) **Loans subject to Plan terms.** Notwithstanding anything in this Section to the contrary, if this is an amendment and restatement of an existing Plan, any loans made prior to the date this amendment and restatement is adopted shall be subject to the terms of the Plan in effect at the time such loan was made.

7.5 PLAN TO PLAN TRANSFERS

Notwithstanding any other provision contained in this Plan and to the extent not prohibited under the terms of the Trust agreement, the Administrator may direct the Trustee to transfer the interest, if any, of a Participant to another trust forming part of a pension, profit sharing, or stock bonus plan that meets the requirements of Code §401(a), provided that the trust to which such transfers are made permits the transfer to be made and further provided that the terms of the transferee plan properly allocates the funds in each account to a transferee account that preserves all the required features and restrictions applicable to such account under this Plan. However, the transfer of amounts from this Plan to a nonqualified foreign trust is treated as a distribution and the transfer of assets and liabilities from this Plan to a plan that satisfies Section 1165 of the Puerto Rico Code is also treated as distribution from the transferor plan.

ARTICLE VIII
AMENDMENT, TERMINATION AND MERGERS

8.1 AMENDMENT

(a) **General rule on Employer amendment.** The Employer shall have the right at any time to amend this Plan subject to the limitations of this Section. However, any amendment that affects the rights, duties or responsibilities of the Trustee (or Insurer) or Administrator may only be made with the Trustee's (or Insurer's) or Administrator's written consent. Any such amendment shall become effective as provided therein upon its execution. The Trustee (or Insurer) shall not be required to execute any such amendment unless the amendment affects the duties of the Trustee (or Insurer) hereunder.

(b) **Permissible amendments.** The Employer amend the Plan to accomplish any of the following items without affecting reliance on the opinion letter: (1) change the choice of options in the Adoption Agreement or Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), (2) add certain sample or model amendments published by the Internal Revenue Service or other required good-faith amendments where the IRS has provided that their adoption will not cause the Plan to be treated as an individually designed plan, (3) add a list of any protected benefits" which must be preserved, (4) adjust the limitations under Code §§415, 402(g), 401(a)(17) and 414(q)(1)(B) to reflect annual cost-of-living increases, and (5) change the pre-approved plan Provider's name. "Provider" pursuant to this Section 8 means the entity that contracts with the mass submitter to provide the Basic Plan Document and Adoption Agreement for use by the Employer or, in the alternative, the mass submitter that provides such documents directly to its clients. An Employer that amends the Plan for any other reason, including a waiver of the minimum funding requirement under Code §412(c), will no longer participate in this pre-approved plan and this Plan will be considered to be an individually designed plan for purposes of reliance. A Plan amendment does not include an amendment or substitution of the Trust.

(c) **Provider amendments.** The Employer (and every Participating Employer) expressly delegates authority to the Provider, the right to amend the Plan by submitting a copy of the amendment to each Employer (and Participating Employer) who has adopted

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this pre-approved plan, after first having received a ruling or favorable determination from the Internal Revenue Service that the pre-approved Plan as amended qualifies under Code §401(a) (unless a ruling or determination is not required by the IRS). The Provider will amend the Plan Documents from time to time in accordance with this Section 8.1(c). For purposes of this Section, the mass submitter shall be recognized as the agent of the Provider. If the Provider does not adopt any amendment made by the mass submitter, it will no longer be identical to, or a minor modifier of, the mass submitter plan.

(d) **Impermissible amendments.** No amendment to the Plan shall be effective if it authorizes or permits any part of the Trust Fund (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 estates; or causes any reduction in the amount credited to the account of any Participant; or causes or permits any portion of the Trust Fund to revert to or become property of the Employer.

8.2 TERMINATION

(a) **Termination of Plan.** The Employer shall have the right at any time to terminate the Plan by delivering to the Trustee (or Insurer) and Administrator written notice of such termination. The Employer has no obligation or liability whatsoever to maintain the Plan for any specific length of time and may terminate the Plan or discontinue contributions under the Plan at any time without liability hereunder for any such discontinuance. Upon any full or partial termination or upon the complete discontinuance of the Employer's Contributions to the Plan (in the case of a Profit Sharing Plan), all amounts credited to the affected Participants' Combined Accounts shall become 100% Vested and shall not thereafter be subject to Forfeiture.

(b) **Distribution of assets.** Upon the full termination of the Plan, the Employer shall direct the distribution of the assets to Participants in a manner that is consistent with and satisfies the provisions of Section 6.5. Distributions to a Participant shall be made in cash (or in property if permitted in the Adoption Agreement) or through the purchase of irrevocable nontransferable deferred commitments from the Insurer.

8.3 MERGER, CONSOLIDATION OR TRANSFER OF ASSETS

This Plan may be merged or consolidated with, or its assets and/or liabilities may be transferred to any other plan provided the benefits which would be received by a Participant of this Plan, in the event of a termination of the plan immediately after such transfer, merger or consolidation, are at least equal to the benefits the Participant would have received if the Plan had terminated immediately before the transfer, merger or consolidation.

ARTICLE IX
MISCELLANEOUS

9.1 EMPLOYER ADOPTIONS

(a) **Method of adoption.** Any organization may become the Employer hereunder by executing the Adoption Agreement.

(b) **Separate affiliation.** Except as otherwise provided in this Plan, the affiliation of the Employer and the participation of its Participants shall be separate and apart from that of any other employer and its participants hereunder.

9.2 PARTICIPANT'S RIGHTS

This Plan shall not be deemed to constitute a 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 shall 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 the Employee as a Participant of this Plan.

9.3 ALIENATION

(a) **General rule.** Subject to the exceptions provided below and as otherwise permitted by the Code, no benefit which shall be payable to any person (including a Participant or the Participant's Beneficiary) shall 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 shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, and the same shall not be recognized except to such extent as may be required by law.

(b) **Exception for loans.** Subsection (a) shall not apply to the extent a Participant or Beneficiary is indebted to the Plan by reason of a loan made pursuant to Section 7.4. At the time a distribution is to be made to or for a Participant's or Beneficiary's benefit, such portion of the amount to be distributed as shall equal such indebtedness shall be paid to the Plan, to apply against or discharge such indebtedness. Prior to making a payment, however, the Participant or Beneficiary must be given notice by the Administrator that such indebtedness is to be so paid in whole or part from the Participant's interest in the Plan. If the Participant or Beneficiary does not agree that the indebtedness is a valid claim against the Participant's interest in the Plan, the Participant or Beneficiary shall be entitled to a review of the validity of the claim in accordance with procedures provided in Section 2.10.

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(c) **Exception for QDRO.** Subsection (a) shall not apply to a "qualified domestic relations order" defined in Code §414(p), and those other domestic relations orders permitted to be so treated by the Administrator under the provisions of the Retirement Equity Act of 1984.

9.4 PLAN COMMUNICATIONS, INTERPRETATION AND CONSTRUCTION

(a) **Applicable law.** This Plan shall be construed and enforced according to the Code, and the laws of the state or commonwealth in which the Employer's principal office is located (unless otherwise designated in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), other than its laws respecting choice of law, to the extent not pre-empted by federal law.

(b) **Administrator's discretion.** The Administrator has total and complete discretion to interpret and construe the Plan and to determine all questions arising in the administration, interpretation and application of the Plan. Any determination the Administrator makes under the Plan is final and binding upon any affected person. The Administrator must exercise all of its Plan powers and discretion, and perform all of its duties, in a uniform manner.

(c) **Communications.** All Participant or Beneficiary notices, designations, elections, consents or waivers must be made in a form the Administrator (or, as applicable, the Trustee or Insurer) specifies or otherwise approves. Any person entitled to notice under the Plan may waive the notice or shorten the notice period unless such actions are contrary to applicable law.

(d) **Evidence.** Anyone, including the Employer, required to give data, statements or other information relevant under the terms of the Plan ("evidence") may do so by certificate, affidavit, document or other form which the person to act in reliance may consider pertinent, reliable and genuine, and to have been signed, made or presented by the proper party or parties. The Administrator, Trustee and Insurer are protected fully in acting and relying upon any evidence described under the immediately preceding sentence.

(e) **Plan terms binding.** The Plan is binding upon all parties, including but not limited to, the Employer, Trustee, Insurer, Administrator, Participants and Beneficiaries.

(f) **Parties to litigation.** Except as otherwise provided by applicable law, a Participant or a Beneficiary is not a necessary party or required to receive notice of process in any court proceeding involving the Plan, the Trust or any fiduciary. Any final judgment (not subject to further appeal) entered in any such proceeding will be binding upon all parties, including the Employer, the Administrator, Trustee, Insurer, Participants and Beneficiaries.

(g) **Fiduciaries not insurers.** The Trustee, Administrator and the Employer in no way guarantee the Plan assets from loss or depreciation. The Employer does not guarantee the payment of any money which may be or becomes due to any person from the Plan. The liability of the Employer, the Administrator and the Trustee to make any distribution from the Trust at any time and all times is limited to the then available assets of the Trust.

(h) **Construction/severability.** The Plan, the Adoption Agreement, the Trust and all other documents to which they refer, will be interpreted consistent with and to preserve tax qualification of the Plan under Code §401(a) and tax exemption of the Trust under Code §501(a) and also consistent with other applicable law. To the extent permissible under applicable law, any provision which a court (or other entity with binding authority to interpret the Plan) determines to be inconsistent with such construction and interpretation, is deemed severed and is of no force or effect, and the remaining Plan terms will remain in full force and effect.

(i) **Uniformity.** All provisions of this Plan shall be interpreted and applied in a uniform manner.

(j) **Headings.** The headings and subheadings of this Plan have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

9.5 GENDER, NUMBER AND TENSE

Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply; whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply; and whenever any words are used herein in the past or present tense, they shall be construed as though they were also used in the other form in all cases where they would so apply.

9.6 LEGAL ACTION

In the event any claim, suit, or proceeding is brought regarding the Trust and/or Plan established hereunder to which the Trustee (or Insurer), the Employer or the Administrator may be a party, and such claim, suit, or proceeding is resolved in favor of the Trustee (or Insurer), the Employer or the Administrator, they shall be entitled to be reimbursed from the Trust Fund for any and all costs, attorney's fees, and other expenses pertaining thereto incurred by them for which they shall have become liable.

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9.7 PROHIBITION AGAINST DIVERSION OF FUNDS

(a) **General rule.** Except as provided below and otherwise specifically permitted by law, it shall be impossible by operation of the Plan or of the Trust, by termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by any other means, for any part of the corpus or income of any Trust Fund maintained pursuant to the Plan or any funds contributed thereto to be used for, or diverted to, purposes other than the exclusive benefit of Participants or their Beneficiaries.

(b) **Mistake of fact.** In the event the Employer shall make a contribution under a mistake of fact, the Employer may demand repayment of such contribution at any time within one (1) year following the time of payment and the Trustee (or Insurer) shall return such amount to the Employer within the one (1) year period. Earnings of the Plan attributable to the contributions may not be returned to the Employer but any losses attributable thereto must reduce the amount so returned.

9.8 EMPLOYER'S AND TRUSTEE'S PROTECTIVE CLAUSE

The Employer, Administrator and Trustee, and their successors, shall not be responsible for the validity of any Contract issued hereunder or for the failure on the part of the Insurer to make payments provided by any such Contract, or for the action of any person which may delay payment or render a Contract null and void or unenforceable in whole or in part.

9.9 INSURER'S PROTECTIVE CLAUSE

Except as otherwise agreed upon in writing between the Employer and the Insurer, an Insurer which issues any Contracts hereunder shall not have any responsibility for the validity of this Plan or for the tax or legal aspects of this Plan. The Insurer shall be protected and held harmless in acting in accordance with any written direction of the Administrator or Trustee and shall have no duty to see to the application of any funds paid to the Trustee, nor be required to question any actions directed by the Administrator or Trustee. Regardless of any provision of this Plan, the Insurer shall not be required to take or permit any action or allow any benefit or privilege contrary to the terms of any Contract which it issues hereunder, or the rules of the Insurer.

9.10 RECEIPT AND RELEASE FOR PAYMENTS

Any payment to any Participant, the Participant's legal representative, Beneficiary, or to any guardian or committee appointed for such Participant or Beneficiary in accordance with the provisions of this Plan, including those referenced in Section 6.9, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Trustee (or Insurer) and the Employer.

9.11 ACTION BY THE EMPLOYER

Whenever the Employer under the terms of the Plan is permitted or required to do or perform any act or matter or thing, it shall be done and performed by a person duly authorized by its legally constituted authority.

9.12 APPROVAL BY INTERNAL REVENUE SERVICE

Notwithstanding anything herein to the contrary, if, pursuant to an application for qualification is made by the time prescribed by law or such later date as the Secretary of Treasury may prescribe, the Commissioner of the Internal Revenue Service or the Commissioner's delegate should determine that the Plan does not initially qualify as a tax-exempt plan under Code §§401 and 501, and such determination is not contested, or if contested, is finally upheld, then if the Plan is a new plan, it shall be void ab initio and all amounts contributed to the Plan, by the Employer, less expenses paid, shall be returned within one (1) year and the Plan shall terminate, and the Trustee (or Insurer) shall be discharged from all further obligations. If the disqualification relates to a Plan amendment, then the Plan shall operate as if it had not been amended. If the Employer's Plan fails to attain or retain qualification, such Plan will no longer participate in this pre-approved plan and will be considered an individually designed plan.

9.13 PAYMENT OF BENEFITS

Except as otherwise provided in the Plan, benefits under this Plan shall be paid, subject to Sections 6.11 and 6.12, only upon death, Total and Permanent Disability, normal or early retirement, severance of employment, or termination of the Plan.

9.14 ELECTRONIC MEDIA

The Administrator may use any electronic medium to give or receive any Plan notice, communicate any Plan policy, conduct any written Plan communication, satisfy any Plan filing or other compliance requirement and conduct any other Plan transaction to the extent permissible under applicable law. A Participant or a Participant's Spouse, to the extent authorized by the Administrator, may use any electronic medium to make or provide any Beneficiary designation, election, notice, consent or waiver under the Plan, to the extent permissible under applicable law. Any reference in this Plan to a "form," a "notice," an "election," a "consent," a "waiver," a "designation," a "policy" or to any other Plan-related communication includes an electronic version thereof as permitted under applicable law.

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Notwithstanding the foregoing, any Participant or Beneficiary notices and consent that are required pursuant to the Code must satisfy Regulation §1.401(a)-21.

9.15 PLAN CORRECTION

The Administrator in conjunction with the Employer may undertake such correction of Plan errors as the Administrator deems necessary, including correction to preserve tax qualification of the Plan under Code §401(a) or to correct a fiduciary breach under state or local law. Without limiting the Administrator's authority under the prior sentence, the Administrator, as it determines to be reasonable and appropriate, may undertake correction of Plan document, operational, demographic and Employer eligibility failures under a method described in the Plan or under the IRS Employee Plans Compliance Resolution System ("EPCRS") or any successor program to EPCRS. Furthermore, the Employer may make corrective contributions pursuant to this Section regardless of whether the Plan otherwise permits such contribution source. In addition, the Plan is authorized to recover benefits from Participants or Beneficiaries that have been improperly distributed.

9.16 NONTRUSTEED PLANS

If the Plan is funded solely with Contracts, then notwithstanding Sections 9.7 and 9.12, no Contract will be purchased under the Plan unless such Contract or a separate definite written agreement between the Employer and the Insurer provides that no value under Contracts providing benefits under the Plan or credits determined by the Insurer (on account of dividends, earnings, or other experience rating credits, or surrender or cancellation credits) with respect to such Contracts may be paid or returned to the Employer or diverted to or used for other than the exclusive benefit of the Participants or their Beneficiaries. However, any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year of the contribution.

If this Plan is funded by individual Contracts that provide a Participant's benefit under the Plan, such individual Contracts shall constitute the Participant's Account balance. If this Plan is funded by group Contracts, under the group annuity or group insurance Contract, premiums or other consideration received by the Insurer must be allocated to Participants' Accounts under the Plan.

ARTICLE X
PARTICIPATING EMPLOYERS

10.1 ELECTION TO BECOME A PARTICIPATING EMPLOYER

Notwithstanding anything herein to the contrary, with the consent of the Employer, any Employer may adopt the Employer's Plan and all of the provisions hereof, and participate herein and be known as a Participating Employer, by a properly executed document evidencing said intent and will of such Participating Employer (a participation agreement). In the event a Participating Employer is not an Affiliated Employer, then the provisions of Article XI shall apply rather than the provision of this Article XI.

10.2 REQUIREMENTS OF PARTICIPATING EMPLOYERS

(a) **Permissible variations of participation agreement.** The participation agreement must identify the Participating Employer and the covered Employees and provide for the Participating Employer's signature. In addition, in the participation agreement, the Employer shall specify which elections, if any, the Participating Employer can modify, and any restrictions on the modifications. Any such modification shall apply only to the Employees of that Participating Employer. The Participating Employer shall make any such modification by selecting the appropriate option on its participation agreement to the Employer's Adoption Agreement. To the extent that the participation agreement does not permit modification of an election, any attempt by a Participating Employer to modify the election shall have no effect on the Plan and the Participating Employer is bound by the Plan terms as selected by the Employer. If a Participating Employer does not make any permissible participation agreement election modifications, then with regard to any election, the Participating Employer is bound by the Adoption Agreement terms as completed by the "lead Employer."

(b) **Holding and investing assets.** The Trustee (or Insurer) may, but shall not be required to, commingle, hold and invest as one Trust Fund all contributions made by Participating Employers, as well as all increments thereof. However, the assets of the Plan shall, on an ongoing basis, be available to pay benefits to all Participants and Beneficiaries under the Plan without regard to the Employer or Participating Employer who contributed such assets.

(c) **Payment of expenses.** Unless the Employer otherwise directs, any expenses of the Plan which are to be paid by the Employer or borne by the Trust Fund shall be paid by each Participating Employer in the same proportion that the total amount standing to the credit of all Participants employed by such Employer bears to the total standing to the credit of all Participants.

10.3 DESIGNATION OF AGENT

Each Participating Employer shall be deemed to be a part of this Plan; provided, however, that with respect to all of its relations with the Trustee (or Insurer) and Administrator for purposes of this Plan, each Participating Employer shall be deemed to have designated irrevocably the Employer as its agent. Unless the context of the Plan clearly indicates otherwise, the word "Employer" shall be deemed to include each Participating Employer as related to its adoption of the Plan.

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10.4 EMPLOYEE TRANSFERS

In the event an Employee is transferred between Participating Employers, accumulated service and eligibility shall be carried with the Employee involved. No such transfer shall effect a severance of employment hereunder, and the Participating Employer to which the Employee is transferred shall thereupon become obligated hereunder with respect to such Employee in the same manner as was the Participating Employer from whom the Employee was transferred.

10.5 PARTICIPATING EMPLOYER'S CONTRIBUTION AND FORFEITURES

Any contribution and/or Forfeiture subject to allocation during each Plan Year shall be determined and allocated separately by each Participating Employer and shall be allocated only among the Participants eligible to share in the contribution and Forfeiture allocation of the Employer or Participating Employer making the contribution or by which the forfeiting Participant was employed.

On the basis of the information furnished by the Administrator, the Trustee (or Insurer) shall keep separate books and records concerning the affairs of each Participating Employer hereunder and as to the accounts and credits of the Employees of each Participating Employer. The Trustee (or Insurer) may, but need not, register Contracts so as to evidence that a particular Participating Employer is the interested Employer hereunder, but in the event of an Employee transfer from one Participating Employer to another, the employing Employer shall immediately notify the Trustee (or Insurer) thereof.

10.6 AMENDMENT

Any Participating Employer hereby authorizes the Employer to make amendments on its behalf, unless otherwise agreed among all affected parties. Any such amendment is effective and binding upon existing Participating Employers.

10.7 DISCONTINUANCE OF PARTICIPATION

Any Participating Employer that is an Affiliated Employer shall be permitted to discontinue or revoke its participation in the Plan at any time. At the time of any such discontinuance or revocation, satisfactory evidence thereof and of any applicable conditions imposed shall be delivered to the Trustee (or Insurer). The Trustee (or Insurer) shall thereafter transfer, deliver and assign Contracts and other Trust Fund assets allocable to the Participants of such Participating Employer to such new trustee (or insurer) or custodian as shall have been designated by such Participating Employer, in the event that it has established a separate qualified retirement plan for its employees. If no successor is designated, the Trustee (or Insurer) shall retain such assets for the Employees of said Participating Employer pursuant to the provisions of Article VII hereof. In no such event shall any part of the corpus or income of the Trust Fund as it relates to such Participating Employer be used for or diverted to purposes other than for the exclusive benefit of the Employees of such Participating Employer.

10.8 ADMINISTRATOR'S AUTHORITY

The Administrator shall have authority to make any and all necessary rules or regulations, binding upon all Participating Employers and all Participants, to effectuate the purpose of this Article.

ARTICLE XI
MULTIPLE EMPLOYER PROVISIONS

11.1 ELECTION AND OVERRIDING EFFECT

If a Participating Employer that is not an Affiliated Employer adopts this Plan, then the provisions of this Article XI shall apply to each Participating Employer as of the Effective Date specified in its participation agreement and supersede any contrary provisions in the basic Plan document or the Adoption Agreement. If this Article XI applies, then the Plan shall be a multiple employer plan as described in Code §413(c). In this case, the Employer and each Participating Employer acknowledge that the Plan is a multiple employer plan subject to the rules of Code §413(c) and the Regulations thereunder, and specific annual reporting requirements.

11.2 DEFINITIONS

The following definitions shall apply to this Article XI and shall supersede any conflicting definitions in the Plan:

(a) **Employee.** "Employee" means any common law employee, Leased Employee or other person the Code treats as an employee of a Participating Employer for purposes of the Participating Employer's qualified plan. Either the Adoption Agreement or a participation agreement to the Adoption Agreement may designate any Employee, or class of Employees, as not eligible to participate in the Plan.

(b) **Lead Employer.** "Lead Employer" means the signatory Employer to the Adoption Agreement execution page, and does not include any Affiliated Employer or Participating Employer. The "lead Employer" has the same meaning as the Employer for purposes of making Plan amendments and other purposes regardless of whether the "lead Employer" is also a Participating Employer under this Article XI. The "lead Employer" may execute a Participation Agreement setting forth elections which are specific to the "lead Employer".

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11.3 PARTICIPATING EMPLOYER ELECTIONS

The participation agreement must identify the Participating Employer and the covered Employees and provide for the Participating Employer's signature. In addition, in the participation agreement, the "lead Employer" shall specify which elections, if any, the Participating Employer can modify, and any restrictions on the modifications. Any such modification shall apply only to the employees of that Participating Employer. The Participating Employer shall make any such modification by selecting the appropriate option on its participation agreement to the "lead Employer's" Adoption Agreement. To the extent that the Adoption Agreement does not permit modification of an election, any attempt by a Participating Employer to modify the election shall have no effect on the Plan and the Participating Employer is bound by the Plan terms as selected by the "lead Employer." If a Participating Employer does not make any permissible participation agreement election modifications, then with regard to any election, the Participating Employer is bound by the Adoption Agreement terms as completed by the "lead Employer."

11.4 TESTING

The Administrator shall apply the Code §415 limitation in Section 4.4 for the Plan as a whole.

11.5 COMPENSATION

(a) **Separate determination.** A Participant's Compensation shall be determined separately for each Participating Employer for purposes of allocations under Article IV.

(b) **Joint status.** For all Plan purposes, including but not limited to determining the Code §415 limits in Section 4.4, Compensation includes all Compensation paid by or for any Participating Employer.

11.6 SERVICE

An Employee's service includes all Hours of Service and Years of Service with any and all Participating Employers. An Employee who terminates employment with one Participating Employer and immediately commences employment with another Participating Employer has not separated from service or had a severance from employment.

11.7 COOPERATION AND INDEMNIFICATION

(a) **Cooperation.** Each Participating Employer agrees to timely provide all information the Administrator deems necessary to insure the Plan is operated in accordance with the requirements of the Code and will cooperate fully with the "lead Employer," the Plan, the Plan fiduciaries and other proper representatives in maintaining the qualified status of the Plan. Such cooperation will include payment of such amounts into the Plan, to be allocated to employees of the Participating Employer, which are reasonably required to maintain the tax-qualified status of the Plan.

(b) **Indemnity.** Each Participating Employer will indemnify and hold harmless the Administrator, the "lead Employer" and its subsidiaries; officers, directors, shareholders, employees, and agents of the "lead Employer"; the Plan; the Trustees, Participants and Beneficiaries of the Plan, as well as their respective successors and assigns, against any cause of action, loss, liability, damage, cost, or expense of any nature whatsoever (including, but not limited to, attorney's fees and costs, whether or not suit is brought, as well as IRS plan disqualifications, other sanctions or compliance fees and penalties) arising out of or relating to the Participating Employer's noncompliance with any of the Plan's terms or requirements; any intentional or negligent act or omission the Participating Employer commits with regard to the Plan; and any omission or provision of incorrect information with regard to the Plan which causes the Plan to fail to satisfy the requirements of a tax-qualified plan. This indemnity provision shall continue to apply to a Participating Employer with respect to the period such entity was a Participating Employer, even if the Participating Employer withdraws or is removed pursuant to Sections 11.8 or 11.9.

11.8 INVOLUNTARY TERMINATION

Unless the "lead Employer" provides otherwise in an addendum hereto, the "lead Employer" shall have the power to terminate the participation of any Participating Employer (hereafter "Terminated Employer") in this Plan. If and when the "lead Employer" wishes to exercise this power, the following shall occur:

(a) **Notice.** The "lead Employer" shall give the "Terminated Employer" a notice of the "lead Employer's" intent to terminate the "Terminated Employer's" status as a Participating Employer of the Plan. The "lead Employer" will provide such notice not less than thirty (30) days prior to the date of termination unless the "lead Employer" determines that the interest of Plan Participants requires earlier termination.

(b) **Spin-off.** The "lead Employer" shall establish a new defined contribution plan, using the provisions of this Plan with any modifications contained in the "Terminated Employer's" participation agreement, as a guide to establish a new defined contribution plan (the "spin-off plan"). The "lead Employer" will direct the Trustee to transfer (in accordance with the rules of Code §414(l) and the provisions of Section 8.3) the Accounts of the Employees of the "Terminated Employer" to the "spin-off plan." The "Terminated

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Employer" shall be the Employer, Administrator, and sponsor of the "spin-off plan." The Trustee of the "spin-off plan" shall be the person or entity designated by the "Terminated Employer." However, the "lead Employer" shall have the option to designate an appropriate financial institution as Trustee instead if necessary to protect the interest of the Participants. The "lead Employer" shall have the authority to charge the "Terminated Employer" or the Accounts of the Employees of the "Terminated Employer" a reasonable fee to pay the expenses of establishing the "spin-off plan."

(c) **Alternatives.** The "Terminated Employer," in lieu of creation of the "spin-off plan" under (b) above, has the option to elect a transfer alternative in accordance with this Subsection (c).

(1) **Election.** To exercise the option described in this Subsection, the "Terminated Employer" must inform the "lead Employer" of its choice and must supply any reasonably required documentation as soon as practical. If the "lead Employer" has not received notice of a "Terminated Employer's" exercise of this option within ten (10) days prior to the stated date of termination, the "lead Employer" can choose to disregard the exercise and proceed with the Spin-off.

(2) **Transfer.** If the "Terminated Employer" selects this option, the Administrator shall transfer (in accordance with the rules of Code §414(l) and the provisions of Section 8.3) the Accounts of the Employees of the "Terminated Employer" to a qualified plan the "Terminated Employer" maintains. To exercise this option, the "Terminated Employer" must deliver to the "lead Employer" or Administrator in writing the name and other relevant information of the transferee plan and must provide such assurances that the Administrator shall reasonably require to demonstrate that the transferee plan is a qualified plan.

(d) **Participants.** The Employees of the "Terminated Employer" shall cease to be eligible to accrue additional benefits under the Plan with respect to Compensation paid by the "Terminated Employer," effective as of the date of termination. To the extent that these Employees have accrued but unpaid contributions as of the date of termination, the "Terminated Employer" shall pay such amounts to the Plan or the "spin-off plan" no later than thirty (30) days after the date of termination, unless the "Terminated Employer" effectively selects the Transfer option under Subsection (c)(2) above.

(e) **Consent.** By its signature on the participation agreement, the "Terminated Employer" specifically consents to the provisions of this Article and agrees to perform its responsibilities with regard to the "spin-off plan," if necessary.

11.9 VOLUNTARY TERMINATION

A Participating Employer (hereafter "withdrawing employer") may voluntarily withdraw from participation in this Plan at any time. If and when a "withdrawing employer" wishes to withdraw, the following shall occur:

(a) **Notice.** The "withdrawing employer" shall inform the "lead Employer" and the Administrator of its intention to withdraw from the Plan. The "withdrawing employer" must give the notice not less than thirty (30) days prior to the effective date of its withdrawal.

(b) **Procedure.** The "withdrawing employer" and the "lead Employer" shall agree upon procedures for the orderly withdrawal of the "withdrawing employer" from the plan. Such procedures may include any of the optional spin-off or transfer options described in Section 11.8.

(c) **Costs.** The "withdrawing employer" shall bear all reasonable costs associated with withdrawal and transfer under this Section.

(d) **Participants.** The Employees of the "withdrawing employer" shall cease to be eligible to accrue additional benefits under the Plan as to Compensation paid by the "withdrawing employer," effective as of the effective date of withdrawal. To the extent that such Employees have accrued but unpaid contributions as of the effective date of withdrawal, the "withdrawing employer" shall contribute such amounts to the Plan or the "spin-off plan" promptly after the effective date of withdrawal, unless the accounts are transferred to a qualified plan the "withdrawing employer" maintains.

11.10 DESIGNATION OF AGENT

Each Participating Employer shall be deemed to be a part of this Plan; provided, however, that with respect to all its relations with the Trustee (or Insurer) and Administrator for purposes of this Plan, each Participating Employer shall be deemed to have designated irrevocably the Employer as its agent. Unless the context of the Plan clearly indicates otherwise, the word "Employer" shall be deemed to include each Participating Employer as related to its adoption of the Plan.

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ADOPTION AGREEMENT FOR
NATIONWIDE FINANCIAL SERVICES, INC.
NON-STANDARDIZED
GOVERNMENTAL 401(a) PRE-APPROVED PLAN

CAUTION: Failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

EMPLOYER INFORMATION
(An amendment to the Adoption Agreement is not needed solely to reflect a change in this Employer Information Section.)

1. EMPLOYER'S NAME, ADDRESS, TELEPHONE NUMBER, TIN AND FISCAL YEAR

Name: Leon County, FL BOCC

Address: 301 S Monroe St
Street

Tallahassee | Florida | 32301
City | State | Zip

Telephone: 850-606-2417

Taxpayer Identification Number (TIN): 59- 6000708

Employer's Fiscal Year ends: September 30

2. TYPE OF GOVERNMENTAL ENTITY. This Plan may only be adopted a state or local governmental entity, or agency thereof, including an Indian tribal government and may not be adopted by any other entity, including a federal government and any agency or instrumentality thereof.
   a. [ ] State government or state agency
   b. [X] County or county agency
   c. [ ] Municipality or municipal agency
   d. [ ] Indian tribal government (see Note below)

   NOTE: An Indian tribal government may only adopt this Plan if such entity is defined under Code §7701(a)(40), is a subdivision of an Indian tribal government as determined in accordance with Code §7871(d), or is an agency or instrumentality of either, and all of the Participants under this Plan employed by such entity substantially perform services as an Employee in essential governmental functions and not in the performance of commercial activities (whether or not an essential government function).

3. PARTICIPATING EMPLOYERS (Plan Section 1.39). Will any other Employers adopt this Plan as Participating Employers?
   a. [X] No
   b. [ ] Yes

   MULTIPLE EMPLOYER PLAN (Plan Article XI). Will any Employers who are not Affiliated Employers adopt this Plan as part of a multiple employer plan (MEP) arrangement?
   c. [X] No
   d. [ ] Yes (Complete a Participation Agreement for each Participating Employer.)

PLAN INFORMATION
(An amendment to the Adoption Agreement is not needed solely to reflect a change in the information in Question 9.)

4. PLAN NAME:

Leon County BOCC 401(a) Matching Program

5. PLAN STATUS
   a. [ ] New Plan
   b. [X] Amendment and restatement of existing Plan
      CYCLE 3 RESTATEMENT (leave blank if not applicable)
      1. [X] This is an amendment and restatement to bring a plan into compliance with the legislative and regulatory changes set forth in IRS Notice 2017-37 (i.e., the 6-year pre-approved plan restatement cycle).

6. EFFECTIVE DATE (Plan Section 1.16) (complete a. if new plan; complete a. AND b. if an amendment and restatement)
   Initial Effective Date of Plan (except for restatements, cannot be earlier than the first day of the current Plan Year)
   a. October 1, 2006 (enter month day, year) (hereinafter called the "Effective Date" unless 6.b. is entered below)

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Restatement Effective Date. If this is an amendment and restatement, the effective date of the restatement (hereinafter called the "Effective Date") is:

b. October 1, 2021 (enter month day, year; NOTE: The restatement date may not be prior to the first day of the current Plan Year. Plan contains appropriate retroactive effective dates with respect to provisions for appropriate laws.)

7. PLAN YEAR (Plan Section 1.43) means, except as otherwise provided in d. below:
a. [ ] the calendar year
b. [X] the twelve-month period ending on September 30 (e.g., June 30th)

SHORT PLAN YEAR (Plan Section 1.47). This is a Short Plan Year (if the effective date of participation is based on a Plan Year, then coordinate with Question 14):
c. [X] N/A
d. [ ] beginning on _____ (enter month day, year; e.g., July 1, 2020)
and ending on _____ (enter month day, year).

8. VALUATION DATE (Plan Section 1.53) means:
a. [X] every day that the Trustee (or Insurer), any transfer agent appointed by the Trustee (or Insurer) or the Employer, and any stock exchange used by such agent are open for business (daily valuation)
b. [ ] the last day of each Plan Year
c. [ ] the last day of each Plan Year quarter
d. [ ] other (specify day or days): _____ (must be at least once each Plan Year)

NOTE: The Plan always permits interim valuations.

9. ADMINISTRATOR'S NAME, ADDRESS AND TELEPHONE NUMBER
(If none is named, the Employer will be the Administrator (Plan Section 1.2).)
a. [X] Employer (use Employer address and telephone number)
b. [ ] The Committee appointed by the Employer (use Employer address and telephone number)
c. [ ] Other:

Name: _____

Address: _____
Street

_____ _____ _____
City State Zip

Telephone: _____

10. TYPE OF PLAN (select one)
a. [X] Profit Sharing Plan.
b [ ] Money Purchase Pension Plan.

11. CONTRIBUTION TYPES
The selections made below must correspond with the selections made under the Contributions and Allocations Section of this Adoption Agreement.
FROZEN PLAN OR CONTRIBUTIONS HAVE BEEN SUSPENDED (Plan Section 4.1(c)) (optional)
a. [ ] This is a frozen Plan (i.e., all contributions cease) (if this is a temporary suspension, select a.2):
1. [ ] All contributions ceased as of, or prior to, the effective date of this amendment and restatement and the prior Plan provisions are not reflected in this Adoption Agreement (may enter effective date at 3. below and/or select prior contributions at g. - j. (optional), skip questions 12-18 and 22-30)
2. [ ] All contributions ceased or were suspended and the prior Plan provisions are reflected in this Adoption Agreement (must enter effective date at 3. below and select contributions at b. - f.)

Effective date
3. [ ] as of _____ (effective date is optional unless a.2. has been selected above or this is the amendment or restatement to freeze the Plan).

CURRENT CONTRIBUTIONS
The Plan permits the following contributions (select one or more):
b. [X] **Employer contributions other than matching** (Questions 24-25)
1. [ ] This Plan qualifies as a Social Security Replacement Plan (Question 24.e. must be selected)
c. [X] **Employer matching contributions** (Questions 26-28)
d. [ ] **Mandatory Employee contributions** (Question 30)

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e. [ ] **After-tax voluntary Employee contributions**
f. [ ] **Rollover contributions** (Question 36)

PRIOR CONTRIBUTIONS
The Plan used to permit, but no longer does, the following contributions (choose all that apply, if any):
g. [ ] **Employer matching contributions**
h. [ ] **Employer contributions other than matching contributions**
i. [ ] **Rollover contributions**
j. [ ] **After-tax voluntary Employee contributions**

ELIGIBILITY REQUIREMENTS

12. ELIGIBLE EMPLOYEES (Plan Section 1.17) means all Employees (including Leased Employees) EXCEPT those Employees who are excluded below or elsewhere in the Plan: (select a. or b.)
a. [ ] **No excluded Employees.** There are no additional excluded Employees under the Plan (skip to Question 13).
b. [X] **Exclusions.** The following Employees are not Eligible Employees for Plan purposes (select one or more):
1. [ ] Union Employees (as defined in Plan Section 1.17)
2. [ ] Nonresident aliens (as defined in Plan Section 1.17)
3. [ ] Leased Employees (Plan Section 1.29)
4. [ ] Part-time Employees. A part-time Employee is an Employee whose regularly scheduled service is less than __ Hours of Service in the relevant eligibility computation period (as defined in Plan Section 1.55).
5. [ ] Temporary Employees. A temporary Employee is an Employee who is categorized as a temporary Employee on the Employer's payroll records.
6. [ ] Seasonal Employees. A seasonal Employee is an Employee who is categorized as a seasonal Employee on the Employer's payroll records.
7. [X] Other: All Employees Except Leon County Board of County Commissioner employees & Supervisor of Election employees. All regular full & part-time employees (working 20 or more hours per week) & earning less than $50,000 in base annual earnings. (must be definitely determinable under Regulation §1.401-1(b). Exclusions may be employment title specific but may not be by individual name)

NOTE: If option 4. - 6. (part-time, temporary and/or seasonal exclusions) is selected, when any such excluded Employee actually completes 1 Year of Service, then such Employee will no longer be part of this excluded class. For this purpose, the Hours of Service method will be used for the 1 Year of Service override regardless of any contrary selection at Question 16.

13. CONDITIONS OF ELIGIBILITY (Plan Section 3.1)
a. [ ] **No age and service required.** No age and service required for all Contribution Types (skip to Question 14).
b. [X] **Eligibility.** An Eligible Employee will be eligible to participate in the Plan upon satisfaction of the following (complete c. and d., select e. and f. if applicable):

Eligibility Requirements
c. [X] **Age Requirement**
1. [X] No age requirement
2. [ ] Age 20 1/2
3. [ ] Age 21
4. [ ] Age _____ (may not exceed 26)
d. [X] **Service Requirement**
1. [ ] No service requirement
2. [X] six (6) (not to exceed 60) months of service (elapsed time)
3. [ ] 1 Year of Service
4. [ ] _____ (not to exceed 5) Years of Service
5. [ ] _____ consecutive month period from the Eligible Employee's employment commencement date and during which at least _____ Hours of Service are completed.
6. [ ] _____ consecutive months of employment.
7. [ ] Other: _____ (e.g., date on which 1,000 Hours of Service is completed within the computation period) (must satisfy the Notes below)

NOTE: If c.4. or d.7. is selected, the condition must be an age or service requirement that is definitely determinable and may not exceed age 26 and may not exceed 5 Years of Service.
NOTE: Year of Service means Period of Service if the elapsed time method is chosen.

Waiver of conditions. The service and/or age requirements specified above will be waived in accordance with the following (leave blank if there are no waivers of conditions):
e. [ ] If employed on _____ the following requirements, and the entry date requirement, will be waived. The waiver applies to any Eligible Employee unless 3. selected below. Such Employees will enter the Plan as of such date (select 1. and/or 2. AND 3. if applicable):
1. [ ] service requirement (may let part-time Eligible Employees into the Plan)

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2. [ ] age requirement
3. [ ] waiver is for: _____

Amendment or restatement to change eligibility requirements

f. [ ] This amendment or restatement (or a prior amendment and restatement) modified the eligibility requirements and the prior eligibility conditions continue to apply to the Eligible Employees specified below. If this option is NOT selected, then all Eligible Employees must satisfy the eligibility conditions set forth above.
   1. [ ] The eligibility conditions above only apply to Eligible Employees who were not Participants as of the effective date of the modification.
   2. [ ] The eligibility conditions above only apply to individuals who were hired on or after the effective date of the modification.

14. EFFECTIVE DATE OF PARTICIPATION (ENTRY DATE) (Plan Section 3.2)

An Eligible Employee who has satisfied the eligibility requirements will become a Participant in the Plan as of the:

a. [X] date such requirements are met
b. [ ] first day of the month coinciding with or next following the date on which such requirements are met
c. [ ] first day of the Plan Year quarter coinciding with or next following the date on which such requirements are met
d. [ ] earlier of the first day of the Plan Year or the first day of the seventh month of the Plan Year coinciding with or next following the date on which such requirements are met
e. [ ] first day of the Plan Year coinciding with or next following the date on which such requirements are met
f. [ ] first day of the Plan Year in which such requirements are met
g. [ ] first day of the Plan Year in which such requirements are met, if such requirements are met in the first 6 months of the Plan Year, or as of the first day of the next succeeding Plan Year if such requirements are met in the last 6 months of the Plan Year.
h. [ ] other: _____ (must be definitely determinable)

SERVICE

15. RECOGNITION OF SERVICE WITH OTHER EMPLOYERS (Plan Sections 1.40 and 1.55)

a. [X] No service with other employers is recognized except as otherwise required by law (e.g., the Plan already provides for the recognition of service with Employers who have adopted this Plan as well as service with Affiliated Employers and predecessor Employers who maintained this Plan; skip to Question 16).
b. [ ] Service with the designated employers is recognized as follows (select c. – e. and one or more of columns 1. - 3.; chose other options as applicable) (if more than 3 employers, attach an addendum to the Adoption Agreement or complete option h. under Section B of Appendix A):

Other Employer	**1. Eligibility**	**2. Vesting**	**3. Contribution Allocation**
c. [ ] Employer name: _____	[ ]	[ ]	[ ]
d. [ ] Employer name: _____	[ ]	[ ]	[ ]
e. [ ] Employer name: _____	[ ]	[ ]	[ ]
Limitations			
f. [ ] The following provisions or limitations apply with respect to the recognition of prior service: _____ (e.g., credit service with X only on/following 1/1/19)	[ ]	[ ]	[ ]

g. [ ] The following provisions or limitations apply with respect to the recognition of service with other employers: _____ (e.g., credit service with X only on/following 1/1/19 or credit all service with entities the Employer acquires after 12/31/18)

NOTE: If the other Employer(s) maintained this qualified Plan, then Years (and/or Periods) of Service with such Employer(s) must be recognized pursuant to Plan Sections 1.40 and 1.55 regardless of any selections above.

16. SERVICE CREDITING METHOD (Plan Sections 1.40 and 1.55)

NOTE: If any Plan provision is based on a Year of Service, then the provisions set forth in the definition of Year of Service in Plan Section 1.55 will apply, including the following defaults, except as otherwise elected below:
1. A Year of Service means completion of at least 1,000 Hours of Service during the applicable computation period.
2. Hours of Service (Plan Section 1.24) will be based on actual Hours of Service except that for Employees for whom records of actual Hours of Service are not maintained or available (e.g., salaried Employees), the monthly equivalency will be used.

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3. For eligibility purposes, the computation period will be as defined in Plan Section 1.55 (i.e., shift to the Plan Year if the eligibility condition is one (1) Year of Service or less).
4. For vesting, allocation, and distribution purposes, the computation period will be the Plan Year.
5. Upon an Employee's rehire, all prior service with the Employer is taken into account for all purposes.

a. [ ] **Elapsed time method.** (Period of Service applies instead of Year of Service) Instead of Hours of Service, elapsed time will be used for:
   1. [ ] all purposes (skip to Question 17)
   2. [ ] the following purposes (select one or more):
      a. [ ] eligibility to participate
      b. [ ] vesting
      c. [ ] allocations, distributions and contributions

b. [X] **Alternative definitions for the Hours of Service method.** Instead of the defaults, the following alternatives will apply for the Hours of Service method (select one or more):
   1. [ ] **Eligibility computation period.** Instead of shifting to the Plan Year, the eligibility computation period after the initial eligibility computation period will be based on each anniversary of the date the Employee first completes an Hour of Service
   2. [ ] **Vesting computation period.** Instead of the Plan Year, the vesting computation period will be the date an Employee first performs an Hour of Service and each anniversary thereof.
   3. [X] **Equivalency method.** Instead of using actual Hours of Service, an equivalency method will be used to determine Hours of Service for:
      a. [X] all purposes
      b. [ ] the following purposes (select one or more):
         1. [ ] eligibility to participate
         2. [ ] vesting
         3. [ ] allocations, distribution and contributions

      Such method will apply to:
      c. [ ] all Employees
      d. [X] Employees for whom records of actual Hours of Service are not maintained or available (e.g., salaried Employees)
      e. [ ] other: _____ (e.g., per-diem Employees only)

      Hours of Service will be determined on the basis of:
      f. [ ] days worked (10 hours per day)
      g. [ ] weeks worked (45 hours per week)
      h. [ ] semi-monthly payroll periods worked (95 hours per semi-monthly pay period)
      i. [X] months worked (190 hours per month)
      j. [ ] bi-weekly payroll periods worked (90 hours per bi-weekly pay period)
      k. [ ] other: _____ (e.g., option f. is used for per-diem Employees and option g. is used for on-call Employees).

   4. [ ] **Number of Hours of Service required.** Instead of 1,000 Hours of Service, Year of Service means the applicable computation period during which an Employee has completed at least _____ (not to exceed 1,000) Hours of Service for:
      a. [ ] all purposes
      b. [ ] the following purposes (select one or more):
         1. [ ] eligibility to participate
         2. [ ] vesting
         3. [ ] allocations, distributions and contributions

c. [ ] **Alternative for counting all prior service.** Instead of the default which recognizes all prior service for rehired Employees, the Plan will not recognize prior service and rehired Employee are treated as new hires for the following purposes: (select one)
   1. [ ] all purposes
   2. [ ] the following purposes (select one or more):
      a. [ ] eligibility to participate
      b. [ ] vesting
      c. [ ] sharing in allocations or contributions

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d. [ ] **Other service crediting provisions:** _____ (must be definitely determinable; e.g., for vesting a Year of Service is based on 1,000 Hours of Service but for eligibility a Year of Service is based on 900 Hours of Service.)

NOTE: Must not list more than 1,000 hours in this Section. This servicing credit provision will be used for:

1. [ ] All purposes
2. [ ] The following purposes (select one or more):
   a. [ ] eligibility to participate
   b. [ ] vesting
   c. [ ] allocations, distributions and contributions

VESTING

17. VESTING OF PARTICIPANT'S INTEREST – EMPLOYER CONTRIBUTIONS (Plan Section 6.4(b))

a. [ ] N/A (no Employer contributions; skip to Question 19)
b. [X] The vesting provisions selected below apply. Section B of Appendix A can be used to specify any exceptions to the provisions below.

NOTE: The Plan provides that contributions for converted sick leave and/or vacation leave are fully Vested.

Vesting for Employer contributions other than matching contributions

c. [ ] N/A (no Employer contributions (other than matching contributions); skip to f.)
d. [X] 100% vesting. Participants are 100% Vested in Employer contributions (other than matching contributions) upon entering Plan.
e. [ ] The following vesting schedule, based on a Participant's Years of Service (or Periods of Service if the elapsed time method is selected), applies to Employer contributions (other than matching contributions):
   1. [ ] 6 Year Graded: 0-1 year-0%; 2 years-20%; 3 years-40%; 4 years-60%; 5 years-80%; 6 years-100%
   2. [ ] 4 Year Graded: 1 year-25%; 2 years-50%; 3 years-75%; 4 years-100%
   3. [ ] 5 Year Graded: 1 year-20%; 2 years-40%; 3 years-60%; 4 years-80%; 5 years-100%
   4. [ ] Cliff: 100% vesting after _____ (not to exceed 15) years
   5. [ ] Other graded vesting schedule (must provide for full vesting no later than 15 years of service; add additional lines as necessary)

Years (or Periods) of Service	Percentage
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%

Vesting for Employer matching contributions

f. [ ] N/A (no Employer matching contributions)
g. [X] The schedule above will also apply to Employer matching contributions.
h. [ ] 100% vesting. Participants are 100% Vested in Employer matching contributions upon entering Plan.
i. [ ] The following vesting schedule, based on a Participant's Years of Service (or Periods of Service if the elapsed time method is selected), applies to Employer matching contributions:
   1. [ ] 6 Year Graded: 0-1 year-0%; 2 years-20%; 3 years-40%; 4 years-60%; 5 years-80%; 6 years-100%
   2. [ ] 4 Year Graded: 1 year-25%; 2 years-50%; 3 years-75%; 4 years-100%
   3. [ ] 5 Year Graded: 1 year-20%; 2 years-40%; 3 years-60%; 4 years-80%; 5 years-100%
   4. [ ] Cliff: 100% vesting after _____ (not to exceed 15) years
   5. [ ] Other graded vesting schedule (must provide for full vesting no later than 15 years of service; add additional lines as necessary)

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Years (or Periods) of Service	Percentage
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%

NOTE: If any Part-time/Seasonal/Temporary Employees who are not covered under Social Security are participating in this Plan as a Social Security Replacement Plan, any contributions used to satisfy the minimum contribution requirements of Question 24.e. will be 100% vested.

18. VESTING OPTIONS

Excluded vesting service. The following Years of Service will be disregarded for vesting purposes (select all that apply; leave blank if none apply):

a. [ ] Service prior to the initial Effective Date of the Plan or a predecessor plan (as defined in Regulations §1.411(a)-5(b)(3))
b. [ ] Service prior to the computation period in which an Employee has attained age _____.
c. [ ] Service during a period for which an Employee did not make mandatory Employee contributions.

Vesting for death, Total And Permanent Disability and Early/Normal Retirement. Regardless of the vesting schedule, a Participant will become fully Vested upon (select all that apply; leave blank if none apply):

d. [ ] Death
e. [ ] Total and Permanent Disability
f. [ ] Early Retirement Date
g. [ ] Normal Retirement Age

RETIREMENT AGES

19. NORMAL RETIREMENT AGE ("NRA") (Plan Section 1.33) means:

This Question 19 and Question 20 may be skipped if the Plan does not base any benefits, distributions or other features on Normal Retirement Age.

a. [X] **Specific age.** The date a Participant attains age date of a Participant's 62nd Birthday or 30 years of service, following Florida Retirement System Guidelines
b. [ ] **Age/participation.** The later of the date a Participant attains age _____ or the _____ anniversary of the first day of the Plan Year in which participation in the Plan commenced
c. [ ] Other: _____ (must be definitely determinable)

NOTE: If this is a Money Purchase Pension Plan and in-service distributions at Normal Retirement Age are permitted, then the Normal Retirement Age cannot be less than age 62, or age 50 if substantially all Participants are qualified public safety employees (as defined in Code §72(t)(1)). The "substantially all" requirement for qualified public safety employees will no longer be a requirement as of the effective date of the final regulations once they are issued & effective. If an age less than 62 is inserted (unless the age 50 safe harbor is applicable for a qualified public safety employee), no reliance will be afforded on the Opinion Letter issued to the Plan that such age is reasonably representative of the typical retirement age for the industry in which the Participants works. Effective for Employees hired during Plan Years beginning on or after the later of (1) January 1, 2015, or (2) the close of the first legislative session of the legislative body with the authority to amend the plan that begins on or after the date that is three (3) months after the final regulations are published in the Federal Register, an NRA of less than age 62 must comply with the final regulations under §401(a).

Qualified public safety employees. Normal Retirement Age for public safety employees (as defined in Code §72(t)(1)) (leave blank if not applicable)

d. [ ] Age _____ (may not be less than 50 for a Money Purchase Pension Plan or 40 for a Profit Sharing Plan)

20. NORMAL RETIREMENT DATE (Plan Section 1.34) means, with respect to any Participant, the:

a. [X] date on which the Participant attains "NRA"
b. [ ] first day of the month coinciding with or next following the Participant's "NRA"
c. [ ] first day of the month nearest the Participant's "NRA"
d. [ ] Anniversary Date coinciding with or next following the Participant's "NRA"
e. [ ] Anniversary Date nearest the Participant's "NRA"
f. [ ] Other: _____ (e.g., first day of the month following the Participant's "NRA").

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21. EARLY RETIREMENT DATE (Plan Section 1.15)
   a. [X] N/A (no early retirement provision provided)
   b. [ ] Early Retirement Date means the:
      1. [ ] date on which a Participant satisfies the early retirement requirements
      2. [ ] first day of the month coinciding with or next following the date on which a Participant satisfies the early retirement requirements
      3. [ ] Anniversary Date coinciding with or next following the date on which a Participant satisfies the early retirement requirements

      Early retirement requirements
      4. [ ] Participant attains age _____
         AND, completes.... (leave blank if not applicable)
         a. [ ] at least _____ Years (or Periods) of Service for vesting purposes
         b. [ ] at least _____ Years (or Periods) of Service for eligibility purposes
   c. [ ] Early Retirement Date means: _____ (must be definitely determinable)

COMPENSATION

22. COMPENSATION with respect to any Participant is defined as follows (Plan Sections 1.10 and 1.23).
Base definition
   a. [X] Wages, tips and other compensation on Form W-2
   b. [ ] Code §3401(a) wages (wages for withholding purposes)
   c. [ ] 415 safe harbor compensation

   NOTE: Plan Section 1.10(c) provides that the base definition of Compensation includes deferrals that are not included in income due to Code §§401(k), 125, 132(f)(4), 403(b), 402(h)(1)(B)(SEP), 414(h)(2), & 457.

   Determination period. Compensation will be based on the following "determination period" (this will also be the Limitation Year unless otherwise elected at option f. under Section B of Appendix A):
   d. [X] the Plan Year
   e. [ ] the Fiscal Year coinciding with or ending within the Plan Year
   f. [ ] the calendar year coinciding with or ending within the Plan Year

   Adjustments to Compensation (for Plan Section 1.10). Compensation will be adjusted by:
   g. [ ] **No adjustments** (skip to Question 23. below)
   h. [X] **Adjustments.** Compensation will be adjusted by (select all that apply):
      1. [ ] excluding salary reductions (401(k), 125, 132(f)(4), 403(b), SEP, 414(h)(2) pickup, & 457)
      2. [ ] excluding reimbursements or other expense allowances, fringe benefits (cash or non-cash), moving expenses, deferred compensation (other than deferrals specified in 1. above) and welfare benefits.
      3. [X] excluding Compensation paid during the "determination period" while not a Participant in the Plan.
      4. [ ] excluding Military Differential Pay
      5. [ ] excluding overtime
      6. [ ] excluding bonuses
      7. [ ] other: _____ (e.g., describe Compensation from the elections available above or a combination thereof as to a Participant group (e.g., no exclusions as to Division A Employees and exclude bonuses as to Division B Employees); and/or describe another exclusion (e.g., exclude shift differential pay)).

23. POST-SEVERANCE COMPENSATION (415 REGULATIONS)

   415 Compensation (post-severance compensation adjustments) (select all that apply at a.; leave blank if none apply)

   NOTE: Unless otherwise elected under a. below, the following defaults apply: 415 Compensation will **include** (to the extent provided in Plan Section 1.23), post-severance regular pay, leave cash-outs and payments from nonqualified unfunded deferred compensation plans.
   a. [ ] The defaults listed above apply except for the following (select one or more):
      1. [ ] Leave cash-outs will be **excluded**
      2. [ ] Nonqualified unfunded deferred compensation will be **excluded**
      3. [ ] Disability continuation payments will be **included** for all Participants and the salary continuation will continue for the following fixed or determinable period: _____
      4. [ ] Other: _____ (must be definitely determinable)

   Plan Compensation (post-severance compensation adjustments)
   b. [X] **Defaults apply.** Compensation will **include** (to the extent provided in Plan Section 1.10 and to the extent such amounts would be included in Compensation if paid prior to severance of employment) post-severance regular pay, leave cash-outs, and payments from nonqualified unfunded deferred compensation plans. (skip to Question 24)
   c. [ ] **Exclude all post-severance compensation.** Exclude all post-severance compensation for allocation purposes.
   d. [ ] **Post-severance adjustments.** The defaults listed at b. apply except for the following (select one or more):
      1. [ ] Exclude all post-severance compensation

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2. [ ] Regular pay will be **excluded**
3. [ ] Leave cash-outs will be **excluded**
4. [ ] Nonqualified unfunded deferred compensation will be **excluded**
5. [ ] Military Differential Pay will be **included**
6. [ ] Disability continuation payments will be **included** for all Participants and the salary continuation will continue for the following fixed or determinable period: _____

e. [ ] Other: _____ (must be definitely determinable)

CONTRIBUTIONS AND ALLOCATIONS

24. EMPLOYER CONTRIBUTIONS (OTHER THAN MATCHING CONTRIBUTIONS) (Plan Section 4.1(b)(3)) (skip to Question 26 if Employer contributions are NOT selected at Question 11.b.)

CONTRIBUTION FORMULA (select one or more of the following contribution formulas:)

a. [X] **Discretionary contribution (no groups).** (may not be elected if this Plan is a Money Purchase Pension Plan) The Employer may make a discretionary contribution, to be determined by the Employer. Any such contribution will be allocated to each Participant eligible to share in allocations in the same ratio as each Participant's Compensation bears to the total of such Compensation of all Participants.

b. [ ] **Discretionary contribution (Grouping method).** (may not be elected if this Plan is a Money Purchase Pension Plan) The Employer may designate a discretionary contribution to be made on behalf of each Participant group selected below (only select 1. or 2.). The groups must be clearly defined in a manner that will not violate the definite predetermined allocation formula requirement of Regulation §1.401-1(b)(1)(ii). The Employer must notify the Trustee in writing of the amount of the Employer Contribution being given to each group.

1. [ ] Each Participant constitutes a separate classification.
2. [ ] Participants will be divided into the following classifications with the allocation methods indicated under each classification.

Definition of classifications. Define each classification and specify the method of allocating the contribution among members of each classification. Classifications specified below must be clearly defined in a manner that will not violate the definitely determinable allocation requirement of Regulation §1.401-1(b)(1)(ii).

Classification A will consist of _____
The allocation method will be: [ ] pro rata based on Compensation
[ ] equal dollar amounts (per capita)

Classification B will consist of _____
The allocation method will be: [ ] pro rata based on Compensation
[ ] equal dollar amounts (per capita)

Classification C will consist of _____
The allocation method will be: [ ] pro rata based on Compensation
[ ] equal dollar amounts (per capita)

Classification D will consist of _____
The allocation method will be: [ ] pro rata based on Compensation
[ ] equal dollar amounts (per capita)

Additional Classifications: _____ (specify the classifications and which of the above allocation methods (pro rata or per capita) will be used for each classification).

NOTE: If more than four (4) classifications, the additional classifications and allocation methods may be attached as an addendum to the Adoption Agreement or may be entered under Additional Classifications above.

Determination of applicable group. If a Participant shifts from one classification to another during a Plan Year, then unless selected below, the Participant is in a classification based on the Participant's status as of the last day of the Plan Year, or if earlier, the date of termination of employment. If selected below, the Administrator will apportion the Participant's allocation during a Plan Year based on the following:

a. [ ] Beginning of Plan Year. The classification will be based on the Participant's status as of the beginning of the Plan Year.
b. [ ] Months in each classification. Pro rata based on the number of months the Participant spent in each classification.
c. [ ] Days in each classification. Pro rata based on the number of days the Participant spent in each classification.
d. [ ] One classification only. The Employer will direct the Administrator to place the Participant in only one classification for the entire Plan Year during which the shift occurs.

c. [ ] **Fixed contribution** equal to (only select one):

1. [ ] _____% of each Participant's Compensation for each:
   a. [ ] Plan Year
   b. [ ] calendar quarter
   c. [ ] month

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d. [ ] pay period
e. [ ] week

2. [ ] $_____ per Participant.
3. [ ] $_____ per Hour of Service worked while an Eligible Employee
   a. [ ] up to _____ hours (leave blank if no limit)
4. [ ] other: _____ (the formula described must satisfy the definitely determinable requirement under Regulation §1.401-1(b)) **NOTE**: Under Question 24.c.4., the Employer may only describe the allocation of Nonelective Contributions from the elections available under Question 24.c of this Adoption Agreement and/or a combination thereof as to a Participant group (e.g., a monthly contribution applies to Group A).

d. [ ] **Sick leave/vacation leave conversion.** The Employer will contribute an amount equal to an Employee's current hourly rate of pay multiplied by the Participant's number of unused accumulated sick leave and/or vacation days (as selected below). Only unpaid sick and vacation leave for which the Employee has no right to receive in cash may be included. In no event will the Employer's contribution for the Plan Year exceed the maximum contribution permitted under Code §415(c).

The following may be converted under the Plan: (select one or both):
1. [ ] Sick leave
2. [ ] Vacation leave

Eligible Employees. Only the following Participants shall receive the Employer contribution for sick leave and/or vacation leave (select 3. and/or 4; leave blank if no limitations provided, however, that this Plan may not be used to only provide benefits for terminated Employees)

3. [ ] **Former Employees.** All Employees terminating service with the Employer during the Plan Year and who have satisfied the eligibility requirements based on the terms of the Employer's accumulated benefits plans checked below (select all that apply; leave blank if no exclusions):
   a. [ ] The Former Employee must be at least age _____ (e.g., 55)
   b. [ ] The value of the sick and/or vacation leave must be at least $_____ (e.g., $2,000)
   c. [ ] A contribution will only be made if the total hours is over _____ (e.g., 10) hours
   d. [ ] A contribution will not be made for hours in excess of _____ (e.g., 40) hours
4. [ ] **Active Employees.** Active Employees who have not terminated service during the Plan Year and who meet the following requirements (select all that apply; leave blank if no exclusions):
   a. [ ] The Employee must be at least age _____ (e.g., 55)
   b. [ ] The value of the sick and/or vacation leave must be at least $_____ (e.g., $2,000)
   c. [ ] A contribution will only be made if the total hours is over _____ (e.g., 10) hours
   d. [ ] A contribution will not be made for hours in excess of _____ (e.g., 40) hours

e. [ ] **Social Security Replacement Plan.** Except as provided below, the Employer will contribute an amount equal to 7.5% of each eligible Participant's Compensation for the entire Plan Year, reduced by mandatory Employee contributions that are picked-up under Code §414(h) and Employer contributions to this Plan actually contributed to the Participant's Account during such Plan Year. (may only be selected if Question 11.b.1. has also been selected)
AND, only the following Employees will NOT be eligible for the Social Security Replacement Plan contribution: (select all that apply)

1. [ ] Part-time Employees who are not otherwise covered by another qualifying public retirement system as defined for purposes of Regulation §31.3121(b)(7)-2. A part-time Employee is an Employee whose regularly scheduled service is less than _____ Hours of Service in the relevant eligibility computation period (as defined in Plan Section 1.55).
2. [ ] Seasonal Employees who are not otherwise covered by another qualifying public retirement system as defined for purposes of Regulation §31.3121(b)(7)-2. A seasonal Employee is an Employee who is categorized as a seasonal Employee on the Employer's payroll records.
3. [ ] Temporary Employees who are not otherwise covered by another qualifying public retirement system as defined for purposes of Regulation §31.3121(b)(7)-2. A temporary Employee is an Employee who is categorized as a temporary Employee on the Employer's payroll records.
4. [ ] Employees in elective positions (filled by an election, which may be by legislative body, board or committee, or by a jurisdiction's qualified electorate)
5. [ ] Other: _____ (any other group of Employees that is definitely determinable and not eligible for the Social Security Replacement Plan contribution).

The minimum contribution of 7.5% stated above will be satisfied by:
   a. [ ] the Employee only (specify the contribution at the mandatory Employee contributions Question 30)
   b. [ ] the Employer only
   c. [ ] both the Employee and the Employer. The Employee shall contribute the amount specified in Question 30 for mandatory Employee contributions) and the Employer shall contribute _____% of each eligible Participant's Compensation.

NOTE: If a. or c. above is selected, then the mandatory Employee contribution must be picked-up by the Employer at Question 30. Also, if b. or c. above is selected, then the allocation conditions in Question 25

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below do not apply to the Employer contribution made pursuant to this provision.

f. [ ] Other: _____ (the formula described must satisfy the definitely determinable requirement under Regulation §1.401-1(b) and if this is a Money Purchase Pension, it must not be a discretionary contribution formula). **NOTE**: Under Question 24.f., the Employer may only describe the allocation of Nonelective Contributions from the elections available under Question 24 and/or a combination thereof as to a Participant group or contribution type (e.g., pro rata allocation applies to Group A; contributions to other Employees will be allocated in accordance with the classifications allocation provisions of Plan Section 4.3 with each Participant constituting a separate classification).

25. ALLOCATION CONDITIONS (Plan Section 4.3). If 24.a., b., c., or f. is selected above, indicate requirements to share in allocations of Employer contributions (select a. OR b. and all that apply at c. - e.)

a. [X] **No conditions.** All Participants share in the allocations regardless of service completed during the Plan Year or employment status on the last day of the Plan Year (skip to Question 26).

b. [ ] **Allocation conditions apply** (select one of 1. - 5. AND one of 6. - 9. below)

Conditions for Participants NOT employed on the last day of the Plan Year

1. [ ] A Participant must complete at least _____ (not to exceed 500) Hours of Service if the actual hours/equivalency method is selected (or at least _____ (not to exceed 3) months of service if the elapsed time method is selected).
2. [ ] A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
3. [ ] Participants will NOT share in the allocations, regardless of service.
4. [ ] Participants will share in the allocations, regardless of service.
5. [ ] Other: _____ (must be definitely determinable and not subject to Employer discretion)

Conditions for Participants employed on the last day of the Plan Year

6. [ ] No service requirement.
7. [ ] A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
8. [ ] A Participant must complete at least _____ Hours of Service during the Plan Year.
9. [ ] Other: _____ (must be definitely determinable and not subject to Employer discretion)

Waiver of conditions for Participants NOT employed on the last day of the Plan Year. If b.1., 2., 3., or 5. above is selected, Participants who are not employed on the last day of the Plan Year in which one of the following events occur will be eligible to share in the allocations regardless of the above conditions (select all that apply; leave blank if none apply):

c. [ ] Death
d. [ ] Total and Permanent Disability
e. [ ] Termination of employment on or after Normal Retirement Age
   1. [ ] or Early Retirement Date

26. EMPLOYER MATCHING CONTRIBUTIONS (Plan Section 4.1(b)(2) and Plan Section 4.12). (skip to Question 29 if matching contributions are NOT selected at Question 11.c.) The Employer will (or may with respect to any discretionary contribution) make the following matching contributions:

A. **Employee contributions taken into account.** For purposes of applying the matching contribution provisions below, the following amounts are being matched (hereafter referred to as "matched Employee contributions" (select one or more):

a. [X] Elective deferrals to a **457 plan.** Enter Plan name(s): Leon County Board of County Commissioners 457 Plan

b. [ ] Elective deferrals to a **403(b) plan.** Enter Plan name(s): _____

c. [ ] Voluntary Employee Contributions

d. [ ] Other: _____ (specify amounts that are matched under this Plan and are provided for within this Adoption Agreement)

B. **Matching Formula.** (select one)

e. [ ] **Fixed - uniform rate/amount.** The Employer will make matching contributions equal to _____% (e.g., 50) of the Participant's "matched Employee contributions"
   1. [ ] that do not exceed _____% of a Participant's Compensation (leave blank if no limit)

   Additional matching contribution (choose 2. if applicable):
   2. [ ] plus an additional matching contribution of a discretionary percentage determined by the Employer,
      a. [ ] but not to exceed _____% of Compensation. Such contribution is subject to the Instructions and Notice requirement of Section 4.12.

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f. [ ] **Fixed - tiered.** The Employer will make matching contributions equal to a uniform percentage of each tier of each Participant's "matched Employee contributions", determined as follows:

NOTE: Fill in only percentages or dollar amounts, but not both. If percentages are used, each tier represents the amount of the Participant's applicable contributions that equals the specified percentage of the Participant's Compensation (add additional tiers if necessary):

Tiers of Contributions (indicate $ or %)	Matching Percentage
First _____	_____%
Next _____	_____%
Next _____	_____%
Next _____	_____%

g. [ ] **Fixed - Years of Service.** The Employer will make matching contributions equal to a uniform percentage of each Participant's "matched Employee contributions" based on the Participant's Years of Service (or Periods of Service if the elapsed time method is selected), determined as follows (add additional tiers if necessary):

Years (or Periods) of Service	Matching Percentage
_____	_____%
_____	_____%
_____	_____%

For purposes of the above matching contribution formula, a Year (or Period) of Service means a Year (or Period) of Service for:

1. [ ] vesting purposes
2. [ ] eligibility purposes

h. [X] **Flexible Discretionary Match.** (may not be elected if this Plan is a Money Purchase Pension Plan) "Flexible Discretionary Match" means a Matching Contribution which the Employer in its sole discretion elects to make to the Plan. Except as specified below, the Employer retains discretion over the formula or formulas for allocating the Flexible Discretionary Match, including the Discretionary Matching Contribution rate or amount, the limit(s) on Elective Deferrals or Employee Contributions subject to match, the per Participant match allocation limit(s), the Participants or categories of Participants who will receive the allocation, and the time period applicable to any matching formula(s) (collectively, the "Flexible Discretionary Matching Formula"), except as the Employer otherwise elects in its Adoption Agreement. Such contributions will be subject to the Instructions and Notice requirement of Section 4.12, reproduced below, unless the Employer elects to use a "Rigid Discretionary Match" in Election 26.B.h.1. below.

The discretionary matching contribution under this Question 26.B.h. is a "Flexible Discretionary Match" unless the Employer elects to use a "Rigid Discretionary Match." (Choose 1. if applicable.)

1. [ ] **Rigid Discretionary Match.** A "Rigid Discretionary Match" means a Matching Contribution which the Employer in its sole discretion elects to make to the Plan. Such discretion will only pertain to the amount of the annual contribution. The Employer must select the allocation method for this Contribution by selecting among those Adoption Agreement options which confer no Employer Discretion regarding the allocation of such discretionary amount, for example, the limit(s) on Elective Deferrals or Employee Contributions subject to match, the per Participant match allocation limit(s), the Participants who will receive the allocation, and the time period applicable to any matching formula(s). This "Rigid Discretionary Match" is not subject to the Instructions and Notice requirement of Section 4.12.

   Section 4.12 provides: INSTRUCTIONS TO ADMINISTRATOR AND NOTIFICATION TO PARTICIPANTS. For Plan Years beginning after the end of the Plan Year in which this document is first adopted, if a "Flexible Discretionary Match" contribution formula applies (i.e., a formula that provides an Employer with discretion regarding how to *allocate* a matching contribution to Participants) and the Employer makes a "Flexible Discretionary Match" to the Plan, the Employer must provide the Plan Administrator or Trustee written instructions describing (1) how the "Flexible Discretionary Match" formula will be allocated to Participants (e.g., a uniform percentage of Elective Deferrals or a flat dollar amount), (2) the computation period(s) to which the "Flexible Discretionary Match" formula applies, and (3) if applicable, a description of each business location or business classification subject to separate "Flexible Discretionary Match" allocation formulas. Such instructions must be provided no later than the date on which the "Flexible Discretionary Match" is made to the Plan. A summary of these instructions must be communicated to Participants who receive an allocation of the "Flexible Discretionary Match" no later than 60 days following the date on which the last "Flexible Discretionary Match" contribution is made to the Plan for the Plan Year.

i. [ ] **Discretionary - tiered.** (may not be elected if this Plan is a Money Purchase Pension Plan) The Employer may make matching contributions equal to a discretionary percentage of a Participant's "matched Employee contributions," to be determined by the Employer, of each tier, to be determined by the Employer. Such discretion will only pertain to the

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amount of the contribution. The tiers may be based on the rate of a Participant's "matched Employee contributions" or Years of Service. Such contribution is subject to the Instructions and Notice requirement of Section 4.12.
NOTE: Fill in only percentages or dollar amounts, but not both. If percentages are used, each tier represents the amount of the Participant's applicable contributions that equals the specified percentage of the Participant's Compensation (add additional tiers if necessary):

Tiers of Contributions (indicate $ or %)	Matching Percentage
First _____	_____%
Next _____	_____%
Next _____	_____%
Next _____	_____%

j. [ ] Other: _____ (the formula described must satisfy the definitely determinable requirement under Regulation §1.401-1(b) and if this is a Money Purchase Pension Plan, it must not be a discretionary contribution formula. **NOTE**: Under Question 26.B.j., the Employer may only describe the allocation of Matching Contributions from the elections available under Question 26 and/or a combination thereof as to a Participant group or contribution type (e.g., fixed – uniform rate applies to Group A; contributions to other Employees will be allocated as a tiered contribution.)

27. MATCHING CONTRIBUTION PROVISIONS

A. **Maximum matching contribution.** The total matching contribution made on behalf of any Participant for any Plan Year will not exceed:
a. [ ] N/A (no Plan specific limit on the amount of matching contribution)
b. [ ] $_____.
c. [X] 3 % of Compensation.

B. **Period of determination.** Any matching contribution other than a "Flexible Discretionary Match" will be applied on the following basis (and "matched Employee contributions" and any Compensation or dollar limitation used in determining the matching contribution will be based on the applicable period. Skip if the only Matching Contribution is a Flexible Discretionary Match.):
d. [ ] the Plan Year (potential annual true-up required)
e. [X] each payroll period (no true-up)
f. [ ] each month (potential monthly true-up required)
g. [ ] each Plan Year quarter (potential quarterly true-up required)
h. [ ] each payroll unit (e.g., hour) (no true-up)
i. [ ] Other (specify): _____ The time period described must be definitely determinable under Treas. Reg. §1.401-1(b). This line may be used to apply different options to different matching contributions (e.g., Discretionary matching contributions will be allocated on a Plan Year period while fixed matching contributions will be allocated on each payroll period.) Such contribution period is subject to the Instructions and Notice requirement of Section 4.12.

28. ALLOCATION CONDITIONS (Plan Section 4.3) Select a. OR b. and all that apply of c. - h.

a. [X] **No conditions.** All Participants share in the allocations regardless of service completed during the Plan Year or employment status on the last day of the Plan Year (skip to Question 29).
b. [ ] **Allocation conditions apply** (select one of 1. - 5. AND one of 6. - 9. below)

Conditions for Participants NOT employed on the last day of the Plan Year.
1. [ ] A Participant must complete more than _____ Hours of Service (or _____ months of service if the elapsed time method is selected).
2. [ ] A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
3. [ ] Participants will NOT share in the allocations, regardless of service.
4. [ ] Participants will share in the allocations, regardless of service.
5. [ ] Other: _____ (must be definitely determinable)

Conditions for Participants employed on the last day of the Plan Year
6. [ ] No service requirement.
7. [ ] A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
8. [ ] A Participant must complete at least _____ Hours of Service during the Plan Year.
9. [ ] Other: _____ (must be definitely determinable and not subject to Employer discretion)

Waiver of conditions for Participants NOT employed on the last day of the Plan Year. If b.1., 2., 3., or 5. is selected, Participants who are not employed on the last day of the Plan Year in which one of the following events occur will be eligible to share in the allocations regardless of the above conditions (select all that apply; leave blank if none apply):
c. [ ] Death
d. [ ] Total and Permanent Disability
e. [ ] Termination of employment on or after Normal Retirement Age
1. [ ] or Early Retirement Date

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Conditions based on period other than Plan Year. The allocation conditions above will be applied based on the Plan Year unless otherwise selected below. If selected, the above provisions will be applied by substituting the term Plan Year with the specified period (e.g., if Plan Year quarter is selected below and the allocation condition is 250 Hours of Service per quarter, enter 250 hours (not 1000) at b.8. above).

f. [ ] The Plan Year quarter.
g. [ ] Payroll period.
h. [ ] Other: _____ (must be definitely determinable and not subject to Employer discretion and may not be longer than a twelve month period).

29. FORFEITURES (Plan Sections 1.21 and 4.3(e))

Timing of Forfeitures. Except as provided in Plan Section 1.21, a Forfeiture will occur:

a. [ ] N/A (may only be selected if all contributions are fully Vested (default provisions at Plan Section 4.3(e) apply))
b. [X] As of the earlier of (1) the last day of the Plan Year in which the former Participant incurs five (5) consecutive 1-Year Breaks in Service, or (2) the distribution of the entire Vested portion of the Participant's Account.
c. [ ] As of the last day of the Plan Year in which the former Participant incurs five (5) consecutive 1-Year Breaks in Service.
d. [ ] As soon as reasonably practical after the date the Participant severs employment.

Use of Forfeitures. (skip if this is NOT a Money Purchase Pension Plan; for Profit Sharing Plans, Forfeitures are disposed of in accordance with Employer direction that is consistent with Section 4.3(e)).

Forfeitures will be (select one):

e. [ ] added to the Employer contribution and allocated in the same manner
f. [ ] used to reduce any Employer contribution
g. [ ] allocated to all Participants eligible to share in the allocations of Employer contributions or Forfeitures in the same proportion that each Participant's Compensation for the Plan Year bears to the Compensation of all Participants for such year
h. [ ] other: _____ (describe the treatment of Forfeitures in a manner that is definitely determinable and that is not subject to Employer discretion)

30. MANDATORY EMPLOYEE CONTRIBUTIONS (Plan Section 4.8) (skip if mandatory Employee contributions NOT selected at Question 11.d.)

Type of mandatory Employee Contribution. The mandatory Employee contribution is being made in accordance with the following: (select one)

a. [ ] The mandatory Employee contribution is a condition of employment.
b. [ ] The Employee must make, on or before first being eligible to participate under any Plan of the Employer, an irrevocable election to contribute the mandatory Employee contribution to the Plan. No Eligible Employee will become a Participant unless the Employee makes such an irrevocable election.

Amount of mandatory Employee Contribution (select one)

c. [ ] An Eligible Employee must contribute to the Plan _____% (not to exceed 25%) of Compensation.
d. [ ] An Eligible Employee must, prior to his or her first Entry Date, make a one-time irrevocable election to contribute to the Plan from _____% (not less than 1%) to _____% (not to exceed 25%) of Compensation.

Conditions of Mandatory Employee Contributions

e. [ ] **Additional provisions and conditions:** _____ (must be definitely determinable; e.g., Only full-time Employees must make mandatory Employee contributions)

Employer pick-up contribution. The mandatory Employee contribution is "picked-up" by the Employer under Code §414(h)(2) unless elected below. (select if applicable)

f. [ ] The mandatory Employee contribution is not "picked-up" by the Employer.

DISTRIBUTIONS

31. FORM OF DISTRIBUTIONS (Plan Sections 6.5 and 6.6)

Distributions under the Plan may be made in (select all that apply; must select at least one):

a. [X] lump-sums
b. [X] substantially equal installments
c. [X] partial withdrawals, provided the minimum withdrawal is $_____ (leave blank if no minimum)
d. [ ] partial withdrawals or installments are only permitted for Participants or Beneficiaries who must receive required minimum distributions under Code §401(a)(9) except for the following (leave blank if no exceptions):
    1. [ ] Only Participants (and not Beneficiaries) may elect partial withdrawals or installments
    2. [ ] Other: _____ (e.g., partial is not permitted for death benefits. Must be definitely determinable and not subject to Employer discretion.)
e. [X] annuity: Annuity Purchase (describe the form of annuity or annuities)

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f. [ ] other: _____ (must be definitely determinable and not subject to Employer discretion)

NOTE: Regardless of the above, a Participant is not required to request a withdrawal of his or her total Account for an in-service distribution, a hardship distribution, or a distribution from the Participant's Rollover Account.

Cash or property. Distributions may be made in:

g. [X] cash only, except for (select all that apply; leave blank if none apply):
   1. [ ] insurance Contracts
   2. [ ] annuity Contracts
   3. [ ] Participant loans
   4. [ ] all investments in an open brokerage window or similar arrangement

h. [ ] cash or property, except that the following limitation(s) apply: (leave blank if there are no limitations on property distributions):
   1. [ ] _____ (must be definitely determinable and not subject to Employer discretion)

Joint and Survivor Annuity provisions. (Plan Sections 6.5(e) and 6.6(e) (select one) The Joint and Survivor Annuity provisions do not apply to the Plan unless selected below (choose if applicable)

i. [ ] **Joint and Survivor Annuity applicable as normal form of distribution**. The Joint and Survivor annuity rules set forth in Plan Sections 6.5(e) and 6.5(f) apply to all Participants (if selected, then annuities are a form of distribution under the Plan even if e. above is not selected)

j. [ ] **Joint and Survivor Annuity rules apply based on Participant election**. Plan Section 6.5(f) will apply and the joint and survivor rules of Code §§401(a)(11) and 417 (as set forth in Plan Sections 6.5(e) and 6.6(e) will apply only if an annuity form of distribution is selected by a Participant.

AND, if i. or j. is selected above, the one-year marriage rule does not apply unless selected below (choose if applicable).
1. [ ] The one-year marriage rule applies.

Spousal consent requirements. Spousal consent is not required for any Plan provisions (except as otherwise elected in i. above for the joint and survivor annuity rules) unless selected below (choose if applicable)

k. [ ] **Required for all distributions**. A Spouse must consent to all distributions (other than required minimum distributions).

l. [ ] **Beneficiary designations**. A married Participant's Spouse will be the Beneficiary of the entire death benefit unless the Spouse consents to an alternate Beneficiary.

AND, if k. or l. is selected, the one-year marriage rule does not apply unless selected below (choose if applicable).
1. [ ] The one-year marriage rule applies.

32. CONDITIONS FOR DISTRIBUTIONS UPON SEVERANCE OF EMPLOYMENT. Distributions upon severance of employment pursuant to Plan Section 6.4(a) will not be made unless the following conditions have been satisfied:

A. **Accounts in excess of $5,000**

a. [X] Distributions may be made as soon as administratively feasible following severance of employment.

b. [ ] Distributions may be made as soon as administratively feasible after the last day of the Plan Year coincident with or next following severance of employment.

c. [ ] Distributions may be made as soon as administratively feasible after the last day of the Plan Year quarter coincident with or next following severance of employment.

d. [ ] Distributions may be made as soon as administratively feasible after the Valuation Date coincident with or next following severance of employment.

e. [ ] Distributions may be made as soon as administratively feasible after _____ months have elapsed following severance of employment.

f. [ ] No distributions may be made until a Participant has reached Early or Normal Retirement Date.

g. [ ] Other: _____ (must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

B. **Accounts of $5,000 or less**

h. [X] Same as above

i. [ ] Distributions may be made as soon as administratively feasible following severance of employment.

j. [ ] Distributions may be made as soon as administratively feasible after the last day of the Plan Year coincident with or next following severance of employment.

k. [ ] Other: _____ (must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

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C. **Timing after initial distributable event.** If a distribution is not made in accordance with the above provisions upon the occurrence of the distributable event, then a Participant may elect a subsequent distribution at any time after the time the amount was first distributable (assuming the amount is still distributable), unless otherwise selected below (may not be selected with 32.f. and 32.h.):

l. [ ] Other: _____ (e.g., a subsequent distribution request may only be made in accordance with l. above (i.e., the last day of another Plan Year); must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

D. **Participant consent (i.e., involuntary cash-outs).** Should Vested Account balances less than a certain dollar threshold be automatically distributed without Participant consent (mandatory distributions)?

NOTE: The Plan provides that distributions of amounts of $5,000 or less are only paid as lump-sums.

m. [X] No, Participant consent is required for all distributions.

n. [ ] Yes, Participant consent is required only if the distribution is over:

1. [ ] $5,000
2. [ ] $1,000
3. [ ] $_____ (less than $1,000)

NOTE: If 2. or 3. is selected, rollovers will be included in determining the threshold for Participant consent.

Automatic IRA rollover. With respect to mandatory distributions of amounts that are $1,000 or less, if a Participant makes no election, the amount will be distributed as a lump-sum unless selected below.

4. [ ] If a Participant makes no election, then the amount will be automatically rolled over to an IRA provided the amount is at least $_____ (e.g., $200).

E. **Rollovers in determination of $5,000 threshold.** Unless otherwise elected below, amounts attributable to rollover contributions (if any) will be **included** in determining the $5,000 threshold for timing of distributions, form of distributions, or consent rules.

o. [ ] Exclude rollovers (rollover contributions will be **excluded** in determining the $5,000 threshold)

NOTE: Regardless of the above election, if the Participant consent threshold is $1,000 or less, then the Administrator must include amounts attributable to rollovers for such purpose. In such case, an election to exclude rollovers above will apply for purposes of the timing and form of distributions.

33. DISTRIBUTIONS UPON DEATH (Plan Section 6.8(b)(2))

Distributions upon the death of a Participant prior to the "required beginning date" will:

a. [X] be made pursuant to the election of the Participant or "designated Beneficiary"

b. [ ] begin within 1 year of death for a "designated Beneficiary" and be payable over the life (or over a period not exceeding the "life expectancy") of such Beneficiary, except that if the "designated Beneficiary" is the Participant's Spouse, begin prior to December 31st of the year in which the Participant would have attained age 70 1/2

c. [ ] be made within 5 (or if lesser _____) years of death for all Beneficiaries

d. [ ] be made within 5 (or if lesser _____) years of death for all Beneficiaries, except that if the "designated Beneficiary" is the Participant's Spouse, begin prior to December 31st of the year in which the Participant would have attained age 70 1/2 and be payable over the life (or over a period not exceeding the "life expectancy") of such "surviving Spouse"

NOTE: The elections above must be coordinated with the Form of distributions (e.g., if the Plan only permits lump-sum distributions, then options a., b. and d. would not be applicable).

34. OTHER PERMITTED DISTRIBUTIONS (select all that apply; leave blank if none apply)

A. IN-SERVICE DISTRIBUTIONS (Plan Section 6.11)

In-service distributions will NOT be allowed (except as otherwise permitted under the Plan without regard to this provision) unless selected below (if applicable, answer a. - e.; leave blank if not applicable):

a. [X] In-service distributions may be made to a Participant who has not separated from service provided the following has been satisfied (select one or more) (options 2. - 5. may only be selected with Profit Sharing Plans):

1. [X] Age. The Participant has reached: (select one)
   a. [ ] Normal Retirement Age
   b. [ ] age 62
   c. [ ] age 59 1/2 (may not be selected if a Money Purchase Pension Plan)
   d. [X] age 70 1/2 (may not be less than age 62 for Money Purchase Pension Plans)
2. [ ] the Participant has been a Participant in the Plan for at least _____ years (may not be less than five (5))
3. [ ] the amounts being distributed have accumulated in the Plan for at least 2 years
4. [ ] other: _____ (must satisfy the definitely determinable requirement under Regulations §401-1(b); may not be subject to Employer discretion; and must be limited to a combination of items a.1. – a.3. or a Participant's disability).)

More than one condition. If more than one condition is selected above, then a Participant only needs to satisfy one of the conditions, unless selected below:

5. [ ] A Participant must satisfy each condition

NOTE: Distributions from a Transfer Account attributable to a Money Purchase Pension Plan are not permitted prior to age 62.

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Account restrictions. In-service distributions are permitted from the following Participant Accounts:

b. [ ] all Accounts

c. [ ] only from the following Accounts (select one or more):

1. [ ] Account attributable to Employer matching contributions
2. [ ] Account attributable to Employer contributions other than matching contributions
3. [ ] Rollover Account
4. [ ] Transfer Account
   Permitted from the following assets attributable to (select one or both):
   a. [ ] non-pension assets
   b. [ ] pension assets (e.g., from a Money Purchase Pension Plan)
5. [ ] Mandatory Employee Contribution Account
6. [ ] Other: _____ (specify Account(s) and conditions in a manner that satisfies the definitely determinable requirement under Regulation §1.401-1(b) and is not subject to Employer discretion)

Limitations. The following limitations apply to in-service distributions:

d. [ ] N/A (no additional limitations)

e. [X] Additional limitations (select one or more):

1. [ ] The minimum amount of a distribution is $_____.
2. [ ] No more than _____ distribution(s) may be made to a Participant during a Plan Year.
3. [X] Distributions may only be made from Accounts which are fully Vested.
4. [ ] In-service distributions may be made subject to the following provisions: _____ (must satisfy the definitely determinable requirement under Regulation §1.401-1(b) and not be subject to Employer discretion).

B. HARDSHIP DISTRIBUTIONS (Plan Sections 6.12) (may not be selected if this is a Money Purchase Pension Plan)
Hardship distributions will NOT be allowed (except as otherwise permitted under the Plan without regard to this provision) unless selected below (leave blank if not applicable):

f. [ ] Hardship distributions are permitted from the following Participant Accounts:

1. [ ] all Accounts
2. [ ] only from the following Accounts (select one or more):
   a. [ ] Account attributable to Employer matching contributions
   b. [ ] Account attributable to Employer contributions other than matching contributions
   c. [ ] Rollover Account (if not available at any time under Question 36)
   d. [ ] Transfer Account (other than amounts attributable to a money purchase pension plan)
   e. [ ] Mandatory Employee Contribution Account
   f. [ ] Other: _____ (specify Account(s) and conditions in a manner that is definitely determinable and not subject to Employer discretion)

NOTE: Hardship distributions are NOT permitted from a Transfer Account attributable to pension assets (e.g., from a Money Purchase Pension Plan).

Additional limitations. The following limitations apply to hardship distributions:

3. [ ] N/A (no additional limitations)
4. [ ] Additional limitations (select one or more):
   a. [ ] The minimum amount of a distribution is $_____.
   b. [ ] No more than _____ distribution(s) may be made to a Participant during a Plan Year.
   c. [ ] Distributions may only be made from Accounts which are fully Vested.
   d. [ ] A Participant does not include a Former Employee at the time of the hardship distribution.
   e. [ ] Hardship distributions may be made subject to the following provisions: _____ (must satisfy the definitely determinable requirement under Regulation §1.401-1(b) and not be subject to Employer discretion).

Beneficiary Hardship. Hardship distributions for Beneficiary expenses are NOT allowed unless otherwise selected below.

5. [ ] Hardship distributions for expenses of Beneficiaries are allowed
   Special effective date (may be left blank if effective date is same as the Plan or Restatement Effective Date; select a. and, if applicable, b.)
   a. [ ] effective as of _____
   b. [ ] eliminated effective as of _____.

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35. LOANS TO PARTICIPANTS (Plan Section 7.4)
   a. [X] New loans are NOT permitted.
   b. [ ] New loans are permitted.

   NOTE: Regardless of whether new loans are permitted, if the Plan permits rollovers and/or plan-to-plan transfers, then the Administrator may, in a uniform manner, accept rollovers and/or plan-to-plan transfers of loans into this Plan.

36. ROLLOVERS (Plan Section 4.6) (skip if rollover contributions are NOT selected at 11.f.)
   Eligibility. Rollovers may be accepted from all Participants who are Employees as well as the following (select all that apply; leave blank if not applicable):
   a. [ ] Any Eligible Employee, even prior to meeting eligibility conditions to be a Participant
   b. [ ] Participants who are Former Employees

   Distributions. When may distributions be made from a Participant's Rollover Account?
   c. [ ] At any time
   d. [ ] Only when the Participant is otherwise entitled to any distribution under the Plan

37. **HEART ACT** (Plan Section 4.11) (select one or more)
   a. [ ] **HEART ACT Continued benefit accruals.** Continued benefit accruals will apply
   b. [ ] **Distributions for deemed severance of employment.** The Plan permits distributions for deemed severance of employment.

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Reliance on Provider Opinion Letter. The Provider has obtained from the IRS an Opinion Letter specifying the form of this document satisfies Code §401 as of the date of the Opinion Letter. An adopting Employer may rely on the Provider's IRS Opinion Letter *only* to the extent provided in Rev. Proc. 2017-41 or subsequent guidance. The Employer may not rely on the Opinion Letter in certain other circumstances or with respect to certain qualification requirements, which are specified in the Opinion Letter and in Rev. Proc. 2017-41 or subsequent guidance. In order to have reliance in such circumstances or with respect to such qualification requirements, the Employer must apply for a determination letter to Employee Plans Determinations of the IRS.

An Employer who has ever maintained or who later adopts an individual medical account, as defined in Code §415(l)(2)) in addition to this Plan may not rely on the opinion letter issued by the Internal Revenue Service with respect to the requirements of Code§415.

This Adoption Agreement may be used only in conjunction with the basic Plan document #03. This Adoption Agreement and the basic Plan document will together be known as Nationwide Financial Services, Inc. Non-Standardized Governmental 401(a) Pre-Approved Plan #001.

The adoption of this Plan, its qualification by the IRS, and the related tax consequences are the responsibility of the Employer and its independent tax and legal advisors.

Execution for Page Substitution Amendment Only. If this paragraph is completed, this Execution Page documents an amendment to Adoption Agreement Election(s) _____ effective _____, by substitute Adoption Agreement page number(s) _____. The Employer should retain all Adoption Agreement Execution Pages and amended pages. (*Note: The Effective Date may be retroactive or may be prospective*.)

The Provider, Nationwide Financial Services, Inc. will notify the Employer of any amendment to this Pre-approved Plan or of any abandonment or discontinuance by the Provider of its maintenance of this Pre-approved Plan. In addition, this Plan is provided to the Employer either in connection with investment in a product or pursuant to a contract or other arrangement for products and/or services. Upon cessation of such investment in a product or cessation of such contract or arrangement, as applicable, the Employer is no longer considered to be an adopter of this Plan and Nationwide Financial Services, Inc. no longer has any obligations to the Employer that relate to the adopton of this Plan. For inquiries regarding the adoption of the Pre-approved Plan, the Provider's intended meaning of any Plan provisions or the effect of the Opinion Letter issued to the Provider, please contact the Provider or the Provider's representative.

Provider Name: Nationwide Retirement Solutions

Address: P.O. Box 182797

Columbus Ohio 43218

Telephone Number: (877) 496-1630

Email address (optional): _____

The Employer, by executing below, hereby adopts this Plan (add additional signature lines as needed). NOTE: If more than one Plan type is adopted, the Plan Provider must provide multiple plan documents for Employer signature.

EMPLOYER: Leon County, FL BOCC

By: _____ _____

DATE SIGNED

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APPENDIX A
SPECIAL EFFECTIVE DATES AND OTHER PERMITTED ELECTIONS

A. **Special effective dates** (leave blank if not applicable):

a. [ ] **Special effective date(s):** _____. For periods prior to the specified special effective date(s), the Plan terms in effect prior to its restatement under this Adoption Agreement will control for purposes of the designated provisions. A special effective date may not result in the delay of a Plan provision beyond the permissible effective date under any applicable law. (The Employer has reliance on the IRS Opinion Letter only if the features described in the preceding sentence constitute protected benefits within the meaning of Code Section 411(d)(6) and the regulations thereunder, and only if such features are permissible in a "Cycle 3" preapproved plan, i.e., the features are not specifically prohibited by Revenue Procedure 2017-41 (or any superseding guidance)

B. **Other permitted elections** (the following elections are optional):

a. [ ] **No other permitted elections**

The following elections apply (select one or more):

b. [ ] **Deemed 125 compensation** (Plan Section 1.23). Deemed 125 compensation will be included in Compensation and 415 Compensation.

c. [X] **Break-in-Service Rule**s. The following Break-in-Service rules apply to the Plan.(select 1. or 2.)

1. [ ] **Reemployed after five (5) 1-Year Breaks in Service ("rule of parity" provisions)** (Plan Section 3.5(e)). The "rule of parity" provisions in Plan Section 3.5(d) will apply for (select one or both):
   a. [ ] eligibility purposes
   b. [ ] vesting purposes

2. [X] **Break-in-Service rules for rehired Employees.** The following Break-in-Service rules set forth in Plan Sections 3.2 and 3.5 apply: (select one or both)
   a. [X] all Break-in-Service rules set forth in such Sections.
   b. [ ] only the following: _____ (specify which provisions apply to the Plan)

d. [ ] **Beneficiary if no beneficiary elected by Participant** (Plan Section 6.2(f)). In the event no valid designation of Beneficiary exists, then in lieu of the order set forth in Plan Section 6.2(f), the following order of priority will be used: _____ (specify an order of beneficiaries; e.g., children per stirpes, parents, and then step-children).

e. [ ] **Joint and Survivor Annuity/Pre-Retirement Survivor Annuity**. If the Plan applies the Joint and Survivor Annuity rules, then the normal form of annuity will be a joint and 50% survivor annuity (i.e., if 31.i. or 31.j. is selected) and the Pre-Retirement Survivor Annuity will be equal to 50% of a Participant's interest in the Plan unless selected below (select 1. and/or 2.)

1. [ ] **Normal form of annuity.** Instead of a joint and 50% survivor annuity, the normal form of the qualified Joint and Survivor Annuity will be: (select one)
   a. [ ] joint and 100% survivor annuity
   b. [ ] joint and 75% survivor annuity
   c. [ ] joint and 66 2/3% survivor annuity

2. [ ] **Pre-Retirement Survivor Annuity.** The Pre-Retirement Survivor Annuity (minimum Spouse's death benefit) will be equal to 50% of a Participant's interest in the Plan unless a different percentage is selected below: (select one)
   a. [ ] 100% of a Participant's interest in the Plan.
   b. [ ] _____% (may not be less than 50%) of a Participant's interest in the Plan.

f. [ ] **Limitation Year** (Plan Section 1.30). The Limitation Year for Code §415 purposes will be _____ (must be a consecutive twelve month period) instead of the "determination period" for Compensation.

g. [ ] **415 Limits when 2 defined contribution plans are maintained** (Plan Section 4.4). If any Participant is covered under another qualified defined contribution plan maintained by the Employer or an Affiliated Employer, or if the Employer or an Affiliated Employer maintains a welfare benefit fund, as defined in Code §419(e), or an individual medical account, as defined in Code §415(l)(2), under which amounts are treated as "annual additions" with respect to any Participant in this Plan, then the provisions of Plan Section 4.4(b) will apply unless otherwise specified below:

1. [ ] Specify, in a manner that precludes Employer discretion, the method under which the plans will limit total "annual additions" to the "maximum permissible amount" and will properly reduce any "excess amounts":
   _____.

h. [ ] **Recognition of Service with other employers** (Plan Sections 1.40 and 1.55). Service with the following employers (in addition to those specified at Question 15) will be recognized as follows (select one or more):

		Eligibility	Vesting	Contribution Allocation
1.	[ ] Employer name: _____	a. [ ]	b. [ ]	c. [ ]
2.	[ ] Employer name: _____	a. [ ]	b. [ ]	c. [ ]

3. [ ] Employer name: _____ a. [ ] b. [ ] c. [ ]

4. [ ] Employer name: _____ a. [ ] b. [ ] c. [ ]

5. [ ] Employer name: _____ a. [ ] b. [ ] c. [ ]

6. [ ] Employer name: _____ a. [ ] b. [ ] c. [ ]

Limitations

7. [ ] The following provisions or limitations apply with respect to the recognition of prior service: _____ (e.g., credit service with X only on/following 1/1/19) a. [ ] b. [ ] c. [ ]

i. [ ] **Other vesting provisions.** The following vesting provisions apply to the Plan (select one or more):

1. [ ] **Special vesting provisions.** The following special provisions apply to the vesting provisions of the Plan: _____ (must be definitely determinable and satisfy the parameters set forth at Question 17)
2. [ ] **Pre-amendment vesting schedule.** (Plan Section 6.4(b)). If the vesting schedule has been amended and a different vesting schedule other than the schedule at Question 17 applies to any Participants, then the following provisions apply (must select one of a. – d.):

   Applicable Participants. The vesting schedules in Question 17 only apply to:
   a. [ ] Participants who are Employees as of _____ (enter date).
   b. [ ] Participants in the Plan who have an Hour of Service on or after _____ (enter date).
   c. [ ] Participants (even if not an Employee) in the Plan on or after _____ (enter date).
   d. [ ] Other: _____ (e.g., Participants in division A. Must be definitely determinable.)

j. [ ] **Minimum distribution transitional rules** (Plan Section 6.8(e)(5))

NOTE: This Section does not apply to (1) a new Plan, (2) an amendment or restatement of an existing Plan that never contained the provisions of Code §401(a)(9) as in effect prior to the amendments made by the Small Business Job Protection Act of 1996 (SBJPA), or (3) a Plan where the transition rules below do not affect any current Participants.

The "required beginning date" for a Participant is:

1. [ ] April 1st of the calendar year following the year in which the Participant attains age 70 1/2. (pre-SBJPA rules continue to apply)
2. [ ] April 1st of the calendar year following the later of the year in which the Participant attains age 70 1/2 or retires (the post-SBJPA rules), with the following exceptions (select one or both; leave blank if both applied effective as of January 1, 1996):
   a. [ ] A Participant who was already receiving required minimum distributions under the pre-SBJPA rules as of _____ (may not be earlier than January 1, 1996) was allowed to stop receiving distributions and have them recommence in accordance with the post-SBJPA rules. Upon the recommencement of distributions, if the Plan permits annuities as a form of distribution then the following apply:
      1. [ ] N/A (annuity distributions are not permitted)
      2. [ ] Upon the recommencement of distributions, the original Annuity Starting Date will be retained.
      3. [ ] Upon the recommencement of distributions, a new Annuity Starting Date is created.
   b. [ ] A Participant who had not begun receiving required minimum distributions as of _____ (may not be earlier than January 1, 1996) may elect to defer commencement of distributions until retirement. The option to defer the commencement of distributions (i.e., to elect to receive in-service distributions upon attainment of age 70 1/2) applies to all such Participants unless selected below:
      1. [ ] The in-service distribution option was eliminated with respect to Participants who attained age 70 1/2 in or after the calendar year that began after the later of (1) December 31, 1998, or (2) the adoption date of the restatement to bring the Plan into compliance with the SBJPA.

k. [ ] **Other spousal provisions** (select one or more)

1. [ ] **Definition of Spouse.** The term Spouse includes a spouse under federal law as well as the following: _____.
2. [ ] **Automatic revocation of spousal designation** (Plan Section 6.2(g)). The automatic revocation of a spousal Beneficiary designation in the case of divorce does not apply.
3. [ ] **Timing of QDRO payment.** A distribution to an Alternate Payee shall not be permitted prior to the time a Participant would be entitled to a distribution.

l. [X] **Applicable law.** Instead of using the applicable laws set forth in Plan Section 9.4(a), the Plan will be governed by the laws of: Florida

m. [ ] **Total and Permanent Disability.** Instead of the definition at Plan Section 1.50, Total and Permanent Disability means: _____ (must be definitely determinable).

n. [ ] **Inclusion of Reclassified Employees** (Plan Section 1.17(a))**.** The Employer does not exclude Reclassified Employees subject to the following provisions: (leave blank if not applicable): _____

o. [ ] **Claims procedures** (Plan Section 2.10). The claims procedures forth in Plan Section 2.10(a) – (b) apply unless otherwise elected below or unless the Administrator has operationally adopted alternative procedures.
1. [ ] The claims procedures set forth in Plan Section 2.10(c) – (g) apply instead of Plan Section 2.10(a).
2. [ ] The claims procedures set forth in Plan Section 2.10(c)-(g) apply as follows: _____ (specify which provisions apply and/or modified)

p. [ ] **Age 62 In-Service Distributions For Transferred Money Purchase Assets** (Plan Section 6.11)
In-service distributions will be allowed for Participants at age 62. (applies only for Transfer Accounts from a Money Purchase Pension Plan) (skip this question if the Plan is a Money Purchase Pension Plan or if in-service distributions are already permitted for Transferred Accounts at Question 34)

Limitations. The following limitations apply to these in-service distributions:
1. [ ] The Plan already provides for in-service distributions and the restrictions set forth in the Plan (e.g., minimum amount of distributions or frequency of distributions) are applicable to in-service distributions at age 62.
2. [ ] N/A (no limitations)
3. [ ] The following elections apply to in-service distributions at age 62 (select one or more):
   a. [ ] The minimum amount of a distribution is $_____ (may not exceed $1,000).
   b. [ ] No more than _____ distribution(s) may be made to a Participant during a Plan Year.
   c. [ ] Distributions may only be made from Accounts which are fully Vested.
   d. [ ] In-service distributions may be made subject to the following provisions: _____ (must be definitely determinable and not subject to discretion).

q. [ ] **QLACs**. (Plan Section 6.8(e)(4) A Participant may elect a QLAC (as defined in Plan Section 6.8(e)(4)) or any alternative form of annuity permitted pursuant to a QLAC in which the Participant's Account has been invested.

ADMINISTRATIVE PROCEDURES

The following are optional administrative provisions. The Administrator may implement procedures that override any elections in this Section without a formal Plan amendment. In addition, modifications to these procedures will not affect an Employer's reliance on the Plan.

A. **Loan Limitations.** (complete only if loans to Participants are permitted; leave blank if none apply)
- a. [ ] Limitations (select one or more):
  - 1. [ ] Loans will be treated as Participant directed investments.
  - 2. [ ] Loans will only be made for hardship or financial necessity as specified below (select a. or b.)
    - a. [ ] hardship reasons specified in Plan Section 6.12
    - b. [ ] financial necessity (as defined in the loan program).
  - 3. [ ] The minimum loan will be $_____.
  - 4. [ ] A Participant may only have _____ (e.g., one (1)) loan(s) outstanding at any time.
  - 5. [ ] All outstanding loan balances will become due and payable in their entirety upon the occurrence of a distributable event (other than satisfaction of the conditions for an in-service distribution (including a hardship distribution), if applicable).
  - 6. [ ] The home loan term will be _____ years. (if not selected, the Administrator establishes the term for repayment of a home loan)
  - 7. [ ] **Account restrictions.** Loans will only be permitted from the following Participant Accounts (select all that apply or leave blank if no limitations apply):
    - a. [ ] Account(s) attributable to Employer matching contributions
    - b. [ ] Account attributable to Employer contributions other than matching contributions
    - c. [ ] Rollover Account
    - d. [ ] Transfer Account
    - e. [ ] Other: _____

    AND, if loans are restricted to certain accounts, the limitations of Code §72(p) will be applied:
    - f. [ ] by determining the limits by only considering the restricted accounts.
    - g. [ ] by determining the limits taking into account a Participant's entire interest in the Plan.

Additional Loan Provisions (select all that apply; leave blank if none apply)
- b. [ ] **Loan payments.** Loans are repaid by (if left blank, then payroll deduction applies unless Participant is not subject to payroll (e.g., partner who only has a draw)):
  - 1. [ ] payroll deduction
  - 2. [ ] ACH (Automated Clearing House)
  - 3. [ ] check
    - a. [ ] Only for prepayment
- c. [ ] **Interest rate.** Loans will be granted at the following interest rate (if left blank, then 3. below applies):
  - 1. [ ] _____ percentage points over the prime interest rate
  - 2. [ ] _____%
  - 3. [ ] the Administrator establishes the rate at the time the loan is made
- d. [ ] **Refinancing.** Loan refinancing is allowed.

B. **Life Insurance.** (Plan Section 7.5)
- a. [X] Life insurance may not be purchased.
- b. [ ] Life insurance may be purchased...
  - 1. [ ] at the option of the Administrator
  - 2. [ ] at the option of the Participant

  Limitations
  - 3. [ ] N/A (no limitations)
  - 4. [ ] The purchase of initial or additional life insurance will be subject to the following limitations (select one or more):
    - a. [ ] Each initial Contract will have a minimum face amount of $_____.
    - b. [ ] Each additional Contract will have a minimum face amount of $_____.
    - c. [ ] The Participant has completed _____ Years (or Periods) of Service.
    - d. [ ] The Participant has completed _____ Years (or Periods) of Service while a Participant in the Plan.
    - e. [ ] The Participant is under age _____ on the Contract issue date.
    - f. [ ] The maximum amount of all Contracts on behalf of a Participant may not exceed $_____.
    - g. [ ] The maximum face amount of any life insurance Contract will be $_____.

C. **Plan Expenses.** Will the Plan assess against an individual Participant's Account certain Plan expenses that are incurred by, or are attributable to, a particular Participant based on use of a particular Plan service?
- a. [ ] No
- b. [X] Yes

Use of Forfeitures

Forfeitures of Employer contributions other than matching contributions will be:

c. [ ] added to the Employer contribution and allocated in the same manner
d. [X] used to reduce any Employer contribution
e. [ ] allocated to all Participants eligible to share in the allocations of Employer contributions or Forfeitures in the same proportion that each Participant's Compensation for the Plan Year bears to the Compensation of all Participants for such year
f. [ ] other: _____ (describe the treatment of Forfeitures in a manner that is definitely determinable and not subject to Employer discretion)

Forfeitures of Employer matching contributions will be:

g. [ ] N/A. Same as above or no Employer matching contributions.
h. [X] used to reduce the Employer matching contribution.
i. [ ] used to reduce any Employer contribution.
j. [ ] other: _____ (describe the treatment of Forfeitures in a manner that is definitely determinable and not subject to Employer discretion)

D. **Directed investments**

a. [ ] Participant directed investments are NOT permitted.
b. [X] Participant directed investments are permitted from the following Participant Accounts:
    1. [X] all Accounts
    2. [ ] only from the following Accounts (select one or more):
        a. [ ] Account attributable to Employer contributions
        b. [ ] Rollover Account
        c. [ ] Transfer Account
        d. [ ] Other: _____ (specify Account(s) and conditions in a manner that is definitely determinable and not subject to Employer discretion)

E. **Rollover Limitations.** Will the Plan accept rollover contributions and/or direct rollovers from the sources specified below?

a. [ ] No, Administrator determines in operation which sources will be accepted.
b. [ ] Yes

Rollover sources. Indicate the sources of rollovers that will be accepted (select one or more)

1. [ ] **Direct Rollovers.** The Plan will accept a direct rollover of an eligible rollover distribution from (select one or more):
    a. [ ] a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan), excluding after-tax employee contributions
    b. [ ] a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan), including after-tax employee contributions
    c. [ ] a plan described in Code §403(a) (an annuity plan), excluding after-tax employee contributions
    d. [ ] a plan described in Code §403(a) (an annuity plan), including after-tax employee contributions
    e. [ ] a plan described in Code §403(b) (a tax-sheltered annuity), excluding after-tax employee contributions
    f. [ ] a plan described in Code §403(b) (a tax-sheltered annuity), including after-tax employee contributions
    g. [ ] a plan described in Code §457(b) (eligible deferred compensation plan)

    Direct Rollovers of Participant Loan. The Plan will NOT accept a direct rollover of a Participant loan from another plan unless selected below (leave blank if default applies)
    h. [ ] The Plan will accept a direct rollover of a Participant loan
    i. [ ] The Plan will only accept a direct rollover of a Participant loan only in the following situation(s): _____ (e.g., only from Participants who were employees of an acquired organization).
2. [ ] **Participant Rollover Contributions from Other Plans (i.e., not via a direct plan-to-plan transfer).** The Plan will accept a contribution of an eligible rollover distribution (select one or more):
    a. [ ] a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan)
    b. [ ] a plan described in Code §403(a) (an annuity plan)
    c. [ ] a plan described in Code §403(b) (a tax-sheltered annuity)
    d. [ ] a governmental plan described in Code §457(b) (eligible deferred compensation plan)
3. [ ] **Participant Rollover Contributions from IRAs:** The Plan will accept a rollover contribution of the portion of a distribution from a traditional IRA that is eligible to be rolled over and would otherwise be includible in gross income. Rollovers from Roth IRAs or a Coverdell Education Savings Account (formerly known as an Education IRA) are not permitted because they are not traditional IRAs. A rollover from a SIMPLE IRA is allowed if the amounts are rolled over after the individual has been in the SIMPLE IRA for at least two years.

F. **Trustee(s) or Insurer(s)**. Information regarding Trustee(s)/Insurer(s) (required for the Summary Plan Description and, if requested, the Trust Agreement)

(Note: Select a. if not using provided trust. MUST select b and following questions as applicable):

a. [ ] Do not produce the trust agreement
b. [X] Complete the following UNLESS not selecting supporting forms:

Trustee/Insurer *(select a. OR one or more of d. - e.)*

c. [ ] **Insurer.** This Plan is funded exclusively with Contracts (select one or more of 1. - 4)
Name of Insurer(s)
1. [ ] _____
2. [ ] _____
3. [ ] Use Employer address/telephone number/email
4. [ ] Use following address/telephone number/email
   a. Street: _____
   b. City: _____
   c. State: _____
   d. Zip: _____
   e. Telephone: _____
   f. Email: _____

d. [X] Individual Trustee(s)
e. [ ] Corporate Trustee

Name of Trust

f. Specify name of Trust (required for FIS trust): Leon County BOCC 401(a) Matching Program

Individual Trustees (if d. selected above, complete g. – j.)

Directed/Discretionary Trustees. The individual Trustee(s) executing this Adoption Agreement are (select g. or h.)

g. [ ] Select for each individual Trustee (skip to next question)
h. [X] The following selections apply to all individual Trustee(s) (select 1. - 4. as applicable)
   1. [X] A discretionary Trustee over all plan assets (may not be selected with 2. - 4.)
   2. [ ] A nondiscretionary (directed) Trustee over all plan assets (may not be selected with 1., 3. or 4.)
   3. [ ] The individual Trustee(s) will serve as a discretionary Trustee over the following assets: _____ (may not be selected with 1. or 2.)
   4. [ ] The individual Trustee(s) will serve as a nondiscretionary (directed) Trustee over the following assets: _____ (may not be selected with 1. or 2.)

Individual Trustee(s) (complete if d. selected above)

i. [X] Individual Trustee(s) are (select one or more of a. - j.; enter address at j. below)

a. **Name** Rick Minor
Title/Email:
1. Title _____
2. Email minorr@leoncountyfl.gov (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. – 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be select with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

b. **Name** _____
Title/Email:
1. Title _____
2. Email _____ (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. – 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be select with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

c. **Name** _____
Title/Email:
1. Title _____
2. Email _____ (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. – 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be select with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

d. **Name** _____
Title/Email:
1. Title _____
2. Email _____ (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be selected with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

e. **Name** _____
Title/Email:
1. Title _____
2. Email _____ (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be selected with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

f. **Name** _____
Title/Email:
1. Title _____
2. Email _____ (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be selected with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

g. **Name** _____
Title/Email:
1. Title _____
2. Email _____ (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be selected with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

h. **Name** _____
Title/Email:
1. Title _____
2. Email _____ (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be selected with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

i. **Name** _____
Title/Email:
1. Title _____
2. Email _____ (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be selected with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

j. **Name** _____
Title/Email:
1. Title _____
2. Email _____ (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be selected with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

j. [X] **Individual Trustee Address** (complete if d. selected above)
1. [X] Use Employer address/telephone number/email
2. [ ] Use following address/telephone number/email
a. Street: _____
b. City: _____
c. State: _____
d. Zip: _____
e. Telephone: _____
f. Email: _____

Corporate Trustee Name/Type/Address (complete if e. selected above)
k. [ ] Name _____
Address/telephone number/email
1. [ ] Use Employer address/telephone number/email
2. [ ] Use following address/telephone number/email
a. Street: _____
b. City: _____
c. State: _____
d. Zip: _____
e. Telephone: _____
f. Email: _____
Directed/Discretionary. The Corporate Trustee is (select 3. - 6. as applicable)
3. [ ] A discretionary Trustee over all plan assets (may not be selected with 4. – 6.)
4. [ ] A nondiscretionary (directed) Trustee over all plan assets (may not be selected with 3., 5. or 6.)
5. [ ] A discretionary Trustee over the following plan assets over the following assets:_____ (may not be selected with 3. – 4.)
6. [ ] A nondiscretionary (directed) Trustee over the following plan assets _____ (may not be selected with 3. – 4.)
Signee (optional)**:**
7. [ ] Name of person signing on behalf of the corporate Trustee _____
8. [ ] Email address of person signing on behalf of the corporate Trustee _____

Special Trustee for collection of contributions. The Employer appoints the following Special Trustee with the responsibility to collect delinquent contributions *(optional)*
l. [ ] **Name** _____
Title:
1. _____
Address/telephone number/email
2. [ ] Use Employer address/telephone number/email
3. [ ] Use following address/telephone number/email
a. Street: _____
b. City: _____
c. State: _____
d. Zip: _____
e. Telephone: _____
f. Email: _____

Custodian(s) Name/Address . The Custodian(s) are *(optional)*
m. [ ] **Name(s)** _____
Address/telephone number/email
1. [ ] Use Employer address/telephone number/email

2. [ ] Use following address/telephone number/email
    a. Street: _____
    b. City: _____
    c. State: _____
    d. Zip: _____
    e. Telephone: _____
    f. Email: _____

Investment in common, collective or pooled trust funds. The nondiscretionary Trustee, as directed or the discretionary Trustee acting without direction (and in addition to the discretionary Trustee's authority to invest in its own funds), may invest in any of the following trust funds: *(optional)*

n. [ ] _____ (Specify the names of one or more trust funds in which the Plan can invest)

Choice of law

o. [X] This trust will be governed by the laws of the state of:
    1. [X] State in which the Employer's principal office is located
    2. [ ] State in which the corporate trustee or insurer is located
    3. [ ] Other _____

**ADOPTION AGREEMENT FOR
NATIONWIDE FINANCIAL SERVICES, INC.
NON-STANDARDIZED
GOVERNMENTAL 401(a) PRE-APPROVED PLAN**

CAUTION: Failure to properly fill out this Adoption Agreement may result in disqualification of the Plan.

EMPLOYER INFORMATION
(An amendment to the Adoption Agreement is not needed solely to reflect a change in this Employer Information Section.)

1. EMPLOYER'S NAME, ADDRESS, TELEPHONE NUMBER, TIN AND FISCAL YEAR

Name: Leon County, FL BOCC

Address: 301 S Monroe St
Street

Tallahassee (City) Florida (State) 32301 (Zip)

Telephone: 850-606-2417

Taxpayer Identification Number (TIN): 59- 6000708

Employer's Fiscal Year ends: September 30

2. TYPE OF GOVERNMENTAL ENTITY. This Plan may only be adopted a state or local governmental entity, or agency thereof, including an Indian tribal government and may not be adopted by any other entity, including a federal government and any agency or instrumentality thereof.
   a. [ ] State government or state agency
   b. [X] County or county agency
   c. [ ] Municipality or municipal agency
   d. [ ] Indian tribal government (see Note below)

   NOTE: An Indian tribal government may only adopt this Plan if such entity is defined under Code §7701(a)(40), is a subdivision of an Indian tribal government as determined in accordance with Code §7871(d), or is an agency or instrumentality of either, and all of the Participants under this Plan employed by such entity substantially perform services as an Employee in essential governmental functions and not in the performance of commercial activities (whether or not an essential government function).

3. PARTICIPATING EMPLOYERS (Plan Section 1.39). Will any other Employers adopt this Plan as Participating Employers?
   a. [X] No
   b. [ ] Yes

   MULTIPLE EMPLOYER PLAN (Plan Article XI). Will any Employers who are not Affiliated Employers adopt this Plan as part of a multiple employer plan (MEP) arrangement?
   c. [X] No
   d. [ ] Yes (Complete a Participation Agreement for each Participating Employer.)

PLAN INFORMATION
(An amendment to the Adoption Agreement is not needed solely to reflect a change in the information in Question 9.)

4. PLAN NAME:

Leon County BOCC 401(a) Matching Program

5. PLAN STATUS
   a. [ ] New Plan
   b. [X] Amendment and restatement of existing Plan
      CYCLE 3 RESTATEMENT (leave blank if not applicable)
      1. [X] This is an amendment and restatement to bring a plan into compliance with the legislative and regulatory changes set forth in IRS Notice 2017-37 (i.e., the 6-year pre-approved plan restatement cycle).

6. EFFECTIVE DATE (Plan Section 1.16) (complete a. if new plan; complete a. AND b. if an amendment and restatement)
   Initial Effective Date of Plan (except for restatements, cannot be earlier than the first day of the current Plan Year)
   a. October 1, 2006 (enter month day, year) (hereinafter called the "Effective Date" unless 6.b. is entered below)

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Restatement Effective Date. If this is an amendment and restatement, the effective date of the restatement (hereinafter called the "Effective Date") is:

b. October 1, 2021 (enter month day, year; NOTE: The restatement date may not be prior to the first day of the current Plan Year. Plan contains appropriate retroactive effective dates with respect to provisions for appropriate laws.)

7. PLAN YEAR (Plan Section 1.43) means, except as otherwise provided in d. below:
a. [ ] the calendar year
b. [X] the twelve-month period ending on September 30 (e.g., June 30th)

SHORT PLAN YEAR (Plan Section 1.47). This is a Short Plan Year (if the effective date of participation is based on a Plan Year, then coordinate with Question 14):
c. [X] N/A
d. [ ] beginning on _____ (enter month day, year; e.g., July 1, 2020)
and ending on _____ (enter month day, year).

8. VALUATION DATE (Plan Section 1.53) means:
a. [X] every day that the Trustee (or Insurer), any transfer agent appointed by the Trustee (or Insurer) or the Employer, and any stock exchange used by such agent are open for business (daily valuation)
b. [ ] the last day of each Plan Year
c. [ ] the last day of each Plan Year quarter
d. [ ] other (specify day or days): _____ (must be at least once each Plan Year)

NOTE: The Plan always permits interim valuations.

9. ADMINISTRATOR'S NAME, ADDRESS AND TELEPHONE NUMBER
(If none is named, the Employer will be the Administrator (Plan Section 1.2).)
a. [X] Employer (use Employer address and telephone number)
b. [ ] The Committee appointed by the Employer (use Employer address and telephone number)
c. [ ] Other:

Name: _____

Address: _____
Street

_____ _____ _____
City State Zip

Telephone: _____

10. TYPE OF PLAN (select one)
a. [X] Profit Sharing Plan.
b [ ] Money Purchase Pension Plan.

11. CONTRIBUTION TYPES
The selections made below must correspond with the selections made under the Contributions and Allocations Section of this Adoption Agreement.
FROZEN PLAN OR CONTRIBUTIONS HAVE BEEN SUSPENDED (Plan Section 4.1(c)) (optional)
a. [ ] This is a frozen Plan (i.e., all contributions cease) (if this is a temporary suspension, select a.2):
1. [ ] All contributions ceased as of, or prior to, the effective date of this amendment and restatement and the prior Plan provisions are not reflected in this Adoption Agreement (may enter effective date at 3. below and/or select prior contributions at g. - j. (optional), skip questions 12-18 and 22-30)
2. [ ] All contributions ceased or were suspended and the prior Plan provisions are reflected in this Adoption Agreement (must enter effective date at 3. below and select contributions at b. - f.)

Effective date
3. [ ] as of _____ (effective date is optional unless a.2. has been selected above or this is the amendment or restatement to freeze the Plan).

CURRENT CONTRIBUTIONS
The Plan permits the following contributions (select one or more):
b. [X] **Employer contributions other than matching** (Questions 24-25)
1. [ ] This Plan qualifies as a Social Security Replacement Plan (Question 24.e. must be selected)
c. [X] **Employer matching contributions** (Questions 26-28)
d. [ ] **Mandatory Employee contributions** (Question 30)

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e. [ ] **After-tax voluntary Employee contributions**
f. [ ] **Rollover contributions** (Question 36)

PRIOR CONTRIBUTIONS
The Plan used to permit, but no longer does, the following contributions (choose all that apply, if any):
g. [ ] **Employer matching contributions**
h. [ ] **Employer contributions other than matching contributions**
i. [ ] **Rollover contributions**
j. [ ] **After-tax voluntary Employee contributions**

ELIGIBILITY REQUIREMENTS

12. ELIGIBLE EMPLOYEES (Plan Section 1.17) means all Employees (including Leased Employees) EXCEPT those Employees who are excluded below or elsewhere in the Plan: (select a. or b.)
a. [ ] **No excluded Employees.** There are no additional excluded Employees under the Plan (skip to Question 13).
b. [X] **Exclusions.** The following Employees are not Eligible Employees for Plan purposes (select one or more):
1. [ ] Union Employees (as defined in Plan Section 1.17)
2. [ ] Nonresident aliens (as defined in Plan Section 1.17)
3. [ ] Leased Employees (Plan Section 1.29)
4. [ ] Part-time Employees. A part-time Employee is an Employee whose regularly scheduled service is less than __ Hours of Service in the relevant eligibility computation period (as defined in Plan Section 1.55).
5. [ ] Temporary Employees. A temporary Employee is an Employee who is categorized as a temporary Employee on the Employer's payroll records.
6. [ ] Seasonal Employees. A seasonal Employee is an Employee who is categorized as a seasonal Employee on the Employer's payroll records.
7. [X] Other: All Employees Except Leon County Board of County Commissioner employees & Supervisor of Election employees. All regular full & part-time employees (working 20 or more hours per week) & earning less than $50,000 in base annual earnings. (must be definitely determinable under Regulation §1.401-1(b). Exclusions may be employment title specific but may not be by individual name)

NOTE: If option 4. - 6. (part-time, temporary and/or seasonal exclusions) is selected, when any such excluded Employee actually completes 1 Year of Service, then such Employee will no longer be part of this excluded class. For this purpose, the Hours of Service method will be used for the 1 Year of Service override regardless of any contrary selection at Question 16.

13. CONDITIONS OF ELIGIBILITY (Plan Section 3.1)
a. [ ] **No age and service required.** No age and service required for all Contribution Types (skip to Question 14).
b. [X] **Eligibility.** An Eligible Employee will be eligible to participate in the Plan upon satisfaction of the following (complete c. and d., select e. and f. if applicable):

Eligibility Requirements
c. [X] **Age Requirement**
1. [X] No age requirement
2. [ ] Age 20 1/2
3. [ ] Age 21
4. [ ] Age _____ (may not exceed 26)
d. [X] **Service Requirement**
1. [ ] No service requirement
2. [X] six (6) (not to exceed 60) months of service (elapsed time)
3. [ ] 1 Year of Service
4. [ ] _____ (not to exceed 5) Years of Service
5. [ ] _____ consecutive month period from the Eligible Employee's employment commencement date and during which at least _____ Hours of Service are completed.
6. [ ] _____ consecutive months of employment.
7. [ ] Other: _____ (e.g., date on which 1,000 Hours of Service is completed within the computation period) (must satisfy the Notes below)

NOTE: If c.4. or d.7. is selected, the condition must be an age or service requirement that is definitely determinable and may not exceed age 26 and may not exceed 5 Years of Service.
NOTE: Year of Service means Period of Service if the elapsed time method is chosen.

Waiver of conditions. The service and/or age requirements specified above will be waived in accordance with the following (leave blank if there are no waivers of conditions):
e. [ ] If employed on _____ the following requirements, and the entry date requirement, will be waived. The waiver applies to any Eligible Employee unless 3. selected below. Such Employees will enter the Plan as of such date (select 1. and/or 2. AND 3. if applicable):
1. [ ] service requirement (may let part-time Eligible Employees into the Plan)

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2. [ ] age requirement
3. [ ] waiver is for: _____

Amendment or restatement to change eligibility requirements

f. [ ] This amendment or restatement (or a prior amendment and restatement) modified the eligibility requirements and the prior eligibility conditions continue to apply to the Eligible Employees specified below. If this option is NOT selected, then all Eligible Employees must satisfy the eligibility conditions set forth above.
   1. [ ] The eligibility conditions above only apply to Eligible Employees who were not Participants as of the effective date of the modification.
   2. [ ] The eligibility conditions above only apply to individuals who were hired on or after the effective date of the modification.

14. EFFECTIVE DATE OF PARTICIPATION (ENTRY DATE) (Plan Section 3.2)

An Eligible Employee who has satisfied the eligibility requirements will become a Participant in the Plan as of the:

a. [X] date such requirements are met
b. [ ] first day of the month coinciding with or next following the date on which such requirements are met
c. [ ] first day of the Plan Year quarter coinciding with or next following the date on which such requirements are met
d. [ ] earlier of the first day of the Plan Year or the first day of the seventh month of the Plan Year coinciding with or next following the date on which such requirements are met
e. [ ] first day of the Plan Year coinciding with or next following the date on which such requirements are met
f. [ ] first day of the Plan Year in which such requirements are met
g. [ ] first day of the Plan Year in which such requirements are met, if such requirements are met in the first 6 months of the Plan Year, or as of the first day of the next succeeding Plan Year if such requirements are met in the last 6 months of the Plan Year.
h. [ ] other: _____ (must be definitely determinable)

SERVICE

15. RECOGNITION OF SERVICE WITH OTHER EMPLOYERS (Plan Sections 1.40 and 1.55)

a. [X] No service with other employers is recognized except as otherwise required by law (e.g., the Plan already provides for the recognition of service with Employers who have adopted this Plan as well as service with Affiliated Employers and predecessor Employers who maintained this Plan; skip to Question 16).
b. [ ] Service with the designated employers is recognized as follows (select c. – e. and one or more of columns 1. - 3.; chose other options as applicable) (if more than 3 employers, attach an addendum to the Adoption Agreement or complete option h. under Section B of Appendix A):

Other Employer	**1. Eligibility**	**2. Vesting**	**3. Contribution Allocation**
c. [ ] Employer name: _____	[ ]	[ ]	[ ]
d. [ ] Employer name: _____	[ ]	[ ]	[ ]
e. [ ] Employer name: _____	[ ]	[ ]	[ ]
Limitations			
f. [ ] The following provisions or limitations apply with respect to the recognition of prior service: _____ (e.g., credit service with X only on/following 1/1/19)	[ ]	[ ]	[ ]

g. [ ] The following provisions or limitations apply with respect to the recognition of service with other employers: _____ (e.g., credit service with X only on/following 1/1/19 or credit all service with entities the Employer acquires after 12/31/18)

NOTE: If the other Employer(s) maintained this qualified Plan, then Years (and/or Periods) of Service with such Employer(s) must be recognized pursuant to Plan Sections 1.40 and 1.55 regardless of any selections above.

16. SERVICE CREDITING METHOD (Plan Sections 1.40 and 1.55)

NOTE: If any Plan provision is based on a Year of Service, then the provisions set forth in the definition of Year of Service in Plan Section 1.55 will apply, including the following defaults, except as otherwise elected below:
1. A Year of Service means completion of at least 1,000 Hours of Service during the applicable computation period.
2. Hours of Service (Plan Section 1.24) will be based on actual Hours of Service except that for Employees for whom records of actual Hours of Service are not maintained or available (e.g., salaried Employees), the monthly equivalency will be used.

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3. For eligibility purposes, the computation period will be as defined in Plan Section 1.55 (i.e., shift to the Plan Year if the eligibility condition is one (1) Year of Service or less).
4. For vesting, allocation, and distribution purposes, the computation period will be the Plan Year.
5. Upon an Employee's rehire, all prior service with the Employer is taken into account for all purposes.

a. [ ] **Elapsed time method.** (Period of Service applies instead of Year of Service) Instead of Hours of Service, elapsed time will be used for:
   1. [ ] all purposes (skip to Question 17)
   2. [ ] the following purposes (select one or more):
      a. [ ] eligibility to participate
      b. [ ] vesting
      c. [ ] allocations, distributions and contributions

b. [X] **Alternative definitions for the Hours of Service method.** Instead of the defaults, the following alternatives will apply for the Hours of Service method (select one or more):
   1. [ ] **Eligibility computation period.** Instead of shifting to the Plan Year, the eligibility computation period after the initial eligibility computation period will be based on each anniversary of the date the Employee first completes an Hour of Service
   2. [ ] **Vesting computation period.** Instead of the Plan Year, the vesting computation period will be the date an Employee first performs an Hour of Service and each anniversary thereof.
   3. [X] **Equivalency method.** Instead of using actual Hours of Service, an equivalency method will be used to determine Hours of Service for:
      a. [X] all purposes
      b. [ ] the following purposes (select one or more):
         1. [ ] eligibility to participate
         2. [ ] vesting
         3. [ ] allocations, distribution and contributions

      Such method will apply to:
      c. [ ] all Employees
      d. [X] Employees for whom records of actual Hours of Service are not maintained or available (e.g., salaried Employees)
      e. [ ] other: _____ (e.g., per-diem Employees only)

      Hours of Service will be determined on the basis of:
      f. [ ] days worked (10 hours per day)
      g. [ ] weeks worked (45 hours per week)
      h. [ ] semi-monthly payroll periods worked (95 hours per semi-monthly pay period)
      i. [X] months worked (190 hours per month)
      j. [ ] bi-weekly payroll periods worked (90 hours per bi-weekly pay period)
      k. [ ] other: _____ (e.g., option f. is used for per-diem Employees and option g. is used for on-call Employees).

   4. [ ] **Number of Hours of Service required.** Instead of 1,000 Hours of Service, Year of Service means the applicable computation period during which an Employee has completed at least _____ (not to exceed 1,000) Hours of Service for:
      a. [ ] all purposes
      b. [ ] the following purposes (select one or more):
         1. [ ] eligibility to participate
         2. [ ] vesting
         3. [ ] allocations, distributions and contributions

c. [ ] **Alternative for counting all prior service.** Instead of the default which recognizes all prior service for rehired Employees, the Plan will not recognize prior service and rehired Employee are treated as new hires for the following purposes: (select one)
   1. [ ] all purposes
   2. [ ] the following purposes (select one or more):
      a. [ ] eligibility to participate
      b. [ ] vesting
      c. [ ] sharing in allocations or contributions

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d. [ ] **Other service crediting provisions:** _____ (must be definitely determinable; e.g., for vesting a Year of Service is based on 1,000 Hours of Service but for eligibility a Year of Service is based on 900 Hours of Service.)

NOTE: Must not list more than 1,000 hours in this Section. This servicing credit provision will be used for:

1. [ ] All purposes
2. [ ] The following purposes (select one or more):
   a. [ ] eligibility to participate
   b. [ ] vesting
   c. [ ] allocations, distributions and contributions

VESTING

17. VESTING OF PARTICIPANT'S INTEREST – EMPLOYER CONTRIBUTIONS (Plan Section 6.4(b))

a. [ ] N/A (no Employer contributions; skip to Question 19)
b. [X] The vesting provisions selected below apply. Section B of Appendix A can be used to specify any exceptions to the provisions below.

NOTE: The Plan provides that contributions for converted sick leave and/or vacation leave are fully Vested.

Vesting for Employer contributions other than matching contributions

c. [ ] N/A (no Employer contributions (other than matching contributions); skip to f.)
d. [X] 100% vesting. Participants are 100% Vested in Employer contributions (other than matching contributions) upon entering Plan.
e. [ ] The following vesting schedule, based on a Participant's Years of Service (or Periods of Service if the elapsed time method is selected), applies to Employer contributions (other than matching contributions):
   1. [ ] 6 Year Graded: 0-1 year-0%; 2 years-20%; 3 years-40%; 4 years-60%; 5 years-80%; 6 years-100%
   2. [ ] 4 Year Graded: 1 year-25%; 2 years-50%; 3 years-75%; 4 years-100%
   3. [ ] 5 Year Graded: 1 year-20%; 2 years-40%; 3 years-60%; 4 years-80%; 5 years-100%
   4. [ ] Cliff: 100% vesting after _____ (not to exceed 15) years
   5. [ ] Other graded vesting schedule (must provide for full vesting no later than 15 years of service; add additional lines as necessary)

Years (or Periods) of Service	Percentage
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%

Vesting for Employer matching contributions

f. [ ] N/A (no Employer matching contributions)
g. [X] The schedule above will also apply to Employer matching contributions.
h. [ ] 100% vesting. Participants are 100% Vested in Employer matching contributions upon entering Plan.
i. [ ] The following vesting schedule, based on a Participant's Years of Service (or Periods of Service if the elapsed time method is selected), applies to Employer matching contributions:
   1. [ ] 6 Year Graded: 0-1 year-0%; 2 years-20%; 3 years-40%; 4 years-60%; 5 years-80%; 6 years-100%
   2. [ ] 4 Year Graded: 1 year-25%; 2 years-50%; 3 years-75%; 4 years-100%
   3. [ ] 5 Year Graded: 1 year-20%; 2 years-40%; 3 years-60%; 4 years-80%; 5 years-100%
   4. [ ] Cliff: 100% vesting after _____ (not to exceed 15) years
   5. [ ] Other graded vesting schedule (must provide for full vesting no later than 15 years of service; add additional lines as necessary)

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Years (or Periods) of Service	Percentage
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%
_____	_____%

NOTE: If any Part-time/Seasonal/Temporary Employees who are not covered under Social Security are participating in this Plan as a Social Security Replacement Plan, any contributions used to satisfy the minimum contribution requirements of Question 24.e. will be 100% vested.

18. VESTING OPTIONS

Excluded vesting service. The following Years of Service will be disregarded for vesting purposes (select all that apply; leave blank if none apply):

a. [ ] Service prior to the initial Effective Date of the Plan or a predecessor plan (as defined in Regulations §1.411(a)-5(b)(3))
b. [ ] Service prior to the computation period in which an Employee has attained age _____.
c. [ ] Service during a period for which an Employee did not make mandatory Employee contributions.

Vesting for death, Total And Permanent Disability and Early/Normal Retirement. Regardless of the vesting schedule, a Participant will become fully Vested upon (select all that apply; leave blank if none apply):

d. [ ] Death
e. [ ] Total and Permanent Disability
f. [ ] Early Retirement Date
g. [ ] Normal Retirement Age

RETIREMENT AGES

19. NORMAL RETIREMENT AGE ("NRA") (Plan Section 1.33) means:

This Question 19 and Question 20 may be skipped if the Plan does not base any benefits, distributions or other features on Normal Retirement Age.

a. [X] **Specific age.** The date a Participant attains age date of a Participant's 62nd Birthday or 30 years of service, following Florida Retirement System Guidelines
b. [ ] **Age/participation.** The later of the date a Participant attains age _____ or the _____ anniversary of the first day of the Plan Year in which participation in the Plan commenced
c. [ ] Other: _____ (must be definitely determinable)

NOTE: If this is a Money Purchase Pension Plan and in-service distributions at Normal Retirement Age are permitted, then the Normal Retirement Age cannot be less than age 62, or age 50 if substantially all Participants are qualified public safety employees (as defined in Code §72(t)(1)). The "substantially all" requirement for qualified public safety employees will no longer be a requirement as of the effective date of the final regulations once they are issued & effective. If an age less than 62 is inserted (unless the age 50 safe harbor is applicable for a qualified public safety employee), no reliance will be afforded on the Opinion Letter issued to the Plan that such age is reasonably representative of the typical retirement age for the industry in which the Participants works. Effective for Employees hired during Plan Years beginning on or after the later of (1) January 1, 2015, or (2) the close of the first legislative session of the legislative body with the authority to amend the plan that begins on or after the date that is three (3) months after the final regulations are published in the Federal Register, an NRA of less than age 62 must comply with the final regulations under §401(a).

Qualified public safety employees. Normal Retirement Age for public safety employees (as defined in Code §72(t)(1)) (leave blank if not applicable)

d. [ ] Age _____ (may not be less than 50 for a Money Purchase Pension Plan or 40 for a Profit Sharing Plan)

20. NORMAL RETIREMENT DATE (Plan Section 1.34) means, with respect to any Participant, the:

a. [X] date on which the Participant attains "NRA"
b. [ ] first day of the month coinciding with or next following the Participant's "NRA"
c. [ ] first day of the month nearest the Participant's "NRA"
d. [ ] Anniversary Date coinciding with or next following the Participant's "NRA"
e. [ ] Anniversary Date nearest the Participant's "NRA"
f. [ ] Other: _____ (e.g., first day of the month following the Participant's "NRA").

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21. EARLY RETIREMENT DATE (Plan Section 1.15)
a. [X] N/A (no early retirement provision provided)
b. [ ] Early Retirement Date means the:
1. [ ] date on which a Participant satisfies the early retirement requirements
2. [ ] first day of the month coinciding with or next following the date on which a Participant satisfies the early retirement requirements
3. [ ] Anniversary Date coinciding with or next following the date on which a Participant satisfies the early retirement requirements

Early retirement requirements
4. [ ] Participant attains age _____
AND, completes.... (leave blank if not applicable)
a. [ ] at least _____ Years (or Periods) of Service for vesting purposes
b. [ ] at least _____ Years (or Periods) of Service for eligibility purposes
c. [ ] Early Retirement Date means: _____ (must be definitely determinable)

COMPENSATION

22. COMPENSATION with respect to any Participant is defined as follows (Plan Sections 1.10 and 1.23).
Base definition
a. [X] Wages, tips and other compensation on Form W-2
b. [ ] Code §3401(a) wages (wages for withholding purposes)
c. [ ] 415 safe harbor compensation

NOTE: Plan Section 1.10(c) provides that the base definition of Compensation includes deferrals that are not included in income due to Code §§401(k), 125, 132(f)(4), 403(b), 402(h)(1)(B)(SEP), 414(h)(2), & 457.

Determination period. Compensation will be based on the following "determination period" (this will also be the Limitation Year unless otherwise elected at option f. under Section B of Appendix A):
d. [X] the Plan Year
e. [ ] the Fiscal Year coinciding with or ending within the Plan Year
f. [ ] the calendar year coinciding with or ending within the Plan Year

Adjustments to Compensation (for Plan Section 1.10). Compensation will be adjusted by:
g. [ ] **No adjustments** (skip to Question 23. below)
h. [X] **Adjustments.** Compensation will be adjusted by (select all that apply):
1. [ ] excluding salary reductions (401(k), 125, 132(f)(4), 403(b), SEP, 414(h)(2) pickup, & 457)
2. [ ] excluding reimbursements or other expense allowances, fringe benefits (cash or non-cash), moving expenses, deferred compensation (other than deferrals specified in 1. above) and welfare benefits.
3. [X] excluding Compensation paid during the "determination period" while not a Participant in the Plan.
4. [ ] excluding Military Differential Pay
5. [ ] excluding overtime
6. [ ] excluding bonuses
7. [ ] other: _____ (e.g., describe Compensation from the elections available above or a combination thereof as to a Participant group (e.g., no exclusions as to Division A Employees and exclude bonuses as to Division B Employees); and/or describe another exclusion (e.g., exclude shift differential pay)).

23. POST-SEVERANCE COMPENSATION (415 REGULATIONS)

415 Compensation (post-severance compensation adjustments) (select all that apply at a.; leave blank if none apply)

NOTE: Unless otherwise elected under a. below, the following defaults apply: 415 Compensation will **include** (to the extent provided in Plan Section 1.23), post-severance regular pay, leave cash-outs and payments from nonqualified unfunded deferred compensation plans.
a. [ ] The defaults listed above apply except for the following (select one or more):
1. [ ] Leave cash-outs will be **excluded**
2. [ ] Nonqualified unfunded deferred compensation will be **excluded**
3. [ ] Disability continuation payments will be **included** for all Participants and the salary continuation will continue for the following fixed or determinable period: _____
4. [ ] Other: _____ (must be definitely determinable)

Plan Compensation (post-severance compensation adjustments)
b. [X] **Defaults apply.** Compensation will **include** (to the extent provided in Plan Section 1.10 and to the extent such amounts would be included in Compensation if paid prior to severance of employment) post-severance regular pay, leave cash-outs, and payments from nonqualified unfunded deferred compensation plans. (skip to Question 24)
c. [ ] **Exclude all post-severance compensation.** Exclude all post-severance compensation for allocation purposes.
d. [ ] **Post-severance adjustments.** The defaults listed at b. apply except for the following (select one or more):
1. [ ] Exclude all post-severance compensation

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2. [ ] Regular pay will be **excluded**
3. [ ] Leave cash-outs will be **excluded**
4. [ ] Nonqualified unfunded deferred compensation will be **excluded**
5. [ ] Military Differential Pay will be **included**
6. [ ] Disability continuation payments will be **included** for all Participants and the salary continuation will continue for the following fixed or determinable period: _____

e. [ ] Other: _____ (must be definitely determinable)

CONTRIBUTIONS AND ALLOCATIONS

24. EMPLOYER CONTRIBUTIONS (OTHER THAN MATCHING CONTRIBUTIONS) (Plan Section 4.1(b)(3)) (skip to Question 26 if Employer contributions are NOT selected at Question 11.b.)

CONTRIBUTION FORMULA (select one or more of the following contribution formulas:)

a. [X] **Discretionary contribution (no groups).** (may not be elected if this Plan is a Money Purchase Pension Plan) The Employer may make a discretionary contribution, to be determined by the Employer. Any such contribution will be allocated to each Participant eligible to share in allocations in the same ratio as each Participant's Compensation bears to the total of such Compensation of all Participants.

b. [ ] **Discretionary contribution (Grouping method).** (may not be elected if this Plan is a Money Purchase Pension Plan) The Employer may designate a discretionary contribution to be made on behalf of each Participant group selected below (only select 1. or 2.). The groups must be clearly defined in a manner that will not violate the definite predetermined allocation formula requirement of Regulation §1.401-1(b)(1)(ii). The Employer must notify the Trustee in writing of the amount of the Employer Contribution being given to each group.

1. [ ] Each Participant constitutes a separate classification.
2. [ ] Participants will be divided into the following classifications with the allocation methods indicated under each classification.

Definition of classifications. Define each classification and specify the method of allocating the contribution among members of each classification. Classifications specified below must be clearly defined in a manner that will not violate the definitely determinable allocation requirement of Regulation §1.401-1(b)(1)(ii).

Classification A will consist of _____
The allocation method will be: [ ] pro rata based on Compensation
[ ] equal dollar amounts (per capita)

Classification B will consist of _____
The allocation method will be: [ ] pro rata based on Compensation
[ ] equal dollar amounts (per capita)

Classification C will consist of _____
The allocation method will be: [ ] pro rata based on Compensation
[ ] equal dollar amounts (per capita)

Classification D will consist of _____
The allocation method will be: [ ] pro rata based on Compensation
[ ] equal dollar amounts (per capita)

Additional Classifications: _____ (specify the classifications and which of the above allocation methods (pro rata or per capita) will be used for each classification).

NOTE: If more than four (4) classifications, the additional classifications and allocation methods may be attached as an addendum to the Adoption Agreement or may be entered under Additional Classifications above.

Determination of applicable group. If a Participant shifts from one classification to another during a Plan Year, then unless selected below, the Participant is in a classification based on the Participant's status as of the last day of the Plan Year, or if earlier, the date of termination of employment. If selected below, the Administrator will apportion the Participant's allocation during a Plan Year based on the following:

a. [ ] Beginning of Plan Year. The classification will be based on the Participant's status as of the beginning of the Plan Year.
b. [ ] Months in each classification. Pro rata based on the number of months the Participant spent in each classification.
c. [ ] Days in each classification. Pro rata based on the number of days the Participant spent in each classification.
d. [ ] One classification only. The Employer will direct the Administrator to place the Participant in only one classification for the entire Plan Year during which the shift occurs.

c. [ ] **Fixed contribution** equal to (only select one):

1. [ ] _____% of each Participant's Compensation for each:
   a. [ ] Plan Year
   b. [ ] calendar quarter
   c. [ ] month

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d. [ ] pay period
e. [ ] week

2. [ ] $_____ per Participant.
3. [ ] $_____ per Hour of Service worked while an Eligible Employee
   a. [ ] up to _____ hours (leave blank if no limit)
4. [ ] other: _____ (the formula described must satisfy the definitely determinable requirement under Regulation §1.401-1(b)) **NOTE**: Under Question 24.c.4., the Employer may only describe the allocation of Nonelective Contributions from the elections available under Question 24.c of this Adoption Agreement and/or a combination thereof as to a Participant group (e.g., a monthly contribution applies to Group A).

d. [ ] **Sick leave/vacation leave conversion.** The Employer will contribute an amount equal to an Employee's current hourly rate of pay multiplied by the Participant's number of unused accumulated sick leave and/or vacation days (as selected below). Only unpaid sick and vacation leave for which the Employee has no right to receive in cash may be included. In no event will the Employer's contribution for the Plan Year exceed the maximum contribution permitted under Code §415(c).

The following may be converted under the Plan: (select one or both):
1. [ ] Sick leave
2. [ ] Vacation leave

Eligible Employees. Only the following Participants shall receive the Employer contribution for sick leave and/or vacation leave (select 3. and/or 4; leave blank if no limitations provided, however, that this Plan may not be used to only provide benefits for terminated Employees)

3. [ ] **Former Employees.** All Employees terminating service with the Employer during the Plan Year and who have satisfied the eligibility requirements based on the terms of the Employer's accumulated benefits plans checked below (select all that apply; leave blank if no exclusions):
   a. [ ] The Former Employee must be at least age _____ (e.g., 55)
   b. [ ] The value of the sick and/or vacation leave must be at least $_____ (e.g., $2,000)
   c. [ ] A contribution will only be made if the total hours is over _____ (e.g., 10) hours
   d. [ ] A contribution will not be made for hours in excess of _____ (e.g., 40) hours
4. [ ] **Active Employees.** Active Employees who have not terminated service during the Plan Year and who meet the following requirements (select all that apply; leave blank if no exclusions):
   a. [ ] The Employee must be at least age _____ (e.g., 55)
   b. [ ] The value of the sick and/or vacation leave must be at least $_____ (e.g., $2,000)
   c. [ ] A contribution will only be made if the total hours is over _____ (e.g., 10) hours
   d. [ ] A contribution will not be made for hours in excess of _____ (e.g., 40) hours

e. [ ] **Social Security Replacement Plan.** Except as provided below, the Employer will contribute an amount equal to 7.5% of each eligible Participant's Compensation for the entire Plan Year, reduced by mandatory Employee contributions that are picked-up under Code §414(h) and Employer contributions to this Plan actually contributed to the Participant's Account during such Plan Year. (may only be selected if Question 11.b.1. has also been selected)
AND, only the following Employees will NOT be eligible for the Social Security Replacement Plan contribution: (select all that apply)

1. [ ] Part-time Employees who are not otherwise covered by another qualifying public retirement system as defined for purposes of Regulation §31.3121(b)(7)-2. A part-time Employee is an Employee whose regularly scheduled service is less than _____ Hours of Service in the relevant eligibility computation period (as defined in Plan Section 1.55).
2. [ ] Seasonal Employees who are not otherwise covered by another qualifying public retirement system as defined for purposes of Regulation §31.3121(b)(7)-2. A seasonal Employee is an Employee who is categorized as a seasonal Employee on the Employer's payroll records.
3. [ ] Temporary Employees who are not otherwise covered by another qualifying public retirement system as defined for purposes of Regulation §31.3121(b)(7)-2. A temporary Employee is an Employee who is categorized as a temporary Employee on the Employer's payroll records.
4. [ ] Employees in elective positions (filled by an election, which may be by legislative body, board or committee, or by a jurisdiction's qualified electorate)
5. [ ] Other: _____ (any other group of Employees that is definitely determinable and not eligible for the Social Security Replacement Plan contribution).

The minimum contribution of 7.5% stated above will be satisfied by:
   a. [ ] the Employee only (specify the contribution at the mandatory Employee contributions Question 30)
   b. [ ] the Employer only
   c. [ ] both the Employee and the Employer. The Employee shall contribute the amount specified in Question 30 for mandatory Employee contributions) and the Employer shall contribute _____% of each eligible Participant's Compensation.

NOTE: If a. or c. above is selected, then the mandatory Employee contribution must be picked-up by the Employer at Question 30. Also, if b. or c. above is selected, then the allocation conditions in Question 25

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below do not apply to the Employer contribution made pursuant to this provision.

f. [ ] Other: _____ (the formula described must satisfy the definitely determinable requirement under Regulation §1.401-1(b) and if this is a Money Purchase Pension, it must not be a discretionary contribution formula). **NOTE**: Under Question 24.f., the Employer may only describe the allocation of Nonelective Contributions from the elections available under Question 24 and/or a combination thereof as to a Participant group or contribution type (e.g., pro rata allocation applies to Group A; contributions to other Employees will be allocated in accordance with the classifications allocation provisions of Plan Section 4.3 with each Participant constituting a separate classification).

25. ALLOCATION CONDITIONS (Plan Section 4.3). If 24.a., b., c., or f. is selected above, indicate requirements to share in allocations of Employer contributions (select a. OR b. and all that apply at c. - e.)

a. [X] **No conditions.** All Participants share in the allocations regardless of service completed during the Plan Year or employment status on the last day of the Plan Year (skip to Question 26).

b. [ ] **Allocation conditions apply** (select one of 1. - 5. AND one of 6. - 9. below)

Conditions for Participants NOT employed on the last day of the Plan Year

1. [ ] A Participant must complete at least _____ (not to exceed 500) Hours of Service if the actual hours/equivalency method is selected (or at least _____ (not to exceed 3) months of service if the elapsed time method is selected).
2. [ ] A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
3. [ ] Participants will NOT share in the allocations, regardless of service.
4. [ ] Participants will share in the allocations, regardless of service.
5. [ ] Other: _____ (must be definitely determinable and not subject to Employer discretion)

Conditions for Participants employed on the last day of the Plan Year

6. [ ] No service requirement.
7. [ ] A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
8. [ ] A Participant must complete at least _____ Hours of Service during the Plan Year.
9. [ ] Other: _____ (must be definitely determinable and not subject to Employer discretion)

Waiver of conditions for Participants NOT employed on the last day of the Plan Year. If b.1., 2., 3., or 5. above is selected, Participants who are not employed on the last day of the Plan Year in which one of the following events occur will be eligible to share in the allocations regardless of the above conditions (select all that apply; leave blank if none apply):

c. [ ] Death
d. [ ] Total and Permanent Disability
e. [ ] Termination of employment on or after Normal Retirement Age
   1. [ ] or Early Retirement Date

26. EMPLOYER MATCHING CONTRIBUTIONS (Plan Section 4.1(b)(2) and Plan Section 4.12). (skip to Question 29 if matching contributions are NOT selected at Question 11.c.) The Employer will (or may with respect to any discretionary contribution) make the following matching contributions:

A. **Employee contributions taken into account.** For purposes of applying the matching contribution provisions below, the following amounts are being matched (hereafter referred to as "matched Employee contributions" (select one or more):

a. [X] Elective deferrals to a **457 plan.** Enter Plan name(s): Leon County Board of County Commissioners 457 Plan

b. [ ] Elective deferrals to a **403(b) plan.** Enter Plan name(s): _____

c. [ ] Voluntary Employee Contributions

d. [ ] Other: _____ (specify amounts that are matched under this Plan and are provided for within this Adoption Agreement)

B. **Matching Formula.** (select one)

e. [ ] **Fixed - uniform rate/amount.** The Employer will make matching contributions equal to _____% (e.g., 50) of the Participant's "matched Employee contributions"
   1. [ ] that do not exceed _____% of a Participant's Compensation (leave blank if no limit)

   Additional matching contribution (choose 2. if applicable):
   2. [ ] plus an additional matching contribution of a discretionary percentage determined by the Employer,
      a. [ ] but not to exceed _____% of Compensation. Such contribution is subject to the Instructions and Notice requirement of Section 4.12.

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f. [ ] **Fixed - tiered.** The Employer will make matching contributions equal to a uniform percentage of each tier of each Participant's "matched Employee contributions", determined as follows:

NOTE: Fill in only percentages or dollar amounts, but not both. If percentages are used, each tier represents the amount of the Participant's applicable contributions that equals the specified percentage of the Participant's Compensation (add additional tiers if necessary):

Tiers of Contributions (indicate $ or %)	Matching Percentage
First _____	_____%
Next _____	_____%
Next _____	_____%
Next _____	_____%

g. [ ] **Fixed - Years of Service.** The Employer will make matching contributions equal to a uniform percentage of each Participant's "matched Employee contributions" based on the Participant's Years of Service (or Periods of Service if the elapsed time method is selected), determined as follows (add additional tiers if necessary):

Years (or Periods) of Service	Matching Percentage
_____	_____%
_____	_____%
_____	_____%

For purposes of the above matching contribution formula, a Year (or Period) of Service means a Year (or Period) of Service for:

1. [ ] vesting purposes
2. [ ] eligibility purposes

h. [X] **Flexible Discretionary Match.** (may not be elected if this Plan is a Money Purchase Pension Plan) "Flexible Discretionary Match" means a Matching Contribution which the Employer in its sole discretion elects to make to the Plan. Except as specified below, the Employer retains discretion over the formula or formulas for allocating the Flexible Discretionary Match, including the Discretionary Matching Contribution rate or amount, the limit(s) on Elective Deferrals or Employee Contributions subject to match, the per Participant match allocation limit(s), the Participants or categories of Participants who will receive the allocation, and the time period applicable to any matching formula(s) (collectively, the "Flexible Discretionary Matching Formula"), except as the Employer otherwise elects in its Adoption Agreement. Such contributions will be subject to the Instructions and Notice requirement of Section 4.12, reproduced below, unless the Employer elects to use a "Rigid Discretionary Match" in Election 26.B.h.1. below.

The discretionary matching contribution under this Question 26.B.h. is a "Flexible Discretionary Match" unless the Employer elects to use a "Rigid Discretionary Match." (Choose 1. if applicable.)

1. [ ] **Rigid Discretionary Match.** A "Rigid Discretionary Match" means a Matching Contribution which the Employer in its sole discretion elects to make to the Plan. Such discretion will only pertain to the amount of the annual contribution. The Employer must select the allocation method for this Contribution by selecting among those Adoption Agreement options which confer no Employer Discretion regarding the allocation of such discretionary amount, for example, the limit(s) on Elective Deferrals or Employee Contributions subject to match, the per Participant match allocation limit(s), the Participants who will receive the allocation, and the time period applicable to any matching formula(s). This "Rigid Discretionary Match" is not subject to the Instructions and Notice requirement of Section 4.12.

   Section 4.12 provides: INSTRUCTIONS TO ADMINISTRATOR AND NOTIFICATION TO PARTICIPANTS. For Plan Years beginning after the end of the Plan Year in which this document is first adopted, if a "Flexible Discretionary Match" contribution formula applies (i.e., a formula that provides an Employer with discretion regarding how to *allocate* a matching contribution to Participants) and the Employer makes a "Flexible Discretionary Match" to the Plan, the Employer must provide the Plan Administrator or Trustee written instructions describing (1) how the "Flexible Discretionary Match" formula will be allocated to Participants (e.g., a uniform percentage of Elective Deferrals or a flat dollar amount), (2) the computation period(s) to which the "Flexible Discretionary Match" formula applies, and (3) if applicable, a description of each business location or business classification subject to separate "Flexible Discretionary Match" allocation formulas. Such instructions must be provided no later than the date on which the "Flexible Discretionary Match" is made to the Plan. A summary of these instructions must be communicated to Participants who receive an allocation of the "Flexible Discretionary Match" no later than 60 days following the date on which the last "Flexible Discretionary Match" contribution is made to the Plan for the Plan Year.

i. [ ] **Discretionary - tiered.** (may not be elected if this Plan is a Money Purchase Pension Plan) The Employer may make matching contributions equal to a discretionary percentage of a Participant's "matched Employee contributions," to be determined by the Employer, of each tier, to be determined by the Employer. Such discretion will only pertain to the

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amount of the contribution. The tiers may be based on the rate of a Participant's "matched Employee contributions" or Years of Service. Such contribution is subject to the Instructions and Notice requirement of Section 4.12.
NOTE: Fill in only percentages or dollar amounts, but not both. If percentages are used, each tier represents the amount of the Participant's applicable contributions that equals the specified percentage of the Participant's Compensation (add additional tiers if necessary):

Tiers of Contributions (indicate $ or %)	Matching Percentage
First _____	_____%
Next _____	_____%
Next _____	_____%
Next _____	_____%

j. [ ] Other: _____ (the formula described must satisfy the definitely determinable requirement under Regulation §1.401-1(b) and if this is a Money Purchase Pension Plan, it must not be a discretionary contribution formula. **NOTE**: Under Question 26.B.j., the Employer may only describe the allocation of Matching Contributions from the elections available under Question 26 and/or a combination thereof as to a Participant group or contribution type (e.g., fixed – uniform rate applies to Group A; contributions to other Employees will be allocated as a tiered contribution.)

27. MATCHING CONTRIBUTION PROVISIONS

A. **Maximum matching contribution.** The total matching contribution made on behalf of any Participant for any Plan Year will not exceed:
a. [ ] N/A (no Plan specific limit on the amount of matching contribution)
b. [ ] $_____.
c. [X] 3 % of Compensation.

B. **Period of determination.** Any matching contribution other than a "Flexible Discretionary Match" will be applied on the following basis (and "matched Employee contributions" and any Compensation or dollar limitation used in determining the matching contribution will be based on the applicable period. Skip if the only Matching Contribution is a Flexible Discretionary Match.):
d. [ ] the Plan Year (potential annual true-up required)
e. [X] each payroll period (no true-up)
f. [ ] each month (potential monthly true-up required)
g. [ ] each Plan Year quarter (potential quarterly true-up required)
h. [ ] each payroll unit (e.g., hour) (no true-up)
i. [ ] Other (specify): _____ The time period described must be definitely determinable under Treas. Reg. §1.401-1(b). This line may be used to apply different options to different matching contributions (e.g., Discretionary matching contributions will be allocated on a Plan Year period while fixed matching contributions will be allocated on each payroll period.) Such contribution period is subject to the Instructions and Notice requirement of Section 4.12.

28. ALLOCATION CONDITIONS (Plan Section 4.3) Select a. OR b. and all that apply of c. - h.
a. [X] **No conditions.** All Participants share in the allocations regardless of service completed during the Plan Year or employment status on the last day of the Plan Year (skip to Question 29).
b. [ ] **Allocation conditions apply** (select one of 1. - 5. AND one of 6. - 9. below)
Conditions for Participants NOT employed on the last day of the Plan Year.
1. [ ] A Participant must complete more than _____ Hours of Service (or _____ months of service if the elapsed time method is selected).
2. [ ] A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
3. [ ] Participants will NOT share in the allocations, regardless of service.
4. [ ] Participants will share in the allocations, regardless of service.
5. [ ] Other: _____ (must be definitely determinable)

Conditions for Participants employed on the last day of the Plan Year
6. [ ] No service requirement.
7. [ ] A Participant must complete a Year of Service (or Period of Service if the elapsed time method is selected).
8. [ ] A Participant must complete at least _____ Hours of Service during the Plan Year.
9. [ ] Other: _____ (must be definitely determinable and not subject to Employer discretion)

Waiver of conditions for Participants NOT employed on the last day of the Plan Year. If b.1., 2., 3., or 5. is selected, Participants who are not employed on the last day of the Plan Year in which one of the following events occur will be eligible to share in the allocations regardless of the above conditions (select all that apply; leave blank if none apply):
c. [ ] Death
d. [ ] Total and Permanent Disability
e. [ ] Termination of employment on or after Normal Retirement Age
1. [ ] or Early Retirement Date

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Conditions based on period other than Plan Year. The allocation conditions above will be applied based on the Plan Year unless otherwise selected below. If selected, the above provisions will be applied by substituting the term Plan Year with the specified period (e.g., if Plan Year quarter is selected below and the allocation condition is 250 Hours of Service per quarter, enter 250 hours (not 1000) at b.8. above).

f. [ ] The Plan Year quarter.
g. [ ] Payroll period.
h. [ ] Other: _____ (must be definitely determinable and not subject to Employer discretion and may not be longer than a twelve month period).

29. FORFEITURES (Plan Sections 1.21 and 4.3(e))

Timing of Forfeitures. Except as provided in Plan Section 1.21, a Forfeiture will occur:

a. [ ] N/A (may only be selected if all contributions are fully Vested (default provisions at Plan Section 4.3(e) apply))
b. [X] As of the earlier of (1) the last day of the Plan Year in which the former Participant incurs five (5) consecutive 1-Year Breaks in Service, or (2) the distribution of the entire Vested portion of the Participant's Account.
c. [ ] As of the last day of the Plan Year in which the former Participant incurs five (5) consecutive 1-Year Breaks in Service.
d. [ ] As soon as reasonably practical after the date the Participant severs employment.

Use of Forfeitures. (skip if this is NOT a Money Purchase Pension Plan; for Profit Sharing Plans, Forfeitures are disposed of in accordance with Employer direction that is consistent with Section 4.3(e)).

Forfeitures will be (select one):

e. [ ] added to the Employer contribution and allocated in the same manner
f. [ ] used to reduce any Employer contribution
g. [ ] allocated to all Participants eligible to share in the allocations of Employer contributions or Forfeitures in the same proportion that each Participant's Compensation for the Plan Year bears to the Compensation of all Participants for such year
h. [ ] other: _____ (describe the treatment of Forfeitures in a manner that is definitely determinable and that is not subject to Employer discretion)

30. MANDATORY EMPLOYEE CONTRIBUTIONS (Plan Section 4.8) (skip if mandatory Employee contributions NOT selected at Question 11.d.)

Type of mandatory Employee Contribution. The mandatory Employee contribution is being made in accordance with the following: (select one)

a. [ ] The mandatory Employee contribution is a condition of employment.
b. [ ] The Employee must make, on or before first being eligible to participate under any Plan of the Employer, an irrevocable election to contribute the mandatory Employee contribution to the Plan. No Eligible Employee will become a Participant unless the Employee makes such an irrevocable election.

Amount of mandatory Employee Contribution (select one)

c. [ ] An Eligible Employee must contribute to the Plan _____% (not to exceed 25%) of Compensation.
d. [ ] An Eligible Employee must, prior to his or her first Entry Date, make a one-time irrevocable election to contribute to the Plan from _____% (not less than 1%) to _____% (not to exceed 25%) of Compensation.

Conditions of Mandatory Employee Contributions

e. [ ] **Additional provisions and conditions:** _____ (must be definitely determinable; e.g., Only full-time Employees must make mandatory Employee contributions)

Employer pick-up contribution. The mandatory Employee contribution is "picked-up" by the Employer under Code §414(h)(2) unless elected below. (select if applicable)

f. [ ] The mandatory Employee contribution is not "picked-up" by the Employer.

DISTRIBUTIONS

31. FORM OF DISTRIBUTIONS (Plan Sections 6.5 and 6.6)

Distributions under the Plan may be made in (select all that apply; must select at least one):

a. [X] lump-sums
b. [X] substantially equal installments
c. [X] partial withdrawals, provided the minimum withdrawal is $_____ (leave blank if no minimum)
d. [ ] partial withdrawals or installments are only permitted for Participants or Beneficiaries who must receive required minimum distributions under Code §401(a)(9) except for the following (leave blank if no exceptions):
    1. [ ] Only Participants (and not Beneficiaries) may elect partial withdrawals or installments
    2. [ ] Other: _____ (e.g., partial is not permitted for death benefits. Must be definitely determinable and not subject to Employer discretion.)
e. [X] annuity: Annuity Purchase (describe the form of annuity or annuities)

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f. [ ] other: _____ (must be definitely determinable and not subject to Employer discretion)

NOTE: Regardless of the above, a Participant is not required to request a withdrawal of his or her total Account for an in-service distribution, a hardship distribution, or a distribution from the Participant's Rollover Account.

Cash or property. Distributions may be made in:

g. [X] cash only, except for (select all that apply; leave blank if none apply):
   1. [ ] insurance Contracts
   2. [ ] annuity Contracts
   3. [ ] Participant loans
   4. [ ] all investments in an open brokerage window or similar arrangement

h. [ ] cash or property, except that the following limitation(s) apply: (leave blank if there are no limitations on property distributions):
   1. [ ] _____ (must be definitely determinable and not subject to Employer discretion)

Joint and Survivor Annuity provisions. (Plan Sections 6.5(e) and 6.6(e) (select one) The Joint and Survivor Annuity provisions do not apply to the Plan unless selected below (choose if applicable)

i. [ ] **Joint and Survivor Annuity applicable as normal form of distribution**. The Joint and Survivor annuity rules set forth in Plan Sections 6.5(e) and 6.5(f) apply to all Participants (if selected, then annuities are a form of distribution under the Plan even if e. above is not selected)

j. [ ] **Joint and Survivor Annuity rules apply based on Participant election**. Plan Section 6.5(f) will apply and the joint and survivor rules of Code §§401(a)(11) and 417 (as set forth in Plan Sections 6.5(e) and 6.6(e) will apply only if an annuity form of distribution is selected by a Participant.

AND, if i. or j. is selected above, the one-year marriage rule does not apply unless selected below (choose if applicable).
1. [ ] The one-year marriage rule applies.

Spousal consent requirements. Spousal consent is not required for any Plan provisions (except as otherwise elected in i. above for the joint and survivor annuity rules) unless selected below (choose if applicable)

k. [ ] **Required for all distributions**. A Spouse must consent to all distributions (other than required minimum distributions).

l. [ ] **Beneficiary designations**. A married Participant's Spouse will be the Beneficiary of the entire death benefit unless the Spouse consents to an alternate Beneficiary.

AND, if k. or l. is selected, the one-year marriage rule does not apply unless selected below (choose if applicable).
1. [ ] The one-year marriage rule applies.

32. CONDITIONS FOR DISTRIBUTIONS UPON SEVERANCE OF EMPLOYMENT. Distributions upon severance of employment pursuant to Plan Section 6.4(a) will not be made unless the following conditions have been satisfied:

A. **Accounts in excess of $5,000**

a. [X] Distributions may be made as soon as administratively feasible following severance of employment.

b. [ ] Distributions may be made as soon as administratively feasible after the last day of the Plan Year coincident with or next following severance of employment.

c. [ ] Distributions may be made as soon as administratively feasible after the last day of the Plan Year quarter coincident with or next following severance of employment.

d. [ ] Distributions may be made as soon as administratively feasible after the Valuation Date coincident with or next following severance of employment.

e. [ ] Distributions may be made as soon as administratively feasible after _____ months have elapsed following severance of employment.

f. [ ] No distributions may be made until a Participant has reached Early or Normal Retirement Date.

g. [ ] Other: _____ (must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

B. **Accounts of $5,000 or less**

h. [X] Same as above

i. [ ] Distributions may be made as soon as administratively feasible following severance of employment.

j. [ ] Distributions may be made as soon as administratively feasible after the last day of the Plan Year coincident with or next following severance of employment.

k. [ ] Other: _____ (must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

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C. **Timing after initial distributable event.** If a distribution is not made in accordance with the above provisions upon the occurrence of the distributable event, then a Participant may elect a subsequent distribution at any time after the time the amount was first distributable (assuming the amount is still distributable), unless otherwise selected below (may not be selected with 32.f. and 32.h.):

l. [ ] Other: _____ (e.g., a subsequent distribution request may only be made in accordance with l. above (i.e., the last day of another Plan Year); must be objective conditions which are ascertainable and may not exceed the limits of Code §401(a)(14) as set forth in Plan Section 6.7)

D. **Participant consent (i.e., involuntary cash-outs).** Should Vested Account balances less than a certain dollar threshold be automatically distributed without Participant consent (mandatory distributions)?

NOTE: The Plan provides that distributions of amounts of $5,000 or less are only paid as lump-sums.

m. [X] No, Participant consent is required for all distributions.

n. [ ] Yes, Participant consent is required only if the distribution is over:

1. [ ] $5,000
2. [ ] $1,000
3. [ ] $_____ (less than $1,000)

NOTE: If 2. or 3. is selected, rollovers will be included in determining the threshold for Participant consent.

Automatic IRA rollover. With respect to mandatory distributions of amounts that are $1,000 or less, if a Participant makes no election, the amount will be distributed as a lump-sum unless selected below.

4. [ ] If a Participant makes no election, then the amount will be automatically rolled over to an IRA provided the amount is at least $_____ (e.g., $200).

E. **Rollovers in determination of $5,000 threshold.** Unless otherwise elected below, amounts attributable to rollover contributions (if any) will be **included** in determining the $5,000 threshold for timing of distributions, form of distributions, or consent rules.

o. [ ] Exclude rollovers (rollover contributions will be **excluded** in determining the $5,000 threshold)

NOTE: Regardless of the above election, if the Participant consent threshold is $1,000 or less, then the Administrator must include amounts attributable to rollovers for such purpose. In such case, an election to exclude rollovers above will apply for purposes of the timing and form of distributions.

33. DISTRIBUTIONS UPON DEATH (Plan Section 6.8(b)(2))

Distributions upon the death of a Participant prior to the "required beginning date" will:

a. [X] be made pursuant to the election of the Participant or "designated Beneficiary"

b. [ ] begin within 1 year of death for a "designated Beneficiary" and be payable over the life (or over a period not exceeding the "life expectancy") of such Beneficiary, except that if the "designated Beneficiary" is the Participant's Spouse, begin prior to December 31st of the year in which the Participant would have attained age 70 1/2

c. [ ] be made within 5 (or if lesser _____) years of death for all Beneficiaries

d. [ ] be made within 5 (or if lesser _____) years of death for all Beneficiaries, except that if the "designated Beneficiary" is the Participant's Spouse, begin prior to December 31st of the year in which the Participant would have attained age 70 1/2 and be payable over the life (or over a period not exceeding the "life expectancy") of such "surviving Spouse"

NOTE: The elections above must be coordinated with the Form of distributions (e.g., if the Plan only permits lump-sum distributions, then options a., b. and d. would not be applicable).

34. OTHER PERMITTED DISTRIBUTIONS (select all that apply; leave blank if none apply)

A. IN-SERVICE DISTRIBUTIONS (Plan Section 6.11)

In-service distributions will NOT be allowed (except as otherwise permitted under the Plan without regard to this provision) unless selected below (if applicable, answer a. - e.; leave blank if not applicable):

a. [X] In-service distributions may be made to a Participant who has not separated from service provided the following has been satisfied (select one or more) (options 2. - 5. may only be selected with Profit Sharing Plans):

1. [X] Age. The Participant has reached: (select one)
   a. [ ] Normal Retirement Age
   b. [ ] age 62
   c. [ ] age 59 1/2 (may not be selected if a Money Purchase Pension Plan)
   d. [X] age 70 1/2 (may not be less than age 62 for Money Purchase Pension Plans)
2. [ ] the Participant has been a Participant in the Plan for at least _____ years (may not be less than five (5))
3. [ ] the amounts being distributed have accumulated in the Plan for at least 2 years
4. [ ] other: _____ (must satisfy the definitely determinable requirement under Regulations §401-1(b); may not be subject to Employer discretion; and must be limited to a combination of items a.1. – a.3. or a Participant's disability).)

More than one condition. If more than one condition is selected above, then a Participant only needs to satisfy one of the conditions, unless selected below:

5. [ ] A Participant must satisfy each condition

NOTE: Distributions from a Transfer Account attributable to a Money Purchase Pension Plan are not permitted prior to age 62.

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Account restrictions. In-service distributions are permitted from the following Participant Accounts:

b. [ ] all Accounts

c. [ ] only from the following Accounts (select one or more):

1. [ ] Account attributable to Employer matching contributions
2. [ ] Account attributable to Employer contributions other than matching contributions
3. [ ] Rollover Account
4. [ ] Transfer Account
   Permitted from the following assets attributable to (select one or both):
   a. [ ] non-pension assets
   b. [ ] pension assets (e.g., from a Money Purchase Pension Plan)
5. [ ] Mandatory Employee Contribution Account
6. [ ] Other: _____ (specify Account(s) and conditions in a manner that satisfies the definitely determinable requirement under Regulation §1.401-1(b) and is not subject to Employer discretion)

Limitations. The following limitations apply to in-service distributions:

d. [ ] N/A (no additional limitations)

e. [X] Additional limitations (select one or more):

1. [ ] The minimum amount of a distribution is $_____.
2. [ ] No more than _____ distribution(s) may be made to a Participant during a Plan Year.
3. [X] Distributions may only be made from Accounts which are fully Vested.
4. [ ] In-service distributions may be made subject to the following provisions: _____ (must satisfy the definitely determinable requirement under Regulation §1.401-1(b) and not be subject to Employer discretion).

B. HARDSHIP DISTRIBUTIONS (Plan Sections 6.12) (may not be selected if this is a Money Purchase Pension Plan)
Hardship distributions will NOT be allowed (except as otherwise permitted under the Plan without regard to this provision) unless selected below (leave blank if not applicable):

f. [ ] Hardship distributions are permitted from the following Participant Accounts:

1. [ ] all Accounts
2. [ ] only from the following Accounts (select one or more):
   a. [ ] Account attributable to Employer matching contributions
   b. [ ] Account attributable to Employer contributions other than matching contributions
   c. [ ] Rollover Account (if not available at any time under Question 36)
   d. [ ] Transfer Account (other than amounts attributable to a money purchase pension plan)
   e. [ ] Mandatory Employee Contribution Account
   f. [ ] Other: _____ (specify Account(s) and conditions in a manner that is definitely determinable and not subject to Employer discretion)

NOTE: Hardship distributions are NOT permitted from a Transfer Account attributable to pension assets (e.g., from a Money Purchase Pension Plan).

Additional limitations. The following limitations apply to hardship distributions:

3. [ ] N/A (no additional limitations)
4. [ ] Additional limitations (select one or more):
   a. [ ] The minimum amount of a distribution is $_____.
   b. [ ] No more than _____ distribution(s) may be made to a Participant during a Plan Year.
   c. [ ] Distributions may only be made from Accounts which are fully Vested.
   d. [ ] A Participant does not include a Former Employee at the time of the hardship distribution.
   e. [ ] Hardship distributions may be made subject to the following provisions: _____ (must satisfy the definitely determinable requirement under Regulation §1.401-1(b) and not be subject to Employer discretion).

Beneficiary Hardship. Hardship distributions for Beneficiary expenses are NOT allowed unless otherwise selected below.

5. [ ] Hardship distributions for expenses of Beneficiaries are allowed
   Special effective date (may be left blank if effective date is same as the Plan or Restatement Effective Date; select a. and, if applicable, b.)
   a. [ ] effective as of _____
   b. [ ] eliminated effective as of _____.

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35. LOANS TO PARTICIPANTS (Plan Section 7.4)
   a. [X] New loans are NOT permitted.
   b. [ ] New loans are permitted.

   NOTE: Regardless of whether new loans are permitted, if the Plan permits rollovers and/or plan-to-plan transfers, then the Administrator may, in a uniform manner, accept rollovers and/or plan-to-plan transfers of loans into this Plan.

36. ROLLOVERS (Plan Section 4.6) (skip if rollover contributions are NOT selected at 11.f.)
   Eligibility. Rollovers may be accepted from all Participants who are Employees as well as the following (select all that apply; leave blank if not applicable):
   a. [ ] Any Eligible Employee, even prior to meeting eligibility conditions to be a Participant
   b. [ ] Participants who are Former Employees

   Distributions. When may distributions be made from a Participant's Rollover Account?
   c. [ ] At any time
   d. [ ] Only when the Participant is otherwise entitled to any distribution under the Plan

37. **HEART ACT** (Plan Section 4.11) (select one or more)
   a. [ ] **HEART ACT Continued benefit accruals.** Continued benefit accruals will apply
   b. [ ] **Distributions for deemed severance of employment.** The Plan permits distributions for deemed severance of employment.

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Reliance on Provider Opinion Letter. The Provider has obtained from the IRS an Opinion Letter specifying the form of this document satisfies Code §401 as of the date of the Opinion Letter. An adopting Employer may rely on the Provider's IRS Opinion Letter *only* to the extent provided in Rev. Proc. 2017-41 or subsequent guidance. The Employer may not rely on the Opinion Letter in certain other circumstances or with respect to certain qualification requirements, which are specified in the Opinion Letter and in Rev. Proc. 2017-41 or subsequent guidance. In order to have reliance in such circumstances or with respect to such qualification requirements, the Employer must apply for a determination letter to Employee Plans Determinations of the IRS.

An Employer who has ever maintained or who later adopts an individual medical account, as defined in Code §415(l)(2)) in addition to this Plan may not rely on the opinion letter issued by the Internal Revenue Service with respect to the requirements of Code§415.

This Adoption Agreement may be used only in conjunction with the basic Plan document #03. This Adoption Agreement and the basic Plan document will together be known as Nationwide Financial Services, Inc. Non-Standardized Governmental 401(a) Pre-Approved Plan #001.

The adoption of this Plan, its qualification by the IRS, and the related tax consequences are the responsibility of the Employer and its independent tax and legal advisors.

Execution for Page Substitution Amendment Only. If this paragraph is completed, this Execution Page documents an amendment to Adoption Agreement Election(s) _____ effective _____, by substitute Adoption Agreement page number(s) _____. The Employer should retain all Adoption Agreement Execution Pages and amended pages. (*Note: The Effective Date may be retroactive or may be prospective*.)

The Provider, Nationwide Financial Services, Inc. will notify the Employer of any amendment to this Pre-approved Plan or of any abandonment or discontinuance by the Provider of its maintenance of this Pre-approved Plan. In addition, this Plan is provided to the Employer either in connection with investment in a product or pursuant to a contract or other arrangement for products and/or services. Upon cessation of such investment in a product or cessation of such contract or arrangement, as applicable, the Employer is no longer considered to be an adopter of this Plan and Nationwide Financial Services, Inc. no longer has any obligations to the Employer that relate to the adopton of this Plan. For inquiries regarding the adoption of the Pre-approved Plan, the Provider's intended meaning of any Plan provisions or the effect of the Opinion Letter issued to the Provider, please contact the Provider or the Provider's representative.

Provider Name: Nationwide Retirement Solutions

Address: P.O. Box 182797

Columbus Ohio 43218

Telephone Number: (877) 496-1630

Email address (optional): _____

The Employer, by executing below, hereby adopts this Plan (add additional signature lines as needed). NOTE: If more than one Plan type is adopted, the Plan Provider must provide multiple plan documents for Employer signature.

EMPLOYER: Leon County, FL BOCC

By: _____ _____

DATE SIGNED

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APPENDIX A
SPECIAL EFFECTIVE DATES AND OTHER PERMITTED ELECTIONS

A. **Special effective dates** (leave blank if not applicable):

a. [ ] **Special effective date(s):** _____. For periods prior to the specified special effective date(s), the Plan terms in effect prior to its restatement under this Adoption Agreement will control for purposes of the designated provisions. A special effective date may not result in the delay of a Plan provision beyond the permissible effective date under any applicable law. (The Employer has reliance on the IRS Opinion Letter only if the features described in the preceding sentence constitute protected benefits within the meaning of Code Section 411(d)(6) and the regulations thereunder, and only if such features are permissible in a "Cycle 3" preapproved plan, i.e., the features are not specifically prohibited by Revenue Procedure 2017-41 (or any superseding guidance)

B. **Other permitted elections** (the following elections are optional):

a. [ ] **No other permitted elections**

The following elections apply (select one or more):

b. [ ] **Deemed 125 compensation** (Plan Section 1.23). Deemed 125 compensation will be included in Compensation and 415 Compensation.

c. [X] **Break-in-Service Rule**s. The following Break-in-Service rules apply to the Plan.(select 1. or 2.)

1. [ ] **Reemployed after five (5) 1-Year Breaks in Service ("rule of parity" provisions)** (Plan Section 3.5(e)). The "rule of parity" provisions in Plan Section 3.5(d) will apply for (select one or both):
   a. [ ] eligibility purposes
   b. [ ] vesting purposes

2. [X] **Break-in-Service rules for rehired Employees.** The following Break-in-Service rules set forth in Plan Sections 3.2 and 3.5 apply: (select one or both)
   a. [X] all Break-in-Service rules set forth in such Sections.
   b. [ ] only the following: _____ (specify which provisions apply to the Plan)

d. [ ] **Beneficiary if no beneficiary elected by Participant** (Plan Section 6.2(f)). In the event no valid designation of Beneficiary exists, then in lieu of the order set forth in Plan Section 6.2(f), the following order of priority will be used: _____ (specify an order of beneficiaries; e.g., children per stirpes, parents, and then step-children).

e. [ ] **Joint and Survivor Annuity/Pre-Retirement Survivor Annuity**. If the Plan applies the Joint and Survivor Annuity rules, then the normal form of annuity will be a joint and 50% survivor annuity (i.e., if 31.i. or 31.j. is selected) and the Pre-Retirement Survivor Annuity will be equal to 50% of a Participant's interest in the Plan unless selected below (select 1. and/or 2.)

1. [ ] **Normal form of annuity.** Instead of a joint and 50% survivor annuity, the normal form of the qualified Joint and Survivor Annuity will be: (select one)
   a. [ ] joint and 100% survivor annuity
   b. [ ] joint and 75% survivor annuity
   c. [ ] joint and 66 2/3% survivor annuity

2. [ ] **Pre-Retirement Survivor Annuity.** The Pre-Retirement Survivor Annuity (minimum Spouse's death benefit) will be equal to 50% of a Participant's interest in the Plan unless a different percentage is selected below: (select one)
   a. [ ] 100% of a Participant's interest in the Plan.
   b. [ ] _____% (may not be less than 50%) of a Participant's interest in the Plan.

f. [ ] **Limitation Year** (Plan Section 1.30). The Limitation Year for Code §415 purposes will be _____ (must be a consecutive twelve month period) instead of the "determination period" for Compensation.

g. [ ] **415 Limits when 2 defined contribution plans are maintained** (Plan Section 4.4). If any Participant is covered under another qualified defined contribution plan maintained by the Employer or an Affiliated Employer, or if the Employer or an Affiliated Employer maintains a welfare benefit fund, as defined in Code §419(e), or an individual medical account, as defined in Code §415(l)(2), under which amounts are treated as "annual additions" with respect to any Participant in this Plan, then the provisions of Plan Section 4.4(b) will apply unless otherwise specified below:

1. [ ] Specify, in a manner that precludes Employer discretion, the method under which the plans will limit total "annual additions" to the "maximum permissible amount" and will properly reduce any "excess amounts":
   _____.

h. [ ] **Recognition of Service with other employers** (Plan Sections 1.40 and 1.55). Service with the following employers (in addition to those specified at Question 15) will be recognized as follows (select one or more):

		Eligibility	Vesting	Contribution Allocation
1.	[ ] Employer name: _____	a. [ ]	b. [ ]	c. [ ]
2.	[ ] Employer name: _____	a. [ ]	b. [ ]	c. [ ]

3. [ ] Employer name: _____ a. [ ] b. [ ] c. [ ]

4. [ ] Employer name: _____ a. [ ] b. [ ] c. [ ]

5. [ ] Employer name: _____ a. [ ] b. [ ] c. [ ]

6. [ ] Employer name: _____ a. [ ] b. [ ] c. [ ]

Limitations

7. [ ] The following provisions or limitations apply with respect to the recognition of prior service: _____ (e.g., credit service with X only on/following 1/1/19) a. [ ] b. [ ] c. [ ]

i. [ ] **Other vesting provisions.** The following vesting provisions apply to the Plan (select one or more):

1. [ ] **Special vesting provisions.** The following special provisions apply to the vesting provisions of the Plan: _____ (must be definitely determinable and satisfy the parameters set forth at Question 17)
2. [ ] **Pre-amendment vesting schedule.** (Plan Section 6.4(b)). If the vesting schedule has been amended and a different vesting schedule other than the schedule at Question 17 applies to any Participants, then the following provisions apply (must select one of a. – d.):

   Applicable Participants. The vesting schedules in Question 17 only apply to:
   a. [ ] Participants who are Employees as of _____ (enter date).
   b. [ ] Participants in the Plan who have an Hour of Service on or after _____ (enter date).
   c. [ ] Participants (even if not an Employee) in the Plan on or after _____ (enter date).
   d. [ ] Other: _____ (e.g., Participants in division A. Must be definitely determinable.)

j. [ ] **Minimum distribution transitional rules** (Plan Section 6.8(e)(5))

NOTE: This Section does not apply to (1) a new Plan, (2) an amendment or restatement of an existing Plan that never contained the provisions of Code §401(a)(9) as in effect prior to the amendments made by the Small Business Job Protection Act of 1996 (SBJPA), or (3) a Plan where the transition rules below do not affect any current Participants.

The "required beginning date" for a Participant is:

1. [ ] April 1st of the calendar year following the year in which the Participant attains age 70 1/2. (pre-SBJPA rules continue to apply)
2. [ ] April 1st of the calendar year following the later of the year in which the Participant attains age 70 1/2 or retires (the post-SBJPA rules), with the following exceptions (select one or both; leave blank if both applied effective as of January 1, 1996):
   a. [ ] A Participant who was already receiving required minimum distributions under the pre-SBJPA rules as of _____ (may not be earlier than January 1, 1996) was allowed to stop receiving distributions and have them recommence in accordance with the post-SBJPA rules. Upon the recommencement of distributions, if the Plan permits annuities as a form of distribution then the following apply:
      1. [ ] N/A (annuity distributions are not permitted)
      2. [ ] Upon the recommencement of distributions, the original Annuity Starting Date will be retained.
      3. [ ] Upon the recommencement of distributions, a new Annuity Starting Date is created.
   b. [ ] A Participant who had not begun receiving required minimum distributions as of _____ (may not be earlier than January 1, 1996) may elect to defer commencement of distributions until retirement. The option to defer the commencement of distributions (i.e., to elect to receive in-service distributions upon attainment of age 70 1/2) applies to all such Participants unless selected below:
      1. [ ] The in-service distribution option was eliminated with respect to Participants who attained age 70 1/2 in or after the calendar year that began after the later of (1) December 31, 1998, or (2) the adoption date of the restatement to bring the Plan into compliance with the SBJPA.

k. [ ] **Other spousal provisions** (select one or more)

1. [ ] **Definition of Spouse.** The term Spouse includes a spouse under federal law as well as the following: _____.
2. [ ] **Automatic revocation of spousal designation** (Plan Section 6.2(g)). The automatic revocation of a spousal Beneficiary designation in the case of divorce does not apply.
3. [ ] **Timing of QDRO payment.** A distribution to an Alternate Payee shall not be permitted prior to the time a Participant would be entitled to a distribution.

l. [X] **Applicable law.** Instead of using the applicable laws set forth in Plan Section 9.4(a), the Plan will be governed by the laws of: Florida

m. [ ] **Total and Permanent Disability.** Instead of the definition at Plan Section 1.50, Total and Permanent Disability means: _____ (must be definitely determinable).

n. [ ] **Inclusion of Reclassified Employees** (Plan Section 1.17(a))**.** The Employer does not exclude Reclassified Employees subject to the following provisions: (leave blank if not applicable): _____

o. [ ] **Claims procedures** (Plan Section 2.10). The claims procedures forth in Plan Section 2.10(a) – (b) apply unless otherwise elected below or unless the Administrator has operationally adopted alternative procedures.
   1. [ ] The claims procedures set forth in Plan Section 2.10(c) – (g) apply instead of Plan Section 2.10(a).
   2. [ ] The claims procedures set forth in Plan Section 2.10(c)-(g) apply as follows: _____ (specify which provisions apply and/or modified)

p. [ ] **Age 62 In-Service Distributions For Transferred Money Purchase Assets** (Plan Section 6.11)
In-service distributions will be allowed for Participants at age 62. (applies only for Transfer Accounts from a Money Purchase Pension Plan) (skip this question if the Plan is a Money Purchase Pension Plan or if in-service distributions are already permitted for Transferred Accounts at Question 34)

   Limitations. The following limitations apply to these in-service distributions:
   1. [ ] The Plan already provides for in-service distributions and the restrictions set forth in the Plan (e.g., minimum amount of distributions or frequency of distributions) are applicable to in-service distributions at age 62.
   2. [ ] N/A (no limitations)
   3. [ ] The following elections apply to in-service distributions at age 62 (select one or more):
      a. [ ] The minimum amount of a distribution is $_____ (may not exceed $1,000).
      b. [ ] No more than _____ distribution(s) may be made to a Participant during a Plan Year.
      c. [ ] Distributions may only be made from Accounts which are fully Vested.
      d. [ ] In-service distributions may be made subject to the following provisions: _____ (must be definitely determinable and not subject to discretion).

q. [ ] **QLACs**. (Plan Section 6.8(e)(4) A Participant may elect a QLAC (as defined in Plan Section 6.8(e)(4)) or any alternative form of annuity permitted pursuant to a QLAC in which the Participant's Account has been invested.

ADMINISTRATIVE PROCEDURES

The following are optional administrative provisions. The Administrator may implement procedures that override any elections in this Section without a formal Plan amendment. In addition, modifications to these procedures will not affect an Employer's reliance on the Plan.

A. **Loan Limitations.** (complete only if loans to Participants are permitted; leave blank if none apply)
- a. [ ] Limitations (select one or more):
  - 1. [ ] Loans will be treated as Participant directed investments.
  - 2. [ ] Loans will only be made for hardship or financial necessity as specified below (select a. or b.)
    - a. [ ] hardship reasons specified in Plan Section 6.12
    - b. [ ] financial necessity (as defined in the loan program).
  - 3. [ ] The minimum loan will be $_____.
  - 4. [ ] A Participant may only have _____ (e.g., one (1)) loan(s) outstanding at any time.
  - 5. [ ] All outstanding loan balances will become due and payable in their entirety upon the occurrence of a distributable event (other than satisfaction of the conditions for an in-service distribution (including a hardship distribution), if applicable).
  - 6. [ ] The home loan term will be _____ years. (if not selected, the Administrator establishes the term for repayment of a home loan)
  - 7. [ ] **Account restrictions.** Loans will only be permitted from the following Participant Accounts (select all that apply or leave blank if no limitations apply):
    - a. [ ] Account(s) attributable to Employer matching contributions
    - b. [ ] Account attributable to Employer contributions other than matching contributions
    - c. [ ] Rollover Account
    - d. [ ] Transfer Account
    - e. [ ] Other: _____

    AND, if loans are restricted to certain accounts, the limitations of Code §72(p) will be applied:
    - f. [ ] by determining the limits by only considering the restricted accounts.
    - g. [ ] by determining the limits taking into account a Participant's entire interest in the Plan.

Additional Loan Provisions (select all that apply; leave blank if none apply)
- b. [ ] **Loan payments.** Loans are repaid by (if left blank, then payroll deduction applies unless Participant is not subject to payroll (e.g., partner who only has a draw)):
  - 1. [ ] payroll deduction
  - 2. [ ] ACH (Automated Clearing House)
  - 3. [ ] check
    - a. [ ] Only for prepayment
- c. [ ] **Interest rate.** Loans will be granted at the following interest rate (if left blank, then 3. below applies):
  - 1. [ ] _____ percentage points over the prime interest rate
  - 2. [ ] _____%
  - 3. [ ] the Administrator establishes the rate at the time the loan is made
- d. [ ] **Refinancing.** Loan refinancing is allowed.

B. **Life Insurance.** (Plan Section 7.5)
- a. [X] Life insurance may not be purchased.
- b. [ ] Life insurance may be purchased...
  - 1. [ ] at the option of the Administrator
  - 2. [ ] at the option of the Participant

Limitations
- 3. [ ] N/A (no limitations)
- 4. [ ] The purchase of initial or additional life insurance will be subject to the following limitations (select one or more):
  - a. [ ] Each initial Contract will have a minimum face amount of $_____.
  - b. [ ] Each additional Contract will have a minimum face amount of $_____.
  - c. [ ] The Participant has completed _____ Years (or Periods) of Service.
  - d. [ ] The Participant has completed _____ Years (or Periods) of Service while a Participant in the Plan.
  - e. [ ] The Participant is under age _____ on the Contract issue date.
  - f. [ ] The maximum amount of all Contracts on behalf of a Participant may not exceed $_____.
  - g. [ ] The maximum face amount of any life insurance Contract will be $_____.

C. **Plan Expenses.** Will the Plan assess against an individual Participant's Account certain Plan expenses that are incurred by, or are attributable to, a particular Participant based on use of a particular Plan service?
- a. [ ] No
- b. [X] Yes

Use of Forfeitures

Forfeitures of Employer contributions other than matching contributions will be:

c. [ ] added to the Employer contribution and allocated in the same manner
d. [X] used to reduce any Employer contribution
e. [ ] allocated to all Participants eligible to share in the allocations of Employer contributions or Forfeitures in the same proportion that each Participant's Compensation for the Plan Year bears to the Compensation of all Participants for such year
f. [ ] other: _____ (describe the treatment of Forfeitures in a manner that is definitely determinable and not subject to Employer discretion)

Forfeitures of Employer matching contributions will be:

g. [ ] N/A. Same as above or no Employer matching contributions.
h. [X] used to reduce the Employer matching contribution.
i. [ ] used to reduce any Employer contribution.
j. [ ] other: _____ (describe the treatment of Forfeitures in a manner that is definitely determinable and not subject to Employer discretion)

D. **Directed investments**

a. [ ] Participant directed investments are NOT permitted.
b. [X] Participant directed investments are permitted from the following Participant Accounts:
    1. [X] all Accounts
    2. [ ] only from the following Accounts (select one or more):
        a. [ ] Account attributable to Employer contributions
        b. [ ] Rollover Account
        c. [ ] Transfer Account
        d. [ ] Other: _____ (specify Account(s) and conditions in a manner that is definitely determinable and not subject to Employer discretion)

E. **Rollover Limitations.** Will the Plan accept rollover contributions and/or direct rollovers from the sources specified below?

a. [ ] No, Administrator determines in operation which sources will be accepted.
b. [ ] Yes

Rollover sources. Indicate the sources of rollovers that will be accepted (select one or more)

1. [ ] **Direct Rollovers.** The Plan will accept a direct rollover of an eligible rollover distribution from (select one or more):
    a. [ ] a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan), excluding after-tax employee contributions
    b. [ ] a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan), including after-tax employee contributions
    c. [ ] a plan described in Code §403(a) (an annuity plan), excluding after-tax employee contributions
    d. [ ] a plan described in Code §403(a) (an annuity plan), including after-tax employee contributions
    e. [ ] a plan described in Code §403(b) (a tax-sheltered annuity), excluding after-tax employee contributions
    f. [ ] a plan described in Code §403(b) (a tax-sheltered annuity), including after-tax employee contributions
    g. [ ] a plan described in Code §457(b) (eligible deferred compensation plan)

    Direct Rollovers of Participant Loan. The Plan will NOT accept a direct rollover of a Participant loan from another plan unless selected below (leave blank if default applies)
    h. [ ] The Plan will accept a direct rollover of a Participant loan
    i. [ ] The Plan will only accept a direct rollover of a Participant loan only in the following situation(s): _____ (e.g., only from Participants who were employees of an acquired organization).
2. [ ] **Participant Rollover Contributions from Other Plans (i.e., not via a direct plan-to-plan transfer).** The Plan will accept a contribution of an eligible rollover distribution (select one or more):
    a. [ ] a qualified plan described in Code §401(a) (including a 401(k) plan, profit sharing plan, defined benefit plan, stock bonus plan and money purchase plan)
    b. [ ] a plan described in Code §403(a) (an annuity plan)
    c. [ ] a plan described in Code §403(b) (a tax-sheltered annuity)
    d. [ ] a governmental plan described in Code §457(b) (eligible deferred compensation plan)
3. [ ] **Participant Rollover Contributions from IRAs:** The Plan will accept a rollover contribution of the portion of a distribution from a traditional IRA that is eligible to be rolled over and would otherwise be includible in gross income. Rollovers from Roth IRAs or a Coverdell Education Savings Account (formerly known as an Education IRA) are not permitted because they are not traditional IRAs. A rollover from a SIMPLE IRA is allowed if the amounts are rolled over after the individual has been in the SIMPLE IRA for at least two years.

F. **Trustee(s) or Insurer(s)**. Information regarding Trustee(s)/Insurer(s) (required for the Summary Plan Description and, if requested, the Trust Agreement)

(Note: Select a. if not using provided trust. MUST select b and following questions as applicable):

a. [ ] Do not produce the trust agreement
b. [X] Complete the following UNLESS not selecting supporting forms:

Trustee/Insurer *(select a. OR one or more of d. - e.)*

c. [ ] **Insurer.** This Plan is funded exclusively with Contracts (select one or more of 1. - 4)
Name of Insurer(s)
1. [ ] _____
2. [ ] _____
3. [ ] Use Employer address/telephone number/email
4. [ ] Use following address/telephone number/email
   a. Street: _____
   b. City: _____
   c. State: _____
   d. Zip: _____
   e. Telephone: _____
   f. Email: _____

d. [X] Individual Trustee(s)
e. [ ] Corporate Trustee

Name of Trust

f. Specify name of Trust (required for FIS trust): Leon County BOCC 401(a) Matching Program

Individual Trustees (if d. selected above, complete g. – j.)

Directed/Discretionary Trustees. The individual Trustee(s) executing this Adoption Agreement are (select g. or h.)

g. [ ] Select for each individual Trustee (skip to next question)
h. [X] The following selections apply to all individual Trustee(s) (select 1. - 4. as applicable)
   1. [X] A discretionary Trustee over all plan assets (may not be selected with 2. - 4.)
   2. [ ] A nondiscretionary (directed) Trustee over all plan assets (may not be selected with 1., 3. or 4.)
   3. [ ] The individual Trustee(s) will serve as a discretionary Trustee over the following assets: _____ (may not be selected with 1. or 2.)
   4. [ ] The individual Trustee(s) will serve as a nondiscretionary (directed) Trustee over the following assets: _____ (may not be selected with 1. or 2.)

Individual Trustee(s) (complete if d. selected above)

i. [X] Individual Trustee(s) are (select one or more of a. - j.; enter address at j. below)

a. **Name** Bill Proctor
Title/Email:
1. Title Chairman
2. Email proctorb@leoncountyfl.gov (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. – 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be select with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

b. **Name** _____
Title/Email:
1. Title _____
2. Email _____ (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. – 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be select with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

c. **Name** _____
Title/Email:
1. Title _____
2. Email _____ (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. – 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be select with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

d. **Name** _____
Title/Email:
1. Title _____
2. Email _____ (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be selected with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

e. **Name** _____
Title/Email:
1. Title _____
2. Email _____ (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be selected with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

f. **Name** _____
Title/Email:
1. Title _____
2. Email _____ (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be selected with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

g. **Name** _____
Title/Email:
1. Title _____
2. Email _____ (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be selected with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

h. **Name** _____
Title/Email:
1. Title _____
2. Email _____ (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be selected with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

i. **Name** _____
Title/Email:
1. Title _____
2. Email _____ (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be selected with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

j. **Name** _____
Title/Email:
1. Title _____
2. Email _____ (optional)
Trustee is: (complete if g. selected above; select 3. – 6. as applicable)
3. [ ] Discretionary Trustee over all plan assets (may not be selected with 4. or 6.)
4. [ ] A discretionary Trustee over the following plan assets: _____ (may not be selected with 3. or 5.)
5. [ ] Nondiscretionary Trustee over all plan assets (may not be selected with 3., 4. or 6.)
6. [ ] A nondiscretionary (directed) Trustee or Custodian over the following plan assets _____ (may not be selected with 3. or 5.)

j. [X] **Individual Trustee Address** (complete if d. selected above)
1. [X] Use Employer address/telephone number/email
2. [ ] Use following address/telephone number/email
a. Street: _____
b. City: _____
c. State: _____
d. Zip: _____
e. Telephone: _____
f. Email: _____

Corporate Trustee Name/Type/Address (complete if e. selected above)
k. [ ] Name _____
Address/telephone number/email
1. [ ] Use Employer address/telephone number/email
2. [ ] Use following address/telephone number/email
a. Street: _____
b. City: _____
c. State: _____
d. Zip: _____
e. Telephone: _____
f. Email: _____
Directed/Discretionary. The Corporate Trustee is (select 3. - 6. as applicable)
3. [ ] A discretionary Trustee over all plan assets (may not be selected with 4. – 6.)
4. [ ] A nondiscretionary (directed) Trustee over all plan assets (may not be selected with 3., 5. or 6.)
5. [ ] A discretionary Trustee over the following plan assets over the following assets:_____ (may not be selected with 3. – 4.)
6. [ ] A nondiscretionary (directed) Trustee over the following plan assets _____ (may not be selected with 3. – 4.)
Signee (optional)**:**
7. [ ] Name of person signing on behalf of the corporate Trustee _____
8. [ ] Email address of person signing on behalf of the corporate Trustee _____

Special Trustee for collection of contributions. The Employer appoints the following Special Trustee with the responsibility to collect delinquent contributions *(optional)*
l. [ ] **Name** _____
Title:
1. _____
Address/telephone number/email
2. [ ] Use Employer address/telephone number/email
3. [ ] Use following address/telephone number/email
a. Street: _____
b. City: _____
c. State: _____
d. Zip: _____
e. Telephone: _____
f. Email: _____

Custodian(s) Name/Address . The Custodian(s) are *(optional)*
m. [ ] **Name(s)** _____
Address/telephone number/email
1. [ ] Use Employer address/telephone number/email

2. [ ] Use following address/telephone number/email
    a. Street: _____
    b. City: _____
    c. State: _____
    d. Zip: _____
    e. Telephone: _____
    f. Email: _____

Investment in common, collective or pooled trust funds. The nondiscretionary Trustee, as directed or the discretionary Trustee acting without direction (and in addition to the discretionary Trustee's authority to invest in its own funds), may invest in any of the following trust funds: *(optional)*

n. [ ] _____ (Specify the names of one or more trust funds in which the Plan can invest)

Choice of law

o. [X] This trust will be governed by the laws of the state of:
    1. [X] State in which the Employer's principal office is located
    2. [ ] State in which the corporate trustee or insurer is located
    3. [ ] Other _____

LEON COUNTY BOCC 401(A) MATCHING PROGRAM

The Employer hereby establishes or restates the Leon County BOCC 401(a) Matching Program, pursuant to the following terms and conditions. The Trustee accepts the Trust hereby created and agrees to perform the obligations this Trust imposes on the Trustee.

ARTICLE I
DEFINITIONS

1.01 Plan. This Trust is associated with the following plan ("the Plan"): Leon County BOCC 401(a) Matching Program, which is intended to be qualified under Code §401(a). All of the definitions of the Plan are incorporated into this Trust by reference. All "Section" references in this Trust are to provisions of the Trust and not to Provisions of the Plan, unless otherwise clearly indicated. The Trustee may rely upon the terms of the Plan, including identification of the Named Fiduciary and Plan Administrator, as well as any documents relating to the Plan provided by the Employer, Named Fiduciary, or Plan Administrator, until such time as the Trustee receives a replacement document or a revocation of the prior document.

1.02 Trustee. Trustee means the person or persons who as Trustee, Insurer, or Custodian execute the Trust, or any successor in office who in writing accepts the position. Such signature shall indicate the capacity in which the person is agreeing to serve, either as Discretionary Trustee, Directed Trustee, Insurer, or Custodian. The Trustee is identified in Article 4. References to Trustee do not include a Special Trustee (as described in Section 2.06), unless the context requires otherwise. If the Plan is funded totally by insurance contracts, the Insurer shall be the Trustee and shall have all powers of a Custodian hereunder. If the sponsor is a bank, savings and loan, trust company, credit union or similar institution, a person or entity other than the sponsor (or its affiliates or subsidiaries) may not serve as Trustee without the written consent of the pre-approved plan sponsor.

1.03 Custodian. The Employer may appoint a custodian of the Plan assets. A Custodian has the same powers, rights and duties as a Directed Trustee hereunder. Any reference in the Plan to a Trustee also is a reference to a Custodian unless the context of the Plan indicates otherwise. A limitation of the Trustee's liability by Plan provision also acts as a limitation of the Custodian's liability. The Custodian will be protected from any liability with respect to actions taken pursuant to the direction of the Trustee, Plan Administrator, the Employer, an Investment Manager, a named Fiduciary or other third party with authority to provide direction to the Custodian. It is not intended under this agreement that a Custodian have any duties or obligations that would cause it to become a fiduciary as that term is defined pursuant to ERISA. The resignation or removal of the Custodian shall be made in accordance with the terms of this document. Notwithstanding the foregoing, if a Custodian is a bank which, under its governing state law, does not possess trust powers, then Sections 2.01(A), (C) as it relates to common trust funds or collective investment funds, (D), (E), (G), and (J), and Section 3.08 do not apply and the Custodian only has the power and the authority to exercise the remaining powers under Section 2.01 and to perform the duties under Section 2.05.

1.04 Trust Fund. The Trust Fund means and includes all property of every kind acquired by the Plan and held by the Trust, other than incidental benefit insurance contracts. The Trust Fund is intended to be a qualified trust under Code § 501(a); all contributions so received, together with the income therefrom and any other increment thereon, shall be held, invested, reinvested and administered by the Trustee pursuant to the terms of this agreement. All right, title and interest in and to the assets of the Trust Fund shall be at all times, vested exclusively in the Trustee. Only assets actually received by Trustee will become part of the Trust Fund. Plan Sponsor acknowledges and agrees that it is responsible for effectuating the transfer of any assets held by a prior trustee or custodian to Trustee. All assets so received, together with the income there from and any other increment thereon, shall be held by Trustee pursuant to the terms of this agreement without distinction between principal and income and without liability for the payment of interest thereon. The Trustee shall have only such duties with respect to the Plan as are set forth in this agreement.

1.05 Effective Date. The Trust is effective on the Effective Date of the Plan. To the extent the Plan has operated under a prior trust agreement (including one incorporated into the Plan document), this document amends and restates the Trust effective as of the later of the date it is executed or when the Trustee receives assets.

1.06 Employer. The Employer means the Employer named in the Plan. By an appendix to this Trust, the Employer may provide that any and all powers of the Employer hereunder may be exercised by the Named Fiduciary specified in the Plan.

ARTICLE II
TRUSTEE POWERS AND DUTIES

2.01 Discretionary Trustee Powers. A Discretionary Trustee has full discretion and authority with regard to the investment of the Trust Fund, except as to a Plan asset: (i) properly under the control or the direction of an Investment Manager, ancillary trustee or other Plan fiduciary; (ii) subject to proper Employer or Named Fiduciary direction of investment; or (iii) subject to proper Participant or Beneficiary direction of investment. The exercise of any investment discretion hereunder shall be consistent with the funding policy determined by the Employer. Any such policy shall be consistent with the objectives of this Plan and with the requirements of Title I of the Act. The Discretionary Trustee is authorized and empowered, but not by way of limitation, with the following powers:

(A) General Powers. To invest and reinvest the Trust Fund and to keep the Trust Fund invested without distinction between principal and income and in such securities or property, real or personal, wherever situated, as the Trustee shall deem advisable, including, but not limited to: any time deposits, or savings accounts, common or preferred stocks, open end or closed end mutual funds (including proprietary funds), put and call options traded on a national exchange, United States retirement plan bonds, corporate bonds, debentures, convertible debentures, commercial paper, U.S. Treasury bills, U.S. Treasury notes and other

direct or indirect obligations of the United States Government or its agencies, improved or unimproved real estate situated in the United States, limited partnerships, insurance contracts of any type, mortgages, notes or other property of any kind, real or personal, to buy or sell options on common stock on a nationally recognized exchange with or without holding the underlying common stock, to open and to maintain margin accounts, to engage in short sales, to buy and sell commodities, commodity options and contracts for the future delivery of commodities, and to make any other investments the Trustee deems appropriate. In making such investments, the Trustee shall not be restricted to securities or other property of the character expressly authorized by the applicable law for trust investments; however, the Trustee shall give due regard to any limitations imposed by the Code or the Act, so that at all times this Plan may qualify as a qualified Plan and Trust. The Trustee shall discharge its duties with respect to the Plan solely in the interest of the Participants and Beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(B) Liquidity. To retain in cash so much of the Trust Fund as it may deem advisable to satisfy liquidity needs of the Plan and to deposit any cash held in the Trust Fund in a bank or other institutional account at reasonable interest or without interest if the Trustee determines that such deposits are reasonable or necessary to facilitate a Plan transaction or for other purposes, but consistent with the Trustee's duties under Section 2.05.

(C) Trustee's Common/Collective Funds. To invest, if the Trustee is a bank or similar financial institution supervised by the United States or by any State, in any type of deposit of the Trustee (or of a bank related to the Trustee within the meaning of Code §414(b)) at a reasonable rate of interest or in a common trust fund, as described in Code §584, or in a collective investment fund, (including a group trust described in Section 3.08), the provisions of which govern the investment of such assets and which the Plan incorporates by this reference, which the Trustee (or its affiliate, as defined in Code §1504) maintains exclusively for the collective investment of money contributed by the bank (or the affiliate) in its capacity as Trustee and which conforms to the rules of the Comptroller of the Currency, as applicable.

(D) Real/Personal Property. To manage, sell, contract to sell, grant options to purchase, convey, exchange, transfer, abandon, improve, repair, insure, lease for any term even though commencing in the future or extending beyond the term of the Trust, and otherwise deal with all property, real or personal, in such manner, for such considerations and on such terms and conditions as the Trustee decides.

(E) Borrowing. To borrow or raise money for the purposes of the Plan in such amount, and upon such terms and conditions, as the Trustee shall deem advisable; and for any sum so borrowed, to issue a promissory note as Trustee, and to secure the repayment thereof by pledging all, or any part, of the Trust Fund. No person lending money to the Trust shall be bound to see to the application of the money lent or to inquire into the validity, expediency, or propriety of any borrowing.

(F) Claims. To compromise, contest, arbitrate or abandon claims and demands affecting the investment of Trust assets, in the Trustee's discretion. However, nothing in this paragraph requires a Participant or Beneficiary to arbitrate any claim under the Plan.

(G) Voting, Tender, Exercise. To have with respect to the Trust all of the rights of an individual owner, including the power to exercise any and all voting rights associated with Trust assets, including any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any conversion privileges, subscription rights or other options, and to make any payments incidental thereto; to oppose, or to consent to, or otherwise participate in, corporate reorganizations or other changes affecting corporate securities, and to delegate discretionary powers, and to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities, or other property.

(H) Mineral rights. To lease for oil, gas and other mineral purposes and to create mineral severances by grant or reservation; to pool or unitize interests in oil, gas and other minerals; and to enter into operating agreements and to execute division and transfer orders.

(I) Annuities or other Contracts. To apply for and procure from the Insurer as an investment of the Trust Fund any annuity or other Contracts (on the life of any Participant, or in the case of a profit sharing plan (including a 401(k) Plan), on the life of any person in whom a Participant has an insurable interest, or on the joint lives of a Participant and any person in whom the Participant has an insurable interest) as the Plan Administrator shall deem proper; to exercise, at any time or from time to time, whatever rights and privileges may be granted under such annuity, or other Contracts; to collect, receive, and settle for the proceeds of all such annuity, or other Contracts as and when entitled to do so under the provisions thereof.

(J) Title. To hold any securities or other property in the name of the Trustee or its nominee, with depositories or agent depositories or in another form as it may deem best, with or without disclosing the trust relationship. However, any securities held in a nominee or street name must be held on behalf of the Plan by: (a) a bank or trust company that is subject to supervision by the United States, any State, or a nominee of such bank or trust company; (b) a broker or dealer registered under the Securities Exchange Act of 1934 or a nominee of such broker or dealer; or (c) a clearing agency as defined in Securities Exchange Act of 1934, Section 3(a)(23), or its nominee.

(K) Hold Pending Dispute Resolution. To retain any funds or property subject to any dispute without liability for the payment of interest, and to decline to make payment or delivery of the funds or property until a court of competent jurisdiction makes final adjudication.

(L) Litigation. To settle, compromise, or submit to arbitration (provided such arbitration does not apply to Participants or Beneficiaries) any claims, debts, or damages due or owing to or from the Plan, to commence or defend suits or legal or administrative proceedings, and to represent the Plan in all suits and legal and administrative proceedings. The Trustee shall have no obligation to undertake, defend or continue to maintain any action or proceeding arising in connection with the Trust, unless and until the Employer requests the Trustee to do so and agrees in writing to indemnify the Trustee against the Trustee's costs, expenses and liabilities (including, without limitation, attorneys' fees and expenses) relating thereto, to be primarily liable for such payment and to make periodic payments in respect of such fees and expenses during the course of such proceedings. If the Employer thereafter does not pay such costs, expenses and liabilities in a reasonably timely manner, the Trustee shall discontinue participation in such action or proceeding, and charge the assets of the Trust Fund to the extent sufficient for any unpaid fees and expenses.

(M) Investment Policy. To adopt and to amend from time to time, an investment policy consistent with the Plan's funding policy.

(N) Bank. The Trustee may employ a bank or trust company pursuant to the terms of its usual and customary bank agency agreement, under which the duties of such bank or trust company shall be of a custodial, clerical and record keeping nature.

(O) Pooling Assets. To pool all or any of the Trust Fund, from time to time, with assets belonging to any other qualified employee pension benefit trust created by the Employer or any related or affiliated Employer, and to commingle such assets and make joint or common investments and carry joint accounts on behalf of this Plan and Trust and such other trust or trusts, allocating undivided shares or interests in such investments or accounts or any pooled assets of the two or more trusts in accordance with their respective interests.

(P) Catch All. To perform any and all other acts which in the Trustee's judgment are necessary or appropriate for the proper and advantageous management, investment and distribution of the Trust.

2.02 Directed Trustee. Except as otherwise provided herein, a Directed Trustee has all of the same powers as a Discretionary Trustee in Section 2.01 except that the Directed Trustee only may exercise such powers pursuant to a proper written direction. A "proper written direction" means the written direction of a Plan fiduciary or of a Participant or Beneficiary with authority over the Trust asset which is the subject of the direction. Written direction may be given electronically. The Employer and the Directed Trustee may, in writing, limit the powers of the Directed Trustee to any combination of powers listed within Section 2.01. The party which has the authority to manage and control the investment of the Plan assets shall discharge its duties with respect to the Plan solely in the interest of the Participants and Beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The Employer, in adopting this Trust, acknowledges and agrees:

(A) No Discretion. The Directed Trustee does not have any discretion as to the investment or the reinvestment of the Trust Fund and the Directed Trustee is acting solely as a directed fiduciary as to the assets comprising the Trust Fund, to the extent that the Directed Trustee has the authority to act upon such assets as granted by the Employer.

(B) No Review or Recommendations. The Directed Trustee does not have any duty to review or to make recommendations regarding investments made pursuant to a proper written direction.

(C) No Action Without Direction. The Directed Trustee must retain any investment obtained upon a proper written direction until receipt of another proper written direction to dispose of such investment.

(D) No Liability for Following Orders. The Directed Trustee is not liable in any manner or for any reason for making, retaining or disposing of any investment pursuant to any proper written direction.

(E) Indemnity. The Employer will indemnify, defend and hold the Directed Trustee harmless from any damages, costs or expenses, including reasonable attorneys' fees, which the Directed Trustee may incur as a result of any claim asserted against the Directed Trustee or the Trust arising out of the Directed Trustee's compliance with any proper written direction.

2.03 Agents. The Trustee may employ and pay from the Trust Fund reasonable compensation to agents, attorneys, accountants and other persons to advise the Trustee as in its opinion may be necessary. The Trustee reasonably may delegate to any agent, attorney, accountant or other person selected by it any power or duty vested in it by the Plan, to the extent that such delegation of power or duty is allowed under ERISA, and the Trustee may act reasonably or refrain from acting on the advice or opinion of any agent, attorney, accountant or other person so selected.

2.04 Orphaned Plan. If the Trustee determines that the Employer has abandoned the Plan, the Trustee (if qualified to so act) may appoint itself as a Qualified Termination Administrator ("QTA"), as defined in Department of Labor guidance, for purposes of terminating the Plan and distributing all Plan Accounts. As a QTA, the Trustee may undertake all authorized acts to wind up the Plan, including causing

the Trust to pay from Trust assets to the QTA and to other service providers a reasonable fee for services rendered. A Directed Trustee may serve as a QTA without regard to the receipt of proper written direction.

2.05 Duties. The Trustee agrees to perform the responsibilities expressly imposed on it hereunder. The Employer and the Trustee intend that nothing shall be construed to require the Trustee to perform any responsibility or function that it has no express authority to perform under this agreement. The Trustee agrees to the following duties:

(A) ERISA. If ERISA applies to the Plan and to the extent that ERISA so requires, to act: (a) solely in the interest of Participants and Beneficiaries for the exclusive purposes of providing benefits under the Plan and defraying the reasonable expenses of Plan administration; (b) with the care, skill, prudence and diligence under the circumstances then prevailing as would a prudent person acting in a like capacity and familiar with such matters; (c) by diversifying Trust investments so as to minimize the risk of large losses unless not prudent under the circumstances to do so; and (d) in accordance with the Plan to the extent that the Plan is consistent with ERISA.

(B) Investment Policy. To coordinate its investment policy with Plan financial needs as communicated to it by the Plan Administrator.

(C) Trust Accounting. To furnish to the Employer and to the Plan Administrator an annual statement of account showing the condition of the Trust Fund and all investments, receipts, disbursements and other transactions effected by the Trustee during the Plan Year covered by the statement, including the net income, or loss, of the Trust Fund, the gains, or losses, realized by the Trust Fund upon sales or other disposition of the assets, and the increase, or decrease, in the value of the Trust Fund, stating the assets of the Trust held at the end of the Plan Year. Such statements are conclusive on all persons, including the Employer and the Plan Administrator, except as to any act or transaction concerning which the Employer or the Plan Administrator files with the Trustee written exceptions or objections within 45 days after the receipt of the statements or for which ERISA authorizes a longer period within which to object. The Trustee also may agree with the Employer or Plan Administrator to provide the information described in this paragraph more frequently than annually. Nothing contained in this Section shall deprive the Trustee of any right to have its accounts judicially settled if the Trustee so desires. To the extent permitted by law, but subject to any express provision of applicable law as may be in effect from time to time to the contrary, no person other than the Plan Administrator or Employer may require an accounting or bring any action against the Trustee with respect to the assets of the Trust or its actions as Trustee.

(D) Trust Valuation. To the extent directed by the terms of the Plan, the Plan Administrator, or the Named Fiduciary, to report the value of the Trust Fund and as applicable, the value of the Trust assets within each Participant or Beneficiary Account provided, however, the Trustee reserves the right to notify the Plan Administrator or Named Fiduciary of any non-marketable securities or other property held under the Trust without a readily-determinable value, and such securities or other property shall be valued as determined by the Plan Administrator or Named Fiduciary or other fiduciary (but not the Trustee) at least annually. However, if the Trustee is a Directed Trustee (as defined in this document) the Named Fiduciary will value the assets and will provide the valuation to the Trustee, unless the Trustee and the Named Fiduciary agree that the Trustee will conduct the valuation. The Trustee may reasonably rely on any valuation the Named Fiduciary conducts and provides.

(E) Distributions. To credit and distribute the Trust Fund as the Plan Administrator directs. The Trustee is not obliged to inquire as to whether any payee or distributee is entitled to any payment or whether the distribution is proper or within the terms of the Plan, or as to the manner of making any payment or distribution. The Trustee is accountable only to the Plan Administrator for any payment or distribution made by it in good faith on the direction of the Plan Administrator. The Trustee must promptly notify the Plan Administrator of any unclaimed Plan payment or distribution and then dispose of the distribution in accordance with the Plan Administrator's direction, including any processes or limitations enumerated in the Plan document. The Trustee shall be released and discharged from all further accountability or liability respecting such assets of the Trust, shall be fully protected in making payments out of the assets of the Trust in accordance with such written directions, and shall have no responsibility to see to the application of such payments or to ascertain whether such directions comply with the provisions of the Plan.

(F) Fees/Expenses. To pay from the Trust Fund all reasonable Plan fees and expenses, and if applicable to allocate the fees and expenses to Plan Accounts, both as the Plan Administrator directs. Any fee or expense that the Employer pays, directly or indirectly, is not an Employer contribution to the Plan, provided the fee or the expense relates to the ordinary and necessary administration of the Trust Fund.

(G) Loans. To make loans to a Participant or to a Beneficiary in accordance with the Plan Administrator's direction and the terms of the Plan.

(H) Records/Statements. To keep the Trustee's Plan records open to the inspection of the Plan Administrator and the Employer at all reasonable times and to permit the review or audit of such records from time to time by any person or persons as the Employer or Plan Administrator may specify in writing. The Trustee must furnish the Plan Administrator with whatever information relating to the Trust Fund the Plan Administrator considers necessary to perform its duties as Plan Administrator.

(I) Tax Returns. To file all information and tax returns required of the Trustee.

(J) Incapacity. To follow the direction of the Plan Administrator with regard to distributions to any Participant or Beneficiary whom the Plan Administrator has determined to be incapacitated (such as physical or mental incapacity, or age as defined by the Plan). The Trustee also will provide any reasonable information and take any reasonable action that the Plan Administrator requests relating to a determination of incapacity or otherwise pertaining to the administration of the Account of any incapacitated person. The Trustee has no duty or liability with regard to such distributions except to follow the instructions of the Plan Administrator.

(K) Bond. To provide a bond for the faithful performance of its duties as Trustee under the Trust to the extent required by ERISA.

(L) Contributions. To receive, take and hold any contributions paid to the Trustee by the Employer in cash or, in the case of a profit sharing plan, such other property as may be acceptable to the Trustee. All contributions so received together with the income therefrom and any other increment thereon shall be held managed and administered by the Trustee pursuant to the terms of this Trust without distinction between principal and income and without liability for the payment of interest thereon. Notwithstanding the foregoing, the Trustee agrees to perform the responsibilities expressly imposed on it. The Employer and the Trustee intend that nothing shall be construed to require the Trustee to perform any responsibility or function that it has no express authority to perform under this agreement.

2.06 Duty to Collect Employer Contributions.

(A) Duty. A discretionary Trustee has the duty to collect Employer contributions, including, but not limited to, elective deferrals, except to the extent such duty is limited by the Employer or as provided in paragraph (B). A Directed Trustee does not have the duty to collect employer contributions and the Employer represents and warrants that it either has responsibility as a "named fiduciary" (as defined in ERISA §402(a)(2)) or has properly delegated the responsibility to a Plan fiduciary, other than the Directed Trustee, for determining the correctness, amount and timing of contributions and for the collection of contributions. This duty is effective no sooner than the later of the date the Employer signs this Agreement or the date the Trustee or Special Trustee executes either this Agreement or otherwise accepts its responsibilities under the Agreement.

(B) Special Trustee. If a Special Trustee has been appointed, the Special Trustee will have the duty to collect Employer Contributions, working with the highest-ranking officer of the Employer in the case of resignation or removal until another Trustee is appointed. This is the sole duty of the Special Trustee, acting in that capacity. No other Trustee has any duty to ensure that the contributions received comply with the provisions of the Plan or is obliged to collect any contributions from the Employer. No Trustee, other than the Special Trustee, is obliged to ensure that funds deposited are deposited according to the provisions of the Plan. The Special Trustee will either execute the Trust Agreement or a form accepting its position and agreeing to its obligations hereunder. The Special Trustee may perform any and all acts which in the Special Trustee's judgment are necessary or appropriate for the proper and advantageous discharge of its responsibilities.

(C) Standards. In determining how to discharge any duty to collect contributions, a Trustee, Special Trustee, or other Named Fiduciary of the Plan should weigh the value of the Plan assets involved, the likelihood of a successful recovery, and the expenses expected to be incurred. Among other factors, a Trustee, Special Trustee or other Named Fiduciary of the Plan may take into account the Employer's solvency in deciding whether to expend Plan assets to pursue a claim.

ARTICLE III
ADMINISTRATIVE PROVISIONS

3.01 Co-fiduciary Liability. Each fiduciary under the Trust is responsible solely for his/her or its own acts or omissions. A fiduciary does not have any liability for another fiduciary's breach of fiduciary responsibility with respect to the Trust unless the fiduciary: (a) participates knowingly in or undertakes to conceal the breach; (b) has actual knowledge of the breach and fails to take reasonable remedial action to remedy the breach; or (c) through failure to perform his/her or its own specific fiduciary responsibilities that give rise to fiduciary status, the fiduciary has enabled the other fiduciary to commit a breach of the latter's fiduciary responsibility.

3.02 Limitation of Liability.

(A) Apportionment of duties. The Named Fiduciary, the Trustee(s) and any properly appointed Investment Manager may execute a written agreement as a part of this Plan delineating the duties, responsibilities and liabilities of the Investment Manager or Trustee(s) with respect to any part of the Trust Fund under the control of the Investment Manager or the Trustee(s).

(B) Investment Manager. The Trustee is not liable for the acts or omissions of any Investment Manager the Named Fiduciary may appoint, nor is the Trustee under any obligation to invest or otherwise to manage any asset of the Trust Fund which is subject to the management of a properly appointed Investment Manager. If investment of the Plan assets is to be directed in whole or in part by an Investment Manager, the Trustee shall be under no duty or obligation to review any investment to be acquired, held or disposed of pursuant to such directions nor to make any recommendations with respect to the disposition or retention of any such investment. The Trustee shall have no liability or responsibility for acting or not acting pursuant to the direction of, or failing to act in the absence of any direction from, the Investment Manager.

(C) Other Fiduciaries. The Trustee is not liable for the acts or omissions of any ancillary trustee or independent fiduciary properly appointed under Section 3.06. However, if a Discretionary Trustee, pursuant to the delegation described in Section 3.06, appoints an ancillary trustee, the Discretionary Trustee is responsible for the periodic review of the ancillary trustee's actions and the ancillary trustee must exercise its delegated authority in accordance with the terms of the Plan and in a manner consistent with ERISA.

(D) Indemnity. To the extent permitted by the Code and ERISA, the Employer agrees to indemnify and hold harmless the Trustee against any and all claims, losses, damages, expenses and liabilities the Trustee may incur in the exercise and performance of the Trustee's powers and duties hereunder, unless the same are judicially determined to be due to gross negligence or willful misconduct; including, but not limited to, attorney's fees in expenses covered. This provision applies whether or not the Trustee has resigned or has been removed.

(E) Receipt of Assets. The Trustee shall have no duty or responsibility to inquire as to the propriety of the amount, value or type of assets transferred to the Trust, nor to conduct any due diligence with respect to such assets; provided, however, that such assets are otherwise eligible to be held by the Trustee under the terms of the Plan.

(F) Insurer. The Trustee (other than an Insurer acting as Trustee) shall not be responsible for the validity of the provisions under an insurance contract issued to the Plan or for the failure or refusal by the Insurer to provide benefits under such contract. The Trustee is also not responsible for any action or failure to act by the Insurer or any other person which results in the delay of a payment under the contract or which renders the contract invalid or unenforceable in whole or in part.

(G) Direction. If the Trustee shall be directed by a Participant (pursuant to Plan authorized procedures), the Employer, or an Investment Manager or other agent appointed by the Employer with respect to the investment of any or all Plan assets, the Trustee shall have no liability with respect to the investment of such assets, but shall be responsible only to execute such investment instructions as so directed. In addition, if the investment of Plan assets is to be directed by Participants, the Plan Administrator, Employer or other designated Named Fiduciary shall be solely responsible for the Plan satisfying the various criteria set forth in Department of Labor Regulation §2550.404c-1 for qualification as an "ERISA Section 404(c) Plan."

(1) Reliance. The Trustee shall be entitled to rely fully on the written (or other form acceptable to the Plan Administrator and the Trustee, including but not limited to, voice recorded) instructions of a Participant (pursuant to the Plan procedures), the Employer, or any fiduciary or nonfiduciary agent of the Employer, in the discharge of such duties, and shall not be liable for any loss or other liability resulting from such direction (or lack of direction) of the investment of any part of the Plan assets.

(2) Delegation. The Trustee may delegate the duty of executing such instructions to any nonfiduciary agent, which may be an affiliate of the Trustee or any Plan representative.

(3) Refusal. The Trustee may refuse to comply with any direction from the Participant in the event the Trustee, in its sole and absolute discretion, deems such direction improper by virtue of applicable law. The Trustee shall not be responsible or liable for any loss or expense that may result from the Trustee's refusal or failure to comply with any direction from the Participant.

(4) Costs. Any costs and expenses related to compliance with the Participant's directions shall be borne by the Participant's Directed Account, unless paid by the Employer.

(5) Collectibles. Notwithstanding anything herein above to the contrary, the Trustee shall not invest any portion of a Participant's Directed Account in "collectibles" within the meaning of Code §408(m).

3.03 Multiple Trustees. An Employer may appoint one or more Trustees to perform duties in Section 2.01 for specified assets in the Plan if the Trustees accept such appointment. Multiple Trustees may consist of financial institutions or individuals in any combination at the election of the Employer. If multiple parties act as Trustee over specified assets in the Plan, the power or duties of the Trustee shall be interpreted as applying to each such Trustee only with respect to the assets of the Trust Fund for which such Trustee is the Trustee. Each Trustee shall have no responsibility for, or liability with respect to, any of the Trust Fund other than the assets for which it serves as Trustee.

(A) Majority Decisions. If more than two persons act as Trustee, a decision of the majority of such persons controls with respect to any decision regarding the administration or the investment of the Trust Fund or of any portion of the Trust Fund with respect to which such persons jointly act as Trustee. Except as provided in paragraph (B), the Trustees jointly will manage and control the assets of the Trust Fund (or those Trust assets as to which they act as Trustee).

(B) Multiple Institutional Trustees. If there is more than one Trustee which is a financial institution, each Trustee shall be the Trustee only with respect to those assets specifically deposited by the Employer in the Trust Fund for which such Trustee is the Trustee. References in the Trust to the responsibilities, power or duties of the Trustee shall be interpreted as applying to each such Trustee only with respect to the assets of the Trust Fund for which such Trustee is the Trustee. Each Trustee shall have no responsibility for, or liability with respect to, any of the Trust Fund other than the assets for which it serves as Trustee.

(C) Allocation. Multiple Trustees may allocate among themselves specific responsibilities or obligations or may authorize one or more of them, either individually or in concert, to exercise any or all of the powers granted to the Trustee, or to perform any or all of the duties assigned to the Trustee under this Trust.

(D) Signature. The signature of only one Trustee is necessary to effect any transaction on behalf of the Trust (or as to those Trust assets as to which the signatory acts as Trustee).

3.04 Trustee Fees and Expenses. A Trustee will receive reasonable compensation and reimbursement for reasonable Trust expenses (including counsel fees) actually incurred as Trustee, as set forth in the Trustee's fee schedule (if the Trustee has such a schedule), or as may be agreed upon from time to time by the Employer and the Trustee. No person who is receiving full pay from the Employer may receive compensation (except for reimbursement of Plan expenses) for services as Trustee. As the Plan Administrator or Employer directs, such fees and expenses will be paid by the Employer, or the Trustee will charge the Trust for the fees or expenses. If, within a reasonable time after a Plan related fee or expense is incurred (or if within the time specified in any agreement between the Plan and the Trustee regarding payment of a fee or expense) the Plan Administrator does not communicate the Employer's decision regarding payment or if the Employer does not pay the fee or expense, the Trustee may charge the Trust for such reasonable fees and expenses as are not settlor expenses. All taxes of any kind whatsoever that may be levied or assessed under existing or future laws upon, or in respect of, the Trust Fund or the income thereof, shall be paid from the Trust Fund.

3.05 Third Party Reliance. A person dealing with the Trustee is not obligated to see to the proper application of any money paid or property delivered to the Trustee, or to inquire whether the Trustee has acted pursuant to any of the terms of the Plan. Each person dealing with the Trustee may act upon any notice, request or representation in writing by the Trustee, or by the Trustee's duly authorized agent, and is not liable to any person in so acting. The certificate of the Trustee that it is acting in accordance with the Plan is conclusive in favor of any person relying on the certificate.

3.06 Appointment of Ancillary Trustee or Independent Fiduciary

(A) Appointment. The Employer or Named Fiduciary, in writing, may appoint any qualified person in any state to act as ancillary trustee with respect to a designated portion of the Trust Fund, subject to any consent required under the Plan. An ancillary trustee must acknowledge in writing its acceptance of the terms and conditions of its appointment as ancillary trustee and its fiduciary status under ERISA.

(B) Powers. The ancillary trustee has the rights, powers, duties and discretion as the Employer may delegate, subject to any limitations or directions specified in the agreement appointing the ancillary trustee and to the terms of the Plan or of ERISA. The Employer may delegate its responsibilities under this Section 3.06 to a Discretionary Trustee (subject to the acceptance by such Discretionary Trustee of that delegation), but the Employer may not delegate its responsibilities to a Directed Trustee. The investment powers delegated to the ancillary trustee may include any investment powers available under Section 2.01. The delegated investment powers may include the right to invest any portion of the assets of the Trust Fund in a common trust fund, as described in Code §584, or in any collective investment fund, the provisions of which govern the investment of such assets and which the Plan incorporates by this reference, but only if the ancillary trustee is a bank or similar financial institution supervised by the United States or by a state and the ancillary trustee (or its affiliate, as defined in Code §1504) maintains the common trust fund or collective investment fund exclusively for the collective investment of money contributed by the ancillary trustee (or its affiliate) in a trustee capacity and which conforms to the rules of the Comptroller of the Currency, as applicable. The Employer also may appoint as an ancillary trustee, the trustee of any group trust fund designated for investment pursuant to the provisions of Section 3.08.

(C) Resignation/Removal. The ancillary trustee may resign its position and the Employer may remove an ancillary trustee as provided in Section 3.07 regarding resignation and removal of the Trustee. In the event of such resignation or removal, the Employer may appoint another ancillary trustee or may return the assets to the control and management of the Trustee.

(D) Independent Fiduciary. If the DOL requires engagement of an independent fiduciary to have control or management of all or a portion of the Trust Fund, the Employer will appoint such independent fiduciary, as directed by the DOL. The independent fiduciary will have the duties, responsibilities and powers prescribed by the DOL and will exercise those duties, responsibilities and powers in accordance with the terms, restrictions and conditions established by the DOL and, to the extent not inconsistent with ERISA, the terms of the Plan. The independent fiduciary must accept its appointment in writing and must acknowledge its status as a fiduciary of the Plan.

3.07 Resignation and Removal. The following provisions relate to Trustee resignation and removal and to appointment of a successor. They apply to a Special Trustee as well as a Trustee.

(A) Resignation. The Trustee may resign its position by giving written notice to the Named Fiduciary and to the Plan Administrator. The Trustee's notice must specify the effective date of the Trustee's resignation, which date must be at least 30 days following the date of the Trustee's notice, unless the Named Fiduciary consents in writing to shorter notice.

(B) Removal. The Employer or Named Fiduciary may remove a Trustee by giving written notice to the affected party. The Employer's notice must specify the effective date of removal which date must be at least 30 days following the date of the

Employer's notice, except where the Employer reasonably determines a shorter notice period or immediate removal is necessary to protect Plan assets.

(C) Successor Appointment. In the event of the death, incapacity, resignation or the removal of a Trustee, where no other Trustee continues to serve, the Employer must appoint a successor Trustee if it intends to continue the Plan. If two or more persons hold the position of Trustee, in the event of the removal of one such person, during any period the selection of a replacement is pending, or during any period such person is unable to serve for any reason, the remaining person or persons shall have full authority to act under the terms of the Plan as Trustee.

(1) Default Successor Trustee. Except as provided in subparagraph (2) below, if the Employer fails to appoint a successor Trustee as of the effective date of the Trustee resignation or removal and no other Trustee remains, the Trustee will treat the Employer as having appointed itself as Trustee and as having filed the Employer's acceptance of appointment as successor Trustee with the former Trustee. If state law prohibits the Employer from serving as successor Trustee, the appointed successor Trustee is the president of a corporate Employer, the managing partner of a partnership Employer, the managing member of a limited liability company Employer, the sole proprietor of a proprietorship Employer, or in the case of any other entity type, such other person with title and responsibilities similar to the foregoing.

(2) Default Custodian. If the Employer fails to appoint a successor Custodian as of the effective date of Custodian resignation or removal, the Trustee will direct the investment of Plan assets held by the former Custodian.

(D) Acceptance. Each successor Trustee succeeds its predecessor Trustee by accepting in writing its appointment as successor Trustee and by filing the acceptance with the former Trustee and the Plan Administrator. For this purpose, the successor Trustee's execution of this Trust or the Adoption Agreement to the Plan constitutes the Trustee's acceptance of its appointment as successor Trustee. The successor Trustee will also execute such other documents, if any, as the Plan Administrator may reasonably require in connection therewith.

(E) Outgoing Trustee. The resigning or removed Trustee, upon receipt of acceptance in writing of the Trust by the successor Trustee, must execute all documents and must perform all acts necessary to vest the title to Plan assets of record in any successor Trustee. In addition, to the extent reasonably necessary for the ongoing administration of the Plan, at the request of the Plan Administrator and the successor Trustee, the resigning or removed Trustee must transfer records, provide information and otherwise cooperate in effecting the change of Trustees. Such resigning or removed Trustee is authorized to reserve such sum of money (and for that purpose to liquidate such property as may be necessary to produce such sum) for payment of all proper expenses and charges against the assets of the Trust including reasonable expenses in connection with such resignation or removal, and any balance of such reserve remaining after the payment of such charges shall be paid over to the successor Trustee. Whenever any Trustee hereunder ceases to serve as such, the Trustee shall furnish to the Employer and Plan Administrator a written statement of account with respect to the portion of the Plan Year during which the individual or entity served as Trustee. This statement shall be either (i) included as part of the annual statement of account for the Plan Year or (ii) set forth in a special statement. Any such special statement of account should be rendered to the Employer no later than the due date of the annual statement of account for the Plan Year. The procedures set forth in Section 2.05 for the approval by the Employer of annual statements of account shall apply to any special statement of account rendered hereunder and approval by the Employer of any such special statement in the manner provided in Section 2.05 shall have the same effect upon the statement as the Employer's approval of an annual statement of account.

(F) Successor Powers. Each successor Trustee has and enjoys all of the powers, both discretionary and ministerial, conferred under the Plan upon its predecessor.

(G) No Liability for Predecessor or Successor. A successor Trustee is not personally liable for any act or failure to act of any predecessor Trustee, except as required under ERISA. With the approval of the Employer and the Plan Administrator, a successor Trustee, with respect to the Plan, may accept the account rendered and the property delivered to it by a predecessor Trustee without liability. No Trustee shall be required to investigate, or be responsible for, any acts or omissions occurring before it became, or after it ceased to be, Trustee.

3.08 Investment in Group Trust Fund. The Employer specifically authorizes a Directed Trustee, as directed, or a Discretionary Trustee to invest all or any portion of the assets comprising the Trust Fund in any group trust fund which at the time of the investment provides for the pooling of the assets of plans qualified under Code §401(a), including a group trust fund that also permits the pooling of qualified plan assets with assets of an individual retirement account that is exempt from taxation under Code §408(e), assets of an eligible governmental plan under Code §457(b) that is exempt from taxation under Code §457(g), assets of a custodial account under Code §403(b)(7) or a retirement income account under Code §403(b)(9), or assets of a governmental plan under Code §401(a)(24). This authorization applies solely to a group trust fund exempt from taxation under Code §501(a) and the trust agreement of which satisfies the requirements of Rev. Rul. 81 100 (as modified and clarified by Rev. Rul. 2004-67, Rev. Rul. 2011-1, and Rev. Rul. 2014-24), or any successor thereto. The provisions of the group trust fund agreement, as amended from time to time, are by this reference incorporated within this Plan and Trust. The provisions of the group trust fund will govern any investment of Plan assets in that fund. To comply with Code §4975(d)(8) as to any group trust fund maintained by a disqualified person, including the Trustee, the following provisions apply: (a) a Discretionary Trustee or a Directed Trustee may invest in any such fund at the direction of the Named Fiduciary who is independent of the Trustee and the Trustee's affiliates; (b) a Discretionary Trustee or a Directed Trustee (the latter as directed) may invest in any such fund

which the Employer specifies in the Adoption Agreement to the Plan or in an appendix thereto; and (c) notwithstanding (a) and (b) a Discretionary Trustee may invest in its own funds as described in Section 2.01(C). The Employer may attach an appendix to this Trust to specify the group trust funds in which the assets of the Trust Fund may be invested. If so, investments in group trust funds shall be limited to the group trust funds so specified.

3.09 Combining Trusts. At the Employer's direction, the Trustee, for collective investment purposes, may combine into one trust fund the Trust created under this Plan with the trust created under any other qualified retirement plan the Employer maintains. However, the Trustee must maintain separate records of account for the assets of each Trust in order to reflect properly each Participant's Account Balance under the qualified plans in which he/she is a participant.

3.10 Amendment/Substitution. The Employer may, at any time and from time to time, amend or restate the Trust or any of its provisions. Any Trust amendment (a) must not conflict with any other provisions of the Plan (except as expressly are intended to override an existing Trust provision); and (b) must not cause the Plan to violate Code §401(a). The Trustee must execute or consent in writing to any amendment.

3.11 Electronic Communication. Any communication, notice, direction, or other writing in connection with the Trust may be given electronically, under reasonable commercial procedures satisfactory to the Trustee.

3.12 Governing Law. The law of the state or commonwealth where the Employer's principal office is located will determine all questions arising with respect to the provisions of the Trust.

3.13 Reliance on Counsel. The Trustee may consult with legal counsel (who may be of counsel to the Employer) concerning any question which may arise with reference to its duties under this Trust Agreement and the opinion of such counsel shall be full and complete protection to the Trustee in respect to any action taken or suffered by the Trustee in good faith and in accordance with the opinion of such counsel.

3.14 Termination. This Trust Agreement and the Trust created hereby may be terminated at any time by the Employer, and upon such termination, the assets of the Trust shall be paid out by the Trustee as and when directed by the Plan Administrator pursuant to the terms of the Plan and this Trust. When the assets of the Trust have been applied or distributed as provided herein, the Trustee shall be released and discharged from all further accountability or liability respecting the assets of the Trust (or that part of the assets so applied or distributed if the Trust is terminated only in part) or any part thereof so applied or distributed and shall not be responsible in any way or to any person for the further disposition of the assets of the Trust (or that part of the assets so applied or distributed, if the Trust is terminated only in part) or any part thereof so applied or distributed.

ARTICLE IV
TRUSTEE/CUSTODIAN/INSURER

The undersigned, by executing this Trust, hereby accepts their position and agrees to all of the obligations, responsibilities and duties imposed upon them under the Trust.

The persons or entities acting as Trustee(s) hereunder, as defined in this agreement, are listed in the attached Appendix.

EMPLOYER	DATE SIGNED
TRUSTEE	DATE SIGNED

APPENDIX
TRUSTEES DUTIES

Trustee:

Bill Proctor
Chairman

Discretionary Trustee

ADOPTING RESOLUTION

The undersigned authorized representative of Leon County, FL BOCC (the Employer) hereby certifies that the following resolution was duly adopted by the Employer on _____, and that such resolution has not been modified or rescinded as of the date hereof:

RESOLVED, that the form of amended Plan and Trust effective October 1, 2021, presented to this meeting is hereby approved and adopted and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more counterparts of the Plan.

The undersigned further certifies that attached hereto are true copies of Leon County BOCC 401(a) Matching Program as amended and restated, and the Summary of Plan Provisions, which are hereby approved and adopted.

Date: _____

Signed: _____

_____
[print name/title]

Leon County
Board of County Commissioners

Notes for Agenda Item #5

Leon County Board of County Commissioners

Agenda Item #5

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: Leon County Indigent Cremation and Burial Program Fee Schedule Update

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Wanda Hunter, Assistant County Administrator
Lead Staff/ Project Team:	Shington Lamy, Director, Office of Human Services and Community Partnerships Abigail Sanders, Human Services Analyst

Statement of Issue:

In accordance with Leon County Policy No. 98-25 "Disposition of Unclaimed and Indigent Bodies", this item seeks Board adoption of a resolution to revise the current fee schedule for the Leon County Indigent Cremation and Burial Program (Attachment #1 to compensate contracted funeral homes for performing certain cremation services.

Fiscal Impact:

This item has a fiscal impact. Funds are available in the current FY 2022 budget to pay the costs associated with the proposed amended fee schedule. Proposed revisions to the Leon County Indigent Cremation and Burial Program Fee Schedule incorporate costs incurred by the contracted funeral homes for completing final disposition of unclaimed and deceased bodies, including the Medical Examiner's cremation fee for non-medical examiner cases, and the cost of shipping cremains to next of kin and/or family members.

Staff Recommendation:

Option #1: Adopt the proposed Resolution to revise the fee schedule for the Leon County Indigent Cremation and Burial Program (Attachment #1).

Report and Discussion

Background:

In accordance with Leon County Policy No. 98-25 "Disposition of Unclaimed and Indigent Bodies", this item seeks Board adoption of the proposed resolution to revise the current fee schedule for the Leon County Indigent Cremation and Burial Program (Attachment #1).

Sections 406.50 and 406.52, Florida Statutes, authorize the County to prescribe policies and procedures for the final disposition of indigent persons and/or unclaimed persons by resolution or ordinance. The Board or its designated county department, upon coming into possession of the remains of an unclaimed or indigent person that either died in or was found in the County, is responsible for the disposal of such remains. Leon County Policy No. 98-25, provides for the proper disposition of unclaimed and indigent bodies through the Leon County Indigent Cremation and Burial Program (Attachment #2).

Per County Policy, deceased bodies that come into the possession of the County are cremated unless the remains cannot be identified, the next of kin notifies the County that the deceased had a preference for burial, the Medical Examiner's Office notifies the County that the deceased was involved in a crime, or the Medical Examiner's Office or law enforcement requests burial. The County contracts with several local funeral homes to perform final disposition services which includes completing all necessary documentation for a death certificate, cremation, and/or burial. Deceased bodies and cremains are buried at the County-owned Serenity Gardens Cemetery unless the deceased is a Veteran of the U.S. Military or the next of kin requests the remains. The County coordinates with the U.S. Department of Veteran Affairs to bury bodies and cremains of Veterans in the National Cemetery located in Leon County. All bodies are either buried at the Serenity Gardens Cemetery or National Cemetery. Cremains (Veterans and non-Veterans) are often released to the next of kin and/or family members. The cremains are picked up at the Leon County Office of Human Services and Community Partnerships if the next of kin or family member resides within the Big Bend Region (Leon, Gadsden, Jefferson, Wakulla, Liberty, and Madison Counties). The cremains are mailed to the next of kin and/or family member by the contracted funeral homes if they reside outside the Big Bend Region.

On May 9, 2017, the Board adopted Resolution No. 17-07 to establish a fee schedule for the disposal of unclaimed and indigent bodies in accordance with the Policy No. 98-25 (Attachment #3). The County reimburses contracted funeral homes in accordance with the Leon County Indigent Cremation and Burial Program fee schedule approved by the Board pursuant to Board Policy No. 98-25 and as reflected in Table 1.

Table 1: Current Leon County Indigent Cremation and Burial Program Fee Schedule

Adult Burial (12 years and older)	$1,200
Adult Cremation (12 years and older)	$800
Child Burial (Birth – 11 years old)	$500
Child Cremation (Birth – 11 years old)	$400
Transport (from scene of death to storage)	$350
Mileage – Non-Medical Examiner case from scene of death to storage only (per mile)*	$.54
Storage Fee (per day for up to 7 days)	$35

*All other transport is included in the cost of burial or cremation

County staff regularly meets with the stakeholders including local funeral homes, law enforcement, hospitals, nursing homes, and the Medical Examiner's Office to discuss opportunities for improvement in the operation of the Indigent Cremation and Burial Program. During the February 15, 2022 stakeholders meeting, the contracted funeral homes expressed concerns regarding certain costs for cremation services. The item provides recommendations to update the fee schedule to compensate contracted funeral homes for performing cremation services.

Analysis:

Traditionally, the cremation fees have included the cost of completing and submitting documentation required by Statute, as well as the cost of returning cremains to the next of kin or family member upon request. Over the past two years there has been an increase in the number of bodies that have been cremated as well as family requests for the cremains. Conversely, there has been a reduction is the number of requests for body burials through the Indigent Cremation and Burial Program.

In light of the increased cost of cremation services, the contracted funeral homes raised concerns regarding the fee charged by the Medical Examiner's Office to approve the cremation of deceased bodies that are not examined by the Medical Examiner's Office. The Medical Examiner's Office is required to approve all cremations within its jurisdiction including those they do not examine. The fee known as the Non-Medical Examiner Cremation Fee is currently $47 and is subject to change annually. The fee has increased several times over the past three years and has been absorbed by the funeral homes for deceased bodies in the Indigent Cremation and Burial Program. Additionally, the funeral homes shared that they have experienced a significant increase in the cost of shipping cremains to next of kin or family member who do not reside within the Big Bend region (up to $110).

Since the cost of cremation is significantly less than burial services ($400 per body) staff anticipates the costs for the two additional services requested in the proposed fee schedule (up to $157) will have minimal impact on the current budget for the Indigent Cremation and Burial Program. Therefore, pursuant to Board Policy No. 98-25, Section II.M., it is recommended that the Board approve the requested amendments to the fee schedule for the Leon County Indigent Cremation and Burial Program to incorporate the Non-Medical Examiner Cremation Fee and shipping costs for cremation services as reflected in Table 2. As mentioned earlier, the Non-Medical Examiner Cremation Fee is subject to change annually and the fee schedule would be update accordingly to reflect the change. The County would reimburse funeral homes up to $110 for the cost of mailing cremains. The amended fee schedule would be effective upon Board adoption of the proposed Resolution (Attachment #1).

Table 2: Proposed Leon County Indigent Cremation and Burial Program Fee Schedule

Adult Burial (12 years and older)	$1,200
Adult Cremation (12 years and older)	$800
Child Burial (Birth – 11 years old)	$500
Child Cremation (Birth – 11 years old)	$400
Transport (from scene of death to storage)	$350
Mileage – Non-Medical Examiner case from scene of death to storage only (per mile) *	$.54
Storage Fee (per day for up to 7 days)	$35
Non-Medical Examiner Cremation Fee**	**$47**
Actual Costs for Shipping and Handling of Cremains	**Up to $110**

*All other transport is included in the cost of burial or cremation
**As established in the Medical Examiner's Annual Fee Structure, as may be amended from time to time

Options:

1. Adopt the proposed Resolution to revise the fee schedule for the Leon County Indigent Cremation and Burial Program (Attachment #1).
2. Do not adopt the Resolution to revise the fee schedule for the Leon County Indigent Cremation and Burial Program.
3. Board direction.

Recommendation:

Option #1

Attachments:

1. Proposed Resolution to revise the fee schedule for the Leon County Indigent Cremation and Burial Program
2. Leon County Policy No. 98-25 "Disposition of Unclaimed and Indigent Bodies"
3. Resolution No. 17-07 – Fee Schedule

RESOLUTION 22-_____

A RESOULTION OF THE BOARD OF COUNTY COMMISIONERS OF LEON COUNTY, FLORIDA TO AMEND THE FEE SCHEDULE FOR THE DISPOSAL OF UNCLAIMED AND INDIGENT BODIES IN ACCORDANCE WITH THE LEON COUNTY POLICY NO. 98-25 "DISPOSITION OF UNCLAIMED AND INDIGENT BODIES"; REPLACING AND SUPERSEDING RESOLUTION NO. 17-07; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Sections 406.50 and 406.52, Florida Statutes, authorizes Leon County, by resolution or ordinance, to establish policies and procedures for the burial or cremation of indigent and unclaimed persons whose deaths occurred, or whose remains were found in the County; and

WHEREAS, the proper final disposition of deceased bodies and/or humans remains is essential to the health, safety, and welfare of the community; and

WHEREAS, Leon County is committed to ensuring that the preparation and final disposition of any deceased bodies and/or human remains that come into the possession, charge, or control of the County are carried out in a decent and dignified manner; and

WHEREAS, on June 14, 1983, Leon County Board of County Commissioners adopted Policy No. 83-3 "Disposition of Unclaimed Bodies"; and

WHEREAS, on October 13, 1998, the Leon County Board of County Commissioner superseded Policy No. 83-3 with the adoption of Policy No. 98-25 "Disposition of Unclaimed and Indigent Bodies" establishing the Leon County Indigent Cremation and Burial Program; and

WHEREAS, in accordance with Policy No. 98-25, the County Administrator shall recommend a fee schedule for the Leon County Board of County Commissioners consideration; and

WHEREAS, on May 9, 2017, the Board adopted Resolution No. 17-07 to establish a fee schedule for the disposal of unclaimed and indigent bodies in accordance with the Leon County Policy No. 98-25; and

WHEREAS, Leon County contracts with local funeral homes for the final disposition of indigent and unclaimed bodies; and

WHEREAS, the attached, entitled "Indigent Cremation and Burial Fee Schedule" reflects Leon County's fee schedule for the final disposition of indigent and unclaimed bodies; and

WHEREAS, this adopted Resolution will serve to supersede Resolution No. 17-07.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, that:

1. The attached fee schedule entitled, "Indigent Cremation and Burial Fee Schedule" for the final disposition of indigent and unclaimed bodies is hereby approved by the Board.
2. The attached fee schedule shall be effective immediately upon adoption of this resolution.
3. This Resolution shall replace and supersede Resolution No. 17-07 and shall have effect upon adoption.

DONE, ADOPTED, AND PASSED by the Board of County Commissioners of Leon County, Florida, this 10th day of May 2022.

LEON COUNTY, FLORIDA

By:_____
Bill Proctor, Chair
Board of County Commissioners

APPROVED AS TO FORM:
Chasity H. O'Steen, County Attorney
Leon County Attorney's Office

By:_____

ATTEST:
Gwendolyn Marshall Knight, Clerk of the
Court & Comptroller, Leon County, Florida

By:_____

INDIGENT CREMATION AND BURIAL FEE SCHEDULE

Adult Burial (12 years and older)	$1,200
Adult Cremation (12 years and older)	$800
Child Burial (Birth – 11 years old)	$500
Child Cremation (Birth – 11 years old)	$400
Transport (from scene of death to storage)	$350
Mileage – Non-Medical Examiner case from scene of death to storage only (per mile) *	$.54
Storage Fee (per day for up to 7 days)	$35
Non-Medical Examiner Cremation Fee**	**$47**
Actual Costs of Shipping and Handling of Cremains	**Up to $110**

*All other transport is included in the cost of burial or cremation

**As established in the Medical Examiner's Annual Fee Structure, as may be amended from time to time

Revised 5/10/2022

16.01

Board of County Commissioners

Leon County, Florida

Policy No. 98-25

Title:	Disposition of Unclaimed and Indigent Bodies
Date Adopted:	May 9, 2017
Effective Date:	May 9, 2017
Reference:	Florida Statutes, Ch. 406.49 – 406.53
Policy Superseded:	Policy No. 83-3, "Disposition of Unclaimed Bodies," adopted June 14, 1983; Policy No. 98-25, "Disposition of Unclaimed Bodies," adopted October 13, 1998; Policy No. 98-25, "Disposition of Unclaimed and Indigent Bodies," revised February 27, 2007; revised June 28, 2011

It shall be the policy of the Board of County Commissioners of Leon County, Florida, that Policy No. 98-25, "Disposition of Unclaimed Bodies," revised June 28, 2011, is hereby amended, and a revised Policy is hereby adopted in its place, to wit:

In accordance with Florida Statutes 406.50 and 406.52, Leon County has the authority to establish policies and procedures for the burial or cremation of indigent persons or unclaimed persons whose deaths occurred, or whose remains were found in the county.

I. Purpose:

A. To provide for a uniform policy and procedure for the decent and dignified disposition of unclaimed or indigent deceased persons or human remains, in accordance with Florida Statutes, Chapter 406, or as may be amended from time to time.

B. To establish the Leon County Indigent Burial Program for burial and/or cremation of unidentified, unclaimed, and indigent persons who die in Leon County.

II. Definitions:

A. For the purposes of this Policy, all terms herein shall have the same meaning as set forth in Florida Statutes §§ 406.49 – 406.53, or as may be amended from time to time.

B. The term "Next of Kin" in this policy shall have the same meaning as "Legally authorized person" as defined in Florida Statues §§ 406.49(6), or as may be amended from time to time.

III. Policy:

A. As required by Florida Statute, Chapter 406, § 406.50, or as may be amended from time to time, in the event the County finds itself in charge or control of human remains or a dead body, that is unclaimed or requires disposal at public expense, the County shall, make a reasonable effort to:

1. Determine the identity of the deceased person;
2. Contact any relatives of such deceased person; and,
3. Determine whether the deceased person is entitled to burial in a national cemetery as a veteran of the armed services.

B. In the event the County finds itself in charge or control of human remains or a dead body that is unclaimed or requires disposal at public expense, the County shall immediately notify the anatomical board, except in the instances provided for in Florida Statutes §§ 406.50 and 406.53.

C. For purposes of this chapter, the term "anatomical board" means the anatomical board of this state located at the University of Florida Health Science Center, and the term "unclaimed" means human remains or a dead body that is not claimed by a legally authorized person, as defined in s. 497.005, for interment at that person's expense.

D. Except as provided for in Florida Statutes, Chapter 406, the County shall deliver such human remains or dead body, as described in Florida Statute § 406.50, to the anatomical board as soon as possible after death.

E. Nothing herein shall affect the right of a medical examiner to hold such human remains or dead body for the purpose of investigating the cause of death, nor shall this chapter affect the right of any court of competent jurisdiction to enter an order affecting the disposition of such body or remains.

F. Prior to the cremation or burial of human remains or a deceased body that is unclaimed or requires disposal at public expense, there shall be reasonable effort to:

1. Determine the identity of the deceased person. Identification of the deceased will generally be established through cooperation with the Medical Examiner’s Office, law enforcement, healthcare providers, nursing homes, and/or hospice care providers.

2. Contact the next of kin of such deceased person. Identification of the next of kin will generally be established through cooperation with the Medical Examiner’s Office, law enforcement, healthcare providers, nursing homes, and/or hospice care providers.

3. Determine whether the deceased person is eligible under 38 C.F.R.s. 38.620 for burial in a national cemetery as a veteran of the armed services.

4. Determine eligibility for the Leon County Indigent Burial Program. A deceased person or human remains are deemed eligible for the Leon County Indigent Burial Program when the deceased person died or human remains are located in Leon County; does not have life insurance; and one of the following:
    a. The deceased person is unidentified; or
    b. The deceased person does not have the means to pay for final disposition; or
    c. The deceased person is unclaimed by a next of kin for purposes of final disposition.

G. If a deceased person is later determined not eligible for the Leon County Indigent Burial Program, the County reserves the right to probate the estate of the deceased person in order to recover all costs associated with disposition expenses.

H. In the event the deceased person or human remains meets the eligibility determination for the Leon County Indigent Burial Program, the deceased shall be cremated unless the following criteria apply:
    1. If the remains cannot be identified.
    2. If the County receives written notification from the next of kin that the deceased had a preference for burial.
    3. If the County receives written notification from the Medical Examiner's Office that the deceased was involved in a crime.
    4. If the County receives written request from the Medical Examiner's Office or law enforcement that the deceased be must be disposed through burial.

I. All bodies required for burial, unless eligible under 38 C.F.R.s. 38.620 for burial in a national cemetery as a veteran of the armed services, shall be buried on a County-owned property. All burials shall comply with all rules and regulations set forth in Florida Statutes.

J. In the event a relative of the deceased is contacted, the County shall make reasonable efforts to accommodate requests for cremation or burial. In the event more than one legally authorized person claims a body for interment, the request shall be prioritized in accordance with Florida Statute §732.103.

K. Leon County Veteran Services shall determine if a deceased person is eligible under 38 C.F.R.s. 38.620 for interment at a National Cemetery. However, the National Cemetery Administration shall schedule and coordinate the interment of a deceased veteran.

L. The County may contract with a funeral establishment or direct disposal establishment as defined Florida Statue 497.005 to perform disposition duties.

1. The funeral establishment or direct disposal establishment shall provide disposition of each body in accordance to all applicable laws and statutes.
2. In the event the County finds itself in charge or control of human remains or a deceased body that is unclaimed, indigent or requires disposal at public expense, the County may reimburse the funeral establishment or direct disposal establishment for expensed incurred for the storage, preparation, and disposal of human remains or deceased body.

M. The County Administrator shall develop operational procedures for the disposition of unclaimed and indigent bodies and a recommended fee schedule for Board consideration.

Revised 5/9/2017

RESOLUTION 17 - 07

A RESOLUTION OF THE BOARD OF COUNTY COMMISIONERS OF LEON COUNTY, FLORIDA TO APPROVE THE FEE SCHEDULE FOR THE DISPOSAL OF UNCLAIMED AND INDIGENT BODIES IN ACCORDANCE WITH THE LEON COUNTY POLICY NO.98-25 "DISPOSITION OF UNCLAIMED AND INDIGENT BODIES".

WHEREAS, Florida Statutes 406.50 and 406.52 authorizes Leon County to establish policies and procedures for the burial or cremation of indigent and unclaimed persons whose deaths occurred, or whose remains were found in the County; and

WHEREAS, on April 25, 2017, Leon County Board of County Commissioners adopted amendments to Policy No. 98-25 "Disposition of Unclaimed and Indigent Bodies"; and

WHEREAS, the amended Policy No. 98-25 authorizes the County Administrator to develop a recommended fee schedule for services for the disposition of unclaimed and indigent bodies for Board approval; and

WHEREAS, Leon County contracts with local funeral homes for the final disposition of indigent and unclaimed bodies; and

WHEREAS, the attached, entitled "Indigent Burial Fee Schedule" reflects Leon County's fee schedule for the final disposition of indigent and unclaimed bodies.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, that:

1. The attached fee schedule entitled, "Indigent Burial Fee Schedule" for the final disposition of indigent and unclaimed bodies is hereby approved by the Board.

2. The attached fee schedule shall be effective immediately upon adoption of this resolution.

DONE, ADOPTED, AND PASSED by the Board of County Commissioners of Leon County, Florida, this 9th day of May 2017.

LEON COUNTY, FLORIDA

By: _____
John E. Dailey, Chairman
Board of County Commissioners

ATTESTED BY:
Gwendolyn Marshall, Clerk of Court
& Comptroller
Leon County, Florida

By: _____

APPROVED AS TO FORM:

Leon County Attorney's Office

By: _____
Herbert W. A. Thiele, Esq.
County Attorney

INDIGENT BURIAL FEE SCHEDULE

Adult Burial (12 years and older)	$1,200
Adult Cremation (12 years and older)*	$ 800
Child Burial (Birth – 11 years old)	$ 500
Child Cremation (Birth – 11 years old)*	$ 400
Transport (Non-Medical Examiner case from scene of death to storage only)**	$ 350
Mileage – Non-Medical Examiner case from scene of death to storage only (per mile)**	$ .54
Storage Fee (per day)	$ 35

*Includes the cost of shipping cremains to the next of kin
**All other transport is included in the cost of burial or cremation.

Revised 5/9/2017

Leon County
Board of County Commissioners

Notes for Agenda Item #6

Leon County Board of County Commissioners

Agenda Item #6

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: 9/11 Day of Remembrance and Service for 2022

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Wanda Hunter, Assistant County Administrator
Lead Staff/ Project Team:	Shington Lamy, Director, Human Services & Community Partnerships Matthew G. Wyman, Director Housing Services

Statement of Issue:

This item seeks Board acceptance of a status report on the planned activities related to the annual Leon County 9/11 Day of Remembrance and Service, scheduled for Thursday, August 18, 2022 in the Capital City Estates Neighborhood.

Fiscal Impact:

This item has a fiscal impact. Funding for the 9/11 Day of Remembrance and Service is contemplated in the FY 2022 budget. In addition, the Housing Finance Authority of Leon County provides $1,500 annually for the 9/11 Day of Remembrance and Service activities.

Staff Recommendation:

Option #1: Accept the status report on the 9/11 Day of Remembrance and Service for 2022.

Report and Discussion

Background:

This item seeks Board acceptance of a status report on the planned activities related to the annual Leon County 9/11 Day of Remembrance and Service for 2022. This year's Day of Remembrance and Service will occur on Thursday, August 18, 2022 in the Capital City Estates Neighborhood. Each year, staff brings a status report to the Board detailing the upcoming 9/11 Day of Remembrance and Service event, the project's location, and how neighborhood residents will be engaged.

In 2009, Congress designated September 11th as a National Day of Remembrance and Service. Beginning in 2011, on the tenth anniversary of the tragic attacks of September 11, 2001, Leon County established the community's annual 9/11 Day of Remembrance and Service. Since that time, the 9/11 Day of Remembrance and Service has earned several national and local awards for community service and citizen engagement. Most notably it earned a 2015 National Association of Counties Best in Category award for being an exemplary volunteer service project.

In August of each year, as approved by the Board, the County organizes a service day that brings together community volunteers and County employees to help revitalize a neighborhood in remembrance of September 11, 2001. However, the event in 2020 was canceled due to the COVID-19 pandemic and last year's event (2021) was held in September to commemorate the 20th anniversary of the national tragedy. Volunteers perform services such as neighborhood-wide clean-ups; build handicap ramps; lawn maintenance; paint homes; and install U.S. or military flags at the home of veterans. Previous neighborhoods hosting the day of service event include: Crown Ridge (2014), Natural Wells (2015), Woodside Heights (2016), Oak Ridge (2017), Deer Tree Hills (2018), Lakewood Estates (2019), and Frontier Estates (2021).

On May 22, 2018, the Board approved incorporating the Day of Remembrance ceremony that had traditionally been held on September 11, into the Day of Service event after previous ceremonies were canceled due to hurricanes that impacted Leon County.

Analysis:

The County will build on the success of previous events by hosting a service day in the Capital City Estates neighborhood, located west of Crawfordville Highway and north of Capital Circle Southwest in unincorporated Leon County. As mentioned previously, County staff along with community volunteers are anticipated to perform neighborhood-wide clean-ups, build handicap ramps, provide lawn maintenance, and paint homes that are owner-occupied.

In cooperation with Capital Area Neighborhood Network and Council of Neighborhood Associations, staff will hold a meeting with the residents in early July to discuss the plan for the Day of Remembrance and Service. Variable message board signs along with mailed letters will be utilized to notify residents of the meeting date, time and location. The meeting will provide residents with an opportunity to share their needs with staff, which will identify the service projects that will be performed in August.

A remembrance ceremony will be incorporated into the lunch portion of day's event at a location near the neighborhood to formally recognize the tragic events of September 11, 2001. The Ceremony provides an opportunity to continue building a meaningful sense of unity and community engagement with the neighborhoods, community partners, volunteers, and County staff.

Options:

1. Accept the status report on the 9/11 Day of Remembrance and Service for 2022.
2. Do not accept the status report on the 9/11 Day of Remembrance and Service for 2022.
3. Board direction.

Recommendation:

Option #1

Leon County
Board of County Commissioners

Notes for Agenda Item #7

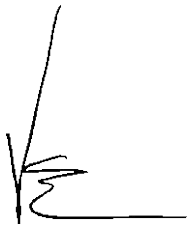
Leon County Board of County Commissioners

Agenda Item #7

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator



Title: Approval of the Plat for Bornino Commercial Subdivision

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Ken Morris, Assistant County Administrator Brent Pell, Director, Public Works Charles Wu, Director, Engineering Services
Lead Staff/ Project Team:	Joseph D. Coleman, County Surveyor Kimberly Wood, Chief of Engineering Coordination

Statement of Issue:

In accordance with Leon County Code of Laws, this item seeks Board approval of the plat for Bornino Commercial Subdivision for recording in the Public Record. Within 60 days of approval, the applicant will submit the original plat for final review, execution and recording in the Public Record.

Fiscal Impact:

This item has no fiscal impact.

Staff Recommendation:

Option #1: Approve the plat for Bornino Commercial Subdivision for recording in the Public Record (Attachment #1).

Report and Discussion

Background:

In accordance with Leon County Code of Laws, this item seeks Board approval of the plat for Bornino Commercial Subdivision for recording in the Public Record. The plat was initially approved by the Board at the January 25, 2022 meeting. Per Section 10-7.605 of the Leon County Code of Laws, the Board's approval is valid for 60 days, after which the plat must be resubmitted to the Board for approval. The applicant informed the County of unavoidable delays in obtaining necessary signatures which resulted in the plat not being recorded within the 60-day period.

The Subdivision is a replat of Lot 1 of Fallschase Village Center, a private commercial subdivision as recorded in Plat Book 21, Page 57 of the Public Record. The Subdivision being platted consists of 2.05 acres containing two commercial lots. Bornino Commercial Subdivision is located in Section 22 & 27; Township 1 North; Range 1 East, on the south side of Mahan Drive approximately 0.1 miles west of the Mahan Drive and Buck Lake Road intersection (Attachment #2).

The Bornino Commercial Subdivision was approved by the Department of Development Support and Environmental Management as a Type "B" site and development plan on November 5, 2021 (Attachment #3).

Analysis:

In accordance with Section 10-7.605 of the Leon County Code of Laws, a plat shall be recorded in the Public Records within 60-days of Board approval. The applicant, 1445 New Haven, LLC, is requesting the Board to re-approve the plat for recording in the Public Record. All signatures and documentation are expected to be obtained for this plat prior to the Board meeting.

Staff recommends the Board approve the plat for recording. There have not been any changes in the condition of the plat since the Board's initial approval in January.

Options:

1. Approve the plat for Bornino Commercial Subdivision for recording in the Public Record (Attachment #1).
2. Do not approve the plat for Bornino Commercial Subdivision for recording in the Public Record.
3. Board direction.

Recommendation:

Option #1

Attachments:

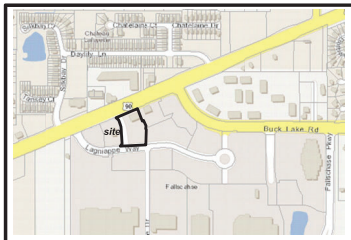
1. Plat of Bornino Commercial Subdivision
2. Location Map
3. Development Review Approval Letter

BORNINO COMMERCIAL

A REPLAT OF LOT 1 OF FALLSCHASE VILLAGE CENTER, A SUBDIVISION AS PER MAP OR PLAT THEREOF RECORDED IN PLAT BOOK 21, PAGE 57 OF THE PUBLIC RECORDS OF LEON COUNTY, FLORIDA

A SUBDIVISION LYING IN SECTION 22 & 27, TOWNSHIP 1 NORTH, RANGE 1 EAST, LEON COUNTY, FLORIDA

PLAT BOOK _____ PAGE _____



VINICITY MAP (NOT TO SCALE)

MAHAN DRIVE
STATE ROAD NO. 10
U.S. HIGHWAY NO. 90

NOTES:

1. This survey is dependent upon EXISTING MONUMENTATION.
2. BEARING REFERENCE: North boundary of Laginappe Way being North 84 degrees 31 mintues 26 seconds East as per record plat
3. NO IMPROVEMENTS have been located other than shown hereon. All platted utility easements shall also allow for Cable Television Services in accordance with Florida Statutes, Chapter 177.091 (28).
4. The construction of permanent structures including fences but excluding driveways by property owners is prohibited within utility and drainage easements.
5. An iron rod with plastic cap stamped " 7160" has been set at all lot corners unless otherwise noted.
6. Subject property is located in Zones "X" as per Flood Insurance Rate Map, Community Panel No: 120143 0304F, index date: August 18, 2009, Leon County, Florida.
7. Platted utility easements shall allow for "Internet" infrastructure to be placed within the dedicated easements including, but not limited to cables, wires and any other hardware required to provide Internet service.

POINT OF BEGINNING

Northwest corner of Lot 1 of FALLSCHASE VI VILLAGE CENTER, a subdivision as per map or plat thereof recorded in Plat Book 21, Page 58 of the Public Records of Leon County, Florida

LOT 1
1.03 ACRES±

LOT 2
1.02 ACRES±

FIRC (½") NO ID PRM
R/W
244.42'(RP)
S67°18'32"W
10' WIDE BUFFER
SIGN EASEMENT PLAT BOOK 21 PAGES 57-60
20' UTILITY EASEMENT PLAT BOOK 21 PAGES 57-60
ELECTRIC UTILITY EASEMENT (ORB 2384 PG 765)
N22°41'28"W
136.37'(RP)
19.50'(RP)
S67°18'32"W
FN&C #7245 PRM
53.30'(RP)
N22°41'28"W
R=58.90'
Δ=51°58'04"
L=53.42'(RP)
CH=S48°40'41"E
51.61'(RP)
S22°41'40"E
30.83'(RP)
R=97.40'
Δ=17°13'05"
L=29.27'(RP)
CH=S14°05'07"E
29.16'(RP)
30' CROSS ACCESS, DRAINAGE & UTILITY EASEMENT PLAT BOOK 21, PAGES 57-60
APPROXIMATE SECTION LINE SECTION 27, SECTION 22
WATER AND SEWER UTILITY EASEMENT ORB 4903 PG 1325
R=72.00'
Δ=16°32'35"
L=20.79'(RP)
CH=N14°25'11"W
20.72'(RP)
(ORB 4511 PG 306) ACCESS EASEMENT
271.55'
271.55'
N67°18'32"E
S67°18'32"W
N06°08'54"W
65.14'(RP)
S05°28'34"E
87.53'
10' WIDE BUFFER
R=112.00'
Δ=18°09'54"
L=35.51'(RP)
CH=N02°55'59"E
35.36'(RP)
R=112.00'
Δ=17°29'31"
L=34.19'(RP)
CH=N03°16'09"E
34.06'(RP)
15.00'
15.00'
SN&C #7160 PRM
R=112.00'
Δ=2°10'42"
L=4.00'
CH=S04°06'39"E
4.00'
N05°28'34"W 4.00'
SN&C #7160 PRM
CORNER FALLS IN SEWER MANHOLE
SIRC (½") #7160 PRM
160.96'(RP)
73.55'
FIRC (½") NO ID PRM
R=47.54'
Δ=90°10'04"
L=74.81'(RP)
CH=S39°40'41"W
67.33'(RP)
N05°28'34"W 59.05'(RP)
10.00'
20.00'
10.00'
10' WIDE BUFFER
20' UTILITY EASEMENT (ORB 3920 PG 255)
N84°33'17"E 58.54'(RP)
S88°21'04"E 96.62'(M)
N84°31'26"E 146.36'(RP)
SITE BENCHMARK FOUND NAIL & CAP #7245 IN ASPHALT @ ELEV. 155.30' (NAVD 88)

GRAPHIC SCALE
0 30 0 15 60 120
(IN US FEET)
1 inch = 30 ft.

Parcel ID: 1127280000010
LOT 1 FALLSCHASE VILLAGE CENTER
PLAT BOOK 21, PAGE 57

Parcel ID: 1127300000061
LOT 6.1 FALLSCHASE CENTER
PLAT BOOK 21, PAGE 10

FALLCHASE COMMERCIAL PROPERTY OWNERS
Parcel ID: 112729 0003

LAGNIAPPE WAY
R/W VARIES ~ PAVED
PRIVATE ROADWAY

LEGEND

C.O.T. = CITY OF TALLAHASSEE
S.W.M.F. = STORM WATER MANAGEMENT FACILITY
HOA = HOME OWNERS ASSOCIATION
MAINT. = MAINTENANCE
ESMT. = EASEMENT
TYP. = TYPICAL
D.E. = DRAINAGE EASEMENT
CONS. ESMT. = CONSERVATION EASEMENT
CRT. = COURT
O.S. = OPEN SPACE
R/W = RIGHT OF WAY
△ = Point not set or found
FCM = Found Concrete Monument (4" x 4")
FIR = Found Iron Rod (5/8")
FIRC = Found Iron Rod & Cap (5/8") #7160
SCM = Set 4" x 4" Concrete Monument with cap #7160
SNC = Set Nail & Cap (#7160)
M = Measured
D = Record Deed
RP = Record Plat
△ = Delta Angle
R = Radius
L = Arc Length
CD = Chord bearing and distance
PT = Point of Tangency
PC = Point of Curvature
PI = Point of Intersection
PRC = Point of Reverse Curvature
POC = Point of Curve
ID = Identification Marker
O.R.B. = Official Record Book of Leon County, Florida
Pg. = Page
= PRM = Permanent Reference Monument = 5/8" REBAR WITH 2" ROUND ID DISC #7160
= Set Nail & Cap #7160 (PCP Permanent Control Point)
=Found Iron Rod & Cap #7160-5/8" (Unless noted otherwise)
= All Interior Lot Corners Are Marked With = Iron Rod & Cap #7160-5/8" (Unless noted otherwise)
=Found Iron Rod 5/8" Re Bar with 3" ID Disc #7160

NOTICE:
THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM IS THE OFFICIAL DEPICTION OF THE SUBDIVIDED LANDS DESCRIBED HEREIN AND WILL IN NO CIRCUMSTANCES BE SUPPLANTED IN AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM OF THE PLAT. THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF LEON COUNTY, FLORIDA.

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

NOTICE:
ALL ROADS, STREETS, COMMON AREAS AND FACILITIES, EASEMENTS INCLUDING DRAINAGE EASEMENTS, AND RIGHTS-OF-WAY PROVIDING INGRESS AND EGRESS TO THE PROPERTIES HEREON DESCRIBED, EXCEPT FOR THE FOLLOWING : NONE, SHALL BE MAINTAINED BY THE FALLSCHASE COMMERCIAL PROPERTY OWNERS ASSOCIATION, INC AND LEON COUNTY IS NOT RESPONSIBLE FOR THE MAINTENANCE OF THE ABOVE

DEDICATION
STATE OF FLORIDA
COUNTY OF LEON

Know all by these present that 1445 NEW HAVEN, LLC, the owners' in fee simple of the land shown hereon platted as BORNINO COMMERCIAL and being more particularly described as follows:

Lot 1 of FALLSCHASE VILLAGE CENTER, a subdivision as per map or plat thereof recorded in Plat Book 21, Page 57 of the Public Records of Leon County, Florida

SUBJEDT TO:
1. A non-exclusive easement (Official Records Book 3712, Page 1257), specifically Page 11, Paragraph 5A) Describes a non-exclusive easement allowing cross parkign within the Fallschase Village Center and Village District, Including this project area.
2. Declaration of Access Esements for Fallschase Center (Official Records Book 4511, Page 306) Provides Access for Fallschase Commercial Parcels, including this project.
3. No Direct Driveway Access to Mahan Drive shall be permitted.

Have cause said lands to be divided and subdivided as shown hereon and does hereby dedicate the following:

To the perpetual use of the public utilities the utility easement as depicted hereon.

To the perpetual use of the Fallschase Commercial Owners Association, Inc the cross access, drainage and sign easements as shown and depicted hereon.

Reserving in all cases however, the reversions thereof should the same be renounced, disclaimed, abandoned or the use thereof discontinued or prescribed by law by appropriate official action of the proper officials having charge or jurisdiction thereof.

This the _____ day of _____ A.D. 2022

By: _____
Authorized Signature
1445 NEW HAVEN, LLC

_____
Print name

WITNESS SIGNATURE: _____
PRINT NAME: _____

WITNESS SIGNATURE: _____
PRINT NAME: _____

ACKNOWLEDGEMENT
STATE OF FLORIDA

The forgoing instrument was acknowledged before me this _____day of _____, 2022, by _____, who is personally known to me or has produced a drivers license as identification acknowledges that he/she executed the foregoing dedication as the managing member of 1445 NEW HAVEN, LLC

_____
NOTARY PUBLIC *SEAL*

COUNTY COMMISSION

Approved and Joined in by The Board of County Commissioners of Leon County, Florida.
THIS_____DAY OF_____ A.D. 2022.

By: _____
Chairperson

By: _____
County Attorney

By: _____
County Engineer

GWEN MARSHALL KNIGHT
CLERK OF THE CIRCUIT COURT:

Accepted for files and recorded this _____ day of _____, A.D. 2022, in Plat Book _____, Page _____ of the Public Records of Leon County, Florida

By: _____
Deputy Clerk of the Circuit Court, Leon County, Florida

PLAT REVIEW

PLAT REVIEWED FOR COMPLIANCE WITH CHAPTER 177, FLORIDA STATUTES.

_____
COUNTY SURVEYOR

SITE PLAN REVIEW APPROVAL

This plat conforms to the Site and Development Plan approval provisions made by the Department of Development Support and Environmental Management.
This _____ day of _____, 2022

By: _____
County Administrator or designee

SURVEYOR'S CERTIFICATION:

I hereby certify that this survey was made under my responsible direction and supervision, is a correct representation of the land surveyed, that the Permanent Reference Monuments and Permanent Control Points have been set and that the survey data and monumentation complies with both Chapter 177 of the Florida Statutes and standards for practice for Land Surveying (F.A.C. 5J-17.051).

SURVEY POINT PRM ID NOT STATED — METAL CAP IN TOP OF CONCRETE MONUMENT MARKING PERMANENT REFERENCE MONUMENTS
SURVEY POINT PCP ID NOT STATED — METAL CAP IN TOP OF CONCRETE MONUMENT MARKING PERMANENT CONTROL POINTS
SURVEY LB 7160 POINT — PLASTIC CAP ON 5/8" RE-ROD MARKING PERMANENT REFERENCE POINTS

JAMES T. RODDENBERRY
Surveyor & Mapper Fl. Certificate No. 4261
DATE

JOINDERS IN DEDICATION:

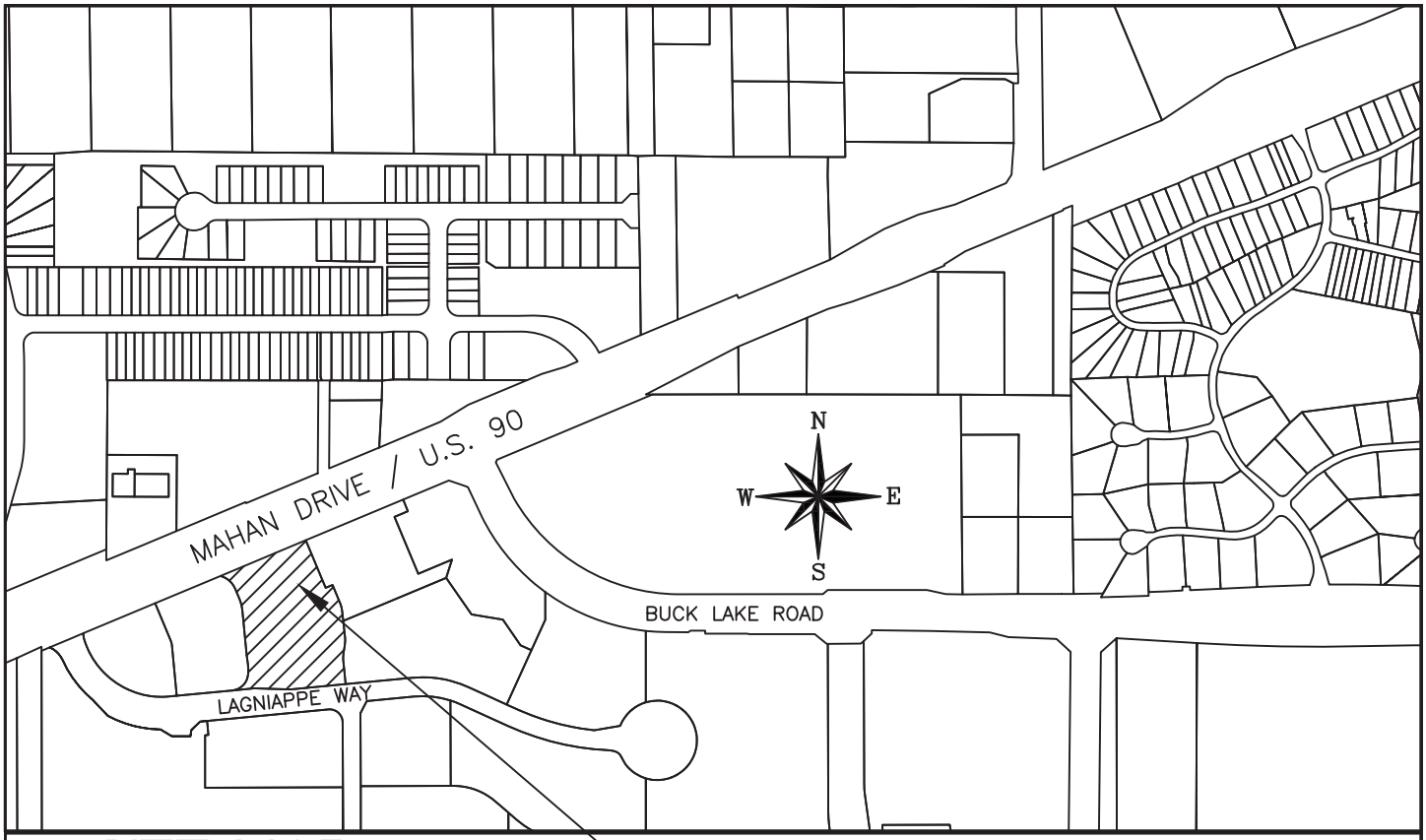
All persons having an intrest in the property decribed hereon have joined in the dedication as follows:

NAME	O.R. Book / Page	Date
HANCOCK WHITNEY BANK		
CITY OF TALLAHASSEE		
FALLSCHASE COMMERCIAL PROPERTY OWNERS ASSOCIATION		

PREPARED BY:
Thurman Roddenberry & Associates, Inc.
Professional Surveyors and Mappers
Florida Certificate No. LB 7160
P.O. Box 100 125 Sheldon Street
Sopchoppy, FL 32358–0100 (850) 962–2538

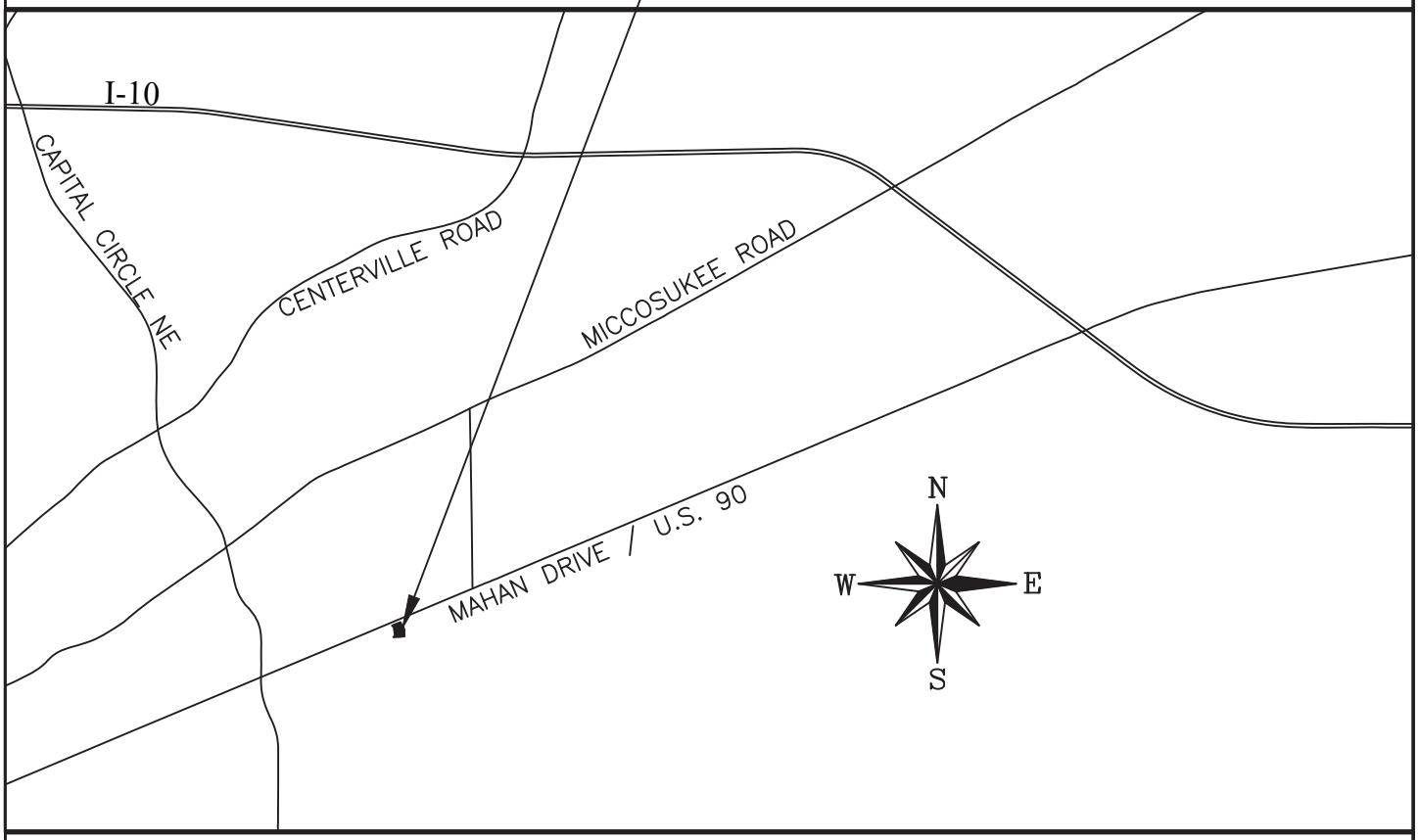
SHEET 1 OF 1

DATE: 10/26/21	SCALE 1" = 30'	DRAWN BY: MD	COUNTY: LEON
FILE: 20589RP.DWG	SEC 22 & 27-T-1N R-1E	JOB NUMBER: 20-589	



SITE MAP
SCALE 1" = 500'

BORNINO COMMERCIAL



LOCATION MAP
SCALE 1" = 5000'

Leon County
Board of County Commissioners
301 South Monroe Street, Tallahassee, Florida 32301
(850) 606-5300 www.leoncountyfl.gov

DEPARTMENT OF DEVELOPMENT SUPPORT & ENVIRONMENTAL MANAGEMENT
Development Services Division
Renaissance Center, 2nd Floor
435 North Macomb Street
Tallahassee. Florida 32301-1019

Commissioners

RICK MINOR
District 3
Chairman

BILL PROCTOR
District 1
Vice Chairman

JIMBO JACKSON
District 2

BRIAN WELCH
District 4

KRISTIN DOZIER
District 5

CAROLYN D. CUMMINGS
At-Large

NICK MADDOX
At-Large

VINCENT S. LONG
County Administrator

CHASITY H. O'STEEN
County Attorney

November 5, 2021

Southeastern Consulting Services, LLC
Eddie Bass P.E. (Agent)
253 Pinewood Drive
Tallahassee, FL 32303

RE: Fallschase Commercial Subdivision – **LSP21029**
Modified Type "B" Site and Development Plan, FDPA Track
Tax Parcel Identification Number: 11-27-28-000-001-0

Dear Mr. Bass:

This letter is to notify you that the Fallschase Commercial Subdivision, Modified Type "B" Site and Development Plan, has received final signature approval by the Development Review Committee (DRC) in accordance with the applicable provisions of the Leon County Land Development Code (LDC). On Wednesday, September 1, 2021, the Development Review Committee approved the referenced site and development plan subject to the conditions. This review was conducted at a public hearing and is intended to meet the procedural requirements of Section 10-7.405 of the LDC. A digital copy of the approved site and development plan with approval signatures has been uploaded to the Project Dox file, LSP21029.

This site and development plan approval shall remain in effect until full development build-out (and until transfer of ownership of all created lots, if applicable). However, this approval shall expire if substantial and observable development has not begun within three years of the date of approval or substantial and observable development ceases for a period of three years before the project is complete and a Certificate of Completion have been issued. Extensions may be considered prior to expiration of the development order, provided they are filed in accordance with Section 10-7.410 of the LDC. Requests for extension will be considered upon demonstration of good faith effort by the applicant and hardship that is not self-created.

If you have any questions, please do not hesitate to contact Ana Richmond of our office at (850) 606-1321 or send email to "richmonda@leoncountyfl.gov".

Sincerely,

Ana Richmond,
Principal Planner

cc: Project Dox – LSP21018 – Upload and Notification to all project attendees

Leon County
Board of County Commissioners

Notes for Agenda Item #8

Leon County Board of County Commissioners

Agenda Item #8

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: Third Performance Agreement and Surety Device for Unit I of Chastain Manor Phase II Subdivision

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Ken Morris, Assistant County Administrator Brent Pell, Director, Public Works Charles Wu, Director, Engineering Services
Lead Staff/ Project Team:	Joseph D. Coleman, County Surveyor Kimberly Wood, Chief of Engineering Coordination

Statement of Issue:

This item seeks Board acceptance of a Third Performance Agreement and Surety Device for Unit I of Chastain Manor Phase II Subdivision, in accordance with Leon County land development regulations.

Fiscal Impact:

This item has no fiscal impact.

Staff Recommendation:

Option #1: Accept the Third Performance Agreement and Surety Device for Unit I of Chastain Manor Phase II Subdivision and authorize the County Administrator to execute the agreement and any future extensions thereto (Attachment #1).

Report and Discussion

Background:

In accordance with Leon County land development regulations for the recording of plats in the Public Records prior to infrastructure being completed, this item seeks Board acceptance of a Third Performance Agreement and Surety Device for Unit I of Chastain Manor Phase II Subdivision. Unit I of Chastain Manor Phase II Subdivision is located in Section 8; Township 2 North; Range 1 East, on the north side of Bannerman Road approximately 0.15 miles east of the Bull Headley and Bannerman Roads intersection. The development consists of 23.6 acres containing 36 resident lots.

Chastain Manor Phase II Subdivision was approved by the Development Review Committee as a Type "B" site and development plan on January 7, 2020, with a minor modification to allow phasing of units for the subdivision on May 20, 2020. On May 21, 2020, the Board approved the plat of the Unit I of Chastain Manor Phase II Subdivision for recording in the public records prior to infrastructure being completed and accepted a Performance Agreement and Surety Device to guarantee completion of the infrastructure. On May 11, 2021, the Board approved the Second Performance Agreement and Surety Device for the Subdivision extending the time for completion of the improvements for an additional year. The Second Performance Agreement will terminate on May 11, 2022. The developer is requesting an additional one-year extension of the Performance Agreements with a reduction of the cost for the remaining required infrastructure.

Analysis:

The developer is requesting the County accept the one-year extension of the Performance Agreement and Surety Device in the reduced amount of $162,910. The requested extension will allow the developer to complete additional buildings prior to installing the final lift of asphalt and repairing any damaged sidewalks or curbing. Public Works' Division of Engineering has inspected the site and reviewed the construction estimates for completion of the remaining infrastructure and concurs with the estimated amount (Attachment #2). Upon approval of this item, the County Administrator will be authorized to execute the Performance Agreement, as well as any further extensions in compliance with Section 10-7.612, of the Leon County Code of Laws.

As allowed by Section 10-7.612 of the Land Development Code, the Director of Public Works will affect the release of the existing Agreement and Surety Device upon the acceptance of the Third Performance Agreement and Surety Device.

Options:

1. Accept the Third Performance Agreement and Surety Device for Unit I of Chastain Manor Phase II Subdivision and authorize the County Administrator to execute the agreement and any future extensions thereto (Attachment #1).
2. Do not accept the Third Performance Agreement and Surety Device for Unit I of Chastain Manor Phase II Subdivision and do not authorize the County Administrator to execute the agreement and any future extensions thereto.
3. Board direction.

Recommendation:

Option #1

Attachments:

1. Third Performance Agreement and Surety Device for Unit I of Chastain Manor Phase II Subdivision
2. County Engineer Memorandum of Recommendation

THIRD PERFORMANCE AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____ _____, 2022, between **GOLDEN OAK LAND GROUP, LLC.,** a Florida corporation, whose mailing address is **4708 Capital Circle NW, Tallahassee, Leon, FL 32303** hereinafter collectively called the "DEVELOPER," and **LEON COUNTY, FLORIDA,** a charter county and a political subdivision of the State of Florida, hereinafter called the "COUNTY.

WHEREAS, on May 21, 2020, the Developer presented to the Board of County Commissioners of Leon County, Florida, a certain map or plat of a subdivision named and designated **Unit I of Chastain Manor Phase II Subdivision** which map or plat, recorded at the Leon County Official Plat Book 23, Page 74, is hereby referred to and made a part hereof by reference, and,

WHEREAS, the Developer entered into an initial Performance Agreement with the County and said initial Performance Agreement was set to expire before the required work is completed, and,

WHEREAS, the Developer requested a one-year extension of the Performance Agreement to complete the construction of the infrastructure, which was approved by the Board of County Commissioners on May 11, 2021; and

WHEREAS, the Developer entered into a Second Performance Agreement with the County which is set to expire May 11, 2022; and

WHEREAS, the Developer has requested an additional one year extension of the Performance Agreement to construct and install the final overlay of asphalt, any work/repair to the initial base asphalt, temporary pavement markings and final thermoplastic pavement markings on the subdivision streets, any work/repair of concrete sidewalks, curbing, driveways, etc., installation of all ADA mats at each curb ramp, any work/repair to the stormwater conveyance system, any work/repairs to the stormwater management facilities, all monumentation, installation/replacement of landscaping, and all other improvements in said subdivision in accordance with plans and specifications approved by the County, and,

WHEREAS, as a condition of the extension of time to construct the above stated improvements, the County required that the Developer enter into a third agreement to construct and install the above stated improvements in accordance with plans and specifications approved by the County within a period of one (1) year from date hereof and to post surety in the amount of $162,910.00 conditioned for the faithful performance of said agreement.

NOW THEREFORE, THIS INDENTURE WITNESSETH: That the Developer hereby agrees to construct and install the final overlay of asphalt, any work/repair to the initial base asphalt, temporary pavement markings and final thermoplastic pavement markings on the subdivision streets, any work/repair of concrete sidewalks, curbing, driveways, etc., installation of all ADA mats at each curb ramps, any work/repair to the stormwater conveyance system, any work/repair to the stormwater management facilities, all monumentation, installation of landscaping, and all other improvements in **Unit I of Chastain Manor Phase II Subdivision** in accordance with plans and specifications approved by the County, within a period of one (1) year from date hereof.

PERFORMANCE OF THIS AGREEMENT by the Developer shall be secured by a Surety Bond in the amount of $162,910.00 with surety thereon approved by the County.

IN WITNESS WHEREOF, GOLDEN OAK LAND GROUP, LLC., and **LEON COUNTY** have caused these presents to be executed in their names on the date first above written, its corporate seal affixed by its appropriate officers and Leon County Commissioners and its seal affixed by the Clerk of said Board, the day and year first above written.

(Witnesses)

_____(signature)

Justin Hosey (typed or printed name)

_____(signature)

_____(typed or printed name)

DEVELOPER:
GOLDEN OAK LAND GROUP, LLC.

By: _____(seal)

As its: Manager

Date: _____

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me by means of ___ physical presence or ___ online notarization, this 13 day of April, 2022, by Jason Chastain, as MGR (Title of Officer or Agent), of Golden Oak Land Group, LLC, who ~~(1)~~ is personally known to me; ( ) produced N/A as identification.

NOTARY PUBLIC

Signature _____

FRANKLIN MICHAEL DIMITROFF
Commission # HH 164543
Expires October 22, 2025
Bonded Thru Troy Fain Insurance 800-385-7019

Typed or Printed Name Franklin Michael Dimitroff
Commission Number HH164543
My Commission expires 10/22/25

By:_____
Vincent S. Long, County Administrator

Date:_____

APPROVED AS TO LEGAL SUFFICIENCY:
Chasity H. O'Steen, County Attorney
Leon County Attorney's Office

By:_____

ATTEST:
Gwendolyn Marshall Knight, Clerk of the
Court & Comptroller, Leon County, Florida

By:_____

GREAT AMERICAN INSURANCE GROUP

To be attached to and form part of Bond No. 3036731
in favor of LEON COUNTY BOARD OF COUNTY COMMISSIONERS

It is agreed that:

Bond expiration is extended
FROM: May 6, 2022

TO: May 11, 2023

and

Amount of bond is reduced
FROM: $419,396.00

TO: $162,910.00

This rider is effective as of noon on the beginning of May 7, 2022 standard time as specified in the attached bond.

Signed, sealed and dated this 14th day of April , 2022 .

Accepted by:

GREAT AMERICAN INSURANCE COMPANY

By: Van A. Madsen
Van A. Madsen , Attorney-in-Fact

F9506C

GREAT AMERICAN INSURANCE COMPANY®

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by
this power of attorney is not more than SEVEN

No. 0 20577

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, does hereby nominate, constitute and appoint the person or persons named below, each individually if more than one is named, its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Name	Address	Limit of Power
VAN A. MADSEN RICHARD K. PRESSLEY	ALL OF	ALL
WILLIAM A. MESSER ROBERT K. BACON ROBERT J. NYLEN PHILLIP E. BACON JOHN R. NYLEN, JR.	TALLAHASSEE, FLORIDA	$100,000,000

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the GREAT AMERICAN INSURANCE COMPANY has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 25th day of JANUARY, 2018.

Attest

Assistant Secretary

GREAT AMERICAN INSURANCE COMPANY

Divisional Senior Vice President

DAVID C. KITCHIN (877-377-2405)

STATE OF OHIO, COUNTY OF HAMILTON - ss:

On this 25th day of JANUARY, 2018, before me personally appeared DAVID C. KITCHIN, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company, the Company described in and which executed the above instrument; that he knows the seal of the said Company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.

Susan A. Kohorst
Notary Public, State of Ohio
My Commission Expires 05-18-2020

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company by unanimous written consent dated June 9, 2008.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisonal Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of June 9, 2008 have not been revoked and are now in full force and effect.

Signed and sealed this 14th day of April, 2022.

Assistant Secretary

S1029AF (06/15)

Leon County Government

INTEROFFICE MEMO

DATE: April 15, 2022

TO: Brent Pell, P.E., Director of Public Works

FROM: Charles Wu, P.E., Director of Engineering Services

SUBJECT: Unit I Chastain Manor Phase II Subdivision Third Performance Agreement and Surety Device

---

I have reviewed the stage of completion of the infrastructure in the Unit I Chastain Manor Phase II Subdivision. It is my recommendation that the existing Performance Agreement and Surety Device be released and the infrastructure yet to be completed be guaranteed by the new Performance Agreement and new or amended Surety Device in the amount of $162,910.00.

Cc: Emily Pepin., Assistant County Attorney

Leon County
Board of County Commissioners

Notes for Agenda Item #9

Leon County Board of County Commissioners

Agenda Item #9

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator



Title: Second Performance Agreement and Surety Device for Summerfield Phase IV Subdivision

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Ken Morris, Assistant County Administrator Brent Pell, Director, Public Works Charles Wu, Director, Engineering Services
Lead Staff/ Project Team:	Joseph D. Coleman, County Surveyor Kimberly Wood, Chief of Engineering Coordination

Statement of Issue:

This item seeks Board acceptance of a Second Performance Agreement and Surety Device for Summerfield Phase IV Subdivision, in accordance with Leon County land development regulations.

Fiscal Impact:

This item has no fiscal impact.

Staff Recommendation:

Option #1: Accept the Second Performance Agreement and Surety Device for Summerfield Phase IV Subdivision, and authorize the County Administrator to execute the agreement and any future extensions thereto (Attachment #1).

Report and Discussion

Background:

In accordance with Leon County land development regulations for the recording of plats in the Public Records prior to infrastructure being completed, this item seeks Board acceptance of a Second Performance Agreement and Surety Device for Summerfield Phase IV Subdivision. Summerfield Phase IV Subdivision is located in Section 5; Township 1 North; Range 1 West, on the west side of North Monroe Street at the intersection of Clara Kee Boulevard. The development consists of 6.56 acres containing 23 resident lots.

Summerfield Phase IV Subdivision was originally approved by the Development Review Committee as a Type "A" site and development plan on June 20, 2019. On May 11, 2021, the Board approved the plat of Summerfield Phase IV Subdivision for recording in the public records prior to infrastructure being completed and accepted a Performance Agreement and Surety Device in the amount of $151,485 to guarantee completion of the infrastructure. The Performance Agreement will terminate on May 11, 2022. The developer is requesting a one-year extension of the Performance Agreement to complete the required infrastructure.

Analysis:

The developer is requesting the County accept the one-year extension of the Performance Agreement and Surety Device in the amount of $151,485. The requested extension will allow the developer to complete additional buildings prior to installing the final layer of asphalt and repairing any damaged sidewalks or curbing. Public Works' Division of Engineering has inspected the site and reviewed the construction estimates for completion of the remaining infrastructure and concurs with the estimated amount (Attachment #2). Upon approval of this item, the County Administrator will be authorized to execute the Performance Agreement, as well as any further extensions in compliance with Section 10-7.612, of the Leon County Code of Laws.

As allowed by Section 10-7.612 of the Land Development Code, the Director of Public Works will affect the release of the existing Agreement and Surety Device upon the acceptance of the Second Performance Agreement and Surety Device.

Options:

1. Accept the Second Performance Agreement and Surety Device for Summerfield Phase IV Subdivision, and authorize the County Administrator to execute the agreement and any future extensions thereto (Attachment #1).
2. Do not accept the Second Performance Agreement and Surety Device for Summerfield Phase IV Subdivision, and do not authorize the County Administrator to execute the agreement and any future extensions thereto.
3. Board direction.

Recommendation:

Option #1

Attachments:

1. Second Performance Agreement and Surety Device for Summerfield Phase IV Subdivision
2. County Engineer Memorandum of Recommendation

SECOND PERFORMANCE AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____ _____, 2022, between **SUMMERFIELD LAND, LLC.,** a Florida corporation, whose mailing address is **4910 N. Monroe Street, Tallahassee, Leon, FL 32303** hereinafter collectively called the "DEVELOPER," and **LEON COUNTY, FLORIDA,** a charter county and a political subdivision of the State of Florida, hereinafter called the "COUNTY.

WHEREAS, the Developer presented to the Board of County Commissioners of Leon County, Florida, a certain map or plat of a subdivision named and designated **Summerfield Single Family Phase IV Subdivision** which map or plat, recorded at the Leon County Official Plat Book 24, Page 36, is hereby referred to and made a part hereof by reference, and,

WHEREAS, the Developer entered into an initial Performance Agreement with the County and said initial Performance Agreement is set to expire before the required work is completed, and,

WHEREAS, the Developer has requested and extension to construct and install the final overlay of asphalt, any work/repair to the initial base asphalt, temporary pavement markings and final thermoplastic pavement markings on the subdivision streets, any work/repair of concrete sidewalks, curbing, driveways, etc., installation of all ADA mats at each curb ramp, any work/repair to the stormwater conveyance system, all monumentation, installation of landscaping, and all other improvements in said subdivision in accordance with plans and specifications approved by the County, and,

WHEREAS, as a condition of the extension of time to construct the above stated improvements, the County required that the Developer enter into a second agreement to construct and install the above stated improvements in accordance with plans and specifications approved by the County within a period of one (1) year from date hereof and to post surety in the amount of $151,485.00 conditioned for the faithful performance of said agreement.

NOW THEREFORE, THIS INDENTURE WITNESSETH: That the Developer hereby agrees to construct and install the final overlay of asphalt, any work/repair to the initial base asphalt, installation of raised intersections, temporary pavement markings and final thermoplastic pavement markings on the subdivision streets, any work/repair of concrete sidewalks, curbing, driveways, etc., installation of all ADA mats at each curb ramps, any work/repair to the stormwater conveyance system, all monumentation, installation of landscaping, and all other improvements in **Summerfield Single Family Phase IV Subdivision** in accordance with plans and specifications approved by the County, within a period of one (1) year from date hereof.

PERFORMANCE OF THIS AGREEMENT by the Developer shall be secured by an Irrevocable Letter of Credit in the amount of $151,485.00 with surety thereon approved by the County.

IN WITNESS WHEREOF, SUMMERFIELD LAND, LLC., and **LEON COUNTY** have caused these presents to be executed in their names on the date first above written, its corporate seal affixed by its appropriate officers and Leon County Commissioners and its seal affixed by the Clerk of said Board, the day and year first above written.

DEVELOPER:

SUMMERFIELD LAND, LLC.

(Witnesses)

_____(signature)

By: _____(seal)

Christian Griffith (typed or printed name)

As its: Manager

Alexandra Pearce (signature)

Date: 13 April 2022

Alexandra Pearce (typed or printed name)

STATE OF Florida
COUNTY OF Leon

The foregoing instrument was acknowledged before me by means of ✓ physical presence or ____ online notarization, this 13 day of April, 2022, by William G. Thames, as member-manager (Title of Officer or Agent), of Summerfield, LLC, who (✓) is personally known to me; ( ) produced a current driver's license as identification; or ( ) produced _____ as identification.

KRISTINA CARLSON
MY COMMISSION # HH 035458
EXPIRES: August 24, 2024
Bonded Thru Notary Public Underwriters

K. Carlson
Notary Public

[Notarial Seal]

Printed Name: Kristina Carlson
Commission No.: HH 035458
Expiration: 8/24/24

By:_____
Vincent S. Long, County Administrator
Date:_____

APPROVED AS TO LEGAL SUFFICIENCY:
Chasity H. O'Steen, County Attorney
Leon County Attorney's Office

By:_____

ATTEST:
Gwendolyn Marshall Knight, Clerk of the
Court & Comptroller, Leon County, Florida

By:_____

f:\woodk\subdivisions\summerfield phase iv - second perfagr.doc

Hancock Whitney Bank

Letter of Credit and Trade Services
701Poydras, Suite 1400
New Orleans, LA 70139
Tel: (504) 586-7301
Fax:
SWIFT: WHITUS44

Irrevocable Standby Letter of Credit No. SB77066F

Amendment no. 1
Dated April 18, 2022

Beneficiary:
BOARD OF COUNTY COMMISSIONERS
LEON COUNTY
LEON COUNTY COURTHOUSE
TALLAHASSEE, FL 32301 United States

Applicant:
ARBOR PROPERTIES INC. AND
SUMMERFIELD LAND LLC
4910 N MONROE STREET
TALLAHASSEE, FL 32303 United States

ORIGINAL

We amend our Standby Letter of Credit subject to the following terms and conditions. This amendment forms an integral part of the original instrument. All other terms and conditions remain unchanged.

Amended Terms:

Expiry date has been amended to May 11, 2023

Unless otherwise instructed herein, all correspondence and inquiries regarding this transaction should be directed to our Customer Service Center at the above address, telephone: 1-504-586-7301. Please indicate our reference number in all your correspondence or telephone inquiries.

Regards,

Authorized Signature(s)

Hancock Whitney Bank

Letter of Credit and Trade Services
701 Poydras, Suite 1400
New Orleans, LA 70139
Tel: (504) 586-7301
Fax:
SWIFT: WHITUS44

Irrevocable
Standby Letter of Credit No.: SB77066F

ISSUE DATE: APRIL 14, 2021

BENEFICIARY:
BOARD OF COUNTY COMMISSIONERS
LEON COUNTY
LEON COUNTY COURTHOUSE
TALLAHASSEE, FL 32301

APPLICANT:
ARBOR PROPERTIES, INC. AND
SUMMERFIELD LAND, LLC
4910 NORTH MONROE
TALLAHASSEE, FL 32303

CURRENCY/AMOUNT: USD $151,485.00

EXPIRY DATE: MAY 11, 2022
EXPIRY PLACE: NEW ORLEANS, LA

RE: PERFORMANCE AGREEMENT DATED MAY 11, 2021

DEAR SIRS:

WE HEREBY ESTABLISH OUR IRREVOCABLE LETTER OF CREDIT IN YOU FAVOR FOR THE ACCOUNT OF ARBOR PROPERTIES, INC. AND SUMMERFIELD LAND, LLC, AND AUTHORIZE YOU TO DRAW ON US UP TO AN AGGREGATE AMOUNT OF ONE HUNDRED FIFTY ONE THOUSAND, FOUR HUNDRED AND EIGHTY FIVE U.S. DOLLARS AND NO/CENTS (USD $151,485.00) AVAILABLE BY YOUR DRAFTS AT SIGHT ACCOMPANIED BY YOUR WRITTEN CERTIFICATION OF STATEMENT OF NON-PERFORMANCE OF THE PERFORMANCE AGREEMENT BETWEEN ARBOR PROPERTIES, INC. AND SUMMERFIELD LAND, LLC, AND BOARD OF COMMISSIONERS, LEON COUNTY REGARDING CONSTRUCTING AND INSTALLING THE FINAL OVERLAY OF ASPHALT, ANY WORK/REPAIR TO THE INITIAL BASE ASPHALT, TEMPORARY PAVEMENT MARKINGS AND FINAL THERMOPLASTIC PAVEMENT MARKINGS ON THE SUBDIVISION STREETS, ANY WORK/REPAIR OF CONCRETE SIDEWALKS, CURBING, DRIVEWAYS, ETC., INSTALLATION OF ALL ADA MATS AT EACH CURB RAMP, ANY WORK/REPAIR TO THE STORM WATER CONVEYANCE SYSTEM, ALL MONUMENTATION, INSTALLATION OF LANDSCAPING, AND ALL OTHER IMPROVEMENTS IN SAID SUBDIVISION IN ACCORDANCE WITH PLANS AND SPECIFICATIONS APPROVED BY THE COUNTY FOR PHASE IV OF THE SUMMERFIELD SUBDIVISION. DOCUMENTS PRESENTED TO HANCOCK WHITNEY BANK IN CONJUNCTION WITH THIS LETTER

ORIGINAL

Super Safety® ANTI-FRAUD PROTECTION

THE BACK OF THIS DOCUMENT LISTS VARIOUS SECURITY FEATURES THAT WILL PROTECT AGAINST COPY COUNTERFEIT AND ALTERATION

Hancock Whitney Bank

OF CREDIT WILL BE CONSIDERED AS BINDING AND CORRECT WITHOUT INVESTIGATION OR RESPONSIBILITY FOR THE ACCURACY, VERACITY, CONCLUSORY CORRECTNESS OR VALIDITY FOR THE SAME OF ANY PART THEREOF.

THE LETTER OF CREDIT SHALL REMAIN IN EFFECT UNTIL MAY 11, 2022.

DRAFTS MUST STATE ON ITS FACE 'DRAWN UNDER LETTER OF CREDIT NO. SB77066F DATED APRIL 14, 2021.

WE HEREBY AGREE THAT DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT WILL BE DULY HONORED BY US AS SPECIFIED UPON PRESENTATION AT THE OFFICE OF HANCOCK WHITNEY BANK, 701 POYDRAS, SUITE 1400, NEW ORLEANS, LA 70139, ATTN: LETTER OF CREDIT DEPARTMENT.

EXCEPT SO FAR AS OTHERWISE EXPRESSLY STATED, THIS CREDIT IS SUBJECT TO THE UNIFORM COMMERCIAL CODE IN FORCE IN FLORIDA ON THE DATE OF THIS LETTER OF CREDIT.

Nelda J. Smith

AUTHORIZED SIGNATURE
HANCOCK WHITNEY BANK

ORIGINAL

Super Safety® ANTI-FRAUD PROTECTION
FORM NO. 88015

SB77066F

Page 2 of 2

THE BACK OF THIS DOCUMENT LISTS VARIOUS SECURITY FEATURES THAT WILL PROTECT AGAINST COPY COUNTERFEIT AND ALTERATION.

Leon County Government

INTEROFFICE MEMO

DATE: April 15, 2022

TO: Brent Pell, P.E., Director of Public Works

FROM: Charles Wu, P.E., Director of Engineering Services

SUBJECT: Summerfield Single Family Phase IV Subdivision Second Performance Agreement and Surety Device

---

I have reviewed the stage of completion of the infrastructure in the Summerfield Single Family Phase IV Subdivision. It is my recommendation that the existing Performance Agreement and Surety Device be released and the infrastructure yet to be completed be guaranteed by the new Performance Agreements and new or amended Surety Devices in the amount of $151,485.00.

Cc: Emily Pepin., Assistant County Attorney

Leon County
Board of County Commissioners

Notes for Agenda Item #10

Leon County Board of County Commissioners

Agenda Item #10

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: Acceptance and Disposition of Roller Rink Equipment Donation from Tallahassee Indoor Sports Inc.

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Maggie Theriot, Director, Office of Resource Stewardship Scott Ross, Director, Office of Financial Stewardship Shelly Kelley, Director, Purchasing
Lead Staff/ Project Team:	Amanda Heidecker, Director, Parks and Recreation

Statement of Issue:

This item seeks Board consideration for the County to accept a donation of roller rink equipment from Tallahassee Indoor Sports, Inc. (TIS). Presently TIS operates the only rink for multi-sport programming in the area and has previously hosted multiple sporting events. While the County has not identified a permanent home for the equipment at an existing County facility, this item proposes the County work with community nonprofits to identify a long-term use and home for the equipment, ensuring the equipment continues to serve a community purpose.

Fiscal Impact:

This item has no fiscal impact. The acceptance of the Roller Rink Equipment will be at no cost to the County.

Staff Recommendation:

Option #1: Accept the donation of Roller Rink Equipment from Tallahassee Indoor Sports, Inc.

Option #2: In the event staff determines the use of the Equipment is uneconomical or inefficient, or the Equipment serves no useful function to the County, direct staff to work with community sports providers to identify a permanent site for the Equipment, and authorize the County Administrator to donate the Equipment to a viable nonprofit community group in compliance with applicable law and Board Policy No. 02-5.

Report and Discussion

Background:

This item seeks Board approval for Leon County to accept a donation of Roller Rink Equipment (Equipment) from Tallahassee Indoor Sports, Inc. (TIS). Although no viable County space exists where the Equipment could be erected at this time, acceptance of the donation will allow for storage of the Equipment while staff continues to examine options for use of the Equipment within the County's inventory. If it is determined that use of the Equipment is uneconomical or inefficient, or the Equipment serves no useful function to the County, staff seeks approval to transfer the Equipment to a viable community group. Formed in 2016, TIS has grown to utilize a multi-purpose facility with functionality for youth roller hockey, roller derby, indoor soccer, lacrosse, football, bike polo, and more. As the only rink of its kind in the area, TIS hosts tournaments and events with participants from across Florida and the Southeast in a 15,000 sq. ft facility.

The owner of TIS, Russ Buchanan, is moving to another community and will no longer operate TIS. Mr. Buchanan approached the County with interest in donating TIS's rink Equipment. The donation includes several components: sport court flooring, spectator plexiglass barrier walls, soccer goals, penalty boxes, benches, and scoreboards. The owner estimates the total value is approximately $202,000.

Analysis:

In January of 2022, Mr. Buchanan informed entities utilizing the Equipment that he would be selling the building where the Equipment is currently located (TIS facility), and the Equipment would need to be relocated. As stated by the owner, a primary intent is to achieve a tax write off for the donation of the Equipment. In addition to the County, the owner has contacted other community groups that could qualify the donation as a tax deduction, including the City of Tallahassee. None of those entities has expressed interest in the Equipment. A community group known as TLH Rink Sports Inc. has expressed interest in applying for nonprofit status and locating a new home for the Equipment; however, the group has not yet achieved its goal. Therefore, if the County does not accept the Equipment donation, the owner will dispose of the Equipment upon his departure.

No other facility provides multi-sport programming in the area, so a community need exists for the Equipment. Use of the TIS facility has grown to include numerous sports in the past six years. Tourism also hosts multiple sporting events that require sport court flooring. If acquired, this asset may be used by local event organizers and larger events. The Equipment must be indoors or undercover. Staff examined the County's portfolio of buildings and parks; however, no viable space exists to erect the Equipment at this time. While the County has not identified a permanent home at an existing County facility, staff recommends that the County accept the donation and continue to examine options for use of the Equipment in the County's inventory. If it is determined that use of the Equipment is uneconomical or inefficient, or the Equipment serves no useful

function to the County, staff seeks approval to work with community nonprofits to identify a long-term use and home for the Equipment.

Fortunately, if the Equipment ultimately is not serviceable to the County, under State statute and Board Policy No. 02-5 the County has authority to donate the Equipment to a nonprofit should a community nonprofit be positioned to receive the Equipment. Pursuant to section 274.05, Florida Statutes, and Section V of Board Policy No. 05-5 addressing property disposal, the County may classify any of its tangible property as surplus that it finds to be obsolete or the continued use is found to be uneconomical or inefficient, or which serves no useful function. In these instances, the surplus property may be sold or donated to any other governmental unit or nonprofit organization, as defined in section 273.01(3), Florida Statutes, which the County has done in the past.

As the owner plans to remove the Equipment from the TIS facility by the end of May, it is proposed the County accept the donation and temporarily store the Equipment on covered pallets outside at Apalachee Regional Park. The County recommends accepting the donation as a mechanism to preserve the Equipment. The County will continue to examine options for use of the Equipment within the County's parks portfolio, but if the Equipment is not serviceable to the County, staff seeks approval to identify a viable long-term owner consistent with Florida law and Board Policy. As TLH Rink Sports may pursue nonprofit status, and other sports groups have nonprofit status, the Equipment could be donated to such a group to benefit the community if no County use for the Equipment exists. Upon Board direction, staff is committed to working with the local community to identify a permanent home for the Equipment as appropriate.

Options:

1. Accept the donation of Roller Rink Equipment from Tallahassee Indoor Sports, Inc.
2. In the event staff determines the use of the Equipment is uneconomical or inefficient, or the Equipment serves no useful function to the County, direct staff to work with community sports providers to identify a permanent site for the Equipment, and authorize the County Administrator to donate the Equipment to a viable nonprofit community group in compliance with applicable law and Board Policy No. 02-5.
3. Board direction.

Recommendation:

Options #1 and #2

Leon County
Board of County Commissioners

Notes for Agenda Item #11

Leon County Board of County Commissioners

Agenda Item #11

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: Approval of Selection of Public Financial Management, Inc. to Provide Financial Advisory Services to Leon County

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	Scott Ross, Director, Financial Stewardship Roshaunda Bradley, Budget Manager Shelly Kelley, Director, Division of Purchasing

Statement of Issue:

This item seeks Board approval for the selection of Public Financial Management, Inc. to provide Financial Advisory Services to the County.

Fiscal Impact:

This item has a fiscal impact to Leon County. However, expenses associated with the contract only occur when the firms' services are engaged for specific matters. There are no ongoing expenses.

Staff Recommendation:

Option #1: Approve the selection of Public Financial Management, Inc. to provide financial advisory services to Leon County, and authorize the County Administrator to execute the Agreement subject to legal review by the County Attorney (Attachment #1).

Report and Discussion

Background:

This item seeks Board approval for the selection of Public Financial Management, Inc. to provide Financial Advisory Services to the County. The County periodically issues debt to finance capital improvement projects. In doing so, the County utilizes the services of a Financial Advisor to serve as consultant and advisor in the implementation of financings related to the County's Capital Improvement Program.

Some of the services that the Financial Advisor will provide to the County as requested in the Request for Proposal (RFP) are as follows:

- Assist the County's Financial Advisory Committee in developing an appropriate financing structure for proposed projects to be debt financed
- Provide advice on the structuring, timing, and marketing of bond issues
- Assist in dealings and coordinate with, bond counsel, disclosure counsel, rating agencies, consulting engineers, printers, and other professional service providers
- Review and provide input into development of the official statements
- Arrange for the widest possible distribution of the official statement to bond underwriters and potential investors
- Consult, as needed, with County staff regarding various financing options or related concerns
- Assist the County in obtaining and maintaining the highest possible credit ratings

Analysis:

On March 15, 2022, the County Purchasing Division issued an RFP seeking firms to provide financial advisory service to Leon County. The deadline for submitting proposals was April 14, 2022. Two proposals were received from the following firms, Public Resources Advisory Group (PRAG) and Public Financial Management, Inc. (PFM) (Attachment #2).

An RFP Selection Committee (Committee) appointed by the County Administrator, reviewed the proposals. The Committee consisted of the following members:

- Edward Burke, Finance Director, Clerk of the Court;
- Chasity O'Steen, County Attorney
- Scott Ross, Director, Office of Financial Stewardship

The Committee members individually scored the proposals based upon the evaluation criteria in the RFP and met on April 18, 2022 to review the scores and rank the firms The Committee unanimously ranked PFM first and PRAG second (Attachment #3). The Committee recommends PFM as the top firm to provide financial advisory services to Leon County.

Options:

1. Approve the selection of Public Financial Management, Inc. to provide financial advisory services to Leon County, and authorize the County Administrator to execute the Agreement subject to legal review by the County Attorney (Attachment #1).
2. Do not approve the selection of Public Financial Management, Inc. to provide financial advisory services to Leon County, and do not authorize the County Administrator to execute the Agreement.
3. Board direction.

Recommendation:

Option #1

Attachments:

1. Draft Agreement for Financial Advisory Services
2. RFP Tabulation Sheet
3. Summary Scoring Sheet

Attachment #1, the Draft Agreement for Financial Advisory Services, has not been attached to this item due to the voluminous nature of the file. However, it may be accessed through the following link:

https://www2.leoncountyfl.gov/coadmin/agenda/book/220510/Item11_Attachment01.pdf

LEON COUNTY PURCHASING DIVISION
TABULATION SHEET
BC-2022-018

RFQ Title: Request for Proposals for Financial Advisory Services
Opening Date: Thursday, April 14, 2022 at 2:00 PM

Item/Vendor	PFM Financial Advisors, LLC	Public Resources Advisory Group		
Proposal Response Cover Sheet	✓	✓		
Respondent/Team Summary Form	✓	✓		
Immigration	✓	✓		
Equal Opportunity/Affirmative Action Statement	✓	✓		
Identical Tie Bid Form	✓	✓		
Contractor's Business Information	✓	✓		
Non-Collusion	✓	✓		
Insurance Certification	✓	✓		
Certification of Debarment	✓	✓		
Local Vendor Certification	NA	NA		
E-Verify	✓	✓		

Tabulated By:

M Bthooley

Jan Kirkland

Vendor	Edward Burke	EB Rank	Chasity O'Steen	CO Rank	Scott Ross	SR Rank	Total Score	Average Rank
PFM Financial Advisors LLC	95	1	88	1	95	1	92.67	1
Public Resources Advisory Group	89.6	2	85.6	2	78.6	2	84.6	2

Leon County
Board of County Commissioners

Notes for Agenda Item #12

Leon County Board of County Commissioners

Agenda Item #12

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: Extension of the Debris Removal and Disposal Contracts

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Ken Morris, Assistant County Administrator Scott Ross, Director, Office of Financial Stewardship Brent Pell, Director, Public Works
Lead Staff/ Project Team:	Shelly Kelley, Director, Purchasing Tim Barden, Administrative Services Manager

Statement of Issue:

This item seeks Board approval to extend the existing debris removal and disposal services contracts for up to six additional months through November 30, 2022. This extension will ensure that the City and the County will have pre-event contracts for debris removal and disposal services available in the event of a storm/disaster while the re-procurement of these services is conducted.

Fiscal Impact:

This item has a fiscal impact. Costs are incurred only if a storm event occurs, and the contractors receive a Notice to Proceed. It is anticipated that if the event is a federally declared disaster, at a minimum, FEMA would reimburse the County 75% of debris removal costs.

Staff Recommendation:

Option #1: Approve the extension to the Debris Removal & Disposal Contracts with Ashbritt, Inc., Ceres Environmental Services, Inc. and DRC Emergency Services, LLC (Attachment #1) and authorize the County Administrator to execute the Agreements, subject to legal review by the County Attorney.

Report and Discussion

Background:

This item seeks Board approval to extend the debris removal & disposal contracts with Ashbritt Inc., Ceres Environmental, and DRC Emergency Services to allow the County time to re-procure these services. The current debris removal contracts are set to expire on May 31, 2022.

In each contracting cycle since 2006, the County and City of Tallahassee (City) have jointly procured debris removal vendors. This process currently entails the County issuing a Request for Proposal (RFP) for debris removal services with a joint County/City committee reviewing all submittals for recommendations to their respective Commissions. This results in the County and City executing separate agreements for the services yet utilizing the same vendors to reduce confusion and boundary issues during post-storm recovery. This approach has proven to be successful for the past three contract terms, and staff proceeded to procure new contracts in a similar manner.

The current five-year contracts for debris removal are set to expire on May 31, 2022. Beginning in December 2021, staff from the County and City began reviewed the current contracts in preparation of releasing a RFP for debris removal and disposal services to have new contracts in place prior to the start of the 2022 hurricane season. On February 7, 2022 the County's Purchasing Division issued the RFP on behalf of the County and the City. Proposals were due on March 11, 2022, and nine firms responded to the RFP. Responding firms included AshBritt Environmental, Ceres Environmental, CrowderGulf, Custom Tree Care, Inc., D&J Enterprises Inc., DRC Emergency Services, Philips Jordan, Inc., Southern Disaster Recovery, TFR Enterprises Inc. Custom Tree Care, Inc., was excluded from the evaluation process for failure to respond to all the items requested in the RFP.

Analysis:

The joint County/City evaluation committee met on March 14, 2022 to receive the proposals, establish the process for review, and schedule the subsequent committee meeting. The committee met again on March 22, 2022 and subsequently on March 28, 2022 to discuss the overall evaluation of the proposals based on the criteria identified in the RFP, and to determine the recommended awards.

After the evaluation of the proposals, it was brought to the attention of the County that there were inconsistencies in the pricing portion of the proposals. Out of an abundance of caution, the Purchasing Director and Program Manager, with concurrence from the County Administrator determined it to be in the best interest of the County to reject all submissions and rebid the debris removal services with revised and clarified pricing instructions and specifications.

Pursuant to the Purchasing Policy No. 96-1, Section 5.08, subsection J., Cancellation of Invitations for Bids, any or all bids may be rejected in whole or in part when it is in the best interests of the County, as determined by the Purchasing Director or designee, in consultation with the County Administrator or designee. Notice of cancellation shall be provided to all plan-holders and posted on the County website.

The Notice to Reject All Bids and Rebid was posted on the OpenGov Procurement (formerly ProcureNow) Online Bidding System from April 11, 2022 through April 14, 2022.

To have sufficient time to revise the debris removal RFP and conduct a new solicitation process, this item recommends extending the current contracts for an additional six months after the May 31, 2022 end date. This will ensure that the County will have pre-event contracts for debris removal and disposal services available in the event of a storm/disaster while the re-procurement of these services is conducted.

Options:

1. Approve the extension to the Debris Removal & Disposal Contracts with Ashbritt, Inc., Ceres Environmental Services, Inc. and DRC Emergency Services, LLC (Attachment #1), and authorize the County Administrator to execute the Agreements, subject to legal review by the County Attorney.
2. Do not approve the extension to the Debris Removal & Disposal Contracts with Ashbritt, Inc., Ceres Environmental Services, Inc. and DRC Emergency Services, LLC.
3. Board direction.

Recommendation:

Option #1

Attachment:

1. Draft Debris Removal Contract Amendments

¢IlW5 AMENDMENT TO LEON COUNTY AGREEMENT #B-17-143

This Amendment is entered into by and between LEON COUNTY, FLORIDA, a political subdivision of the State of Florida ("County") and ASHBRITT, INC. ("Contractor").

WITNESSETH

WHEREAS, the County and the Contractor entered into an Agreement dated May 30, 2017 (the "Agreement") and amended on May 24, 2018 and October 10, 2018; and

WHEREAS, the County and Contractor desire to amend the Agreement for the second time and extend the Agreement for six additional months to and including November 30, 2022;

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, restrictions, and representations set forth herein, the sufficiency of which is hereby acknowledged, the County and Contractor do hereby agree as follows:

I. Section 3, Time, is hereby amended to extend the Agreement for six additional months to and including November 30, 2022.

II. All other terms and conditions of the aforesaid Agreement dated May 30, 2017 and the May 24, 2018 and October 10, 2018 amendments, not inconsistent with the provisions hereof, shall remain in full force and effect.

III. This Amendment shall become effective on May 31, 2022.

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representative, have executed this Third Amendment as of the effective date written above.

LEON COUNTY, FLORIDA

BY:_____
Vincent S. Long
County Administrator

DATE:_____

APPROVED AS TO LEGAL SUFFICIENCY:
Chasity H. O'Steen, County Attorney
Leon County Attorney's Office

BY:_____

ATTEST:
Gwendolyn Marshall Knight, Clerk of the Court & Comptroller, Leon County, Florida

BY:_____

ASHBRITT, INC.

BY:_____
President or Authorized Designee

DATE_____

SECOND AMENDMENT TO LEON COUNTY AGREEMENT #B-17-141

This Amendment is entered into by and between LEON COUNTY, FLORIDA, a political subdivision of the State of Florida ("County") and DRC EMERGENCY SERVICES, LLC ("Contractor").

WITNESSETH

WHEREAS, the County and the Contractor entered into an Agreement dated May 30, 2017 (the "Agreement") and amended on May 24, 2018; and

WHEREAS, the County and Contractor desire to amend the Agreement for the second time and extend the Agreement for six additional months to and including November 30, 2022;

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, restrictions, and representations set forth herein, the sufficiency of which is hereby acknowledged, the County and Contractor do hereby agree as follows:

I. Section 3, Time, is hereby amended to extend the Agreement for six additional months to and including Novmeber 30, 2022.

II. All other terms and conditions of the aforesaid Agreement dated May 30, 2017 and the May 24, 2018 amendment, not inconsistent with the provisions hereof, shall remain in full force and effect.

III. This Amendment shall become effective on May 31, 2022.

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representative, have executed this Second Amendment as of the effective date written above.

LEON COUNTY, FLORIDA

BY:_____
Vincent S. Long
County Administrator

DATE:_____

APPROVED AS TO LEGAL SUFFICIENCY:
Chasity H. O'Steen, County Attorney
Leon County Attorney's Office

BY:_____

ATTEST:
Gwendolyn Marshall Knight, Clerk of the Court &
Comptroller, Leon County, Florida

BY:_____

DRC EMERGENCY SERVICES, LLC

BY:_____
President or Authorized Designee

DATE_____

THIRD AMENDMENT TO LEON COUNTY AGREEMENT #B-17-142

This Amendment is entered into by and between LEON COUNTY, FLORIDA, a political subdivision of the State of Florida ("County") and CERES ENVIRONMENTAL SERVICES, INC. ("Contractor").

WITNESSETH

WHEREAS, the County and the Contractor entered into an Agreement dated May 30, 2017 (the "Agreement") and amended on May 24, 2018 and October 10, 2018; and

WHEREAS, the County and Contractor desire to amend the Agreement for the third time and extend the Agreement for six additional months to and including November 30, 2022;

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, restrictions, and representations set forth herein, the sufficiency of which is hereby acknowledged, the County and Contractor do hereby agree as follows:

I. Section 3, Time, is hereby amended to extend the Agreement for six additional months to and including November 30, 2022.

II. All other terms and conditions of the aforesaid Agreement dated May 30, 2017, the May 24, 2018 amendment and the October 10, 2018 amendment, not inconsistent with the provisions hereof, shall remain in full force and effect.

III. This Amendment shall become effective on May 31, 2022.

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representative, have executed this Third Amendment as of the effective date written above.

LEON COUNTY, FLORIDA

BY:_____
Vincent S. Long
County Administrator

DATE:_____

APPROVED AS TO LEGAL SUFFICIENCY:
Chasity H. O'Steen, County Attorney
Leon County Attorney's Office

BY:_____

ATTEST:
Gwendolyn Marshall Knight, Clerk of the Court & Comptroller, Leon County, Florida

BY:_____

CERES ENVIRONMENTAL SERVICES, INC.

BY:_____
President or Authorized Designee

DATE_____

Leon County
Board of County Commissioners

Notes for Agenda Item #13

Leon County Board of County Commissioners

Agenda Item #13

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: Approval of Award for the Leon County Solid Waste Yard Debris Processing Contract

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Maggie Theriot, Director, Resource Stewardship Scott Ross, Director, Financial Stewardship
Lead Staff/ Project Team:	Shelly Kelley, Director, Purchasing Cassie Griffith, Manager, Solid Waste Division DJ Newsome, Landfill Supervisor, Solid Waste Division

Statement of Issue:

This item seeks Board approval to award the Leon County Solid Waste yard debris processing contract to Jimmie Crowder Excavating and Land Clearing, Inc. The pricing is broken down into tonnage rates for grinding, screening, and removal/hauling. Billing will be based off actual tons processed. This service is for routine yard waste collected, as storm debris is under a separate contract and vendor.

Fiscal Impact:

This item has a fiscal impact. This item has been budgeted and adequate funding is available in the respective operating budget.

Staff Recommendation:

Option #1: Approve the award for the Leon County solid waste yard debris processing contract to Jimmie Crowder Excavating and Land Clearing, Inc. (Attachment #1), and authorize the County Administrator to execute the Agreement, subject to legal review by the County Attorney.

Report and Discussion

Background:

This item seeks Board approval to award the Leon County solid waste yard debris processing contract to Jimmie Crowder Excavating and Land Clearing, Inc. Approximately 9,500 tons of yard debris are received annually at the County's Solid Waste Facility. The previous contract was awarded to Larry Smith, LLC. in 2011, and shortly thereafter was renamed North Florida Wood Recycling, LLC. The contract with North Florida Wood Recycling and has been renewed until it's expiration on March 31st, 2022. Board approval is recommended to provide continuity of services.

Yard debris is processed separately from standard garbage because the ability to recycle the natural materials. Furthermore the hauling and disposal of unprocessed yard debris is an inefficient practice due to the inability to tightly compact the woody materials in transit and burial. A contractor is responsible for the grinding, screening, and removal of the material as the equipment necessary to grind is costly and does not justify inhouse handling.

Invitation to Bid Number BC-2022-010 was advertised through OPENGOV Procurement and 1,635 vendors were notified on January 24, 2022. A total of 16 vendors requested bid packages, resulting in one bid received. The bid was opened on February 23, 2022. The only responsive bid received was from Jimmie Crowder Excavating and Land Clearing, Inc. All debris collected in the event of a declared storm or natural disaster are handled under separate contract for debris management and are not impacted by this yard debris processing contract.

Analysis:

Known as "yard debris", material of leaves, sticks, trunks, and grass clippings are received and processed at the County's Solid Waste Facility. Approximately 9,500 tons of yard debris are received annually from citizens, landscape businesses, Waste Pro, and City of Tallahassee. The County charges a tip fee, in part, to cover the cost of operations and processing. County staff use heavy equipment to create large piles of the material to then be processed by a vendor. The contractor is then responsible for the grinding, screening, and removal of the material. Equipment necessary to grind is costly and does not justify inhouse handling. Every four to six weeks the contractor transports a large mobile tub-grinder and an excavator to load material into the grinder. The ground product is then screened into small and medium pieces. The small material, known as "fines" are provided free of charge to residents at the Solid Waste Facility.

The larger coarse mulch is required to be processed in an environmentally beneficial way, such as serving as a soil amendment, being turned into mulch, potting mix, or boiler fuel. A requirement for the contract is to provide evidence of responsible disposal practices in the form of a fiber agreement that outlines the destination of the processed materials to be recycled; ensuring that the materials are being used in a sustainable manner, and not buried in a landfill. Once ground, the material has been historically hauled away by the vendor and repurposed as biofuel, which is used to generate steam and renewable electricity at the Albany Green Energy (AGE) plant in Albany, GA. As a component of the bid, Crowder proposes to ship the County's material to serve as boiler fuel at a plant which makes wood pellets as a low carbon alternative to coal. Depending on the

volume of yard debris received, the material is processed monthly on average to prevent decomposition, as the fresher the material the higher the heat producing biofuel potential of the woody fiber.

The pricing is broken down into tonnage rates for grinding, screening, and removal/hauling. Leon County does not guarantee a minimum tonnage for the contractor, so billing will be based off actual tons processed. The only responsive bid received was from Jimmie Crowder Excavating and Land Clearing, Inc. The bid is a net increase of $2.50 per ton processed over the prior agreement with North Florida Wood Recycling where rates remained unchanged since 2011.

Task	**Prior Rate**	**Proposed Rate**	**Rate increase**
Grinding	$12.00	$14.00	$2.00
Screening	$3.00	$3.00	$0
Removal/Hauling	$7.50	$8.00	$0.50
Total	**$22.50**	**$25.00**	**$2.50**

The Minority, Women, & Small Business Enterprise (MWSBE) Division recommended that there be no MWBE aspirational goals in this solicitation due to the limited possibilities for subcontracting. Subcontracting opportunities are limited for grinding and screening of yard debris. Subcontracting is not feasible because the debris services identified go beyond the hauling of yard debris. Staff has reviewed the current MWBE directories and currently there are no vendors certified to provide the grinding and screening services.

Upon Board approval, the Agreement will be executed to establish a start date of June 1, 2022, to ensure continuity of services. This is a one-year contract with the potential for four additional one-year periods at the County's discretion.

Options:

1. Approve the award for the Leon County solid waste yard debris processing contract to Jimmie Crowder Excavating and Land Clearing, Inc. (Attachment #1), and authorize the County Administrator to execute the Agreement, subject to legal review by the County Attorney.
2. Do not approve the award for the Leon County solid waste yard debris processing contract to Jimmie Crowder Excavating and Land Clearing, Inc.
3. Board direction.

Recommendation:

Option #1

Attachment:

1. Draft Leon County solid waste yard debris processing Agreement

Attachment #1, the draft Leon County solid waste yard debris processing Agreement, has not been attached to this item due to the voluminous nature of the file. However, it may be accessed through the following link:

https://www2.leoncountyfl.gov/coadmin/agenda/book/220510/Item13_Attachment01.pdf

Leon County
Board of County Commissioners

Notes for Agenda Item #14

Leon County Board of County Commissioners

Agenda Item #14

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: Bid Award for the Renovation of the Daniel B. Chaires Community Park Tennis Courts

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Maggie Theriot, Director, Office of Resource Stewardship Scott Ross, Director, Financial Stewardship Shelly Kelley, Director, Purchasing
Lead Staff/ Project Team:	Amanda Heidecker, Director, Parks and Recreation Tere Wojdan, Superintendent, Park and Recreation Melanie Hooley, Procurement Administrator

Statement of Issue:

This item seeks Board approval to award the bid for the renovations of the Daniel B. Chaires Community Park tennis courts to Arris General Contractors Inc., in the amount of $489,275. The renovation includes resurfacing/relining the existing tennis courts, the addition of two pickleball courts lined within two of the tennis courts, and updating the court lights to LED at proper height for tennis.

Fiscal Impact:

This item has a fiscal impact. This project has been budgeted and adequate funding is available in the Park Capital Maintenance Capital Improvement Project.

Staff Recommendation:

Option # 1: Approve the bid award to Arris General Contractors Inc. in the amount of $489,275 for the renovation of the Daniel B. Chaires Community Park Tennis Courts (Attachment #1), and authorize the County Administrator to execute the Agreement subject to legal review by the County Attorney.

Report and Discussion

Background:

This item seeks Board approval to award the bid for the renovations of the Daniel B. Chaires Community Park (Chaires) tennis courts to Arris General Contractors Inc. in the amount of $489,275. Construction of the Daniel B. Chaires Park began in 2001 and has developed over the years to provide a community center, four tennis courts, two basketball courts, four baseball fields, a multi-use natural area, a playground, and a restroom/concession. The park fronts Chaires Cross Road at 4768 Chaires Cross Road, next to Chaires Elementary School. The renovations include resurfacing/relining the existing tennis courts, the addition of two pickleball courts lined within two of the tennis courts, and updating the court lights to LED at proper height for tennis.

In addition to the four tennis courts at Chaires, the County currently operates two other multi-use tennis/pickleball courts at Canopy Oaks Community Park that were resurfaced and relined for tennis and pickleball in FY 2019. In response to the demand for pickleball courts in the community, Canopy Oaks Community Park (Canopy Oaks) was the County's first location to have them. Pickleball is currently the fastest growing sport in America. It has become a favorite among the older generation allowing the tennis courts to be utilized during the workday when otherwise they might be sitting empty. Pickleball is a cross of tennis, ping pong, and badminton using the same net as tennis, but half of a standard tennis court size allowing for different lines to be painted within the tennis court lines for pickleball play. Making the addition of pickleball lines to a tennis court is a great way to use conventional tennis courts to appeal to both user groups. The approach to relining Canopy Oaks tennis courts to include pickleball lines has been well received and has increased the daily use of the courts, as they now serve two separate user groups. With the success of the pickleball courts incorporated into the tennis courts at Canopy Oaks, the same design is planned for Chaires. Chaires has two additional tennis courts that are currently not planned to receive pickleball lines, but can be added over time if the demand increases.

Analysis:

The Chaires courts were last resurfaced in FY 2013 and were identified as needing renovations by FY 2022, as it is recommended that tennis courts be resurfaced every four to eight years to expand the overall life of the courts. In addition to maintaining recreational amenities at the highest level, the County is also always looking for ways to expand those amenities to additional user groups. These renovations will allow the expansion of two new lined pickleball courts, updating the court lights to LED at proper height for tennis, and resurfacing/relining the existing tennis courts.

The Invitation to Bid for the Daniel B. Chaires Community Park tennis court renovation project was advertised locally on February 17, 2022. A total of 1,655 vendors were notified through the automated procurement system. A total of 28 vendors requested bid packages. On March 24, 2022, the County received two responsive bids, with the lowest responsive bidder being Arris General Contractors Inc. for the Daniel B. Chaires Community Park tennis court renovations in the amount of $489,275 (Attachment #2). The second-lowest responsive bid was Shaffield at $585,000, a difference of $95,725.

The Minority, Women, & Small Business Enterprise (MWSBE) Division reviewed the MWBE Participation Plans of two bid respondents to determine if the 8% Aggregate MWBE Aspirational Goal for Construction Subcontracting was achieved for the Chaires Community Park Tennis Court Renovation project. Arris General Contractors met the MWBE Aspirational Goal for Construction Subcontracting; therefore, the Good Faith Effort Form is not required. Arris General Contractors intends to utilize 34% MWBE for a dollar amount of $165,000 on this project. (Attachment #3). The MWSBE Division determined that Arris General Contractors is a certified WBE, therefore they met the WBE aspirational goal by self-performing. The highest bidder, Shaffield, utilizes 100% WBE for a dollar amount of $585,000. The MWSBE Division determined that Shaffield Building Specialties, Inc. is a certified WBE, therefore they met the WBE aspirational goal by self-performing.

This item recommends approval of the bid award for the renovations of the Daniel B. Chaires Community Park tennis courts to Arris General Contractors Inc. in the amount of $489,275, and authorization for the County Administrator to execute the Agreement, subject to legal review by the County Attorney. The tennis court renovations are expected to be completed by early fall of 2022.

Options:

1. Approve the bid award to Arris General Contractors Inc. in the amount of $489,275 for the renovation of the Daniel B. Chaires Community Park Tennis Courts (Attachment #1), and authorize the County Administrator to execute the Agreement, subject to legal review by the County Attorney.
2. Do not approve the bid award to Arris General Contractors Inc. in the amount of $489,275 for the renovation of the Daniel B. Chaires Community Park Tennis Courts.
3. Board direction.

Recommendation:

Option #1

Attachments:

1. Draft Construction Agreement
2. Bid Tabulation sheet
3. MWSBE Analysis memo

Attachment #1, the Draft Construction Agreement for the Daniel B. Chaires Community Park Tennis Courts Renovation, has not been attached to this item due to the voluminous nature of the file. However, it may be accessed through the following link:

https://www2.leoncountyfl.gov/coadmin/agenda/book/220510/Item14_Attachment01.pdf

LEON COUNTY PURCHASING DIVISION
BID TABULATION SHEET
BC-2022-004

Bid Title: Chaires Community Park Tennis Court Renovations
Opening Date: Thursday, March 24, 2022 @ 2:00PM

Item/Vendor	Arris GC	Shaffield		
Response Sheet with Manual Signature	✓	✓		
Affidavit Immigration	✓	✓		
Equal Opportunity/Affirmative Action Statement	✓	✓		
Identical Tie Bids	✓	✓		
Contractor's Business Information/Applicable Licenses/Registrations	✓	✓		
Non-Collusion Affidavit	✓	✓		
Insurance Certification	✓	✓		
Certification/Debarment	✓	✓		
Local Vendor Certification	✓	✓		
E-Verify	✓	✓		
MWBE Forms	✓	✓		
Documentation of Experience	✓	✓		
Bid Bond/Guarantee	✓	✓		
Bid Price	489,275.00	545,000.00		

Tabulated By: Jay Rockholt

OFFICE OF ECONOMIC VITALITY

Inter-Office Memorandum

Date: April 5, 2022

To: Tere Wojdan Parks & Rec

From: Darryl Jones, Deputy Director
Minority, Women, & Small Business Enterprise (MWSBE) - Office of Economic Vitality

Subject: Chaires Community Park Tennis Court Renovation (BC-2022-004)

The Minority, Women, & Small Business Enterprise (MWSBE) Division reviewed the MWBE Participation Plans of two bid respondents to determine if the 8% Aggregate MWBE Aspirational Goal for Construction Subcontracting was achieved for the Chaires Community Park Tennis Court Renovation project.

The submitted MWBE Participation Plan is as follows:

Arris General Contractors - met the MWBE Aspirational Goal for Construction Subcontracting; therefore, the Good Faith Effort Form is not required. The MWBE firm listed below is the firm **Arris General Contractors** intends to utilize on this project.

Total Bid Amount	**$489,275**				
Name of MWBE	**Race/Gender**	**Certifying Agency**	**Goods & Services**	**MWBE Dollars**	**MWBE Utilization Percentage**
Arris General Contractors	Non-Minority Female	Tallahassee-Leon County OEV	General Admin	$165,000	34%

Total MBE Utilization Percentage	N/A
Total WBE Utilization Percentage	N/A
Total MWBE Utilization Percentage	34%
Total MWBE Dollars	$165,000
Satisfied Good Faith Effort	N/A

Shaffield Building Specialties, Inc. - met the MWBE Aspirational Goal for Construction Subcontracting; therefore, the Good Faith Effort Form is not required. The MWBE firm listed below is the firm **Shaffield Building Specialties, Inc.** intends to utilize on this project.

Total Bid Amount	**$585,000**				
Name of MWBE	**Race/Gender**	**Certifying Agency**	**Goods & Services**	**MWBE Dollars**	**MWBE Utilization Percentage**
Shaffield Building Specialties, Inc.	Non-Minority Female	Tallahassee-Leon County OEV	General Contractor	$585,000	100%
Total MBE Utilization Percentage					N/A
Total WBE Utilization Percentage					N/A
Total MWBE Utilization Percentage					100%
Total MWBE Dollars					$585,000
Satisfied Good Faith Effort					N/A

Leon County
Board of County Commissioners

Notes for Agenda Item #15

Leon County Board of County Commissioners

Agenda Item #15

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: Killearn Chain of Lakes

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Ken Morris, Assistant County Administrator Brent Pell, Director of Public Works Charles Wu, Director of Engineering Services
Lead Staff/ Project Team:	Anna Padilla, Stormwater Management Coordinator

Statement of Issue:

As requested at the March 8, 2022 Board meeting, this item provides a status update and additional analysis on the requests brought forward by the Killearn Homes Association regarding the impairment of the waterbodies in the Killearn Chain of Lakes and potential mitigation activities.

Fiscal Impact:

This item has no fiscal impact.

Staff Recommendation:

Option #1: Accept the status update on the Killearn Chain of Lakes.

Report and Discussion

Background:

As requested at the March 8, 2022 Board meeting, this item provides a status update and additional analysis on the requests brought forward by the Killearn Homes Association (KHA) regarding the impairment of the waterbodies in the Killearn Chain of Lakes and potential mitigation activities.

On March 8, 2022, a status report was presented to the Board providing an update on the Killearn Chain of Lakes, the entities responsible for these waterbodies, and the activities being taken to restore them (Attachment #1). During the meeting, a representative of the KHA requested the Board consider additional options for a collaborative approach to address the impairment issues in the Killearn Chain of Lakes. The Board accepted the status report and requested an additional item be brought back evaluating the proposed collaborative mitigation activities brought forward by the KHA regarding the impairment of the waterbodies in the Killearn Chain of Lakes. Specifically, KHA requested the following:

- The County be a participating stakeholder in updating the 4e restoration plan that the Florida Department of Environmental Protection (FDEP) created with the City and the KHA in 2016 which suggested mitigation measures to improve the water quality of the Chain of Lakes.

- The County and City broaden all aspects of their sediment management efforts including street sweeping, road paving, and sediment outfall excavation to reduce rainfall-driven sediment loading to the lakes.

- The County team with the City and the KHA in developing a program for more routine sediment excavation.

This status report provides an update on water quality activities which advance the following FY2022-FY2026 Strategic Initiative:

- *Ensure County's water quality and stormwater regulations, programs, and projects are evaluated and implemented holistically to advance the County's adopted strategic priority: to protect the quality and supply of our water. (2022-16)*

This particular Strategic Initiative aligns with the Board's Environmental Strategic Priority:

- *(EN1) Protect the quality and supply of our water.*

As described in the March 8th status report, the Killearn Chain of Lakes consists of Lakes Kinsale, Killarney, and Kanturk waterbodies in Killearn Estates (Attachment #2). The lakes are primarily owned and maintained by the KHA, pursuant to its Declaration of Covenants and Restrictions, but receive stormwater runoff from the City of Tallahassee and Leon County. The lakes were developed as stormwater management facilities and require wells to pump groundwater into the lakes to maintain a water level for aesthetic purposes.

The entirety of Lakes Kinsale and Killarney and a majority of Lake Kanturk are within the City of Tallahassee (City). A northern portion of Lake Kanturk (approximately 20%) is located within Leon County (County) but the lake in this area is owned by the individual property owners. In terms of responsibility for these waterbodies, the KHA is responsible for the aquatic plant management and regulating lake levels which previously included the use of wells to pump groundwater into the lakes. Under the National Pollutant Discharge Elimination System program, the City and the County are each responsible for maintaining the public stormwater conveyance systems which flow to the Chain of Lakes within in their respective jurisdictions.

The National Pollutant Discharge Elimination System (NPDES) is a permit program that allows a facility or governmental organization to discharge a pollutant into a receiving water under certain conditions. The FDEP is authorized by the EPA to perform the permitting, administrative, and enforcement aspects of the NPDES program. The NPDES program regulates three types of potential point source (e.g., pipe, ditch) pollution with a specific permit for each activity type including industrial activities, construction activities, and municipal separate storm sewer systems (MS4). The City and the County each hold an NPDES MS4 permit for their stormwater conveyance systems.

An MS4 is a publicly-owned conveyance system used to collect, transport, and discharge stormwater into local waterbodies. The stormwater discharge from an MS4 is often polluted and untreated. The MS4s in the County include curbs, storm drains, pipes, ditches, and outfalls. An MS4 permit allows an organization to discharge stormwater, provided the permittee demonstrates ongoing organizational programs that reduce pollutants to the maximum extent practicable. These programs include sediment and erosion control measures, stormwater system maintenance, stormwater inspector training, and public outreach and education. The MS4 permit is a multiyear permit with required annual recertification by the organization to demonstrate the permit requirements continue to be met. The City and the County each hold an NPDES MS4 permit.

Geographically, the total contributing drainage area to the Chain of Lakes is approximately 7,000 acres, 43% is within the City limits and 57% consists of the unincorporated County. Surface waters flow from *Lake McBride*, *Lake Tom John*, and *Killearn Acres* in the unincorporated area to reach the Chain of Lakes (Attachment #3). A complex model would be needed to obtain an accurate volume of how much runoff originates within the City limits versus the unincorporated areas. However, based on a simplified evaluation of development density and impervious area (i.e., parking lots, roofs, etc.), it is estimated that approximately twice as much runoff reaches the Chain of Lakes from the City limits during an average afternoon rainfall event. In addition, the City stormwater conveyance system directly discharges into the Chain of Lakes through ditches and pipes at over 30 locations; whereas the County directly discharges into the Lake Kanturk at five locations.

Based on the Board's direction, staff engaged with a representative of the KHA to discuss the requested collaborative mitigation activities related to the Killearn Chain of Lakes. The analysis section addresses the issues raised by KHA including the County's formal participation in future restoration planning, and ongoing sediment management and excavation maintenance activities within the Killearn Chain of Lakes basin. The County intends to be an active stakeholder and

formal participant in the upcoming restoration planning activities with a focus on the County-maintained stormwater conveyance systems that flow to the Killearn Chain of Lakes.

Analysis:

The Killearn Chain of Lakes were permitted and constructed as stormwater management facilities in the late 1960s and 1970s to provide water quality treatment necessary to meet the stormwater requirements at the time. The lakes continue to function as stormwater management facilities, receiving untreated stormwater runoff from the surrounding area. Beginning in the late 1990s, the FDEP began the impaired surface waters rule-making process for what would become the State's water quality standards and Total Maximum Daily Load (TMDL) program, ultimately adopted in 2001. At the time of the rule-making, numerous discussions were had around the classification of the Chain of Lakes. Ultimately, the FDEP established the lakes as Class III – Fish Consumption, Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife waterbodies, which must meet state water quality requirements.

Florida has established six designated use classifications for surface waters, each with specific water quality requirements. Most surface water in Florida, including all waters of the state within the County, have been designated as Class III – Fish Consumption, Recreation, Propagation and Maintenance of a Healthy, Well-Balanced Population of Fish and Wildlife. Waterbodies designated as Class III are those where a person could engage in recreational activities or consume the fish they caught. A waterbody is considered impaired once the water quality criteria, or limits on physical and chemical parameters, have been exceeded and the waterbody no longer supports the designated uses or activities without posing a health or safety risk. Several factors played into the Class III designation for the Killearn Chain of Lakes including the connectivity to other waters of the state, such as the Alford Arm Tributary, and the functional use of the waterbodies such as public access and fishing.

As determined by the U.S. Environmental Protection Agency (EPA), water quality standards consist of designated uses, water quality criteria, and antidegradation requirements. Designated uses are the expressed goals for using the waterbody in question, including support of aquatic life, human health (such as fish consumption), and recreational uses (such as swimming or boating). The water quality criteria are the limits on magnitude, duration, and frequency for physical or chemical parameters that support a waterbody's designated use. Antidegradation requirements provide a framework for maintaining and protecting water quality. Within Florida, the FDEP is charged with monitoring and assessing Florida's surface waters, including the water quality standards, for all waters of the State, which include all rivers, lakes, streams, springs, impoundments, and wetlands.

When a waterbody becomes impaired, in most cases, the FDEP develops a TMDL for a waterbody. The TMDL is a scientific determination of the maximum amount of pollutant a waterbody can absorb and still meet the water quality standards for the designated use and is adopted by state rule. Following TMDL adoption, the FDEP, with stakeholder input, develops a Basin Management Action Plan (BMAP) that includes stakeholder commitments to reduce pollutant loading to the waterbody through current and future projects. The BMAP is also adopted by rule and is legally enforceable. As an alternative, impaired waterbodies can be placed in a Category 4e (ongoing

restoration activities status), meaning the waterbodies are impaired but there are recently completed or ongoing restoration activities already underway to restore the designated uses of the waterbody. The Category 4e status utilizes an alternative restoration plan (ARP) that identifies current and future projects in the basin aimed at improving water quality. The ARP development is locally controlled unlike the TMDL and BMAP process that is FDEP-driven and goes through the state rule-making and adoption process. The benefit of the ARP is that the stakeholders are able to move straight to restoration activities and focus is placed on fixing the problems instead of the TMDL/BMAP process itself.

In 2013 the FDEP identified the Chain of Lakes as impaired waterbodies. Lake Kanturk and Lake Kinsale were listed for nutrients while Lake Killarney was listed for nutrients and un-ionized ammonia. Because the City and the County had recently completed and had ongoing restoration projects at that time within the contributing basin, FDEP placed the lakes in a Category 4e status instead of the more cumbersome TMDL/BMAP process. Since the three impaired waterbodies are primarily within the City limits, the FDEP reached out to the City to assist in developing the ARP. As a result, the City and the KHA jointly coordinated with the FDEP through the impaired waters listing process and in the development of the ARP in 2016, with input from County staff on current and planned County projects. The ARP includes a pollutant reduction plan that outlines completed and future restoration activities to improve the water quality of the Chain of Lakes.

Stakeholder in Updating the 4e Restoration Plan

Staff is supportive of KHA's request for the County to be a formal participant in updating the 4e ARP to identify mitigation measures that will improve water quality in the Killearn Chain of Lakes. Previously, the County communicated its water quality projects and programs through the City of Tallahassee. Adopted in 2016, the 4e ARP is still an active document; however, the City anticipates reevaluating the ARP in the next two years.

The City of Tallahassee has an ongoing water quality and stage monitoring program on the Chain of Lakes. This includes quarterly sampling of the Lakes at two locations on Lake Killarney, one location on Lake Kanturk, and one monitoring location downstream. One gauge on each of the three lakes monitors the stage of the lakes and one additional gauge monitors the rainfall and flow information at the Lake Kanturk discharge at Centerville Road. The information collected from the water quality monitoring program is provided to the FDEP and used to evaluate the health of the waterbodies and determine if the waterbodies are meeting the water quality standards for the designated use.

County staff has expressed interest to the City and FDEP staff in the mitigation of the waterbodies and requested formal inclusion in any future evaluation and planning for the Killearn Chain of Lakes. Both organizations were agreeable to the County's participation.

Sediment Management

KHA has requested the County broaden all aspects of its sediment management efforts including street sweeping and road paving. This section analyzes the County's efforts related to sediment management. The next section focuses on sediment excavation.

As rainfall hits the ground it begins to runoff, collecting small particles of eroded soil or decaying plant material, transporting the material through the conveyance systems and into waterbodies. Sediment is caused when the transported material settles to the bottom, which can cause obstructions to the flow, or water quality pollution. Street sweeping is an effective strategy to mitigate pollutants as it reduces the amount of sediments and nutrients entering the waterbodies. Street sweeping is generally only performed on streets with curb and gutter. By design, water flows toward the edge of the pavement and on a street with curb and gutter the debris accumulates at curb. Without curb and gutter, the water flows off and away from the street carrying the debris with it, and in effect, self-cleaning the street. Street sweeping on roads without curb and gutter is ineffective because the debris or dirt has been washed off the road and filtered through a grassed area (shoulder) or a ditch. In addition, street sweeping an uncurbed asphalt road could damage the edge of the road or pull the dirt and debris from the side of the street onto the asphalt.

There are 104 miles of City and County owned roadways with curb and gutter within the contributing basin, which are swept by the City approximately seven times per year. Through an Interlocal Agreement (Interlocal), the City sweeps the County-owned curb and gutter roadway segments within the contributing basin. Attachment #4 shows the four County road segments in the basin with curbs and gutters. Newly constructed curb and gutter roadway segments are added to the maintenance list upon renewal of the Interlocal. The current Street Sweeping IA expires in April 2023.

Roadway paving is an effective way to mitigate sediment transport and pollution. Roads within the Killearn Chain of Lakes contributing basin are owned and maintained by the County, the City, the Florida Department of Transportation (FDOT), or are privately owned and maintained (Attachment #5). All of the publicly-owned and maintained roads within the basin are paved roads. However, many of the private roadways and driveways are not paved and are located directly on a waterbody within the contributing basin (Attachment #6). While the County does not own or maintain these private roadways, the County offers several programs that assist citizens who desire the County to take over maintenance responsibilities, to pave their privately-owned roads, and to bring these roadways up to County standards including the conveyance of stormwater.

Sediment Excavation

KHA has requested the County to broaden its sediment outfall excavation by developing a more routine maintenance program to reduce rainfall-driven sediment loading to the Killearn Chain of Lakes. This section analyzes the County's maintenance of outfall structures including sediment excavation in accordance with its NPDES MS4 permit.

As part of the NPDES MS4 permit, Public Works Operations staff routinely inspects the County's MS4 stormwater conveyance infrastructure. Major outfalls, which are discharges from pipes larger than 36-inches in diameter, are inspected and maintained more regularly than other outfall structures. The County has one NPDES major outfall into the Killearn Chain of Lakes at Lake Kanturk consisting of twin box culverts under Pimlico Drive which convey water to Lake Kanturk. From the box culverts, the stormwater flows through a ditch into the lake, which is the discharge point for the Killearn Acres conveyance system that includes Lake Kilkee and Gilbert pond. The County has four additional ditches that run from Pimlico Drive into Lake Kanturk. These ditches

convey stormwater runoff from the roadside ditches within portions of Killearn Acres. All five ditches are located within drainage easements dedicated to the County (Attachment #7).

If the need for sediment removal is noted during an inspection, a work order is generated, and the maintenance is completed by Public Works Operations. County staff inspect the stormwater system as they perform daily work functions around the County and travel to and from other job sites. If maintenance needs are noted by staff, or if a citizen request is received, a work order is also generated and completed by County Public Works Operations. The outfall maintenance schedule including excavation needs will be reviewed as part of the 4e update.

Conclusion

Consistent with its Declaration of Covenants and Restrictions, KHA is responsible for in-lake maintenance and management which includes aquatic plant management and regulating lake levels. However, the County intends to be an active stakeholder in updating the 4e ARP to identify mitigation measures that will improve water quality in the Killearn Chain of Lakes. Staff participation will focus on water quality mitigation activities related to the County's NPDES MS4 permit and the conveyance of stormwater to the Killearn Chain of Lakes.

Options:

1. Accept the status update on the Killearn Chain of Lakes.
2. Do not accept the status update on the Killearn Chain of Lakes.
3. Board direction.

Recommendation:

Option #1

Attachments:

1. March 8, 2022 Status Report on the Killearn Chain of Lakes
2. Killearn Chain of Lakes Map
3. Killearn Chain of Lakes Contributing Basins Map
4. Leon County Street Sweeping Locations Within the Killearn Chain of Lakes Basins Map
5. Roadway Maintenance Responsibility Map
6. Paved and Unpaved Private Roads in the Killearn Chain of Lakes Basins Map
7. Leon County Lake Kanturk Ditch Locations Map

Leon County Board of County Commissioners

Agenda Item #17

March 8, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: Status Report on the Killearn Chain of Lakes

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Ken Morris, Assistant County Administrator Brent Pell, Director of Public Works Charles Wu, Director of Engineering Services
Lead Staff/ Project Team:	Anna Padilla, Stormwater Management Coordinator

Statement of Issue:

As requested at the Board's October 12, 2021 meeting, this item provides an update on the Killearn Chain of Lakes, the entities responsible for these waterbodies, and the activities being taken to restore them.

Fiscal Impact:

This item has no fiscal impact.

Staff Recommendation:

Option #1: Accept the status report on the Killearn Chain of Lakes.

Report and Discussion

Background:

As requested at the Board's October 12, 2021 meeting, this item provides an update on the Killearn Chain of Lakes, the entities responsible for these waterbodies, and the activities being taken to restore them.

This status report provides an update on water quality programs which advance the following FY2022-FY2026 Strategic Initiative:

- *Ensure County's water quality and stormwater regulations, programs, and projects are evaluated and implemented holistically to advance the County's adopted strategic priority: to protect the quality and supply of our water. (2022-16)*

This particular Strategic Initiative aligns with the Board's Environmental Strategic Priority:

- *(EN1) Protect the quality and supply of our water.*

The Killearn Chain of Lakes consists of Lakes Kinsale, Killarney, and Kanturk waterbodies which are almost entirely located within the city limits in Killearn Estates (Attachment #1). The Chain of Lakes is largely owned and maintained by the Killearn Homes Association (KHA), pursuant to its Declaration of Covenants and Restrictions. In terms of responsibility for these waterbodies, KHA is responsible for the aquatic plant management and regulating lake levels which previously included the use of wells to pump groundwater into the lakes. The City of Tallahassee is responsible for the public stormwater conveyance systems which flow to the Chain of Lakes and utilize water quality and stage monitoring programs for these stormwater systems. Accordingly, the City and KHA have jointly coordinated with the Florida Department of Environmental Protection on a pollution reduction plan that outlines restoration activities to improve the water quality of the Chain of Lakes.

The analysis section provides an overview on the Killearn Chain of Lakes, its impairments, and the activities being taken to restore them.

Analysis:

Killearn Chain of Lakes Overview

Prior to the development of Killearn Estates, the lakes were natural low-lying areas that went through a natural cycle of drying out with a lack of rainfall and filling during periods of high rainfall. In periods of higher water levels, the lakes were used as farm ponds. During construction of Killearn Estates, dams were constructed to impound water, forming the lakes, and to provide water quality treatment to meet the stormwater requirements at the time of development. The amount of water that flowed to the lakes was not enough to keep the lakes full, so two wells were installed to pump groundwater into the lakes to maintain the water levels for aesthetic purposes. Like the Chain of Lakes, the wells were maintained by the KHA.

The total contributing drainage area to the Chain of Lakes is approximately 7,000 acres, 43% is within the city limits and 57% consists of the unincorporated County. Surface waters flow from

Lake McBride, *Lake Tom John*, and *Killearn Acres* in the unincorporated area to reach the Chain of Lakes (Attachment #2). The waterbodies then discharge under Centerville Road to the Alford Arm Tributary, flowing through the Welaunee Plantation down to Lake Lafayette.

To mitigate structural flooding at numerous properties around the Chain of Lakes, the City of Tallahassee and Leon County entered into a Joint Project Agreement in 1993 (Attachment #3) to improve a portion of the drainage system in the Killearn Chain of Lakes. In 1996 the City completed improvements to the Killarney and Kinsale outfalls at Shannon Lakes Drive N. and Shannon Lakes Drive W., respectively. In 1997 Leon County completed improvements to the Lake Kanturk outfall culvert crossing at Centerville Road, as well as improvements to the channel downstream of the Centerville Road crossing. As an additional step to mitigate the flooding around the Chain of Lakes, KHA discontinued use of the two wells used to maintain the lake levels around the same time as the outfall improvements. Without the use of the wells, the land area returned to its pre-development natural wet and dry cycling.

Waterbody Impairments

A municipal separate storm sewer system (MS4) is a publicly-owned conveyance or system of conveyance used to collect and transport polluted stormwater and discharge, often untreated, into local waterbodies. The MS4s in Leon County include curbs, storm drains, pipes, and ditches. The City of Tallahassee and Leon County each hold a Municipal Separate Storm Sewer System (MS4) Permit issued by the Florida Department of Environmental Protection (FDEP) that allows discharge of stormwater, provided each permittee demonstrates they have ongoing programs that reduce pollutants to the maximum extent practicable.

The hydrology of the Chain of Lakes contributing basin does not provide enough stormwater runoff to maintain consistent water levels in the lakes. Without pumping, the Chain of Lakes frequently fluctuates from a system of large open waterbodies to small pools and prairie type vegetation. A major component of the impairment relates to this cycle and the low water levels which occur in the waterbodies during periods of minimal rainfall. When there is water in the lakes, it is generally shallow enough to allow nuisance vegetation to proliferate. As the lake dries up, the plant material dies off and collects on the ground. When a wet period returns and the lake fills, the dead plant material releases nutrients back into the water, resulting in more plant growth and poor water quality.

In 2013 FDEP identified the Chain of Lakes as impaired waterbodies. Lake Kanturk and Lake Kinsale were listed for nutrients while Lake Killarney was listed for nutrients and un-ionized ammonia. The discontinued use of the wells to maintain the lake levels directly attributed to the identified nutrient load problem. The waterbodies were placed in Category 4e (Ongoing Restoration Activities) status, meaning the waterbodies are impaired but there are recently completed or ongoing restoration activities already underway to restore the designated uses of the waterbody. The Category 4e status is an alternative restoration plan (ARP) and unlike the often used regulatory steps of the Total Maximum Daily Load (TMDL) and Basin Management Action Plan (BMAP), which is legally enforceable, the ARP development is locally controlled and postpones development of a TMDL by moving straight to restoration activities and focus is placed on fixing the problems instead of the TMDL process itself.

The three impaired waterbodies are all within the City limits so FDEP reached out to the City because it is the primary permit holder for stormwater conveyance systems to the Chain of Lakes. As a result, the City and KHA have jointly coordinated with FDEP through the impaired waters listing process and in the development of the ARP, with input from County staff. The ARP includes a pollutant reduction plan that outlines completed and future restoration activities to improve the water quality of the Chain of Lakes.

Chain of Lakes Basin Improvement Projects

The projects in the joint City/KHA pollution reduction plan have a dual goal of improving water quality and maintaining water quantity delivered to the Chain of Lakes. Projects focus on the implementation of both structural and non-structural stormwater improvements in the contributing basin, including flood mitigation, treatment, conveyance improvements, sediment and erosion control, and sediment removal. The City of Tallahassee has completed numerous Capital Improvement Projects (CIPs) since 2005, with additional projects in progress, totaling over $5 million (Attachment #4). The City also has an ongoing water quality and stage monitoring program on the Chain of Lakes. This includes quarterly sampling of the Lakes and monitoring of downstream waters, as well as rainfall and flow information at one gauge and stage information on all three lakes.

Street sweeping is another strategy to mitigate pollutants as it reduces the amount of sediments and nutrients entering the waterbodies. There are 104 miles of City and County owned roadways with curb and gutter within the contributing basin, which are swept by the City approximately seven times per year. Through an Interlocal Agreement, the City sweeps the County-owned curb and gutter roadway segments within the contributing basin. Further, the County has completed stormwater CIPs for flood and sediment reduction totaling $4.6 million since 2005 (Attachment #5). Leon County water quality and quantity projects in the Chain of Lakes basin, and throughout the County, will continue to comply with all environmental and permitting standards to preserve our natural resources.

Summary

The current problems of low water levels, plant growth, and algal blooms are attributed to the hydrology of the watershed and the discontinued use of the wells by KHA to maintain the aesthetic water levels. These waterbodies will continue the cyclical pattern of drying and reflooding, which will continue to impact both the water quality and biological community of the waterbodies. As for the basin which conveys stormwater to the Chain of Lakes, the City and County have completed numerous projects to improve the water quality and reduce flooding within the basin.

The three impaired waterbodies that make up the Killearn Chain of Lakes are all within the City limits and owned by KHA. The City of Tallahassee is responsible for the public stormwater conveyance systems which flow to the Chain of Lakes. The City and KHA both share responsibilities related to the Chain of Lakes and have been working with FDEP to address impairments. Through the City/KHA pollutant reduction plan, additional pollution prevention measures, treatment or removal techniques, and other appropriate restoration activities will continue to be implemented to control the quality of stormwater discharged from the stormwater conveyance systems to the Chain of Lakes.

Options:

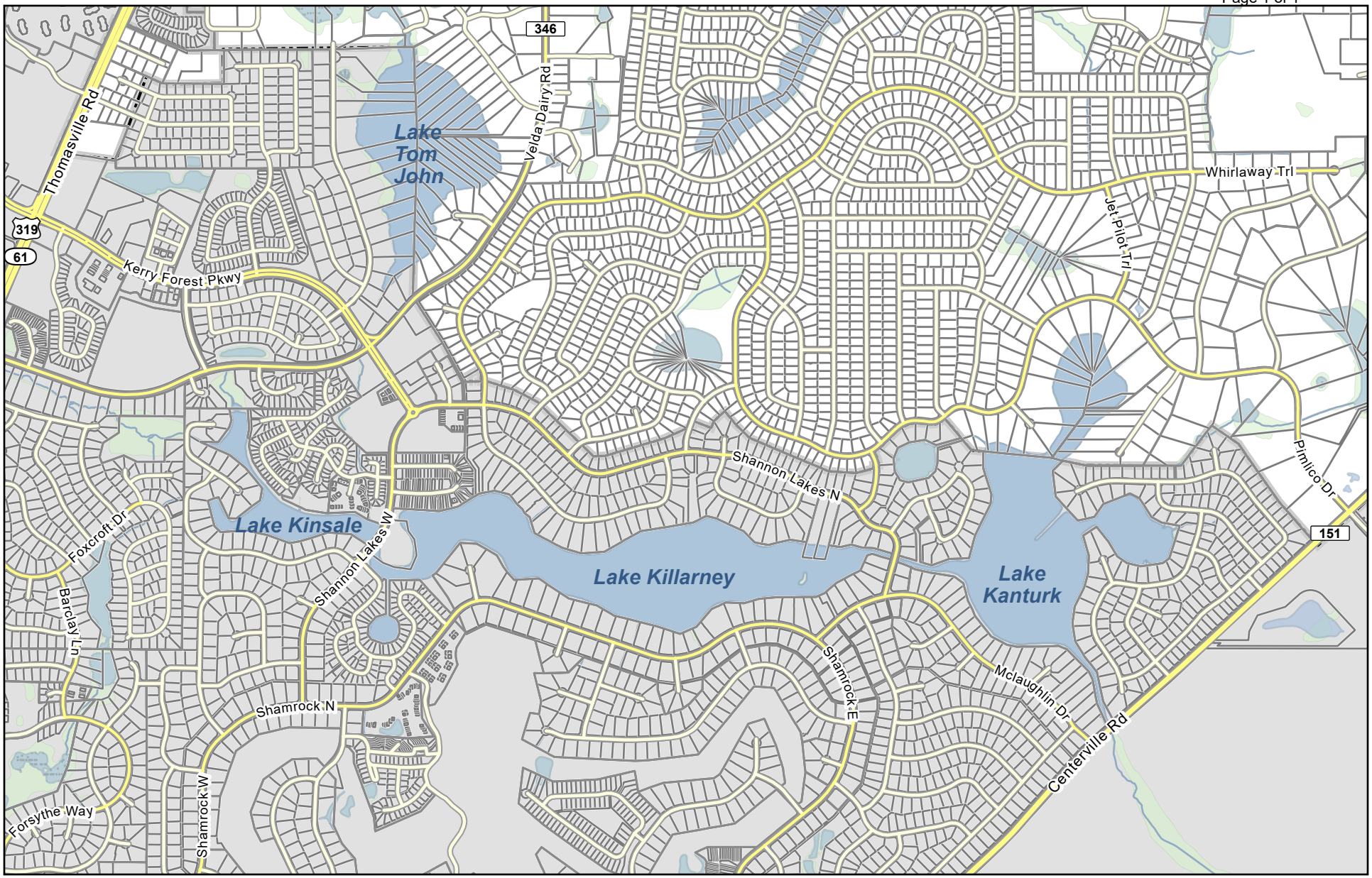
1. Accept the status report on the Killearn Chain of Lakes.
2. Do not accept the status report on the Killearn Chain of Lakes.
3. Board direction.

Recommendation:

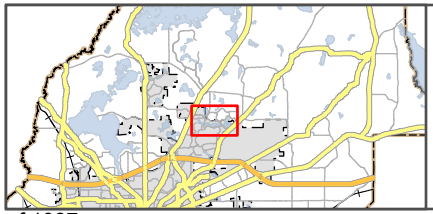
Option #1

Attachments:

1. Killearn Chain of Lakes Map
2. Killearn Chain of Lakes Contributing Basins Map
3. 1993 Joint Project Agreement between the City of Tallahassee and Leon County
4. City of Tallahassee's Ongoing and Completed Killearn Basin Stormwater Projects Since 2005
5. Leon County's Completed Killearn Basin Stormwater Projects Since 2005



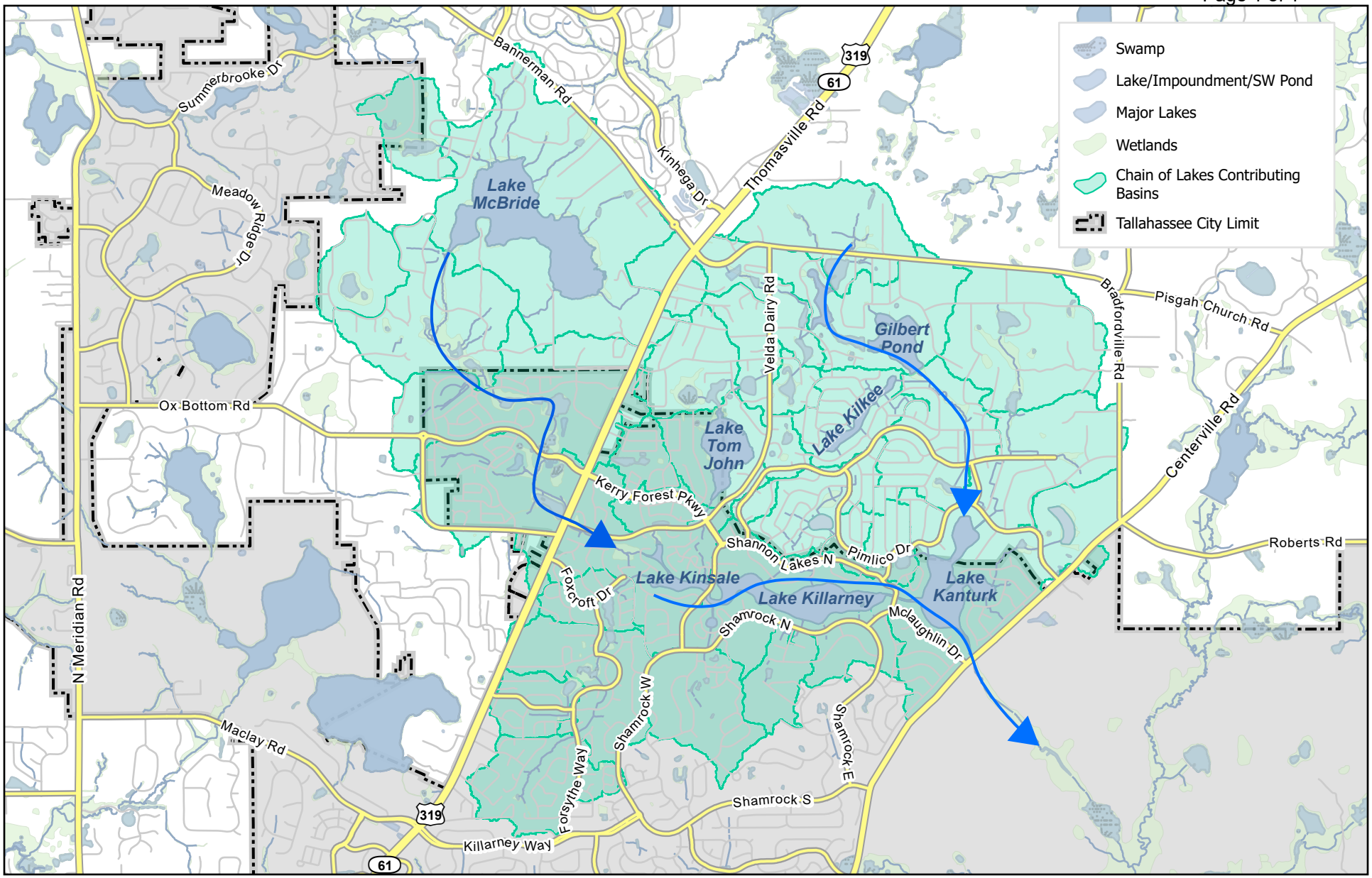
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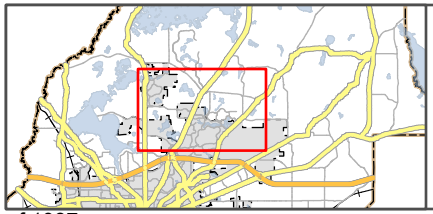
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Killearn Chain of Lakes

Date Drawn: 2/11/2022



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Killearn Chain of Lakes Contributing Basin

Date Drawn: 2/11/2022

INTERLOCAL AGREEMENT

This Agreement made and executed this 31st day of March, 1993, by and between the **City of Tallahassee**, a Florida municipal corporation (hereinafter **"City"**), and **Leon County**, a political subdivision of the State of Florida (hereinafter **"County"**), pursuant to the provisions of the Florida Interlocal Cooperation Act of 1969.

Witnesseth

WHEREAS, City and County ("the Parties") mutually desire to set forth and agree upon the procedures necessary to implement a joint project to alleviate or reduce to the maximum extent possible, the flood potential in Lakes Kinsale, Killarney and Kanturk; and

WHEREAS, the Parties mutually desire to alleviate or reduce flooding through the implementation of the Lakes Kinsale, Killarney and Kanturk Stormwater Improvement Project (hereinafter "Project"); and

WHEREAS, the City and County envision that the Project will involve preparing a complete drainage basin map for the subject lakes, performing computer modeling of existing and future conditions, conducting a public information program and proposing improvements for a wide variety of design storm events.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the parties hereto do hereby covenant and agree as follows:

1. Although neither the City nor the County have actual responsibility, jurisdiction, nor liability for the flooding problems occurring in the Killearn Chain of Lakes area, the following described project is being undertaken by the City and County on behalf on the residents in that area in the interests of good government.

2. Leon County will direct Camp Dresser and McKee, Inc. (CDM) to conduct a separate detailed stormwater analysis of the Killearn Lakes Watershed as an additional task to their already ongoing contract to study the entire Alford Arm Tributary. The study will be done using the computer program SWMM. The watershed will be broken into sub-basins. The SWMM runoff and Extran modules will be applied and the amount of runoff coming from the incorporated area and the unincorporated area will be determined. The objective of the additional analysis is to determine whether the culverts recommended by NWFWMD at Centerville Road and Shannon Lakes East and West are a viable solution to remedy the flooding around the Killearn Chain of Lakes. The study will also determine whether modifying the culverts will cause unacceptable impacts on Welaunee Plantation.

3. On all portions of this project, which are to be jointly funded by the City and the County, the split of funding required respectively from each shall be in proportion to the runoff received during the critical duration storm from the incorporated and unincorporated areas of the watershed, which are tributary to the Centerville Road culverts. The cost of the study identified in paragraph 1 will be $66,000 and the City's estimated share of the cost is $33,000.

4. If the NWFWMD recommendation (or some minor variation thereof) proves to not be a viable solution to the Killearn flooding problem, or if the improvements cannot be installed due to the impact on Welaunee Plantation or due to other permitting problems, the City and County will then jointly fund and

authorize a second phase of engineering as necessary to develop an alternative solution to solve the Killearn Chain of Lakes flooding problem.

5. If the NWFWMD recommendation (or some minor variation thereof) is a viable implementation solution, the City will be responsible for funding and will install the recommended improvements at Shannon Lakes East and West and the County will be responsible for funding and will install the recommended improvements at Centerville Road.

6. If NWFWMD's recommendation (or some minor variation thereof) proves to not be a viable solution to the Killearn flooding problem, or if the improvements cannot be installed due to the impact on Welaunee Plantation or due to other permitting problems, the City and County will jointly fund the improvements downstream of the Centerville Road culvert, subject to agreement on the recommended solution and available fiscal resources. The City's and County's share of the costs of the improvements will be based on the proportionate share of runoff received during the critical duration storm from the incorporated and the unincorporated areas of the watershed, which are tributary to the Centerville Road, respectively.

The City will be responsible for any improvements within the City limits, north of Centerville Road and the County will be responsible for any improvements outside the City limits, north of Centerville Road.

7. It is acknowledged that this agreement applies to the work necessary to solve the Killearn Chain of Lakes flooding problem. Accordingly, the City and County are not sharing the cost of CDM's evaluation of the Alford Arm tributary below Welaunee Plantation land, nor are they sharing the cost of any downstream modifications, except as is necessary to evaluate and remedy any unacceptable impact on Welaunee Plantation.

**BOARD OF COUNTY COMMISSIONERS,
LEON COUNTY, FLORIDA**

By: _____
Manny Joanos,
Chairman

Attest:

Dave Lang
Clerk of the Circuit Court

By: _____
Bill Bogan, Jr.
Finance Officer

Approved as to Form:

_____
Herbert W. A. Thiele
County Attorney

CITY OF TALLAHASSEE, FLORIDA

By: _____
Dorothy Inman-Crews,
Mayor

Attest:

_____
Robert B. Inzer
City Treasurer-Clerk

Approved as to Form:

_____
James R. English
City Attorney

APPROVED BY CITY COMMISSION
10/28/92

Posted May 2, 2022

City of Tallahassee's Ongoing and Completed Killearn Basin Stormwater Projects Since 2005

Project	Key Benefits
3742 Shamrock and 3745 Lifford Cir	Flood and Sediment Transport Reduction
4036 Brandon Hill	Flood and Sediment Transport Reduction
4029 and 4033 Brandon Hill	Flood and Sediment Transport Reduction
Killearn Golf and Country Club Pond Retaining Wall	Flood and Sediment Transport Reduction
2925 Edenderry Dr	Sediment Transport Reduction
2495 Edenderry Dr	Flood and Sediment Transport Reduction
Villages of Killearn/Kinsale Dr Outfall Improvements	Flood and Sediment Transport Reduction
Bay Shore Drive Stormwater Outfall Improvements (Phase II)	Stabilization, Flood and Sediment Transport Reduction
3110 Shamrock North	MS4 Outfall Rehab, Stabilization, Sediment Removal
4004 McLaughlin Dr	MS4 Outfall Rehab, Stabilization, Sediment Removal
3074 Shamrock North	MS4 Outfall Rehab, Stabilization, Sediment Removal
3058 Shamrock North	MS4 Outfall Rehab, Stabilization, Sediment Removal
3187 Ferns Glen	MS4 Outfall Rehab, Stabilization, Sediment Removal
2911 Bay Shore	Flood and Sediment Transport Reduction
Shannon Lakes West Cross Drain (Lake Kinsale to Lake Killarney)	Sediment Removal
Runnymede Rd Drainage Improvements	Flood and Sediment Transport Reduction
2612 Bantry Bay	MS4 Outfall Rehab, Stabilization, Sediment Removal
5052 Tallow Point	MS4 Outfall Rehab, Stabilization, Sediment Removal
Shamrock North at Edenderry Dr (Bay Shore Dr Stormwater Outfall Phase I)	Stabilization, Flood and Sediment Transport Reduction
3065 and 3068 Obrien Dr	Flood and Sediment Transport Reduction
4052 Roscrea Dr	Flood and Sediment Transport Reduction
Pebble Creek Drainage Improvements (River Chase and Ironwood)	Flood and Sediment Transport Reduction
3015 and 3016 Shamrock North (sag east of Edenderry)	MS4 Outfall Rehab, Stabilization, Flood and Sediment Transport Reduction, Sediment Removal
2632 Bantry Bay	MS4 Outfall Rehab, Stabilization, Sediment Removal
4720 Tory Sound	Sediment Removal
3244 Shannon Lakes	Flood and Sediment Transport Reduction
Tory Sound Lane Drainage Improvements	Flood and Sediment Transport Reduction

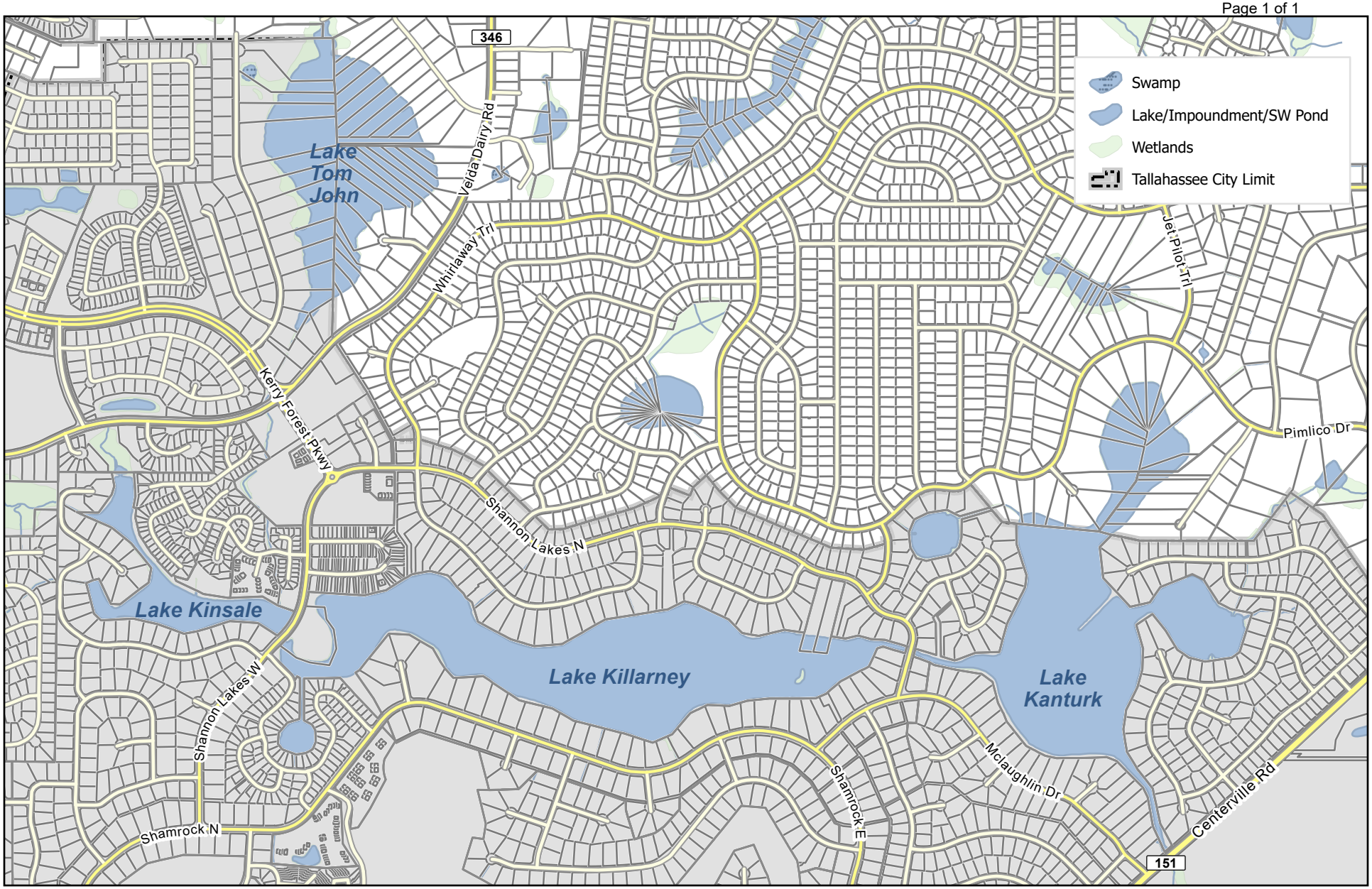
Attachment #4
Page 1 of 2

Project	Key Benefits
Bantry Bay Cross Drain Culvert Replacement	Flood and Sediment Transport Reduction
Yardley Circle	Flood and Sediment Transport Reduction
Shamrock South at Foxford Drainage Improvements Phase I	Flood and Sediment Transport Reduction
West End of Killarney at Boat Ramp	MS4 Outfall Maintenance, Sediment Removal
3016 Shamrock North	MS4 Outfall Maintenance, Sediment Removal
Tallow Pond	MS4 Outfall Maintenance, Sediment Removal
3753 Swallowtail Trace Drainage Improvements	Outfall Improvements, Sediment Transport Reduction
Brandon Hill Drainage Improvements	Flood Reduction
4720 Tory Sound and 2632 Bantry Bay	Sediment Removal
Royal Oaks Creek Sediment Sump #1	*Sediment Transport Reduction*
Forsythe Way Cross Drain Rehabilitation	*Stabilization, Sediment Transport Reduction*
3187 Ferns Glen Drive	*MS4 Outfall Maintenance, Sediment Removal*
3217 and 3221 Heather Hill Land	*MS4 Outfall Maintenance, Sediment Removal*

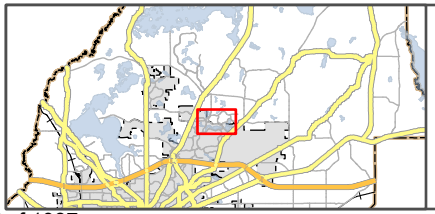
Note: Projects listed in *italics* are currently in progress.

Leon County's Completed Killearn Basin Stormwater Projects Since 2005

Project	Key Benefits
Bradfordville Rd Culvert Improvements	Flood and Sediment Transport Reduction
Killearn Acres Flood Mitigation	Flood and Sediment Transport Reduction
Bradfordville Pond 6 Rehabilitation	Retrofit of Reuse Irrigation
Bradfordville Pond 4 Outfall Stabilization	Flood and Sediment Transport Reduction



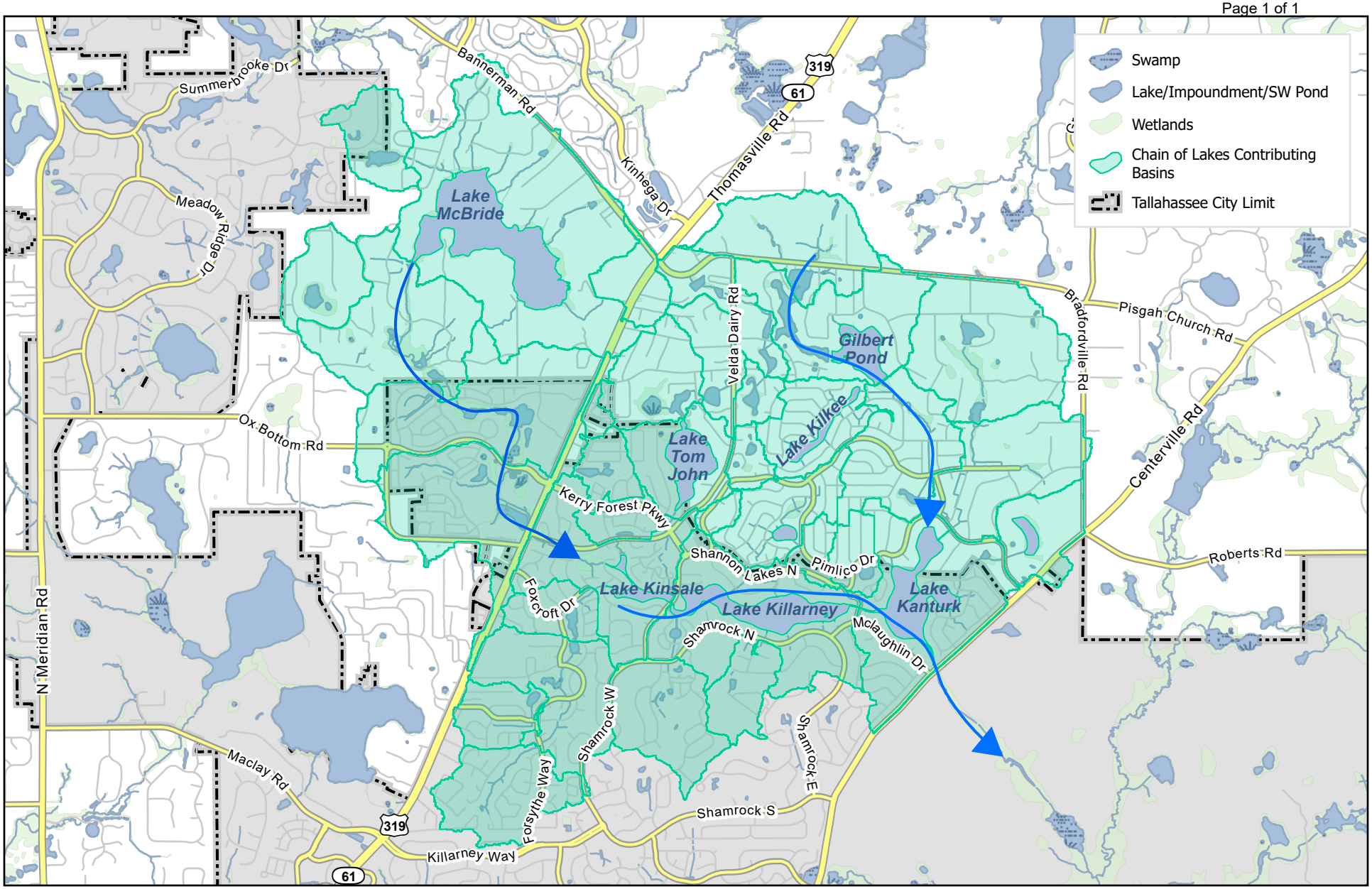
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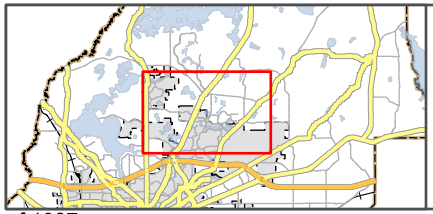
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Killearn Chain of Lakes

Date Drawn: 4/19/2022

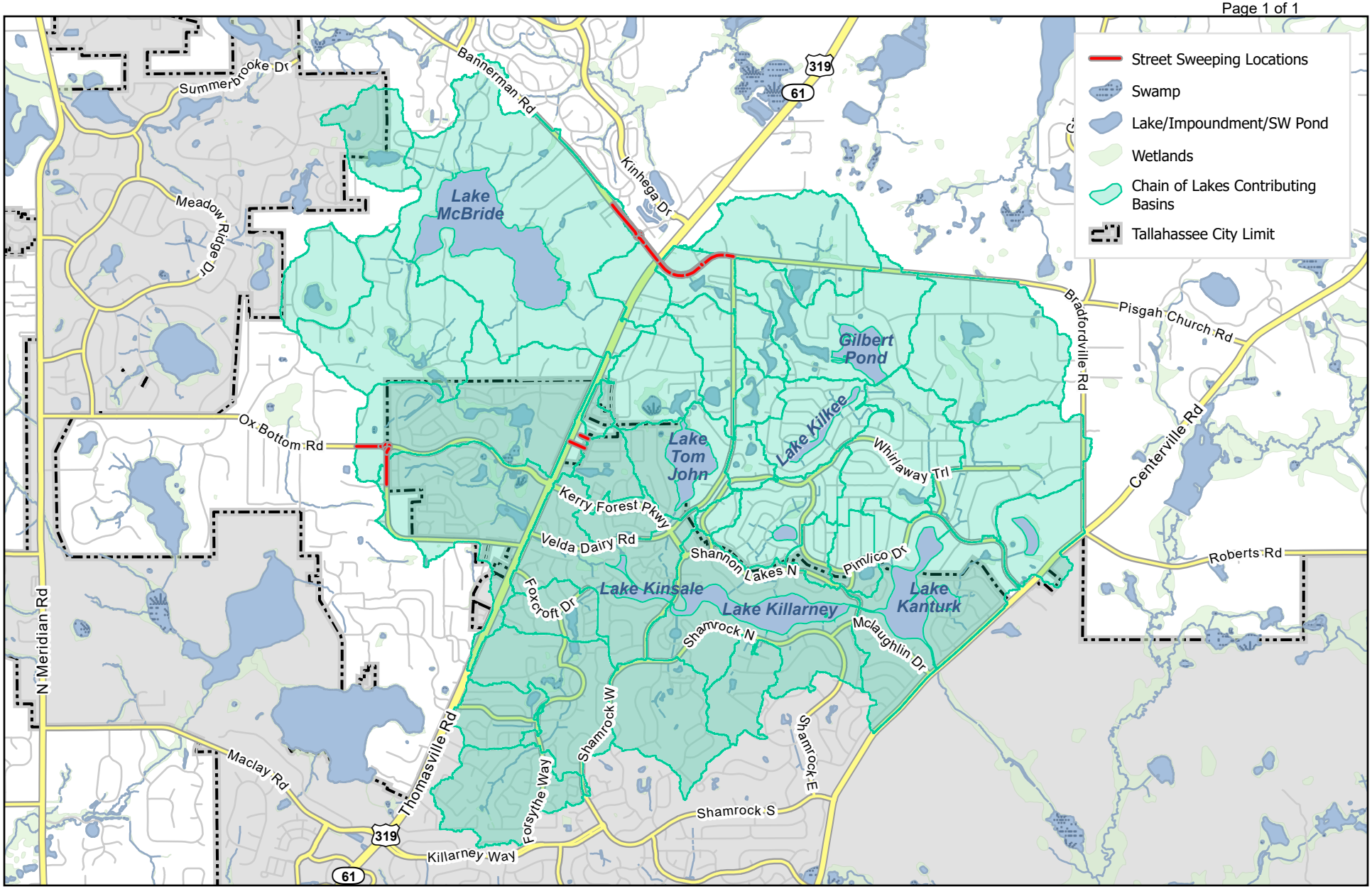


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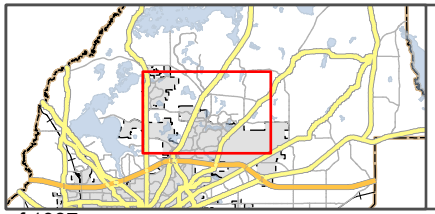


Killearn Chain of Lakes Contributing Basins

Date Drawn: 4/19/2022

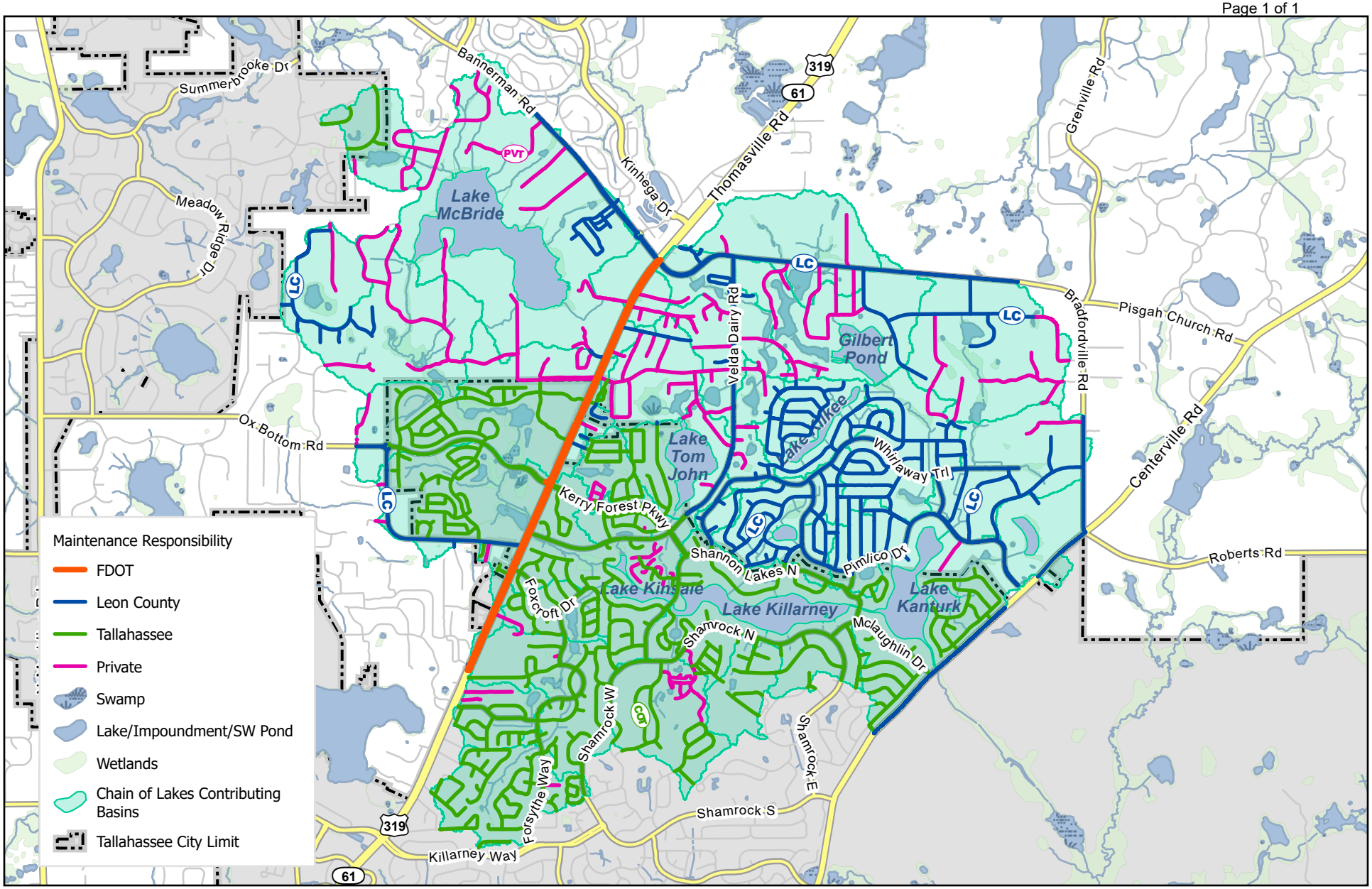


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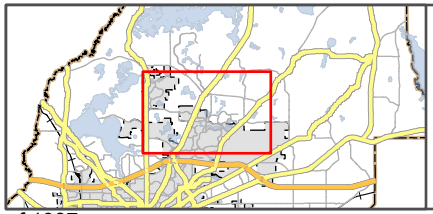


Leon County Street Sweeping Locations

Date Drawn: 4/19/2022

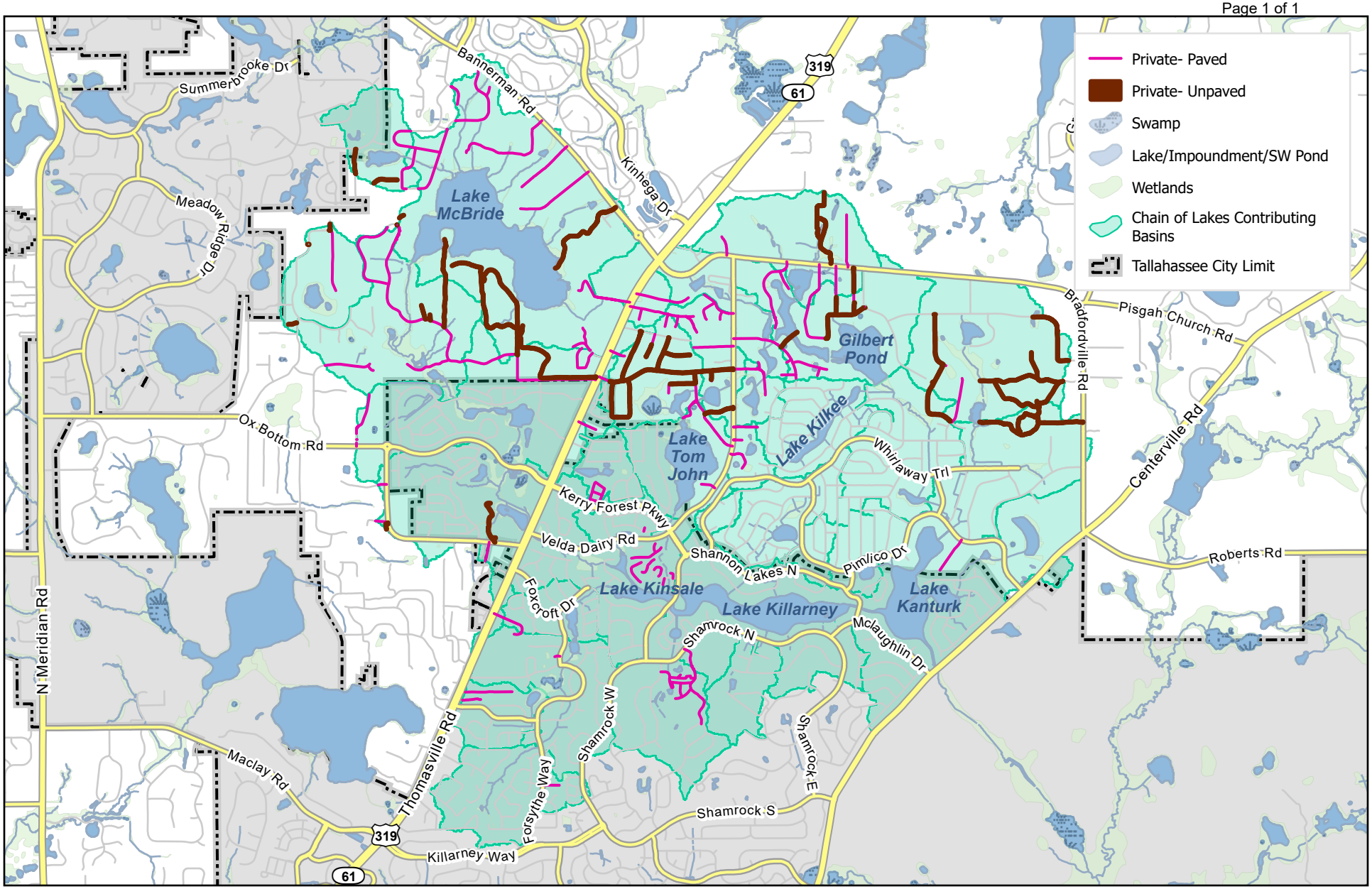


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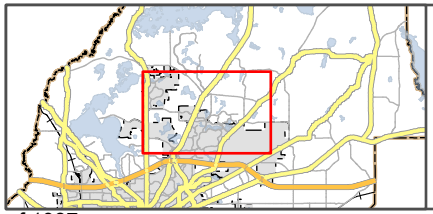


Roadway Maintenance Responsibility

Date Drawn: 4/19/2022

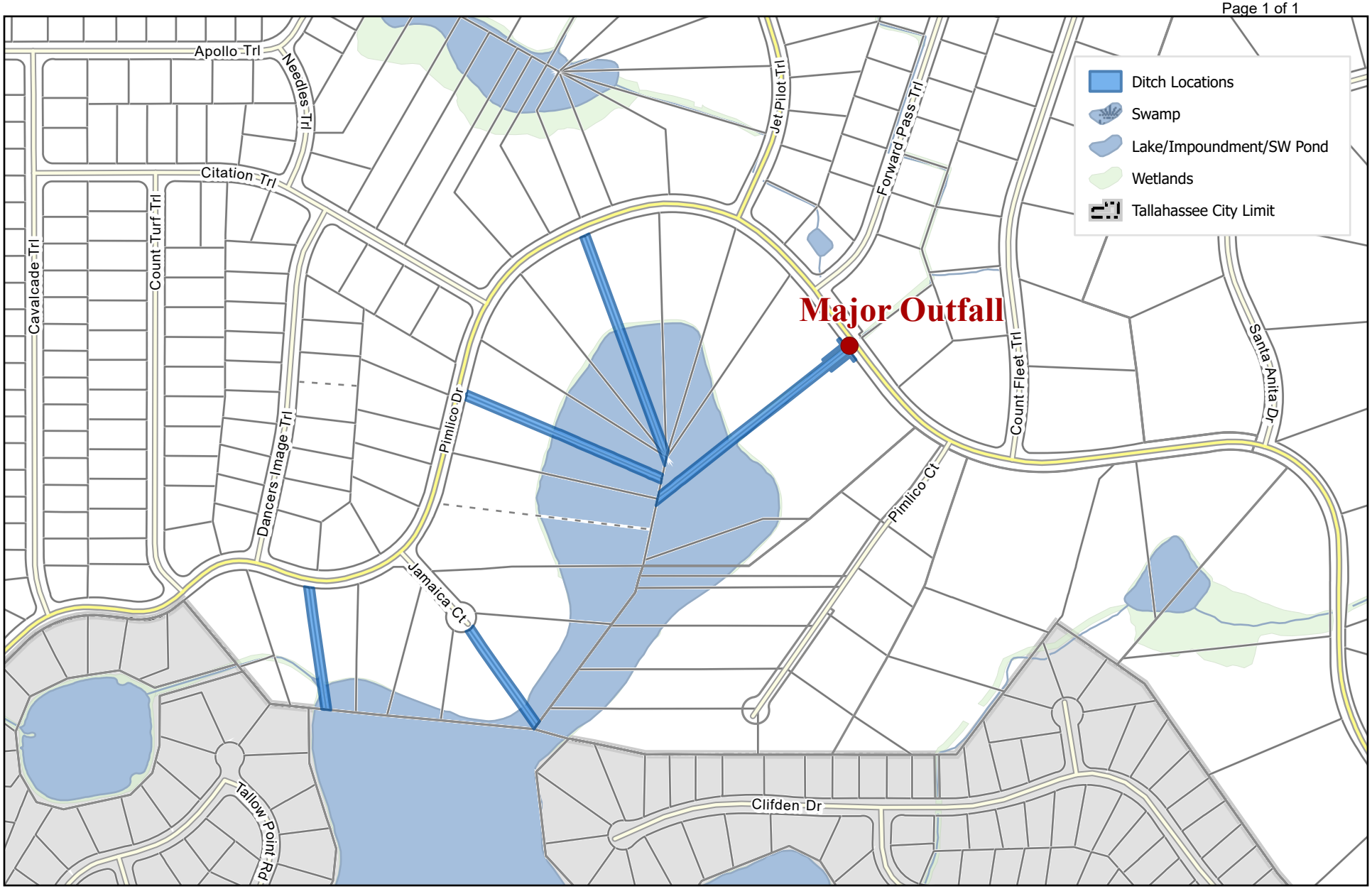


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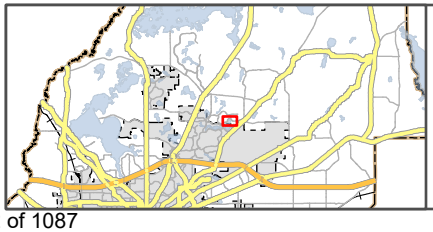


Private Roads in the Killearn Chain of Lakes Contributing Basin

Date Drawn: 5/2/2022



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Leon County
Lake Kanturk
Ditch Locations

Date Drawn: 4/28/2022

Leon County
Board of County Commissioners

Notes for Agenda Item #16

Leon County Board of County Commissioners

Agenda Item #16

May 10, 2022



To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: Report on Gun Buyback Programs

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	Wanda Hunter, Assistant County Administrator

Statement of Issue:

As requested by the Board at its February 8, 2022 meeting, this item provides a report on gun buyback programs.

Fiscal Impact:

This item has no fiscal impact.

Staff Recommendation:

Option #1: Accept the report on gun buyback programs and take no further action.

Report and Discussion

Background:

As requested by the Board at its February 8, 2022 meeting, this item provides a report on gun buyback programs. Gun buyback programs are intended to reduce the number of privately-owned firearms available to criminals and other high-risk individuals. As detailed in the analysis below, gun buyback programs may be an effective strategy in raising public awareness and educating the community about gun violence; however, they have proven ineffective as a policy strategy to reduce gun violence. In some communities, gun buyback programs can result in increased gun violence when criminals believe that law-abiding citizens are surrendering their guns. As discussed in the analysis, existing strategies utilized by the Leon County Sheriff to reduce gun violence are comprehensive, strategic, and targeted to persuade criminals and high-risk individuals to surrender their guns.

Gun buyback programs have operated in cities across the United States for many years. Program participants are incentivized to surrender guns they possess in exchange for cash payments or other compensation. The recovered firearms are usually destroyed, and no record is kept of the person who surrendered the firearm. Philadelphia, Pennsylvania was one of the first U.S. cities to utilize gun buyback programs in the early 1970's; followed by Baltimore, Maryland in 1974 when the city held a gun buyback program over a three-month period and paid $50 to anyone who turned in a firearm to a local police station. There were no questions asked of those who turned in the weapon and no limits were placed on the type or condition of the firearms that could be surrendered. Baltimore's gun buyback program collected approximately 13,500 firearms and cost the city approximately $660,000. Unfortunately, homicides and gun-related assaults in Baltimore rose by over 50% following its gun buyback program, raising concerns among policymakers about the program's effectiveness.

The city of Milwaukee also held a series of gun buyback programs in the mid-1990s and conducted an evaluation of the program shortly after it ended in 1996, by comparing the handguns recovered during the buybacks to those used in homicides and suicides during that same period. Although the event was a success in collecting more than 900 handguns, the evaluation which followed determined that most of the handguns recovered through the gun buyback events were not the types commonly linked to firearm homicides or suicides. For example, semi-automatic weapons were typically associated with homicides and suicides in the city during that period, while most of the guns turned in during the buyback events were manually loaded revolvers. In addition, three-fourths of the handguns recovered during the buybacks used small-caliber ammunition, while a much lower percentage of the handguns used in homicides and suicides used small caliber ammunition.

Following mass shootings in Newtown, Connecticut, El Paso, Texas and Dayton, Ohio gun buyback programs made a resurgence using a different strategy of accepting working firearms only; a notable change from earlier programs that offered compensation for any weapon regardless of whether or not it functioned. Unfortunately, studies of the more recent gun buyback programs have not yielded more favorable results than over the past three decades as incidents of gun-related violence continue to increase across the United States.

Arguably, gun buyback programs are an effective strategy in raising public awareness and educating the community about gun violence; however, the efficacy of gun buyback programs in reducing gun violence continues to be a subject of debate. The following analysis will review gun buybacks according to proponents and opponents of the programs, and will also review gun buyback programs utilized in Leon County.

Analysis:

As previously stated, gun buyback programs are intended to reduce the number of privately-owned firearms available to criminals and other high-risk individuals. Gun buyback programs have a wide appeal for communities affected by gun violence since they empower the community to take an active role in the fight against gun violence. Advocates of gun buybacks argue that such programs may reduce gun crime if marginal criminals who might commit gun-related crimes, sell their weapons to government. Further, if law-abiding citizens sell their firearms, it will reduce the supply of guns available to a would-be thief. In addition, a reduction in the supply of firearms might reduce gun-related incidents if such acts are impulsive and influenced by firearm access at a time of high emotional vulnerability.

Opponents of gun buyback programs, likewise, debate that such programs fail to reduce gun violence, primarily because the price governments are willing to pay gun owners is often less than the value of the firearm. Also, if criminals believe that law-abiding citizens are relinquishing their firearms, then they may be more willing to commit a crime immediately following a gun buyback event. Finally, gun owners of older, less effective firearms, could use the money from the sale to purchase newer, more effective models and gun violence could rise.

A 2021 study conducted by the National Bureau of Economic Research found no empirical evidence that gun buyback programs were effective in deterring gun-related crimes. The study looked at 339 Gun Buyback Programs across 277 U.S. cities, and reviewed public records to determine the number of firearms sold in each city. The study reportedly found no evidence that gun buyback events directly affected firearm-related suicides or homicides and concluded that gun buyback programs are an ineffective policy strategy to reduce gun violence.

Effective strategies to reduce gun violence must motivate high-risk individuals to surrender high-threat weapons. Individuals who participate in gun buyback programs are often middle-aged gun owners; not young adults males who are at a higher risk for criminal involvement. Nevertheless, many communities continue to operate gun buyback programs since they can help raise public awareness of gun violence as well as reduce the number of guns available in the community. Gun buyback events can also be used to promote gun storage safety.

The North Florida Chapter of the National Organization of Black Law Enforcement Executives (NOBLE) has held several gun buyback events in Leon County over the last decade. NOBLE is a nonprofit member organization primarily comprised of black law enforcement chief executive officers and command level officials in local, state, county, and federal government committed to providing justice through service. In August 2010, the North Florida Chapter of NOBLE hosted a gun buyback event and collected 90 guns. NOBLE hosted a second event two years later, on August 4, 2012 which netted 44 guns. In speaking with the current president of NOBLE, Tonja

Bryant-Smith while drafting this item, she could not recall the exact number of guns collected during their last gun buyback held in August 2014. The organization no longer hosts gun buyback events. The consensus of the members was that the events were not getting the type of guns off the street that needed to be removed. The NOBLE President explained that most of the weapons turned in during the events were older guns surrendered by middle-aged and older people who no longer wanted a gun in their home.

Tallahassee Police Department (TPD) staff also shared that it hosted a community-wide gun buyback event several years ago, but did not find the event as effective as it hoped it would be in removing guns from the community. TPD has no current plans to sponsor another gun buyback event. However, staff indicated they are utilizing a variety of strategies, including engaging the community in helping to reduce gun violence.

Since gun buyback programs have proven ineffective in reducing gun violence, in 2019 the Leon County Sheriff Office (LCSO) launched a nontraditional gun-buyback program in partnership with Big Bend Crime Stoppers. The Ceasefire Program (Ceasefire) is a broad anti-crime effort designed to not only confiscate guns but also apprehend those who possess the weapons unlawfully. Ceasefire offers monetary incentives for individuals who provide tips that lead to the seizure of guns used unlawfully, and the arrest of those individuals in possession of the weapons. The tipster may remain anonymous and can receive a $1,000 reward. Ceasefire began with more than $20,000 in donated funds from local businesses. Business owners are encouraged to donate $2000 to support the Initiative. In exchange, the Sheriff will list the business as an official partner in the ALLin Leon Ceasefire Initiative to fight gun violence. To date, 13 local businesses are participating in Ceasefire. To increase local business participation, current and future marketing efforts include radio, local and cable television, as well as streaming networks, social media, billboards, and flyers, to capture the attention of targeted groups. Although activities were interrupted due to the COVID-19 pandemic, Ceasefire's results thus far include two arrests with 14 criminal charges and three seized firearms. LCSO's goal is to collect approximately 130 guns over a 12-month period.

As noted on the LCSO website, the Ceasefire model has worked successfully in communities across the country, including several counties in Florida. First launched in Chicago, Ceasefire is a comprehensive strategy that uses prevention, intervention, and community-mobilization to reduce shootings and killings. Data collected from a 17-year study conducted by the University of Illinois at Chicago School of Public Health found that the number of shootings decreased in several communities in Chicago after implementation of Ceasefire.

The Leon County Sheriff acknowledges that gun violence continues to be a serious issue across the nation, including the Leon County community. As such, he supports every constitutional measure with the potential to limit the access of firearms used for illegal activity, and therefore reduce gun violence in Leon County. According to the most recent Uniform Crime Report, produced by the Florida Department of Law Enforcement in 2020, of the 1,807 violent crimes committed in Leon County (murder, forcible sex offense, robbery, aggravated assault, and manslaughter) 600 (33%) involved the use of a firearm. This figure represents a slight increase over 2019 data when 458 (27%) of a total 1,703 violent offenses involved a firearm.

Leon County, LCSO and many other community stakeholders, are working together to reduce gun violence. Among the top findings identified in LCSO's September 2021 report "*Anatomy of a Homicide Project" (Report)* were the two following conclusions: 1) most homicides committed with firearms were in many cases not legally owned and, 2) the victims and offenders were overwhelmingly young Black males from socioeconomically disadvantaged communities. A key recommendation in the *Report* was to "develop a plan" and "designate a working group or committee to lead the effort [to reduce violent crime]. LCSO has requested, and the Board has supported the creation of a Council on the Status of Men and Boys (CSMB). As noted in its draft charter presented to the Board at the March 8, 2022 meeting, the mission of the CSMB is to *unify existing agencies, organizations, and individuals to coordinate resources, funding, and services under a multi-disciplinary plan for reducing homicides and non-fatal shootings in Leon County.*

As previously stated, effective strategies to reduce gun violence must be comprehensive to persuade high-risk individuals to surrender their guns, and address conflict and socioeconomic issues without violence. As noted throughout the analysis, gun buyback programs alone are ineffective in reducing gun violence. Although they raise public awareness of gun violence and generally result in a temporary reduction of firearms in the community, gun buyback programs can have the unintended consequence of increasing gun violence when criminals believe fewer guns are present in the community. The newly established CSMB and LCSO's Ceasefire Program are strategic and targeted initiatives to reduce violent crime. As such, the two initiatives are more likely to have a greater impact in reducing gun violence in the community long-term than a traditional gun buyback program.

Options:

1. Accept the report on gun buyback programs and take no further action.
2. Do not accept the report on gun buyback programs.
3. Board direction.

Recommendation:

Option #1

Leon County
Board of County Commissioners

Notes for Agenda Item #17

Leon County Board of County Commissioners

Agenda Item #17

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Chasity H. O'Steen, County Attorney

Title: Opioid Litigation Status Report and Consideration of the Opioid Litigation CVS Health Corporation and CVS Pharmacy, Inc., Teva Pharmaceutical Industries Ltd., and Allergan Finance, LLC, Allergan Sales, LLC, Allergen USA, Inc., and Allergan Limited Settlement Agreements and Proposed Participation Agreements

Review and Approval:	Vincent S. Long, County Administrator Chasity H. O'Steen, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	Chasity H. O'Steen, County Attorney

Statement of Issue:

This item seeks Board approval of the opioid litigation CVS Health Corporation and CVS Pharmacy, Inc., Teva Pharmaceutical Industries Ltd., and Allergan Finance, LLC, Allergan Sales, LLC, Allergen USA, Inc., and Allergan Limited Settlement Agreements and Proposed Participation Agreements.

Fiscal Impact:

This item has no current fiscal impact. However, a positive fiscal impact may occur if the County enters into the proposed participation agreements and allocated funds are distributed to the County.

Staff Recommendation:

Option #1: Accept the Opioid Litigation Status Report.

Option #2: Approve the opioid litigation CVS Health Corporation and CVS Pharmacy, Inc., Teva Pharmaceutical Industries Ltd., and Allergan Finance, LLC, Allergan Sales, LLC, Allergen USA, Inc., and Allergan Limited Participation Agreements (Attachments #5-#7), and authorize the County Attorney to sign the Participation Agreements.

Report and Discussion

Background:

The Board previously authorized the County to join the multidistrict opioid litigation (MDL) against opioid manufacturers, distributors, and retailers, and retain outside counsel. In June 2018, the County entered into a contract with outside counsel, Levin, Papantonio, P. A., and Parks Law, LLC, to represent the County in this matter. In 2020, the State of Florida, Office of the Attorney General (State), began to hold a series of meetings with Florida local governments to negotiate a unified plan for the proposed allocation and use of opioid settlement proceeds (Unified Florida Plan). The Memorandum of Understanding with the State (MOU) provides the framework of the Unified Florida Plan. On September 14, 2021, the Board approved the MOU and adopted Resolution No. R21-43 (Attachment #1).

The Board has considered and approved various proposed MDL settlements. On July 13, 2021, the Board approved the Purdue bankruptcy plan, and the County's approval was submitted on July 14, 2021. The Purdue bankruptcy plan was approved by the bankruptcy judge on September 1, 2021. However, the approval was appealed to the district court, which vacated the plan's approval. Subsequently, the bankruptcy judge ordered additional mediation and set a deadline of February 1, 2022 for completion. Purdue appealed the judge's ruling and the matter is currently scheduled for hearing April 29, 2022, before the United States Second Circuit Court of Appeals.

On September 14, 2021, the Board approved the Mallinckrodt Pharmaceuticals bankruptcy plan, and the County's approval was submitted to outside counsel on September 21, 2021. Closing arguments for the proposed bankruptcy plan were held in this matter on January 6, 2022. While there was broad support for the proposed bankruptcy plan in this matter, the plan was opposed by the state of Rhode Island as well as anti-trust Plaintiffs. Despite the opposition, the bankruptcy judge confirmed Mallinckrodt's bankruptcy plan. The ruling was appealed and remains pending before the United States Third Circuit Court of Appeals.

As part of the MDL, as authorized by the Board on September 14, 2021, the County entered into participation agreements with the Big Three Distributor defendants (AmerisourceBergen, Cardinal Health, and McKesson), as well as Janssen/Johnson & Johnson. The appropriate number of government entities agreed to participate, and it was determined that the parties could move forward with settlement. The participation agreement approved by the Board was submitted on December 6, 2022.

On October 12, 2021, the Board authorized the County Attorney to direct outside counsel to join the multidistrict litigation against McKinsey and Company, Inc., and outside counsel was notified of the Board's authorization. Litigation remains pending in the United States District Court for the Northern District of California.

On February 8, 2022, the Board approved the Endo Health Solutions, Inc., and Endo Pharmaceuticals, Inc., settlement proposal and participation agreement and authorized the County Attorney to sign the participation agreement. The signed participation agreement was submitted on February 9, 2022.

Analysis:

Outside counsel has notified the County that CVS Health Corporation and CVS Pharmacy, Inc. (CVS), Teva Pharmaceutical Industries Ltd. (Teva), and Allergan Finance, LLC, Allergan Sales, LLC, Allergen USA, Inc., and Allergan Limited (Allergan) have reached agreements with the State of Florida, Office of the Attorney General (State) to settle pending opioid litigation in Florida. The total settlement includes cash payments as well as delivery of product (Narcan) to be used to combat the opioid crisis. The cash portion of the proposed settlements would total approximately $813,026,499.

The CVS Settlement Agreement (Attachment #2) totals $484 million to be paid over the course of 18 years. The Teva Settlement Agreement (Attachment #3) and Allergan Settlement Agreement (Attachment #4) total $329,026,499 to be paid over the course of 11 years. In addition to the aforementioned cash payments, the settlement also includes distribution of approximately $84 million worth of Narcan nasal spray to the State, which can be used to temporarily reverse the effects of opioid overdoses. To effectuate the settlement, the County must sign and submit Participation Agreements to opt-in to each settlement: (1) CVS (Attachment #5), (2) Teva (Attachment #6), and (3) Allergan (Attachment #7).

Based on the State's projected estimates and complete statewide participation by litigating entities, Leon County's allocation is estimated as follows:

CVS	Teva	Allergan
$310,992.76	$125,185.19	$86,229.81

(the above amounts have not been verified and will likely change slightly prior to distribution)

Approval of the CVS, Teva, and Allergan Participation Agreements is recommended.

Options:

1. Accept the Opioid Litigation Status Report.
2. Approve the opioid litigation CVS Health Corporation and CVS Pharmacy, Inc., Teva Pharmaceutical Industries Ltd., and Allergan Finance, LLC, Allergan Sales, LLC, Allergen USA, Inc., and Allergan Limited Participation Agreements (Attachments #5-#7), and authorize the County Attorney to sign the Participation Agreements.
3. Do not accept the Opioid Litigation Status Report.
4. Do not approve the opioid litigation CVS Health Corporation and CVS Pharmacy, Inc., Teva Pharmaceutical Industries Ltd., and Allergan Finance, LLC, Allergan Sales, LLC, Allergen USA, Inc., and Allergan Limited Participation Agreements (Attachments #5-#7), and do not authorize the County Attorney to sign the Participation Agreements.
5. Board direction.

Recommendation:

Options #1 and #2

Attachments:

1. Resolution No. R21-43
2. CVS Settlement Agreement
3. Teva Settlement Agreement
4. Allergan Settlement Agreement
5. CVS Subdivision Settlement Participation Agreement
6. Teva Subdivision Settlement Participation Agreement
7. Allergan Subdivision Settlement Participation Agreement

LEON COUNTY RESOLUTION NO. R21- 43

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AUTHORIZING LEON COUNTY, FLORIDA (HEREIN REFERRED TO AS "GOVERNMENTAL UNIT") TO JOIN WITH THE STATE OF FLORIDA AND OTHER LOCAL GOVERNMENTAL UNITS AS A PARTICIPANT IN THE FLORIDA MEMORANDUM OF UNDERSTANDING AND FORMAL AGREEMENTS IMPLEMENTING A UNIFIED PLAN.

RECITALS

WHEREAS, the County has suffered harm from the opioid epidemic; and

WHEREAS, the County recognizes that the entire State of Florida has suffered harm as a result from the opioid epidemic; and

WHEREAS, the State of Florida has filed an action pending in Pasco County, Florida, and a number of Florida Cities and Counties have also filed an action *In re: National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio) (the "Opioid Litigation") and the County is a litigating participant in that action; and

WHEREAS, the State of Florida and lawyers representing certain various local governments involved in the Opioid Litigation have proposed a unified plan for the allocation and use of prospective settlement dollars from opioid related litigation; and

WHEREAS, the Florida Memorandum of Understanding (the "Florida Plan") sets forth a framework of a unified plan for the proposed allocation and use of opioid settlement proceeds and it is anticipated that formal agreements implementing the Florida Plan will be entered into at a future date; and

WHEREAS, participation in the Florida Plan by a large majority of Florida cities and counties will materially increase the amount of funds to Florida and should improve Florida's relative bargaining position during additional settlement negotiations; and

WHEREAS, failure to participate in the Florida Plan will reduce funds available to the State, County, and every other Florida city and county; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, that:

Section 1.

That this Governmental Unit finds that participation in the Florida Plan would be in the best interest of the Governmental Unit and its citizens in that such a plan ensures that almost all of the settlement funds go to abate and resolve the opioid epidemic and each and every city and county receives funds for the harm that it has suffered.

Section 2.

That this Governmental Unit hereby expresses its support of a unified plan for the allocation and use of opioid settlement proceeds as generally described in the Florida Plan, attached hereto as Exhibit "A.".

Section 3.

That Leon County, Florida is hereby expressly authorized to execute the Florida Plan, in substantially the form contained in Exhibit "A.".

Section 4.

That Leon County, Florida is hereby authorized to execute any formal agreements implementing a unified plan for the allocation and use of opioid settlement proceeds that is not substantially inconsistent with the Florida Plan and this Resolution.

Section 5.

That the Clerk be and hereby is instructed to record this Resolution in the appropriate record book upon its adoption.

Section 6.

The clerk of this Governmental Unit is hereby directed to furnish a certified copy of this Resolution to the

Florida Association of Counties
100 S. Monroe Street
Tallahassee, FL 32301

Attorney General Ashley Moody
c/o John M. Guard
The Capitol, PL-01
Tallahassee, FL 32399-1050

Section 7.

This Resolution shall take effect immediately upon its adoption.

DONE, ADOPTED AND PASSED by the Board of County Commissioners of Leon County, Florida, this 14th day of September, 2021.

LEON COUNTY, FLORIDA

By: _____
Rick Minor, Chair
Board of County Commissioners

ATTESTED BY:
Gwendolyn Marshall, Clerk of Court
& Comptroller, Leon County, Florida

By: _____

APPROVED AS TO FORM:
Chasity H. O'Steen, County Attorney
Leon County Attorney's Office

By: Chasity H. O'Steen Digitally signed by Chasity H. O'Steen Date: 2021.09.16 12:54:46 -04'00'

PROPOSAL
MEMORANDUM OF UNDERSTANDING

Whereas, the people of the State of Florida and its communities have been harmed by misfeasance, nonfeasance and malfeasance committed by certain entities within the Pharmaceutical Supply Chain;

Whereas, the State of Florida, through its Attorney General, and certain Local Governments, through their elected representatives and counsel, are separately engaged in litigation seeking to hold Pharmaceutical Supply Chain Participants accountable for the damage caused by their misfeasance, nonfeasance and malfeasance;

Whereas, the State of Florida and its Local Governments share a common desire to abate and alleviate the impacts of that misfeasance, nonfeasance and malfeasance throughout the State of Florida;

Whereas, it is the intent of the State of Florida and its Local Governments to use the proceeds from Settlements with Pharmaceutical Supply Chain Participants to increase the amount of funding presently spent on opioid and substance abuse education, treatment and other related programs and services, such as those identified in Exhibits A and B, and to ensure that the funds are expended in compliance with evolving evidence-based "best practices";

Whereas, the State of Florida and its Local Governments, subject to the completion of formal documents that will effectuate the Parties' agreements, enter into this Memorandum of Understanding ("MOU") relating to the allocation and use of the proceeds of Settlements described herein; and

Whereas, this MOU is a preliminary non-binding agreement between the Parties, is not legally enforceable, and only provides a basis to draft formal documents which will effectuate the Parties' agreements.

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A. Definitions

As used in this MOU:

1. "Approved Purpose(s)" shall mean forward-looking strategies, programming and services used to expand the availability of treatment for individuals impacted by substance use disorders, to: (a) develop, promote, and provide evidence-based substance use prevention strategies; (b) provide substance use avoidance and awareness education; (c) decrease the oversupply of licit and illicit opioids; and (d) support recovery from addiction. Approved Purposes shall include, but are not limited to, the opioid abatement strategies listed on Exhibits A and B which are incorporated herein by reference.

2. "Local Governments" shall mean all counties, cities, towns and villages located within the geographic boundaries of the State.

3. "Managing Entities" shall mean the corporations selected by and under contract with the Florida Department of Children and Families or its successor ("DCF") to manage the

daily operational delivery of behavioral health services through a coordinated system of care. The singular "Managing Entity" shall refer to a singular of the Managing Entities.

4. "County" shall mean a political subdivision of the state established pursuant to s. 1, Art. VIII of the State Constitution.

5. "Municipalities" shall mean cities, towns, or villages of a County within the State with a Population greater than 10,000 individuals and shall also include cities, towns or villages within the State with a Population equal to or less than 10,000 individuals which filed a Complaint in this litigation against Pharmaceutical Supply Chain Participants. The singular "Municipality" shall refer to a singular of the Municipalities.

6. ''Negotiating Committee" shall mean a three-member group comprised by representatives of the following: (1) the State; and (2) two representatives of Local Governments of which one representative will be from a Municipality and one shall be from a County (collectively, "Members") within the State. The State shall be represented by the Attorney General or her designee.

7. "Negotiation Class Metrics" shall mean those county and city settlement allocations which come from the official website of the Negotiation Class of counties and cities certified on September 11, 2019 by the U.S. District for the Northern District of Ohio in *In re National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio). The website is located at https://allocationmap.iclaimsonline.com.

8. "Opioid Funds" shall mean monetary amounts obtained through a Settlement as defined in this MOU.

9. "Opioid Related" shall have the same meaning and breadth as in the agreed Opioid Abatement Strategies attached hereto as Exhibits A or B.

10. "Parties" shall mean the State and Local Governments. The singular word "Party" shall mean either the State or Local Governments.

11. "PEC" shall mean the Plaintiffs' Executive Committee of the National Prescription Opiate Multidistrict Litigation pending in the United States District Court for the Northern District of Ohio.

12. "Pharmaceutical Supply Chain" shall mean the process and channels through which Controlled Substances are manufactured, marketed, promoted, distributed or dispensed.

13. "Pharmaceutical Supply Chain Participant" shall mean any entity that engages in, or has engaged in the manufacture, marketing, promotion, distribution or dispensing of an opioid analgesic.

14. "Population" shall refer to published U.S. Census Bureau population estimates as of July 1, 2019, released March 2020, and shall remain unchanged during the term of this MOU. These estimates can currently be found at https://www.census.gov

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15. "Qualified County" shall mean a charter or non-chartered county within the State that: has a Population of at least 300,000 individuals and (a) has an opioid taskforce of which it is a member or operates in connection with its municipalities or others on a local or regional basis; (b) has an abatement plan that has been either adopted or is being utilized to respond to the opioid epidemic; (c) is currently either providing or is contracting with others to provide substance abuse prevention, recovery, and treatment services to its citizens; and (d) has or enters into an agreement with a majority of Municipalities (Majority is more than 50% of the Municipalities' total population) related to the expenditure of Opioid Funds. The Opioid Funds to be paid to a Qualified County will only include Opioid Funds for Municipalities whose claims are released by the Municipality or Opioid Funds for Municipalities whose claims are otherwise barred.

16. "SAMHSA" shall mean the U.S. Department of Health & Human Services, Substance Abuse and Mental Health Services Administration.

17. "Settlement" shall mean the negotiated resolution of legal or equitable claims against a Pharmaceutical Supply Chain Participant when that resolution has been jointly entered into by the State and Local Governments or a settlement class as described in (B)(1) below.

18. "State" shall mean the State of Florida.

B. Terms

1. **Only Abatement -** Other than funds used for the Administrative Costs and Expense Fund as hereinafter described in paragraph 6 and paragraph 9, respectively), all Opioid Funds shall be utilized for Approved Purposes. To accomplish this purpose, the State will either file a new action with Local Governments as Parties or add Local Governments to its existing action, sever settling defendants, and seek entry of a consent order or other order binding both the State, Local Governments, and Pharmaceutical Supply Chain Participant(s) ("Order"). The Order may be part of a class action settlement or similar device. The Order shall provide for continuing jurisdiction of a state court to address non-performance by any party under the Order. Any Local Government that objects to or refuses to be included under the Order or entry of documents necessary to effectuate a Settlement shall not be entitled to any Opioid Funds and its portion of Opioid Funds shall be distributed to, and for the benefit of, the other Local Governments.

2. **Avoid Claw Back and Recoupment** - Both the State and Local Governments wish to maximize any Settlement and Opioid Funds. In addition to committing to only using funds for the Expense Funds, Administrative Costs and Approved Purposes, both Parties will agree to utilize a percentage of funds for the core strategies highlighted in Exhibit A. Exhibit A contains the programs and strategies prioritized by the U.S. Department of Justice and/or the U.S. Department of Health & Human Services ("Core Strategies"). The State is trying to obtain the United States' agreement to limit or reduce the United States' ability to recover or recoup monies from the State and Local Government in exchange for prioritization of funds to certain projects. If no agreement is reached with the United States, then there will be no requirement that a percentage be utilized for Core Strategies.

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3. **Distribution Scheme** - All Opioid Funds will initially go to the State, and then be distributed according to the following distribution scheme. The Opioid Funds will be divided into three funds after deducting costs of the Expense Fund detailed in paragraph 9 below:

(a) City/County Fund- The city/county fund will receive 15% of all Opioid Funds to directly benefit all Counties and Municipalities. The amounts to be distributed to each County and Municipality shall be determined by the Negotiation Class Metrics or other metrics agreed upon, in writing, by a County and a Municipality. For Local Governments that are not within the definition of County or Municipality, those Local Governments may receive that government's share of the City/County Fund under the Negotiation Class Metrics, if that government executes a release as part of a Settlement. Any Local Government that is not within the definition of County or Municipality and that does not execute a release as part of a Settlement shall have its share of the City/County Fund go to the County in which it is located.

(b) Regional Fund- The regional fund will be subdivided into two parts.

(i) The State will annually calculate the share of each County within the State of the regional fund utilizing the sliding scale in section 4 of the allocation contained in the Negotiation Class Metrics or other metrics that the Parties agree upon.

(ii) For Qualified Counties, the Qualified County's share will be paid to the Qualified County and expended on Approved Purposes, including the Core Strategies identified in Exhibit A, if applicable.

(iii) For all other Counties, the regional share for each County will be paid to the Managing Entities providing service for that County. The Managing Entities will be required to expend the monies on Approved Purposes, including the Core Strategies. The Managing Entities shall endeavor to the greatest extent possible to expend these monies on counties within the State that are non-Qualified Counties and to ensure that there are services in every County.

(c) State Fund - The remainder of Opioid Funds after deducting the costs of the Expense Fund detailed in paragraph 9, the City/County Fund and the Regional Fund will be expended by the State on Approved Purposes, including the provisions related to Core Strategies, if applicable.

(d) To the extent that Opioid Funds are not appropriated and expended in a year by the State, the State shall identify the investments where settlement funds will be deposited. Any gains, profits, or interest accrued from the deposit of the Opioid Funds to the extent that any funds are not appropriated and expended within a calendar year, shall be the sole property of the Party that was entitled to the initial deposit.

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4. Regional Fund Sliding Scale- The Regional Fund shall be calculated by utilizing the following sliding scale of the Opioid Funds available in any year:

A. Years 1-6: 40%

B. Years 7-9: 35%

C. Years 10-12: 34%

D. Years 13-15: 33%

E. Years 16-18: 30%

5. Opioid Abatement Taskforce or Council - The State will create an Opioid Abatement Taskforce or Council (sometimes hereinafter "Taskforce" or "Council") to advise the Governor, the Legislature, Florida's Department of Children and Families ("DCF"), and Local Governments on the priorities that should be addressed as part of the opioid epidemic and to review how monies have been spent and the results that have been achieved with Opioid Funds.

(a) Size - The Taskforce or Council shall have ten Members equally balanced between the State and the Local Governments.

(b) Appointments Local Governments - Two Municipality representatives will be appointed by or through Florida League of Cities. Two county representatives, one from a Qualified County and one from a county within the State that is not a Qualified County, will be appointed by or through the Florida Association of Counties. The final representative will alternate every two years between being a county representative (appointed by or through Florida Association of Counties) or a Municipality representative (appointed by or through the Florida League of Cities). One Municipality representative must be from a city of less than 50,000 people. One county representative must be from a county less than 200,000 people and the other county representative must be from a county whose population exceeds 200,000 people.

(c) Appointments State -

(i) The Governor shall appoint two Members.

(ii) The Speaker of the House shall appoint one Member.

(iii) The Senate President shall appoint one Member.

(iv) The Attorney General or her designee shall be a Member.

(d) Chair - The Attorney General or designee shall be the chair of the Taskforce or Council.

(e) Term - Members will be appointed to serve a two-year term.

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(f) Support - DCF shall support the Taskforce or Council and the Taskforce or Council shall be administratively housed in DCF.

(g) Meetings - The Taskforce or Council shall meet quarterly in person or virtually using communications media technology as defined in section 120.54(5)(b)(2), Florida Statutes.

(h) Reporting - The Taskforce or Council shall provide and publish a report annually no later than November 30th or the first business day after November 30th, if November 30th falls on a weekend or is otherwise not a business day. The report shall contain information on how monies were spent the previous fiscal year by the State, each of the Qualified Counties, each of the Managing Entities, and each of the Local Governments. It shall also contain recommendations to the Governor, the Legislature, and Local Governments for priorities among the Approved Purposes for how monies should be spent the coming fiscal year to respond to the opioid epidemic.

(i) Accountability - Prior to July 1st of each year, the State and each of the Local Governments shall provide information to DCF about how they intend to expend Opioid Funds in the upcoming fiscal year. The State and each of the Local Government shall report its expenditures to DCF no later than August 31st for the previous fiscal year. The Taskforce or Council will set other data sets that need to be reported to DCF to demonstrate the effectiveness of Approved Purposes. All programs and expenditures shall be audited annually in a similar fashion to SAMHSA programs. Local Governments shall respond and provide documents to any reasonable requests from the State for data or information about programs receiving Opioid Funds.

(j) Conflict of Interest - All Members shall adhere to the rules, regulations and laws of Florida including, but not limited to, Florida Statute §112.311, concerning the disclosure of conflicts of interest and recusal from discussions or votes on conflicted matters.

6. **Administrative Costs**- The State may take no more than a 5% administrative fee from the State Fund ("Administrative Costs") and any Regional Fund that it administers for counties that are not Qualified Counties. Each Qualified County may take no more than a 5% administrative fee from its share of the Regional Funds.

7. **Negotiation of Non-Multistate Settlements** - If the State begins negotiations with a Pharmaceutical Supply Chain Participant that is separate and apart from a multi-state negotiation, the State shall include Local Governments that are a part of the Negotiating Committee in such negotiations. No Settlement shall be recommended or accepted without the affirmative votes of both the State and Local Government representatives of the Negotiating Committee.

8. **Negotiation of Multistate or Local Government Settlements** - To the extent practicable and allowed by other parties to a negotiation, both Parties agree to communicate with

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members of the Negotiation Committee regarding the terms of any other Pharmaceutical Supply Chain Participant Settlement.

9. **Expense Fund** - The Parties agree that in any negotiation every effort shall be made to cause Pharmaceutical Supply Chain Participants to pay costs of litigation, including attorneys' fees, in addition to any agreed to Opioid Funds in the Settlement. To the extent that a fund sufficient to pay the entirety of all contingency fee contracts for Local Governments in the State of Florida is not created as part of a Settlement by a Pharmaceutical Supply Chain Participant, the Parties agree that an additional expense fund for attorneys who represent Local Governments (herein "Expense Fund") shall be created out of the City/County fund for the purpose of paying the hard costs of a litigating Local Government and then paying attorneys' fees.

(a) The Source of Funds for the Expense Fund- Money for the Expense Fund shall be sourced exclusively from the City/County Fund.

(b) The Amount of the Expense Fund- The State recognizes the value litigating Local Governments bring to the State of Florida in connection with the Settlement because their participation increases the amount Incentive Payments due from each Pharmaceutical Supply Chain Participant. In recognition of that value, the amount of funds that shall be deposited into the Expense fund shall be contingent upon on the percentage of litigating Local Government participation in the Settlement, according to the following table:

Litigating Local Government Participation in the Settlement (by percentage of the population)	Amount that shall be paid into the Expense Fund from (and as a percentage of) the City/County fund
96 to 100%	10%
91 to 95%	7.5%
86 to 90%	5%
85%	2.5%
Less than 85%	0%

If fewer than 85% percent of the litigating Local Governments (by population) participate, then the Expense Fund shall not be funded, and this Section of the MOU shall be null and void.

(c) The Timing of Payments into the Expense Fund- Although the amount of the Expense Fund shall be calculated based on the entirety of payments due to the City/County fund over a ten to eighteen year period, the Expense Fund shall be funded entirely from payments made by Pharmaceutical Supply Chain Participants during the first two years of the Settlement. Accordingly, to offset the amounts being paid from the City/County to the Expense Fund in the first two years, Counties or Municipalities may borrow from the Regional Fund during the

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first two years and pay the borrowed amounts back to the Regional Fund during years three, four, and five.

For the avoidance of doubt, the following provides an illustrative example regarding the calculation of payments and amounts that may be borrowed under the terms of this MOU, consistent with the provisions of this Section:

Opioid Funds due to State of Florida and Local Governments (over 10 to 18 years):	$1,000
Litigating Local Government Participation:	100%
City/County Fund (over 10 to 18 years):	$150
Expense Fund (paid over 2 years):	$15
Amount Paid to Expense Fund in 1st year:	$7.5
Amount Paid to Expense Fund in 2nd year	$7.5
Amount that may be borrowed from Regional Fund in 1st year:	$7.5
Amount that may be borrowed from Regional Fund in 2nd year:	$7.5
Amount that must be paid back to Regional Fund in 3rd year:	$5
Amount that must be paid back to Regional Fund in 4th year:	$5
Amount that must be paid back to Regional Fund in 5th year:	$5

(d) Creation of and Jurisdiction over the Expense Fund- The Expense Fund shall be established, consistent with the provisions of this Section of the MOU, by order of the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, West Pasco Division New Port Richey, Florida, in the matter of *The State of Florida, Office of the Attorney General, Department of Legal Affairs v. Purdue Pharma L.P., et al.*, Case No. 2018-CA-001438 (the "Court"). The Court shall have jurisdiction over the Expense Fund, including authority to allocate and disburse amounts from the Expense Fund and to resolve any disputes concerning the Expense Fund.

(e) Allocation of Payments to Counsel from the Expense Fund- As part of the order establishing the Expense Fund, counsel for the litigating Local Governments shall seek to have the Court appoint a third-neutral to serve as a special master for purposes of allocating the Expense Fund. Within 30 days of entry of the order appointing a special master for the Expense Fund, any counsel who intend to seek an award from the Expense Fund shall provide the copies of their contingency fee contracts to the special master. The special master shall then build a mathematical model, which shall be based on each litigating Local Government's share under the Negotiation Class Metrics and the rate set forth in their contingency contracts, to calculate a proposed award for each litigating Local Government who timely provided a copy of its contingency contract.

10. **Dispute resolution-** Any one or more of the Local Governments or the State may object to an allocation or expenditure of Opioid Funds solely on the basis that the allocation or expenditure at issue (a) is inconsistent with the Approved Purposes; (b) is inconsistent with the distribution scheme as provided in paragraph 3, or (c) violates the limitations set forth herein

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with respect to administrative costs or the Expense Fund. There shall be no other basis for bringing an objection to the approval of an allocation or expenditure of Opioid Funds.

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SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement is made and entered into this 29th day of March 2022, among CVS (defined below), the State of Florida and its Office of the Attorney General ("Plaintiff" or "State") (with CVS, the "Settling Parties"), and State Outside Litigation Counsel (defined below) in the lawsuit captioned *State of Florida, Office of the Attorney General, Department of Legal Affairs v. Purdue Pharma, L.P., et al.* (Case No. 2018-CA-001438) (Fla. Cir. Ct. Pasco County) (the "Florida AG Action"). This Settlement Agreement is intended by the Settling Parties to fully, finally and forever resolve, discharge and settle the Released Claims (as defined below), upon and subject to the terms and conditions hereof (the "Settlement").

WHEREAS, Plaintiff filed an amended complaint in the Florida AG Action asserting various claims against CVS for public nuisance, negligence, conspiracy, fraud, and violations of the Florida Deceptive and Unfair Trade Practices Act and Racketeer Influenced and Corrupt Organization Act, all based on allegations that CVS historically, among other acts, distributed and dispensed prescription opioid pain medication improperly in a fashion that has caused harm to the health of Florida residents and to the State. The action seeks damages, equitable abatement, civil penalties, attorneys' fees and reimbursed litigation costs, and other relief;

WHEREAS, Plaintiff brought the Florida AG Action in its sovereign capacity as the people's attorney in order to protect the public interest, including the interests of the State of Florida, its governmental subdivisions and its citizens;

WHEREAS, numerous Litigating Subdivisions (defined below) have filed Actions (defined below) in various forums against CVS, among others, raising Claims or allegations concerning, related to, based upon, or in connection with the Covered Conduct (defined below) and seeking relief that overlaps in whole or in part with the relief sought in the Florida AG Action;

WHEREAS, there are numerous Subdivisions (defined below) that are not Litigating Subdivisions ("Non-Litigating Subdivisions") that could seek to file additional Actions raising Claims or allegations concerning, related to, based upon, or in connection with the Covered Conduct and seeking relief that overlaps in whole or in part with the relief sought in the Florida AG Action and the Actions filed by Litigating Subdivisions;

WHEREAS, CVS (i) denies each and all of the Claims and allegations of wrongdoing made by Plaintiff in the Florida AG Action and by the Litigating Subdivisions in each of the Actions and maintains that it has meritorious defenses; (ii) denies all assertions of wrongdoing or liability against CVS arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Florida AG Action or in other Actions already brought by Litigating Subdivisions or that could be brought by such plaintiffs or by Non-Litigating Subdivisions, and contends that the factual allegations made in the Florida AG Action and the Litigating Subdivisions' Actions relating to CVS are false and materially inaccurate; (iii) denies that Plaintiff, or any Litigating Subdivision, or any other Subdivision, or any Florida resident, was harmed by any conduct of CVS alleged in the Florida AG Action, the Litigating Subdivisions' Actions, or otherwise; (iv) denies liability, expressly denies any wrongdoing, and denies it violated any federal or state statute or common law; and (v) maintains that CVS would be able to successfully defend against Plaintiff's Claims and allegations at trial, that the facts do not support the allegations, that CVS engaged in no misconduct or unlawful activity, and caused no harm to Plaintiff or to the Litigating Subdivisions, other Subdivisions, or any Florida residents;

WHEREAS, the Parties have investigated the facts and analyzed the relevant legal issues regarding the Claims and defenses that have been or could have been asserted in the Florida AG Action and any other Actions;

WHEREAS, the Parties have each considered the costs and delays and uncertainty associated with the continued prosecution and defense of the Florida AG Action and the other Actions;

WHEREAS, the Parties believe the Settlement set forth herein avoids the uncertainties of litigation and assures that the benefits reflected herein are obtained;

WHEREAS, Plaintiff has concluded that the terms of the Settlement are fair, reasonable and adequate and in the best interest of Plaintiff and all Subdivisions and Florida citizens and residents;

WHEREAS, given the unique facts and circumstances associated with the Florida AG Action, including without limitation the imminent trial date and the 2012 regulatory findings against certain CVS pharmacies in the State of Florida, the Settlement reflects a substantial premium for the State of Florida;

WHEREAS, the Settlement is predicated, as well, on the portion of CVS's total pharmacy business that was located in Florida as reflected in the ARCOS data available to the parties;

WHEREAS, in the years following the 2012 regulatory findings against certain CVS retail pharmacies in Florida, CVS has put in place innovative, comprehensive and industry-leading policies, procedures and controls relating to the dispensing of prescription opioid medications and other controlled substances. The Settlement will permit the State and CVS to continue to work in partnership to further the public health in this respect and other respects. To the extent CVS's existing practices, policies, procedures or conduct are referenced or impacted by any provision of this Settlement, any such reference or impact does not reflect a contention or conclusion by any Party that CVS's current conduct is in any respect improper or contrary to law;

WHEREAS, Plaintiff has determined that continuation or commencement of Actions against CVS by Litigating Subdivisions or other Subdivisions would unduly interfere with

Plaintiff's litigation authority to bring and resolve litigation in which the State has an interest and frustrate Plaintiff's efforts to obtain a favorable settlement;

WHEREAS, the Parties agree that neither this Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be a concession as to any Claim, an admission, evidence of any violation of any statute or law, evidence of any liability or wrongdoing by CVS, or evidence of the truth of any of the Claims, allegations, denials, or defenses made in the Florida AG Action or the Litigating Subdivisions' Actions;

WHEREAS, arm's-length settlement negotiations have taken place over the course of several weeks between CVS and Plaintiff; and

WHEREAS, Plaintiff views prompt settlement on the terms enclosed herein to be in the public interest and crucial to the State of Florida and its citizens; recognizes that Subdivisions may, notwithstanding their willingness to sign on to this settlement, wish to reserve the right to challenge the Attorney General's authority to bind them in other litigation that does not arise out of or relate to the Covered Conduct; and represents that Plaintiff shall not use those Subdivisions' acceptance of the terms of this Settlement as precedent in any litigation matter that does not arise out of or relate to the Covered Conduct.

NOW, THEREFORE, IT IS HEREBY AGREED by and between Plaintiff and CVS, by and through their respective counsel, as follows:

A. Definitions. As used in this Agreement, the following capitalized terms have the meanings specified below.

(a) "Actions" means the Florida AG Action and any lawsuit by a Subdivision asserting any Released Claim against any Releasee.

(b) "Agreement," "Settlement" or "Settlement Agreement" means this Settlement Agreement, together with any exhibits attached hereto, which are incorporated herein by reference.

(c) "Bankruptcy Code" means Title 11 of the United States Code, 11 U.S.C. § 101, et seq.

(d) "Bar" means either: (1) a law barring all Subdivisions in the State of Florida from maintaining Released Claims against Releasees (either through a direct bar or through a grant of authority to release Claims and the exercise of such authority in full) or (2) a ruling by the Florida Supreme Court (or a District Court of Appeal if a decision is not subject to further review by the Florida Supreme Court) setting forth the general principle that Subdivisions in the State of Florida may not maintain any Released Claims against Releasees, whether on the ground of this Agreement (or the release in it) or otherwise. For the avoidance of doubt, a law or ruling that is conditioned or predicated upon payment by a Releasee (apart from the payments by CVS contemplated under this Agreement) shall not constitute a Bar.

(e) "Claim" means any past, present or future cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment, charge, covenant, damage, debt, lien, loss, penalty, judgment, right, obligation, dispute, suit, contract, controversy, agreement, parens patriae claim, promise, performance, warranty, omission, or grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory or administrative, whether arising under federal, state or local common law, statute, regulation, guidance, ordinance or principles of equity, whether filed or unfiled, whether asserted or unasserted, whether known or unknown, whether accrued or unaccrued, whether foreseen, unforeseen or unforeseeable, whether discovered or undiscovered, whether suspected or unsuspected, whether fixed or contingent, and whether existing or hereafter arising, in all such cases, including, but not limited to, any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or statutory damages, absolute liability, strict liability, restitution, subrogation, contribution, indemnity, apportionment, disgorgement, reimbursement, attorney fees, expert fees, consultant fees, fines, penalties, expenses, costs or any other legal, equitable, civil, administrative or regulatory remedy whatsoever.

(f) "Claim-Over" means a Claim asserted by any entity that is not a Releasor against a Releasee on the basis of contribution, indemnity, or other claim-over on any theory relating to Claims arising out of or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Releasee) asserted by a Releasor.

(g) "Consent Judgment" means a consent decree, order, judgment, or similar action; in connection with this Agreement, the Parties have agreed to the entry of the Consent Judgment attached hereto as Exhibit H, which provides for the release set forth below and the dismissal with prejudice of any Released Claims that the State of Florida Office of the Attorney General has brought against Releasees, on the terms and conditions specified herein.

(h) "Court" means the Sixth Judicial Circuit Court in and for Pasco County, State of Florida.

(i) "Covered Conduct" means any actual or alleged act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction,

agreement, misstatement, misleading statement or other activity of any kind whatsoever from the beginning of time through the Effective Date of the Release (and any past, present or future consequence of any such act, failure to act, negligence, statement, error, omission, breach of duty, conduct, event, transaction, agreement, misstatement, misleading statement or other activity) in any line of business arising from or relating in any way to any Product, including without limitation: (1) the distribution, dispensing, delivery, monitoring, reporting, supply, sale, prescribing, physical security, warehousing, coverage, purchases, reimbursement, discovery, development, manufacture, packaging, repackaging, marketing, promotion, advertising, labeling, recall, withdrawal, or use or abuse of any Product; orders, prescriptions, formularies, guidelines, payments or rebates for any Product; policies, practices and/or operating procedures, statements, contracts, commercial arrangements, insurance, claim or benefit administration, claim adjudication, plan design, data and sales thereof, and any other act or failure to act relating to, any Product; and any system, plan, policy or advocacy relating to any Product; (2) the characteristics, properties, risks or benefits of any Product; (3) the reporting, disclosure, non-reporting or non-disclosure to federal, state or other regulators of orders, prescriptions, or conduct related to any Product; (4) the purchasing, selling, acquiring, disposing of, importing, exporting, handling, processing, packaging, supplying, distributing, converting, or otherwise engaging in any activity relating to any Product; and (5) controls against diversion, corresponding responsibility, and suspicious order monitoring.

(j) "CVS" means CVS Health Corporation and CVS Pharmacy, Inc.

(k) "Effective Date of the Agreement" means 3 business days after the Initial Participation Date, provided that either a Bar exists or a mutually sufficient number of Subdivisions have become Participating Subdivisions by the Initial Participation Date. The Parties may alter the Effective Date of the Agreement by mutual written agreement.

(l) "Effective Date of the Release" means the date on which the Court enters the Consent Judgment.

(m) "Execution Date" means the date on which this Agreement is executed by the last party to do so.

(n) "Initial Participation Date" means the date by which Litigating Subdivisions must join to become initial Participating Subdivisions. The Initial Participation Date shall be 30 days after the Execution Date. The Parties may alter the Initial Participation Date by mutual written agreement.

(o) "Litigating Subdivision" means a Subdivision (or Subdivision official) that has brought any Released Claim against any Releasees on or before March 22, 2022, including, but not limited to, the agreed list of Litigating Subdivisions set forth in Exhibit A.

(p) "Litigation Costs" means attorneys' fees and investigative and litigation costs and expenses incurred in connection with Claims asserted against any Releasee in the Florida AG Action or any Litigating Subdivision's Action.

(q) "Non-Joining Subdivision" means any Litigating Subdivision or Principal Subdivision that does not execute a subdivision settlement participation form attached as Exhibit D by the Post-Effective Date Sign-on Deadline.

(r) "Non-Litigating Subdivision" means a Subdivision that is not a Litigating Subdivision.

(s) "Non-Participating Subdivision" means a Subdivision that is not or is not yet a Participating Subdivision.

(t) "Opioid Remediation" means care, treatment and other programs and expenditures (including reimbursement for past such programs or expenditures, except where this Agreement restricts the use of funds solely to future Opioid Remediation) designed to (1) address the misuse and abuse of opioid products, (2) treat or mitigate opioid use or related disorders, or (3) mitigate other alleged effects of, including on those injured as a result of, the opioid epidemic. Exhibit C provides a non-exhaustive list of expenditures that qualify as being paid for Opioid Remediation. Qualifying expenditures may include reasonable related administrative expenses.[1] CVS denies that Opioid Remediation comprises cognizable abatement.

(u) "Participating Subdivision" means any Subdivision that executes a subdivision settlement participation form attached as Exhibit D.

(v) "Parties" and "Settling Parties" means CVS and Plaintiff, with each being a "Party" and "Settling Party."

(w) "Post-Effective Date Sign-on Deadline" means the deadline for Subdivisions to execute a subdivision settlement participation form attached as Exhibit D, which shall be 150 days after the Effective Date of the Agreement.

(x) "Principal Subdivision" means: (1) a County, regardless of population; or (2) a Subdivision that is not a County, but is a General Purpose Government entity (including a municipality, city, town, township, parish, village, borough, gore or any other entities that provide municipal-type government) with a population of more than 10,000, including, but not limited to, the agreed list of Principal Subdivisions attached hereto as Exhibit B.

(y) "Product" means any chemical substance, whether licit or illicit, whether used for medicinal or non-medicinal purposes, and whether natural, synthetic, or semi-synthetic, or any finished pharmaceutical product made from or with such substance, that is: (1) an opioid or opiate, as well as any product containing any such substance; or (2) a benzodiazepine, a muscle relaxer, or gabapentin; or (3) a combination or "cocktail" of chemical substances prescribed, sold, bought or dispensed to be used together that includes opioids or opiates. "Product" shall include, but is not limited to, any substance consisting of or containing buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone,

[1] Opioid Remediation includes amounts paid to satisfy any future demand by another governmental entity to make a required reimbursement in connection with the past care and treatment of a person.

meperidine, methadone, morphine, oxycodone, oxymorphone, tapentadol, tramadol, opium, heroin, carfentanil, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triozolam, temazepam, midazolam, chlordiazepoxide, clobazam, clorazepate, flurazepam, lorazepam, temazepam, carisoprodol, cyclobenzaprine, orphenadrine, tizanidine, gabapentin, or any variant of these substances or any similar substance. Notwithstanding the foregoing, nothing in this definition prohibits a Releasor from taking administrative or regulatory action related to a benzodiazepine (including, but not limited to, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triozolam, temazepam, and midazolam), carisoprodol, or gabapentin that is wholly independent from the use of such drugs in combination with opioids, *provided* such action does not seek money (including abatement and/or remediation) for conduct prior to the Execution Date.

(z) "Qualified Settlement Fund" means the Florida Qualified Settlement Fund contemplated by this Agreement, into which all payments by CVS shall be made and which shall be established under the authority and jurisdiction of the Court and which shall be a "qualified settlement fund" within the meaning of 26 C.F.R. § 1.468B-1.

(aa) "Qualified Settlement Fund Administrator" means the Administrator appointed to administer the Qualified Settlement Fund under the authority and jurisdiction of the Court. The duties of the Qualified Settlement Fund Administrator shall be governed by this Agreement. The identity of the Qualified Settlement Fund Administrator and a detailed description of the Qualified Settlement Fund Administrator's duties and responsibilities, including a detailed mechanism for paying the Qualified Settlement Fund Administrator's fees and costs, will be set forth in a separate document to be prepared by the Parties and filed with the Court to establish the fund and be attached later to this Agreement as Exhibit E.

(bb) "Released Claims" means any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct occurring prior to the Effective Date of the Release. Without limiting the foregoing, Released Claims include any Claims that have been asserted against the Releasees by Plaintiff or any Litigating Subdivision in any federal, state or local Action or proceeding (whether judicial, arbitral or administrative) based on, arising out of or relating to, in whole or in part, the Covered Conduct, or any such Claims that could be or could have been asserted now or in the future in those Actions or in any comparable Action or proceeding brought by Plaintiff, any of its Subdivisions, or any Releasor (whether or not such State, Subdivision, or Releasor has brought such Action or proceeding). Released Claims also include all Claims asserted in any proceeding to be dismissed pursuant to this Agreement, whether or not such Claims relate to Covered Conduct. The Parties intend that this term, "Released Claims," be interpreted broadly. This Agreement does not release Claims by private individuals for damages for any alleged personal injuries arising out of their own use of any Product. But in any action arising from or relating to such Claims or the Covered Conduct, the Releasees may assert as a defense or otherwise argue that the Remediation Payments required herein serve as a measure of compensation for personal injuries or for other legal or equitable claims or demands asserted by private individuals or others. It is the intent of the Parties that Claims by private individuals be treated in accordance with applicable law. Released

Claims is also used herein to describe Claims brought or maintained by any Subdivision in the future that would have been Released Claims if they had been brought by a Releasor against a Releasee.

(cc) "Releasees" means: (i) CVS Health Corporation; (ii) CVS Pharmacy, Inc.; (iii) all of their respective past and present, direct or indirect: parents, subsidiaries, divisions, affiliates, joint ventures, predecessors, successors, assigns and insurers (in their capacity as such) and all of their respective past and present, direct or indirect, parents, subsidiaries, divisions, affiliates, joint ventures, predecessors, successors, assigns and insurers (in their capacity as such); and (iv) the past and present officers, directors, members, shareholders (solely in their capacity as shareholders of the foregoing entities), partners, trustees, employees, agents, attorneys and insurers of each of the foregoing entities and persons referenced in clauses (i) through (iii) above for actions or omissions that occurred during and related to their work for, or employment with, any of the foregoing entities with respect to the Released Claims.

(dd) "Releasors" means with respect to Released Claims: (1) the State; (2) without limitation, all of the State of Florida's departments, agencies, divisions, boards, commissions, instrumentalities of any kind, including without limitation the Florida Attorney General, Florida Board of Pharmacy, Florida Department of Health, and Florida Department of Business and Professional Regulation, and any person in his or her official capacity, whether elected or appointed to lead or serve any of the foregoing, and any agency, person or entity claiming by or through any of the foregoing (3) each Participating Subdivision; and (4) without limitation and to the maximum extent of the power of each of the State, the Florida Attorney General and/or Participating Subdivisions to release Claims, (a) every Subdivision, and every Subdivision's departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind and any person in his or her official capacity, whether elected or appointed to lead or serve any of the foregoing, and any agency, person or entity claiming by or through any of the foregoing; (b) any public entities, public instrumentalities, public educational institutions, unincorporated districts, fire districts, irrigation districts, water districts, law enforcement districts, emergency services districts, school districts, hospital districts and other special districts in the State of Florida; and (c) any person or entity acting in a parens patriae, sovereign, quasi-sovereign, private attorney general, *qui tam*, taxpayer, or other capacity seeking relief on behalf of or generally applicable to the general public with respect to the State of Florida or any Subdivision in the State of Florida, whether or not any of them participates in this Agreement. Nothing in this definition shall be construed to limit the definition of "Subdivision" in subsection A(gg) below. In addition to being a Releasor as provided herein, a Participating Subdivision shall also provide a subdivision settlement participation form (attached as Exhibit D) providing for a release to the fullest extent of the Participating Subdivision's authority, an executed copy of which shall be attached as an exhibit to and deemed to be a part of this Agreement.

(ee) "State Outside Litigation Counsel" means Kellogg, Hansen, Todd, Figel & Frederick P.L.L.C.; Drake Martin Law Firm, LLC; Harrison Rivard Duncan & Buzzett, Chartered; Newsome Melton, P.A.; and Curry Law Group, P.A.

(ff) "State-Subdivision Agreement" means a separate agreement among Plaintiff and all Participating Subdivisions providing for an allocation of, among other things, the Remediation Payment (defined below). The State-Subdivision Agreement is attached hereto as Exhibit I.

(gg) "Subdivision" means (1) any General Purpose Government entity (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore or any other entities that provide municipal-type government), School District, or Special District within a State, and (2) any other subdivision or subdivision official or sub-entity of or located within a State (whether political, geographical or otherwise, whether functioning or non-functioning, regardless of population overlap, and including, but not limited to, nonfunctioning governmental units and public institutions) that has filed or could file a lawsuit that includes a Released Claim against a Releasee in a direct, parens patriae, or any other capacity. "General Purpose Government," "School District," and "Special District" shall correspond to the "five basic types of local governments" recognized by the U.S. Census Bureau and match the 2017 list of Governmental Units. The three (3) General Purpose Governments are county, municipal, and township governments; the two (2) special purpose governments are School Districts and Special Districts. "Fire District," "Health District," "Hospital District," and "Library District" shall correspond to categories of Special Districts recognized by the U.S. Census Bureau. References to a State's Subdivisions or to a Subdivision "in," "of," or "within" a State include Subdivisions located within the State even if they are not formally or legally a sub-entity of the State.

B. Release and Dismissals in the Florida AG Action and other Actions.

1. It is the intention of the Settling Parties to fully and finally resolve all Released Claims that have been or could be brought against the Releasees by Plaintiff or any Subdivision with respect to the Covered Conduct, and that the release of such Claims does not affect Plaintiff's or the Subdivisions' Claims as to any other defendant. Plaintiff represents and warrants that it will use its best efforts to obtain a consensual release of any and all Claims involving Covered Conduct that Plaintiff and all Subdivisions, including any Litigating Subdivision or Non-Litigating Subdivision, have asserted or could assert against the Releasees. Regardless whether such consensual release is obtained, Plaintiff represents and warrants under this Agreement that it is exercising its authority under law to release any and all Claims involving Covered Conduct that Plaintiff and all Subdivisions, including any Litigating Subdivision or Non-Litigating Subdivision, have asserted or could assert against the Releasees. Plaintiff further represents and warrants that

it will use all available authority to bind, and under this Agreement is exercising such authority to bind, Plaintiff and all Subdivisions, including all Litigating Subdivisions and Non-Litigating Subdivisions, regardless of whether they become Participating Subdivisions or Non-Joining Subdivisions, to the terms of this Agreement.

2. In addition to the general release and dismissal to be provided by Plaintiff set forth in Sections D & E, Plaintiff will deliver to CVS signed agreements from: (a) each Subdivision that executes a signed agreement by the Initial Participation Date; and (b) each Subdivision that executes a signed agreement by the Post-Effective Date Sign-on Deadline (i.e., within 150 days following the Effective Date of the Agreement). Such agreements shall include: (a) the Subdivision's acceptance of the terms and conditions of this Agreement by signing the subdivision settlement participation form attached as Exhibit D; (b) in the case of a Litigating Subdivision, such Litigating Subdivision's agreement to implement an immediate cessation of any and all litigation activities relating to such Litigating Subdivision's Action as to all Releasees; (c) in the case of a Litigating Subdivision, an agreement that Plaintiff may represent that the Litigating Subdivision supports the Consent Judgment to be entered in accordance with Section F below; and (d) in the case of a Litigating Subdivision, such Litigating Subdivision's agreement to file, within the later of seven (7) days of the Effective Date of the Release, or seven (7) days of signing the subdivision settlement participation form, a notice or stipulation of voluntary dismissal with prejudice of any and all Released Claims asserted by the Litigating Subdivision against the Releasees, with each party to bear its own costs.

3. Between the Execution Date and the Initial Participation Date, Plaintiff agrees to furnish to CVS a report listing the Subdivisions that have executed the signed agreements described in Section B.2 and copies of such signed agreements on a weekly basis. Plaintiff further agrees to furnish to CVS no later than noon Eastern Time on the day after the Initial Participation

Date a final report listing the Subdivisions that have executed the signed agreements described in Section B.2 by the Initial Participation Date and copies of all such signed agreements. After the Initial Participation Date, the parties shall confer and establish a schedule for the regular provision of such reports and copies of signed agreements.

4. Plaintiff represents and warrants that, if any Action remains pending against one or more Releasees after the Effective Date of the Agreement or is filed by a Subdivision against any Releasee on or after the Execution Date, Plaintiff will seek to obtain dismissal of such Action as to such Releasees as soon as reasonably possible. Depending on facts and circumstances, Plaintiff may seek dismissal, among other ways, by intervening in such Action to move to dismiss or otherwise terminate the Subdivision's Claims in the Action or by commencing a declaratory judgment or other action that establishes a Bar to the Subdivision's Claims and Action. For avoidance of doubt, Plaintiff will seek dismissal of an Action under this subsection regardless whether the Subdivision in such Action is a Participating Subdivision.

5. In the event that the actions required of Plaintiff in Section B.4 fail to secure the prompt dismissal or termination of any Action by any Subdivision against any Releasee, Plaintiff shall seek enactment of a legislative Bar as defined in Section A(d)(1) and will endeavor to achieve enactment as soon as is practicable. Participating Subdivisions agree not to oppose any effort by Plaintiff to achieve enactment of a legislative Bar.

6. Plaintiff further represents and warrants that no portion of the Remediation Payment or the Litigation Costs Payments will be distributed to or used for the benefit of any Subdivision unless and until Plaintiff has delivered to CVS a signed agreement from such Subdivision providing for the Subdivision's acceptance of the terms and conditions of this Agreement, including its express agreement to be bound by the irrevocable releases set forth in Section D below.

C. Settlement Consideration.

1. Remediation Payment and Litigation Costs Payments.

(a) The settlement sum is four hundred eighty-four million dollars ($484,000,000), consisting of (a) four hundred forty million dollars ($440,000,000) to be spent on Opioid Remediation, reflecting a substantial premium based on facts and circumstances unique to Florida and the Florida AG Action, to be paid in equal installments over eighteen (18) years (the "Remediation Payments"); (b) twenty-two million dollars ($22,000,000) to be available to reimburse the State's Litigation Costs in accordance with subsection C.1(c) below (the "State Litigation Cost Payment"); and (c) twenty-two million dollars ($22,000,000) to be available for counsel for the Litigating Subdivisions in accordance with subsection C.1(b) below (the "Litigating Subdivision Litigation Cost Payment"). The State Litigation Cost Payment and the Litigating Subdivision Cost Payment shall collectively be referred to herein as the "Litigation Costs Payments." The sum shall be paid on the schedule set forth in Exhibit K. On or before the later of (a) seven (7) days after the Effective Date of the Release, or (b) seven (7) days after (i) the Qualified Settlement Fund has been established under the authority and jurisdiction of the Court, and (ii) CVS has received a W-9 and wire instructions for the Qualified Settlement Fund, and on the schedule set forth in Exhibit K, CVS Pharmacy, Inc. shall make the first payment into the Qualified Settlement Fund. The Qualified Settlement Fund Administrator shall allocate each of the Remediation Payment, the State Litigation Cost Payment, and the Litigating Subdivision Litigation Cost Payment into separate sub-funds within the Qualified Settlement Fund. Release of the Remediation Payment and the Litigation Costs Payments from the Qualified Settlement Fund shall be subject to the conditions specified below.

(b) An agreement on the handling of Litigating Subdivision Litigation Costs is attached as Exhibit G and incorporated herein by reference. The Litigating Subdivision Litigation Cost Payment is to be available to counsel for Litigating Subdivisions that become Participating Subdivisions and who waive any other right(s) they may have to compensation in connection with this Settlement for reasonable Litigation Costs incurred in connection with their Claims against Releasees.

(1) The Qualified Settlement Fund Administrator shall allow eligible counsel reimbursement for reasonable Litigation Costs as provided in Exhibit G. Such Litigation Costs shall be divided among Participating Subdivisions as provided in Exhibit G under the jurisdiction and authority of the Court. Any amount remaining in the Litigation Subdivision Litigation Costs Payment sub-fund after such allocation shall be returned to CVS.

(2) No funds may be used to compensate Litigation Costs incurred by Non-Participating Subdivisions or Non-Litigating Subdivisions, or Litigation Costs arising out of representation of any such Subdivision.

(3) No attorney for any Litigating Subdivision may receive any share of the Litigating Subdivision Litigation Cost Payment unless the following eligibility requirements are met and certified by the attorney:

i. The attorney must represent that s/he has no present intent to represent or participate in the representation of any Subdivision or any Releasor with respect to the litigation of any Released Claims against any Releasees.

ii. The attorney must represent that s/he will not charge or accept any referral fees for any Released Claims asserted or maintained against Releasees by any Subdivision or any Releasor.

iii. The attorney may not have, and must represent that s/he does not have, a claim for fees, costs or expenses related to the litigation of any Released Claims against any Releasees by any Subdivision or any Releasor after March 22, 2022.

iv. Notwithstanding the foregoing, nothing in this subsection C.1(b)(3) is intended to operate as a "restriction" on the right of any attorney to practice law within the meaning of Rule 5.6(b) of the Florida Rules of Professional Conduct or any equivalent provision of any other jurisdiction's rules of professional conduct.

(c) Plaintiff shall file in the Court a motion for the State's Litigation Costs up to $22,000,000. CVS shall not oppose the motion so long as the State does not seek more than $22,000,000 in Litigation Costs. If any amount of the $22,000,000 is not awarded by the Court, that amount shall be returned to CVS. As set forth in Section C.2 below, in the event the Court awards the State Litigation Costs in excess of $22,000,000, the Releasees shall have no obligation to pay any amount in excess of $22,000,000.

2. No Other Payments by Releasees as to Covered Conduct, Released Claims, the Florida AG Action, Other Actions, Plaintiff, Subdivisions or State Outside Litigation Counsel or Litigation Costs. Other than the Remediation Payments and the Litigation Costs Payments by CVS Pharmacy, Inc. referenced in Section C.1(a), none of the Releasees shall have any obligation to make any further or additional payments in connection with Claims for Covered Conduct or Litigation Costs or this Settlement.

3. Apportionment of the Remediation Payment.

(a) It is the intent of the Parties that the Remediation Payment in Section C.1(a) be used exclusively for Opioid Remediation.

(b) In accordance with the State-Subdivision Agreement in Exhibit I, the Remediation Payment shall be allocated by the Qualified Settlement Fund Administrator into three sub-funds: an Abatement Accounts Sub-Fund (also known as a regional fund), a State Sub-Fund, and a Subdivision Sub-Fund to be allocated to the Abatement Accounts Sub-Fund or to another Participating Subdivision.

(c) A detailed mechanism consistent with the foregoing for a Qualified Settlement Fund Administrator to follow in allocating, apportioning and distributing payments will be filed with the Court and later attached as Exhibit J.

(d) CVS shall have no duty, liability, or influence of any kind with respect to the apportionment and use of the Remediation Payment by the Qualified Settlement Fund Administrator. Plaintiff specifically represents, however, that any such apportionment and use by the Qualified Settlement Fund Administrator shall be made in accordance with all applicable laws.

4. Release of the State Sub-Fund. Within a reasonable period after the Effective Date of the Agreement or otherwise as ordered by the Court, the Qualified Settlement Fund Administrator shall release the State Sub-Fund to Plaintiff.

5. Subdivision Payments to Subdivisions that Become Participating Subdivisions Prior to the Initial Participation Date. A Participating Subdivision that (a) completes a subdivision settlement participation form prior to the Initial Participation Date, (b) joins the Florida Opioid Allocation and Statewide Response Agreement (Exhibit I), and (c) in the case of a Litigating Subdivision, dismisses with prejudice any and all Released Claims asserted by the Litigating Subdivision against the Releasees shall be eligible to receive payment of a share of the Remediation Payment within a reasonable period after the Effective Date of the Agreement.

6. Subdivision Payments to Subdivisions that Become Participating Subdivisions After the Initial Participation Date. A Participating Subdivision that (a) completes a subdivision settlement participation form after the Initial Participation Date and by no later than the Post-

Effective Date Sign-on Deadline, (b) joins the Florida Opioid Allocation and Statewide Response Agreement (Exhibit I), and (c) in the case of a Litigating Subdivision, dismisses with prejudice any and all Released Claims asserted by the Litigating Subdivision against the Releasees shall be eligible to receive payment of a share of the Remediation Payment within a reasonable period after the Post-Effective Date Sign-on Deadline.

7. Reversion to CVS of Amounts Forfeited by Non-Joining Subdivisions. Any Litigating Subdivision or Principal Subdivision that does not sign a participation agreement by the Post-Effective Date Sign-on Deadline will be deemed a Non-Joining Subdivision. At CVS's request to the Qualified Settlement Fund Administrator, any Non-Joining Subdivision's share of the Remediation Payment (and to the extent any such subdivision is a Litigating Subdivision the Litigation Cost Payments) shall be returned to CVS within a reasonable time after the Post-Effective Date Sign-on Deadline.

8. Agreement Null and Void if the Agreement Does Not Become Effective. In the event that the Effective Date of the Agreement does not occur and the Parties fail to agree to extend the Effective Date of the Agreement, the Agreement shall be null and void.

9. Use of Evidence at Trial in the Florida AG Action. Plaintiff agrees that none of the Releasees will be a defendant in any trial of the Florida AG Action, that no Releasee will be subpoenaed or called to testify by Plaintiff in any trial of the Florida AG Action and that any evidence that references the Releasees or the Products will be used solely against other defendants in the Florida AG Action.

10. Verdict Form. Plaintiff agrees that it will not seek to have any of the Releasees included on the verdict form in any trial related to the Florida AG Action and will oppose the efforts of any other party in the Florida AG Action to include any of the Releasees on the verdict form.

11. Injunctive Relief. As part of the Consent Judgment to be entered in accordance with Section F below, the Parties agree to the entry of injunctive relief terms attached in Exhibit F.

D. Settlement of Claims and General Release.

1. Scope. On the Effective Date of the Release, Plaintiff and each Releasor shall be deemed to have fully, finally and forever released all Releasees from all Released Claims. Plaintiff, on behalf of itself and all other Releasors (whether or not they have signed this Agreement or the subdivision settlement participation form in Exhibit D), hereby absolutely, unconditionally and irrevocably covenants not to bring, file, or claim, or to cause, assist, or permit to be brought, filed, or claimed, any Released Claims of any type in any forum whatsoever against Releasees. For the avoidance of doubt, Plaintiff agrees that this Settlement Agreement and the releases contained herein shall fully and completely resolve any past, present or future liability that any Releasee may have arising from, relating to or based on the Covered Conduct occurring prior to the Effective Date of the Release, whether in the Actions or otherwise. The releases provided for in this Agreement are intended by the Settling Parties to be broad and shall be interpreted so as to give the Releasees the broadest possible bar against any and all Released Claims. This Settlement Agreement is, will constitute, and may be pleaded as a complete bar to any Released Claim asserted against Releasees, whether against Plaintiff, any Participating Subdivision, or any other Subdivision, including any Non-Joining Subdivision.

2. General Release. In connection with the releases provided pursuant to this Settlement Agreement, Plaintiff, on behalf of itself and all other Releasors referenced in Section D.1, expressly waives, releases and forever discharges any and all provisions, rights and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle

of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code, which reads:

> **General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those that he, she, or it knows or believes to be true with respect to the Released Claims, but Plaintiff, on behalf of itself and all other Releasors, hereby expressly waives and fully, finally and forever settles, releases and discharges, upon the Effective Date of the Release, any and all Released Claims against the Releasees that may exist as of this date but which they do not know or suspect to exist, whether through ignorance, oversight, error, negligence or otherwise, and which, if known, would materially affect their decision to enter into this Settlement Agreement.

3. Claim-Over and Non-Party Settlement.

(a) Statement of Intent. It is the intent of the Parties that:

(1) The Remediation Payment and Litigation Cost Payments made under this Agreement shall be the sole payments made by the Releasees to the Releasors involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Releasee);

(2) Claims by Releasors against non-Parties should not result in additional payments by Releasees, whether through contribution, indemnification or any other means; and

(3) The Settlement effects a good faith "release and covenant not to sue" within the meaning of Florida Statute § 768.31(5) and meets the requirements of the Uniform Contribution Among Joint Tortfeasors Act and any similar state law or doctrine, including, but not limited to, Fla. Stat. § 768.31(5), that reduces or discharges a released party's liability to any other parties, such that Releasees are discharged from all liability for contribution to any other alleged tortfeasor in the Florida AG Action and in any other Action, whenever filed.

(4) The provisions of this Section D.3 are intended to be implemented consistent with these principles. This Agreement and the releases and dismissals provided for herein are made in good faith.

(b) No Releasee shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory, from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner; *provided* that a Releasee shall be relieved of this prohibition with respect to any person or entity that asserts a Claim-Over against it or with respect to any person or entity that brings any other form of action against CVS arising out of or related to Covered Conduct. For the avoidance of doubt, nothing herein shall prohibit a Releasee from recovering amounts owed pursuant to insurance contracts.

(c) To the extent that, on or after the Effective Date of the Agreement, any Releasor settles any Claims arising out of or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Releasee) ("Non-Party Covered Conduct Claims") it may have against any entity that is not a Releasee (a "Non-Released Entity") that is, as of the Effective Date of the Agreement, a defendant in the Florida AG Action or any other Action and provides a release to such Non-Released Entity (a "Non-Party Settlement"), including in any bankruptcy case or through any plan of reorganization (whether individually or as a class of creditors), the Releasor will seek to include (or in the case of a Non-Party Settlement made in connection with a bankruptcy case, will cause the debtor to include), unless prohibited from doing so under applicable law, in the Non-Party Settlement a prohibition on seeking contribution or indemnity of any kind from Releasees substantially equivalent to that required from CVS in subsection D.3(b) (except limited to such claims against Releasees), or a release from such Non-Released Entity in favor of the Releasees (in a form equivalent to the releases contained in this Agreement) of any Claim-Over. The obligation to seek to obtain the prohibition and/or release required by this subsection is a material term of this Agreement.

(d) Claim-Over. In the event that any Releasor obtains a judgment with respect to a Non-Party Covered Conduct Claim against a Non-Released Entity that does not contain a prohibition like that in subsection D.3(b), or any Releasor files a Non-Party Covered Conduct Claim against a Non-Released Entity in bankruptcy or a Releasor is prevented for any reason from obtaining a prohibition/release in a Non-Party Settlement as provided in subsection D.3(c), and such Non-Released Entity asserts a Claim-Over against a Releasee, CVS and that Releasor shall meet and confer concerning any additional appropriate means by which to ensure that Releasees are not required to make any payment with respect to Covered Conduct (beyond the amounts that will already have been paid by CVS under this Settlement Agreement).

(e) In no event shall a Releasor be required to reduce the amount of a settlement or judgment against a Non-Released Entity in order to prevent additional payments by Releasees, whether through contribution, indemnification, or any other means.

4. Cooperation. Releasors, including Plaintiff and Participating Subdivisions, agree that they will not publicly or privately encourage any other Releasor to bring or maintain any Released Claim. Plaintiff further agrees that it will cooperate in good faith with the Releasees to secure the prompt dismissal of any and all Released Claims.

E. Cessation of Litigation Activities. It is the Parties' intent that all litigation activities in the Florida AG Action relating to Released Claims against the Releasees shall immediately cease as of the Execution Date. Within seven (7) days after the Execution Date, Plaintiff agrees to take all steps reasonably necessary to implement the prompt cessation of such litigation activities, including by, for example, jointly requesting a severance of CVS from any trial in the Florida AG Action and/or a stay of further proceedings against CVS pending the implementation of this Settlement.

F. Entry of Consent Judgment Providing for Dismissal of All Claims Against CVS in the Florida AG Action with Prejudice. As soon as practicable following the Effective Date of the Agreement, Plaintiff shall file in the Court a Consent Judgment substantially in the form of Exhibit H, including a dismissal of the Florida AG Action with prejudice. Notwithstanding the foregoing, the Consent Judgment shall provide that the Court shall retain jurisdiction for purposes of enforcing compliance with the injunctive terms set forth in Exhibit F. The parties shall confer and agree as to the final form and time of filing prior to filing of the Consent Judgment.

G. No Admission of Liability. The Settling Parties intend the Settlement as described herein to be a final and complete resolution of all disputes between CVS and Plaintiff and between CVS and all Releasors. CVS is entering into this Settlement Agreement solely for the purposes of settlement, to resolve the Florida AG Action and all Actions and Released Claims and thereby avoid significant expense, inconvenience and uncertainty. CVS denies the allegations in the Florida AG Action, and the other Actions and denies any civil or criminal liability in the Florida

AG Action and the other Actions. Nothing contained herein may be taken as or deemed to be an admission or concession by CVS of: (i) any violation of any law, regulation, or ordinance; (ii) any fault, liability, or wrongdoing; (iii) the strength or weakness of any Claim or defense or allegation made in the Florida AG Action, in any other Action, or in any other past, present or future proceeding relating to any Covered Conduct or any Product; (iv) the legal viability of the claims and theories in the Florida AG Action and the other Actions, including but not limited to the legal viability of the relief sought, or (v) any other matter of fact or law. Nothing in this Settlement Agreement shall be construed or used to prohibit any Releasee from engaging in the conduct of its business relating to any Product in accordance with applicable laws and regulations.

H. Miscellaneous Provisions.

1. Use of Agreement as Evidence. Neither this Agreement nor any act performed or document executed pursuant to or in furtherance of this Agreement: (i) is or may be deemed to be or may be used as an admission or evidence relating to any matter of fact or law alleged in the Florida AG Action or the other Actions, the strength or weakness of any claim or defense or allegation made in those cases, or any wrongdoing, fault, or liability of any Releasees; or (ii) is or may be deemed to be or may be used as an admission or evidence relating to any liability, fault or omission of Releasees in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Neither this Agreement nor any act performed or document executed pursuant to or in furtherance of this Agreement shall be admissible in any proceeding for any purpose, except to enforce the terms of the Settlement, and except that Releasees may file or use this Agreement in any action in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good-faith settlement, judgment bar or reduction; on any other theory of claim preclusion or issue preclusion or similar defense or counterclaim; to support a claim for contribution and/or indemnification; or to support

any other argument or defense by a Releasee that the Remediation Payments provide a measure of compensation for asserted harms or otherwise satisfy the relief sought.

2. Voluntary Settlement. This Settlement Agreement was negotiated in good faith and at arm's-length over several weeks, and the exchange of the Remediation Payment and Litigation Costs Payment for the releases set forth herein is agreed to represent appropriate and fair consideration.

3. Authorization to Enter Settlement Agreement. Each party specifically represents and warrants that this Settlement Agreement constitutes a legal, valid and binding obligation of such Party. Each signatory to this Settlement Agreement on behalf of a Party specifically represents and warrants that he or she has full authority to enter into this Settlement Agreement on behalf of such Party. Plaintiff specifically represents and warrants that it has concluded that the terms of this Settlement Agreement are fair, reasonable, adequate and in the public interest, and that it has satisfied all conditions and taken all actions required by law in order to validly enter into this Settlement Agreement. Plaintiff specifically represents and warrants that, other than the Claims asserted in the Florida AG Action and the other Actions (whether filed previously or in the future), it has no interest (financial or otherwise) in any other Claim against any Releasee related to the Covered Conduct. In addition, Plaintiff specifically represents and warrants that (i) it is the owner and holder of the Claims asserted in the Florida AG Action; (ii) it has not sold, assigned or otherwise transferred the Claims asserted in the Florida AG Action, or any portion thereof or rights related thereto, to any third party; and (iii) it believes in good faith that it has the power and authority to bind all persons and entities with an interest in the Florida AG Action and all Subdivisions.

4. Representation With Respect to Participation Rate. The State of Florida represents and warrants for itself that it has a good-faith belief that all Litigating Subdivisions and

all Principal Subdivisions will become Participating Subdivisions. The State acknowledges the materiality of the foregoing representation and warranty. State Outside Litigation Counsel, in good faith, believe this is a fair Settlement. Therefore, State Outside Litigation Counsel will, in their best efforts, recommend this Settlement to all Subdivisions within Florida.

5. Dispute Resolution. If either Plaintiff or CVS believes the other is not in compliance with any term of this Settlement Agreement, then that party shall (i) provide written notice to the other party specifying the reason(s) why it believes the other is not in compliance with the Settlement Agreement; and (ii) allow the other party at least thirty (30) days to attempt to cure such alleged non-compliance (the "Cure Period"). In the event the alleged non-compliance is cured within the Cure Period, the other party shall not have any liability for such alleged non-compliance. A party may not commence a proceeding to enforce compliance with this Agreement before the expiration of the Cure Period.

6. No Third-Party Beneficiaries. Except as to Releasees, nothing in this Settlement Agreement is intended to or shall confer upon any third party any legal or equitable right, benefit or remedy of any nature whatsoever.

7. Notices. All notices under this Agreement shall be in writing and delivered to the persons specified in this subsection ("Notice Designees") via: (i) e-mail; and (ii) either hand delivery or registered or certified mail, return receipt requested, postage pre-paid.

Notices to Plaintiff shall be delivered to:

Attorney General
Florida State Capitol, PL-01
Tallahassee FL 32399-1050

and

David C. Frederick
Kellogg, Hansen, Todd, Figel & Frederick P.L.L.C.
1615 M Street, NW

Washington D.C. 20036
dfrederick@kellogghansen.com

Notices to CVS shall be delivered to:

Eric R. Delinsky
Zuckerman Spaeder LLP
1800 M Street, N.W., Suite 1000
Washington, D.C. 20036
edelinsky@zuckerman.com

and

Elizabeth Ferguson
Senior Vice President and Deputy General Counsel
One CVS Drive
Woonsocket, Rhode Island 02895
betsy.ferguson@cvshealth.com

8. Taxes. Each of the Parties acknowledges, agrees and understands that it is its intention that, for purposes of Section 162(f) of the Internal Revenue Code, the Remediation Payments by CVS ($440,000,000.00 to be paid out over eighteen (18) years) constitutes restitution for damage or harm allegedly caused by the potential violation of a law and/or is an amount paid to come into compliance with the law. The Parties acknowledge, agree and understand that only the Litigation Costs Payments ($44,000,000.00) represent reimbursement to Plaintiff or any other person or entity for the fees and costs of any investigation or litigation, that no portion of the Remediation Payment represents reimbursement to Plaintiff or any other person or entity for the fees and costs of any investigation or litigation, and no portion of the Remediation Payment represents or should properly be characterized as the payment of fines, penalties or other punitive assessments. Plaintiff acknowledges, agrees and understands that CVS intends to allocate the cost of the Remediation Payment among the Releasees using a reasonable basis. Plaintiff shall complete and file Form 1098-F with the Internal Revenue Service, identifying the Remediation Payment as remediation/restitution amounts, and shall furnish Copy B of such Form 1098-F to

CVS. CVS makes no warranty or representation to Plaintiff as to the tax consequences of the Remediation Payment or the Litigation Costs Payments or any portion thereof.

9. Binding Agreement. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.

10. Choice of Law. Any dispute arising from or in connection with this Settlement Agreement shall be governed by Florida law without regard to its choice-of-law provisions.

11. Jurisdiction. The Parties agree to submit and consent to the jurisdiction of the Court for the resolution of any disputes arising under the Settlement Agreement.

12. No Conflict Intended. The headings used in this Agreement are intended for the convenience of the reader only and shall not affect the meaning or interpretation of this Agreement. The definitions contained in this Agreement or any Exhibit hereto are applicable to the singular as well as the plural forms of such terms.

13. No Party Deemed to be the Drafter. None of the Parties hereto shall be deemed to be the drafter of this Agreement or any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

14. Amendment; Waiver. This Agreement shall not be modified in any respect except by a writing executed by all the Parties hereto, and the waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous.

15. Execution in Counterparts. This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

16. Severability. In the event any one or more provisions of this Settlement Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Settlement Agreement.

17. Statements to the Press. Any press release or other public statement concerning this Settlement Agreement will describe it positively and will not disparage any other Party. No Party or attorney, agent, or representative of any Party shall state or suggest that this Settlement Agreement may be used to predict the value of any Claim or any future settlement agreement in any action or proceeding.

18. Integrated Agreement. This Agreement constitutes the entire agreement between the Settling Parties and no representations, warranties or inducements have been made to any Party concerning this Agreement other than the representations, warranties and covenants contained and memorialized herein.

19. Bankruptcy. The following provisions shall apply if, (i) within ninety (90) days of CVS's payment pursuant to Section C.1(a) above, a case is commenced with respect to CVS under the Bankruptcy Code, and (ii) a court of competent jurisdiction enters a final order determining such payment to be an avoidable preference under Section 547 of the Bankruptcy Code, and (iii) pursuant to such final order such payment is returned to CVS:

(a) this Agreement, including all releases and covenants not to sue with respect to the Released Claims contained in this Agreement, shall immediately and automatically be deemed null and void as to CVS; and

(b) the State and Subdivisions may assert any and all Released Claims against CVS in its bankruptcy case and seek to exercise all rights provided under the federal Bankruptcy Code (or other applicable bankruptcy or non-bankruptcy law) with respect to their Claims against CVS.

20. Most Favored Nations. If, after execution of this Agreement, there is a collective resolution—through settlement, bankruptcy or other mechanism—of substantially all claims

against CVS brought by states, counties, and municipalities nationwide (a "Global Resolution") under which, but for this Agreement, the Florida allocation of the Remediation Payment, the Litigation Cost Payments, the payment period or the terms of injunctive relief would be more favorable to the State, CVS shall pay the excess amounts that the State would have received, adjust the payment period and/or agree to modify the terms of the consent judgment to reflect changes to the injunctive relief that would apply to Florida, if requested to do so by the Florida Attorney General's Office. Any reduction in the payment period under this subsection shall be subject to a reduction in net present value calculated at eight percent (8%) per annum. Additionally, if at any time within the ten months following the Execution Date CVS enters into a settlement with the attorney general of any state with a smaller population than Florida for a total settlement amount that exceeds $484,000,000.00 ($440,000,000 Remediation Payment plus $44,000,000 Litigation Costs), CVS shall pay the excess amount to Florida.

21. Warranty of Equitable Treatment. The State warrants that it shall not after the Execution Date settle claims in the Florida AG Action against another pharmacy defendant that is more favorable to that defendant based on a comparison of its and CVS's shares of dispensing of opioid pain medication in Florida during the relevant period. In the event that a dispute arises as to compliance with this provision, the Parties shall meet and confer in good faith to resolve the dispute, including by conferring on what actions, if any, are appropriate and warranted to address any inequitable treatment. Nothing in this subsection shall result in any reduction of remediation payments for Participating Subdivisions or any reduction of payments of Subdivision Litigation Costs.

IN WITNESS WHEREOF, the Parties hereto, through their fully authorized representatives, have executed this Agreement as of the dates set forth below.

CVS HEALTH CORPORATION

By: _____

Name: Thomas S. Moffatt
Vice President, Assistant Secretary, and
Senior Legal Counsel

Date: 3/29/2022

CVS PHARMACY, INC.

By: _____

Name: Thomas S. Moffatt
Vice President, Secretary, and Senior Legal
Counsel

Date: 3/29/2022

PLAINTIFF

STATE OF FLORIDA, including the OFFICE OF THE ATTORNEY GENERAL

By: _____

Name: John Guard
Chief Deputy Attorney General of Florida
Pursuant to the authority delegated to him by
Ashley Moody, Attorney General of Florida

Date: March 29, 2022

STATE OUTSIDE LITIGATION COUNSEL

Kellogg, Hansen, Todd, Figel & Frederick, P.L.L.C.

By: _____

Name: David C. Frederick

Date: 3.29.2022

Drake Martin Law Firm, LLC

By: _____

Name: Drake Martin

Date: 3-29-2022

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement is made and entered into this 29th day of March, 2022, between Teva, (defined below) and the State of Florida and its Office of the Attorney General ("Plaintiff" or "State") (collectively, the "Settling Parties"), in the lawsuit captioned *State of Florida, Office of the Attorney General, Department of Legal Affairs v. Purdue Pharma, L.P., et al.* (Case No. 2018-CA-001438) (Fla. Cir. Ct. Pasco County) (the "Florida AG Action"). This Settlement Agreement is intended by the Settling Parties to fully, finally and forever resolve, discharge and settle the Released Claims (as defined below), upon and subject to the terms and conditions hereof (the "Settlement").

WHEREAS, Plaintiff filed its complaint in the Florida AG Action (i) alleging, among other things, that Teva, among others, violated Florida law by deceptively marketing opioid pain medications so as to overstate their efficacy and downplay the associated risk of addiction, which resulted in a public nuisance in Florida; (ii) alleging that Teva, among others, violated the law by failing to monitor, report and not ship allegedly suspicious orders of opioid pain medications; (iii) alleging that Teva, among others, violated Fla. Stat. § 895.03(3), (4); and (iv) asserting Claims (as defined below) for damages, equitable abatement, civil penalties, attorneys' fees and reimbursed litigation costs, and other relief;

WHEREAS, Plaintiff brought the Florida AG Action in its sovereign capacity as the people's attorney in order to protect the public interest, including the interests of the State of Florida, its governmental subdivisions and its citizens;

WHEREAS, numerous Litigating Subdivisions (defined below) have filed Actions (defined below) in various forums against Teva, among others, raising Claims or allegations concerning, related to, based upon, or in connection with the Covered Conduct (defined below) and seeking relief that overlaps in whole or in part with the relief sought in the Florida AG Action;

WHEREAS, there are numerous Subdivisions (defined below) that are not Litigating Subdivisions ("Non-Litigating Subdivisions") that could seek to file additional Actions raising Claims or allegations concerning, related to, based upon, or in connection with the Covered Conduct and seeking relief that overlaps in whole or in part with the relief sought in the Florida AG Action and the Actions filed by Litigating Subdivisions;

WHEREAS, Teva (i) denies each and all of the Claims and allegations of wrongdoing made by Plaintiff in the Florida AG Action and by the Litigating Subdivisions in each of the Actions and maintains that it has meritorious defenses; (ii) denies all assertions of wrongdoing or liability against Teva arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Florida AG Action or in other Actions already brought by Litigating Subdivisions or that could be brought by such plaintiffs or by Non-Litigating Subdivisions, and contend that the factual allegations made in the Florida AG Action and the Litigating Subdivisions' Actions relating to Teva are false and materially inaccurate; (iii) denies that Plaintiff, or any Litigating Subdivision, or any other Subdivision, or any Florida resident, was harmed by any conduct of Teva alleged in the Florida AG Action, the Litigating Subdivisions' Actions, or otherwise; (iv) denies liability, expressly denies any wrongdoing, and denies Teva violated any federal or state statute or common law; and (v) maintains that Teva would be able to successfully defend against Plaintiff's Claims and allegations at trial, that the facts do not support the

allegations, that Teva engaged in any misconduct or unlawful activity and that Teva's conduct caused no harm to Plaintiff or to the Litigating Subdivisions, other Subdivisions, or any Florida residents;

WHEREAS, the Parties have investigated the facts and analyzed the relevant legal issues regarding the Claims and defenses that have been or could have been asserted in the Florida AG Action and any other Actions;

WHEREAS, the Parties have each considered the costs and delays and uncertainty associated with the continued prosecution and defense of the Florida AG Action and the other Actions;

WHEREAS, the Parties believe the Settlement set forth herein avoids the uncertainties of litigation and assures that the benefits reflected herein are obtained;

WHEREAS, Plaintiff has concluded that the terms of the Settlement are fair, reasonable and adequate and in the best interest of Plaintiff and all Subdivisions and Florida citizens and residents;

WHEREAS, Plaintiff has determined that continuation or commencement of Actions against Teva by Litigating Subdivisions or other Subdivisions would unduly interfere with Plaintiff's litigation authority to bring and resolve litigation in which the State has an interest and frustrate Plaintiff's efforts to obtain a favorable settlement;

WHEREAS, the Parties agree that neither this Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be a concession as to any Claim, an admission, evidence of any violation of any statute or law, evidence of any liability or wrongdoing by Teva, or evidence of the truth of any of the Claims, allegations, denials, or defenses made in the Florida AG Action or the Litigating Subdivisions' Actions; and

WHEREAS, arm's-length settlement negotiations have taken place over the course of several weeks between Teva and Plaintiff;

WHEREAS, Plaintiff views prompt settlement on the terms enclosed herein to be in the public interest and crucial to the State of Florida and its citizens; recognizes that Subdivisions may, notwithstanding their willingness to sign on to this settlement, wish to reserve the right to challenge the Attorney General's authority to bind them in other litigation that does not arise out of or relate to the Covered Conduct; and represents that Plaintiff shall not use those Subdivisions' acceptance of the terms of this Settlement as precedent in any litigation matter that does not arise out of or relate to the Covered Conduct;

NOW, THEREFORE, IT IS HEREBY AGREED by and between Plaintiff and Teva by and through their respective counsel, as follows:

A. **Definitions.** As used in this Agreement, the following capitalized terms have the meanings specified below.

(a) "Actions" means the Florida AG Action and any lawsuit by a Subdivision asserting any Released Claim against any Releasee.

(b) "Agreement," "Settlement" or "Settlement Agreement" means this Settlement Agreement, together with any exhibits attached hereto, which are incorporated herein by reference.

(c) "Bankruptcy Code" means Title 11 of the United States Code, 11 U.S.C. § 101, et seq.

(d) "Bar" means either: (1) a law barring all Subdivisions in the State of Florida from maintaining Released Claims against Releasees (either through a direct bar or through a grant of authority to release Claims and the exercise of such authority in full); or, (2) a ruling by the Florida Supreme Court (or a District Court of Appeal if a decision is not subject to further review by the Florida Supreme Court) setting forth the general principle that Subdivisions in the State of Florida may not maintain any Released Claims against Releasees, whether on the ground of this Agreement (or the release in it) or otherwise. For the avoidance of doubt, a law or ruling that is conditioned or predicated upon payment by a Releasee (apart from the payments by Teva contemplated under this Agreement) shall not constitute a Bar.

(e) "Claim" means any past, present or future cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment, charge, covenant, damage, debt, lien, loss, penalty, judgment, right, obligation, dispute, suit, contract, controversy, agreement, *parens patriae* claim, promise, performance, warranty, omission, or grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory or administrative, whether arising under federal, state or local common law, statute, regulation, guidance, ordinance or principles of equity, whether filed or unfiled, whether asserted or unasserted, whether known or unknown, whether accrued or unaccrued, whether foreseen, unforeseen or unforeseeable, whether discovered or undiscovered, whether suspected or unsuspected, whether fixed or contingent, and whether existing or hereafter arising, in all such cases, including, but not limited to, any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or statutory damages, absolute liability, strict liability, restitution, subrogation, contribution, indemnity, apportionment, disgorgement, reimbursement, attorney fees, expert fees, consultant fees, fines, penalties, expenses, costs or any other legal, equitable, civil, administrative or regulatory remedy whatsoever.

(f) "Claim-Over" means a Claim asserted by any entity that is not a Releasor against a Releasee on the basis of contribution, indemnity, or other claim-over on any theory relating to Claims arising out of or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Releasee) asserted by a Releasor.

(g) "Consent Judgment" means a consent decree, order, judgment, or similar action; in connection with this Agreement, the Parties have agreed to the entry of the

Consent Judgment attached hereto as Exhibit H, which provides for the release set forth below and the dismissal with prejudice of any Released Claims that the State of Florida Office of the Attorney General has brought against Releasees, on the terms and conditions specified herein.

(h) "Court" means the Sixth Judicial Circuit Court in and for Pasco County, State of Florida.

(i) "Covered Conduct" means any actual or alleged act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction, agreement, misstatement, misleading statement or other activity of any kind whatsoever from the beginning of time through the Effective Date of the Release (and any past, present or future consequence of any such act, failure to act, negligence, statement, error, omission, breach of duty, conduct, event, transaction, agreement, misstatement, misleading statement or other activity) arising from or relating in any way to: (1) the availability, discovery, development, manufacture, packaging, repackaging, marketing, promotion, advertising, labeling, recall, withdrawal, distribution, delivery, monitoring, reporting, supply, sale, prescribing, dispensing, physical security, warehousing, use or abuse of, or operating procedures relating to, any Product, or any system, plan, policy or advocacy relating to any Product or class of Products, including, but not limited to, any unbranded promotion, marketing, programs or campaigns relating to any Product or class of Products; (2) the characteristics, properties, risks or benefits of any Product; (3) the reporting, disclosure, non-reporting or non-disclosure to federal, state or other regulators of orders placed with any Releasee; (4) the purchasing, selling, acquiring, disposing of, importing, exporting, applying for quota for, procuring quota for, handling, processing, packaging, supplying, distributing, converting, or otherwise engaging in any activity relating to, precursor or component Products, including, but not limited to, natural, synthetic, semi-synthetic, or chemical raw materials, starting materials, active pharmaceutical ingredients, drug substances or any related intermediate Products; and, (5) diversion control programs or suspicious order monitoring.

(j) "Effective Date of the Agreement" means 3 business days after the Initial Participation Date, provided that either a Bar exists or a mutually sufficient number of Subdivisions have become Participating Subdivisions by the Initial Participation Date. The Parties may alter the Effective Date of the Agreement by mutual written agreement.

(k) "Effective Date of the Release" means the date on which the Court enters the Consent Judgment.

(l) "Execution Date" means the date on which this Agreement is executed by the last party to do so.

(m) "Initial Participation Date" means the date by which Litigating Subdivisions must join to become initial Participating Subdivisions. The Initial Participation Date shall be 30 days after the Execution Date. The Parties may alter the Initial Participation Date by mutual written agreement.

(n) "Litigating Subdivision" means a Subdivision (or Subdivision official) that has brought any Released Claim against any Releasees on or before December 31, 2021, including, but not limited to, the agreed list of Litigating Subdivisions set forth in Exhibit A.

(o) "Litigation Costs" means attorneys' fees and investigative and litigation costs and expenses incurred in connection with Claims asserted against any Releasee in the Florida AG Action or any Litigating Subdivision's Action.

(p) "Non-Joining Subdivision" means any Litigating Subdivision or Principal Subdivision that does not execute a subdivision settlement participation form attached as Exhibit D by the Post Effective Date Sign-on Deadline.

(q) "Non-Litigating Subdivision" means a Subdivision that is not a Litigating Subdivision.

(r) "Non-Participating Subdivision" means a Subdivision that is not or is not yet a Participating Subdivision.

(s) "Opioid Remediation" means care, treatment and other programs and expenditures (including reimbursement for past such programs or expenditures, except where this Agreement restricts the use of funds solely to future Opioid Remediation) designed to (1) address the misuse and abuse of opioid products, (2) treat or mitigate opioid use or related disorders, or (3) mitigate other alleged effects of, including on those injured as a result of, the opioid epidemic. Exhibit C provides a non-exhaustive list of expenditures that qualify as being paid for Opioid Remediation. Qualifying expenditures may include reasonable related administrative expenses. [1] Teva denies that such relief comprises cognizable abatement.

(t) "Participating Subdivision" means any Subdivision that executes a subdivision settlement participation form attached as Exhibit D.

(u) "Parties" and "Settling Parties" means Teva and Plaintiff, with each being a "Party" and "Settling Party."

(v) "Post-Effective Date Sign-on Deadline" means the deadline for Subdivisions to execute a subdivision settlement participation form attached as Exhibit D, which shall be 150 days after the Effective Date of the Agreement.

(w) "Principal Subdivision" means: (1) a County, regardless of population; or (2) a Subdivision that is not a County, but is a General Purpose Government entity (including a municipality, city, town, township, parish, village, borough, gore or any other entities that provide municipal-type government) with a population of more than 10,000, including, but not limited to, the agreed list of Principal Subdivisions attached hereto as Exhibit A.

[1] Opioid Remediation includes amounts paid to satisfy any future demand by another governmental entity to make a required reimbursement in connection with the past care and treatment of a person.

(x) "Product" means any chemical substance, whether licit or illicit, whether used for medicinal or non-medicinal purposes, and whether natural, synthetic, or semi-synthetic, or any finished pharmaceutical product made from or with such substance, that is: (1) an opioid or opiate, as well as any product containing any such substance; or (2) benzodiazepine, a muscle relaxer, carisoprodol, or gabapentin; or (3) a combination or "cocktail" of chemical substances prescribed, sold, bought or dispensed to be used together that includes opioids or opiates. "Product" shall include, but is not limited to, any substance consisting of or containing buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, oxycodone, oxymorphone, tapentadol, tramadol, opium, heroin, carfentanil, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triozolam, temazepam, midazolam, chlordiazepoxide, clobazam, clorazepate, flurazepam, lorazepam, temazepam, carisoprodol, cyclobenzaprine, orphenadrine, tizanidine gabapentin, or any variant of these substances or any similar substance. Notwithstanding the foregoing, nothing in this definition prohibits a Releasor from taking administrative or regulatory action related to benzodiazepine (including, but not limited to, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triozolam, temazepam, and midazolam), carisoprodol, or gabapentin that is wholly independent from the use of such drugs in combination with opioids, *provided* such action does not seek money (including abatement and/or remediation) for conduct prior to the Execution Date.

(y) "Qualified Settlement Fund" means the Florida Qualified Settlement Fund contemplated by this Agreement, into which all payments by Teva shall be made and which shall be established under the authority and jurisdiction of the Court and which shall be a "qualified settlement fund" within the meaning of 26 C.F.R. § 1.468B-1.

(z) "Qualified Settlement Fund Administrator" means the Administrator appointed to administer the Qualified Settlement Fund under the authority and jurisdiction of the Court. The duties of the Qualified Settlement Fund Administrator shall be governed by this Agreement. The identity of the Qualified Settlement Fund Administrator and a detailed description of the Qualified Settlement Fund Administrator's duties and responsibilities, including a detailed mechanism for paying the Qualified Settlement Fund Administrator's fees and costs, will be set forth in a separate document to be prepared by the Parties and filed with the Court to establish the fund and be attached later to this Agreement as Exhibit E.

(aa) "Released Claims" means any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct occurring prior to the Effective Date of the Release. Without limiting the foregoing, Released Claims include any Claims that have been asserted against the Releasees by Plaintiff or any Litigating Subdivision in any federal, state or local Action or proceeding (whether judicial, arbitral or administrative) based on, arising out of or relating to, in whole or in part, the Covered Conduct, or any such Claims that could be or could have been asserted now or in the future in those Actions or in any comparable Action or proceeding brought by Plaintiff, any of its Subdivisions, or any Releasor (whether or not such State, Subdivision, or Releasor has brought such Action or proceeding). Released Claims also include all Claims asserted in any proceeding to be dismissed pursuant to this Agreement, whether or not such

Claims relate to Covered Conduct. The Parties intend that this term, "Released Claims," be interpreted broadly. This Agreement does not release Claims by private individuals for damages for any alleged personal injuries arising out of their own use of any Product. But in any action arising from or relating to such Claims or the Covered Conduct, the Releasees may assert as a defense or otherwise argue that the Remediation Payments required herein serve as a measure of compensation for personal injuries or for other legal or equitable claims or demands asserted by private individuals or others. It is the intent of the Parties that Claims by private individuals be treated in accordance with applicable law. Released Claims is also used herein to describe Claims brought or maintained by any Subdivision in the future that would have been Released Claims if they had been brought by a Releasor against a Releasee.

(bb) "Releasees" means: (i) Teva; (ii) all of its respective past and present direct or indirect parents, subsidiaries, divisions, affiliates, joint ventures, predecessors, successors, assigns and insurers (in their capacity as such); and (iii) the past and present officers, directors, members, shareholders (solely in their capacity as shareholders of the foregoing entities), partners, trustees, employees, agents, attorneys and insurers of each of the foregoing entities and persons referenced in clauses (i) through (iii) above for actions or omissions that occurred during and related to their work for, or employment with, any of the foregoing entities with respect to the Released Claims.

(cc) "Releasors" means with respect to Released Claims: (1) the State; (2) without limitation, all of the State of Florida's departments, agencies, divisions, boards, commissions, instrumentalities of any kind, including without limitation the Florida Attorney General, Florida Board of Pharmacy, Florida Department of Health, and Florida Department of Business and Professional Regulation, and any person in his or her official capacity, whether elected or appointed to lead or serve any of the foregoing, and any agency, person or entity claiming by or through any of the foregoing; (3) each Participating Subdivision; and (4) without limitation and to the maximum extent of the power of each of the State, the Florida Attorney General and/or Participating Subdivision to release Claims, (a) the State of Florida's and each Subdivision's departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind and any person in his or her official capacity, whether elected or appointed to lead or serve any of the foregoing, and any agency, person or entity claiming by or through any of the foregoing; (b) any public entities, public instrumentalities, public educational institutions, unincorporated districts, fire districts, irrigation districts, water districts, law enforcement districts, emergency services districts, school districts, hospital districts and other special districts in the State of Florida, and (c) any person or entity acting in a *parens patriae*, sovereign, quasi-sovereign, private attorney general, *qui tam*, taxpayer, or other capacity seeking relief on behalf of or generally applicable to the general public with respect to the State of Florida or any Subdivision in the State of Florida, whether or not any of them participates in this Agreement. Nothing in this definition shall be construed to limit the definition of "Subdivision" in subsection A(ii) below. In addition to being a Releasor as provided herein, a Participating Subdivision shall also provide a subdivision settlement participation form (attached as Exhibit D) providing for a release to the fullest extent of the Participating Subdivision's authority, an executed copy of which shall be attached as an exhibit to and deemed to be a part of this Agreement.

(dd) "Settlement Amount" means $177,114,999, to be used for opioid remediation.

(ee) "Settlement Payment" means $194,826,499, reflecting the total cash payment inclusive of the Settlement Amount ($177,114,999), the State's outside counsel Litigation Costs ($8,855,750), and the Litigation Costs of Litigating Subdivisions ($8,855,750).

(ff) "Settlement Product" means "Naloxone Hydrochloride Nasal Spray" (4 mg strength) that is listed in Teva's then-current generics catalog, which can be viewed at www.tevagenerics.com, and is provided to the State as part of the settlement, at no cost as set forth in Section C.2 and Exhibit K.

(gg) "State Outside Litigation Counsel" means Kellogg, Hansen, Todd, Figel & Frederick P.L.L.C.; Drake Martin Law Firm, LLC; Harrison Rivard Duncan & Buzzett, Chartered; Newsome Melton, P.A.; and Curry Law Group, P.A.

(hh) "State-Subdivision Agreement" means a separate agreement among Plaintiff and all Participating Subdivisions providing for an allocation of, among other things, the Settlement Payment (defined below). The State-Subdivision Agreement is attached hereto as Exhibit I.

(ii) "Subdivision" means (1) any General Purpose Government entity (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore or any other entities that provide municipal-type government), School District, or Special District within a State, and (2) any other subdivision or subdivision official or sub-entity of or located within a State (whether political, geographical or otherwise, whether functioning or non-functioning, regardless of population overlap, and including, but not limited to, nonfunctioning governmental units and public institutions) that has filed or could file a lawsuit that includes a Released Claim against a Releasee in a direct, *parens patriae*, or any other capacity. "General Purpose Government," "School District," and "Special District" shall correspond to the "five basic types of local governments" recognized by the U.S. Census Bureau and match the 2017 list of Governmental Units. The three (3) General Purpose Governments are county, municipal, and township governments; the two (2) special purpose governments are School Districts and Special Districts. "Fire District," "Health District," "Hospital District," and "Library District" shall correspond to categories of Special Districts recognized by the U.S. Census Bureau. References to a State's Subdivisions or to a Subdivision "in," "of," or "within" a State include Subdivisions located within the State even if they are not formally or legally a sub-entity of the State.

(jj) "Teva" means (i) Teva Pharmaceutical Industries Ltd. and, (ii) all of its respective past and present direct or indirect parents, subsidiaries, divisions, affiliates, joint ventures, predecessors, successors, assigns, and insurers (in their capacity as such), and (iii) all of the foregoing respective past and present officers, directors, members, shareholders (solely in their capacity as shareholders of the foregoing entities), partners, trustees, employees, agents, attorneys, and insurers of the foregoing entities and persons referenced in clauses (i) and (ii) above for actions or omissions that occurred during and related to

their work for, or employment with, any of the foregoing entities with respect to the Released Claims.

B. **Release and Dismissals in the Florida AG Action and other Actions.**

1. It is the intention of the Settling Parties to fully and finally resolve all Released Claims that have been or could be brought against the Releasees by Plaintiff or any Subdivision with respect to the Covered Conduct, and that the release of such Claims does not affect Plaintiff's or the Subdivisions' Claims as to any other defendant. Plaintiff represents and warrants that it will use its best efforts to obtain a consensual release of any and all Claims involving Covered Conduct that Plaintiff and all Subdivisions, including any Litigating Subdivision or Non-Litigating Subdivision, have asserted or could assert against the Releasees. Regardless whether such consensual release is obtained, Plaintiff represents and warrants under this Agreement that it is exercising its authority under law to release any and all Claims involving Covered Conduct that Plaintiff and all Subdivisions, including any Litigating Subdivision or Non-Litigating Subdivision, have asserted or could assert against the Releasees. Plaintiff further represents and warrants that it will use all available authority to bind, and under this Agreement is exercising such authority to bind, Plaintiff and all Subdivisions, including all Litigating Subdivisions and Non-Litigating Subdivisions, regardless of whether they become Participating Subdivisions or Non-Joining Subdivisions, to the terms of this Agreement.

2. In addition to the general release and dismissal to be provided by Plaintiff set forth in Sections D.1 & D.2, Plaintiff will deliver to Teva signed agreements from: (a) each Subdivision that executes a signed agreement by the Initial Participation Date; and (b) each Subdivision that executes a signed agreement by the Post-Effective Date Sign-on Deadline (i.e., within 150 days following the Effective Date of the Agreement). Such agreements shall include:

(a) the Subdivision's acceptance of the terms and conditions of this Agreement by signing the subdivision settlement participation form attached as Exhibit D;

(b) in the case of a Litigating Subdivision, such Litigating Subdivision's agreement to implement an immediate cessation of any and all litigation activities relating to such Litigating Subdivision's Action as to all Releasees;

(c) in the case of a Litigating Subdivision, an agreement that Plaintiff may represent that the Litigating Subdivision supports the Consent Judgment to be entered in accordance with Section F below; and,

(d) in the case of a Litigating Subdivision, such Litigating Subdivision's agreement to file, within the later of seven (7) days of the Effective Date of the Release, or seven (7) days of signing the subdivision settlement participation form, a notice or stipulation of voluntary dismissal with prejudice of any and all Released Claims asserted by the Litigating Subdivision against the Releasees, with each party to bear its own costs.

3. Between the Execution Date and the Initial Participation Date, Plaintiff agrees to furnish to Teva a report listing the Subdivisions that have executed the signed agreements described in Section B.2(a) and copies of such signed agreements on a weekly basis. Plaintiff further agrees to furnish to Teva no later than noon Eastern Time on the day after the Initial

Participation Date and a final report listing the Subdivisions that have executed the signed agreements described in Section B.2(a) by the Initial Participation Date and copies of all such signed agreements. After the Initial Participation Date, the parties shall confer and establish a schedule for the regular provision of such reports and copies of signed agreements.

4. Plaintiff represents and warrants that, if any Action remains pending against one or more Releasees after the Effective Date of the Agreement or is filed by a Subdivision against any Releasee on or after the Execution Date, Plaintiff will seek to obtain dismissal of such Action as to such Releasees as soon as reasonably possible. Depending on facts and circumstances, Plaintiff may seek dismissal, among other ways, by intervening in such Action to move to dismiss or otherwise terminate the Subdivision's Claims in the Action or by commencing a declaratory judgment or other action that establishes a Bar to the Subdivision's Claims and Action. For avoidance of doubt, Plaintiff will seek dismissal of an Action under this paragraph regardless whether the Subdivision in such Action is a Participating Subdivision.

5. In the event that the actions required of Plaintiff in Section B fail to secure the prompt dismissal or termination of any Action by any Subdivision against any Releasee, Plaintiff shall seek enactment of a legislative Bar as defined in Section A(d) and will endeavor to achieve enactment as soon as is practicable. Participating Subdivisions agree not to oppose any effort by Plaintiff to achieve enactment of a legislative Bar.

6. Plaintiff further represents and warrants that no portion of the Settlement Amount, Settlement Product, or the Litigation Costs Payments will be distributed to or used for the benefit of any Subdivision unless and until Plaintiff has delivered to Teva a signed agreement from such Subdivision providing for the Subdivision's acceptance of the terms and conditions of this Agreement, including its express agreement to be bound by the irrevocable releases set forth in Section B below.

C. **Settlement Consideration.**

1. **Settlement Amount and Litigation Costs Payments.**

(a) On or before the later of (a) seven (7) days after the Effective Date of the Release, or (b) seven (7) days after (i) the Qualified Settlement Fund has been established under the authority and jurisdiction of the Court, and (ii) Teva has received a W-9 and wire instructions for the Qualified Settlement Fund,

(b) Teva shall pay into the Qualified Settlement Fund the total sum of $194,826,499 consisting of:

(1) $177,114,999 for opioid remediation to be paid over a period of 15 years (the "Teva Settlement Amount") and allocated in accordance with subsection C.1(b)(6)below;

(2) $8,855,750, to be available to reimburse Teva's share of the State's Litigation Costs in accordance with subsection C.1(b)(6) below (the "Teva State Litigation Cost Payment"); and

(3) $8,855,750 to be available to reimburse Teva's share of the Litigation Costs of Litigating Subdivisions in accordance with subsection C.1(b)(6) below (the "Teva Litigating Subdivision Litigation Cost Payment").

(4) The Teva State Litigation Cost Payment and the Teva Litigating Subdivision Cost Payment shall collectively be referred to herein as the "Teva Litigation Costs Payments."

(5) The Qualified Settlement Fund Administrator shall allocate each of the Teva Settlement Amount, the Teva State Litigation Cost Payment, and the Teva Litigating Subdivision Litigation Cost Payment into separate sub-funds within the Qualified Settlement Fund. Release of the Teva Settlement Amount and the Teva Litigation Costs Payments from the Qualified Settlement Fund shall be subject to the conditions specified below.

(6) The Teva Settlement Payment shall be paid into the Qualified Settlement Fund in accordance with the payment schedule set forth below:

(A) Consistent with the terms of Section C.1(a) above, Teva shall pay into the Florida Qualified Settlement Fund the sum of $59,038,333.

(B) On or before January 1, 2023, Teva shall pay the sum of: $23,615,333;

(C) On or before January 1, 2024, Teva shall pay the sum of: $5,903,833;

(D) On or before January 1, 2025, Teva shall pay the sum of: $5,903,833;

(E) On or before January 1, 2026, Teva shall pay the sum of: $5,903,833;

(F) On or before January 1, 2027, Teva shall pay the sum of: $5,903,833;

(G) On or before January 1, 2028, Teva shall pay the sum of: $5,903,833;

(H) On or before January 1, 2029, Teva shall pay the sum of: $5,903,833;

(I) On or before January 1, 2030, Teva shall pay the sum of: $5,903,833;

(J) On or before January 1, 2031, Teva shall pay the sum of: $5,903,833;

(K) On or before January 1, 2032, Teva shall pay the sum of: $5,903,833;

(L) On or before January 1, 2033, Teva shall pay the sum of: $5,903,833;

(M) On or before January 1, 2034, Teva shall pay the sum of: $17,711,500;

(N) On or before January 1, 2035, Teva shall pay the sum of: $17,711,500; and,

(O) On or before January 1, 2036, Teva shall pay the sum of: $17,711,500.

2. *Settlement Product.* Teva shall further provide, for a period of ten (10) years, settlement product supplied by Teva USA to one facility per order at no cost to the State, designated by the State, as more fully described in Exhibit K. The Parties agree that the WAC value of the Settlement Product to be provided under this Agreement is $84,000,000.

3. *Litigation Costs.* An agreement on the handling of Litigating Subdivision Litigation Costs is attached as Exhibit G and incorporated herein by reference. The Litigating Subdivision Litigation Cost Payments are to be available to reimburse counsel for Litigating Subdivisions that become Participating Subdivisions and who waive any other right(s) they may have to compensation in connection with this Settlement for reasonable Litigation Costs incurred in connection with their Claims against Releasees.

(a) The Qualified Settlement Fund Administrator shall allow eligible counsel reimbursement for reasonable Litigation Costs as provided in Exhibit G. Such Litigation Costs shall be divided among Participating Subdivisions as provided in Exhibit G under the jurisdiction and authority of the Court. Any amount remaining in the Litigation Subdivision Litigation Costs Payment sub-fund after such allocation shall be returned to Teva.

(b) No funds may be used to compensate Litigation Costs incurred by Non-Participating Subdivisions or Non-Litigating Subdivisions, or Litigation Costs arising out of representation of any such Subdivision.

(c) No attorney for any Litigating Subdivision may receive any share of the Litigating Subdivision Litigation Cost Payment unless the following eligibility requirements are met and certified by the attorney:

i. The attorney must represent that s/he has no present intent to represent or participate in the representation of any Subdivision or any Releasor with respect to the litigation of any Released Claims against any Releasees.

ii. The attorney must represent that s/he will not charge or accept any referral fees for any Released Claims asserted or maintained against Releasees by any Subdivision or any Releasor.

iii. The attorney may not have, and must represent that s/he does not have, a claim for fees, costs or expenses related to the litigation of any Released Claims against any Releasees by any Subdivision or any Releasor after December 31, 2021.

iv. Notwithstanding the foregoing, nothing in this subsection C.1(b)(3) is intended to operate as a "restriction" on the right of any attorney to practice law within the meaning of Rule 5.6(b) of the Florida Rules of Professional Conduct or any equivalent provision of any other jurisdiction's rules of professional conduct.

(d) Plaintiff shall file in the Court a motion for the State's Litigation Costs up to $8,855,750 from Teva. Teva shall not oppose the motion so long as the State does not seek more than $8,855,750 from Teva in Litigation Costs. If any amount of the $8,855,750 from Teva is not awarded by the Court, that amount shall be returned to Teva. As set forth in Section C.4 below, in the event the Court awards the State Litigation Costs in excess of the respective amounts listed above, Teva shall have no obligation to pay any amount in excess of the State Litigation Cost Payment.

4. **No Other Payments by Releasees as to Covered Conduct, Released Claims, the Florida AG Action, Other Actions, Plaintiff, Subdivisions or State Outside Litigation Counsel or Litigation Costs.** Other than the Teva Settlement Amount and the Litigation Costs Payments by Teva referenced in Sections C.1 and C.3, Teva shall have no obligation to make any further or additional payments in connection with Claims for Covered Conduct or Litigation Costs or this Settlement.

5. **Apportionment of the Settlement Payment.**

(a) It is the intent of the Parties that the Remediation Payment in Section C.1(b) be used exclusively for Opioid Remediation.

(b) In accordance with the State-Subdivision Agreement in Exhibit I, each yearly Settlement Payment shall be allocated by the Qualified Settlement Fund Administrator into three sub-funds: an Abatement Accounts Sub-Fund (also known as a regional fund), a State Sub-Fund, and a Subdivision Sub-Fund to be allocated to the Abatement Accounts Sub-Fund or to another Participating Subdivision.

(c) A detailed mechanism consistent with the foregoing for a Qualified Settlement Fund Administrator to follow in allocating, apportioning and distributing payments that will be filed with the Court and later attached as Exhibit J.

(d) Teva shall have no duty, liability, or influence of any kind with respect to the apportionment and use of the Settlement Payment by the Qualified Settlement Fund Administrator. Plaintiff specifically represents, however, that any such apportionment and use by the Qualified Settlement Fund Administrator shall be made in accordance with all applicable laws.

6. **Release of the State Fund.** Within a reasonable period after the Effective Date of the Agreement or otherwise as ordered by the Court, the Qualified Settlement Fund Administrator shall release the State Fund to Plaintiff.

7. **Subdivision Payments to Subdivisions that Become Participating Subdivisions Prior to the Initial Participation Date.** A Participating Subdivision that (a) completes a subdivision settlement participation form prior to the Initial Participation Date, (b) joins the Florida Opioid Allocation and Statewide Response Agreement (Exhibit I), and (c) in the case of a Litigating Subdivision, dismisses with prejudice any and all Released Claims asserted by the Litigating Subdivision against the Releasees shall be eligible to receive payment of a share of the Settlement Payment within a reasonable period after the Effective Date of the Agreement.

8. **Subdivision Payments to Subdivisions that Become Participating Subdivisions After the Initial Participation Date.** A Participating Subdivision that (a) completes a subdivision settlement participation form after the Initial Participation Date and by no later than the Post-Effective Date Sign-on Deadline, (b) joins the Florida Opioid Allocation and Statewide Response Agreement (Exhibit I), and (c) in the case of a Litigating Subdivision, dismisses with prejudice any and all Released Claims asserted by the Litigating Subdivision against the Releasees shall be eligible to receive payment of a share of the Settlement Payment within a reasonable period after the Post-Effective Date Sign-on Deadline.

9. **Reversion to Teva of Amounts Forfeited by Non-Joining Subdivisions.** Any Litigating Subdivision or Principal Subdivision that does not sign a participation agreement by the Post-Effective Date Sign-on Deadline will be deemed a Non-Joining Subdivision. At Teva's request to the Qualified Settlement Fund Administrator, any Non-Joining Subdivision's share of the Settlement Payment (and to the extent any such subdivision is a Litigating Subdivision the Litigation Cost Payments) shall be returned to Teva within a reasonable time after the Post-Effective Date Sign-on Deadline.

10. **Agreement Null and Void if the Agreement Does Not Become Effective.** In the event that the Effective Date of the Agreement does not occur and the Parties fail to agree to extend the Effective Date of the Agreement, the Agreement shall be null and void.

11. **Use of Evidence at Trial in the Florida AG Action.** Plaintiff agrees that none of the Releasees will be a defendant in any trial of the Florida AG Action, that no Releasee will be subpoenaed or called to testify by Plaintiff in any trial of the Florida AG Action, and that any evidence that references the Releasees or the Products will be used solely against other defendants in the Florida AG Action.

12. **Verdict Form.** Plaintiff agrees that it will not seek to have any of the Releasees included on the verdict form in any trial related to the Florida AG Action and will oppose the efforts of any other party in the Florida AG Action to include any of the Releasees on the verdict form.

13. **Injunctive Relief.** As part of the Consent Judgment to be entered in accordance with Section F below, the Parties agree to the entry of injunctive relief terms attached in Exhibit F.

D. **Settlement of Claims and General Release.**

1. **Scope.** On the Effective Date of the Release, Plaintiff and each Releasor shall be deemed to have fully, finally and forever released all Releasees from all Released Claims. Plaintiff, on behalf of itself and all other Releasors (whether or not they have signed this Agreement or the subdivision settlement participation form in Exhibit D), hereby absolutely, unconditionally and irrevocably covenants not to bring, file, or claim, or to cause, assist, or permit to be brought, filed, or claimed, any Released Claims of any type in any forum whatsoever against Releasees. For the avoidance of doubt, Plaintiff agrees that this Settlement Agreement and the releases contained herein shall fully and completely resolve any past, present or future liability that any Releasee may have arising from, relating to or based on the Covered Conduct occurring prior to the Effective Date of the Release, whether in the Actions or otherwise. The releases provided for in this Agreement are intended by the Settling Parties to be broad and shall be interpreted so as to give the Releasees the broadest possible bar against any and all Released Claims. This Settlement Agreement is, will constitute, and may be pleaded as a complete bar to any Released Claim asserted against Releasees, whether against Plaintiff, any Participating Subdivision, or any other Subdivision, including any Non-Joining Subdivision.

2. **General Release.** In connection with the releases provided pursuant to this Settlement Agreement, Plaintiff, on behalf of itself and all other Releasors referenced in Section A(cc), expressly waives, releases and forever discharges any and all provisions, rights and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code, which reads:

> **General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those that he, she, or it knows or believes to be true with respect to the Released Claims, but Plaintiff, on behalf of itself and all other Releasors, hereby expressly waives and fully, finally and forever settles, releases and discharges, upon the Effective Date of the Release, any and all Released Claims against the Releasees that may exist as of this date but which they do not know or suspect to exist, whether through ignorance, oversight, error, negligence or otherwise, and which, if known, would materially affect their decision to enter into this Settlement Agreement.

3. **Claim-Over and Non-Party Settlement.**

(a) Statement of Intent. It is the intent of the Parties that:

(1) The Settlement Amount and Litigation Cost Payments made under this Agreement shall be the sole payments made by the Releasees to the Releasors involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Releasee);

(2) Claims by Releasors against non-Parties should not result in additional payments by Releasees, whether through contribution, indemnification or any other means; and

(3) The Settlement effects a good faith "release and covenant not to sue" within the meaning of Florida Statute § 768.31(5) and meets the requirements of the Uniform Contribution Among Joint Tortfeasors Act and any similar state law or doctrine, including, but not limited to, Fla. Stat. § 768.31(5), that reduces or discharges a released party's liability to any other parties, such that Releasees are discharged from all liability for contribution to any other alleged tortfeasor in the Florida AG Action and in any other Action, whenever filed.

(4) The provisions of this Section D.3 are intended to be implemented consistent with these principles. This Agreement and the releases and dismissals provided for herein are made in good faith.

(b) No Releasee shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory, from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner; *provided* that a Releasee shall be relieved of this prohibition with respect to any entity that asserts a Claim-Over against it or with respect to any person or entity that brings any other form of action against Teva arising out of or related to Covered Conduct. For the avoidance of doubt, nothing herein shall prohibit a Releasee from recovering amounts owed pursuant to insurance contracts.

(c) To the extent that, on or after the Effective Date of the Agreement, any Releasor settles any Claims arising out of or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Releasee) ("Non-Party Covered Conduct Claims") it may have against any entity that is not a Releasee (a "Non-Released Entity") that is, as of the Effective Date of the Agreement, a defendant in the Florida AG Action or any other Action and provides a release to such Non-Released Entity (a "Non-Party Settlement"), including in any bankruptcy case or through any plan of reorganization (whether individually or as a class of creditors), the Releasor will seek to include (or in the case of a Non-Party Settlement made in connection with a bankruptcy case, will cause the debtor to include), unless prohibited from doing so under applicable law, in the Non-Party Settlement a prohibition on seeking contribution or indemnity of any kind from Releasees

substantially equivalent to that required from Teva in subsection D.3(b) (except limited to such claims against Releasees), or a release from such Non-Released Entity in favor of the Releasees (in a form equivalent to the releases contained in this Agreement) of any Claim-Over. The obligation to seek to obtain the prohibition and/or release required by this subsection is a material term of this Agreement.

(d) Claim-Over. In the event that any Releasor obtains a judgment with respect to a Non-Party Covered Conduct Claim against a Non-Released Entity that does not contain a prohibition like that in subsection D.3(b), or any Releasor files a Non-Party Covered Conduct Claim against a Non-Released Entity in bankruptcy or a Releasor is prevented for any reason from obtaining a prohibition/release in a Non-Party Settlement as provided in subsection D.3(c), and such Non-Released Entity asserts a Claim-Over against a Releasee, Teva and that Releasor shall meet and confer concerning any additional appropriate means by which to ensure that Releasees are not required to make any payment with respect to Covered Conduct (beyond the amounts that will already have been paid by Teva under this Settlement Agreement).

(e) In no event shall a Releasor be required to reduce the amount of a settlement or judgment against a Non-Released Entity in order to prevent additional payments by Releasees, whether through contribution, indemnification, or any other means.

4. **Cooperation.** Releasors, including Plaintiff and Participating Subdivisions, agree that they will not publicly or privately encourage any other Releasor to bring or maintain any Released Claim. Plaintiff further agrees that it will cooperate in good faith with the Releasees to secure the prompt dismissal of any and all Released Claims.

E. **Cessation of Litigation Activities.** It is the Parties' intent that all litigation activities in the Florida AG Action relating to Released Claims against the Releasees shall immediately cease as of the Execution Date. Within seven (7) days after the Execution Date, Plaintiff agrees to take all steps reasonably necessary to implement the prompt cessation of such litigation activities, including by, for example, jointly requesting a severance of Teva from any trial in the Florida AG Action and/or a stay of further proceedings against Teva pending the implementation of this Settlement.

F. **Entry of Consent Judgment Providing for Dismissal of All Claims Against Teva in the Florida AG Action with Prejudice.** As soon as practicable following the Effective Date of the Agreement, Plaintiff shall file in the Court a Consent Judgment substantially in the form of Exhibit H, including a dismissal of the Florida AG Action with prejudice. Notwithstanding the foregoing, the Consent Judgment shall provide that the Court shall retain jurisdiction for purposes of enforcing compliance with the injunctive terms set forth in Exhibit H. The parties shall confer and agree as to the final form and time of filing prior to filing of the Consent Judgment.

G. **No Admission of Liability**. The Settling Parties intend the Settlement as described herein to be a final and complete resolution of all disputes between Teva and Plaintiff and between Teva and all Releasors. Teva is entering into this Settlement Agreement solely for the purposes of settlement, to resolve the Florida AG Action and all Actions and Released Claims and thereby avoid significant expense, inconvenience and uncertainty. Teva denies the allegations in the Florida AG Action and the other Actions and denies any civil or criminal liability in the Florida

AG Action and the other Actions. Nothing contained herein may be taken as or deemed to be an admission or concession by Teva of: (i) any violation of any law, regulation, or ordinance; (ii) any fault, liability, or wrongdoing; (iii) the strength or weakness of any Claim or defense or allegation made in the Florida AG Action, in any other Action, or in any other past, present or future proceeding relating to any Covered Conduct or any Product; (iv) the legal viability of the claims and theories in the Florida AG Action and the other Actions, including but not limited to the legal viability of the relief sought or (v) any other matter of fact or law. Nothing in this Settlement Agreement shall be construed or used to prohibit any Releasee from engaging in the conduct of its business relating to in the manufacture, marketing, licensing, distribution or sale of branded or generic opioid medications or any other Product in accordance with applicable laws and regulations.

H. **Miscellaneous Provisions.**

1. **Use of Agreement as Evidence.** Neither this Agreement nor any act performed or document executed pursuant to or in furtherance of this Agreement: (i) is or may be deemed to be or may be used as an admission or evidence relating to any matter of fact or law alleged in the Florida AG Action or the other Actions, the strength or weakness of any claim or defense or allegation made in those cases, or any wrongdoing, fault, or liability of any Releasees; or (ii) is or may be deemed to be or may be used as an admission or evidence relating to any liability, fault or omission of Releasees in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Neither this Agreement nor any act performed or document executed pursuant to or in furtherance of this Agreement shall be admissible in any proceeding for any purpose, except to enforce the terms of the Settlement, and except that Releasees may file this Agreement in any action in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good-faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim or to support a claim for contribution and/or indemnification; or to support any other argument or defense by a Releasee that the Remediation Payments provide a measure of compensation for asserted harms or otherwise satisfy the relief sought.

2. **Voluntary Settlement.** This Settlement Agreement was negotiated in good faith and at arm's-length over several weeks, and the exchange of the Settlement Amount and Litigation Costs Payment for the releases set forth herein is agreed to represent appropriate and fair consideration.

3. **Authorization to Enter Settlement Agreement.** Each party specifically represents and warrants that this Settlement Agreement constitutes a legal, valid and binding obligation of such Party. Each signatory to this Settlement Agreement on behalf of a Party specifically represents and warrants that he or she has full authority to enter into this Settlement Agreement on behalf of such Party. Plaintiff specifically represents and warrants that it has concluded that the terms of this Settlement Agreement are fair, reasonable, adequate and in the public interest, and that it has satisfied all conditions and taken all actions required by law in order to validly enter into this Settlement Agreement. Plaintiff specifically represents and warrants that, other than the Claims asserted in the Florida AG Action and the other Actions (whether filed previously or in the future), it has no interest (financial or otherwise) in any other Claim against any Releasee related to the Covered Conduct. In addition, Plaintiff specifically represents and

warrants that (i) it is the owner and holder of the Claims asserted in the Florida AG Action; (ii) it has not sold, assigned or otherwise transferred the Claims asserted in the Florida AG Action, or any portion thereof or rights related thereto, to any third party; and (iii) it believes in good faith that it has the power and authority to bind all persons and entities with an interest in the Florida AG Action and all Subdivisions.

4. **Representation With Respect to Participation Rate.** The State of Florida represents and warrants for itself that it has a good-faith belief that all Subdivisions will become Participating Subdivisions. The State will seek to secure participation by all Subdivisions. State Outside Litigation Counsel, in good faith, believe this is a fair Settlement. Therefore, State Outside Litigation Counsel will, in their best efforts, recommend this Settlement to all Subdivisions within Florida. The State acknowledges the materiality of the foregoing representation and warranty.

5. **Dispute Resolution.** If Plaintiff or Teva believes the other is not in compliance with any term of this Settlement Agreement, then that party shall (i) provide written notice to the other party specifying the reason(s) why it believes the other is not in compliance with the Settlement Agreement; and (ii) allow the other party at least thirty (30) days to attempt to cure such alleged non-compliance (the "Cure Period"). In the event the alleged non-compliance is cured within the Cure Period, the other party shall have no liability for such alleged non-compliance. No party may commence a proceeding to enforce compliance with this Agreement before the expiration of the Cure Period.

6. **No Third-Party Beneficiaries.** Except as to Releasees, nothing in this Settlement Agreement is intended to or shall confer upon any third party any legal or equitable right, benefit or remedy of any nature whatsoever.

7. **Notices.** All notices under this Agreement shall be in writing and delivered to the persons specified in this paragraph ("Notice Designees") via: (i) e-mail; and (ii) either hand delivery or registered or certified mail, return receipt requested, postage pre-paid.Notices to Plaintiff shall be delivered to:

For the State of Florida:

Attorney General
Florida State Capitol, PL-01
Tallahassee FL 32399-1050

Copy to Florida's Counsel:

David C. Frederick
Kellogg, Hansen, Todd, Figel & Frederick P.L.L.C.
1615 M Street, NW
Washington D.C. 20036
dfrederick@kellogghansen.com

Notices to Teva shall be delivered to:

For Teva:

Teva Pharmaceuticals
Attn: General Counsel's Office
400 Interpace Parkway
Parsippany, NJ 07054

Copy to Teva Counsel:

Eric W. Sitarchuk
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
eric.sitarchuk@morganlewis.com

Rebecca J. Hillyer
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
rebecca.hillyer@morganlewis.com

8. **Taxes.** Each of the Parties acknowledges, agrees, and understands that it is its intention that, for purposes of Section 162(f) of the Internal Revenue Code, the provision of the Settlement Amount and the Settlement Product by Teva (other than amounts directed to attorneys' fees and costs) constitutes restitution for damage or harm allegedly caused by the potential violation of a law and/or is an amount paid to come into compliance with the law. The Parties acknowledge, agree and understand that, other than the amounts directed to attorneys' fees and costs, no other portion of the Settlement Amount and/or Settlement Product represents reimbursement to the State, any Participating Subdivision or other person or entity for the costs of any investigation or litigation, and no portion of the Settlement Amount and/or Settlement Product represents or should properly be characterized as the payment of fines, penalties, or other punitive assessments, and furthermore, the combined value of the Settlement Amount and the Settlement Product constitute less than one times damages sought by the State. The State and every Participating Subdivision shall complete and file Form 1098-F with the Internal Revenue Service, identifying the Settlement Amount and the Settlement Product (other than amounts directed to attorney fees and costs) as remediation/restitution amounts. The State shall furnish Copy B of its Form 1098-F to Teva and shall otherwise fully comply with the requirements of Section 162(f) and Section 6050X of the Internal Revenue Code and all treasury regulations relating to those provisions of the Internal Revenue Code. Participating Subdivisions shall furnish Copy B their 1098-F forms to Teva and shall otherwise fully comply with the requirements of Section 162(f) and Section 6050X of the Internal Revenue Code and all treasury regulations relating to those provisions of the Internal Revenue Code, and the State shall have no obligation to ensure Participating Subdivisions' compliance with this provision Teva makes no warranty or representation to the State or any Participating Subdivision as to the tax consequences of the Settlement Amount or the Settlement Product or any portion thereof.

9. **Binding Agreement.** This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.

10. **Choice of Law.** Any dispute arising from or in connection with this Settlement Agreement shall be governed by Florida law without regard to its choice-of-law provisions.

11. **Jurisdiction.** The Parties agree to submit and consent to the jurisdiction of the Court for the resolution of any disputes arising under the Settlement Agreement.

12. **No Conflict Intended.** The headings used in this Agreement are intended for the convenience of the reader only and shall not affect the meaning or interpretation of this Agreement. The definitions contained in this Agreement or any Exhibit hereto are applicable to the singular as well as the plural forms of such terms.

13. **No Party Deemed to be the Drafter.** None of the Parties hereto shall be deemed to be the drafter of this Agreement or any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

14. **Amendment; Waiver.** This Agreement shall not be modified in any respect except by a writing executed by all the Parties hereto, and the waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous.

15. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

16. **Severability.** In the event any one or more provisions of this Settlement Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Settlement Agreement.

17. **Statements to the Press.** Any press release or other public statement concerning this Settlement Agreement will describe it positively and will not disparage any other Party. No Party or attorney, agent, or representative of any Party shall state or suggest that this Settlement Agreement may be used to predict the value of any Claim or any future settlement agreement in any action or proceeding.

18. **Integrated Agreement.** This Agreement constitutes the entire agreement between the Settling Parties and no representations, warranties or inducements have been made to any Party concerning this Agreement other than the representations, warranties and covenants contained and memorialized herein.

19. **Bankruptcy.** The following provisions shall apply if, (i) within ninety (90) days of Teva's payments pursuant to Section C.1(b) above, a case is commenced with respect to Teva under the Bankruptcy Code, and (ii) a court of competent jurisdiction enters a final order

determining such payment to be an avoidable preference under Section 547 of the Bankruptcy Code, and (iii) pursuant to such final order such payment is returned to Teva:

(a) this Agreement, including all releases and covenants not to sue with respect to the Released Claims contained in this Agreement, shall immediately and automatically be deemed null and void as to Teva; and

(b) the State and Subdivisions may assert any and all Released Claims against Teva in its bankruptcy case and seek to exercise all rights provided under the federal Bankruptcy Code (or other applicable bankruptcy or non-bankruptcy law) with respect to their Claims against Teva.

20. **Most Favored Nations.** If, after execution of this Agreement, there is a collective resolution—through settlement, bankruptcy or other mechanism—of substantially all claims against Teva brought by states, counties, and municipalities nationwide (a "Global Resolution") under which, but for this Agreement, the Florida allocation of the Settlement Amount, the Litigation Cost Payments, the payment period, or the terms of Injunctive Relief, would be more favorable to the State, Teva shall pay the excess amounts, adjust the payment period, and/or agree to modify the terms of the consent judgment to reflect changes to the Injunctive Relief that would apply to Florida, if requested to do so by the Florida Attorney General's Office. Any reduction in the payment period under this paragraph shall be subject to an appropriate reduction in net present value calculated at seven percent (7%) per annum.

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IN WITNESS WHEREOF, the Parties hereto, through their fully authorized representatives, have executed this Agreement as of the dates set forth below.

[SIGNATURE PAGES BELOW]

SEEN AND AGREED:

TEVA

By: _____

Name: Eric W. Sitarchuk
Rebecca J. Hillyer
Morgan Lewis & Bockius LLP
Attorneys for Teva
On behalf of Teva

Date: 3/29/22

SEEN AND AGREED:

PLAINTIFF

STATE OF FLORIDA, including the OFFICE OF THE ATTORNEY GENERAL

By: _____

Name: John Guard
Chief Deputy Attorney General of Florida
Pursuant to the authority delegated to him by
Ashley Moody, Attorney General of Florida

Date: 3/29/22

STATE OUTSIDE LITIGATION COUNSEL

Kellogg, Hansen, Todd, Figel & Frederick, P.L.L.C.

By: _____

Name: David C. Frederick

Date: 3.29.2022

Drake Martin Law Firm, LLC

By: _____

Name: Drake Martin

Date: 3/29/2022

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement is made and entered into this 29th day of March 2022, among Allergan (defined below), the State of Florida and its Office of the Attorney General ("Plaintiff" or "State") (collectively, the "Parties" or "Settling Parties"), and State Outside Litigation Counsel (defined below) in the lawsuit captioned *State of Florida, Office of the Attorney General, Department of Legal Affairs v. Purdue Pharma L.P., et al.* (Case No. 2018-CA-001438) (Fla. Cir. Ct. Pasco County) (the "Florida AG Action"). This Settlement Agreement is intended by the Settling Parties to fully, finally, and forever resolve, discharge and settle the Released Claims (defined below), upon and subject to the terms and conditions hereof (the "Settlement").

WHEREAS, Plaintiff filed its complaint in the Florida AG Action (i) alleging, among other things, that Allergan, among others, violated Florida law by deceptively marketing opioid pain medications so as to overstate their efficacy and downplay the associated risk of addiction, which resulted in a public nuisance in Florida; (ii) alleging that Allergan, among others, violated the law by failing to monitor, report and not ship allegedly suspicious orders of opioid pain medications; (iii) alleging that Allergan, among others, violated Fla. Stat. § 895.03(3), (4); and (iv) asserting Claims (defined below) for damages, equitable abatement, civil penalties, attorneys' fees and reimbursed litigation costs, and other relief;

WHEREAS, Plaintiff brought the Florida AG Action in its sovereign capacity as the people's attorney in order to protect the public interest, including the interests of the State of Florida, its governmental subdivisions and its citizens;

WHEREAS, numerous Litigating Subdivisions (defined below) have filed Actions (defined below) in various forums against Allergan, among others, raising Claims or allegations concerning, related to, based upon, or in connection with the Covered Conduct (defined below) and seeking relief that overlaps in whole or in part with the relief sought in the Florida AG Action;

WHEREAS, there are numerous Subdivisions (defined below) that are not Litigating Subdivisions ("Non-Litigating Subdivisions," defined below) that could seek to file additional Actions raising Claims or allegations concerning, related to, based upon, or in connection with the Covered Conduct and seeking relief that overlaps in whole or in part with the relief sought in the Florida AG Action and the Actions filed by Litigating Subdivisions;

WHEREAS, Allergan (i) denies each and all of the Claims and allegations of wrongdoing made by Plaintiff in the Florida AG Action and by the Litigating Subdivisions in each of the Actions and maintains that it has meritorious defenses; (ii) denies all assertions of wrongdoing or liability against Allergan arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Florida AG Action or in other Actions already brought by Litigating Subdivisions or that could be brought by such plaintiffs or by Non-Litigating Subdivisions, and contends that the factual allegations made in the Florida AG Action and the Litigating Subdivisions' Actions relating to Allergan are false and materially inaccurate; (iii) denies that Plaintiff, or any Litigating Subdivision, or any other Subdivision, or any Florida resident, was harmed by any conduct of Allergan alleged in the Florida AG Action, the Litigating Subdivisions' Actions, or otherwise; (iv) denies liability, expressly denies any wrongdoing, and denies Allergan violated any federal or state statute or common law; and (v) maintains that Allergan would be able to successfully defend against Plaintiff's Claims and allegations at trial, that the facts do not support the allegations that Allergan engaged in any misconduct or unlawful activity, and caused no harm to Plaintiff or to the Litigating Subdivisions, other Subdivisions, or any Florida residents;

WHEREAS, the Parties have investigated the facts and analyzed the relevant legal issues regarding the Claims and defenses that have been or could have been asserted in the Florida AG Action and any other Actions;

WHEREAS, the Parties have each considered the costs and delays and uncertainty associated with the continued prosecution and defense of the Florida AG Action and the other Actions;

WHEREAS, the Parties believe the Settlement set forth herein avoids the uncertainties of litigation and assures that the benefits reflected herein are obtained;

WHEREAS, Plaintiff has concluded that the terms of the Settlement are fair, reasonable and adequate and in the best interest of Plaintiff and all Subdivisions and Florida citizens and residents;

WHEREAS, Plaintiff has determined that continuation or commencement of Actions against Allergan by Litigating Subdivisions or other Subdivisions would unduly interfere with Plaintiff's litigation authority to bring and resolve litigation in which the State has an interest and frustrate Plaintiff's efforts to obtain a favorable settlement;

WHEREAS, the Parties agree that neither this Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be a concession as to any Claim, an admission, evidence of any violation of any statute or law, evidence of any liability or wrongdoing by Allergan, or evidence of the truth of any of the Claims, allegations, denials, or defenses made in the Florida AG Action or the Litigating Subdivisions' Actions; and

WHEREAS, arm's-length settlement negotiations have taken place over the course of several weeks between Allergan and Plaintiff;

WHEREAS, Plaintiff views prompt settlement on the terms enclosed herein to be in the public interest and crucial to the State of Florida and its citizens; recognizes that Subdivisions may, notwithstanding their willingness to sign on to this settlement, wish to reserve the right to challenge the Attorney General's authority to bind them in other litigation that does not arise out of or relate to the Covered Conduct; and represents that Plaintiff shall not use those Subdivisions' acceptance

of the terms of this Settlement as precedent in any litigation matter that does not arise out of or relate to the Covered Conduct;

NOW, THEREFORE, IT IS HEREBY AGREED by and between Plaintiff and Allergan, by and through their respective counsel, as follows:

A. Definitions. As used in this Agreement, the following capitalized terms have the meanings specified below.

1. "Actions" means the Florida AG Action and any lawsuit by a Subdivision or other Releasor asserting any Released Claim, including but not limited to the Litigating Subdivisions' Actions listed in **Exhibit A**, against any Releasee.

2. "Affiliated Companies" (i) when used with respect to AbbVie Inc. ("AbbVie") shall mean all of the entities listed in **Exhibit K**; (ii) when used with respect to Allergan shall mean all of the entities listed in **Exhibit L**; and (iii) additionally shall include other entities owned now or in the past either wholly or partially and either directly or indirectly by either AbbVie or Allergan and/or each of their respective past parents, but only to the extent those other entities played any role relating to Covered Conduct, Opioid Products (defined below), Products (defined below), and/or Released Claims during the period when they were owned either wholly or partially and either directly or indirectly by either AbbVie or Allergan and/or each of their respective past parents. The Parties intend this definition to cover each and every entity that is now or was ever part of AbbVie and/or Allergan and/or each of their past parents' corporate families to the extent they ever played any role relating to Covered Conduct, Opioid Products, Products, and/or Released Claims.

3. "Agreement," "Settlement" or "Settlement Agreement" means this Settlement Agreement, together with any exhibits attached hereto, which are incorporated herein by reference.

4. "Allergan" means Allergan Finance, LLC (f/k/a Actavis, Inc., which, in turn, was f/k/a Watson Pharmaceuticals, Inc.), Allergan Sales, LLC, Allergan USA, Inc. and Allergan Limited (f/k/a Allergan plc, which, in turn, was f/k/a Actavis plc). For the avoidance of doubt, Allergan does not include Teva (defined below) or Divested Actavis Generic Entities (defined below).

5. "Bar" means either: (1) a law barring all Subdivisions and other Releasors in the State of Florida from maintaining Released Claims against Releasees (either through a direct bar or through a grant of authority to release Claims and the exercise of such authority in full) or (2) a ruling by the Florida Supreme Court (or a District Court of Appeal if a decision is not subject to further review by the Florida Supreme Court) setting forth the general principle that Subdivisions and other Releasors in the State of Florida may not maintain any Released Claims against Releasees, whether on the ground of this Agreement (or the release in it) or otherwise. For the avoidance of doubt, a law or ruling that is conditioned or predicated upon payment by a Releasee (apart from the payments by Allergan contemplated under this Agreement) shall not constitute a Bar.

6. "Claim" means any past, present or future cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment, charge, covenant, damage, debt, lien, loss, penalty, judgment, right, obligation, dispute, suit, contract, controversy, agreement, parens patriae claim, promise, performance, warranty, omission, or grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory or administrative, whether arising under federal, state or local common law, statute, regulation, guidance, ordinance or principles of equity, whether filed or unfiled, whether asserted or unasserted, whether known or unknown, whether accrued or unaccrued, whether foreseen, unforeseen or unforeseeable, whether discovered or undiscovered, whether suspected or

unsuspected, whether fixed or contingent, and whether existing or hereafter arising, in all such cases, including, but not limited to, any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or statutory damages, absolute liability, strict liability, restitution, subrogation, contribution, indemnity, apportionment, disgorgement, reimbursement, attorney fees, expert fees, consultant fees, fines, penalties, expenses, costs or any other legal, equitable, civil, administrative or regulatory remedy whatsoever.

7. "Claim-Over" means a Claim asserted by any entity that is not a Releasor against a Releasee on the basis of contribution, indemnity, or other claim-over on any theory relating to Claims arising out of or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Releasee) asserted by a Releasor.

8. "Consent Judgment" means a consent decree, order, judgment, or similar action; in connection with this Agreement, the Parties have agreed to the entry of the Consent Judgment attached hereto as **Exhibit H**, which provides for the release set forth below and the dismissal with prejudice of any Released Claims that the State of Florida Office of the Attorney General has brought against Releasees, on the terms and conditions specified herein.

9. "Court" means the Sixth Judicial Circuit Court in and for Pasco County, State of Florida.

10. "Covered Conduct" means any actual or alleged act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction, agreement, misstatement, misleading statement or other activity of any kind whatsoever from the beginning of time through the Effective Date of the Release (defined below) (and any past, present, or future consequence of any such act, failure to act, negligence, statement, error, omission, breach of duty, conduct, event, transaction, agreement, misstatement, misleading statement or other activity) arising from or relating in any way to: (1) the discovery, development, manufacture, packaging,

repackaging, marketing, promotion, advertising, labeling, recall, withdrawal, distribution, delivery, monitoring, reporting, supply, sale, prescribing, dispensing, physical security, warehousing, use or abuse of, or operating procedures relating to, any Product, or any system, plan, policy or advocacy relating to any Product or class of Products, including, but not limited to, any unbranded or branded promotion, marketing, programs or campaigns relating to any Product or class of Products; (2) the characteristics, properties, risks or benefits of any Product; (3) the reporting, disclosure, non-reporting or non-disclosure to federal, state or other regulators of orders placed with any Releasee; (4) the purchasing, selling, acquiring, disposing of, importing, exporting, applying for quota for, procuring quota for, handling, processing, packaging, supplying, distributing, converting, or otherwise engaging in any activity relating to, precursor or component Products, including, but not limited to, natural, synthetic, semi-synthetic, or chemical raw materials, starting materials, active pharmaceutical ingredients, drug substances or any related intermediate Products; and (5) diversion control programs or suspicious order monitoring.

11. "Divested Actavis Generic Entities" means Actavis LLC (f/k/a Actavis Inc.), Watson Laboratories, Inc., Actavis Pharma, Inc. (f/k/a Watson Pharma, Inc.), Actavis Elizabeth LLC, Actavis Kadian LLC, Actavis Laboratories FL, Inc. (f/k/a Watson Laboratories, Inc. - Florida), Actavis Laboratories UT, Inc. (f/k/a Watson Laboratories, Inc. - Utah), Actavis Mid Atlantic LLC, Actavis South Atlantic LLC, Actavis Totowa LLC, and Warner Chilcott Company, LLC.

12. "Divested Entities" means those companies listed on **Exhibit M.**

13. "Effective Date of the Agreement" means three (3) business days after the Initial Participation Date (defined below), provided that either a Bar exists or a sufficient number of Subdivisions have become Participating Subdivisions by the Initial Participation Date. The Parties may alter the Effective Date of the Agreement by mutual written agreement.

14. "Effective Date of the Release" means the date on which the Court enters the Consent Judgment.

15. "Execution Date" means the date on which this Agreement is executed by the last Party to do so.

16. "Initial Participation Date" means the date by which Litigating Subdivisions must join to become initial Participating Subdivisions. The Initial Participation Date shall be 30 days after the Execution Date. The Parties may alter the Initial Participation Date by mutual written agreement.

17. "Health Care Provider(s)" means any physician or other health care practitioner who is licensed to provide health care services or to prescribe pharmaceutical medications and any medical facility, practice, hospital, clinic, pharmacy, or any other health facility that provides health care services or prescribes or dispenses pharmaceutical medications.

18. "In-Kind Support" means payment or assistance in the form of goods, commodities, services, or anything else of value.

19. "Litigating Subdivision" means a Subdivision (or Subdivision official) that has brought any Released Claim against any Releasees on or before the Execution Date, including, but not limited to, the agreed list of Litigating Subdivisions set forth in **Exhibit A**.

20. "Litigation Costs" means attorneys' fees and investigative and litigation costs and expenses incurred in connection with Claims asserted against any Releasee in the Florida AG Action or any Litigating Subdivision's Action.

21. "Non-Joining Subdivision" means any Litigating Subdivision or Principal Subdivision that does not execute a subdivision settlement participation form attached as **Exhibit D** by the Post Effective Date Sign-on Deadline.

22. "Non-Litigating Subdivision" means a Subdivision that is not a Litigating

Subdivision.

23. "Non-Participating Subdivision" means a Subdivision that is not or is not yet a Participating Subdivision.

24. "Opioid(s)" means all naturally occurring, synthetic, or semisynthetic substances that interact with mu-opioid receptors primarily in the central nervous system and have demonstrated addictive properties.

25. "Opioid Product(s)" means all past, current, and future medications containing Opioids approved by the U.S. Food & Drug Administration ("FDA") and listed by the U.S. Drug Enforcement Agency ("DEA") as Schedule II, III, or IV drugs pursuant to the federal Controlled Substances Act (including but not limited to buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, oxycodone, oxymorphone, tapentadol, and tramadol). The term "Opioid Product(s)" shall not include (i) methadone and other substances when used exclusively to treat opioid abuse, addiction, OUD (defined below), or overdose; or (ii) raw materials, immediate precursors, and/or active pharmaceutical ingredients ("APIs") used in the manufacture or study of Opioids or Opioid Products, but only when such materials, immediate precursors, and/or APIs are sold or marketed exclusively to DEA-licensed manufacturers or DEA-licensed researchers. Also, by way of example, the terms "Opioid(s)" and "Opioid Product(s)" shall not include pharmaceutical medications that may relieve pain but not by interacting with mu-opioid receptors primarily in the central nervous system, such as BOTOX®, HUMIRA®, LINZESS®, ORIAHNN®, ORILISSA®, QULIPTA®, RINVOQ®, SAVELLA®, UBRELVY®, or VIBERZI®.

26. "Opioid Remediation" means care, treatment, and other programs and expenditures (including reimbursement for past such programs or expenditures, except where this Agreement restricts the use of funds solely to future Opioid Remediation) designed to (1) address

the misuse and abuse of opioid products, (2) treat or mitigate opioid use or related disorders, or (3) mitigate other alleged effects of, including on those injured as a result of, the opioid epidemic. **Exhibit C** provides a non-exhaustive list of expenditures that qualify as being paid for Opioid Remediation. Qualifying expenditures may include reasonable related administrative expenses.[1]

27. "OUD" means opioid use disorder defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM–5), as updated or amended.

28. "Participating Subdivision" means any Subdivision that executes a subdivision settlement participation form attached as **Exhibit D**.

29. "Parties" and "Settling Parties" means Allergan and Plaintiff, with each being a "Party" and a "Settling Party."

30. "Post-Effective Date Sign-on Deadline" means the deadline for Subdivisions to execute a subdivision settlement participation form attached as **Exhibit D**, which shall be 150 days after the Effective Date of the Agreement.

31. "Principal Subdivision" means: (1) a County, regardless of population; or (2) a Subdivision that is not a County, but is a General Purpose Government entity (defined below; including a municipality, city, town, township, parish, village, borough, gore or any other entities that provide municipal-type government) with a population of more than 10,000, including, but not limited to, the agreed list of Principal Subdivisions attached hereto as **Exhibit B.**

32. "Product" means any chemical substance, whether used for medicinal or non-medicinal purposes, and whether natural, synthetic, or semi-synthetic, or any finished pharmaceutical product made from or with such substance, that is: (1) an opioid or opiate, as well as any product containing any such substance; or (2) benzodiazepine, carisoprodol, or gabapentin;

[1] Opioid Remediation includes amounts paid to satisfy any future demand by another governmental entity to make a required reimbursement in connection with the past care and treatment of a person.

or (3) a combination or "cocktail" of chemical substances prescribed, sold, bought or dispensed to be used together that includes opioids or opiates. "Product" shall include, but is not limited to, any substance consisting of or containing buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, oxycodone, oxymorphone, tapentadol, tramadol, opium, heroin, carfentanil, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triozolam, temazepam, midazolam, carisoprodol, gabapentin, or any variant of these substances or any similar substance. Further, "Product(s)" includes, but is not limited to, the following: (a) Anexsia, Bancap HC, Combunox, Dilaudid, Duradyne, Esgic with Codeine, Fiorinal with Codeine, Fioricet with Codeine, Kadian, Lorcet, Lorcet Plus, Maxidone, MoxDuo, Norco, Procet, Reprexain, Vicodin, and Vicoprofen, and any type, version, strength, or dosage of the foregoing; and (b) Fentanyl citrate injection, Fentanyl citrate tablet, Fentanyl transdermal, Hydrocodone + acetaminophen, Meperidine hydrochloride injection, Meperidine hydrochloride tablet, Morphine sulfate injection, Morphine sulfate capsule, Morphine sulfate tablet, Oxycodone + acetaminophen, Oxycodone + aspirin, Oxycodone + ibuprofen, Tramadol hydrocholoride, Aspirin + butalbital + caffeine + codeine phosphate, Hydrocodone + acetaminophen, Hydrocodone + ibuprofen, Hydromorphone tablet, Oxycodone + aspirin, Homotropine methylbromide + hydrocodone bitartrate, Oxycodone + acetaminophen, Oxycodone + hydrochloride, Homatropine methylbromide + hydrocodone bitartrate, Morphine sulfate capsule, Morphine sulfate tablet, Oxycodone + acetaminophen, Oxycodone + hydrochloride, Oxycodone + ibuprofen, Oxymorphone tablet, Tramadol hydrochloride, Tramadol hydrochloride, Homatropine methylbromide + hydrocodone bitartrate, Oxymorphone tablet, Fentanyl transdermal, Oxycodone, and Morphine sulfate, and any type, version, strength, or dosage of the foregoing. Notwithstanding the foregoing, nothing in this definition prohibits a Releasor from taking administrative or regulatory action related to benzodiazepine (including, but

not limited to, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triozolam, temazepam, and midazolam), carisoprodol, or gabapentin that is wholly independent from the use of such drugs in combination with opioids, *provided* such action does not seek money (including abatement and/or remediation) for conduct prior to the Execution Date.

33. "Qualified Settlement Fund" means the Florida Qualified Settlement Fund contemplated by this Agreement, into which all payments by Allergan shall be made and which shall be established under the authority and jurisdiction of the Court and which shall be a "qualified settlement fund" within the meaning of 26 C.F.R. § 1.468B-1.

34. "Qualified Settlement Fund Administrator" means the Administrator appointed to administer the Qualified Settlement Fund under the authority and jurisdiction of the Court. The duties of the Qualified Settlement Fund Administrator shall be governed by this Agreement. The identity of the Qualified Settlement Fund Administrator and a detailed description of the Qualified Settlement Fund Administrator's duties and responsibilities, including a detailed mechanism for paying the Qualified Settlement Fund Administrator's fees and costs, will be set forth in a separate document to be prepared by the Parties and filed with the Court to establish the fund and be attached later to this Agreement as **Exhibit E**.

35. "Released Claims" means any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct occurring prior to the Effective Date of the Release, whether known or unknown. Without limiting the foregoing, Released Claims include any Claims that have been asserted against the Releasees by Plaintiff or any Litigating Subdivision in any federal, state or local Action or proceeding (whether judicial, arbitral or administrative) based on, arising out of or relating to, in whole or in part, the Covered Conduct, or any such Claims that could be or could have been asserted now or in the future in those Actions or in any comparable Action or proceeding brought by Plaintiff, any of its

Subdivisions, or any Releasor (whether or not such State, Subdivision, or Releasor has brought such Action or proceeding). Released Claims also include all Claims asserted in any proceeding to be dismissed pursuant to this Agreement, whether or not such Claims relate to Covered Conduct. The Parties intend that this term, "Released Claims," be interpreted broadly. This Agreement does not release Claims by private individuals for damages for any alleged personal injuries arising out of their own use of any Product. It is the intent of the Parties that Claims by private individuals be treated in accordance with applicable law. Released Claims is also used herein to describe Claims brought or maintained by any Releasor in the future that would have been Released Claims if they had been brought by a Releasor against a Releasee.

36. "Releasee(s)" means: Allergan and (i) all of Allergan's past and present direct or indirect parents, subsidiaries, divisions, joint ventures, predecessors, successors, affiliates, business units, assigns, agents (all of the foregoing solely in their capacity as such with respect to the Released Claims), and insurers (solely in their role as insurers, if any, with respect to the Released Claims), including, but not limited to, (a) AbbVie and (b) Divested Actavis Generic Entities and other Divested Entities (and their respective past and current parents, subsidiaries, and affiliates, including but not limited to Teva and Teva's subsidiaries and affiliates) but solely as to the branded opioid drugs that are Opioid Products or Products distributed and/or sold before August 2, 2016 by Divested Actavis Generic Entities and other Divested Entities and the operation of the Divested Actavis Generic Entities and other Divested Entities related to those branded opioid drugs that are Opioid Products or Products before August 2, 2016; (ii) the respective past and present direct or indirect parents, subsidiaries, divisions, joint ventures, predecessors, successors, affiliates, business units, assigns, partners, manufacturers, contractors, agents, and insurers (all of the foregoing solely in their capacity as such with respect to the Released Claims) of any of the foregoing in (i), including Abbott Laboratories and Abbott Laboratories Inc.; (iii)

the respective past and present employees, officers, directors, members, shareholders, partners, trustees, contractors, consultants, and agents (all of the foregoing solely in their capacity as such with respect to the Released Claims) of any of the foregoing in (i) and (ii); and (iv) any person or entity to the extent, and only to the extent, that such person or entity may have a Claim based on such person or entity having a business relationship with Allergan or AbbVie and/or any of Allergan or AbbVie's Affiliated Companies, including, but not limited to, for contractual indemnity, equitable or implied indemnity, contribution, comparative fault, reimbursement, or apportionment (including, but not limited to, Halo Pharmaceuticals, Inc., Shionogi Inc., Mikart, LLC, PDI, Inc., TMS Health, LLC, National Health Information Network, Inc., Ventiv Commercial Services, LLC, inVentiv Commercial Services, LLC, UPS Supply Chain Solutions, Inc., and King Pharmaceuticals, Inc., and their respective past and current parents, subsidiaries, and affiliates) against Allergan or AbbVie and/or any of Allergan or AbbVie's Affiliated Companies relating to any Covered Conduct, Opioid Products, Products, and/or Released Claims arising from such business relationship. Notwithstanding the foregoing (and subject to certain provisions, including, but not limited to, Non-Party Settlement provisions at **Section E(3)(c)**), Releasees shall exclude Divested Actavis Generic Entities and other Divested Entities (and their respective past and current parents, subsidiaries, and affiliates, including but not limited to Teva and Teva's subsidiaries and affiliates, but not Allergan and other Releasees), but solely as to: (x) their generic opioid drugs that are Opioid Products or Products, and/or (y) the operation of Divested Actavis Generic Entities and other Divested Entities related to those generic opioid drugs that are Opioid Products or Products for which Releasors have also sought to hold Allergan and/or other Releasees liable. For the avoidance of doubt, nothing in this Agreement shall release or impair any Claims against Walgreens or CVS, and nothing in this Agreement will reduce the

Total Payment to be paid to the State by Allergan under this Agreement or the settlement amount to be paid by Teva under its separate agreement with the State.

37. "Releasors" means with respect to Released Claims: (1) the State; (2) without limitation, all of the State of Florida's departments, agencies, divisions, boards, commissions, instrumentalities of any kind, including without limitation the Florida Attorney General, Florida Board of Pharmacy, Florida Department of Health, and Florida Department of Business and Professional Regulation, and any person in his or her official capacity, whether elected or appointed to lead or serve any of the foregoing, and any agency, person or entity claiming by or through any of the foregoing; (3) each Participating Subdivision; and (4) without limitation and to the maximum extent of the power of each of the State, the Florida Attorney General and/or Participating Subdivision to release Claims of (a) the State of Florida's and each Subdivision's departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind and any person in his or her official capacity, whether elected or appointed to lead or serve any of the foregoing, and any agency, person or entity claiming by or through any of the foregoing; (b) any public entities, public instrumentalities, public educational institutions, unincorporated districts, fire districts, irrigation districts, water districts, law enforcement districts, emergency services districts, School Districts (defined below), hospital districts, General Purpose Government entities, and other Special Districts (defined below) in the State of Florida, and (c) any person or entity acting in a parens patriae, sovereign, quasi-sovereign, private attorney general, *qui tam*, taxpayer, or other capacity seeking relief on behalf of or generally applicable to the general public with respect to the State of Florida or any Subdivision in the State of Florida, whether or not any of them participates in this Agreement. Nothing in this definition shall be construed to limit the definition of "Subdivision" in **Section A(40)** below. In addition to being a Releasor as provided herein, a Participating Subdivision shall also provide a subdivision settlement

participation form (attached as **Exhibit D**) providing for a release to the fullest extent of the Participating Subdivision's authority, an executed copy of which shall be attached as an exhibit to and deemed to be a part of this Agreement.

38. "State Outside Litigation Counsel" means Kellogg, Hansen, Todd, Figel & Frederick P.L.L.C.; Drake Martin Law Firm, LLC; Harrison Rivard Duncan & Buzzett, Chartered; Newsome Melton, P.A.; and Curry Law Group, P.A.

39. "State-Subdivision Agreement" means a separate agreement among Plaintiff and all Participating Subdivisions providing for an allocation of, among other things, the Remediation Payment (defined below). The State-Subdivision Agreement is attached hereto as **Exhibit I**.

40. "Subdivision" means (1) any General Purpose Government entity (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore or any other entities that provide municipal-type government), (2) School Districts or Special Districts within the State (collectively, "Special Purpose Government Entities"), and (3) any other Subdivision or Subdivision official or sub-entity of or located within a State (whether political, geographical or otherwise, whether functioning or non-functioning, regardless of population overlap, and including, but not limited to, nonfunctioning governmental units and public institutions) that has filed or could file a lawsuit that includes a Released Claim against a Releasee in a direct, parens patriae, or any other capacity. "General Purpose Government," "School District," and "Special District" shall mean and correspond to the "five basic types of local governments" recognized by the U.S. Census Bureau and match the 2017 list of Governmental Units. The three (3) General Purpose Governments are county, municipal (which include cities and towns), and township governments; and the two (2) Special Purpose Government Entities are School Districts and Special Districts. "Fire District," "Health District," "Hospital District," and "Library District" shall mean and correspond to categories of Special

Districts recognized by the U.S. Census Bureau. References to a State's Subdivisions or to a Subdivision "in," "of," or "within" a State include Subdivisions located within the State even if they are not formally or legally a sub-entity of the State.

41. "Teva" means Teva Pharmaceutical Industries Ltd.; Teva Pharmaceuticals USA, Inc.; Cupric Holding Co., Inc.; Teva Pharmaceutical Holdings Cooperative U.A.; Teva Pharmaceuticals Europe B.V.; Cephalon, Inc.; and Anda, Inc.

42. "Third Party(ies)" means any person or entity other than Allergan, other Releasees, or Releasors.

43. "Treatment of Pain" means the provision of therapeutic modalities to alleviate or reduce pain.

44. "Unbranded Information" means any information that does not identify a specific branded or generic product.

B. Release of All Claims, and Dismissals in the Florida AG Action and Litigating Subdivisions' Actions.

1. It is the intention of the Settling Parties to fully and finally resolve all Released Claims that have been or could be brought against the Releasees by Plaintiff or any Releasor with respect to the Covered Conduct, and that the release of such Claims does not affect Plaintiff's or the Releasors' Claims as to any other defendant (except to the extent expressly stated herein, including but not limited to Claims as to Teva, Divested Actavis Generic Entities, and other Divested Entities). The State represents and warrants that **Exhibit N** contains a list of all Subdivisions. Plaintiff represents and warrants that it will use its best efforts to obtain a consensual release of any and all Claims involving Covered Conduct that Plaintiff and all Subdivisions, including any Litigating Subdivision or Non-Litigating Subdivision, have asserted or could assert against the Releasees. Regardless whether such consensual release is obtained, Plaintiff represents

and warrants under this Agreement that it is exercising its authority under law to release any and all Claims involving Covered Conduct that Plaintiff and all Releasors, including any Litigating Subdivision or Non-Litigating Subdivision, have asserted or could assert against the Releasees. Plaintiff further represents and warrants that it will use all available authority to bind, and under this Agreement is exercising such authority to bind, Plaintiff and all Releasors, including all Litigating Subdivisions and Non-Litigating Subdivisions, regardless of whether they become Participating Subdivisions or Non-Joining Subdivisions, to the terms of this Agreement.

2. In addition to the general release and dismissal to be provided by Plaintiff set forth in **Sections E & G**, Plaintiff will deliver to Allergan signed agreements from: (a) each Subdivision that executes a signed agreement by the Initial Participation Date; and (b) each Subdivision that executes a signed agreement by the Post-Effective Date Sign-on Deadline (i.e., within 150 days following the Effective Date of the Agreement). Such agreements shall include: (a) the Subdivision's acceptance of the terms and conditions of this Agreement by signing the subdivision settlement participation form attached as **Exhibit D**; (b) in the case of a Litigating Subdivision, such Litigating Subdivision's agreement to implement an immediate cessation of any and all litigation activities relating to such Litigating Subdivision's Action as to all Releasees; (c) in the case of a Litigating Subdivision, an agreement that Plaintiff may represent that the Litigating Subdivision supports the Consent Judgment to be entered in accordance with **Section G** below; and (d) in the case of a Litigating Subdivision, such Litigating Subdivision's agreement to file, within the later of seven (7) days of the Effective Date of the Release, or seven (7) days of signing the subdivision settlement participation form, a notice or stipulation of voluntary dismissal with prejudice of any and all Released Claims asserted by the Litigating Subdivision against the Releasees, with each party to bear its own costs.

3. Between the Execution Date and the Initial Participation Date, Plaintiff agrees to furnish to Allergan a report listing the Subdivisions that have executed the signed agreements described in **Section B(2)** and copies of such signed agreements on a weekly basis. Plaintiff further agrees to furnish to Allergan no later than noon Eastern Time on the day after the Initial Participation Date a final report listing the Subdivisions that have executed the signed agreements described in **Section B(2)** by the Initial Participation Date and copies of all such signed agreements. After the Initial Participation Date, the Parties shall confer and establish a schedule for the regular provision of such reports and copies of signed agreements.

4. Plaintiff represents and warrants that, if any Action remains pending against one or more Releasees after the Effective Date of the Agreement or is filed by a Releasor against any Releasee on or after the Execution Date, Plaintiff will seek to obtain dismissal of such Action as to such Releasees as soon as reasonably possible. Depending on facts and circumstances, Plaintiff may seek dismissal, among other ways, by intervening in such Action to move to dismiss or otherwise terminate the Releasor's Claims in the Action or by commencing a declaratory judgment or other action that establishes a Bar to the Releasor's Claims and Action. For avoidance of doubt, Plaintiff will seek dismissal of an Action under this section regardless of whether the Subdivision in such Action is a Participating Subdivision.

5. In the event that the actions required of Plaintiff in **Section B(4)** fail to secure the prompt dismissal or termination of any Action by any Releasor against any Releasee, Plaintiff shall seek enactment of a legislative Bar as defined in **Section A(5)(1)** and will endeavor to achieve enactment as soon as is practicable. Participating Subdivisions agree not to oppose any effort by Plaintiff to achieve enactment of a legislative Bar.

6. Plaintiff further represents and warrants that no portion of the Remediation Payment or the Litigation Costs Payments (defined below) will be distributed to or used for the

benefit of any Subdivision unless and until Plaintiff has delivered to Allergan a signed agreement from such Subdivision providing for the Subdivision's acceptance of the terms and conditions of this Agreement, including its express agreement to be bound by the irrevocable releases set forth in **Section E** below.

C. Settlement Consideration.

1. Remediation Payment and Litigation Costs Payments.

(a) On the payment schedule provided in **Section C(2)**, Allergan shall pay into the Qualified Settlement Fund the sum of $134,200,000 (the "Total Payment"). Fifty-six percent (56%) of the Total Payment constitutes consideration for the settlement of Claims concerning, related to, based upon, arising from, or in connection with generic opioid drugs that are Opioid Products or Products distributed and/or sold before August 2, 2016 by Divested Actavis Generic Entities and other Divested Entities and the operation of Divested Actavis Generic Entities and other Divested Entities related to those generic opioid drugs that are Opioid Products or Products before August 2, 2016 that the Releasors are asserting or might otherwise assert or could assert that Allergan or any other Releasee is directly or indirectly and/or jointly or severally liable based on parent or control liability or a substantially similar theory. Forty-four percent (44%) of the Total Payment constitutes consideration for the settlement of Claims concerning, related to, based upon, arising from, or in connection with branded opioid drugs that are Opioid Products or Products of or attributable to Allergan or any other Releasee (including but not limited to branded opioid drugs that are Opioid Products or Products distributed and/or sold before August 2, 2016 by Divested Actavis Generic Entities and other Divested Entities and the operation of the Divested Actavis Generic Entities and other Divested Entities related to those branded opioid drugs that are Opioid Products or Products before August 2, 2016) that the Releasors are asserting or might otherwise assert or could assert against Allergan or any other Releasee, of which seventy-seven

percent (77%) is specifically concerning, related to, based upon, arising from, or in connection with Kadian® (including but not limited to Kadian manufactured, distributed, marketed, and/or sold from 1997 through 2008 by King Pharmaceuticals, Inc. and/or Alpharma Inc.) For the avoidance of doubt, nothing in this section will reduce the Total Payment to be paid to the State by Allergan under this Agreement or the settlement amount to be paid by Teva under its separate agreement with the State.

(b) The Total Payment shall be broken down as follows: (i) $122,000,000 for opioid remediation and restitution (the "Remediation Payment"), to be allocated in accordance with the State-Subdivision Agreement; (ii) $6,100,000 to be available to reimburse Allergan's share of the State's Litigation Costs in accordance with **Section C(1)(d)** below (the "State Litigation Cost Payment"); and (iii) $6,100,000 to be available to reimburse Allergan's share of the Litigation Costs of Litigating Subdivisions in accordance with **Section C(1)(d)** below (the "Litigating Subdivision Litigation Cost Payment"). The State Litigation Cost Payment and the Litigating Subdivision Litigation Cost Payment shall collectively be referred to herein as the "Litigation Costs Payments." The Qualified Settlement Fund Administrator shall allocate each of the Remediation Payment, the State Litigation Cost Payment, and the Litigating Subdivision Litigation Cost Payment into separate sub-funds within the Qualified Settlement Fund. Release of the Remediation Payment and the Litigation Costs Payments from the Qualified Settlement Fund shall be subject to the conditions specified below.

(c) The Parties agree that, unless required otherwise by law, the Remediation Payment pursuant to **Section C(1)(b)** above shall be directed to remediation and restitution of harms allegedly caused by Allergan and/or other Releasees. The Parties also agree that the purpose of the Remediation Payment will be to receive from Allergan and pay over to the State and Participating Subdivisions monies to remediate the harms allegedly caused by Allergan and/or

other Releasees or to provide restitution for such alleged harms that were previously incurred, none of which amount constitutes a fine or penalty. The State by executing this Agreement and each Participating Subdivision by agreeing to the terms of this Agreement in the subdivision settlement participation form attached as **Exhibit D**, certify that: (a) the entity suffered harm allegedly caused by Allergan and/or other Releasees; (b) the payments to be received by the entity from Allergan represent an amount that is less than or equal to the actual monetary damage allegedly caused by Allergan and/or other Releasees; and (c) the entity shall use such payments for the sole purpose of remediating the harm allegedly caused by Allergan and/or other Releasees and/or to provide restitution for such alleged harms that were previously incurred. All costs incurred related to any request for a private letter ruling from the I.R.S. affirming the tax deductibility of the Remediation Payment, and/or the tax-exempt status of the Remediation Payment pursuant to IRC Section 115 shall be borne in their entirety by Allergan and shall not be directly paid or reimbursed from the corpus of the fund, escrow, or trust. The State shall complete and file Form 1098-F with the Internal Revenue Service. On the Form 1098-F, the State shall identify the aggregate Remediation Payment as remediation and restitution amounts. The State shall also, on or before January 31, 2023, furnish Copy B of such Form 1098-F (or an acceptable substitute statement) to Allergan.

(d) An agreement on the handling of Litigating Subdivision Litigation Costs is attached as **Exhibit G** and incorporated herein by reference. The Litigating Subdivision Litigation Cost Payment is to be available to reimburse counsel for Litigating Subdivisions that become Participating Subdivisions and who waive any other right(s) they may have to compensation in connection with this Settlement for reasonable Litigation Costs incurred in connection with their Claims against Releasees.

(1) The Qualified Settlement Fund Administrator shall allow eligible counsel reimbursement for reasonable Litigation Costs as provided in **Exhibit G**. Such Litigation

Costs shall be divided among Participating Subdivisions as provided in **Exhibit G** under the jurisdiction and authority of the Court. Any amount remaining in the Litigating Subdivision Litigation Cost Payment sub-fund after such allocation shall be returned to Allergan.

(2) No funds may be used to compensate Litigation Costs incurred by Non-Participating Subdivisions, Non-Joining Subdivisions, or Non-Litigating Subdivisions, or Litigation Costs arising out of representation of any such Subdivision.

(e) No attorney for any Litigating Subdivision may receive any share of the Litigating Subdivision Litigation Cost Payment unless the following eligibility requirements are met and certified by the attorney:

(1) The attorney must represent that s/he has no present intent to represent or participate in the representation of any Subdivision or any Releasor with respect to the litigation of any Released Claims against any Releasees.

(2) The attorney must represent that s/he will not charge or accept any referral fees for any Released Claims asserted or maintained against Releasees by any Subdivision or any Releasor.

(3) The attorney may not have, and must represent that s/he does not have, a claim for fees, costs or expenses related to the litigation of any Released Claims against any Releasees by any Subdivision or any Releasor after the Effective Date of this Agreement.

(4) Notwithstanding the foregoing, nothing in this **Section C(1)(e)** is intended to operate as a "restriction" on the right of any attorney to practice law within the meaning of Rule 5.6(b) of the Florida Rules of Professional Conduct or any equivalent provision of any other jurisdiction's rules of professional conduct.

(f) Plaintiff shall file in the Court a motion for the State's Litigation Costs up to $6,100,000 of the Total Payment by Allergan into the Qualified Settlement Fund. Allergan will

not oppose the motion so long as the State does not seek more than $6,100,000 of the Total Payment by Allergan into the Qualified Settlement Fund as its Litigation Costs. If any amount of the State Litigation Cost Payment is not awarded by the Court to the State, then that remaining amount shall be returned to Allergan. As set forth in **Section C(2)** below, in the event the Court awards the State Litigation Costs in excess of the amount listed above, the Releasees shall have no obligation to pay any amount in excess of the State Litigation Cost Payment.

2. **Payment Schedule.** The Total Payment shall be paid in eleven installments on the following schedule:

(a) First Payment: $23,290,909.10 due on the later date of (i) seven (7) days after the Effective Date of the Release, or (ii) fourteen (14) days after (a) the Qualified Settlement Fund has been established under the authority and jurisdiction of the Court, and (b) Allergan has received a W-9 and wire instructions for the Qualified Settlement Fund and Allergan's bank verification form process is completed.

(b) Second Payment: $11,090,909.09 due on March 28, 2023.

(c) Third Payment: $11,090,909.09 due on March 28, 2024.

(d) Fourth Payment: $11,090,909.09 due on March 28, 2025.

(e) Fifth Payment: $11,090,909.09 due on March 28, 2026.

(f) Sixth Payment: $11,090,909.09 due on March 28, 2027.

(g) Seventh Payment: $11,090,909.09 due on March 28, 2028.

(h) Eighth Payment: $11,090,909.09 due on March 28, 2029.

(i) Ninth Payment: $11,090,909.09 due on March 28, 2030.

(j) Tenth Payment: $11,090,909.09 due on March 28, 2031.

(k) Eleventh Payment: $11,090,909.09 due on March 28, 2032.

3. **No Other Payments by Releasees as to Covered Conduct, Released Claims, the**

Florida AG Action, Other Actions, Plaintiff, Subdivisions or State Outside Litigation Counsel or Litigation Costs. Other than the Remediation Payment and the Litigation Costs Payments by Allergan referenced in **Section C(1)(b)**, none of the Releasees shall have any obligation to make any further or additional payments in connection with Claims for Covered Conduct or Litigation Costs or this Settlement.

4. **Apportionment of the Remediation Payments.**

(a) It is the intent of the Parties that the Remediation Payment in **Section C(1)(b)** be used exclusively for Opioid Remediation.

(b) In accordance with the State-Subdivision Agreement in **Exhibit I**, each Remediation Payment shall be allocated by the Qualified Settlement Fund Administrator into three sub-funds: an Abatement Accounts Sub-Fund (also known as a regional fund), a State Sub-Fund, and a Subdivision Sub-Fund to be allocated to the Abatement Accounts Sub-Fund or to another Participating Subdivision.

(c) A detailed mechanism consistent with the foregoing for a Qualified Settlement Fund Administrator to follow in allocating, apportioning and distributing payments will be filed with the Court and later attached as **Exhibit J**.

(d) Allergan shall have no duty, liability, or influence of any kind with respect to the apportionment and use of the Remediation Payment by the Qualified Settlement Fund Administrator. Plaintiff specifically represents, however, that any such apportionment and use by the Qualified Settlement Fund Administrator shall be made in accordance with all applicable laws.

5. **Release of the State Sub-Fund.** Within a reasonable period after the Effective Date of the Release or otherwise as ordered by the Court, the Qualified Settlement Fund Administrator shall release the State Sub-Fund to Plaintiff.

6. **Subdivision Payments to Subdivisions that Become Participating Subdivisions Prior to the Initial Participation Date.** A Participating Subdivision that (a) completes a subdivision settlement participation form prior to the Initial Participation Date, (b) joins the State-Subdivision Agreement (**Exhibit I**), and (c) in the case of a Litigating Subdivision, dismisses with prejudice any and all Released Claims asserted by the Litigating Subdivision against the Releasees, shall be eligible to receive payment of a share of the Remediation Payment within a reasonable period after the Effective Date of the Release.

7. **Subdivision Payments to Subdivisions that Become Participating Subdivisions After the Initial Participation Date.** A Participating Subdivision that (a) completes a subdivision settlement participation form after the Initial Participation Date and by no later than the Post-Effective Date Sign-on Deadline, (b) joins the State-Subdivision Agreement (**Exhibit I**), and (c) in the case of a Litigating Subdivision, dismisses with prejudice any and all Released Claims asserted by the Litigating Subdivision against the Releasees, shall be eligible to receive payment of a share of the Remediation Payment within a reasonable period after the Post-Effective Date Sign-on Deadline.

8. **Reversion to Allergan of Amounts Forfeited by Non-Joining Subdivisions.** Any Litigating Subdivision or Principal Subdivision that does not sign a participation form by the Post-Effective Date Sign-on Deadline will be deemed a Non-Joining Subdivision. At Allergan's request to the Qualified Settlement Fund Administrator, any Non-Joining Subdivision's share of the Remediation Payment (and to the extent any such Subdivision is a Litigating Subdivision, the Litigation Costs Payments) shall be returned to Allergan within a reasonable time after the Post-Effective Date Sign-on Deadline. The Non-Joining Subdivisions' shares are as listed in **Exhibit B**.

9. **Agreement Null and Void if the Agreement Does Not Become Effective.** In the

event that the Effective Date of the Agreement does not occur and the Parties fail to agree to extend the Effective Date of the Agreement, the Agreement shall be null and void.

10. **Use of Evidence at Trial in the Florida AG Action.** Plaintiff agrees that none of the Releasees will be a defendant in any trial of the Florida AG Action, that it will not subpoena or call to testify live any Releasees in any trial of the Florida AG Action and that any evidence that references the Releasees or the Products will be used solely against other defendants in the Florida AG Action.

11. **Verdict Form.** Plaintiff agrees that it will not seek to have any of the Releasees included on the verdict form in any trial related to the Florida AG Action and will oppose the efforts of any other party in the Florida AG Action to include any of the Releasees on the verdict form.

D. Injunctive Relief. As part of the Consent Judgment to be entered in accordance with **Section G** below, the Parties agree to the entry of injunctive relief terms attached as **Exhibit F.**

E. Settlement of Claims and General Release.

1. **Scope.** On the Effective Date of the Release, Plaintiff and each Releasor shall be deemed to have fully, finally and forever released all Releasees from all Released Claims. Plaintiff, on behalf of itself and all other Releasors (whether or not they have signed this Agreement or the subdivision settlement participation form in **Exhibit D**), hereby absolutely, unconditionally and irrevocably covenants not to bring, file, or claim, or to cause, assist, or permit to be brought, filed, or claimed, any Released Claims of any type in any forum whatsoever against Releasees. For the avoidance of doubt, Plaintiff agrees that this Settlement Agreement and the releases contained herein shall fully and completely resolve any past, present or future liability that any Releasee may have arising from, relating to or based on the Covered Conduct occurring prior to

the Effective Date of the Release, whether in the Actions or otherwise. The releases provided for in this Agreement are intended by the Settling Parties to be broad and shall be interpreted so as to give the Releasees the broadest possible bar against any and all Released Claims. This Settlement Agreement is, will constitute, and may be pleaded as a complete bar to any Released Claim asserted against Releasees, whether against Plaintiff, any Participating Subdivision, any other Subdivision, including any Non-Participating Subdivision, or any other Releasor.

2. **General Release.** In connection with the releases provided pursuant to this Settlement Agreement, Plaintiff, on behalf of itself and all other Releasors referenced in **Section E(1)**, expressly waives, releases and forever discharges any and all provisions, rights and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code, which reads:

> **General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those that he, she, or it knows or believes to be true with respect to the Released Claims, but Plaintiff, on behalf of itself and all other Releasors, hereby expressly waives and fully, finally and forever settles, releases and discharges, upon the Effective Date of the Release, any and all Released Claims against the Releasees that may exist as of this date but which they do not know or suspect to exist, whether through ignorance, oversight, error, negligence or otherwise, and which, if known, would materially affect their decision to enter into this Settlement Agreement.

3. **Claim-Over and Non-Party Settlement.**

(a) **Statement of Intent.** It is the intent of the Parties that:

(1) The Remediation Payment and Litigation Costs Payments made under this Agreement shall be the sole payments made by the Releasees to the Releasors involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Releasee);

(2) Claims by Releasors against non-Parties should not result in additional payments by Releasees, whether through contribution, indemnification or any other means; and

(3) The Settlement effects a good faith "release and covenant not to sue" within the meaning of Florida Statute § 768.31(5) and meets the requirements of the Uniform Contribution Among Joint Tortfeasors Act and any similar state law or doctrine, including, but not limited to, Fla. Stat. § 768.31(5), that reduces or discharges a released party's liability to any other parties, such that Releasees are discharged from all liability for contribution to any other alleged tortfeasor in the Florida AG Action and in any other Action, whenever filed.

(4) The provisions of this **Section E(3)** are intended to be implemented consistent with these principles. This Agreement and the releases and dismissals provided for herein are made in good faith.

(b) No Releasee shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory, from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner; *provided* that a Releasee shall be relieved of this prohibition with respect to any entity that asserts a Claim-Over against it or with respect to any person or entity that brings any other form of action against Allergan or any other Releasee arising out of or related to Opioid Products, Products, or Covered Conduct. For the avoidance of doubt, nothing herein shall prohibit a Releasee from recovering amounts owed pursuant to insurance contracts. However,

and notwithstanding the foregoing, this provision shall not preclude Allergan or the Affiliated Companies from seeking indemnification, contribution, or any other theory from and against Pfizer Inc., King Pharmaceuticals, Inc., Alpharma Inc., and Teva, and/or each of their respective past and current parents, subsidiaries, and/or affiliates. For the avoidance of doubt, nothing in this section will reduce the Total Payment to be paid to the State by Allergan under this Agreement or the settlement amount to be paid by Teva under its separate agreement with the State.

(c) To the extent that, on or after the Effective Date of the Agreement, any Releasor settles any Claims arising out of or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Releasee) ("Non-Party Covered Conduct Claims") it may have against any entity that is not a Releasee (a "Non-Released Entity") that is, as of the Effective Date of the Agreement, a defendant in the Florida AG Action or Litigating Subdivisions' Actions, and provides a release to such Non-Released Entity (a "Non-Party Settlement"), including in any bankruptcy case or through any plan of reorganization (whether individually or as a class of creditors), the Releasor will seek to include (or in the case of a Non-Party Settlement made in connection with a bankruptcy case, will cause the debtor to include), unless prohibited from doing so under applicable law, in the Non-Party Settlement, a prohibition on seeking contribution or indemnity of any kind from Releasees substantially equivalent to that required from Allergan in the first sentence of **Section E(3)(b)** (except limited to such claims against Releasees), or a release from such Non-Released Entity in favor of the Releasees (in a form equivalent to the releases contained in this Agreement) of any Claim-Over.

(d) **Claim-Over.** In the event that any Releasor obtains a settlement or judgment with respect to a Non-Party Covered Conduct Claim against a Non-Released Entity that does not contain a prohibition like that in **Section E(3)(b)**, or any Releasor files a Non-Party Covered Conduct Claim against a Non-Released Entity in bankruptcy or a Releasor is prevented

for any reason from obtaining a prohibition/release in a Non-Party Settlement as provided in **Section E(3)(c)**, and such Non-Released Entity asserts a Claim-Over against a Releasee, Allergan and that Releasor shall meet and confer concerning any additional appropriate means by which to ensure that Releasees are not required to make any payment with respect to Covered Conduct (beyond the amounts that will already have been paid by Allergan under this Settlement Agreement).

(e) In no event shall a Releasor be required to reduce the amount of a settlement or judgment against a Non-Released Entity in order to prevent additional payments by Releasees, whether through contribution, indemnification, or any other means.

4. **Cooperation.** Releasors, including Plaintiff and Participating Subdivisions, agree that they will not publicly or privately encourage any other Releasor to bring or maintain any Released Claim. Plaintiff further agrees that it will cooperate in good faith with the Releasees to secure the prompt dismissal of any and all Released Claims.

F. Cessation of Litigation Activities. It is the Parties' intent that all litigation activities in the Florida AG Action relating to Released Claims against the Releasees shall immediately cease as of the Execution Date. Within three (3) days after the Execution Date, Plaintiff agrees to take all steps reasonably necessary to implement the prompt cessation of such litigation activities, including by, for example, jointly requesting a severance of Allergan from any trial in the Florida AG Action and/or a stay of further proceedings against Allergan pending the implementation of this Settlement.

G. Entry of Consent Judgment Providing for Dismissal of All Claims Against Allergan in the Florida AG Action with Prejudice. As soon as practicable following the Effective Date of the Agreement, Plaintiff shall file in the Court a Consent Judgment substantially in the form of **Exhibit H**, including a dismissal of the Florida AG Action with prejudice.

Notwithstanding the foregoing, the Consent Judgment shall provide that the Court shall retain jurisdiction for purposes of enforcing compliance with the injunctive terms set forth in **Exhibit F**. The Parties shall confer and agree as to the final form and time of filing prior to filing of the Consent Judgment.

H. No Admission of Liability. The Settling Parties intend the Settlement as described herein to be a final and complete resolution of all disputes between Releasees and Plaintiff and between Releasees and all Releasors. Allergan is entering into this Settlement Agreement solely for the purposes of settlement, to resolve the Florida AG Action and all Actions and Released Claims and thereby avoid significant expense, inconvenience and uncertainty. Releasees deny the allegations in the Florida AG Action and the other Actions and deny any civil or criminal liability in the Florida AG Action and the other Actions. Nothing contained herein may be taken as or deemed to be an admission or concession by Releasees of: (i) any violation of any law, regulation, or ordinance; (ii) any fault, liability, or wrongdoing; (iii) the strength or weakness of any Claim or defense or allegation made in the Florida AG Action, in any other Action, or in any other past, present or future Action relating to any Covered Conduct or any Product; or (iv) any other matter of fact or law.

1. The State, the Participating Subdivisions, and/or other Releasors may reach a settlement agreement with Teva, Divested Actavis Generic Entities, and/or other Divested Entities, and/or each of their respective parents, subsidiaries, and/or affiliates that resolves some or all of their respective Claims (including but not limited to the Claims of the State in the Florida AG Action). Plaintiff and Participating Subdivisions agree that any payment(s) that the State, Participating Subdivisions, or other Releasors receive from Teva (other than Anda), Divested Actavis Generic Entities, and/or other Divested Entities, and/or each of their respective parents, subsidiaries, and/or affiliates reflects the amount over and above $75,152,000 that each and all of

them deem to reflect a fair overall settlement value for liability attributable to the generic opioid drugs that are Opioid Products or Products distributed and/or sold before August 2, 2016 by Divested Actavis Generic Entities and other Divested Entities and/or attributable to the operation of the Divested Actavis Generic Entities and other Divested Entities related to those generic opioid drugs that are Opioid Products or Products before August 2, 2016. Plaintiff and Participating Subdivisions also agree that the agreed settlement amount between and among the State, the Participating Subdivisions, Teva (other than Anda), the Divested Actavis Generics Entities, and other Divested Entities reflects the value the parties to the agreement deem a fair settlement value over and above the payments made or due to be paid under this Agreement for generic opioid drugs that are Opioid Products or Products distributed and/or sold before August 2, 2016 by Divested Actavis Generic Entities and/or other Divested Entities and/or relate to the operation of Divested Actavis Generic Entities and other Divested Entities related to those generic opioid drugs that are Opioids or Opioid Products before August 2, 2016. For the avoidance of doubt, nothing in this section will reduce the Total Payment to be paid to the State by Allergan under this Agreement or the settlement amount to be paid by Teva under its separate agreement with the State.

I. **Most Favored Nation.** If, after execution of this Agreement, there is a collective resolution—through settlement or other mechanism—of substantially all claims against Allergan brought by states, counties, and municipalities nationwide (a "Global Resolution") under which, but for this Agreement, the Florida allocation of the Remediation Payment, the Litigation Costs Payments, the payment period or the terms of Injunctive Relief would be more favorable to the State, Allergan shall pay the excess amounts, adjust the payment period and/or agree to modify the terms of the Consent Judgment to reflect changes to the Injunctive Relief that would apply to Florida, if requested to do so by the Florida Attorney General's Office. Any reduction in the

payment period under this section shall be subject to an appropriate reduction in net present value calculated at seven percent (7%) per annum.

J. Miscellaneous Provisions.

1. **Use of Agreement as Evidence.** Neither this Agreement nor any act performed or document executed pursuant to or in furtherance of this Agreement: (i) is or may be deemed to be or may be used as an admission or evidence relating to any matter of fact or law alleged in the Florida AG Action or the other Actions, the strength or weakness of any claim or defense or allegation made in those cases, or any wrongdoing, fault, or liability of any Releasees; or (ii) is or may be deemed to be or may be used as an admission or evidence relating to any liability, fault or omission of Releasees in any civil, criminal or administrative proceeding in any court, administrative agency, or other tribunal. Neither this Agreement nor any act performed or document executed pursuant to or in furtherance of this Agreement shall be admissible in any proceeding for any purpose, except to enforce the terms of the Settlement, and except that Releasees may file this Agreement in any action in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good-faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim or to support a claim for contribution and/or indemnification.

2. **Voluntary Settlement.** This Settlement Agreement was negotiated in good faith and at arm's-length over several weeks, and the exchange of the Remediation Payment and Litigation Costs Payments for the releases set forth herein is agreed to represent appropriate and fair consideration.

3. **Authorization to Enter Settlement Agreement.** Each Party specifically represents and warrants that this Settlement Agreement constitutes a legal, valid, and binding obligation of such Party. Each signatory to this Settlement Agreement on behalf of a Party

specifically represents and warrants that s/he has full authority to enter into this Settlement Agreement on behalf of such Party. Plaintiff specifically represents and warrants that it has concluded that the terms of this Settlement Agreement are fair, reasonable, adequate and in the public interest, and that it has satisfied all conditions and taken all actions required by law in order to validly enter into this Settlement Agreement. Plaintiff specifically represents and warrants that, other than the Claims asserted in the Florida AG Action and the other Actions (whether filed previously or in the future), it has no interest (financial or otherwise) in any other Claim against any Releasee related to the Covered Conduct. In addition, Plaintiff specifically represents and warrants that (i) it is the owner and holder of the Claims asserted in the Florida AG Action; (ii) it has not sold, assigned or otherwise transferred the Claims asserted in the Florida AG Action, or any portion thereof or rights related thereto, to any Third Party; and (iii) it believes in good faith that it has the power and authority to bind all persons and entities with an interest in the Florida AG Action and all other Actions.

4. **Representation With Respect to Participation Rate.** The State of Florida represents and warrants for itself that it has a good-faith belief that all Litigating Subdivisions and all Principal Subdivisions will become Participating Subdivisions. State Outside Litigation Counsel, in good faith, believe this is a fair Settlement. Therefore, State Outside Litigation Counsel will use their best efforts to recommend this Settlement to all Subdivisions within Florida.

5. **Dispute Resolution.** If Plaintiff believes Allergan is not in compliance with any terms of this Settlement Agreement, then Plaintiff shall (i) provide written notice to Allergan specifying the reason(s) why Plaintiff believes Allergan is not in compliance with the Settlement Agreement; and (ii) allow Allergan at least thirty (30) days to attempt to cure such alleged non-compliance (the "Cure Period"). In the event the alleged non-compliance is cured within the Cure Period, Allergan shall not have any liability for such alleged non-compliance. The State may not

commence a proceeding to enforce compliance with this Agreement before the expiration of the Cure Period.

6. **No Third-Party Beneficiaries.** Except as to Releasees, nothing in this Settlement Agreement is intended to or shall confer upon any Third Party any legal or equitable right, benefit, or remedy of any nature whatsoever.

7. **Effectiveness.** The releases provided for in this Agreement shall not be impacted in any way by any dispute that exists, has existed, or may later exist between or among the Releasors. Nor shall such releases be impacted in any way by any current or future law, regulation, ordinance, or court or agency order limiting, seizing, or controlling the distribution or use of the Qualified Settlement Fund or any portion thereof, or by the enactment of future laws, or by any seizure of the Qualified Settlement Fund or any portion thereof.

8. **Compliance with Laws.** Nothing in this Agreement shall be construed to authorize or require any action by Allergan or other Releasees in violation of applicable federal, state, or other laws, rules, regulations, or guidance.

9. **Notices.** All notices under this Agreement shall be in writing and delivered to the persons specified in this paragraph via: (i) e-mail; and (ii) either hand delivery or registered or certified mail, return receipt requested, postage pre-paid.

Notices to Plaintiff shall be delivered to:

For the State of Florida:

Attorney General
Florida State Capitol, PL-01
Tallahassee FL 32399-1050

Copy to Florida's Counsel:

David C. Frederick
Kellogg, Hansen, Todd, Figel & Frederick P.L.L.C.

1615 M Street, NW
Washington D.C. 20036
dfrederick@kellogghansen.com

Notices to Allergan shall be delivered to:

For Allergan:

Office of General Counsel
One North Waukegan Road
North Chicago, IL 60064

Copy to Allergan Counsel:

James F. Hurst
Kirkland & Ellis LLP
300 North LaSalle
Chicago, IL 60654
james.hurst@kirkland.com

10. **Binding Agreement.** This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.

11. **Choice of Law.** Any dispute arising from or in connection with this Settlement Agreement shall be governed by Florida law without regard to its choice-of-law provisions.

12. **Jurisdiction.** The Parties agree to submit and consent to the jurisdiction of the Court for the resolution of any disputes arising under the Settlement Agreement.

13. **No Conflict Intended.** The headings and sub-headings used in this Agreement are intended for the convenience of the reader only and shall not affect the meaning or interpretation of this Agreement. The definitions contained in this Agreement or any Exhibit hereto are applicable to the singular as well as the plural forms of such terms.

14. **No Party Deemed to be the Drafter.** None of the Parties hereto shall be deemed to be the drafter of this Agreement or any provision hereof for the purpose of any statute, case law

or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

15. **Amendment; Waiver.** This Agreement shall not be modified in any respect except by a writing executed by all the Parties hereto, and the waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous.

16. **No Waiver.** This Agreement is agreed upon without trial or adjudication of any issue of fact or law or finding of liability of any kind and shall not be construed or used as a waiver or limitation of any defense otherwise available (including, but not limited to, jurisdictional defenses) to Allergan or any other Releasee in the Florida AG Action, Litigating Subdivisions' Actions, or other Actions that could be brought by such plaintiffs, Non-Litigating Subdivisions, or other Releasors. This Agreement shall not be construed or used as a waiver of any Releasee's right to defend itself from, or make any legal or factual arguments in, any other regulatory, governmental, private party, or class claims or suits relating to the subject matter or terms of this Agreement. For the avoidance of doubt, nothing in this Agreement is intended to or shall be construed to prohibit Allergan or any other Releasee in any way whatsoever from taking legal or factual positions with regard to any Opioids, Opioid Products, or Products in defense of litigation or other legal proceedings.

17. **No Private Right of Action.** No part of this Agreement shall create a private right of action for any Third Party or confer any right to any Third Party for violation of any federal or state statute, common law, rule, regulation, or ordinance, nor shall it be used as an admission of fault, liability, or wrongdoing in any subsequent proceeding.

18. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts and an email, facsimile, or .pdf signature shall be deemed to be, and shall have the same force and effect as, an original signature. All executed counterparts and each of them shall be deemed to be one and the same instrument.

19. **Severability.** In the event any one or more non-material provisions of this Settlement Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Settlement Agreement.

20. **Statements to the Press and Others.** Any press release or other public statement concerning this Settlement Agreement will describe it positively and will not disparage any other Party.

21. **Integrated Agreement.** This Agreement constitutes the entire agreement between the Settling Parties and no representations, warranties, or inducements have been made to any Party concerning this Agreement other than the representations, warranties, and covenants contained and memorialized herein.

IN WITNESS WHEREOF, the Parties hereto, through their fully authorized representatives, have executed this Agreement as of the dates set forth below.

ALLERGAN FINANCE, LLC

By: _____

Name: Robert A. Michael
Vice Chairman, Finance and Commercial Operations and Chief Financial Officer of AbbVie Inc.
President and Chief Executive Officer of Allergan Limited
President of Allergan Finance, LLC
1 North Waukegan Road
North Chicago, IL 60064
On Behalf of Allergan and AbbVie

PLAINTIFF

STATE OF FLORIDA, including the OFFICE OF THE ATTORNEY GENERAL

By: _____

Name: John Guard
Chief Deputy Attorney General of Florida
Pursuant to the authority delegated to him by Ashley Moody, Attorney General of Florida

Date: _____

STATE OUTSIDE LITIGATION COUNSEL

Kellogg, Hansen, Todd, Figel & Frederick, P.L.L.C.

By: _____

Name: David C. Frederick

Date: _____

Drake Martin Law Firm, LLC

By: _____

Name: Drake Martin

Date: 3/29/2022

ALLERGAN FINANCE, LLC

By: _____

Name: Robert A. Michael
Vice Chairman, Finance and Commercial Operations and Chief Financial Officer of AbbVie Inc.
President and Chief Executive Officer of Allergan Limited
President of Allergan Finance, LLC
1 North Waukegan Road
North Chicago, IL 60064
On Behalf of Allergan and AbbVie

PLAINTIFF

STATE OF FLORIDA, including the OFFICE OF THE ATTORNEY GENERAL

By: _____

Name: John Guard
Chief Deputy Attorney General of Florida
Pursuant to the authority delegated to him by Ashley Moody, Attorney General of Florida

Date: 3-29-2022

STATE OUTSIDE LITIGATION COUNSEL

Kellogg, Hansen, Todd, Figel & Frederick, P.L.L.C.

By: _____

Name: David C. Frederick

Date: 3.29.2022

Exhibit D

Subdivision Settlement Participation Form

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated March 29, 2022 ("*CVS Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the CVS Settlement, release all Released Claims against all Releasees, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the CVS Settlement, understands that all terms in this Subdivision Settlement Participation Form have the meanings defined therein, and agrees that by signing this Subdivision Settlement Participation Form, the Governmental Entity elects to participate in the CVS Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity shall immediately cease any and all litigation activities as to the Releasees and Released Claims and, within the later of 7 days following the entry of the Consent Judgment or 7 days of the Execution Date of this Subdivision Settlement Participation Form voluntarily dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the CVS Settlement pertaining to Subdivisions as defined therein.

4. By agreeing to the terms of the CVS Settlement and expressly agreeing to the releases provided for therein, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date of the Agreement.

5. The Governmental Entity agrees to use any monies it receives through the CVS Settlement solely for the purposes provided therein.

6. The Governmental Entity submits to the jurisdiction of the Court for purposes limited to the Court's role as provided in, and for resolving disputes to the extent provided in, the CVS Settlement.

7. The Governmental Entity has the right to enforce those rights given to them in the CVS Settlement.

8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the CVS Settlement, including, but not limited to, all provisions of Section D and E, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Releasee in any forum whatsoever. The releases provided for in the CVS Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Releasees the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release Claims. The CVS Settlement shall be a complete bar to any Released Claim.

9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the CVS Settlement.

10. In connection with the releases provided for in the CVS Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

    > **General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

    A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date of the Release, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the CVS Settlement.

11. Nothing herein is intended to modify in any way the terms of the CVS Settlement, to which the Governmental Entity hereby agrees. To the extent this Subdivision Settlement

Participation Form is interpreted differently from the CVS Settlement in any respect, the CVS Settlement controls.

I have all necessary power and authorization to execute this Subdivision Settlement Participation Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____
(the "Execution Date of this Subdivision Settlement Participation Form")

Exhibit D

Subdivision Settlement Participation Form

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated March 29, 2022 ("*Teva Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the Teva Settlement, release all Released Claims against all Releasees, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Teva Settlement, understands that all terms in this Subdivision Settlement Participation Form have the meanings defined therein, and agrees that by signing this Subdivision Settlement Participation Form, the Governmental Entity elects to participate in the Teva Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity shall immediately cease any and all litigation activities as to the Releasees and Released Claims and, within the later of 7 days following the entry of the Consent Judgment or 7 days of the Execution Date of this Subdivision Settlement Participation Form voluntarily dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the Teva Settlement pertaining to Subdivisions as defined therein.

4. By agreeing to the terms of the Teva Settlement and expressly agreeing to the releases provided for therein, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date of the Agreement.

5. The Governmental Entity agrees to use any monies it receives through the Teva Settlement solely for the purposes provided therein.

6. The Governmental Entity submits to the jurisdiction of the Court for purposes limited to the Court's role as provided in, and for resolving disputes to the extent provided in, the Teva Settlement.

7. The Governmental Entity has the right to enforce those rights given to them in the Teva Settlement.

8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Teva Settlement, including, but not limited to, all provisions of Section D and E, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Releasee in any forum whatsoever. The releases provided for in the Teva Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Releasees the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release Claims. The Teva Settlement shall be a complete bar to any Released Claim.

9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Teva Settlement.

10. In connection with the releases provided for in the Teva Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

    > **General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

    A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date of the Release, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Teva Settlement.

11. Nothing herein is intended to modify in any way the terms of the Teva Settlement, to which the Governmental Entity hereby agrees. To the extent this Subdivision Settlement

Participation Form is interpreted differently from the Teva Settlement in any respect, the Teva Settlement controls.

I have all necessary power and authorization to execute this Subdivision Settlement Participation Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____
(the "Execution Date of this Subdivision Settlement Participation Form")

Exhibit D

Subdivision Settlement Participation Form

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated March 29, 2022 ("*Allergan Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the Allergan Settlement, release all Released Claims against all Releasees, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Allergan Settlement, understands that all terms in this Subdivision Settlement Participation Form have the meanings defined therein, and agrees that by signing this Subdivision Settlement Participation Form, the Governmental Entity elects to participate in the Allergan Settlement and become a Participating Subdivision as provided therein.

2. The Governmental Entity shall immediately cease any and all litigation activities as to the Releasees and Released Claims and, within the later of 7 days following the entry of the Consent Judgment or 7 days of the Execution Date of this Subdivision Settlement Participation Form voluntarily dismiss with prejudice any Released Claims that it has filed.

3. The Governmental Entity agrees to the terms of the Allergan Settlement pertaining to Subdivisions as defined therein.

4. By agreeing to the terms of the Allergan Settlement and expressly agreeing to the releases provided for therein, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date of the Agreement.

5. The Governmental Entity agrees to use any monies it receives through the Allergan Settlement solely for the purposes provided therein.

6. The Governmental Entity submits to the jurisdiction of the Court for purposes limited to the Court's role as provided in, and for resolving disputes to the extent provided in, the Allergan Settlement.

7. The Governmental Entity has the right to enforce those rights given to them in the Allergan Settlement.

8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Allergan Settlement, including, but not limited to, all provisions of Section D and E, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Releasee in any forum whatsoever. The releases provided for in the Allergan Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Releasees the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release Claims. The Allergan Settlement shall be a complete bar to any Released Claim.

9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Allergan Settlement.

10. In connection with the releases provided for in the Allergan Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to
§ 1542 of the California Civil Code, which reads:

> **General Release; extent.** A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date of the Release, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Allergan Settlement.

11. Nothing herein is intended to modify in any way the terms of the Allergan Settlement, to which the Governmental Entity hereby agrees. To the extent this Subdivision Settlement

Participation Form is interpreted differently from the Allergan Settlement in any respect, the Allergan Settlement controls.

I have all necessary power and authorization to execute this Subdivision Settlement Participation Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____
(the "Execution Date of this Subdivision Settlement Participation Form")

Leon County
Board of County Commissioners

Notes for Agenda Item #18

Leon County Board of County Commissioners

Agenda Item #18

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: Status Report on Parcels Associated with Lake Hall School House Preservation Efforts

Review and Approval:	Vincent S. Long, County Administrator Chasity H. O'Steen, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Scott Ross, Director Financial Stewardship
Lead Staff/ Project Team:	Andy Johnson, Assistant to the County Administrator Dan Rigo, Senior Assistant County Attorney Kim Vickery, Real Estate Manager

Statement of Issue:

As directed by the Board during the April 12, 2022 meeting, this item provides a report on three properties associated with citizen-led efforts to acquire and restore the Lake Hall School House and the property owners' willingness to sell those parcels.

Fiscal Impact:

This item has a fiscal impact. The estimated cost to acquire the three properties discussed in this item would be approximately $866,000. As indicated in the agenda item presented to the Board during the April 12, 2022 meeting, the total project cost including the restoration of the schoolhouse and other required improvements would be approximately $3.3 million. There are no funds currently budgeted for these costs. The Friends of the Lake Hall School organization has committed to seeking grant funding to offset these costs; however, the timing and availability of any potential grant funding is not guaranteed.

Staff Recommendation:

Option #3: Board direction.

Report and Discussion

Background:

As directed by the Board during the April 12, 2022 meeting, this item provides a report on three properties associated with citizen-led efforts to acquire and restore the Lake Hall School House (4495 Handsome Quarters, 4498 Handsome Quarters, and 4664 Thomasville Road) and the owners' willingness to sell those properties. The Lake Hall School House is a Reconstruction-era African American schoolhouse built circa 1870, located on privately-owned property near Thomasville Road approximately three-quarters of a mile northeast of Maclay Gardens State Park. Dr. Geraldine Seay of the Friends of the Lake Hall School have developed a conceptual proposal to acquire the schoolhouse, restore it, and open it to the public as an interpretive historical exhibit.

Leon County has a long history of supporting local efforts to preserve the Lake Hall School House. As discussed in a more detailed summary below, over the past two decades the County has provided matching funds on behalf of the John G. Riley Center for an historic preservation grant to restore the schoolhouse, evaluated relocating the schoolhouse to become part of the Smokey Hollow neighborhood exhibit, supported additional grant applications submitted by the Friends of the Lake Hall School, and approved an Historic Preservation Overlay zoning designation which added the underlying properties to the Local Register of Historic Places and provided protection for the schoolhouse against future development activity.

Based upon previous Board direction, the County has also conducted extensive reviews in recent years and presented several agenda items to the Board evaluating options to preserve the schoolhouse, including restoring the structure in its present location, relocating it to a different site, and exploring potential partnerships for the restoration and subsequent management of the schoolhouse as a community amenity. However, as discussed in the most recent agenda items presented to the Board, the schoolhouse itself straddles the property line between two parcels, and the two property owners have been unwilling to sell the portions of their parcels on which the schoolhouse is located at fair market value. The Board considered agenda items in February and April 2022 which explored the possibility of acquiring the properties via eminent domain but has not elected to do so. Most recently, during the April 12, 2022 meeting, the Board authorized the County Administrator to reach out once again to the underlying property owners to determine whether they would be willing to sell their properties to the County for fair market, appraised value without the use of eminent domain. As discussed in greater detail in the Analysis section below, both of the schoolhouse property owners responded with a specific asking price and additional conditions, and although appraisals have not yet been conducted, it is likely that the asking price for at least one, and potentially both, properties is higher than fair market value. Based on this, the total estimated cost to acquire these properties, restore the schoolhouse, and construct site improvements needed to make the schoolhouse available for public use would be approximately $3.3 million. Of note, this estimate is higher than the $3.1 million estimate in the previous agenda item presented during the April 12 meeting, primarily because one of the property owners is only willing to sell the entire parcel and is not willing to sell only the portion of the parcel containing the schoolhouse footprint.

History of the Lake Hall School House and Recent Preservation Efforts:

The Lake Hall School was built circa 1870 and served as an elementary schoolhouse for a small African American community that existed west of Thomasville Road beside Lake Hall and Lake Overstreet. The schoolhouse itself straddles the property line between two parcels, 4495 and 4498 Handsome Quarters in unincorporated Leon County.

According to information in the Florida Master Site File, which is a list of recorded historical and archaeological sites maintained by the Florida Department of State, the Lake Hall School is one of six remaining Reconstruction-era African American schoolhouses in Leon County. Another of these structures, the original Concord School in the Miccosukee community, was donated to the Tallahassee Museum in 1969 and is currently a part of the museum's "Old Florida" exhibit as a reminder of the struggles and strides made in Black education. The Lake Hall School was established following enactment of legislation in Florida that created the first system of public instruction open to all races. This legislation, however, resulted in almost complete segregation of public schools. Many new schools were constructed and opened beginning in the 1870s with starkly opposing standards for black and white student populations.

In the mid-20th Century, many of these segregated African American schools were closed, and its students were integrated into other nearby public school facilities. The Lake Hall School was closed following the 1949 school year, and most of its students were transferred to the more modern Lake McBride School. After many of these single-room schoolhouses were closed, the properties were often sold to neighboring property holders and many of the structures were demolished or converted into a variety of utilitarian uses. The Lake Hall School House, however, was not demolished and remains on its original site. The building is currently being used for storage by one of the underlying property owners.

In 2000, the John G. Riley Center commissioned a study to evaluate the feasibility of relocating the Lake Hall School House, supported by a State of Florida historic preservation grant. The study indicated that due to the age and deteriorated condition of the structure, the building was not well suited for any intact relocation effort. As a result, the study recommended that any relocation should involve dismantling or disassembling the entire structure and reassembling it at a new location.

In 2004, the Riley Center was awarded another historic preservation grant of approximately $250,000 to acquire the property and preserve the structure in place. Subsequently, the Board approved non-departmental funding in the amount of $105,000 in the County's FY 2005 budget to support this effort. At that time, the Riley Center did not proceed with the project due to the death of the property owner, and the historic preservation grant funding issued to the Riley Center was returned to the State. At the March 28, 2006 meeting, at request of the Riley Center, the Board authorized a new funding agreement between Leon County and the Riley Center. The new agreement authorized the Riley Center to retain the $105,000 to be used toward the completion of heritage trails in south, east, and west Leon County and for maintenance of the Riley Center.

In 2010, the County, Blueprint 2000, and the Riley Center formed a workgroup to develop a plan and make recommendations for the highest and best use of publicly owned property between the

Riley House and Cascades Park. During that process, the work group considered the Riley Center's desire to acquire and relocate the Lake Hall School House to the area that today is home to the Smokey Hollow neighborhood commemoration. The workgroup determined that the relocation of the Lake Hall School House was not feasible, as the structure could not withstand relocation due to its poor condition.

Recent Agenda Items and Board Actions Related to the Lake Hall School House:

During the January 28, 2020 meeting, the Board directed staff to prepare an agenda item with options for preserving the Lake Hall School House. Based upon that direction, staff conducted an extensive review of options for the preservation of the schoolhouse, including restoring the structure in its present location, relocating it to a different site, and exploring potential partnerships for the restoration and subsequent management of the schoolhouse as a community amenity. This analysis was presented to the Board during the December 8, 2020 meeting (Attachment #1). In short, property owners in the immediate area indicated that they would prefer access to the schoolhouse be provided via Thomasville Road; however, the parcels located between the schoolhouse and Thomasville Road, which would also be needed to accommodate supporting infrastructure such as parking and restrooms, are currently developed and none were available for purchase at that time. Also, following outreach to several community partners, none were willing to accept management oversight of the schoolhouse as a community amenity. Notwithstanding this, the Board approved a rezoning application for the two underlying parcels to facilitate the structural preservation of the schoolhouse. The rezoning applied an Historic Preservation Overlay designation to both parcels and added the parcels to the Local Register of Historic Places, which ensures the protection of the structure from future development activity. As provided in the Leon County Land Development Code, any demolition, alteration, relocation, or construction activities related to properties listed on the local register must receive prior approval from the Tallahassee-Leon County Architectural Review Board.

In 2021, Dr. Seay indicated that the Friends of the Lake Hall School organization was preparing to submit an application for an African-American Cultural and Historical Grant through the Florida Department of State to support the acquisition and restoration of the Lake Hall School House. During the November 9, 2021 meeting, the Board authorized, and the County provided a letter of support to Dr. Seay to utilize for any applications for state and federal funding opportunities related to the schoolhouse. At that time, the Board also directed staff to provide an agenda item exploring opportunities to assist Dr. Seay's efforts to preserve the schoolhouse, including efforts to have the structure located on a single parcel. That analysis, presented to the Board during the February 8, 2022 meeting (Attachment #2), indicated that the Trust for Public Land (TPL) agreed in 2021 to facilitate a property transaction that would place the schoolhouse within a single parcel, with repayment to be made by the Friends of the Lake Hall School to TPL over a period of time. However, the underlying property owners were not willing to sell the portions of their parcels for fair market value at that time and the transaction was not completed. That agenda item also indicated that, although not recommended, the County could acquire those parcels, or portions thereof, via eminent domain should the Board wish to do so. The Board tabled the February 8, 2022 agenda item and took no further action at that time.

During the March 8, 2022 meeting, Dr. Seay presented a conceptual proposal during the public comment portion of the meeting to create a Lake Hall School State Park. Dr. Seay's proposal contemplated acquiring seven properties in order to provide public access, parking, a walking trail following the historical alignment of Thomasville Road, administrative offices, and other amenities. The proposal also contemplated additional active uses of the facility including weddings and event rentals, a Montessori school, an on-site museum, and organized tours of the site. At that time, the Board directed staff to provide an update on the February 8 analysis with additional information including the estimated costs to acquire and preserve the schoolhouse as well as a discussion of the statutory process and requirements for acquiring the schoolhouse via eminent domain.

Finally, the updated analysis requested by the Board was presented in an agenda item during the April 12, 2022 meeting (Attachment #3). That agenda item indicated that under Florida law, acquiring only the property immediately surrounding Lake Hall School House without taking any additional actions to make the schoolhouse suitable for public use would not satisfy statutory eminent domain requirements. As a result, if the County were to acquire the Lake Hall School House via eminent domain, additional site improvements would also need to be made in order to make the facility available for public use. The April 12 agenda item also included two separate cost estimates: one estimate of the project cost as proposed by Dr. Seay, and another scaled-down estimate of the costs to acquire only the minimum property and to construct the minimum amenities that would be needed to open the schoolhouse to the public. As indicated in that agenda item, the estimated project cost as proposed by Dr. Seay would be approximately $4.5 million, including property acquisition, other real estate costs that the County would be required to pay for any eminent domain acquisitions, and construction of the infrastructure and amenities proposed by Dr. Seay. Alternatively, the agenda item indicated that the cost to acquire only the portions of 4495 and 4498 Handsome Quarters which contain the footprint of the schoolhouse, to acquire 4664 Thomasville Road to provide access and space for supporting infrastructure, and to construct the minimum improvements needed to open the schoolhouse to the public would be approximately $3.1 million.

At that time, the Board reflected on the possibility of Dr. Seay's proposal being implemented in phases, focusing first on acquiring the portions 4495 and 4498 Handsome Quarters containing the schoolhouse footprint as well as 4664 Thomasville Road, and subsequently seeking grant funding for the restoration of the schoolhouse and other future improvements. The Board authorized the County Administrator to reach out once again to the property owners to determine whether they would be willing to sell their properties to the County for fair market, appraised value without the use of eminent domain. As discussed in further detail in the Analysis section below, both of the schoolhouse property owners responded with a specific asking price and additional conditions. Although appraisals have not yet been conducted, it is likely that the asking price for at least one, and potentially both, properties is higher than fair market value. Based upon the feedback provided by the property owners, the estimated cost to acquire the three properties would be approximately $866,000. Architectural restoration and construction of the additional site improvements needed to open the schoolhouse to the public would cost an additional $2.5 million, for a total project cost of approximately $3.3 million.

Analysis:

As discussed in the Background section above, during the April 12, 2022 meeting, the Board authorized the County Administrator to reach out to the owners of 4495 Handsome Quarters, 4498 Handsome Quarters, and 4664 Thomasville Road to determine whether they would be willing to sell their properties to the County for fair market, appraised value without the use of eminent domain. A reference map and a more detailed illustration are provided below to illustrate the location of these parcels, the Lake Hall School House, and the properties proposed for acquisition:

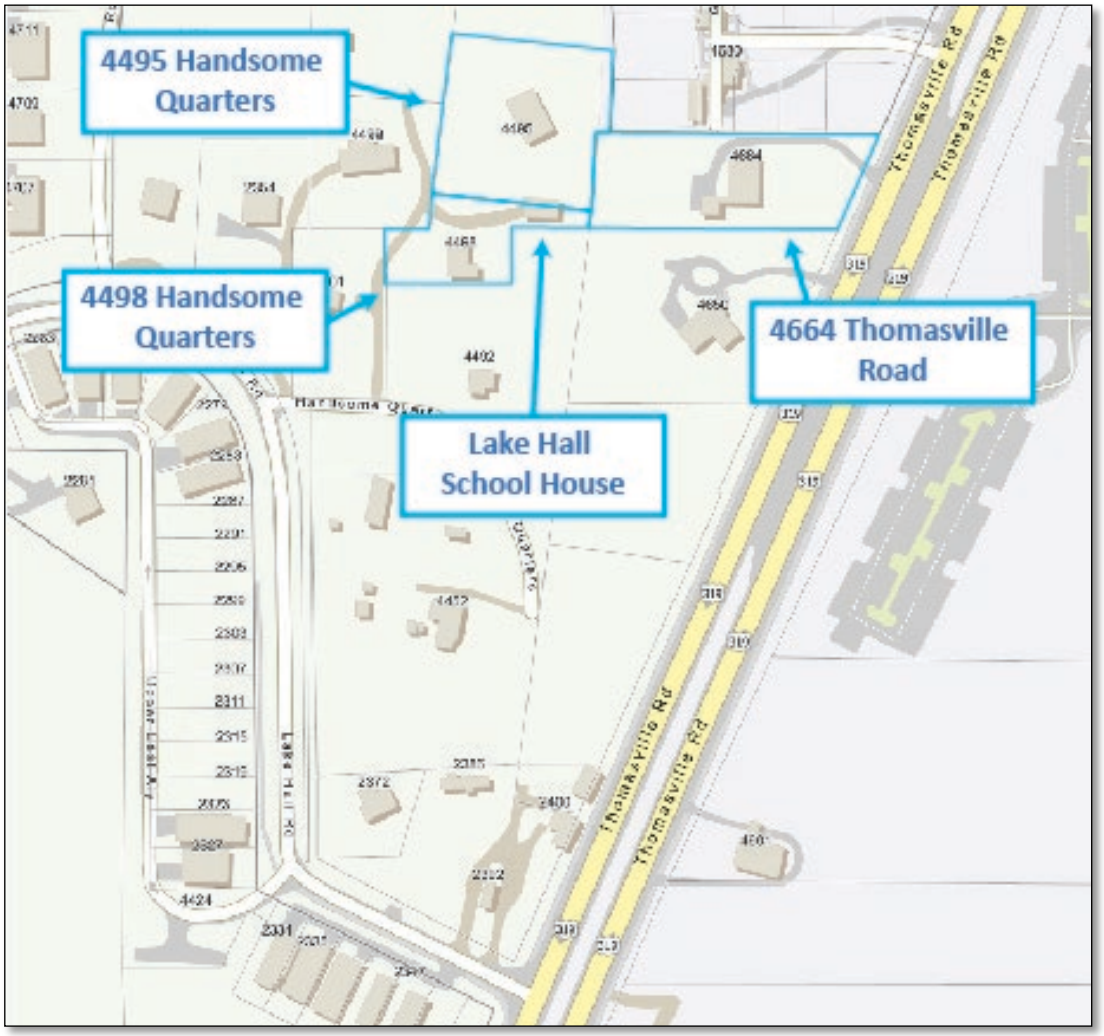


Figure 1: Lake Hall School House Reference Map

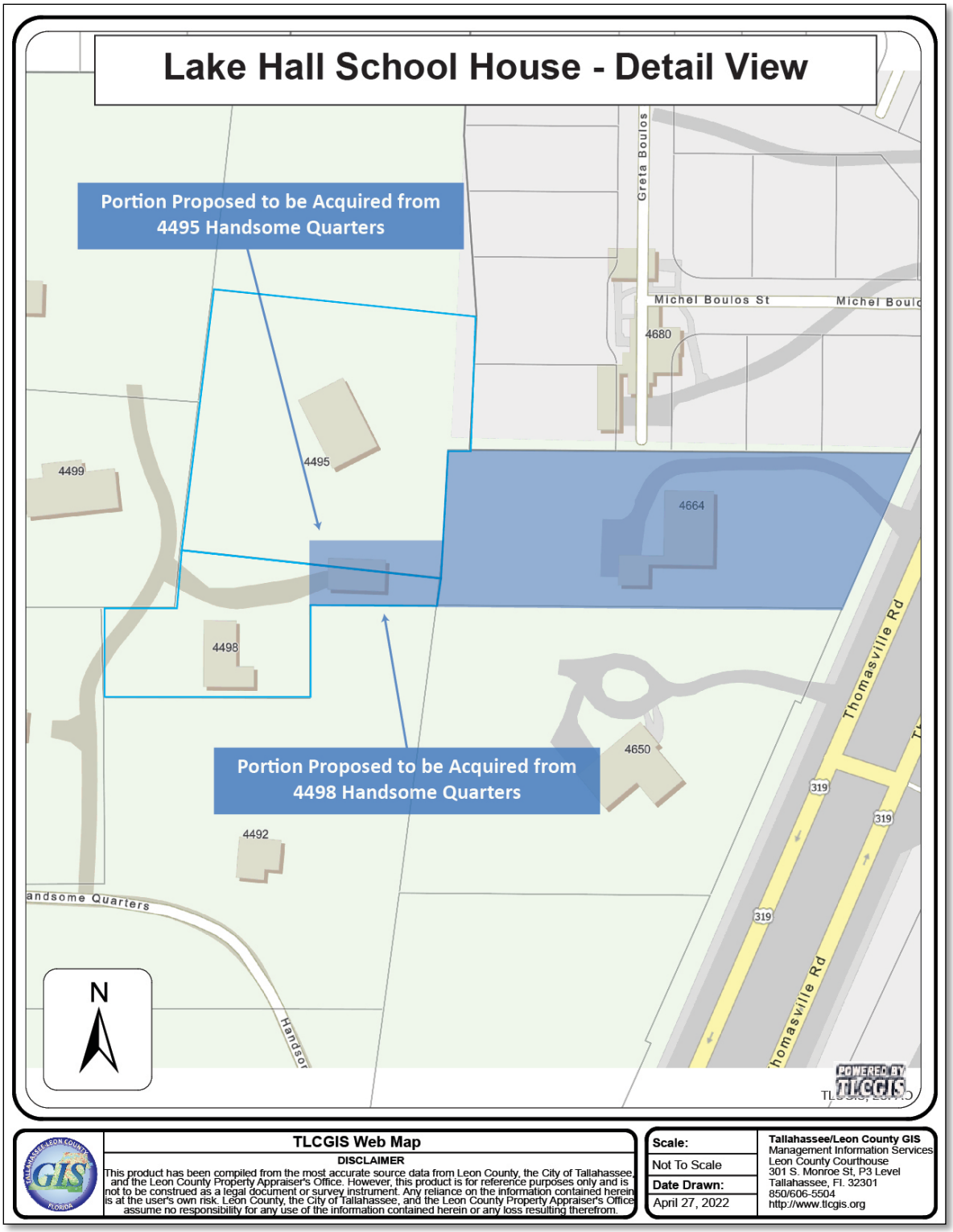


Figure 2: Lake Hall School House Detail View

On April 20, County Administration and Real Estate Division staff met with the owners of both properties on which the schoolhouse is located, as well as the listing agent for the Thomasville Road parcel. Both of the schoolhouse property owners remain unwilling to sell their property based upon the results of future appraisals; however, both responded with a specific asking price and additional conditions, as follows:

- *4495 Handsome Quarters:*

  The property owner indicated that his preference would be for the schoolhouse to be relocated, as the structure is situated approximately 70 feet from his home, and he would be willing to donate it at no cost. However, if the schoolhouse must be preserved in its current location, he would be willing to sell the portion of his parcel on which the schoolhouse is located (approximately 2,000 square feet) for $50,000, if the County agrees to construct a fence along the new property line and guarantees that access to the schoolhouse would be via Thomasville Road and not via Handsome Quarters. The cost to construct a fence along the property line would be approximately $10,000.

  A previous analysis presented to the Board regarding the Lake Hall School House at the February 8, 2022 meeting reported that the Trust for Public Land (TPL) agreed to facilitate a property transaction in 2021 that would place the schoolhouse within a single parcel, with repayment of the acquisition costs to be made by the Friends of the Lake Hall School to TPL over a period of time. TPL appraised the value of the underlying land at $1.40 per square foot based on a comparable property in the same neighborhood, but with no consideration given to any adverse impact that the severance of the schoolhouse portion would have on the value of the residual portion of the parcel. Neither the owner of 4495 Handsome Quarters nor the owner of 4498 Handsome Quarters were willing to accept TPL's offer at that time and the transaction was not completed. Based upon TPL's assessment, the portion of the property discussed above would be valued at approximately $2,800. An updated appraisal would be needed to determine the residual value of 4495 Handsome Quarters if the portion of the parcel with the schoolhouse were severed and sold for the purpose of restoring the schoolhouse as a community facility.

- *4498 Handsome Quarters:*

  The property owner indicated that she remains unwilling to sell only the portion of her property that the schoolhouse sits on; however, she would be willing to sell the entire parcel for $350,000. There is no recent appraisal report available to estimate the value of 4498 Handsome Quarters; however, the asking price is likely substantially higher than market value. For reference, the Leon County Property Appraiser's estimate of the total market value of the property is $110,528.

- *4664 Thomasville Road:*

  As discussed in the analysis presented to the Board during the April 12 meeting, the single-family residential property located at 4664 Thomasville Road is currently listed for sale for $425,000. If acquired, this parcel would provide direct access to the schoolhouse from Thomasville Road as well as space for supporting infrastructure such as a parking lot, restroom facility, and stormwater treatment. Also, under the proposal submitted by Dr.

Seay, the single-family residence on the parcel would be retrofitted for use as an administrative office.

County Administration and Real Estate Division staff met with the listing agent on April 20, and the agent confirmed that the property remains available for $425,000. The property was initially listed for $495,000 in July 2021 and marketed as having additional development potential; however, central sewer service is not currently available to the property. The property was remarketed to residential buyers in August 2021 and the asking price was reduced to $445,000; the asking price was reduced again in February 2022 to $425,000. The property remains available for sale at this time, and the listing agent advises that that the owners have been in recent negotiations with potential buyers and are actively entertaining offers. Like the other two properties discussed above, there is no recent appraisal report available to estimate the value of 4664 Thomasville Road.

The estimated cost to acquire the three properties discussed above based upon the owners' asking prices would be approximately $866,000, which includes the purchase price of the properties, construction of a fence to buffer 4495 Handsome Quarters from the schoolhouse, and appraisal, survey, and closing costs. This estimate is approximately $291,000 higher than the figures presented during the April 12, 2022 meeting; that previous estimate was based upon acquiring, via eminent domain, only the portions of 4495 and 4498 Handsome Quarters immediately surrounding the schoolhouse. As discussed above, the owner of 4498 Handsome Quarters remains unwilling to sell only a portion of the property, but would be willing to sell the entire parcel. Appraisals would be needed to determine the market value of these properties; however, it is likely that the asking price for at least one of the three properties is substantially higher than market value. The County's Real Estate Policy (Attachment #4) requires Board approval for any purchases of real property greater than $25,000 and that exceed the County's appraisal by more than 25%.

Importantly, the estimate provided above does not include the restoration of the schoolhouse or other improvements that would be needed in order to open the schoolhouse to the public, such as parking, restrooms, signage, and other costs. The estimated additional cost of these improvements is approximately $2.5 million, for a total estimated project cost of $3.3 million. As discussed in further detail below, Dr. Seay has committed to seeking grant funds and managing the construction and development of the properties. If these properties were acquired through voluntarily negotiated transactions, the restoration of the schoolhouse would potentially be eligible for grants that would not be available if the properties were acquired through eminent domain.

Should the County ultimately acquire the schoolhouse, Dr. Seay has stated that the Friends of the Lake Hall School would accept responsibility for fundraising, to include seeking grants and private donations; managing the restoration of the schoolhouse and the construction of other improvements on the site; and managing the day-to-day operation of the schoolhouse once open to the public. Dr. Seay is requesting that the County acquire the properties discussed in this item and has stated that the Friends of the Lake Hall School would be prepared to subsequently accept all responsibility for the development, management, and operation of the property. Accordingly, should the County ultimately acquire these properties, a future agenda item would be brought back for the Board's consideration to convey the properties to the Friends of the Lake Hall School, either through a lease or transfer of ownership, and to formalize the responsibilities of the Friends

of the Lake Hall School with respect to the development and operation of the schoolhouse. The project schedule and timeline for opening the schoolhouse to the public would depend heavily on the timing and availability of grant funding and private donations, and as such, there is no guarantee as to when the project may be completed.

Finally, there are no funds currently identified in the County's budget for this acquisition; accordingly, should the Board wish to consider acquiring these properties, this item includes an option to direct staff to present funding options for the Board's consideration during the upcoming budget process. The June 21 Budget Workshop will also present recommended strategies to address significant, unanticipated inflationary increases associated with the capital program due to elevated construction costs; other inflation-related increases in state-mandated payments, interlocal agreements, and contractual increases; and continuing to support the County's public safety needs. Should the Board wish to allocate funding at that time to acquire the Lake Hall School House properties, the June 21 budget discussion item would include an option for the Board to authorize Real Estate staff to proceed with the purchase of the properties in accordance with the Real Estate Policy.

Options:

1. Accept the status report on three properties associated with Lake Hall School House preservation efforts and take no further action.
2. Accept the status report on three properties associated with Lake Hall School House preservation efforts and direct staff to present funding options for acquisition of the properties for the Board's consideration during the upcoming budget process.
3. Board direction.

Recommendation:

Option #3 – Board direction.

Attachments:

1. December 8, 2020 Agenda Item, "First and Only Public Hearing on a Proposed Ordinance Amending the Official Zoning Map to Add the Lake Hall Schoolhouse to the Local Register of Historic Places and to Change the Zoning Classification from the Residential Preservation (RP) Zoning District to the Residential Preservation (RP) Zoning District with Historic Preservation Overlay (HPO)"
2. February 8, 2022 Agenda Item, "Status Report on the Lake Hall School House Preservation Efforts"
3. April 12, 2022 Agenda Item, "Updated Analysis of Lake Hall School House Preservation Efforts"
4. Policy No. 16-5, "Real Estate Policy"

Leon County Board of County Commissioners

Agenda Item #31

December 8, 2020

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: First and Only Public Hearing on a Proposed Ordinance Amending the Official Zoning Map to Add the Lake Hall Schoolhouse to the Local Register of Historic Places and to Change the Zoning Classification from the Residential Preservation (RP) Zoning District to the Residential Preservation (RP) Zoning District with Historic Preservation Overlay (HPO)

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Ken Morris, Assistant County Administrator Benjamin H. Pingree, Director, Planning, Land Management & Community Enhancement Cherie Bryant, Planning Manager
Lead Staff/ Project Team:	Russell Snyder, Administrator, Land Use Planning Susan Poplin, Principal Planner, Land Use Division Andy Johnson, Assistant to the County Administrator

Statement of Issue:

This item seeks the Board's consideration to apply a Historic Preservation Overlay zoning designation for two parcels which are the location of the historic Lake Hall Schoolhouse and to add these parcels to the Local Register of Historic Places.

Fiscal Impact:

This item has no fiscal impact.

Staff Recommendation:

Option #1: Conduct the first and only public hearing and adopt the proposed Ordinance (Attachment #1), amending the Official Zoning Map to change the zoning classification from Residential Preservation (RP) zoning district to the Residential Preservation (RP) zoning district with Historic Preservation Overlay (HPO), thereby adding the subject properties to the Local Register of Historic Places, based on the findings of the Planning Commission, the findings of fact and conclusions of law set forth in this report, and any evidence submitted at the hearing hereon.

Report and Discussion

Background:

This item seeks the Board's consideration to apply a Historic Preservation Overlay zoning designation for two parcels which are the location of the historic Lake Hall Schoolhouse. The Lake Hall Schoolhouse is one of six remaining Reconstruction-era African American schoolhouses in Leon County. In addition to the proposed rezoning, a group of interested citizens has approached the County inquiring about the possibility of restoring the structure and converting it into a community amenity. At the January 28, 2020 meeting, the Board directed staff to prepare an agenda item with options for preserving the Lake Hall Schoolhouse.

As discussed in greater detail in this item, there are significant site-based constraints that make converting the schoolhouse to a community amenity in its present location impractical. While the structure could potentially be relocated as an alternative to preserving it in its current location, the County has not been able to identify a partner organization that is able to receive the structure and manage its operations as a community amenity. Also, according to previous feedback from the Florida Department of State, removing the structure from its original setting could significantly diminish its historical significance. Notwithstanding the above, this item recommends adoption of a proposed Ordinance (Attachment #1) which would change the zoning classification for two parcels on which the Lake Hall Schoolhouse is located from the Residential Preservation (RP) zoning district to the Residential Preservation (RP) zoning district with Historic Preservation Overlay (RP w/HPO). Should the Board wish to approve the Ordinance, this action would also add the subject properties to the Local Register of Historic Places and protect the Lake Hall Schoolhouse by ensuring that any demolition, alteration, relocation, or construction activities on the site receive approval from the Tallahassee-Leon County Architectural Review Board.

Analysis:

The Analysis section below presents a brief history of the Lake Hall Schoolhouse, followed by a discussion of the specific considerations provided in the Leon County Land Development Code relative to the proposed rezoning described above. Finally, this item discusses additional considerations regarding further preservation efforts based on direction provided by the Board at the January 28, 2020 meeting.

History of the Lake Hall Schoolhouse and Previous Preservation Efforts:

The Lake Hall School was built in the 1870s and served as an elementary schoolhouse for a small African American community that existed west of Thomasville Road beside Lake Hall and Lake Overstreet. The schoolhouse itself straddles the property line between two parcels, 4495 and 4498 Handsome Quarters Drive in unincorporated Leon County. A location map is included in Attachment #1 as an addendum to the proposed rezoning Ordinance.

According to information in the Florida Master Site File, which is a list maintained by the Florida Department of State for recorded historical and archaeological sites, the Lake Hall School was

established following enactment of legislation in Florida that created the first system of public instruction open to all races. This legislation, however, resulted in almost complete segregation of public schools. Many new schools were constructed and opened beginning in 1870 with starkly opposing standards for black and white student populations.

In the mid-20th Century, many of these segregated African American schools were closed, and its students were integrated into other nearby public school facilities. The Lake Hall School was closed following the 1949 school year, and most of its students were transferred to the more modern Lake McBride School. After many of these single-room schoolhouses were closed, the properties were often sold to neighboring property holders and many of the structures were demolished or converted into a variety of utilitarian uses. The Lake Hall Schoolhouse, however, was not demolished and remains on its original site. The building is currently being used for storage by the property owner.

In 2000, the John G. Riley Center commissioned a study to evaluate the feasibility of relocating the Lake Hall School House, supported by a State of Florida historic preservation grant. The study indicated that due to the age and deteriorated condition of the structure, the building is not well suited for any intact relocation effort. As a result, the study recommended that any relocation should involve dismantling or disassembling the entire structure and reassembling it at a new location.

In 2004, the Riley Center was awarded another historic preservation grant of approximately $250,000 to acquire the property and preserve the structure in place. Subsequently, the Board approved non-departmental funding in the amount of $105,000 in the FY 2005 budget to support this effort. At that time, the Riley Center did not proceed with the project due to the death of the property owner, and the historic preservation grant funding issued to the Riley Center was returned to the State. At the March 28, 2006 meeting, at request of the Riley Center, the Board authorized a new funding agreement between Leon County and the Riley Center. The new agreement authorized the Riley Center to retain the $105,000 to be used towards the completion of heritage trails in south, east, and west Leon County and maintenance to the Riley Center.

In 2010, the County, Blueprint 2000, and the Riley Center formed a workgroup to develop a plan and make recommendations for the highest and best use of publicly-owned property between the Riley House and Cascades Park. During that process, the work group considered the Riley Center's desire to acquire and relocate the Lake Hall School House to the area that today is home to the Smokey Hollow neighborhood commemoration. The workgroup determined that the relocation of the Lake Hall School House was not feasible, as the structure could not withstand relocation due to its poor condition.

Considerations Related to the Application for Rezoning:

On May 27, 2020 the Tallahassee-Leon County Architectural Review Board (ARB) recommended that the above-referenced properties (Parcel IDs 14-33-20-714-0000 and 14-33-20-652-0000) be added to the Local Register of Historic Places and rezoned, as reflected in the Order of

Recommendation and ARB Staff Report (Attachments #2 and #3). The owners of the properties are Sheryl A. Oslowski and Andrew Bailey, and the applicant is Dr. Geraldine H. Seay (owners' representative). On November 3, 2020, the Tallahassee-Leon County Planning Commission held a public hearing on this item and voted 6-0 to find the application consistent with the Comprehensive Plan and to recommend that the Board of County Commissioners adopt the proposed Ordinance.

Following is a summary of zoning and land use activities related to the subject properties:

- **Historic Zoning:** The 1990 Historic Zoning Atlas indicates that the subject properties were a part of the R-1 zoning district which allowed single-family and two-family dwelling units, schools, nurseries, hospitals and agriculture.
- **1992:** The Official Zoning Map for Leon County was adopted by Ordinance #92-11 to implement the 1990 Tallahassee-Leon County Comprehensive Plan. The subject properties were zoned Residential Preservation.
- **May 27, 2020**: The Tallahassee-Leon County Architectural Review Board recommended that the above-referenced properties (Parcel IDs 14-33-20-714-0000 and 14-33-20-652-0000) be added to the Local Register of Historic Places, as reflected in the Order of Recommendation (see Attachment #2) and in the minutes from its May 27, 2020 meeting (Attachment #3).
- **November 3, 2020:** The Tallahassee-Leon County Planning Commission held a public hearing on the proposed Ordinance and voted unanimously (6-0) to find the proposed Ordinance (Attachment #1) consistent with the comprehensive plan, and to recommend approval to the Board of County Commissioners.

In accordance with Section 10-6.205(b)13 of the Leon County Code of Ordinances ("Procedures for Ordinance and Official Zoning Map Amendments"), the County shall consider the following in determining whether to recommend approval or denial of an application. Analysis by Planning staff is provided below each criterion in italics.

1. **Comprehensive Plan.** Is the proposal consistent with all applicable policies of the adopted Comprehensive Plan?

   Yes. The proposed Ordinance is consistent with the Historic Preservation Element of the Comprehensive Plan as described in Objective 1.4 and more specifically, its implementing policy 1.4.1, the intent of which is to recognize and protect historic resources, including structures, locations, and districts by listing them on the local register of historic places.

2. **Conformance with the Land Development Regulations**. Is the proposal in conformance with any applicable substantive requirements of the land development regulations, including the criteria for listing on the local register and rezoning with an HPO?

   Yes. The proposed rezoning conforms to both the intent and the land development requirements of the Residential Preservation and Historic Preservation Overlay. Section 10-

6.708(a) of the Leon County Land Development Code states that the need for overlay zones is established by the County based on the need for special protective measures in that area. The Historic Preservation Overlay (HPO) zone is specifically intended to apply to properties listed on the Local Register of Historic Places.

The Historic Preservation Officer and the Architectural Review Board (ARB) made the finding (See Order of Recommendation, Attachment 2) that the Lake Hall Schoolhouse met the criteria of Section 10-6.708(d), of the Leon County Land Development Code and therefore recommend the property be added to the Local Register of Historic Places (Attachments #2 and #3). Specifically, the ARB found that Lake Hall Schoolhouse met the criterion of Section 10-6.708(d)(1) and (2), as discussed below.

A. **Criteria for listing on the Local Register of Historic Places.** Section 10-6.708(d)(1) a, b, c, and d, and (2), of the Leon County Land Development Code, Local Register of Historic Places, states that the following criteria shall be considered for listing on the Local Register:

(1) A site, building, structure, object, or district must meet the following criteria before it may be listed on the local register:

(a) It possesses integrity of location, design setting, materials, workmanship, feeling and association.

The subject building has been altered including an undated addition to the west end of the building and windows that were removed and replaced with smaller ones. However, much of the original fabric of the building remains including the foundation and framing, floor framing, and flooring. The most significant damage or loss or historic fabric was most notable in the doors and windows. The structure remains in its original location and setting.

(b) It is associated with events or persons that are significant to local, state, or national history.

The subject property is one of six remaining one-room African American schoolhouses in Leon County, built during the post-Civil War Reconstruction period. The building is an example of building practices developed during the 1840s.

(c) It embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction.

See (b) above.

(d) It has yielded, or may be likely to yield, information important in prehistory or history.

The site has potential for important archaeological significance.

(2) Contributing Structure: A site, building, structure, or object located in a Local Register of Historic Places district shall be designated as contributing to that district if it meets the criteria demonstrating that the property is one, which, by its location, design, setting, materials, workmanship, feeling and association adds to the district's sense of time and place and historical development.

The ARB found that the structure met the contribution criteria due to the schoolhouse remaining its original location and having much of the original construction materials, foundation, and framing.

B. **Benefits of being listed on the Local Register of Historic Places.** Historic sites provide people with the opportunity to learn about and reflect on the past.

The HPO designation of the Lake Hall Schoolhouse will acknowledge the location and existence of the structure that once served as a one-room African American schoolhouse. It is one of only six remaining in Leon County.

Section 10-6.708(e) of the Leon County Land Development Code requires all development proposals for sites with in HPO to be approved by the ARB. By designating Lake Hall Schoolhouse as a Local Historic Place and placing an HPO on it, the ARB will ensure the structure is recognized for its historic contribution to the community.

3. Changed Conditions. Have the land use and development conditions changed since the effective date of the existing zoning district regulations involved, which are relevant to the properties?

Yes. Part of the subject property and other properties in the immediate vicinity have changed hands in the last 10 years. The northern parcel that is part of the rezoning request was purchased in March 2020 for single-family construction. Properties in the surrounding area along Thomasville Road are being redeveloped. These changes may impact the Lake Hall Schoolhouse in the future.

4. Land Use Compatibility. Will the proposal result in any incompatible land uses, considering the type and location of uses involved?

No. The overlay will allow the existing schoolhouse to remain and does not introduce new uses that would create compatibility issues.

5. School Considerations. Is there capacity in area schools? What effects on enrollment could the proposed rezoning have on area schools?

Not applicable. The school impacts analysis is not applicable because the action does not involve changing a residential use. It is placing the historic preservation overlay only.

6. Other Matters. Are there any other matters which the Commission may deem relevant and appropriate?

None.

Planning Commission Discussion:

On November 3, 2020, the Tallahassee-Leon County Planning Commission held a public hearing on this item and voted (6-0) to find the application consistent with the Comprehensive Plan and recommend that the Board of County Commissioners adopt the proposed Ordinance (Attachment #1). With the exception of the applicant, there were no public speakers.

Public Notification and Response:

This request has been publicly noticed and advertised in accordance with the provisions of the Leon County Code of Ordinances (Attachment #4). The Planning Department mailed 75 notices to property owners within 1,000 feet of the subject property. To date, the Planning Department has received no responses.

Considerations Regarding Further Preservation Efforts:

In addition to the proposed rezoning discussed above, a group of interested citizens has approached the County inquiring about the possibility of restoring the structure and converting it into a community amenity. Accordingly, based on direction provided by the Board at the January 28, 2020 meeting, staff has also evaluated the feasibility of doing so. A summary of this analysis is provided below.

First, staff evaluated the possibility of restoring the Lake Hall Schoolhouse at its present location. There are significant site-based constraints that make this approach impractical. As indicated in the location map included in Attachment #1, the schoolhouse is located along the property line which divides two parcels. In order to establish the schoolhouse as a community amenity in its current location, a new parcel would need to be created that is large enough to include the footprint of the schoolhouse as well as sufficient supporting infrastructure, including but not limited to site access, parking, a restroom facility, water and sewer infrastructure, and any stormwater treatment that may be required. This would require the acquisition of significant portions of the adjoining existing parcels, and it is not clear whether enough acreage could be acquired in order to meet these minimum infrastructure requirements. Additionally, the site is currently only accessible via a privately-owned unpaved road. The property owners have indicated that they would prefer any access to the site be provided via Thomasville Road; however, the parcels located between the schoolhouse and Thomasville Road are currently developed. Finally, a partner organization would need to be identified to manage the operations of the facility. As discussed in further detail below, staff has reached out to several community partners, none of which is able to accept management oversight of such an amenity at this time.

Second, staff also evaluated the possibility of acquiring and relocating the Lake Hall Schoolhouse. As indicated earlier in this item, a 2001 study of the structure (Attachment #5) concluded that the building is not well suited for an intact relocation, and a full dismantling of the structure was recommended in order to safely move the building. Based upon a preliminary estimate, the cost to dismantle, relocate, and rebuild the structure, including the replacement of deteriorated or missing building materials, could exceed $1 million. While there may be state and federal grant programs that could help to defray a portion of these costs, relocating the Lake Hall Schoolhouse may impact its eligibility for these grants.

Finally, should the schoolhouse be relocated, a receiving site would need to be identified as well as a partner organization to manage the operations of the facility. In conducting research for this item, staff reached out to several partners including the Florida Department of Environmental Protection (FDEP), Tallahassee Museum, and the John G. Riley Center/Museum, which became a division of the City of Tallahassee earlier this year, to discuss the possibility of partnering for the restoration and management of the schoolhouse. In short, none of these organizations are willing to accept management oversight of the Lake Hall Schoolhouse at this time.

Although no viable options currently exist for converting the Lake Hall Schoolhouse to a community amenity, the proposed rezoning Ordinance recommended in this item would ensure the protection of the structure from future development activity by applying a Historic Preservation Overlay designation to the two parcels on which the schoolhouse is located and adding these parcels to the Local Register of Historic Places. As provided in the Leon County Land Development Code, any demolition, alteration, relocation, or construction activities related to properties listed on the local register must receive prior approval from the Tallahassee-Leon County Architectural Review Board.

Conclusion:

Based upon the Board's direction at the January 28, 2020 meeting, staff conducted an extensive review of options for the preservation of the Lake Hall Schoolhouse, including restoring the structure in its present location, relocating it to a different site, and exploring potential partnerships for the restoration and subsequent management of the schoolhouse as a community amenity. This item presents the results of that analysis and concludes that there are no viable options currently for converting the Lake Hall Schoolhouse into a community amenity. Notwithstanding, this item recommends adoption of a proposed Ordinance which would provide protection for the structure against future development activity and would preserve opportunities related to the restoration or relocation of the schoolhouse in the future.

Options:

1. Conduct the first and only public hearing and adopt the proposed Ordinance (Attachment #1), amending the Official Zoning Map to change the zoning classification from Residential Preservation (RP) zoning district to the Residential Preservation (RP) zoning district with Historic Preservation Overlay (HPO), thereby adding the subject properties to the Local Register of Historic Places, based on the findings of the Planning Commission, the findings of fact and conclusions of law set forth in this report, and any evidence submitted at the hearing hereon.
2. Conduct the first and only public hearing and do not adopt the proposed Ordinance amending the Official Zoning Map to change the zoning classification from Residential Preservation (RP) zoning district to the Residential Preservation (RP) zoning district with Historic Preservation Overlay (HPO), thereby not adding the subject property to the Local Register of Historic Places, based on the findings of fact and conclusions of law of the Board of County Commissioners, and any evidence submitted at the hearing hereon.
3. Board direction.

Recommendation:

Option #1

Attachments:

1. Proposed Ordinance/Location Map
2. Architectural Review Board Order of Recommendation
3. Tallahassee-Leon County Architectural Review Board Minutes and Nomination Application
4. Notice of Public Hearing
5. 2001 Feasibility Study for the Relocation of the Lake Hall School

LEON COUNTY ORDINANCE NO. ____

AN ORDINANCE AMENDING LEON COUNTY ORDINANCE NO. 92-11 TO PROVIDE FOR A CHANGE IN ZONE CLASSIFICATION FROM THE RESIDENTIAL PRESERVATION (RP) ZONING DISTRICT TO THE RESIDENTIAL PRESERVATION (RP) WITH HISTORIC PRESERVATION OVERLAY (HPO) ZONING DISTRICT IN LEON COUNTY, FLORIDA; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA:

SECTION 1. The Official Zoning Map as adopted in Leon County Ordinance No. 92-11 is hereby amended as it pertains to the following described real property:

LRZ190001: From Residential Preservation (RP) to Residential Preservation (RP) with Historic Preservation Overlay (HPO)

Parcel ID 1433207140000
TRACT I Commence at the Center Quarter corner of Section 33, Township 2 North, Range 1 East, Leon County, Florida, and run thence West 165.0 feet to a concrete monument, thence South 07 degrees 15 minutes 00 seconds West 94.4 feet, thence run West 326.1 feet, thence run North 100.0 feet, thence run East 100.0 feet, thence run North 225.0 feet to a concrete monument and the POINT OF BEGINNING. From said POINT OF BEGINNING run East 59.55 feet to an iron pipe, thence run South 75.0 feet, thence West 59.55 feet, thence run North 75.0 feet to the POINT OF BEGINNING. ALSO: TRACT II Commence at the Center Quarter comer of Section 33, Township 2 North, Range 1 East, Leon County, Florida, and run thence West 165.0 feet to a concrete monument, thence South 07 degrees 15 minutes 00 seconds West 94.4 feet, thence run West 326.1 feet, thence run North 100.0 feet, thence run East 100.0 feet, thence run North 225.0 feet to a concrete monument, thence run East 59.55 feet to an iron pipe, thence run South 75.0 feet, thence run East 75.0 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING run North 75.0 feet, thence run East 32.85 feet, thence run South 75.0 feet, thence run West 32.85 feet to the POINT OF BEGINNING. AND The following described lot, piece or parcel of land, situate, lying and being in the County of Leon State of Florida, to wit: Commence at an old concrete monument marking the SE corner of the NW Quarter of Section 33, Township 2 North, Range 1 East, Leon County, Florida and run thence West 164.96 feet to an old concrete monument in the center of the old abandoned Tallahassee and Thomasville Road, thence North 07 degrees 15 minutes 00 seconds East along the center of said old abandoned road 233.20 feet to an old iron pipe, thence South 89 degrees 55 minutes 30 seconds We& 135.13 feet to a concrete monument for the Point of Beginning: Thence in a Northerly direction 37 feet to an iron pipe, thence Northwesterly approximately 75 feet to an iron pipe, thence South approximately 43 feet to a concrete marker, thence East 75 feet to Point of Beginning. AND The following described lot, piece or parcel of land, situated, lying and being in the County of Leon State of Florida, to wit:(1) Commence at the center of Section 33, Township 2 North, Range 1 East, run thence West 146 feet, thence North 7 degrees 15 minutes East 233.2 feet, thence West 135.13 feet to a point which is point of beginning. Continue West 75 feet, thence South 75 feet, thence East 75 feet, thence North 75 feet to the point of beginning. (2) Commencing at the Center one-quarter (1/4) corner of Section 33, Township 2 North, Range 1 East, thence West 196 feet to a point in the center of the old abandoned Tallahassee and Thomasville Road; thence North 7 degrees 15 minutes East 233.2 feet to the point of beginning; there West approximately 148 feet; thence North approximately 48 feet; thence Southeasterly approximately 148 feet; thence South approximately 25 feet to the point of beginning, and better known as a portion of the Old Lake

Hall School property as recorded in Deed Book DD, Page 259, records of Leon County, Florida, containing .46 acres, more or less.

AND

Parel ID 1433206520000
Commence at the Southeast corner of the Northwest quarter of section 33, Township 2 North, Range 1 East, and run West 196 feet to the center of the Tallahassee and Thomasville Road (now abandoned), thence down said road North 07 degrees East 258 feet to a point which is the POINT OF BEGINNING. From said point run North 84 degrees West 209 feet to a stake, thence North 06 degrees East 209 feet to a stake, thence South 84 degrees East 209 feet to the center of said Tallahassee and Thomasville Road, thence up said road South 06 degrees East 209 feet to the POINT OF BEGINNING. Being in the Southeast quarter of the Northwest quarter of said Section 33, Township 2 North, Range 1 East, Leon County, State of Florida, and surveyed by 0. Barnard, 23rd day of July, 1891, containing 1.00 acre, more or less.

(See Exhibit A)

SECTION 2. All Ordinance or parts of Ordinance in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon County 2030 Comprehensive Plan as amended which provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or in part, with said Comprehensive Plan.

SECTION 3. If any word, phrase, clause, section or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 4. This Ordinance shall become effective as provided by law.

DULY PASSED AND ADOPTED by the Board of County Commissioners of Leon County, Florida, on this ___ day of _____, 2020.

LEON COUNTY, FLORIDA

By:_____
Rick Minor, Chair
Board of County Commissioners

Date:_____

APPROVED AS TO LEGAL SUFFICIENCY:
Chasity H. O'Steen, County Attorney
Leon County Attorney's Office

By:_____

ATTEST:
Gwendolyn Marshall, Clerk of the Court & Comptroller, Leon County, Florida

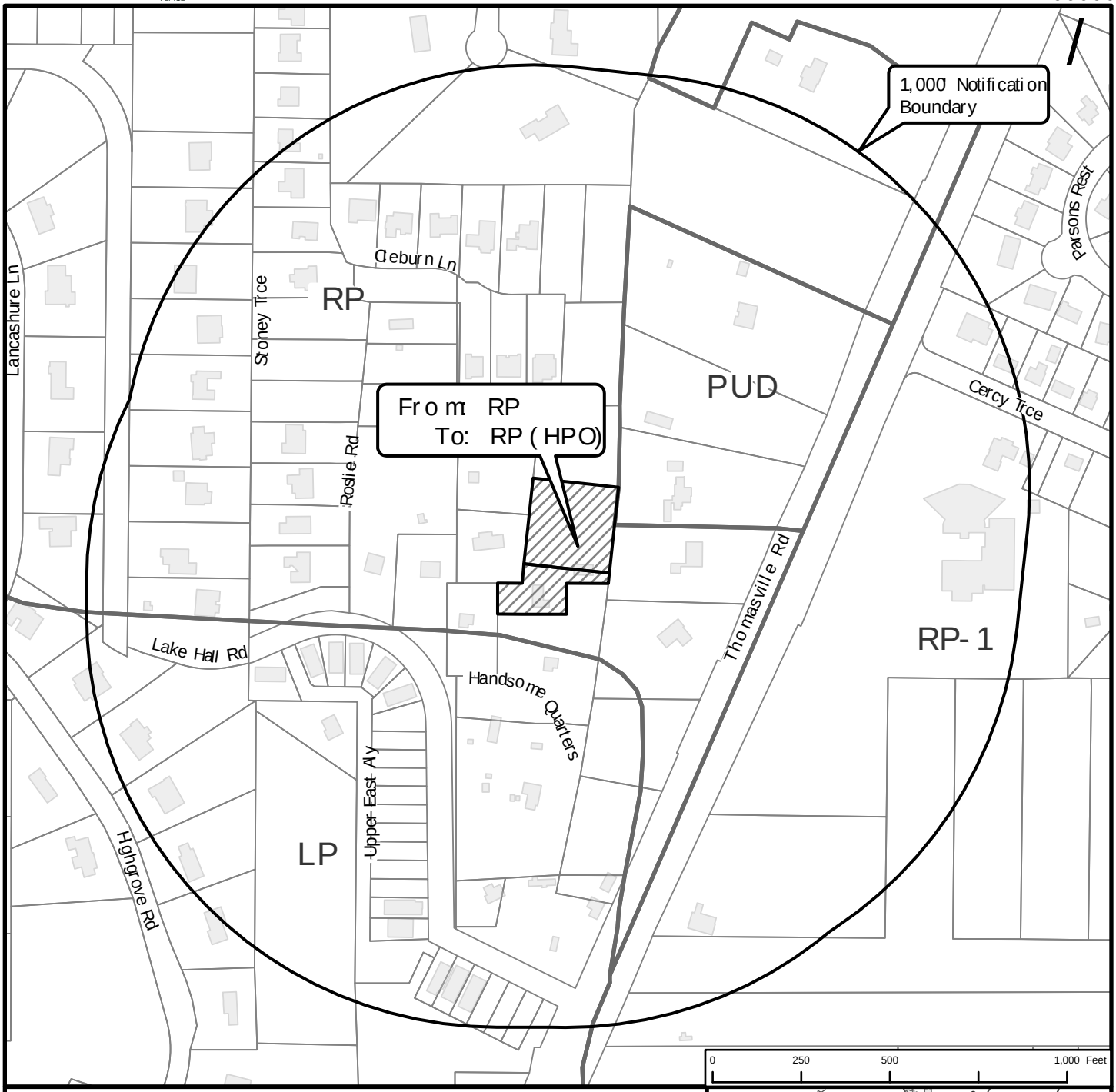
By:_____

Exhibit A

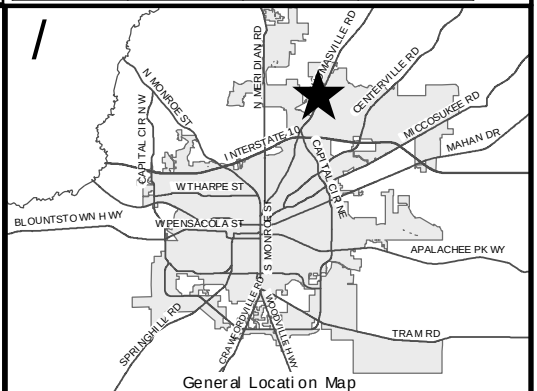
Lake Hall School House HPO

PLANNING DEPARTMENT a division of PLACE

LRZ #200006



Parcel ID:	1433206520000 1433207140000
Size:	+/- 1.46 acres
Current Zoning:	RP (Residential Preservation)
Proposed Zoning:	RP (Residential Preservation) with Historic Preservation Overlay (HPO)



General Location Map

ORDER OF RECOMMENDATION

TALLAHASSEE-LEON COUNTY
ARCHITECTURAL REVIEW BOARD

In Re: Application for Tallahassee-Leon County
Register of Historic Places
4498 Handsome Quarters, Parcel ID#1433206520000
Lake Hall School House

This matter came before the City of Tallahassee-Leon County Architectural Review Board ("ARB") on May 27, 2020 upon the nomination form and application submitted by Dr. Geraldine Seay, owner representative.

ISSUE

Whether the nominated property at 4498 Handsome Quarters ("Property") meets the criteria established for listing in the Tallahassee-Leon County Register of Historic Places.

FINDINGS & CONCLUSIONS

1. The applicant, Dr. Geraldine Seay, has standing as the owner representative of the Property pursuant to Section 10-318(b), Tallahassee Land Development Code ("LDC").

2. The ARB has jurisdiction to hear the application for listing in the Tallahassee-Leon County Register of Historic Places, also referred to as the Local Register, pursuant to Section 10-318(c), LDC.

3. The matter was noticed to the public at large on May 11, 2020 and notice was sent out to all owners of property within 500 feet of the Property on May 6, 2020, pursuant to Section 10-318(c) (3), LDC.

4. The applicant presented information indicating the Property meets the following criteria in Section 10-318(d) (1) a. and b., LDC.

   Criterion a. It possesses integrity of location, design, setting, materials, workmanship, feeling, and association. The subject building has been altered, alterations include an undated addition on the west end of the building and the windows were removed and retrofitted for smaller replacement windows at an unknown date. However much of the original fabric of the building remains including the foundation and framing, floor framing and flooring. The most significant damage, or loss of historic fabric was most notable in the doors and windows. The structure remains in its original location and setting.

Criterion b. It is associated with events or persons that are significant to local, state, or national history and it embodies the distinctive characteristics of a type, period, or method of construction. The subject building is one of six remaining one-room African American school houses in Leon County, built during the post-Civil War Reconstruction period. The building is an example of building practices developed during the 1840s.

Criterion c. It has yielded, or may be likely to yield, information important in prehistory or history. The site has the potential for important archaeological significance.

5. No public comments were received prior to, or expressed at, the ARB meeting.

RECOMMENDATION

The Property meets the criteria for historic designation set forth in Section 10-318(d)(1)a., b. and c., LDC, and the Property should be listed in the Local Register.

This recommendation is to be forwarded to the Planning Commission indicating the Property complies with the criteria for listing in the Local Register of Historic Places and requesting the application be processed pursuant to Section 10-318(c)(6), LDC.

APPROVED AND ENTERED UPON THE AFFIRMATIVE VOTE OF THE ARCHITECTURAL REVIEW BOARD this 27thth day of May 2020.

Elizabeth Crawford, Chair

Cc: Dr. Geraldine Seay., Applicant, Owner Representative

TALLAHASSEE-LEON COUNTY
LOCAL REGISTER OF HISTORIC PLACES NOMINATION APPLICATION

Contact: Historic Preservation Officer, Tallahassee-Leon County Architectural Review Board, % Tallahassee Trust for Historic Preservation, Inc., 423 East Virginia Street, Tallahassee, FL 32301

Phone: (850) 488-7334 Email: taltrust@comcast.net Fax: (850) 488-7333

Notification of intent to file an application must be received by the Architectural Review Board at least 30 days in advance of the review meeting to allow time for public notification as required by the City of Tallahassee and Leon County. Completed applications must be submitted to the Architectural Review Board at least 15 days in advance of the meeting. Please note additional copies may be required.

I. IDENTIFICATION (To assist you researching your property and in completing this application, we recommend that you check the Web Sites provided to you at the end of this application.)

Name of Property (if known, historic name of property, i.e., Knott House): _Lake Hall School

Property Address: 4498 Handsome Quarters, Parcel ID#'s 1433206520000 and 1433207140000

Name of Property Owner: __Ms. Sheryl Oslowski and Mr. Andrew Bailey

Owner's Address: _____4498 Handsome Quarters and 4495 Handsome Quarters

Owner's Telephone: 850-509-1713 and 850-545-5631

Applicant's Name: _____Geraldine H. Seay, Ph.D Representative
(*if different from owner*)

Applicant's Address: __2014 Chuli Nene, Tallahassee, FL 32301
(*if different from owner*)

Applicant's Telephone: _850-766-0972

Applicant's Email: ___Drseay@gmail.com

Leon County Property Tax Identification Number (*contact the Leon County Property Appraiser (850) 488-6102, www.leonpa.org*): 1433206520000 and 1433207140000

TALLAHASSEE-LEON COUNTY LOCAL REGISTER OF HISTORIC PLACES NOMINATION APPLICATION (continued)
Applicant's Name: Geraldine H. Seay, Ph.D.

Check the appropriate type of historic resource to be listed on the Local Register:

___X__ **SITE** (The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, whether the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing structure, examples include: battlefield, campsite, trail, shipwreck, designated landscape, ceremonial site, cemeteries significant for information potential or historic association, village site, ruins of a building or structure)

_____ **DISTRICT** (A district possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.)

___X__ **BUILDING** (Created principally to shelter any form of human activity, examples include: barn, house, church, hotel, garage, stable, train station, dormitory, courthouse)

_____ **STRUCTURE** (Distinguished from buildings, those functional constructions made usually for proposes other than creating human shelter, examples include: a gate, bridge, aircraft, windmill, earthwork, canal, dam, carousel, gazebo, lighthouse, tunnel, railroad grade, fence, apiary, and automobile)

_____ **OBJECT** (Those constructions that are primarily artistic in nature or are relatively small in scale, and simply constructed. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment, examples include: boundary marker, fountain, monument, sculpture, statuary, milepost)

TALLAHASSEE-LEON COUNTY LOCAL REGISTER OF HISTORIC PLACES NOMINATION APPLICATION (continued)
Applicant's Name: Geraldine H. Seay, Ph.D.

CRITERIA FOR LISTING ON THE LOCAL REGISTER

(X) Indicates all applicable criteria:

Individual Listing Criteria of a Site, Building, Structure or Object:

___X_ A. It possesses integrity of location, design, setting, materials, workmanship, feeling and association.

__X__ B. It is associated with events or persons that are significant to local, state, or national history; or embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction.

__X__ C. It has yielded, or may be likely to yield, information important in prehistory or history.

District Listing Criteria

A site, building, structure or object shall be designated as contributing to that district if it meets the following criteria:

____ A. The property is one which, by its location, design, setting, materials, workmanship, feeling, and association adds to the district's sense of time and place and historical development. (*a property is not considered contributing if the property's integrity of location, design, setting materials, workmanship, feeling and association have been so altered that the overall integrity of the property has been irretrievably lost.*)

____ B. Structures that have been built within the past fifty (50) years shall not be considered to contribute to the significance of a district, unless a strong justification concerning their historical or architectural merit is given, or the historical attributes of the district are considered to be less than fifty (50) years old.

TALLAHASSEE-LEON COUNTY LOCAL REGISTER OF HISTORIC PLACES NOMINATION APPLICATI
ON
(continued)
Applicant's
Name: Geraldine H. Seay, Ph.D.

II. HISTORY OF RESOURCE

Original Date of Construction (identify source of information): 1878

Original Architect/Builder (identify source of information): Leon County School

Original Owner (identify source of information) Randolph Family of the Lake Hall Community donated the land for the school to be built. The Sawyer, Roosevelt and Walker were recognized as Original owners.

Historic Use of Site (identify source of information): African American One Room School
Leon County Schools

Current Use of Site: Work Room / storage

Intended Use of Site: Historic Site and Museum

Have any additions or alterations been made to the historic resource? No
If yes, please explain. Include type and date of alteration (identify source of information).

Do you anticipate making any substantial alterations to this historic resource in the future? NO
If yes, what?

Check the following, if available, and please submit a copy of each item as part of this application:

- Original Construction plans _____
- Abstract of title _____
- Historic photograph(s) _____

List research source(s) in documenting the above historical information.

1. Research done by the National Park Service Southeast Regional Archeological Center

TALLAHASSEE-LEON COUNTY LOCAL REGISTER OF HISTORIC PLACES NOMINATION APPLICATION (continued)
Applicant's Name: Geraldine H. Seay, Ph.D.

Lindstrom, Triel Ellen. Historical Archaeology at the Cedar Shake House (8LE1947): The African-American Heritage of Alfred B. Maclay Gardens State Park.

2. Leon County Public School Register Entries

3. Riley House Research

4. Oral History of Former Students

5. Anecdotal information from Residents whose families have always lived in the community with the School

III. CURRENT CONDITION OF THE SITE

General Condition of the Site: Excellent ____Fair __x__ Poor ____

TALLAHASSEE-LEON COUNTY LOCAL REGISTER OF HISTORIC PLACES NOMINATION APPLICATION (continued)
Applicant's Name: Geraldine H. Seay, Ph.D.

IV. NARRATIVE DESCRIPTION OF THE SITE (minimum 12 point type accepted)

The Lake Hall sits in the exact spot of is construction. It is on the Old Thomasville Road which is a trench just feet away from the school's front door. You can hear very clearly the cars passing by on Thomasville Road. After Leon county began to assign Lot Lines, it sits now on two private properties*. However because the school has never been moved there is quite a trove of treasures under, nearby and in the structure.**
The structure is a typical wood building popular during that time it has a tin roof still that has survived 150 years of varying degrees of storms. It's dry and is used as work room and storage shed by its current owners. While much of the original glass is gone, the window frames remain intact. The walls are also original as are the doorways, while the steps are in disrepair and one set has been replaced.
The wood seems to be cedar and was never painted. The exterior walls remain remarkably intact with a few stress point. Respondents indicate that the interior walls were shiplap or wooden paneling of some sort. The building is on piers which are in need of repair. The workmanship on this building can only be described as magnificent. It would be hard to find a building in better condition after150 years.

- *The majority of the School sits on a private lot and some three feet of the school is on a lot just purchased by a developer. The developer is in support of the historic designation of the Lake Hall School.*
- *** The Archaeological Southeast Center of the National Park Service has been to the site and is excited about its possibilities.*

V. STATEMENT OF SIGNIFICANCE (minimum 12 point type accepted)

The Lake Hall School is one of 6 remaining one-room African American Leon County school houses built and opened during Reconstruction. Many of the Children who attended the school were originally enslaved at the McClay Plantation. Following the Civil war and during Reconstruction the freed slaves had purchased much of the McClay footprint built homes on their new land and began to farm. As a part of their new citizenship, they wanted a school for their children. The Randolph family donated the land to Leon County for a school. The school opened in 1878.

The families of "Lake Hall" placed the school close to several families who lived on land that surrounded the school. Mr. Randolph, an 80 year old man living in Tallahassee and pastor of two churches, remembers fondly his days at the Lake Hall School. He remembers vividly that there were two out door bathrooms: one for the girls and one for the boys. He talks about taking his lunch to school and how the room was divided and where the teacher sat there was a platform of some description. There was one stove he said and the children would collect wood for the stove, which both heated the school and could cook food.

After Reconstruction, the former slaves were forced to sell their land. They became sharecroppers not owners of their land. The children then became workers alongside their parents. Their school schedule became somewhat disrupted as they had to work on the farm at different times of the year. In spite of their change in station, the parents insisted on them going to school and to break the cycle of the share "cropper lifestyle" The parents taught the children that education would be the way out. The school closed when integration began.

VI. BIBLIOGRAPHIC REFERENCES.)

Lindstrom, T. E. *Historical Archaeology At The Cedar Shake House (8Le1947): The African-American Heritage Of Alfred B. Maclay Gardens State Park*. no date. Florida State University, 2008.

Archaeological Site Testing and Evaluation of 8LE1942, 8LE1946 and 8LE1947
VII. PHOTOGRAPHIC INFORMATION Alfred B Maclay Gardens State Park, Leon County Florida
Southeast Archaeological Center

Mr. Randolph Oral History, Feb 2020

Master Site File LE2223

VII. PHOTOGRAPHIC INFORMATION (*Please attach current black and white photographs of the property(s) documenting all major character defining features, no smaller than 3 ½ by 5 inches, from all sides of the property or historic resource.*)

See Scans

VIII. ATTACHMENTS

Attachment A. Legal Description (*contact the Leon County Property Appraiser*) or if available, provide copy of property land survey.

Attachment B. Property location map with footprint of historic resource, i.e., buildings, sites, objects, districts or structures, see definition below, on the property (*for copy of property tax card, Contact the Leon County Property Appraiser).*

Attachment C. Is the subject property listed on the National Register of Historic Places? __NO If yes, please attach a copy of the National Register Certificate and the National Register of Historic Places Registration Form (*contact the Florida Department of State, Florida Master Site File 850-245-6440*).

Attachment D. Has a Florida Master Site File Form been completed? __Yes If yes, please attach a copy (*contact the Florida Master Site File*).

TALLAHASSEE-LEON COUNTY LOCAL REGISTER OF HISTORIC PLACES
NOMINATION APPLICATION (continued)
Applicant's Name: Geraldine H. Seay PhD.

IX. OWNER AWARENESS STATEMENT

_____ As the Owner or Official Representative of the Owner of the subject property identified in the Application above (or in the case of a district the owner of a property within the proposed district) I am aware of this proposal for listing in the Tallahassee-Leon County Local Register of Historic Places. I have been advised of the procedures for review of this application and I have also been advised of the effects of listing on the Local Register of Historic Places. I understand that I will be notified of the dates and places of the public meetings at which the application will be considered by the Tallahassee-Leon County Architectural Review Board, the Tallahassee-Leon County Planning Commission and the City of Tallahassee Commission and/or the Leon County Board of County Commissioners and that I will be given the opportunity to submit written comments and to appear in person in support of, or in opposition to the listing of this property.

_____ As the Owner or the Official Representative of the Owner of the subject property identified in the Application above (or in the case of a district the owner of a property within the proposed district) I am applying for Historic Preservation Overlay Zoning to be applied to the subject property or properties.

Signature: Cheryl Dilworth Date: 3/10/2020
Owner of Property

TALLAHASSEE-LEON COUNTY LOCAL REGISTER OF HISTORIC PLACES
NOMINATION APPLICATION (continued)
Applicant's Name: _____

IX. OWNER AWARENESS STATEMENT

✓ As the Owner or Official Representative of the Owner of the subject property identified in the Application above (or in the case of a district the owner of a property within the proposed district) I am aware of this proposal for listing in the Tallahassee-Leon County Local Register of Historic Places. I have been advised of the procedures for review of this application and I have also been advised of the effects of listing on the Local Register of Historic Places. I understand that I will be notified of the dates and places of the public meetings at which the application will be considered by the Tallahassee-Leon County Architectural Review Board, the Tallahassee-Leon County Planning Commission and the City of Tallahassee Commission and/or the Leon County Board of County Commissioners and that I will be given the opportunity to submit written comments and to appear in person in support of, or in opposition to the listing of this property.

✓ As the Owner or the Official Representative of the Owner of the subject property identified in the Application above (or in the case of a district the owner of a property within the proposed district) I am applying for Historic Preservation Overlay Zoning to be applied to the subject property or properties.

Signature: _____ Date: 4/28/20
Owner of Property

TALLAHASSEE-LEON COUNTY
ARCHITECTURAL REVIEW BOARD
423 EAST VIRGINIA STREET
TALLAHASSEE, FL 32301
850-488-7334 (tel) 850-488-7333 (fax)

Tallahassee-Leon County Architectural Review Board
Meeting of May 27, 2020

STAFF REPORT

4498/4495 Handsome Quarters, Parcel ID#'s 1433206520000 and 1433207140000 – Lake Hall School House
Application for listing on the Local Register of Historic Places

OVERVIEW
Lake Hall School is located off of North Thomasville Road and Lake Hall Road in Leon County. The structure straddles two parcels, with two separate property owners. Both property owners have signed off on the local register nomination for the listing of Lake Hall School. Per the Florida Master Site file recorded in 1999, the structure was built approximately 1870. The land was originally donated by the Randolph family to Leon County for the construction of a school house to serve African American children. It is one of six remaining one-room African American Leon County school houses built during the post-Civil War period of Reconstruction. The school operated from the 1870s through the 1950s. It was closed when school integration began. The one room frame vernacular structure was used as a storage building following its closure.

In 2001 a feasibility study for the location of the Lake Hall School house was conducted by the architecture firm Huffman/Tarmey. The structure was well documented, including measured drawings. A determination was made that the building was eligible for the National Register, however relocating the building would make it ineligible. Plans for relocation were abandoned. The final report from the feasibility study has been included as a separate attachment, including a brief history, drawings and photos documenting the condition of the structure at that time. While a current condition assessment has not been completed the intended use of the site is as a museum/interpretive historic site.

The Lake Hall School house has been determined as eligible for listing on the National Register of Historic Places and the Tallahassee-Leon County Local Register of Historic Places. It is important in Leon County history, but it is also significant as one of the few historic black schools in the state of Florida that remains on its original site. Further, as an African American school built during Reconstruction the potential for archaeological significance is particularly important due to the few written records available regarding African American life in rural areas.

COMMENTS
APPLYING THE CRITERIA FOR LISTING ON THE LOCAL REGISTER (Sec. 10-318 (d) of the LDC

(1) A. The property possesses integrity of location, design, setting, materials, workmanship, feeling and association.
The subject building has been altered, alterations include an undated addition on the west end of the building and the windows were removed and retrofitted for smaller replacement windows at an unknown date. However much of the original historic fabric of the building remains including, the

foundation and framing, floor framing and flooring. The most significant damage, or loss of historic fabric was most notable in the doors and windows. The structure remains in its original location and setting.

B. The property is associated with events or persons that are significant to local, state, or national history; or it embodies the distinctive characteristics of a type, period, or method of construction. The subject building is one of six remaining one-room African American school houses in Leon County built during the post-Civil War Reconstruction period. The building is an example of building practices developed during the 1840s.

C. It has yielded, or may be likely to yield, information important in prehistory or history. The site has the potential for important archaeological significance.

RECOMMENDATIONS

1. The Board find the proper ty meets the criteria for historic designation set forth in Section 10-318(d)(1) of the LDC, and that the Property should be listed in the Local Register of Historic Places and subject to the provisions of the historic preservation overlay zone.
2. The board forward a recommendation to the Planning Commission indicating the property meets the criteria for listing in the Local Register of Historic Places and requesting the application be processed as a zoning request pursuant to Section 10-318©(6) of the LDC.

PUBLIC COMMENTS
No comments have been received as of the date this report was prepared.

967 Briarcliff Road

OVERVIEW
967 Briarcliff Road was listed individually on the Local Register of Historic Places in 2008. The limestone house and limestone cottage behind it were built in 1942 from limestone quarried in Wakulla County. The main house is described as Georgian Revival in the Florida Master Site file. The original owner of the property was from Scotland, he had been familiar with this particular style of house as well as the use of limestone in Scotland and chose to replicate that here in Tallahassee. The style and materials are unique in Leon County. The application is for the construction of a new kitchen addition and porch on the rear of the main house and the addition of a pergola over an existing concrete pad on the cottage behind the main structure. The property owner is a professional chef and the owner of Kitchenable, currently located at Lake Ella. While the historic property is much loved, a larger kitchen is high on the wish list. The new addition will add 685 square feet of new living space including the kitchen expansion, a new sitting room and porch.

COMMENTS
The Secretary of the Interior's Standards for Rehabilitation which apply to this project are #2, #5, #9 and #10.

Standard #2 states: "The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided."

Standard #5 states: "Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved."

Standard #9 states: "New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment."

Standard #10 states: New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired."

RECOMMENDATIONS
Approve as submitted.

PUBLIC COMMENTS
No public comments have been received as of the date this report was prepared.

621 North Calhoun Street –E.C. Allen House

OVERVIEW
The E.C. Allen house, located at 621 North Calhoun Street, was individually listed on the Local Register of Historic Places in 2010. The house could perhaps best be described as a Spanish Revival "urban mansion." E.C. Allen, a graduate of Leon High School and Florida State University, Allen began his professional life as an accountant, later establishing Mobile Home Industries, the only local business then listed on the America Stock Exchange. Allen later founded WECA-ABC 27 which first went on the air in September of 1976, the station was the 3rd TV station to service the Tallahassee-Thomasville market, the station was sold and became WTXL. Allen and his wife made many generous contributions to local organizations over the years. The couple built the house at 621 North Calhoun in 1972. A character defining feature of the house is its original clay tile roof. The application made by the current property owner is to replace the original clay tile roof with an architectural shingle. At the end of April the property owner decided to replace the roof, stating that it had been leaking for some time. His contractor applied for a permit through Growth Managements online portal. The permit was approved without a COA and roughly two thirds of the roof was removed before the permit was rescinded by the city. The house currently only has a partial roof. An architectural shingle would be inappropriate and alter the character of the house. The owner has stated emphatically that he cannot afford to install a new clay tile roof.

COMMENTS
The Secretary of the Interior's Standards for Rehabilitation which apply to this project are #2, #5, and #6.

Standard #2 states: "The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided."

Standard #5 states: "Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved."

Standard #6 states: "Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials."

Recommended: Identifying, retaining, and preserving roofs and their functional and decorative features that are important in defining the overall historic character of the building. This includes the roofs shape and materials such as slate, wood, clay tile, and metal, as well as its size, color, and patterning.

Replacing in kind an entire feature of the roof that is too deteriorated to repair-if the overall form and detailing are still evident-using the physical evidence to guide the new work. If using the same kind of material is not technically or economically feasible, then a compatible substitute material may be considered.

Not Recommended: Radically changing, damaging, or destroying roofs which are important in defining the overall historic character of the building so that, as a result, the character is diminished.

Alternative materials: There are a variety of options including composite, concrete and metal which mimic the shape of Spanish clay tiles.

RECOMMENDATIONS

Architectural shingles cannot be recommended due to the fact the clay tile roof was a character defining feature. An alternative material which mimics the look, shape, color, and profile of the original tile would be more appropriate. However, these are unusual circumstances and the house has been without a roof for several weeks.

PUBLIC COMMENTS

No public comments have been received as of the date of this report.

Prepared by: Melissa A. Stoller, Ph.D., Historic Preservation Officer, 5/19/2020

Tallahassee-Leon County
Architectural Review Board

Minutes of the Tallahassee-Leon County Architectural Review Board held online due to Covid-19
Wednesday, May 27th, 2020, at 12:00 PM.

Members Present
Betsy Crawford, *Acting Chair*
Rhonda Hammond, AIA
Wayne Spinks
Laurel Harbin, *TLCPD Representative*
Erin VanSickle
Peter Kiedrowski
Michael Conn, AIA
JJ Scott, AIA
Nigel Safe

Staff Present
Melissa Stoller, Ph.D., *TTHP Executive Director/ Historic Preservation Officer*
Shannon Kuch, *TTHP Program Coordinator*
Kellie Scott, *Assistant City Attorney*
Ed Young, Jr., *COT staff*

Members Absent
Leslie Jacobs, *Planning Commission Representative*

Guests Present
Chris McMullen, *967 Briaricliff Road*
Geraldine Seay, *Lake Hall School House*
Robert Drach, *Lake Hall School House*
Sheryl Oslowski, *Lake Hall School House*
Rick Barnett, *621 N. Calhoun Street*

I. Call to Order

Acting Chair Betsy called the meeting to order at 12:05 pm.

II. Application Review

4498/4495 Handsome Quarters, Parcel ID#'s 1433206520000 and 1433207140000 , Lake Hall School House – Application for listing on the Local Register of Historic Places

Dr. Melissa Stoller presented the staff report, explaining that the school house straddles two parcels with two separate property owners. Both owners have signed off on the local register nomination for the listing of the Lake Hall School, and they are working with the County to create a separate parcel for the building. Built around 1870, the land was donated by the Randolph family to Leon County for the construction of a school house to serve African American children. It is one of six remaining one-room African American Leon County school houses build during Reconstruction, and operated until integration in the 1950s. A 2001 feasibility study was done, and it was determined not to relocate the school. Dr. Stoller recommended listing on the local register as it meets criteria A, B, and C, and should be subject to the historic preservation overlay zone.

Dr. Geraldine Seay shared the historical significance of the school, and plans to pursue a National Register listing. She is working with the property owners on the parcel issue, and is working with the County to eventually create a museum or interpretive historic site. Mr. JJ Scott moved to approve the application for listing on the Local Register of Historic Places for 4498 Handsome Quarters, the Lake Hall School House. Mr. Wayne Spinks seconded the nomination and the vote passed unanimously.

967 Briarcliff Road – Application for Certificate of Appropriateness for new construction of rear addition

Dr. Stoller presented the staff report while the board reviewed the plans for new construction of a rear addition to 967 Briarcliff Road. The main house is Georgian Revival, made of limestone, and is unique to Tallahassee. Proposed work includes construction of a new kitchen addition and porch on the rear of the main house and the addition of a pergola over an existing concrete pad on the cottage behind the main structure. The property owner is a professional chef, and the addition will add 685 square feet of new living space including the kitchen, new sitting room, and porch.

Dr. Stoller explained that the Secretary of Interior's Standards which apply to this project are #2, #5, #9, and #10. Standard #2 states: "The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided." Standard #5 states: "Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved." Standards #9 and #10 state that "new additions, exterior alterations, or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and will be compatible with the historic materials, features, size, scale, and proportion and missing to protect the integrity of the property and its environment," and "new additions adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired." Dr. Stoller recommended to approve the application as submitted. Mr. Nigel Safe moved to approve the application for Certificate of Appropriateness for new construction of a rear addition to 967 Briarcliff Road. Mr. Michael Conn seconded the nomination and the vote passed unanimously.

621 North Calhoun Street, E.C. Allen House – Application for new roof

Dr. Stoller explained that the E.C. Allen House was individually listed on the Local Register of Historic Places in 2010. It is a Spanish Revival "urban mansion", with a character defining original clay tile roof. The application is to replace the original clay tile roof with architectural shingles. At the end of April 2020 the property owner decided to replace the roof, stating that it had been leaking for some time. His contractor applied for a permit through Growth Managements online portal. The permit was approved without a COA and roughly a third of the roof was removed before the permit was rescinded by the city. The house currently only has a partial roof. An architectural shingle would be inappropriate and alter the character of the house. The owner has stated emphatically that he cannot afford to install a new clay tile roof. The Secretary of Interior's Standards which apply to this project are #2, #5, and #6. Dr. Stoller does not recommend architectural shingles due to the fact that the clay tile roof was a character defining feature. An alternative material which mimics the look, shape, color, and profile of the original tile would be more appropriate. However, these are unusual circumstances and the house has been without a roof for several weeks.

Mr. Rick Barnett explained he and others bought the property as an investment rental. For years they have been trying to patch the roof, and the material between the structure and clay tile is failing. He understood the COA process and knew one was needed for the work, however the work proceeded. Because the roof had already been partially removed when the stop work order

occurred, the owner believed there was not enough time or money to order the appropriate materials. Due to the unusual situation and timeline, the board discussed the need to protect the structure and approve a roof material as quickly as possible. Dr. Stoller explained that usually the board would be able to review and approve appropriate alternative materials when a project is brought to them before the work is initiated. However, because this project did not follow the normal process, the board discussed what materials are currently available. Mr. Rick Barnett shared that the architectural shingle will be the same color as the clay tile, and that in the future a clay tile roof can be added on top of the architectural shingle. Ms. Erin VanSickle moved to approve the application as submitted, to replace the existing clay tile roof at 621 North Calhoun Street with architectural shingles. Ms. Rhonda Hammond seconded the nomination and the motion passed five votes in favor to two opposed.

III. Election of Officers

Ms. Betsy Crawford was nominated as ARB Chair. Ms. Erin VanSickle moved to approve the nomination, Mr. Nigel Safe seconded the nomination, and the vote passed unanimously.

Mr. Wayne Spinks was nominated as ARB Vice Chair. Ms. Betsy Crawford moved to approve the nomination, Mr. Nigel Safe seconded the nomination, and the vote passed unanimously.

IV. Old Business

Ms. Kellie Scott addressed the twelve month stay of demolition after the board votes down a demolition proposal. She is researching the issue and will make a determination before twelve months is over for the Hartsfield House.

V. Adjournment

Ms. Crawford called meeting adjournment at 1:26 pm.

The next ARB meeting will be held online as needed due to Covid-19.

_____ _____
Melissa Stoller, Historic Preservation Officer Date

_____ _____
Betsy Crawford, Chair Date

TALLAHASSEE-LEON COUNTY
ARCHITECTURAL REVIEW BOARD
423 EAST VIRGINIA STREET
TALLAHASSEE, FL 32301
850-488-7334 (tel) 850-488-7333 (fax)

June 29, 2020

Attention: Ms. Beth Perrine
Tallahassee-Leon County Planning Commission
Tallahassee Leon Planning Department
435 N. Macomb Street
Tallahassee, FL 32301

Re: Local Register Nomination
4498/4495 Handsome Quarters – Parcel ID#'s 1433206520000 and 1433207140000
Lake Hall School House

Dear Planning Commission:

The Architectural Review Board would like to recommend the structure at 4498/4495 Handsome Quarters and located in the northeast section of Parcel ID# 1433206520000 and the southeast section of Parcel ID# 1433207140000 for listing in the Local Register of Historic Places and the addition of Historic Preservation Overlay Zoning to the structure. Enclosed is the nomination application, the ARB's Order of Recommendation, the section of the May 27, 2020 meeting minutes that pertain to the application review, and the staff report.

Thank you for your consideration of the Architectural Review Board's recommendation, and please let me know if any additional information is needed.

Sincerely,

Melissa Stoller, Ph.D.
Historic Preservation Officer/
TTHP Executive Director

Enclosure(s)

Cc: Dr. Geraldine Seay (Letter and Order of Rec. only)

Notice of Public Hearing

Notice is hereby given that the Board of County Commissioners of Leon County, Florida will conduct a public hearing on Tuesday, December 8, 2020 at 6:00 p.m., or as soon thereafter as such matter may be heard, at the County Commission Chambers, 5th Floor, Leon County Courthouse, 301 South Monroe Street, Tallahassee, Florida, to consider adoption of the ordinances entitled to wit:

1904 TALPECO ROAD
LEON COUNTY ORDINANCE NO. ____

AN ORDINANCE AMENDING LEON COUNTY ORDINANCE NO. 92-11 TO PROVIDE FOR A CHANGE IN ZONE CLASSIFICATION from the OFFICE RESIDENTIAL-2 Zoning District to the GENERAL COMMERCIAL zoning District IN LEON COUNTY, FLORIDA; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

LAKE HALL SCHOOL HOUSE HPO
LEON COUNTY ORDINANCE NO. ____

AN ORDINANCE AMENDING LEON COUNTY ORDINANCE NO. 92-11 TO PROVIDE FOR A CHANGE IN ZONE CLASSIFICATION FROM THE RESIDENTIAL PRESERVATION (RP) ZONING DISTRICT TO THE RESIDENTIAL PRESERVATION (RP) WITH HISTORIC PRESERVATION OVERLAY (HPO) ZONING DISTRICT IN LEON COUNTY, FLORIDA; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Leon County will be broadcasting the public hearing on Comcast channel 16, Prism channels 16 and 1016-HD, the Leon County Florida channel on Roku, and the County's Facebook page (Facebook.com/LeonCountyFL/), YouTube channel (Youtube.com/user/LeonCountyFL), and web site (LeonCountyFL.gov).

All interested parties are invited to present their comments at the public hearing at the time and place set out above. Interested parties are also invited to submit written public comments until 8:00 p.m. on Monday, December 7, 2020, by visiting https://leoncountyfl.gov/PublicComments. All submitted written comments will be distributed to the Board prior to the public hearing and made a part of the record. Written comments received by the public will be posted on the County's website (www.LeonCountyFL.gov) in advance of the hearing. Persons needing assistance with submitting comments may contact County Administration via telephone at (850) 606-5300, or via email at LCG_PublicComments@leoncountyfl.gov.

Written public comments received after the 8:00 p.m., Monday, December 7, 2020, deadline will be made available to the Board and entered into the record during the hearing, although the County cannot guarantee that Commissioners will have adequate time to review such comments prior to the hearing or that the comments will be posted on the County website prior to the hearing.

Interested parties may also provide virtual real-time public comments during the public hearing. Interested parties wishing to provide virtual real-time public comments must complete and submit the registration form provided at https://www2.leoncountyfl.gov/coadmin/agenda/ by 8:00 p.m. on Monday, December 7, 2020. Following submittal of the registration form, further instructions for participating in the meeting will be provided. Persons needing assistance with registering or providing real-time comments may contact County Administration via telephone at (850) 606-5300, or via email at LCG_PublicComments@leoncountyfl.gov. Please note that Board of County Commissioners Policy 01-05, Article IX., Section E., entitled "Addressing the Commission", and Article IX., Section F., entitled "Decorum", shall remain in full force and effect.

Anyone wishing to appeal the action of the Board with regard to this matter will need a record of the proceedings and should ensure that a verbatim record is made. Such record should include the testimony and evidence upon which the appeal is to be based, pursuant to Section 286.0105, Florida Statutes.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing a special accommodation to participate in this proceeding should contact Mathieu Cavell or Facilities Management, Leon County Courthouse, 301 South Monroe Street, Tallahassee, Florida 32301, by written request at least 48 hours prior to the proceeding. Telephone: 850-606-5300 or 850-606-5000; 1-800-955-8771 (TTY), 1-800-955-8770 (Voice), or 711 via Florida Relay Service.

Copies of the Ordinance may be inspected on the County's web site (www.LeonCountyFL.gov). To receive copies of the Ordinance by other means, such as email, mail, or facsimile transmittal, contact County Administration at 850-606-5300 or the Department of Development Support and Environmental Management at 850-606-1300.

Huffman / Tarmey **Architecture** PA

November 14, 2001

Ms. Althemese Barnes, Executive Director
The John G. Riley House Museum and
Resource Center of African American History and Culture
419 E. Jefferson Street
Tallahassee, Florida 32311

RE: Feasibility Study for the Relocation of The Lake Hall School

Dear Mrs. Barnes and Members of the Riley House Board of Directors,

It is with great pleasure that Huffman/Tarmey Architecture, P.A. presents this final report of the Feasibility Study for the Relocation of the Lake Hall School.

Consistent with the charge of our contractual responsibilities, we present our work scope, a brief history of the school, field verified measured drawings and photographic evidence which corraborates our investigation of the subject structure. We additionally include three (3) scenarios for the relocation, including our recommendation for the relocation methodology to be used in the recovery of the structure. We include as well , schematic site plans for three (3) potential relocation sites near the Riley House .

We have completed supporting documentatiion from our Consulting Structural Engineer, David C. Jones, P.E. and Mr. Charles Salter, Certified House Relocation Specialist, in order to substantiate our position that the school is in such condition that it warrants the the most extreme of historic preservation efforts; the disassembly and relocation to a new interpretive site in order to save it from demolition.

We are confident that an adequate case for recovery of the historic school can be made with this documentation, and we look forward to presenting our findings to your Board and the interested parties to this significant project.

We are prepared to assist the Riley House Board in the continuing efforts associated with the Lake Hall School recovery. If you have any questions, or require any further information regading the project, please contact our office at your first opportunity.

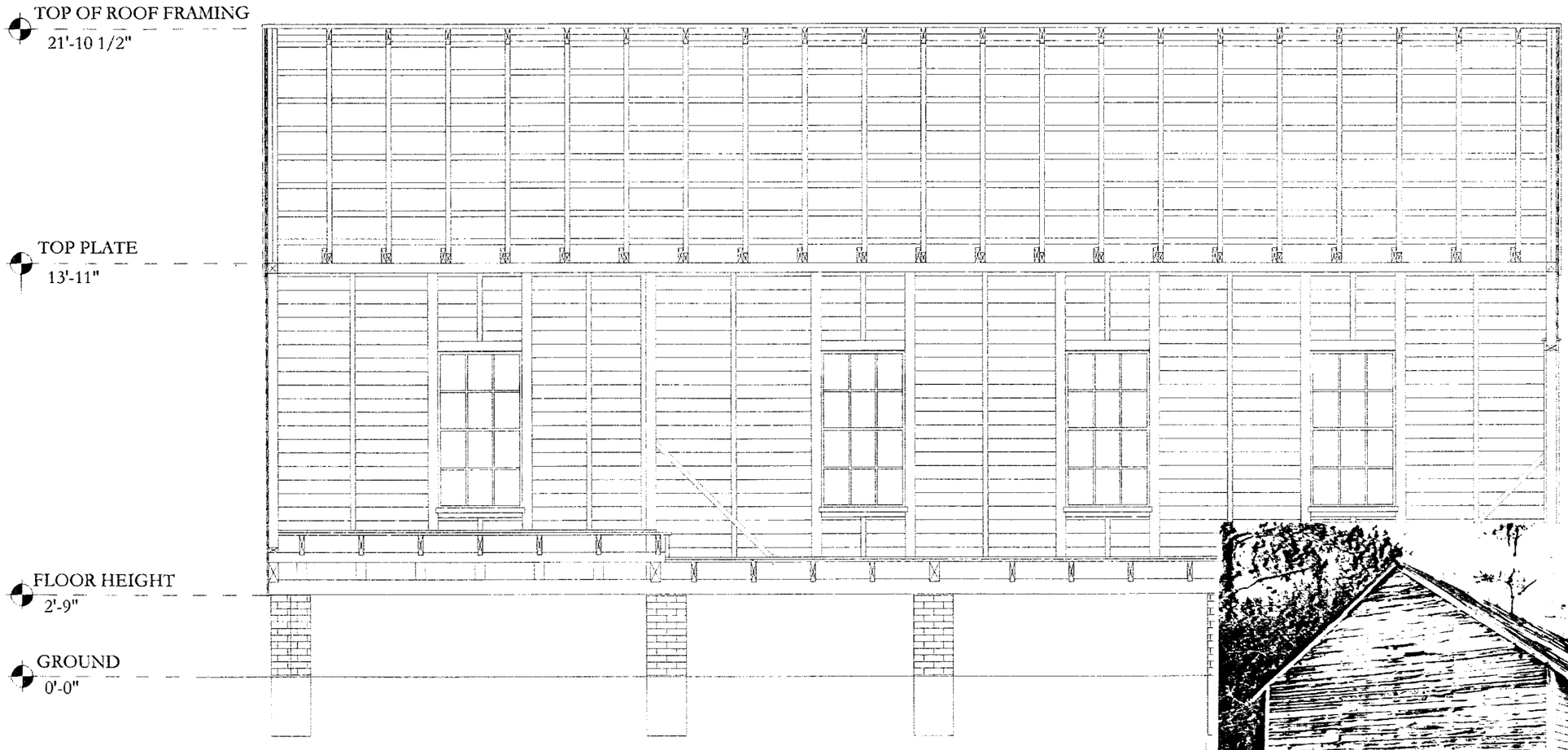
Sincerely,

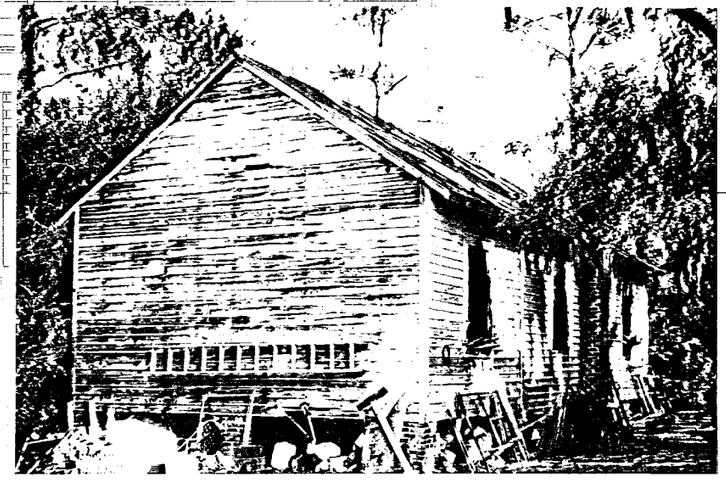
Mark A. Tarmey, Architect
Managing Principal
Huffman/Tarmey Architecture, P.A.

450 St. Francis Street Tallahassee, FL 32301 (ph) 850 / 222-0084
(fax) 850 / 222-0065 (e-mail) Huffarch2@aol.com

Huffman/Tarmey
Architecture
PA

Architecture
Urban Design
Preservation





Feasibility Study for the Relocation of the Lake Hall School

for the John G. Riley Museum and Resource Center of African American History and Culture

Feasibility Study for the Relocation of the Lake Hall School

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VI. Option A; Local Relocation

VII. Option B; Segmental Relocation

VIII. Option C; Disassembled Relocation

IX. Recommendation for Recovery

X. Graphic Site Plans for Proposed Project Location(s)

Appendix

XI. Grant Application; COPY
XII. Letter of Award; COPY
XIII. Structural Evaluation: Signed and sealed letter
XIV. Opinion of Certified House mover; Letter-COPY

Feasibility Study for the Relocation of the Lake Hall School

I. Work Scope Statement

The John G. Riley House Museum and Resource Center of African American History and Culture is a community based house museum whose mission is to identify, preserve and interpret the history of African-Americans in Leon County and the State of Florida. Established in 1996 as an expansion of the historic John G. Riley House, the museum researches the contributions and achievements of African-American culture as well as providing educational outreach through the production of exhibits, tours, and documentaries as well as other educational materials.

In an effort to extend its current range of exhibits, The Riley Museum/Center identified the last remaining one room Negro school house left in Leon County as a potential adjunct facility which would highlight the early education of African Americans. After obtaining the rights to the structure from its current owner, the Riley Museum/Center prepared a grant seeking the necessary funding to relocate the building that is currently in danger of being lost to nearby development pressure. In addition to its relocation, the study is designed to determine the financial and logistical feasibility to rehabilitate the structure to its 1874 condition, the year the school first appears in historic records.

In November, 2000, the Riley Museum/Center Board of Directors engaged the firm of Huffman/Tarmey Architecture, P. A. to prepare a feasibility study for the relocation of the historic Lake Hall African -American one room school house to a site adjacent to the existing site or in close proximity to the Riley Museum and Resource Center. The charge of the Preservation Architect was four fold. First the Architect was directed to inspect the existing structure and provide measured drawings. These documents will serve as a set of post construction design plans of the existing historic building. They will describe its materials and methods of construction and ensure that a permanent record of the existing building exists should it be determined that the structure could not or should not be removed from its historic context and existing site.

As a part of that effort, the Architect commissioned a structural analysis of the building by the Structural Engineer, David C. Jones, P.E. in order to determine the impact and physical ramifications of an intact relocation to one of two predetermined sites. Among those two parcels, the first being only eighty feet (80') from its existing location, and the second approximately four hundred yards south and east of its current setting. Each of these proposals were designated as *temporary* in nature and were to be undertaken in order to save the building from demolition anticipated with the proposed expansion of residential development on and adjacent to the original (and current) site.

The second goal of the study was to determine the logistical feasibility of the proposed project. To that end, the Architect commissioned a certified house mover with specific experience in the relocation of historic and endangered structures. Copies of both the Structural Engineers analysis and the letterform report by the house mover can be found in the appendix of this report.

Third and on going at this time was a new site feasibility study. The Architect in conjunction with the Riley House Museum/Center Board and staff had identified three potential sites adjacent to the Riley House. The Architect has prepared three separate sketch scenarios, one for each site

under consideration. Those site study graphics are also included in the appendix of this report. The determination of the new site is being joined and supported by The Trust for Public Land and efforts at securing the final site for the relocation continue.

While mentioned in the Grant application, operational feasibility is not a focus of this report. The operation of the relocated school as an adjunct museum facility is better determined by the Riley House staff. The Board and staff of the House Museum/Center will ultimately be responsible for its operation and management.

Finally this report will speak to several programmatic and interpretive feasibility issues associated with the proposed relocation and rehabilitation of the Lake Hall School.

Consistent with the Secretary of Interiors Standards for Rehabilitation, it has been noted that the removal of a historic structure from its original site and context is literally the last possible option for preservation. This endeavor should only be undertaken in the most extreme cases of endangerment of a historic structure. As such, the removed structure is viewed more as an artifact than a true historic place. This project presents just that scenario and is therefore one of several options under consideration. As with most projects, advantages and disadvantages present themselves. In this case, several particularly interesting opportunities for archeological, architectural, construction technology, educational, as well as the discovery of often-overlooked history present themselves. It has been the traditional practice in historic preservation to restore and protect significant places, in particular those structures, buildings, and homes of famous persons throughout history. It can be said that with the exception of a few authentic "communities", we most often seek to restore and preserve the domain of our leaders, political and military figures, and the captains of industry. Most of these are related to the persons and events of American heritage that make our history so rich. This project presents the antithesis to traditional preservation projects in terms of an opportunity to preserve a less grand, in fact humble, yet very significant structure. It should be recognized that the history of these kinds of buildings and places is vitally significant and important for their contributions to our society and the lives of the hundreds and perhaps thousands of people who were shaped by them over time.

Feasibility Study for the Relocation of the Lake Hall School

II. A Brief History of the Lake Hall School

According to a research paper presented by Florida State university student Seth A. Pajcic, the educational opportunities for African Americans in the last quarter of the nineteenth and first half of the twentieth centuries were significantly hampered to a large extent by the actions and discriminatory practices of State and local public officials. In Pajcic's words, African Americans were routinely subjected to racially biased legislative and funding practices resulting in "...crowded one room schoolhouses, with unsanitary conditions and outdated educational materials". Some time after 1960 most of these decaying structures were shut down by local school boards and their displaced students were integrated into nearby more acceptable public school facilities. As a result, many of the old school structures were abandoned, demolished or sold along with the lands they occupied.

Fortunately for the citizen's of Florida, a single example of the difficult conditions associated with African American education from 1870-1960 still remains in Leon County. The Lake Hall School served as an elementary schoolhouse and currently stands on its original site in formerly rural Northeast Tallahassee. The School is located on property owned by David S. Walker, Jr. and is currently used as a storage shed for Mr. Walker's landscape business. The building is a wood vernacular, single gabled structure.

The Lake Hall School remains in remarkable condition for a building considered to be one hundred twenty seven years old. The structure continues to deteriorate due to its continuous exposure to weather and utilitarian use. Like many structures of this archetype, its historic significance, long unrecognized, has resulted in unintentional abuse as a utility building. This has led ultimately to the demise of countless historic structures that heretofore have been considered less worthy of preservation efforts.

The Lake Hall School came into being during the time following enactment of legislation in Florida that created the first system of public instruction open to all races. Established in 1869, this measure resulted in almost complete segregation of public schools. Many new schools were constructed and opened beginning in 1870, with most School Boards quietly segregating their schools by building new facilities of starkly opposing standards for black and white student populations. The Lake Hall School first appears in Minutes of The Leon County Board of Public Instruction, on June 1, 1878. Ownership of the land upon which the school is located is uncertain at the time of its opening. The county eventually paid Edward and Harriet Nelson, presumably the owners or the heirs to the parcel, the amount of $16.00 for the property. With thousands of students in hundreds of small public schools throughout the state, an unofficial system of racially divided public education existed in Florida by 1880. Florida's common educational institutions became "officially" segregated with the ratification of the Florida Constitution on January 1st, 1885. The updated article of Education forbade white and African American children from being taught in the same school. The same document provided for "impartial provision of funds" for the segregated "separate institutions". The legislature did not however enforce the latter half of the law and allowed local school boards to allocate funding in a discriminatory manner. Legalized segregation resulted in outdated textbooks, inferior and inadequate supplies being the normal allocation of county provided materials in Negro schoolhouses. The appropriations of the Leon County Board of Public Instruction mimicked the disparities in funding statewide following ratification of the 1885 Constitution.

In the years before 1887, the monthly appropriation of funds to Negro Schoolhouses, including the Lake Hall School, equaled that given to white elementary schools throughout the county. For most of the remaining years of the nineteenth century in fact until after 1905, the monthly allotment to the Negro schools fell to almost 26 percent below what the board appropriated to white schools. A series of laws that took effect during the 1890's resulted in further inequities between white and Negro schools, including teacher shortages. It was these teacher shortages which forced many Negro one room schoolhouses to close, however the children of Northeast Leon County were fortunate that a variety of African American educators taught in the Lake Hall School, allowing it to remain open while many others were closed. The Lake Hall School, like many others suffered from the general and intentional lack of state and local funding, depended on parents and northern benevolent associations to furnish textbooks and supplies. In the era following the Civil War it was the Northern Benevolent (formerly Abolitionist) Societies that provided funding and improved treatment of former slaves. Inadequate funding also resulted in schoolhouses without blackboards, and students sharing desks or sitting on the floor. Also evidenced in the history of public school education in Florida were physical conditions that made the education of children particularly grueling. Wood structures with tin metal or cypress shingled roofs, lacking insulation, ventilation, heating or sanitary restroom facilities were common for rural Negro schoolhouses. The Lake Hall School is no exception, with evidence of a single wood stove for heating.

Primitive conditions characterized the Lake Hall and other Negro schoolhouses until 1920 when the state took notice of the deplorable conditions of African American education. It appointed I.M. Brinson as State Supervisor of Negro Education that year with the goal of providing adequate supplies and teaching materials for the education of African American students, including a 1925 initiative that provided free textbooks for the Negro schools. Lake Hall School typified the rural Negro schoolhouse of this era, providing no toilet or washing facilities. Children used nearby trees and bushes for make shift privies. According to oral histories provided by past pupils, students brought their own drinking water from the nearby lake, because the schoolhouse did not have a well. Prior to class, children gathered firewood to burn in the stove that heated the school in winter. They used the same stove to cook meals year round, which usually consisted of corn meal for bread and dried beans provided by their parents. According to the same oral accounts, the school contained one blackboard for the more than eighty students in five and sometimes seven different grade levels taught at the school. The children sat in rows of benches, likely procured from a local church, not at desks. Typically, only one person taught all eighty children. The schoolhouse does not now and apparently seldom had any paint on the exterior. Any improvements made to the structure were usually made by students and their parents.

The Lake Hall School was closed following the 1949 school year. The Leon County Board of Public Instruction began to identify and shut down a number of the older and more dilapidated Negro schoolhouses, and a majority of the students were transferred from the Lake Hall School to the more modern Lake McBride School. While many students had to travel a greater distance to attend school, the idea of a school complete with its own well and restroom facilities provided immense comfort in comparison with the old Lake Hall School.

Feasibility Study for the Relocation of the Lake Hall School

After the School Board closed many of the one-room schoolhouses, the properties were often sold to neighboring property holders and various individuals. The structures were generally demolished or converted into a variety of utilitarian uses. Fortunately the Lake Hall School was not demolished Isaac and Martha Randolph purchased the property from the county in the later 1950's and in turn, sold it to David Walker, Jr. in 1976. Mr. Walker understands the significance of the structure and expressed his desire to donate the structure to the Riley House Museum/Center as an adjunct to their existing House Museum, the former home of John G. Riley, the first African American School Principal in Leon County and a noted public educator.

Existing Conditions Report

Feasibility Study for the Relocation of the Lake Hall School

III. Photographs



The Lake Hall School. Currently used as a Storage Building

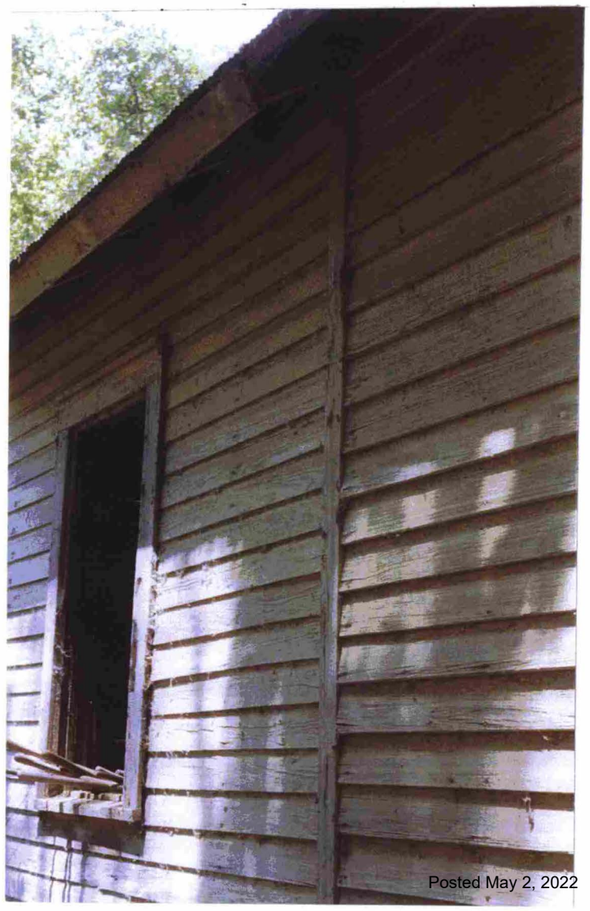


The Lake Hall School showing the Addition on west end and window fenestration pattern.



The Lake Hall School. View looking northwest, suspected addition and different siding materials.

Close up of siding and seam between the original structure and the suspected (undated) later addition.
Note the change in the siding material and spacing. Also, note the change in roof fascia detail.



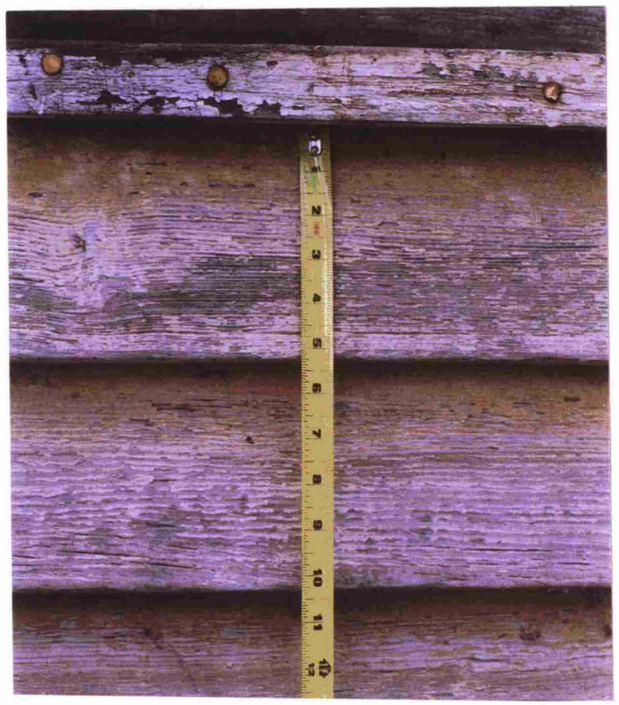
Posted May 2, 2022

Feasibility Study for the Relocation of the Lake Hall School

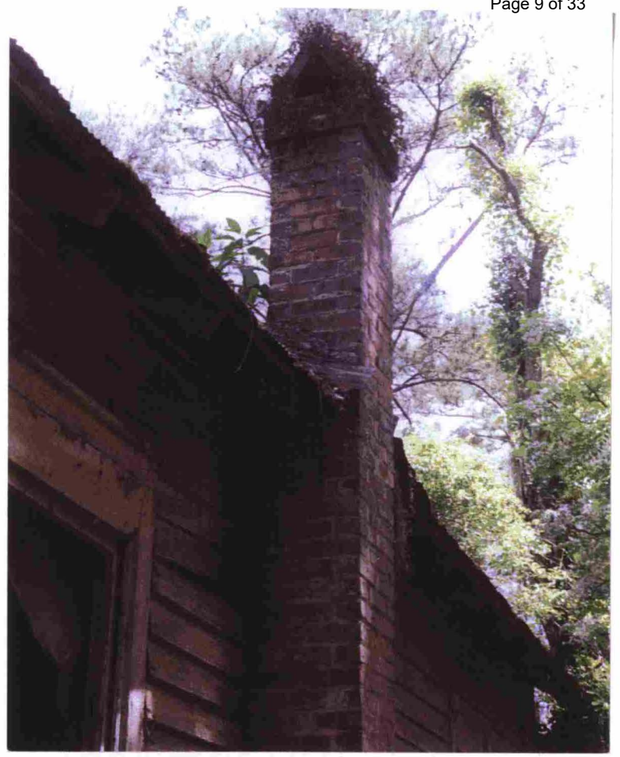
III. Photographs (continued)
Page 2



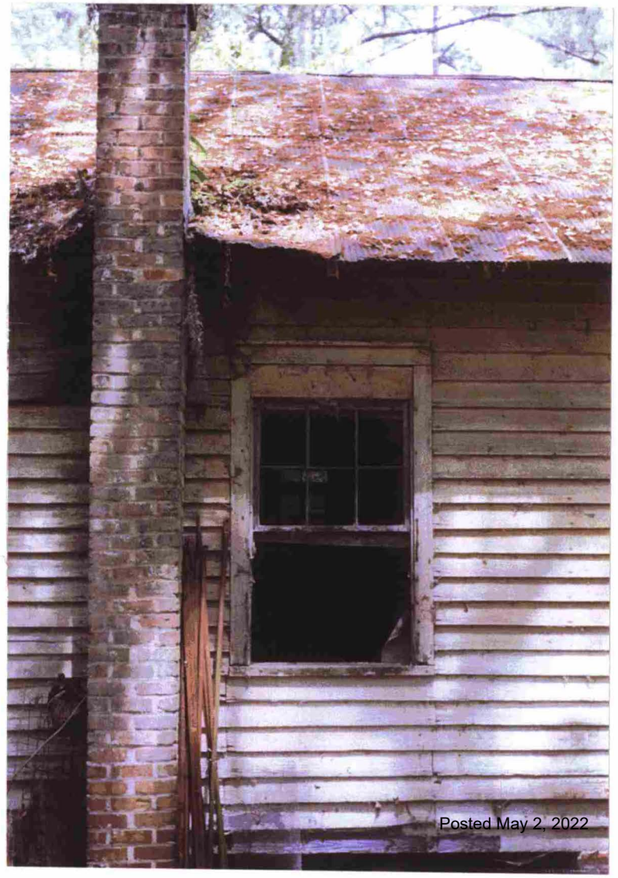
The beveled siding on the main or "original" portion of the Lake Hall School. Measurement Is 6" with 5" exposure.



The "drop" siding on the suspected (undated) addition of the Lake Hall School. Measurement Is 6" with 5-1/4" exposure.



The Lake Hall School. Chimney detail. Clay pipe flue enters building 7 feet above floor. Metal wood burning stove mentioned in oral history accounts is no longer present

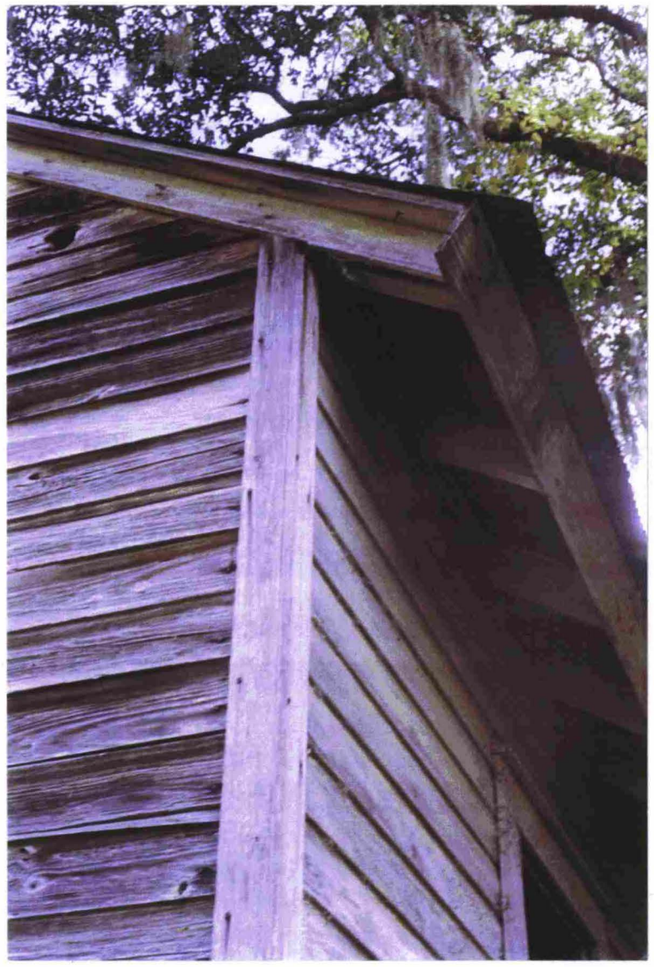


Chimney and adjacent window on south elevation. Note, common framing blocking at top of window. Former proportions indicate original window size. Sashes present in the openings are replacements and do not match the original sash dimensions.

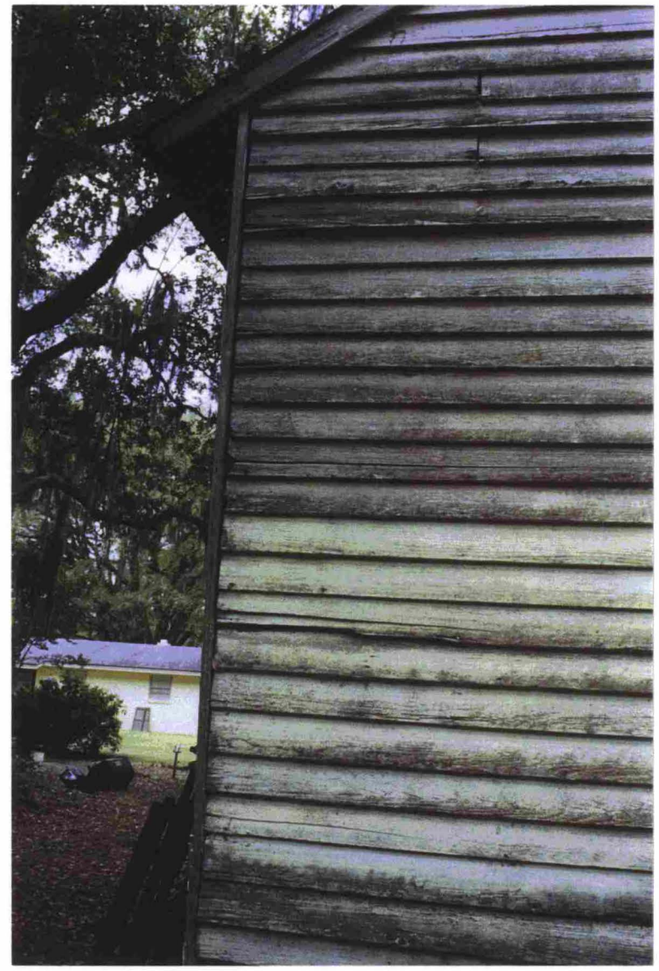
Posted May 2, 2022

Feasibility Study for the Relocation of the Lake Hall School

III. Photographs (continued)
Page 3



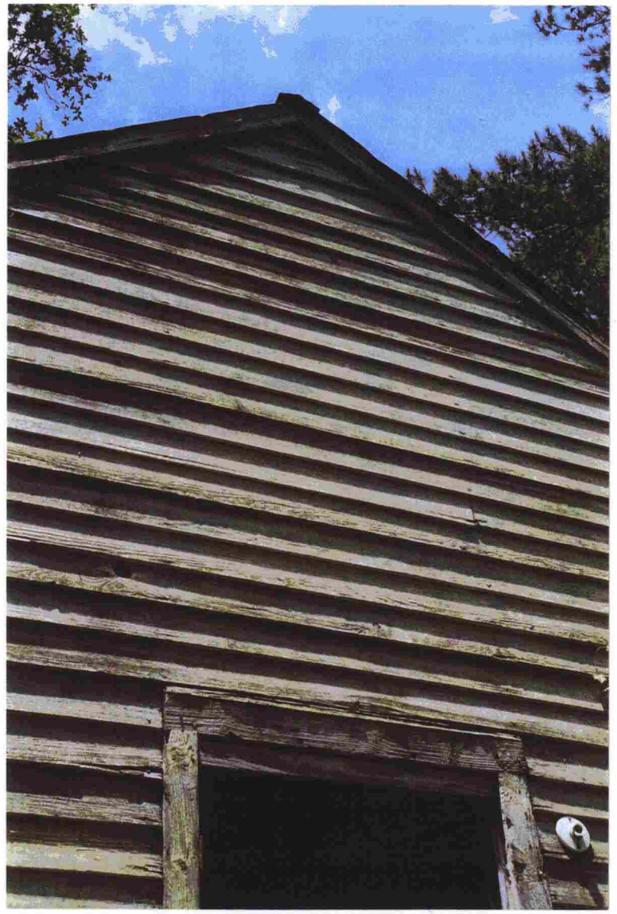
Corner trim at addition.
Southwest corner of building.



Simple trim condition at corner of "original" Lake Hall School.
Southeast corner of building.

Feasibility Study for the Relocation of the Lake Hall School

III. Photographs (continued)
Page 4



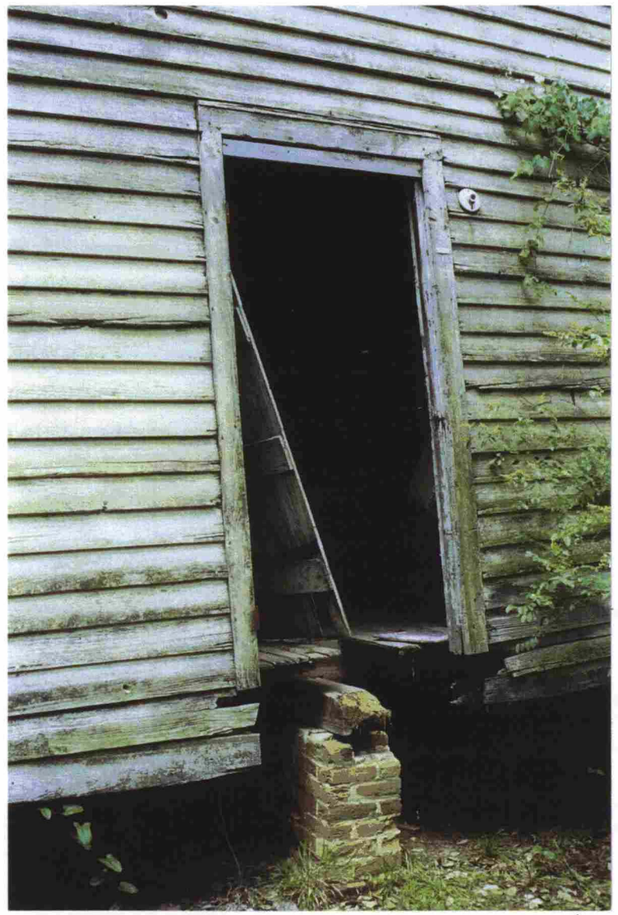
East gable of Lake Hall School.
Note gable end and door detail.



Southeast corner of original structure.
Note 6"x 8" perimeter beam set with the 8" dimension bearing. Perimeter beams are typically set with the short dimension down. Notched joists run perpendicular.

Feasibility Study for the Relocation of the Lake Hall School

III. Photographs (continued)
Page 5



The Lake Hall School. Primary entry door. Note door in opening, no longer attached to frame. Severe deterioration present at perimeter frame in north-south direction. Stairs once located here Have been removed.



Close up view of former school entrance and deteriorated perimeter beam. Note original pier form and construction. Door and window frame details and construction clearly discernable.

Feasibility Study for the Relocation of the Lake Hall School

III. Photographs (continued)
Page 6



The extended center beam under the west end addition to the Lake Hall School..

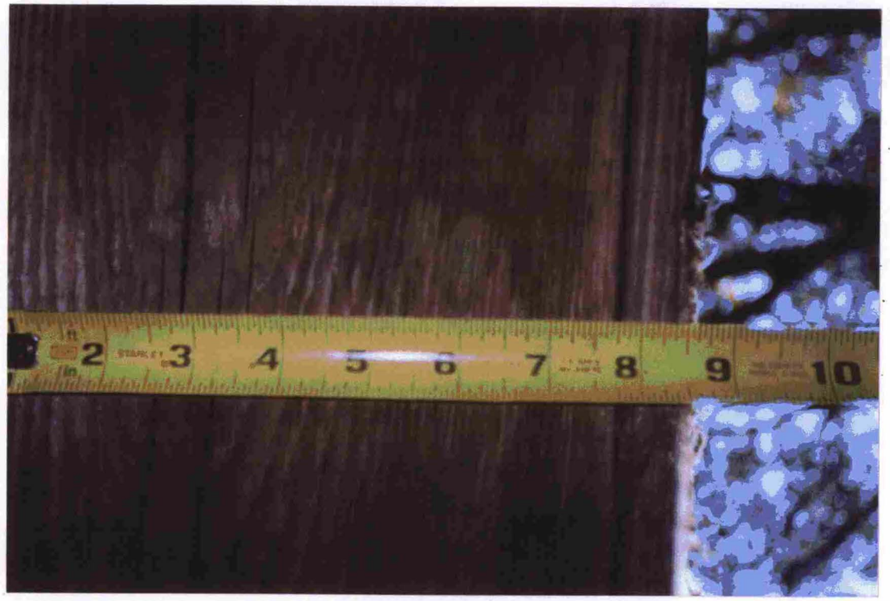


Photo of perimeter beam, dimension in flat dimension from under the school.



A shaped pier at northwest corner of Lake Hall School. The pier at the southwest corner is the same, opposite hand.



Photo of perimeter at addition on west end. Lower beam is the extension of original school. This provides platform raised above former level of school.

Feasibility Study for the Relocation of the Lake Hall School

III. Photographs (continued) **Black and White Series**
Page 7



The Lake Hall School. Typical floor framing under original school.



Floor framing under addition on west end of school..



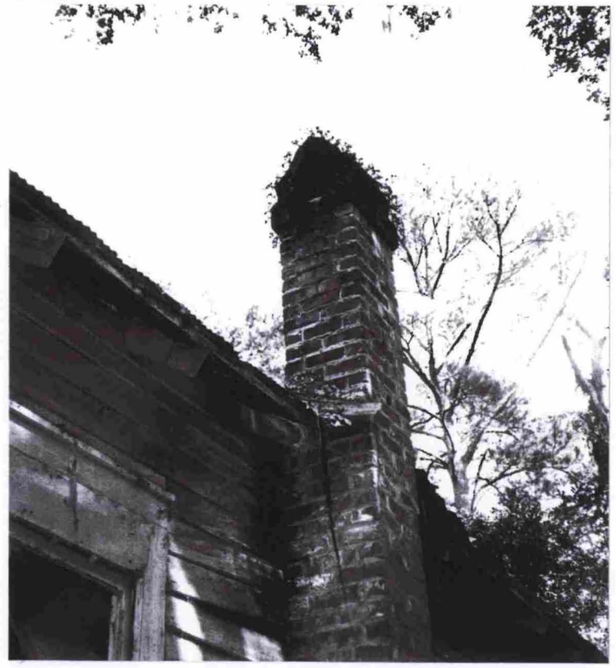
Floor framing at the center pier at intersection of original structure and addition.



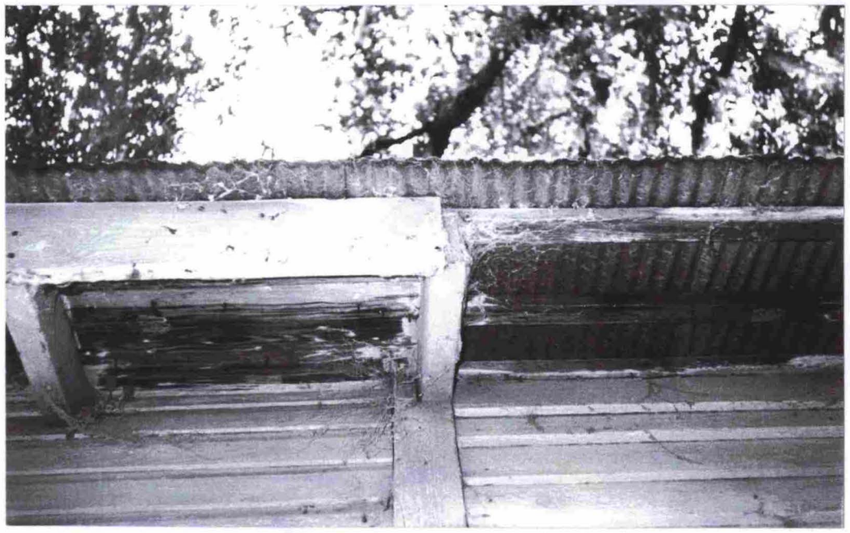
Perimeter of structure on south side at intersection of original structure and addition

Feasibility Study for the Relocation of the Lake Hall School

III. Photographs (continued) **Black and White Series**
Page 8



The articulated arched chimney interface at roof.

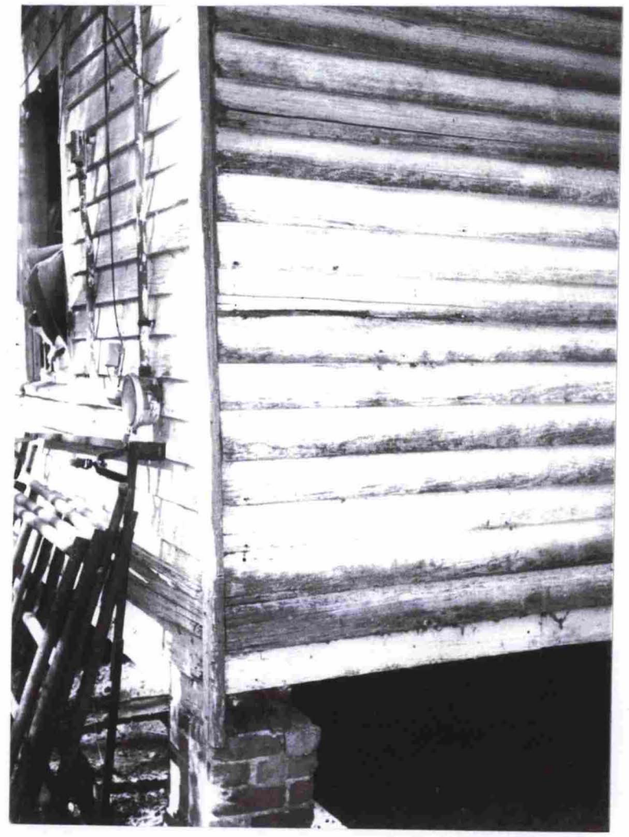


The change in roof sheathing and framing between original and addition.
Note the roof is sheathed at the addition .and uses purlins at the original.
This suggests a different roof material was also used on the original.



The roof rafter end detail at the addition on west end of schoolhouse.

Electrical meter suggests the
building had electric lighting.



Feasibility Study for the Relocation of the Lake Hall School

III. Photographs (continued) **Black and White Series**
Page 9



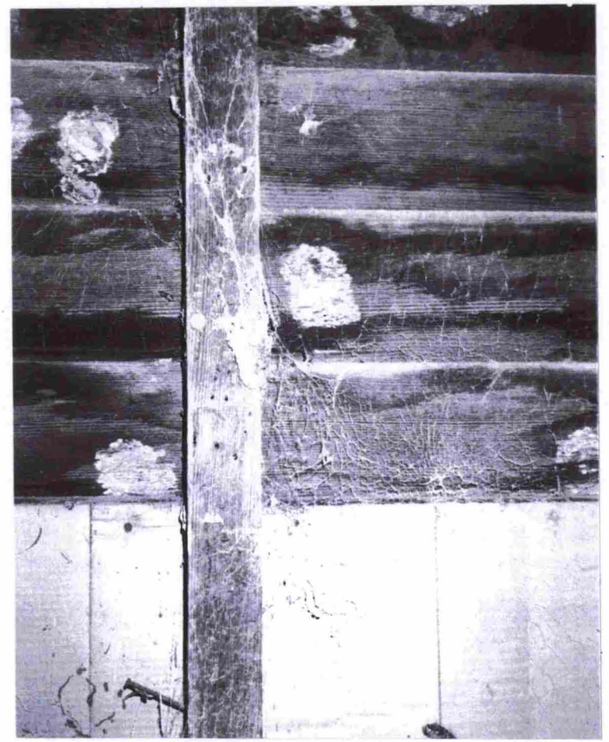
Interior of underside of roof framing in original structure. Note purlins and tie rafters. Also note 4"x4" top plate with 1" x 2" flat trim to finish ceiling.



Clay pipe flue for wood burning metal stove.



Another view of roof and remaining wood ceiling.

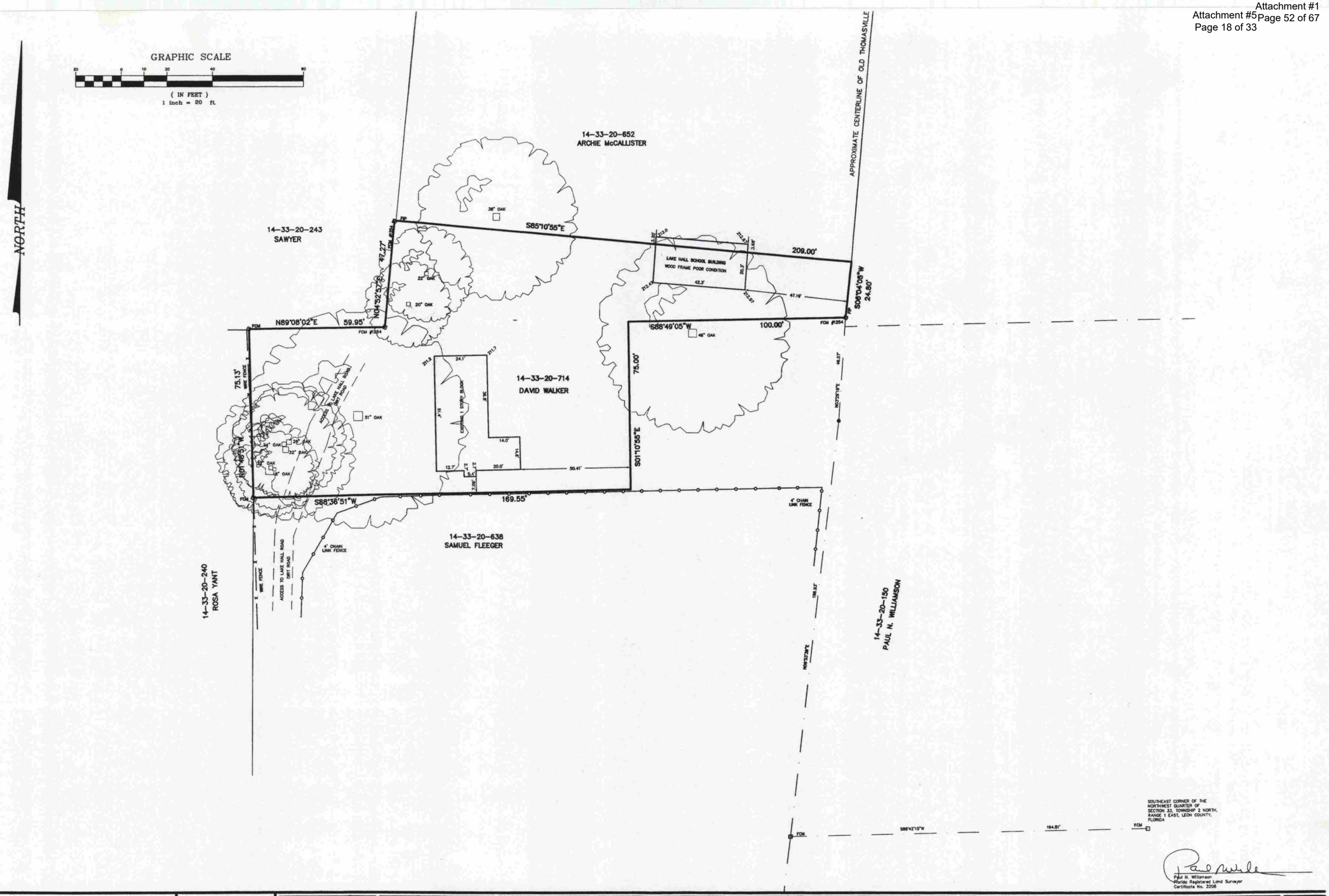


The Lake Hall School. Interior walls have regular Nail pattern indicating some interior wall finish.

Feasibility Study for the Relocation of the Lake Hall School

IV. Measured Drawings

The following drawings are the result of our field investigation in order to produce a set of construction drawings that document the existing conditions of the structure.



Paul N. Williamson
Florida Registered Land Surveyor
Certificate No. 3208

DRAWN BY:	PNW/AEP
CHECKED BY:	X
DATE:	11/09/01
SCALE:	1" = 40'
PROJECT NO:	4096-001
CAD NO:	4096-001
STATUS:	
FIELD BOOK:	626
PLOT DATE:	

REVISIONS

Allen Nobles & Associates, Inc.
TALLAHASSEE • CHIPLEY • DESTIN • PENSACOLA

PROFESSIONAL LAND SURVEYING, MAPPING, AND CIVIL ENGINEERING
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2720 PABLO AVENUE
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CLIENT: HUFFMAN TARMEY ARCHITECTS

PROJECT: LAKE HALL SCHOOL PROPERTY

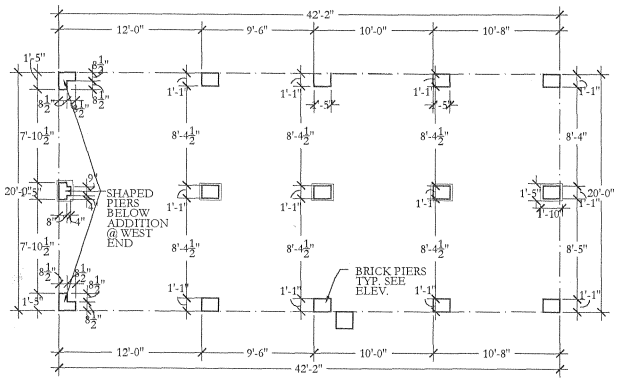
SHEET TITLE: SKETCH OF DESCRIPTION OF LAKE HALL SCHOOL

SEAL

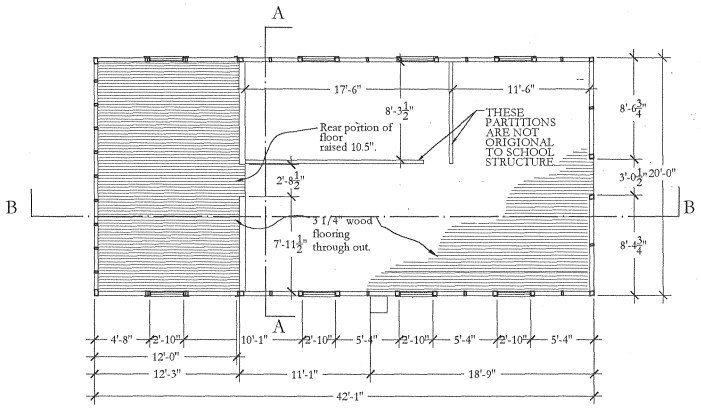
NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

SHEET

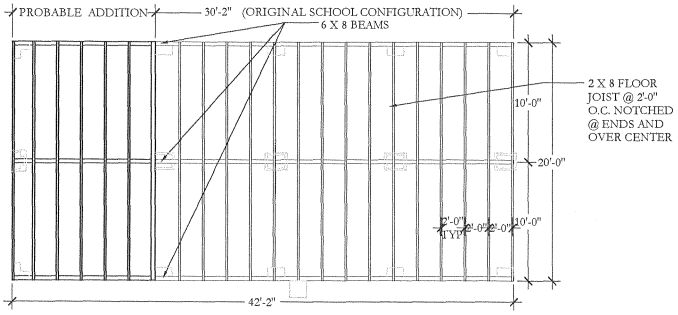
Posted May 2, 2022



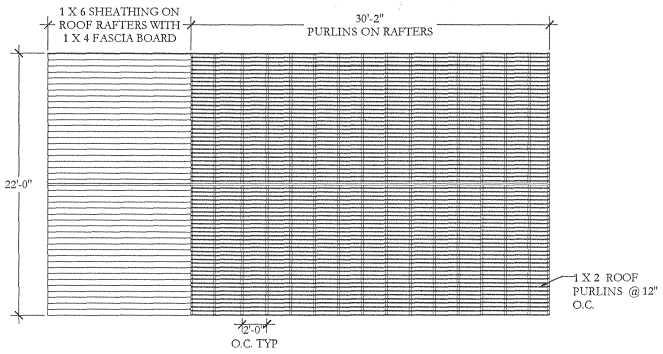
FOUNDATION PLAN
SCALE: 1/8" = 1'-0"



FLOOR PLAN
SCALE: 1/8" = 1'-0"



FRAMING PLAN
SCALE: 1/8" = 1'-0"



ROOF PLAN
SCALE: 1/8" = 1'-0"

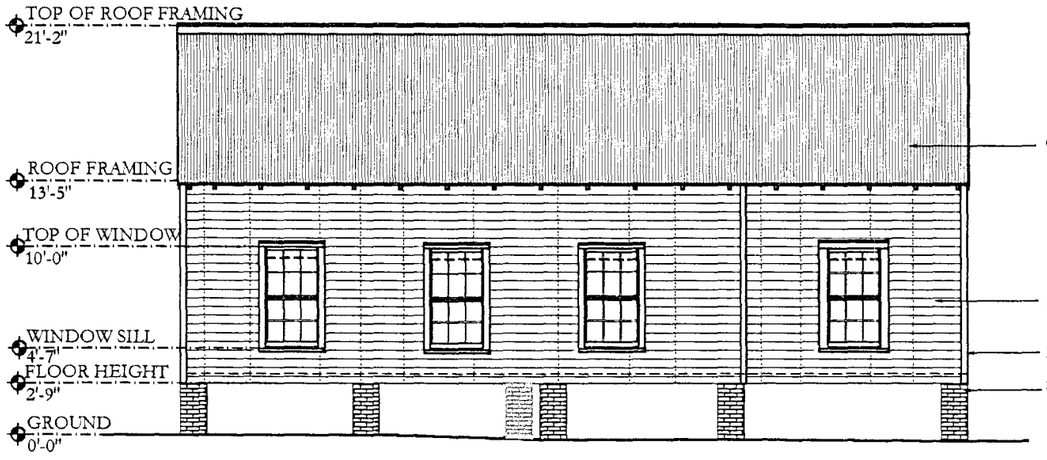
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(e-mail) Huffarch2@aol.com
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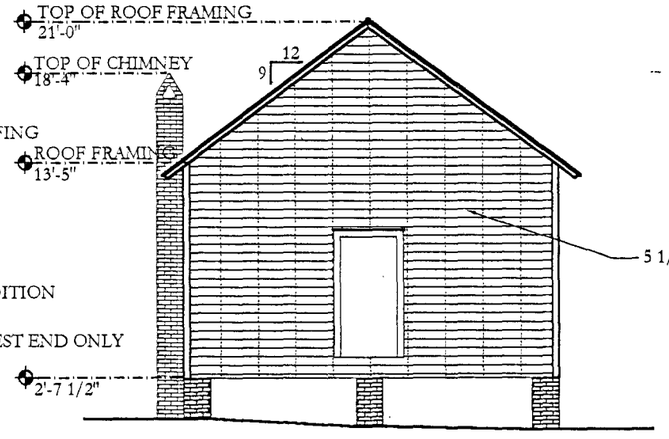
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AA0003409



NORTH ELEVATION

SCALE: 1/8" = 1'-0"



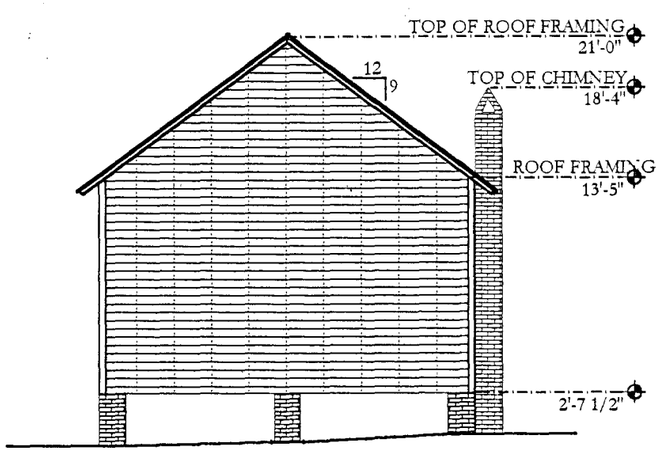
EAST ELEVATION

SCALE: 1/8" = 1'-0"



SOUTH ELEVATION

SCALE: 1/8" = 1'-0"



WEST ELEVATION

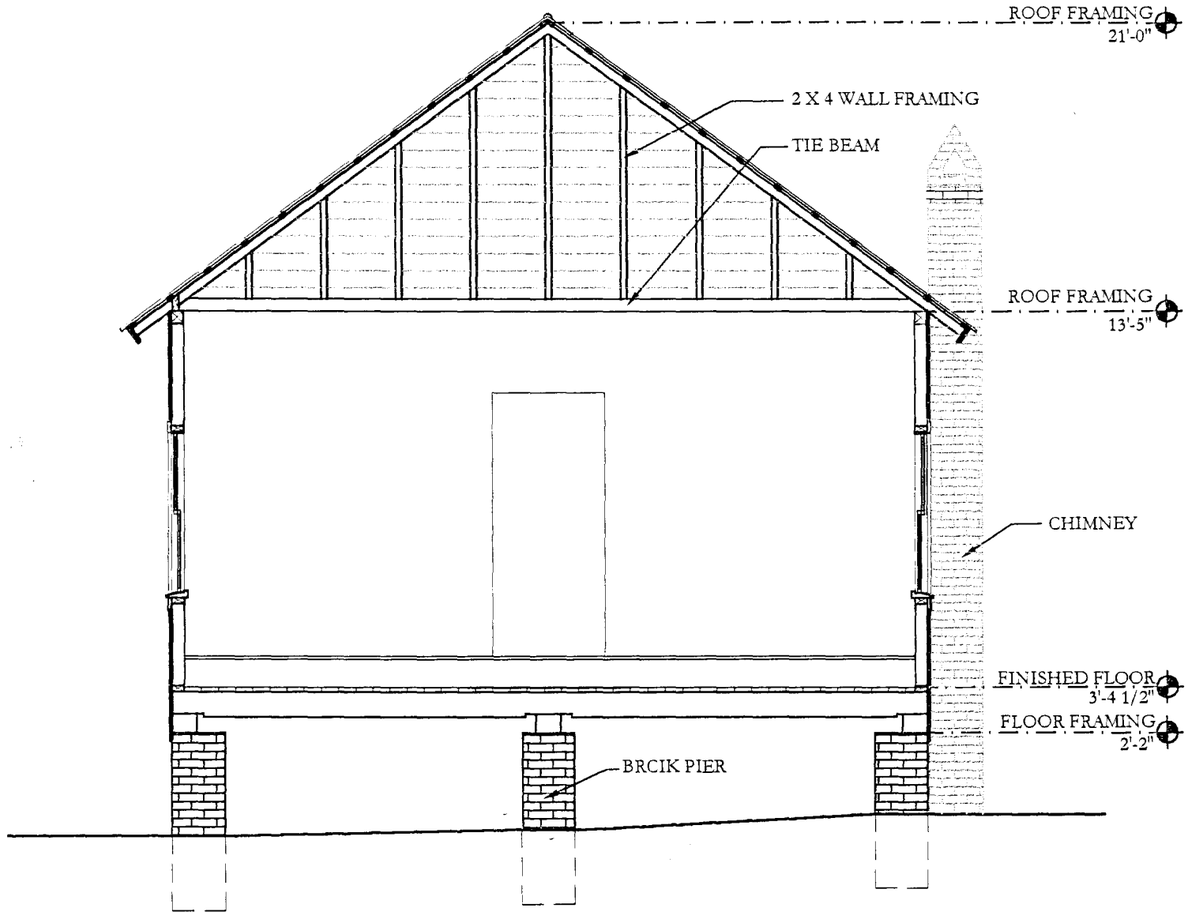
SCALE: 1/8" = 1'-0"

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PA

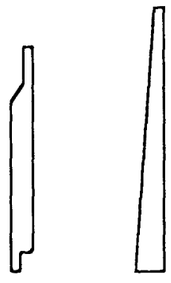
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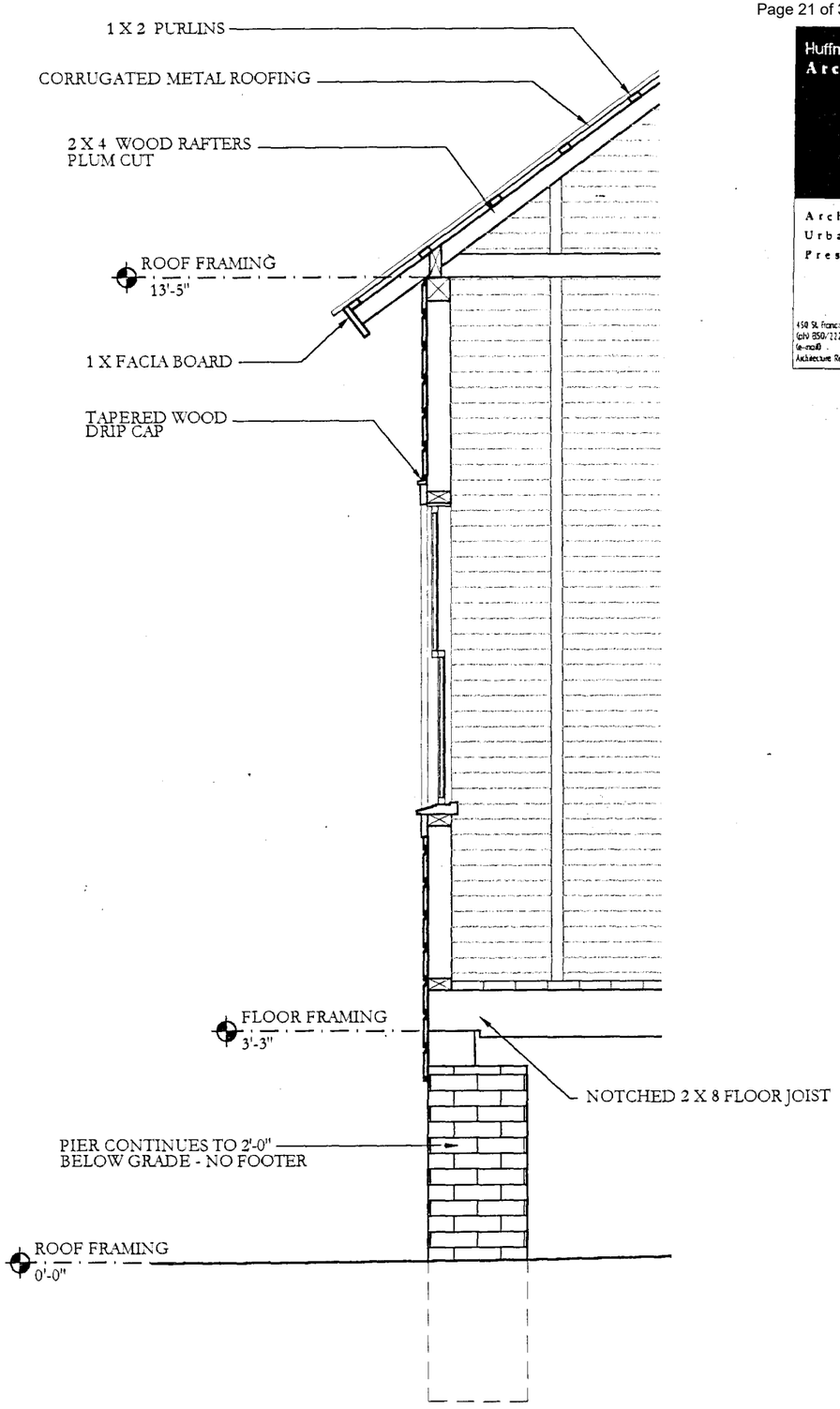
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SECTION AA
SCALE: 1/4" = 1'-0"



DETAILS
SCALE: 1 1/2" = 1'-0"



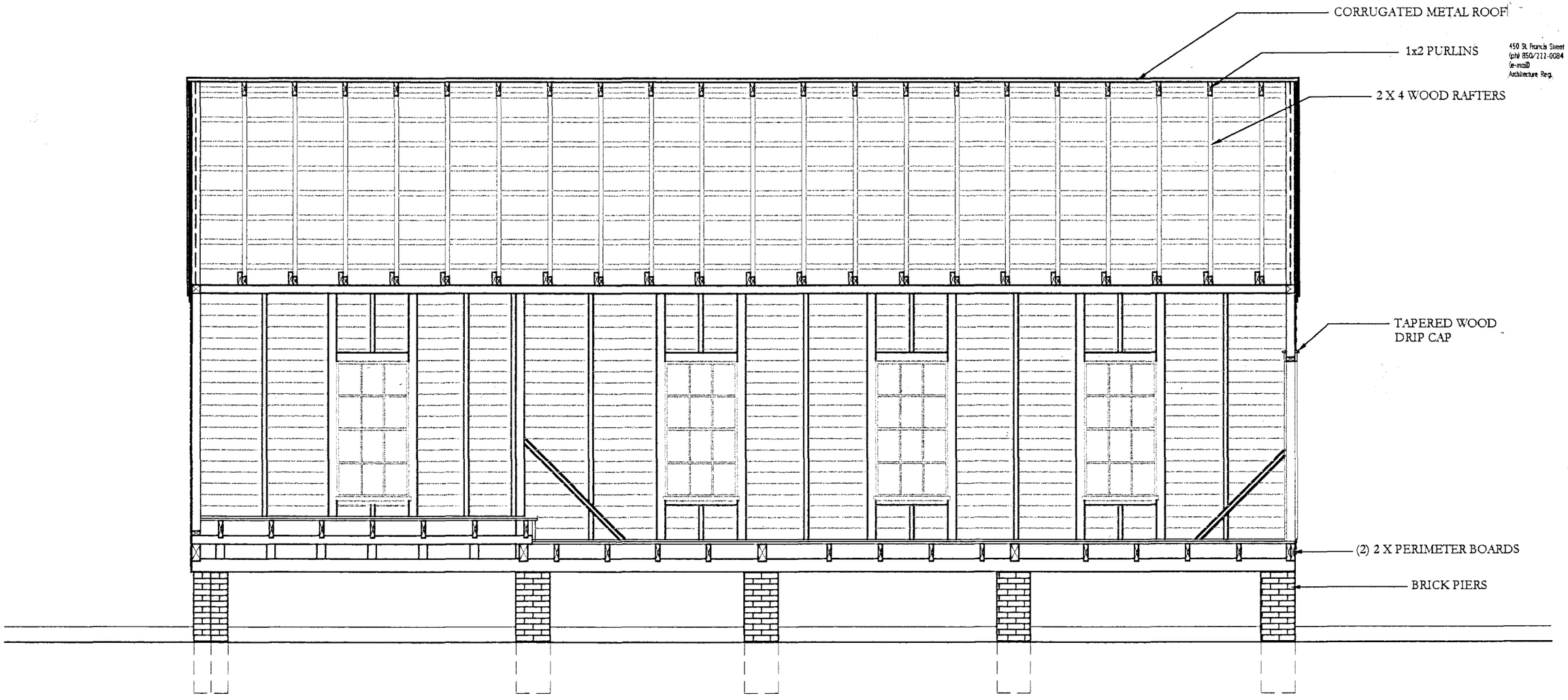
WALL SECTION
SCALE: 1/4" = 1'-0"

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SECTION BB

SCALE: 1/4" = 1'-0"

Feasibility Study for the Relocation of the Lake Hall School –

V. Field Observations

The structure has several interesting characteristics and clues as to its evolution. The most obvious and striking feature is the undated addition on the west end of the building. This later addition has several distinct differences, including the foundation, framing, siding and roof sheathing. See photos page 1.

The building has been altered with several interior partitions and all but one of the original windows has been removed. Most of the windows have been retrofitted with filler blocking and smaller sashes from replacement windows.

The original structure would appear to have been 30 feet in length, as opposed to the nearly 42 feet of existing overall length. The date of the addition is unknown, and not mentioned in written accounts of oral histories about the school. The foundation of the addition consists of "shaped" piers in lieu of the traditional stacked brick straight piers found under the "original" structure. The interior framing of the "original" structure is actual 4"x 4" posts in each corner with 2"x 4" diagonal bracing and a single intermediate 2"x 4" centered between the 4"x 4" posts found on each side of the four double hung windows. The addition is raised approximately 10" above the original schoolhouse floor, and was probably used as a teacher's platform. The wall framing in this area is also balloon framed, but utilizes single 2"x 4" members at 24"on center with double 2"x 4"s on each side of the windows as king studs with a trim stud, in lieu of the heavier 4"x 4" single king framing members found in the original lower portion of the schoolhouse. Corner posts in the "addition" are 4"x 6" timbers.

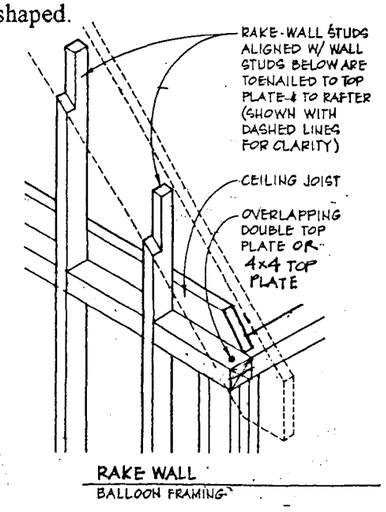
The framing system used for the construction of the school is consistent with common carpentry practice of the time. The walls are balloon framed, meaning that the studs are continuous from the floor or sill plate to the top plate. This framing system was developed in the 1840's and is considered to be the predecessor of the modern framed wall. This is particularly noticeable at the east and west gable ends where the studs frame through the top plate and continue to the gable end rafters. Please see the detail provided.

Feasibility Study for the Relocation of the Lake Hall School

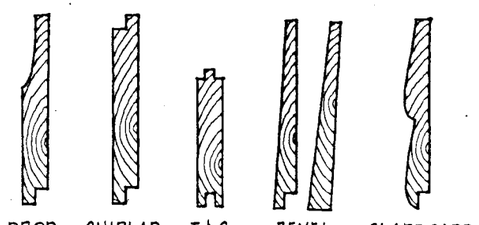
Field Observations (continued)
Page 2

The foundations under the original school frame are typical friction type piers, a stack of interlaced running bond brick masonry 17" square (including masonry joints) with the exception of the three piers at the west end of the structure. These three are shaped piers, designed to accept the extended ends of the additions foundation beams. The north and south piers are 'L'-shaped and the center pier is 'T'-shaped.

Balloon framing allows for ease of construction and economy of material and stabilizes a tall wall where there is no horizontal structure at the level of the top plate



The siding profile also is changed from the "original" structure to the "addition". The original structure was sheathed in 51/2" exposure lapped siding with a straight bevel. This siding is the most common and produces a flat yet slightly tapered plank that has a narrower dimension at the top width than at the bottom. The "addition" has a "drop" profile, indicating a slightly more refined, milled product, where the siding boards have been shaped through the use of a planer or a tooling knife. The resultant effect is a rectangular shaped siding board with a shallow scallop taken out of the top third of the plank when viewed from its end. The bottom eighth is notched to accept the scallop of the next board, ensuring that the fastener, usually a cut nail was protected from the weather.



Feasibility Study for the Relocation of the Lake Hall School

Field Observations (continued)
Page 3

Both siding materials are presumed to be long leaf pine or cypress, the most abundant tree species used for construction at the time of the original construction. See photos page 2 and 3.

The floor framing is unique in that the primary floor beams are laid flat on their short dimension in lieu of being set in the traditional manner long axis. The perimeter and center floor beams are 6"x 8" rough sawn heart pine.

The beams are laid on their wide dimension so that the 6" dimension is spanning the distance between the brick piers. The floor framing is actual 2'x 8' floor joists at 24" on center. The perimeter bear on the east end beneath the main door is severely deteriorated. A portion on the north side of the center beam has been repaired with common framing lumber and additional rot and damage has occurred to that wood. See photos page 4.

Each of the 2"x 8" floor joists runs in the north-south direction the full width of the twenty feet plus width of the structure. Each individual joist is notched into the north and south perimeter beams and notched over the center beam. All are toe nailed in place with cut wire nails.

The floor framing beneath the addition or "platform" section was more than likely "engineered" during construction, as the methods of carpentry are not standard. The center and perimeter beams are continuous and 3"x 4" "cripple" studs or jacks are placed on top of the main beams and toe nailed in to support an additional 4"x 6" beam running parallel to the main beams. Again, 2"x 8" joists are notched and nailed into these secondary beams to create the platform.

The flooring is consistent 1"x 3-1/4" tongue and groove pine and the ceiling appears to be 1" x 6" pine. The ceiling is supported by flat 2"x 6" tie rafters angle cut to the pitch of the roof, nailed into the descending rafters at the top of the balloon-framed walls.

Roof framing is common framed 2"x 4" rafters with flat battens at 12" on center over the "original" structure. The rafter tails are exposed in this section of the building. Over the newer "addition", the roof is supported on the same 1"x 6" sheathing found at the ceiling. The cause for the change in construction methods is not known. The rafter tails on the addition have a 1'x 4' fascia board, with no soffit. The purlins or 1" x 2" flat battens indicate that perhaps a cedar shingle roof preceded the corrugated metal currently used as roofing material.

The interior stud walls have evidence of a regular nailing pattern that might indicate that an interior wall sheathing material was once present. There are no remaining interior wall finishes. And in fact additional nails and nail fragments punctuate the interior studs, making a definitive determination of wall finish impossible. The wall finish is not indicated in the written accounts of the oral histories taken from former students. We speculate that any finish may have been wood from the nail pattern. Horsehair plaster on wooden lathe was a common interior wall finish at the time of construction of the Lake Hall School, and is known to have been common for other buildings constructed in Leon County during that time. It is however unlikely for plaster to have been used for such a humble and functional building.

The purported original door exists, off its hinges just inside the doorway. It is a common butted plank on a cross frame with a hollow metal cast knob. Hinges and knob set are severely rusted and is also not likely original to the structure due to their craftsmanship and apparent age.

The windows and doors probably have the most significant damage of all of the variety of parts and pieces of the building. One window in the original structure and one window in the addition (probably recovered from the original seem to match in size, proportion and material. The mullions are very thin wood indicating less expensive plate glass glazing. Most windows have blocking added at the tops, consisting of short pieces of common framing lumber. This blocking is typically inserted to reduce the overall window height, and to hold the window frame in square. Shorter, non-matched sashes have been installed in place of the original double hung sash members in the abbreviated or foreshortened frames.

Several interior partitions have been erected over the time that the old school structure has been used for a utility building. None of these partitions seem of material or character to have been original to the school. No interior partitions are found in the oral histories or recollections of former students of the Lake Hall School.

The site is relatively flat with dense overgrowth immediately north of the structure. There is a large Live Oak tree immediately south of the school building that provides shading for the majority of the day. As is typical with vernacular construction, the building is oriented east west along its primary axis to minimize solar exposure and aid in passive cooling. The area west and south is primarily open and flat. Please see the survey/site plan for reference information regarding building orientation.

The site is relatively flat with dense overgrowth immediately north of the structure. There is a large Live Oak tree immediately south of the school building that provides shading for the majority of the day. As is typical with vernacular construction, the building is oriented east west along its primary axis to minimize solar exposure and aid in passive cooling. The area west and south is primarily open and flat. Please see the survey/site plan for reference information regarding building orientation. Please refer to the Survey/Site Plan provided in the measured drawings.

Electricity was installed in the building at some point, but it is not clear if it was ever provided with electricity while serving as a school. An electric meter device and several simple electric light fixtures are located on the building interior and exterior. The building currently does not have electric power supplied to it.

The building is currently being used a storage structure for a landscaping business.

END FIELD OBSERVATIONS

Feasibility Report and Recommendations

Feasibility Study for the Relocation of the Lake Hall School

Option A: Local Relocation

Option A involves two short haul, temporary relocation scenarios, designed to recover the structure by dislocating it from its current site in an effort to remove the immediate development pressure of the existing and adjacent sites.

The first option is to relocate the structure some eighty feet from its current location (80') in an effort to simply get out of the way of pending redevelopment of the existing site.

Option A also examines a second short haul relocation as a temporary solution, but could serve as a more permanent relocation, placing the school near the intersection of Lake Hall and Thomasville Roads. This also serves only short-term goals and has several drawbacks in the management and operational aspects of the potentially renovated building.

As mentioned in the structural report, each of these scenarios anticipates typical house moving practices in order to relocate the building intact. However, due to the age and condition of the materials, and the particular framing method, the building is not well suited for any intact relocation effort. Due to the fact that balloon framing has inherent defects in lateral bracing, the rigors of pulling the structure will make it susceptible to structural failure and collapse from the pressure exerted by the towing vehicle. Also of concern with this type of relocation is the path or access to the site. Unfortunately, the road leading into the site has limited clearance between large trees as well as overhead obstructions from tree branches and power transmission lines. Given that the existing building is in excess of twenty feet tall, placing it on the appropriate tractor/trailer vehicle would also require raising the entire structure to approximately five feet above finished grade, in order to remove the existing brick masonry piers and position the support carriage beneath the structure .

In the opinion of the Structural Engineer, a local move is advisable only when the goal is to relocate the building a short distance, where an open access lot or adjoining property with no clearance restrictions is available. The Engineering report also does not recommend transport where use of major roadways is involved. Finally, the building would require reinforcement of the floor system, walls and roof elements to allow for absorption of the dynamic loads encountered in such a move.

The roadway into the site presents a significant obstacle with two large pine trees spaced only fourteen feet apart as well as a forty foot long section of chain link fence narrowing the roadway to sixteen feet. The school building is approximately twenty feet wide and these access restrictions preclude its safe passage out of the drive area.

Please refer to the findings and observations by the Structural Engineer, found in the appendix.

Feasibility Study for the Relocation of the Lake Hall School

Option B: Segmental Relocation

Option B would involve segmenting or breaking the structure down into smaller more easily transportable sections that could be accommodated by the restrictive widths and clearances of the proposed and necessary relocation path.

Given the overall size and height of the existing structure, as well as the desire to ultimately transport the structure to a location near the Riley House Museum in downtown Tallahassee, the structure would necessarily require separation into four or five large pieces in the transverse direction (north–south). This would also require the complete removal or disassembly of the roof and roof frame, including rafters and tie beams. By doing so the structure would become slightly unstable and would likely require lateral shoring in the form of bracing and lateral support. It is felt that the lateral bracing would best be accomplished by installing plywood on the interior walls and disassembling the structure at strategic sheathing and framing seams into manageable sections. In addition to the significant loss of context, it is strongly felt that the simple loss of material may also render the structure un-repairable in terms of the removal of continuity in the structure and potential additional damage to delicate but undamaged components.

While the segmental relocation may be somewhat viable from an ease of transport standpoint, it would dramatically increase the amount of material and cost of temporary required bracing and reinforcement needed to accomplish the task of holding the segmented pieces of the building together. Many of the same disadvantages to the local or intact relocation also apply to the segmental relocation. The widths of access drive, spacing between trees and radius of access road and driveways all have the same bearing on the physical relocation of large segments of the structure as an intact relocation effort.

Other less desirable results of the segmental relocation scenario present issues that must be considered prior to making a decision to attempt this type of extraction. Repairs to the original framing at each cut line would severely diminish the value of the relocated structure from its authenticity. Additional, non-historic new framing members will be required to re-frame or stitch the framing back together upon completion of the move. Another concern is that the new framing will not only devalue the historic value of the structure but also make the original unique construction characteristics unclear. The incorporation of these non-historic framing members will also necessitate much more interpretive information as the simplicity of the vernacular structure will no longer be the leading argument for a permanent relocation effort to associate the structure with the larger Museum mission.

The exploration of the Segmental Relocation alternative derives the idea that at least a partial disassembly will be required for any of the proposed relocation efforts. This led the investigative team to determine what would be the best way to relocate the entire structure with the least amount of damage to the overall building components upon reassembly.

Feasibility Study for the Relocation of the Lake Hall School

Option C: Disassembled Relocation

Option C would involve dismantling or disassembling the entire structure through a complete and detailed deconstruction effort. It would involve a careful disassembly in an orderly manner, beginning in reverse construction order, dismantling the building in a piece-by-piece fashion, and cataloging the entire assembly as the process progresses. The exercise would provide an invaluable tool for education and archeology, as well as documenting the progress for the reassembly at a new location.

As suggested by the Structural Engineer's report, varying degrees of disassembly might be utilized in order to expedite reconstruction. Again transport off of the existing site as well as consideration of the logistics and potential new site of the relocated structure will have an important effect on the overall disassembly process.

Of concern is the timing for determining the best place for the building to be relocated and the schedule for site preparation. A scenario that has been discussed is the short -term storage of the disassembled components while a site is secured and an appropriate interpretive environment is designed. Each of these possibilities should be planned for as a contingency as all are irrevocably interrelated.

This disassembly option optimizes the amount of stabilization and reinforcement needed to prepare any segments for transport, reduces the risk of collapse or structural failure, and is ultimately safer from the retention and recovery of truly historic materials to be garnered from such an extensive effort. For simple structures such as this single room schoolhouse, the expense of more intensive reconstruction is probably more than offset by the decreased expense and risk of attempting to transport the structure intact or in large segments.

Feasibility Study for the Relocation of the Lake Hall School

Recommendation for Recovery : Option C: Disassembled Relocation

In concurrence with the recommendations of the Structural Engineers Report and feasibility letter from the Certified House Relocation Specialist, It is the recommendation of Huffman/Tarmey Architecture, P.A. that the Riley House Museum and Resource Center for African American History and Culture pursue funding from various agencies and in-kind support to avail themselves of Option C; Disassembled Relocation

Due to the age of the structure, the condition of the materials, the simple construction methods, the size of the existing structure, and the inherent historic value of this last existing architectural artifact, a disassembled relocation would appear to be the most prudent method of transport and probably the safest.

In concert with this recommendation, this method offers the Riley Museum the ability to safely recover and if necessary, store and examine this historic building artifact while seeking appropriate funding and a final interpretative site location in close proximity to the Riley House. For logistical and long range management feasibility, this option provides the time and flexibility for the Museum to properly plan for, fund, and execute this endeavor to the level of expectations required by its Board of Directors.

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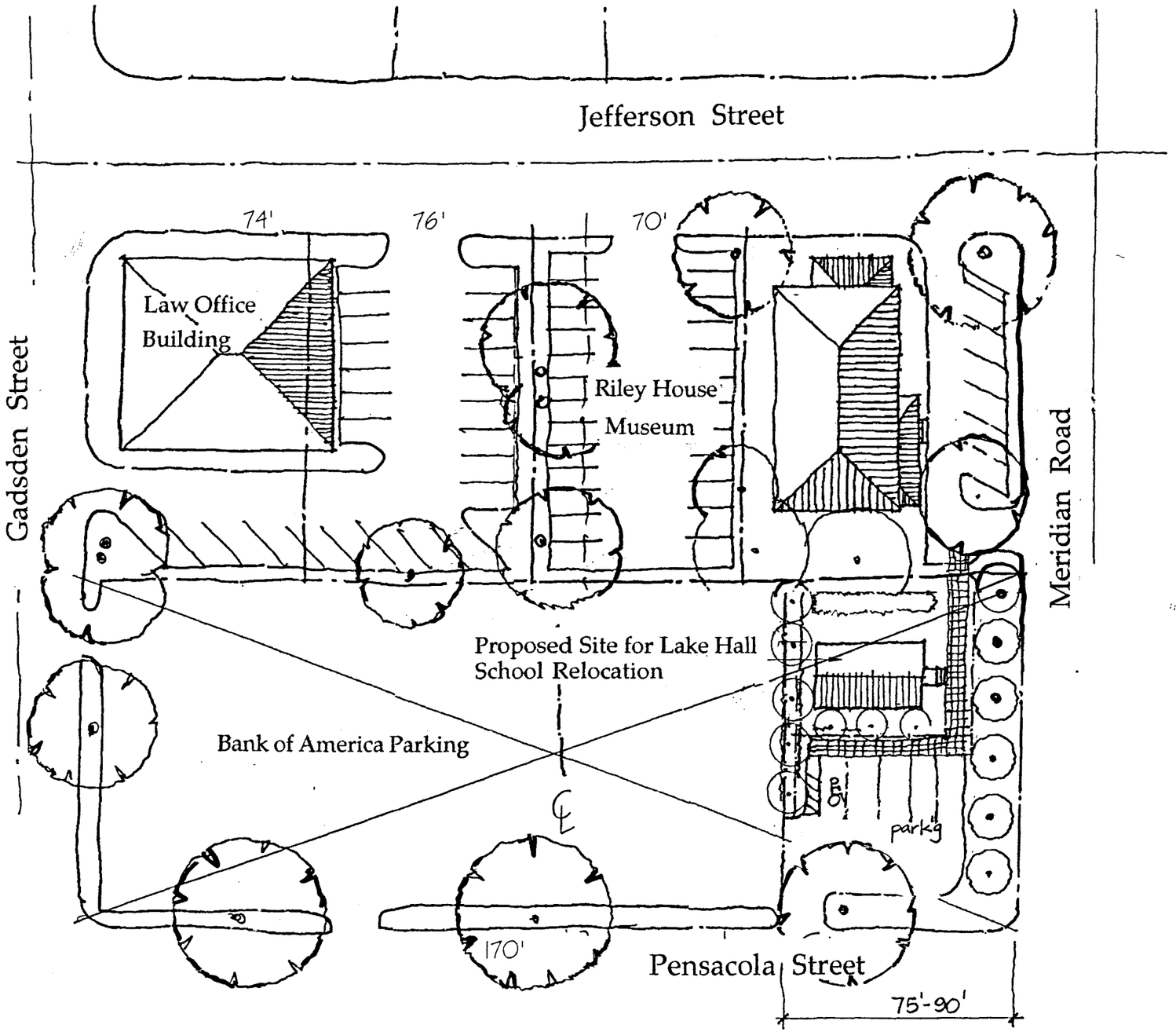
SEPT. 19, 2001

LAKE HALL SCHOOL

RELOCATION (DRAFT SUBMITTAL)

OPTION 1

LOCATED ON BANK OF AMERICA PROPERTY



SCALE = 1:40

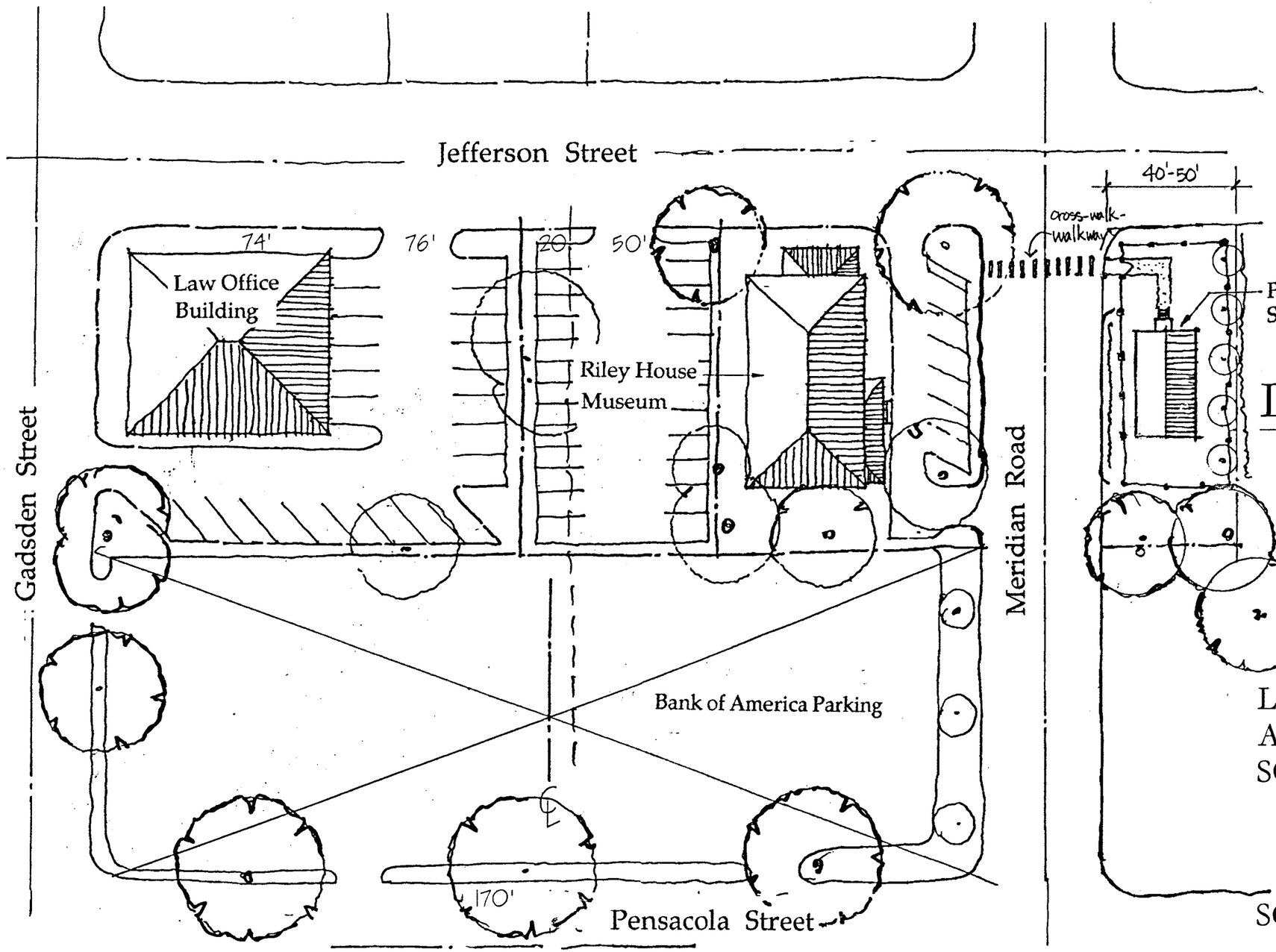
0 10' 20' 30' 50' 100'

Huffman/Tarmey
Architecture
PA

Architecture
Urban Design
Preservation

450 St. Francis Street
(ph) 850/222-0084
(e-mail)
Architecture Reg.

Tallahassee, FL 32301
(fax) 850/222-0085
Hufftarch2 @ aol.com
AA0003409



SEPT. 19, 2001

LAKE HALL SCHOOL

RELOCATION (DRAFT SUBMITTAL)

OPTION 2

LOCATED IN UNOCCUPIED ADJACENT PARKING LOT SOUTH OF RILEY HOUSE.

SCALE = 1:40

0 10' 20' 30' 50' 100'

Posted May 2, 2022

Huffman/Tarmey
Architecture
PA

Architecture
Urban Design
Preservation

450 St. Francis Street
(ph) 850/222-0084
(e-mail)
Architecture Reg.

Tallahassee, FL 32301
(fax) 850/222-0085
Huffarch2 @ aol.com
AA0003409

SEPT. 19, 2001

LAKE HALL SCHOOL

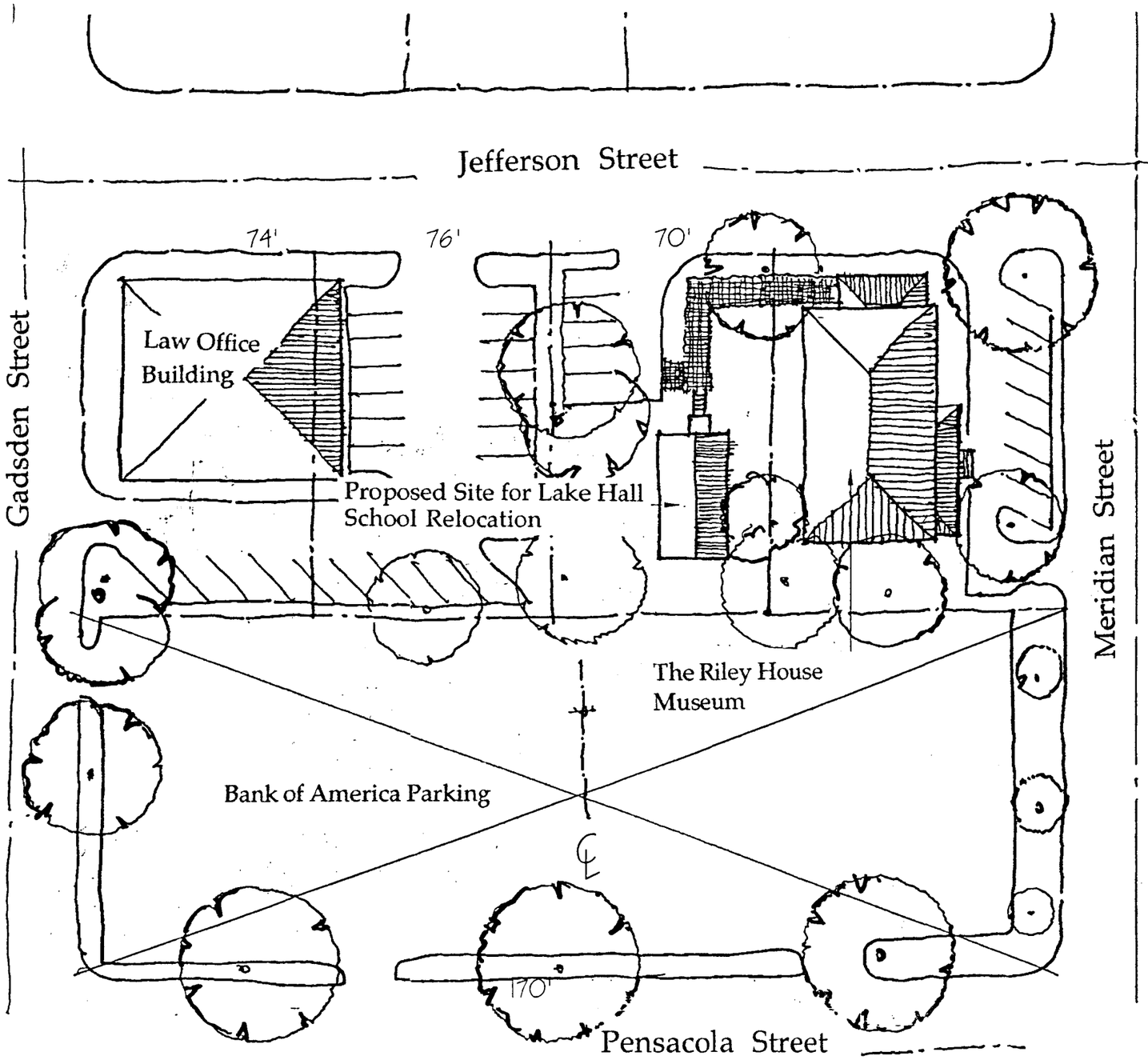
RELOCATION (DRAFT SUBMITTAL)

OPTION 3

LOCATED IN LAW FIRM AUXILLARY PARKING LOT WEST OF RILEY HOUSE.

SCALE = 1:40

0 20' 50' 100'
10' 30'



Posted May 2, 2022

Leon County Board of County Commissioners

Agenda Item #8

February 8, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: Status Report on the Lake Hall School House Preservation Efforts

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	Andy Johnson, Assistant to the County Administrator Nicki Paden, Special Projects Coordinator

Statement of Issue:

As requested during the November 9, 2021 meeting, this item provides a status report on efforts to preserve the Lake Hall School House.

Fiscal Impact:

This item has no fiscal impact.

Staff Recommendation:

Option #1: Accept the status report on the Lake Hall School House preservation efforts.

Report and Discussion

Background:

During the November 9, 2021 meeting, the Board directed staff to provide an agenda item exploring all options available to address property ownership issues related to the Lake Hall School House as well as opportunities to assist citizen-led efforts to preserve the structure. The Lake Hall School House was built in the 1870s and served as an elementary schoolhouse for a small African American community that existed west of Thomasville Road beside Lake Hall and Lake Overstreet. Today, the Lake Hall School House is one of six remaining Reconstruction-era African American schoolhouses in Leon County. Another of these structures, the original Concord School in the Miccosukee community, was donated to the Tallahassee Museum in 1969 and is currently a part of the museum's "Old Florida" exhibit as a reminder of the struggles and strides made in Black education. The Lake Hall School House itself straddles the property line between two privately owned parcels, 4495 and 4498 Handsome Quarters Drive in unincorporated Leon County. The property at 4495 Handsome Quarters was vacant until 2020, at which time the owner constructed a single family residence on the property. 4498 Handsome Quarters is also a single family residential property, built in 1966.

Over the past two decades, the Lake Hall School House has been the subject of several historic preservation efforts, including two State of Florida historic preservation grants as well as funding awarded by Leon County to the John G. Riley Center (the "Riley Center"). In 2000, the Riley Center commissioned a study, supported by a State of Florida historic preservation grant, to evaluate the feasibility of relocating the Lake Hall School House. The study indicated that due to the age and deteriorated condition of the structure, the Lake Hall School House is not well suited for any intact relocation effort. As a result, the study recommended that any relocation should involve dismantling or disassembling the entire structure and reassembling it at a new location.

In 2004, the Riley Center was awarded another historic preservation grant of approximately $250,000 to acquire the property and preserve the structure in place. Subsequently, the Board approved non-departmental funding in the amount of $105,000 in the FY 2005 budget to support this effort. At that time, the Riley Center did not proceed with the project due to the death of the property owner, and the historic preservation grant funding issued to the Riley Center was returned to the State. At the March 28, 2006 meeting, at request of the Riley Center, the Board authorized a new funding agreement between Leon County and the Riley Center. The new agreement authorized the Riley Center to retain the $105,000 to be used toward the completion of heritage trails in south, east, and west Leon County and for maintenance of the Riley Center.

In 2010, the County, Blueprint 2000, and the Riley Center formed a workgroup to develop a plan and make recommendations for the highest and best use of publicly owned property between the Riley House and Cascades Park. During that process, the work group considered the Riley Center's desire to acquire and relocate the Lake Hall School House to the area that today is home to the Smokey Hollow neighborhood commemoration. The workgroup determined that the relocation of the Lake Hall School House was not feasible, as the structure could not withstand relocation due to its poor condition.

In recent years, a citizen support organization called "Friends of the Lake Hall School" has formed for the purpose of renewing efforts to preserve and restore the schoolhouse as an interpretive exhibit, and in 2020, the Board directed staff to prepare an agenda item with options for preserving the Lake Hall Schoolhouse. An agenda item was presented to the Board at the December 8, 2020 meeting (Attachment #1) which included an extensive review of options for restoring the facility and converting it into an historic exhibit. That analysis concluded that there were no viable options for converting the schoolhouse into a community amenity due to significant site-based constraints. As discussed above, the schoolhouse is located along the property line which divides two parcels. In order to establish the schoolhouse as a community amenity in its current location, a new parcel would need to be created that is large enough to include the footprint of the schoolhouse as well as sufficient supporting infrastructure, including but not limited to site access, parking, a restroom facility, water and sewer infrastructure, and any stormwater treatment that may be required. This would require the acquisition of significant portions of the adjoining existing parcels, and it is not clear whether enough acreage could be acquired in order to meet these minimum infrastructure requirements. Additionally, the site is currently only accessible via a privately-owned unpaved road. The property owners have indicated that they would prefer any access to the site be provided via Thomasville Road; however, the parcels located between the schoolhouse and Thomasville Road are currently developed.

The December 2020 agenda item also evaluated the possibility of acquiring and relocating the Lake Hall School House. As indicated earlier in this item, a 2001 study of the structure concluded that the building is not well suited for an intact relocation, and a full dismantling of the structure was recommended in order to safely move the building. Based upon a preliminary estimate, the cost to dismantle, relocate, and rebuild the structure, including the replacement of deteriorated or missing building materials, could exceed $1 million. While there may be state and federal grant programs that could help to defray a portion of these costs, relocating the Lake Hall School House from its original setting would likely impact its eligibility for these grants. Also, should the schoolhouse be relocated, a receiving site would need to be identified as well as a partner organization to manage the operations of the facility. Staff reached out to several partners including the Florida Department of Environmental Protection (FDEP), Tallahassee Museum, and the John G. Riley Center/Museum, which became a division of the City of Tallahassee in 2020, to discuss the possibility of partnering for the restoration and management of the schoolhouse. None of those organizations indicated a willingness at this time.

Notwithstanding the considerations discussed above, during the December 2020 meeting, the Board approved a rezoning application for the two parcels on which the schoolhouse is located to facilitate the structural preservation of the schoolhouse. The rezoning applied an Historic Preservation Overlay designation to both parcels and added these parcels to the Local Register of Historic Places, which ensures the protection of the structure from future development activity. As provided in the Leon County Land Development Code, any demolition, alteration, relocation, or construction activities related to properties listed on the local register must receive prior approval from the Tallahassee-Leon County Architectural Review Board.

Finally, in 2021 the Friends of the Lake Hall School indicated that the organization was preparing to submit an application for an African-American Cultural and Historical Grant through the Florida Department of State to support the acquisition and restoration of the Lake Hall School House. At

the November 9, 2021 meeting, the Board authorized, and the County provided a letter of support to Dr. Geraldine Seay of the Friends of the Lake Hall School (Attachment #2) to utilize for any applications for state and federal funding opportunities related to the schoolhouse.

Analysis:

The Analysis section of this item provides an update on preservation efforts related to the Lake Hall Schoolhouse since the Board's December 2020 meeting as well as an overview of options to address property ownership issues related to the schoolhouse and opportunities to further assist citizen-led efforts to preserve the structure.

As discussed earlier in this item, two primary obstacles to preserving the schoolhouse in its current location are the ownership of and access to the properties on which the structure is located. The schoolhouse is located along the property line which divides two parcels, and in order to establish the schoolhouse as an historical exhibit in its current location, a new parcel would need to be created that is large enough to include the footprint of the schoolhouse as well as sufficient supporting infrastructure. Access to the site must also be secured; the site is currently only accessible via a privately-owned unpaved road, and the surrounding property owners have indicated that they are reluctant to allowing public access to the facility through the neighborhood. As a result, the first steps in any potential restoration effort would require the acquisition of a significant portion of the existing adjoining parcels, as well as additional property to the east of the schoolhouse to establish access to the site via Thomasville Road. The cost to acquire the property needed for the footprint of the schoolhouse, supporting infrastructure, and access to the site is estimated to be $500,000 or more, not including the cost to design or construct an access road or other site improvements. Also, as discussed in detail below, the underlying property owners have been unwilling to sell the portion of their property on which the schoolhouse is located. Because of the cost and complexity of acquiring historically significant sites such as the Lake Hall School House, acquisition and restoration efforts often involve grant funding and technical assistance from state, federal, and/or nonprofit historic preservation agencies.

In 2021, the Friends of the Lake Hall School approached the Trust for Public Land (TPL) seeking assistance with acquiring the underlying property. In May 2021, the TPL agreed to facilitate a property transaction that would place the schoolhouse within a single parcel, with repayment to be made by the Friends of the Lake to TPL over a period of time. However, the underlying property owners were not willing to accept compensation based on the appraised value of the property and the transaction was not completed. TPL has indicated that it will not be working on this project in the future. Beyond voluntarily acquiring the property on which the Lake Hall School House is located, which the underlying property owners have been unwilling to sell at fair market value, the only other recourse the County has to resolve the ownership issue would be to acquire the property by eminent domain. Although not recommended in this item, Chapters 73 and 125, Florida Statutes specify the requirements for eminent domain proceedings in Florida. These generally allow a County to exercise its power of eminent domain upon the Board's adoption of a resolution authorizing the acquisition of a property for any County purpose and finding that the property to be acquired is necessary for that purpose. Although the County has never exercised its eminent domain authority for this type of an acquisition, the County Attorney advises that based on a review of existing Florida case law an historic preservation use would satisfy the County purpose

requirement. The statutes further provide for the payment of full compensation to the owner(s) from which the property is acquired.

Although no viable options currently exist to restore the Lake Hall School House as an historical exhibit, there may be state and/or federal grant opportunities to assist the Friends of the Lake Hall School with acquiring and restoring the structure in the future, should the owners be willing to sell or donate the property needed to do so. The Florida Department of State, Division of Historical Resources administers historic preservation grant programs that may assist with acquiring, preserving, and restoring historic properties. In addition, as referenced earlier in this item, the Florida Legislature allocated funding in the FY 2021-22 state budget to administer an African-American Cultural and Historical Grant program; funding for this program was provided from the state's allocation of Coronavirus State and Local Fiscal Recovery Funds under the American Rescue Plan Act. It is not yet clear whether the Legislature will allocate additional funding to this program in the FY 2022-23 budget.

Also, in preparing this agenda item, staff reached out to the Florida Department of Environmental Protection, Division of Recreation and Parks to discuss the potential for the Friends of the Lake Hall School to pursue this project under the Florida Forever program. Florida Forever is the state's conservation and recreation lands acquisition program and supports the acquisition and development of cultural resources, among other types of projects. Generally, to be considered for acquisition, a project must have a willing seller and be on the Florida Forever Priority List. The Florida Forever Priority List is developed by the state's Acquisition and Restoration Council twice annually and is approved by the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

As discussed earlier in this item, the County has previously provided a letter of support to the Friends of the Lake Hall School for an African-American Cultural and Historical Grant program application. Should an opportunity arise in the future for the Friends of the Lake Hall School to acquire the underlying property, the Board may wish to again provide a letter of support for any associated grant application at that time.

Options:

1. Accept the status report on the Lake Hall School House preservation efforts.
2. Do not accept the status report on the Lake Hall School House preservation efforts.
3. Board direction.

Recommendation:

Option #1

Attachments:

1. December 8, 2020 Agenda Item
2. Letter expressing the Board's support of efforts to preserve the Lake Hall School House

Leon County

Board of County Commissioners

301 South Monroe Street, Tallahassee, Florida 32301
(850) 606-5300 www.leoncountyfl.gov

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VINCENT S. LONG
County Administrator

CHASITY H. O'STEEN
County Attorney

To whom it may concern:

On behalf of the Leon County Board of County Commissioners, I am writing this letter to express Leon County's support of efforts to preserve the Lake Hall Schoolhouse.

Following enactment of state legislation that created the first system of public instruction open to all races, the Lake Hall Schoolhouse was built in the 1870s to serve as an elementary schoolhouse for a small African American community. While many of the segregated African American schools were closed in the mid-20th Century and subsequently demolished or converted into a variety of utilitarian uses, the Lake Hall Schoolhouse was preserved and still remains on its original site. Today, the Lake Hall Schoolhouse is one of six remaining Reconstruction-era African American schoolhouses in Leon County.

In 2020, the Leon County Board of County Commissioners approved the addition of the Lake Hall Schoolhouse to the Tallahassee-Leon County Local Register of Historic Places, an official catalog of historically, architecturally, and/or culturally significant sites worthy of preservation in the community. Since that time, local efforts have continued to explore options for the preservation and restoration of the site as a community amenity to commemorate the lived experiences of African Americans in Leon County.

Leon County expresses its continued support of ongoing efforts to preserve and restore the Lake Hall Schoolhouse, and looks forward to the opportunity for all Leon County residents to experience the historical significance of the site.

Sincerely,

Bill Proctor, Chairman
Leon County Board of County Commissioners

cc: Leon County Board of County Commissioners
Vincent S. Long, County Administrator
Chasity H. O'Steen, County Attorney

Leon County Board of County Commissioners

Agenda Item #25

April 12, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator



Title: Updated Analysis of Lake Hall School House Preservation Efforts

Review and Approval:	Vincent S. Long, County Administrator Chasity O'Steen, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Scott Ross, Director Financial Stewardship
Lead Staff/ Project Team:	Andy Johnson, Assistant to the County Administrator Dan Rigo, Senior Assistant County Attorney Kim Vickery, Real Estate Manager

Statement of Issue:

As requested during the March 8, 2022 meeting, the item provides an estimate of the costs and process associated with acquiring, restoring, and operating the schoolhouse as an interpretive historical exhibit, as proposed by Dr. Geraldine Seay of the Friends of the Lake Hall School.

Fiscal Impact:

This item does not have a fiscal impact. However, if the County acquired the Lake Hall School House, the estimated costs to acquire the property and to construct the site improvements needed to provide public access, as required by Florida law for eminent domain acquisition, would be at least $3.1 million, pending a formal site plan review. Under a broader proposal presented by Dr. Seay, additional parcels and infrastructure would be required for an estimated total cost of $4.5 million. These estimates do not include any ongoing operation and maintenance costs. There is no funding source currently identified for the one-time or recurring costs.

Staff Recommendation:

Option #1: Accept the updated analysis of efforts to preserve the Lake Hall School House and take no further action.

Report and Discussion

Background:

This item provides an updated analysis of efforts to acquire and preserve the Lake Hall School House. Based upon direction previously provided by the Board, staff has conducted extensive reviews in recent years of options for the preservation of the schoolhouse, including restoring the structure in its present location, relocating it to a different site, and exploring potential partnerships for the restoration and subsequent management of the schoolhouse as a community amenity. Due to significant site-based constraints, property ownership issues, and a lack of funding or management commitments from the State of Florida or other partners, no viable options currently exist to restore the Lake Hall School House as an historical exhibit. These efforts notwithstanding, the Board has in recent years approved a rezoning request to apply a Historic Preservation Overlay to the parcels on which the school house is located and supported several state grant applications by local nonprofit organizations to acquire and preserve the structure.

The most recent analysis presented to the Board during the February 8, 2022 meeting indicated that the owners of the property on which the school house is located have been unwilling to sell their portions of the property at fair market value. Although not recommended in that item, the analysis concluded that the only other recourse the County would have to resolve this ownership issue would be to acquire the property by eminent domain. The Board tabled the issue at that meeting and took no further action. Subsequently, during the March 8, 2022 meeting, the Board directed staff to provide an update on the previous analysis with additional information regarding costs and process associated with acquiring and preserve the school house. That updated analysis is presented in the remainder of this agenda item.

As requested during the Board's March 8, 2022 meeting, the item includes a discussion of the statutory process and requirements for acquiring the school house via eminent domain should the Board wish to do so. As discussed in greater detail in the Analysis section of this item, Florida law requires that private property acquired by eminent domain must be acquired for a public purpose; accordingly, should the Board wish to acquire the Lake Hall School House via eminent domain, additional site improvements would also need to be made in order to make the facility available for public use. Leon County has historically limited the use of its eminent domain authority to property acquisitions needed for its capital improvement projects involving roads, drainage, and other such public works and not used this legal process for the preservation of buildings. This item also provides an estimate of the costs associated with acquiring, restoring, and operating the schoolhouse as an interpretive historical exhibit, as proposed by Dr. Geraldine Seay of the Friends of the Lake Hall School (Attachment #1).

As discussed in detail in the Analysis section of this item, the estimated costs to acquire the Lake Hall School House and to construct the site improvements needed to provide public access, as required by Florida law for eminent domain acquisitions, would be at least $3.1 million, pending a formal site plan review. Dr. Seay has also proposed a broader conceptual site plan to create a Lake Hall School State Park, which would involve the acquisition of additional parcels and construction of additional supporting infrastructure for a total estimated cost of $4.5 million. In addition, two FTE employees would be needed under either scenario to maintain the grounds and

the facility at an estimated cost of $120,000 annually. Of note, there is no funding source currently identified for these costs, no other funding commitments from the State of Florida or other potential funding partners have been made at this time, and options to seek State grant funding to support acquisition and development of the site are limited.

The updated analysis provided in this item builds upon the status report presented to the Board at the February 8, 2022 meeting (Attachment #2) which explored options to address property ownership issues related to the Lake Hall School House as well as opportunities to assist citizen-led efforts to preserve the structure. As discussed in that item, the Lake Hall School House has been evaluated several times over the past two decades for potential preservation efforts, including two State of Florida historic preservation grants as well as funding awarded by Leon County to the John G. Riley Center. However, due to significant site-based constraints and the unwillingness of the underlying property owners to accept compensation for the property on which the school house is located based on its appraised value, these efforts have not been successful. The Board tabled the item presented during the February 8, 2022 meeting and took no further action at that time. Subsequently, at the March 8, 2022 meeting, the Board directed staff to provide an update on the previous analysis with additional information regarding costs to acquire and preserve the school house, to include a discussion of the statutory process and requirements for acquiring the school house via eminent domain.

Notwithstanding the considerations discussed above, during the December 2020 meeting, the Board approved a rezoning application for the two parcels on which the schoolhouse is located to facilitate the structural preservation of the schoolhouse. The rezoning applied an Historic Preservation Overlay designation to both parcels and added these parcels to the Local Register of Historic Places, which ensures the protection of the structure from future development activity. As provided in the Leon County Land Development Code, any demolition, alteration, relocation, or construction activities related to properties listed on the local register must receive prior approval from the Tallahassee-Leon County Architectural Review Board. In addition, the County previously provided a letter of support to the Friends of the Lake Hall School for an African-American Cultural and Historical Grant program application through the Florida Department of State.

Analysis:

As requested by the Board, this item provides an estimate of the costs that would be associated with acquiring, restoring, and operating the Lake Hall School House as an interpretive historical exhibit, as well as a discussion of the statutory process and requirements for acquiring the school house via eminent domain should the Board wish to do so. As discussed in further detail below, there is currently no funding source identified for these costs.

Proposal to Create a Lake Hall School State Park:

During the March 8, 2022 meeting, Dr. Geraldine Seay of the Friends of the Lake Hall School presented a conceptual proposal to the Board to create a Lake Hall School State Park. Details of the proposal are described in an application that Dr. Seay submitted in 2021 to the Florida Forever land acquisition program (Attachment #1) and are summarized below. The proposal would include acquiring seven properties in order to provide public access, parking, a walking trail following the historical alignment of Thomasville Road, administrative offices, and other amenities. Dr. Seay's

proposal for the Lake Hall School also contemplates additional active uses of the facility including weddings and event rentals, a Montessori school, an on-site museum, and organized tours of the site. The parcels proposed to be acquired are listed below and correspond to the map which follows:

Parcel # (Refer to Map):	**Address:**	**Notes:**
Parcel #1	4664 Thomasville Road	Existing single-family residential property, to be retrofitted for administrative office space. Currently listed for sale for $425,000.
Parcel #2	4495 Handsome Quarters	Portion of the parcel surrounding the Lake Hall School House.
Parcel #3	4498 Handsome Quarters	Portion of the parcel surrounding the Lake Hall School House.
Parcel #4	4650 Thomasville Road	Portion of the parcel to provide a walking trail following the historical alignment of Thomasville Road.
Parcel #5	No Address (Tax ID# 1433204780000)	Vacant parcel to be used for walking trail.
Parcel #6	No Address (Tax ID# 1433204820000)	Vacant parcel to be used for walking trail.
Parcel #7	2372 Lake Hall Road (3 parcels; Tax ID# 1433206020000, 1433206980000, and 1433207040000)	To be used for main parking area, restroom facility, and other site amenities. Currently listed for sale for $475,000.

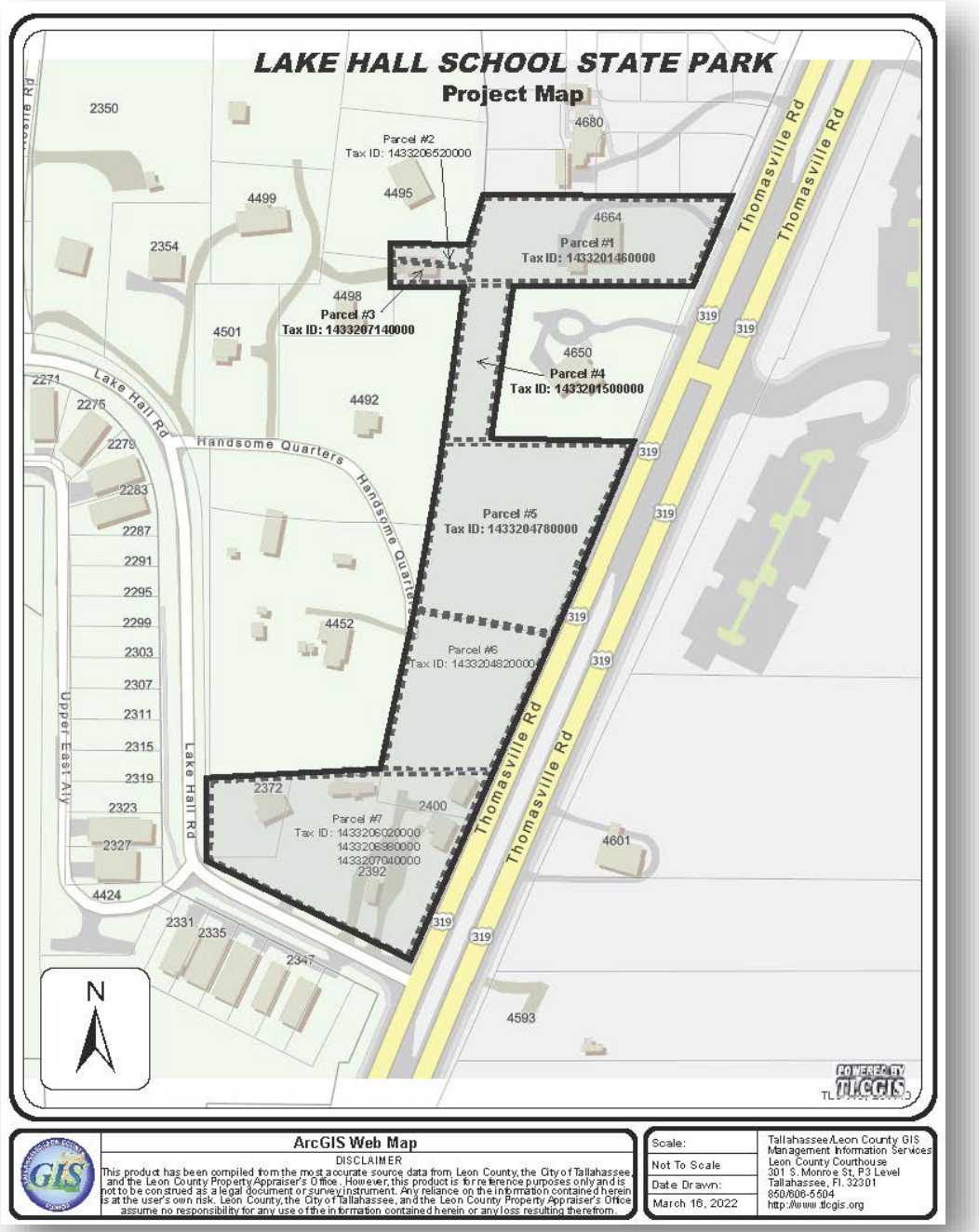


Figure 1: Parcels Proposed by Dr. Geraldine Seay for Acquisition to Create a Lake Hall School State Park

Discussion of Eminent Domain Process and Requirements:

The authority to exercise the right and power of eminent domain is delegated to each county in Florida pursuant to section 127.01, Florida Statutes (F.S.), which grants the county the right to appropriate property for any county purpose. In general, the most common purposes for which

local governments use eminent domain for property acquisition include road and other transportation-related projects, construction of local government facilities, remediation of environmental contamination, and economic development, and acquisition of historic properties by eminent domain is relatively uncommon. Leon County has historically limited the use of its eminent domain authority to property acquisitions needed for its capital improvement projects involving roads, drainage, and other such public works.

Section 73.021, F.S. requires that a petition to exercise the power of eminent domain must declare, among other items, "the authority under which and the public use or purpose for which the property is to be acquired, and that the property is necessary for that public use or purpose." The County Attorney advises that, based on a review of existing Florida case law, the property that is acquired for a public use or purpose must be clearly available for use by the public in common. Accordingly, acquiring only the property immediately surrounding Lake Hall School House without taking any additional actions to make the school house suitable for public use would not satisfy statutory eminent domain requirements. As such, should the Board wish to acquire the Lake Hall School House via eminent domain, additional site improvements would also need to be made in order to make the facility available for public use. Importantly, section 73.013, F.S. also prohibits any parcels acquired through an eminent domain lawsuit from being conveyed to an individual or private entity, by lease or otherwise, for at least 10 years following such acquisition, with limited exceptions.

Before a local government can exercise its eminent domain power and commence a court proceeding, it is statutorily required to first attempt a negotiation in good faith with the property owner to reach an agreement on the amount to be paid to fully compensate the owner for the property acquisition. That process, as provided in section 73.015, F.S., is commonly referred to as a pre-suit negotiation "under the threat of eminent domain." Among the statutory requirements in the pre-suit negotiation process, in addition to the delivery of a written offer and a copy of the appraisal upon which it is based, is the County's written notification to the property owner of the owner's statutory rights to be paid by the County for the attorney's fees, appraisal fees, and other costs incurred by the owner in defense of the matter. An owner's full compensation for the acquisition includes the value of the land acquired together with any structures, landscaping, or other site improvements on the land acquired. In the case of a partial acquisition, an owner's full compensation also includes "severance damages," which reflect any decrease in value of the remaining property not acquired. In every case, an owner is also entitled to the payment of attorney's fees, appraiser's fees, and other such reasonable costs incurred in defense of the matter. In addition, the County is required to notify the property owner that, within 15 business days after receipt of a request by the fee owner, the County will provide copies of the maps or other documents that depict the proposed acquisition, and copies of any construction plans, to the extent they have been prepared, that depict the project improvements to be constructed on the property acquired and improvements to be constructed adjacent to the remaining property.

Upon the Board's direction to proceed with the acquisition of the seven parcels identified in the conceptual project map as being necessary for the proposed Lake Hall School State Park Project, regardless of the owner's willingness to sell, Real Estate staff would begin the process in accordance with the Board's Real Estate Policy, No. 16-5. As described earlier in this item, Parcels #1 and #7 are currently listed for sale as of the publication of this agenda item, and as such, the

acquisition of those parcels could proceed as standard purchases under Article 8 of the Real Estate Policy. The negotiated purchase and sale agreements for those two parcels would be brought back to the Board for final approval because the negotiated sale price of each parcel would exceed the County Administrator's scope of approval authority. The other five parcels would proceed under Article 5 of the Policy as acquisitions under the threat of eminent domain and would comply with the statutory pre-suit negotiation requirements. Any of those parcels with a negotiated settlement amount that exceeds the County Administrator's scope of approval authority would be brought back to the Board for final approval, while those settled within the County Administrator's scope of approval authority would be finalized without further Board action. If Real Estate staff was unable to negotiate a pre-suit settlement with any of the five parcels, the matter would be brought back to the Board for consideration of adopting a Resolution authorizing the Board's exercise of its eminent domain power with the commencement of a court proceeding to acquire the property. In this instance, before proceeding to a jury trial as required by section 73.071, F.S., the Court would direct the parties to attempt to settle the compensation amount through mediation. Over the past twenty years, the County has been successful in resolving its eminent domain acquisitions at mediation in all but one instance.

Estimated Costs to Acquire, Restore, and Operate the Lake Hall School House:

As discussed earlier in this item, should the Board wish to acquire the Lake Hall School House via eminent domain, additional site improvements must also be made in order to make the facility available for public use in order to satisfy statutory eminent domain requirements. The analysis presented in this item presumes that the acquisition of the school house structure would be via eminent domain, since the underlying property owners have been unwilling to sell their portions of the properties on which the school house sits based on its appraised value.

The cost to acquire the seven parcels described earlier in this item and proposed for acquisition by Dr. Seay would be approximately $1.7 million, which includes attorney's fees and survey, appraisal, and closing costs as required by Florida law for eminent domain acquisitions for the five parcels that are not currently listed for sale. Of note, under this scenario, only the portions of the two parcels on which the school house is located would be acquired (in addition to the other five parcels for parking, walking trails, and administrative space). The existing single-family residences on these parcels would remain and would be located less than 100 feet from the school house. As discussed above, Dr. Seay's proposal for the Lake Hall School also contemplates additional active uses of the facility including weddings and event rentals, a Montessori school, an on-site museum, and organized tours of the site. The facility's compatibility with the surrounding residential land uses, including required buffers and measures to mitigate potential traffic, noise, and other impacts, would be addressed during the development review process as required by the County's Land Development Code.

In addition to the costs associated with acquiring the school house and surrounding properties, the costs associated with restoring and operating the school house as an interpretive historical exhibit would be approximately $2.8 million, which includes the restoration of the school house, renovation of the existing single family structure at 4664 Thomasville Road for administrative offices, and construction of a parking area, restroom facility, walking trail, stormwater treatment, and other required site improvements. In summary, the total estimated capital costs for acquisition

and restoration of the Lake Hall School House would be approximately $4.5 million. In addition, two FTE positions would be needed in order to maintain the grounds and facility on a day-to-day basis, at an estimated cost of $120,000 annually.

This analysis acknowledges that the Lake Hall School State Park proposal has not received a formal site plan review; as such, the estimates presented in this item reflect the minimum that would be required in order to restore the school house and to construct site improvements required for public access and use by Dr. Seay. It should be noted that costs for parking spaces, stormwater, and other supporting site improvements may be higher than the estimates presented in this item based upon a formal site plan review and actual construction costs. In addition, the Lake Hall School State Park proposal submitted to the County includes additional park amenities such as a gathering area for picnics, additional walking paths, bike trails, and other improvements. These costs are not included in this analysis. Of note, the parcel to the east of the Lake Hall School House (4664 Thomasville Road, referenced as Parcel #3 on the map shown earlier in this item) is of sufficient size to accommodate a small parking area, stormwater, and other amenities needed to open the facility to public use. The cost to acquire only the school house and Parcel #3, including construction of the minimum amenities, would be estimated at approximately $3.1 million. Like Dr. Seay's proposal, this estimate would also be subject to the outcome of a formal site plan review.

At this time, no funding commitments are in place to support the capital costs associated with acquiring and restoring the school house. There are three grant programs administered by the State of Florida that primarily fund historic property acquisition, as discussed in further detail below; however, only one of these programs (the Special Category Grant administered by the Florida Department of State) would be compatible with the proposed Lake Hall School State Park project as proposed and is limited to a maximum grant award of $500,000.

First, the Lake Hall School State Park proposal may be an eligible project under the State's Florida Forever land acquisition program, and the Friends of the Lake Hall School have submitted an application to the program. However, under the Florida Forever program, the State of Florida acquires and holds title to the subject property and enters into an agreement with a "managing entity" that is designated during the application process. The program requires that a managing entity must be identified and secured and a commitment letter from the proposed manager must be submitted with the application. At this time, no state agency has committed to serve as the managing entity for the proposed Lake Hall School State Park project. Should the Board wish to acquire the Lake Hall School and surrounding property as described in this item, Florida Department of Environmental Protection (FDEP) staff advise that the State would be unlikely to subsequently prioritize and acquire it, as the property would already be in public ownership. Also, Florida Forever is a "willing seller" program; as such, the program requires an acknowledgment by the landowner that indicates their willingness to sell their land. The State is required to prioritize properties during the project selection and ranking process that can be acquired for 80% or less of their appraised value. The State's prioritization and acquisition process for Florida Forever projects is highly competitive, and according to the Florida Department of Environmental Protection (FDEP), after a project is added to the Florida Forever Priority List, acquisition is dependent on funding availability the project's priority ranking, and therefore could take several years before a project is acquired by the State.

Second, the Florida Communities Trust program provides funding to help local governments acquire and improve land for open spaces, natural areas, parks, and beaches. However, pursuant to Chapter 62-818, Florida Administrative Code, any property acquired through the Florida Communities Trust program must be through a "voluntarily-negotiated transaction." Under the rule, properties acquired via eminent domain would not be eligible for funding under the Florida Communities Trust program.

Finally, the Florida Department of State, Division of Historical Resources administers a Special Category Grant which provides funding to assist major local, regional and state-wide efforts to preserve significant historic and archaeological resources, to assist major archaeological excavations or research projects, and assist in the development and fabrication of major museum exhibits that will promote knowledge and appreciation of the history of Florida. Special Category grants provide assistance up to $500,000, with a one-to-one local matching requirement. Special Category Grants have a grant period of 24 months, and applicants may not have more than one Special Category Grant under contract at a time.

Conclusion:

This item provided an updated analysis of efforts to preserve the Lake Hall School House, building upon the analysis presented to the Board during the February 8, 2022 meeting and other previous studies evaluating the feasibility of restoring the school house for public use. The updated analysis presented in this item included an estimate of the costs associated with acquiring, restoring, and operating the school house as an interpretive historical exhibit as well as an overview of the statutory process and requirements for acquiring the school.

As required by Florida law, acquiring only the property immediately surrounding Lake Hall School House without taking any additional actions to make the school house suitable for public use would not satisfy statutory eminent domain requirements. As a result, should the Board wish to acquire the Lake Hall School House via eminent domain, additional site improvements would also need to be made in order to make the facility available for public use. The estimated costs to acquire the school house and to construct the site improvements needed to provide public access, as required by Florida law for eminent domain acquisition, would be at least $3.1 million, subject to the outcome of a formal site plan review. Under a broader proposal presented by Dr. Seay, additional parcels and infrastructure would be required for an estimated total cost of $4.5 million. These costs would include the restoration of the school house; renovation of an adjacent single family structure for administrative offices; construction of a parking area, restroom facility, walking trail, stormwater treatment, and other required site improvements; property acquisition; and associated attorney and expert fees that must be paid on behalf of the private owners whose properties would be acquired via eminent domain, as required by Florida law. In addition, two FTE employees would be needed to maintain the grounds and the facility at an estimated cost of $120,000 annually. There is no funding source currently identified for these costs.

This item also presented an overview of the major grant programs administered by the State of Florida that provide funding for acquisition, restoration, and development of historic properties. Options to seek State grant funding to support acquisition and development of the site are limited, particularly to support the restoration or development of any parcels that would be acquired by

eminent domain or under threat of eminent domain. No other funding commitments from the State of Florida or other potential funding partners have been made at this time.

Based upon the factors discussed throughout this item, it is recommended that the Board take no further action at this time.

Options:

1. Accept the updated analysis of efforts to preserve the Lake Hall School House and take no further action.
2. Board direction.

Recommendation:

Option #1

Attachments:

1. Florida Forever Project Application and supporting documentation for the Lake Hall School State Park, submitted by Dr. Geraldine Seay
2. February 8, 2022 agenda item, "Status Report on the Lake Hall School House Preservation Efforts"

The Lake Hall School Park
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Forever Florida -New Project Application - Supporting Documentation

Attachment A. Provide a general description (narrative) of the land

1. Descriptive Location of the proposed project with the total acreage.

The Lake Hall School Project will be placed along Thomasville Road at the intersection of Lake Hall Road. This project includes several parcels of Land North of the intersection which involved and includes some Five (5) acres. From the Lake Hall Road North along Thomasville Road, the Corner of that intersection can accommodate a variety of required Land supports: Bathrooms, Parking, and Small Gatherings for Picnics etc. The next two lots to the North are the pristine Wooded Areas. Here unique walking paths and bike trails can be placed. Those two lots alone are approximately, two acres. The path to the School and the Offices for the Lake Hall School Park will be the Old Thomasville Road. This area should be graveled and well lit. At the end of this two-lot path will be the entrance to the Lake Hall School and the Management Office across from it.

2. The General physical, natural resource, biological, hydrological archaeological and historical characteristics of the project.

General Physical Characteristics: The Lake Hall School faces the East no doubt to catch the rising sun. It sits on the old Thomasville Road which is now mostly a 14 – 20 foot-wide ditch that runs along the property line that separates the school from the Property sitting along the new Thomasville Road. The land has been untouched and no doubt can yield an archeological treasure trove of information about the school. Indeed, many of those whose homes sit on the Old Thomasville Road walk the path and pick up all kinds of artifacts.

As far as the appearance of the Lake Hall School is concerned, an Oral History from one of the original students at the school revealed that the building was never painted. Therefore the patina that exists currently is a reflection of the original state of the school. Window sashes seem to be original to the building and while some steps are missing there is no evidence that new steps or windows were every installed. So the look of the school's exterior seems to have remained the same through-out the years. Also, there's no evidence of the school having been through any structural trauma. The inside of the school may have been changed to accommodate various uses, but there is no evidence that any of that changed the original footprint.

a. <u>Does the property contain historic structures fifty years old or older? If so. provide a brief description, photographs and location.</u> Photos attached

The School was built in 1870 on the land the emancipated slaves bought during Reconstruction. It sits on the Old Thomasville Road, and has remained on that site without restoration ever since. The only way into the area now is through the community that surrounds the school. As mentioned earlier, the school sits on two private properties neither of which are owned by the descendants. The current plan in this proposal will make the school accessible from Thomasville Road rather than through private properties.

The Lake Hall School Park
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Until recently descendants owned all the property surrounding the school and had lived on the property since the end of the Civil War. These were the descendants of the emancipated people many of whom continued to work at McClay where they had been enslaved on the McClay Plantation. Others, once free, were able to purchase property in the area and started their own farms. Some had businesses in the Lake Overstreet area. These are the folks who built this school. But, by 1896 when Reconstruction was over, the owners of the farms were forced to sell their land and become share croppers on it. The school continued to teach the children, and was purchased in 1920 by Leon County Schools– according to a deed search.

Not much has been touched on this plot of land. Trees and under bush continue to grow but have yet to overtake the school. There are no improvements or facilities at the site. It has been in the same location since 1870, never moved nor has it been open to the public since Leon County Schools closed it in 1950s. Until last year, most of this area had been owned by the descendants of the original freedmen, but many sold their inheritance, thus the land has turned over. This area is being developed at an incredible rate and such development must be included in any plans for the school. This is not impossible.

We believe the protection of the school can be enjoined by these new neighbors moving onto the surrounding property, as the current descendants who still own land there do not intend to sell it. The school has been placed on the Local Register of Historic Places and has the protection that that zoning permits. The next step is the National Register. We think that the best way forward is to create a State Park. This is one way to protect the Lake Hall School and also a way to recognize the needs of the owners of new-development housing that sits on Zero Lot Lines. Surely, a park just minutes away that reflects the history and beauty of the area and provides authentic ways to enjoy the land includes the idea that the new neighbors have inherited a National Treasure and they must be brought into the loop to protect it.

b. Improvements/Facilities or other public uses

No the school has not been touched with updates or code compliances. It is in fairly pristine condition and there will be a need to restore it and recognize the code requirements at that time. However, as it will be submitted to the National Register, no major changes to it should allowed as its pristine condition is what will make it a perfect match for the National Register.

However, as is the case in many State Parks, various ways to allow guests to enjoy the space should be researched and enacted. Having as many people as possible visit the site ensures that the story of the Lake Hall residents will be shared and remembered. Indeed this unique space can really become an incredible part of the McClay Gardens Story, and Leon County can take the lead in finding ways to interpret the lives and contributions of Freed Slaves.

3. Potential public recreation opportunities or other public uses

As mentioned above, the new developments surrounding the Lake Hall School includes $500,000.00 homes with zero lot lines on the west and on the North side is a similar Luxury Home community being planned. In each instance there are no parks within walking distance of either development. The creation of the last few acres of a pristine wooded-area with walking trials and bike trails and the Lake Hall Historic Site featured on the same land, can be an incredible amenity to the community. It will also connect a group of disparate people to the history of the land on which they are living, and nothing can make a community more united than to realize that they are a part of something bigger than themselves.

It's also important to remember the value of Tourist Attractions. We have so many people coming to this area who would marvel over an African American one room school house. The oldest in Leon County, and we believe one of the oldest in the State. But most importantly, it was built by the African American Community itself who chose this as one of their first acts of freedom. It's one of the most important additions to the story of Leon County's African American community and this story needs to be told through this protected school.

Finally, events and activities can take place in and around the school. I've attached an overview of potential uses and have identified eight initiatives that can be instituted on the property in the document entitled "If Hope Were a Place." Another way to involve the community is to seek Volunteers who can also help to move this amenity's goals forward in meeting the opportunities afforded it.

4. **Potential Threats or Development Plans that could impact the value of the proposed project**.

The major threat to the project is that the Lake Hall School sits on two private parcels. When Leon County drew its lot lines, it put the line one-quarter on one property and the other three-Fourths on another property. Both owners signed to have the building on the Local Register and both owners are willing to sell their portion of the School, but the final cost has yet to be negotiated. A recent survey of this phenomenon is included in the packet with the potential Boundaries surrounding the school and placing it on its own parcel. A boundary settlement has been given to both owners, but they have yet to sign.

The value of the surrounding property has increased exponentially because of the luxury housing being built on it. The children and grandchildren of the original people are being crowded out and this project will offer them a certain protection that they currently do not have by placing a park on their border. One of the larger lots has been sold and the rest of the southern portion of the neighborhood is up for sale. The whole community is being threatened by developers and these lots are the last ones available. A quick look at the appraisers map shows the density of the development and this last enclave of history.

5. Local resolutions related to the potential public acquisition of the project.

This project is directly supported by the Leon County Commissioner Welch who represents this district and is to be taken up by the Leon County as a future item on its agenda within the next few months. Most all of the county Commissioners have been to the site and agree that the project is worthwhile. Commissioner Welch, however, has been involved in all of the twists and turns this project has taken and is ready to place it on the agenda within the next two months. Secondly, A grant is being submitted in November 2021 to the African American Historical Call for proposals. As mentioned before, the school itself is on the Local Register of Historic Places and cannot be demolished without the Architectural Review Board's approval. We are hopeful that the application to the National Register can be submitted by this time next year.

6. How the project meets Florida Forever Criteria.

The project meets Goals E, F, G, and H.

Goal E. Increase natural resource-based public recreation or educational opportunities as measured by:

This Project Increases natural resource-based public recreation or education opportunities in the number of acres acquired, the miles of trails for public recreation and increasing the Florida National Scenic Trail, but it especially meets the increase in the Number of new resource based recreational facilities made available on public land. Especially if that resource is eligible to apply to be listed on the National Register. A full Curriculum, K-16, has been written to use as an educational Guide to interpreting the Lake Hall School. Saving the pristine lots that comprise almost two acres, is also a worthy act in that the woods would allow access to the new development for public recreation.

Goal F: ***Protect significant archaeological or historic sites***

Of course the Lake Hall School is a perfect fit for both the archaeological and historic site qualification. Indeed the school is already on the Local Register and is in line to apply for the National Register. The National Park Service **Southeast Archeological Center** is located in Tallahassee and some of its directors have has been to visit the site and they see the Lake Hall School as a natural fit for its mission. Again, a very natural fit.

Goal G. ***Increase the amount of forestland available for sustainable management of natural*** **resources**

Preserving the forested land and the natural resources that surround the Lake Hall School is timely and necessary. It is a natural resource that has yet to be claimed and it is perfect for the goals of this objective. This part of the county is undergoing incredible development but it has little regard for forested areas based on the clear cutting that goes on. These parcels under consideration can be the example that all will admire and enjoy and manage.

The Lake Hall School Park
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Goal H. ***Increase the Open Space in what is now an urban core.***

Included in this proposal is the plan to preserve nearly 2 acres of Land that represent an urban oasis of forested land in the middle of a man made urban core. In light of the new development of luxury homes with zero lot lines, these vacant wooded acres could be an incredible amenity to the community with walking trails and bike trails just minutes from their homes. These lots also represent the kind of land the school was originally built on in 1870 and these woods do much to re-create a time long gone. These newly created Urban Core homes will be served well by the open space within walking distance to their homes and can serve as a natural buffer to the noise of the highway. Most importantly is preserving the urban forest that already exists in this newly created Urban Core of zero lot-line homes.

7. Whether the Project is proposed for fee simple or less than fee acquisition.

It is anticipated that both types of acquisition will be used. For two owners with parcels already for sale, the Fee Simple method seems appropriate. For those that require negotiation with the owners, either method could be considered.

The Lake Hall School Park
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Attachment B Owners and Tax Information

Tax Parcel ID Legal Description	Market Tax Value 2021 Taxes Assessed		value Of Improvements	Acreage
1433206020000 33 2N 1E.29AC IN NE1/4 OFNE1/4 OFSW ¼ OR 743/773	$79,461 $70,461 $1,271	GAO SHENG LIU SHENG 8609 MARSHALL LANE Tallahassee Fl. 32309	62,061	.29
1433206980000	$177,705 $138,662 $2,343	Same as above	57,705	1.2
1433207040000 33 2N 1E .20AC INNE1/4 OFSW ¼ OR 487/61	108,249 108,249 1688.53	same as above	88,249	.2
1433204820000 33 2N 1E .91A IN N ½ OF S ½ OR 350/41	45,500 44,044 673.38	Van Copeland 236 Bedford Ave Mount Vernon, New York 10553	0	.910
1433204780000 33 2N1E.95A IN NW COR OF SE ¼ IN NE COR OF SW ¼ 0R903/1664 1860/497 R/W DEDUCT 3/96 PROJ #2544	48,000 46,464 710.38	Jennie & Walter Collett 8132 Blenheim Ln Tallahassee, FL 32312	0	.960
1433201460000 33 2N 1E1.18 A INN1.2 OR 1213/1491 1482.973 1954/1835 OR 2364/1673	$219,532 $131,045 $2249.99 2,249.99	Lan Compton Christian Collier 4664 Thomasville RD Tallahassee, FL 3230	160,532.00	1.180

The Lake Hall School is a Treasure. It stands to represent the lived experiences of African Americans in Leon County from slavery to freedom. The school sits on its original footprint surrounded by the descendants of the original residents. Its history is encapsulated in the school building itself, and is told by those who attended the school and or grew up with the school being the center of the community's spirit.
It is within hiking distance to McClay Gardens, the cemetery where the original members of the Lake Hall neighborhood are buried and to the fields they once owned and later share cropped. The people once freed –turned to education as a path to "pursue happiness:" they built themselves a school- The Lake Hall School.

Contact
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@
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850-766-0972
FLHS@gmail.com

Friends of Lake Hall School





The Mission of the Lake Hall School

*Tourism:

Tours of the grounds as well as Targeted and Customized Tours - all arranged in advance

*An Archeological dig

Guided by the SE Regional Archeological Center of the National Park Service @ Innovation Park

*Onsite Museum

A display of artifacts found on the site

*An Educational Center

Programming for elementary school students to life-long learners.

*School of Architecture @ FAMU:

Projects that present technology and architectural

*Oral History Projects

Arranging the recording of Oral Histories and using those to formulate a documentary

*Seniors 'Programming and Projects

Weddings, Receptions, Small Parties

Education:

Public School Model Curriculum:

Elementary

* Visit the One Room School House;
- Be A student for a day;
- Learn a lesson in the one room school;
- Learn the games the children played then;
- Eat the food those kids ate;
- Meet the folks who attended the school and hear their stories and ask questions.

Middle School

* Learning to Learn in a One Room School;
- A day of Learning in a one-room school;
- Compare and contrast the school Day;
- Have a discussion w/ A Former LH Student;
- What can we keep and what wouldn't work in a modern day Middle School?

High School:

- What can a one room schoolhouse tell you about the past?
- Implications of the one room school house and the community;
- Projects that reflect an understanding of the School's History:
- Florida History Fair projects;
- Advanced Placement courses;
- American History between 1870- 1970 ;
- Leon County History and the LH School;
- History of Education;
- Architecture: Then and Now & refined techniques.

College

* Process of Historic Preservation ;
* Internships in Non Profit Management;
* Artisan Studies;
- Reflections of economic and social history and justice;
- Archeological Studies;
- Independent Directed Studies.

Adult Education

Politics of the time—Sports of the ERA

Crafts of the Time—Clubs and Social Activities

Recipes from the ERA—Teachers who Taught at LH

The Friends of the LAKE Hall School Have completed the Following in securing the protection of the school.

1. The Lake Hall School is listed on the Local Register of Historic Places.
2. The Lake Hall School has been surveyed to sit on its own plot of land
3. Interviews with those who attended the School have been taken or are scheduled to be taken
4. Zoom Meeting with DEP's Acting Deputy Secretary Chapman and Ms. Carla Gaskin, Executive Staff Director.
5. Discussion with the Chief of New Parks, Mr. Steve Crenshaw. Letter of Support issued
6. A Florida Forever Boundary Amendment Application has been submitted and commented on and suggests that Leon County become the manager. This grant carries a 2million budget and should be more than enough to purchase the property.
7. As of 3/15/22 the Legislature has added 25 General Revenue Appropriations to the budget. Several could add dollars to this project.
8. The Realtor for the abutting property has been contacted.
9. Many emails and text messages have gone back and forth to the owners of the school
10. The trust for public land did extensive work on this project and with the owners as well That correspondence is available, but I believe you have copies of all of it.
11. The Lake Hall School has been brought to the attention of Senator Ausley and a meeting to be scheduled after session '22 with Representative Allison Tant.
12. A set of programs have been listed on the brochure and a curriculum for students –K-16- has been devised.
13. The Superintendent of Schools has visited the school and is interested in its progress.
14. The Day to Day of the school can be managed by the Friends of the Lake Hall School, both desendants and volunteers to conduct School related programs and events.
15. The economic Engine that will support the school with be a Montessori School within the SCHOOL. Grade Level will be High School. Vouchers Accepted.
16. Contacted the School Of Architecture at FAMU and secured images to reflect the vision of a State Park from Mr. Damion Smith, Grad Student.
17. The Tallahassee Historic Society has been included in the progress gained toward the State Park. A letter of support is forthcoming.

2.01.1

Board of County Commissioners
Leon County, Florida

Policy No. 16-5

Title:	Real Estate Policy
Date Adopted:	September 14, 2021
Effective Date:	September 14, 2021
Reference:	Chapters 73, 74, 125, 127, 162, 197, and 420, Florida Statutes; Leon County Administrative Code at Chapter 2, Article X, Leon County Code of Laws; Chapters 6, 10, 14, 16, and 18 Leon County Code of Laws; Tallahassee-Leon County 2030 Comprehensive Plan, Part VI Joint Housing Element
Policy Superseded:	Policy No. 03-01 "Approval Authority for the Acquisition, Disposition, and Leasing of Real Estate" adopted January 14, 2003; amended November 18, 2003; amended February 24, 2004; amended August 25, 2009; amended October 13, 2009; amended February 23, 2010; Policy No. 16-5 "Real Estate Policy" adopted June 14, 2016; amended June 19, 2018;

It shall be the policy of the Board of County Commissioners of Leon County, Florida (the "Board"), that Policy No. 16-5, "Real Estate Policy," amended on June 19, 2018, is hereby further amended, and a revised policy is adopted in its place, to wit:

Article 1.
Intent, Authority, Purpose, and Scope

1.1. The intent of this Policy is to provide for the coordinated administration of County departments to better address the comprehensive nature of the County's real estate affairs, and to place into the hands of the County Administrator the multitude of details which necessarily arise from the County's need to transact a wide-ranging variety of purchases, sales, leases, licenses, mortgages, easements, releases, and restrictive covenants pertaining to real estate and, thus, enabling the Board to perform freely, without unnecessary interruption, its fundamental intended purpose of making policy. It is the further intent of this Policy to provide a formula and structure for the economic and efficient conduct of the County's real estate affairs by making the County Administrator responsible for the handling of all things necessary to accomplish and bring to fruition this Policy established by the Board. Further, it is the intent that this Policy shall be followed, along with all applicable laws and professional ethics, in order to ensure fair and equitable treatment to the County, the general public, and all affected real estate owners.

1.2. The authority set forth herein shall be deemed to be as follows:

1.2.1. the Board's pre-approval of the contracts and agreements negotiated by the County Administrator, or his or her authorized designee, for the Acquisition, Disposition, and License of

Real Estate pursuant to those specific duties set forth in Section 2-501(b)(8) of the Leon County Administrative Code in LC Code Chapter 2, Article X, as may be amended from time to time;

1.2.2. the County Administrator's specific duty to supervise the care and custody of all County-owned Real Estate pursuant to those specific duties set forth in Section 2-501(b)(4) of the Leon County Administrative Code in LC Code Chapter 2, Article X, as may be amended from time to time;

1.2.3. the County Administrator's specific duty to carry out any other power or duty as may be assigned by the Board pursuant to those specific duties set forth in Section 2-501(b)(13) of the Leon County Administrative Code in LC Code Chapter 2, Article X, as may be amended from time to time;

1.2.4. the County Administrator's specific power and duty to supervise, direct, and control all County departments and offices the responsibility for the operation of County government and the implementation of all Board policies pursuant to Section 2-501(f) of the Leon County Administrative Code in LC Code Chapter 2, Article X, as may be amended from time to time;

1.2.5. the Board's authority to assign to the County Administrator additional administrative and ministerial powers and duties to be carried out subject to, and in accordance with, the limitations and directives set forth in this Policy; and

1.2.6. the Board's authorization for the County Attorney to commence lawsuits and other Court proceedings in accordance with this Policy including, but not limited to, those seeking to acquire Real Estate under the Board's exercise of eminent domain, those seeking possession and/or damages from occupants of County-owned Real Estate and those seeking to quiet title to County-owned Real Estate.

1.3. The purpose of this Policy is to establish a policy and procedure for the following:

1.3.1. the Board's pre-approval of any and all contracts or agreements negotiated by the County Administrator, or his or her authorized designee, for the Acquisition, Disposition, and License of Real Estate; and

1.3.2. the Board's authorization for the County Attorney to commence lawsuits and other Court proceedings in accordance with this Policy including, but not limited to, those seeking to acquire Real Estate under the Board's exercise of eminent domain, those seeking possession and/or damages from occupants of County-owned Real Estate and those seeking to quiet title to County-owned Real Estate.

1.4. The scope of this Policy is as set forth in the following Articles:

- Article 1 - Intent, Authority, Purpose, and Scope
- Article 2 - Definitions
- Article 3 - Responsibilities

- Article 4 - Appraisals and Other County Estimates
- Article 5 - Acquisition by Eminent Domain
- Article 6 - Acquisition by Foreclosure of County Liens
- Article 7 - Acquisition of Tax Deed Parcels
- Article 8 - All Other Acquisitions by Purchase, Mortgage, Lease, or Donation
- Article 9 - Designations for Purposes of Disposition and Management
- Article 10 - Disposition of Tax Deed Parcels
- Article 11 - Disposition of Affordable Housing Parcels
- Article 12 - All Other Dispositions by Sale, Lease, or Donation
- Article 13- Management of County-owned Real Estate; Miscellaneous Real Estate Transactions

Article 2.
Definitions

2.1. *Acquisition* means the conveyance of Real Estate to the County from others, as addressed in following Articles: Article 5, Acquisition by Eminent Domain; Article 6, Acquisition by Foreclosure of County Liens; Article 7, Acquisition of Tax Deed Parcels; and Article 8, All Other Acquisitions by Purchase, Mortgage, Lease, or Donation. Upon the valid recordation of the deed, mortgage, easement, certificate of title, order of taking, or other such document that knowingly conveys such Real Estate to the County in accordance with this Policy, the Acquisition shall be deemed accepted by the County.

2.2. *Acquisition Under Threat of Eminent Domain* means an acquisition of Real Estate that has been identified on a Right-of-Way Map as being necessary to implement a Capital Improvements Project, regardless of an owner's unwillingness to sell, and that proceeds to completion in accordance with the pre-suit negotiation process as provided in Section 73.015, Florida Statutes, as may be amended from time to time, without the need for the Board to exercise its power of eminent domain with the commencement of a lawsuit.

2.3. *Acquisition By Exercise of Eminent Domain* means an acquisition of Real Estate under the Board's exercise of its eminent domain power with the commencement of a lawsuit in those instances when the pre-suit negotiations for an Acquisition Under Threat of Eminent Domain are unsuccessful; provided, however, that in accordance with Section 127.02, Florida Statutes, as may be amended from time to time, such exercise of eminent domain shall not proceed unless the Board adopts a resolution authorizing such acquisition.

2.4. *Affordable Housing* means housing for which the monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for any households with persons qualifying as "extremely-low-income persons," "very-low-income persons," "low-income

persons," or "moderate-income persons," as those terms are defined in Section 420.0004, Florida Statutes, as may be amended from time to time.

2.5. *Affordable Housing List* means the inventory list of all Certified Affordable Housing Parcels contained in a resolution of approval as adopted by the Board in accordance with Section 125.379, Florida Statutes, as may be amended from time to time.

2.6. *Affordable Housing Parcel* means a parcel of County-owned Real Estate that has been deemed to be appropriate for use as Affordable Housing, as determined by Housing Program staff, and is designated as either a Pending Affordable Housing Parcel or a Certified Affordable Housing Parcel.

2.7. *Capital Improvements Project* means any project which has been approved by the Board in a capital improvements project budget, or which has otherwise been approved by the Board pursuant to an agenda request presented at a meeting of the Board.

2.8. *Certified Affordable Housing Parcel* means an Affordable Housing Parcel contained on the Affordable Housing List.

2.9. *Code Enforcement Board* means the Leon County Code Enforcement Board created and operated pursuant to Chapter 162, Florida Statutes, as may be amended from time to time, and LC Code Chapter 6, as may be amended from time to time.

2.10. *Code Enforcement Lien* means a lien imposed by the Code Enforcement Board pursuant to LC Code Section 6-34, as may be amended from time to time, against the real property on which the code violation exists and upon any other real property or personal property owned by the code violator.

2.11. *Comprehensive Plan* means the Tallahassee-Leon County 2030 Comprehensive Plan, as may be amended from time to time.

2.12. *County* means, as indicated by the context used, either Leon County, Florida, as a geographic location, or Leon County, Florida, a charter county and political subdivision of the state of Florida, as a legal entity.

2.13. *County Easement* means an easement conveyed by the County, as grantor, to a utility provider, as grantee, which grants a permanent or temporary easement interest in a parcel of County-owned Real Estate for the sole purpose of providing utility service to the County. As distinguished from other easements in County-owned Real Estate, the conveyance of a County Easement is considered a function of the County Administrator's specific duty to supervise the care and custody of all County Real Estate and, as such, shall be exempt from the Article 12 requirements below.

2.14. *Cross Creek Square* means the excess retail space within the Supervisor of Elections Voter Operations Center located at 2990 Apalachee Pkwy, Tallahassee, Florida.

2.15. *Disposition* means the conveyance of Real Estate from the County to others, as addressed in following Articles: Article 10, Disposition of Tax Deed Parcels; Article 11, Disposition of Affordable Housing Parcels; and Article 12, All Other Dispositions by Sale, Lease, or Donation.

A Disposition shall not include the grant of a License or a County Easement interest in County-owned Real Estate.

2.16. *Donation* means a conveyance of Real Estate by Purchase, Sale, or Lease involving no monetary consideration including, but not limited to, any such conveyance of Real Estate to the County required or otherwise authorized pursuant to any Board action, any LC Code provision, or any other federal, state, or local law, regulation, or rule as further specified in Section 8.7 below.

2.17. *Eminent Domain Acquisition* means either or both an Acquisition Under Threat of Eminent Domain or an Acquisition By Exercise of Eminent Domain.

2.18. *Escheatment* means the reversion of Real Estate to the County, pursuant to Section 197.502(8), Florida Statutes, as may be amended from time to time, resulting from the passage of three years during which such Real Estate remained on the Clerk's List of Lands Available.

2.19. *Fair Market Rental Rate* means the rental rate at which the applicable premises would be Leased between a willing and well-informed tenant and a willing and well-informed landlord, neither being under any compulsion to Lease the premises.

2.20. *Fair Market Value* means the price in cash, or its equivalent, at which Real Estate would change hands between a willing and well-informed buyer and a willing and well-informed seller, neither being under any compulsion to buy or sell the Real Estate.

2.21. *Full Compensation* means monetary compensation paid to an owner, pursuant to Chapter 73, Florida Statutes, as may be amended from time to time, and as otherwise provided by law, in consideration for an Eminent Domain Acquisition. Full compensation shall include, but not be limited to, the following:

2.21.1. compensation for the Real Estate acquired;

2.21.2. damages to any remaining Real Estate not acquired;

2.21.3. any legal entitlement to damages to an owner's business caused by the denial of the use of the Real Estate acquired; and

2.21.4. any legal entitlement to an owner's reasonable attorneys' fees, experts' fees, and costs incurred in the defense of the proceedings.

2.22. *HLPP* means the Homestead Loss Prevention Program as adopted by the Board and as may be amended from time to time.

2.23. *HLPP Lien* means the lien imposed on a parcel of Real Estate through a HLPP participant's execution and delivery to the County of a written agreement securing the participant's promise to pay such lien.

2.24. *Homestead Exemption* means the exemption from taxation granted by the Property Appraiser pursuant to Section 196.031, Florida Statutes, as may be amended, regarding exemption of homesteads.

2.25. *Housing Element* means Part VI of Volume I of the Comprehensive Plan consisting of the Joint Housing Element, the Housing Element of the City of Tallahassee, and the Housing Element of Leon County.

2.26. *Housing Program* means the collective group of individuals designated by the County Administrator to be responsible for the day-to-day activities involved in the County's Affordable Housing programs including, but not limited to, any individuals retained by contract to provide such services in lieu of County employees.

2.27. *Lake Jackson Town Center* means The Lake Jackson Town Center at Huntington retail plaza, located at 3840 N. Monroe Street, Tallahassee, Florida, and any part thereof.

2.28. *LC Code* means the Leon County Code of Laws, as may be amended from time to time.

2.29. *LC Government Annex* means the Leon County Government Annex building located at 311 and 315 S. Calhoun Street, Tallahassee, Florida, and any part thereof including but not limited to office and parking spaces.

2.30. *Lease* means the conveyance of a leasehold interest in Real Estate. A Lease may be either a conveyance from the County to others or a conveyance from others to the County. A Lease may be by Donation. The term Lease, however, does not include a License or grant of right-of-entry providing for the right of temporary occupancy or use of real or personal property.

2.31. *License* means a grant of permission authorizing the licensee to do a particular act on a parcel of County-owned Real Estate or Right-of-Way. As distinguished from a Lease, a License merely grants permission to use such Real Estate, does not convey to the licensee any property interest in, or exclusive possession to, the Real Estate, cannot be assigned by the licensee, and is revocable by the County at will. As such, the grant of a License shall be exempt from the Article 12 requirements below.

2.32. *List of Lands Available* or *LOLA* means Clerk's list of lands available for taxes containing, in accordance with Section 197.502(7), Florida Statutes, as may be amended from time to time, those properties for which there were no bidders at the Clerk's public sale by tax deed.

2.33. *Mortgage* means any written agreement or other such instrument that creates a lien upon Real Estate in favor of the County as security for the payment of a specified debt owed to the County. Examples of Mortgages include, but are not limited to, the agreements associated with the loans granted as part of any of the County's Affordable Housing programs and the agreements associated with a HLPP Lien.

2.34. *Nuisance Abatement Lien* means a lien filed by the County, pursuant to LC Code Section 14-54, as may be amended from time to time, against a real property in an amount consisting of the County's cost of abating a public nuisance upon such real property together with the County's costs of inspection and administration, interest, and reasonable attorney's fees and other costs of collecting such amount.

2.35. *Pending Affordable Housing Parcel* means an Affordable Housing Parcel that is not yet contained on the Affordable Housing List.

2.36. *Policy* means this Real Estate Policy as adopted by the Board and as may be amended from time to time.

2.37. *Purchase* means a purchase of Real Estate by the County that will proceed to closing only if acceptable terms and price and can be negotiated with the owner, and will not proceed as an Eminent Domain Acquisition. A Purchase may be by Donation.

2.38. *Real Estate* means any and all real property interests or rights in land and the improvements attached thereto. Such real property interests and rights may include, but are not limited to, fee simple interests, mortgage or other secured interests, temporary or permanent easement interests, or leasehold interests. However, such real property interests and rights do not include the right of temporary occupancy or use of County-owned Real Estate pursuant to a License or grant of right-of-entry.

2.39. *RE Program* means the collective group of individuals designated by the County Administrator to be responsible for the day-to-day activities involved in the County's Acquisition and Disposition of Real Estate, and to otherwise implement the provisions of this Policy including, but not limited to, any individuals retained by contract to provide such services in lieu of County employees.

2.40. *RE Manager* means the County employee that heads the RE Program.

2.41. *Right-of-Way* means any Real Estate acquired by the County for use in constructing and maintaining Roads, stormwater management facilities, sewage disposal systems, or any other such Capital Improvements Project involving public works.

2.42. *Right-of-Way Map* means any boundary survey, sketch of description, or other such map of survey prepared by or on behalf of the County that identifies the Real Estate needed to be acquired in order to construct and maintain a Road, stormwater management facility, sewage disposal system, or any other such Capital Improvements Project involving public works.

2.43. *Road* means a way open to travel by the public, including, but not limited to, a street, highway, or alley. The term includes associated sidewalks, the roadbed, the right-of-way, and all culverts, drains, sluices, ditches, water storage areas, waterways, embankments, slopes, retaining walls, bridges, tunnels, and viaducts necessary for the maintenance of travel.

2.44. *Sale* means the sale of County-owned Real Estate by the County. A Sale may be by Donation.

2.45. *Surplus Parcel* means a parcel of County-owned Real Estate for which the RE Manager, with input from appropriate RE Program staff, has determined that the parcel is not needed for any County project, does not contain any environmentally sensitive features, is not appropriate for use as Affordable Housing, and otherwise has no particular intended or proposed County use. Upon designating such Real Estate as a Surplus Parcel, the RE Program may proceed with its Disposition in accordance with this Policy.

2.46. *Tax Deed Parcel* means a parcel of Real Estate owned by the County as a result of either the County's Purchase of such parcel from the Clerk's List of Lands Available or the Escheatment of such parcel to the County.

Article 3.
Responsibilities

3.1. County Administrator. The County Administrator shall be charged with the following responsibilities:

3.1.1. Designating the RE Manager and the individuals to comprise the RE Program;

3.1.2. Developing uniform and clear procedures for all Real Estate transactions consistent with this Policy;

3.1.3. Approving, executing, and accepting any documents necessary to complete a Real Estate transaction subject to the limits as provided herein; provided, however, that in a Sale or Donation the Board Chairman shall execute any deed, easement, or other such instrument of conveyance. In the County Administrator's absence, the Deputy County Administrator, the Assistant County Administrator, or other member of the County Administrator's management staff may execute and accept such documents on his or her behalf in accordance with Section 3.1.5 below;

3.1.4. Rejecting any initial offer or counteroffer regarding the County's Acquisition, Disposition, or License of Real Estate, subject to the limits as provided herein;

3.1.5. Appointing a member, or members, of the County's Administrator's management staff as authorized designee(s) for approval, execution, and acceptance on his or her behalf of any documents necessary to complete a Real Estate transaction or, as applicable, to reject any Real Estate offers or counteroffers; provided, however, such authorized designation shall be subject to the limits of the County Administrator's authority as provided herein; and

3.1.6. Accepting, on behalf the Board, the Clerk's notice to the County commission, pursuant to Section 197.502(7), Florida Statutes, as may be amended, that lands have been entered on the List of Lands Available and are available for Purchase by the County. The County Administrator may appoint a member of his or her management staff as an authorized designee for such acceptance.

3.2. County Attorney's Office. The County Attorney, or his or her authorized designee, shall be charged with the following responsibilities:

3.2.1. Commencing an eminent domain lawsuit for an Acquisition By Exercise of Eminent Domain in those instances when the pre-suit negotiations for an Acquisition Under Threat of Eminent Domain are unsuccessful;

3.2.2. Commencing lawsuits and other Court proceedings in accordance with this Policy including, but not limited to, those seeking possession and/or damages from occupants of County-owned Real Estate, those seeking to quiet title to County-owned Real Estate, and those seeking to foreclose County liens; and

3.2.3. Determining the scope of the appraisal assignment and the form of the appraisal report to be prepared for use in the County's Real Estate transactions in accordance with Article 4 below, unless such scope is otherwise established by the Board.

3.2.4. Providing input in the preparation of an estimate of the reasonable attorneys' fees, experts' fees, and costs incurred by the owner in the defense of an Eminent Domain Acquisition in accordance with Article 4 below.

3.2.5. Approving any and all documents related to any transaction pursuant to this Policy.

Article 4.
Appraisals and Other County Estimates

4.1. For any Purchase or Sale of Real Estate, with the exception of Donations or except as otherwise provided herein, the RE Program staff shall obtain an appraisal report which will provide an estimate of the Fair Market Value of the Real Estate interest involved in the transaction in accordance with the following procedures:

4.1.1. For Purchases or Sales in which the value of the Real Estate is anticipated by the RE Program staff to not exceed $50,000, one independent state-certified appraiser shall be retained to prepare an appraisal report with an estimate of the Fair Market Value of the Real Estate at its highest and best use. However, in lieu of obtaining an appraisal report, the RE Program staff, at the discretion of the RE Manager, may rely upon an estimate of value provided by the RE Program staff within the scope of their employment with the County.

4.1.2. For Purchases or Sales in which the value of the Real Estate is anticipated by the RE Program staff to be greater than $50,000 but not exceed $750,000, one independent state-certified appraiser shall be retained to prepare an appraisal report with an estimate of the Fair Market Value of the Real Estate at its highest and best use.

4.1.3. For Purchases or Sales in which the value of the Real Estate is anticipated by the RE Program staff to exceed $750,000, two independent state-certified appraisers shall be retained to each prepare an appraisal report with an estimate of the Fair Market Value of the Real Estate at its highest and best use.

4.2. For any Eminent Domain Acquisition, regardless of the estimated value of such Real Estate, the RE Program staff shall obtain one appraisal report to be utilized in determining the County's estimate of Full Compensation for such Acquisition. Nothing herein shall prohibit the RE Program staff, at its discretion, from obtaining a second appraisal report for such Acquisition.

4.3. For any Leases of Real Estate including, but not limited to, any part of the LC Government Annex, the Lake Jackson Town Center, or the Cross Creek Square, the RE Program staff, at the discretion of the RE Manager, may rely upon an estimate of the Fair Market Rental Rate for the Lease of the Real Estate provided by RE Program staff within the scope of their employment with the County or may obtain such estimate from individuals retained by contract to provide such services.

4.4. For any Purchase that proceeds pursuant to Board Policy 03-10, Flooded Property Acquisition Program, or as that policy may be renamed or amended, the Real Estate shall be appraised in accordance with the scope of appraisal as provided therein.

4.5. For any Eminent Domain Acquisition in which an owner is legally entitled to damages to a business caused by the denial of the use of the Real Estate acquired, the County shall obtain from a certified public accountant an estimate of such business damages. For purposes of this Policy, the estimate of business damages shall be considered a part of the County's estimate of Full Compensation.

4.6. For any Eminent Domain Acquisition in which an owner will be paid for reasonable attorneys' fees, experts' fees, and costs, a County estimate shall be prepared of such fees and costs considered to be reasonable for the issues involved in the Acquisition. The County's estimate shall be based on input from the County Attorney or his or her authorized designee, provided, however, that in contested cases involving a court determination of the reasonable fees and costs the County may retain a qualified expert to prepare the estimate. For those Eminent Domain Acquisitions in which a settlement is reached or a lawsuit is filed, the estimate of reasonable attorneys' fees, experts' fees, and costs shall be considered a part of the County's estimate of Full Compensation.

Article 5.
Acquisition by Eminent Domain

5.1. Eminent Domain Acquisitions; Authority to Proceed.

5.1.1. Acquisition Under Threat of Eminent Domain. The acquisition of any Real Estate that has been identified on a Right-of-Way Map as being necessary to implement a Capital Improvements Project may, without further Board action, proceed as an Acquisition Under Threat of Eminent Domain; provided, however, that such Acquisition shall comply with the pre-suit negotiation requirements set forth in Section 73.015, Florida Statutes, as may be amended from time to time, and with any other federal, state, and local laws, regulations, and rules as may be applicable.

5.1.2. Acquisition By Exercise of Eminent Domain. In order to timely accommodate the construction schedule for a Capital Improvements Project, the County Attorney may, in accordance with Section 127.02, Florida Statutes, as may be amended from time to time, request the Board to adopt a resolution authorizing the exercise of its eminent domain power for the acquisition of Real Estate as necessary to implement such Capital Improvements Project. Upon the Board's adoption of such resolution, the County Attorney may proceed with the commencement of a lawsuit, if necessary, seeking the Acquisition By Exercise of Eminent Domain in accordance with Chapter 73 and 74, Florida Statutes, as may be amended from time to time, as applicable, and with any other applicable federal, state, and local laws, regulations, and rules.

5.2. County Administrator's Scope of Authority. The County Administrator, or his or her authorized designee, may, without further Board action, approve, execute, and accept any and all documents necessary to complete an Eminent Domain Acquisition for which the Full Compensation amount is within the scope of approval authority as set forth hereinbelow. The County Administrator, or his or her authorized designee, may, at his or her discretion, reject any

offer or counteroffer in such Eminent Domain Acquisitions regardless of the amount. If not rejected, any such offers or counteroffers for which the Full Compensation amount is beyond the County Administrator's scope of approval authority shall be presented to the Board for consideration. The County Administrator's scope of approval authority granted herein shall be limited to such Acquisitions for which the Full Compensation amount is either:

5.2.1. An amount no greater than the County's estimate of Full Compensation, inclusive of any attorneys' fees, experts' fees, and costs associated with the Acquisition of that parcel;

5.2.2. An amount no greater than $25,000, inclusive of any attorneys' fees, experts' fees, and costs, regardless of the amount of the County's estimate of Full Compensation associated with the Acquisition of that parcel; or

5.2.3. An amount no greater than $250,000 inclusive of any attorneys' fees, experts' fees, and costs; provided, however, that such amount of Full Compensation does not exceed the County's estimate of Full Compensation associated with the Acquisition of that parcel by more than 25 percent.

5.3. Extended Possession by Owner After Acquisition. In any Eminent Domain Acquisition in which the Full Compensation to the owner includes an agreement by the County for the owner to remain in possession of the Real Estate for a time certain after the closing date, such agreement for possession shall be deemed not to be a Lease or other Disposition of County-owned Real Estate and shall be exempt from the requirements and other provisions contained in Article 12. In such Acquisitions, the agreement for possession shall be included as part of Full Compensation and transacted in accordance with the terms and provisions contained therein.

5.4. Payment of Fees and Costs in Withdrawn Acquisition. In any Acquisition Under the Threat of Eminent Domain in which (i) the owner has been delivered the statutorily-required notifications in accordance with Section 73.015, Florida Statutes, (ii) the owner has retained the assistance of an attorney and/or expert consultants in reliance on the County's written notification; (iii) the Acquisition Under the Threat of Eminent Domain is withdrawn without a settlement being reached or a lawsuit being filed, and (iv) a request is received for the payment of the owner's attorneys' fees and/or experts' fees and costs, the County Administrator, or his or her authorized designee, may, without further Board action, approve and execute any and all documents necessary to pay such owner's attorneys' fees, experts' fees, and costs. The County Administrator's scope of approval authority granted herein shall be limited to payments in an amount that does not exceed the County's estimate, as determined in accordance with Section 4.6 above, by more than 25 percent.

5.5. Acceptance of Eminent Domain Acquisitions. Upon the valid recordation of the deed, easement, other such document that knowingly conveys such Real Estate to the County by Eminent Domain Acquisition in accordance with this Policy, the Acquisition shall be deemed accepted by the County and the Real Estate shall thereafter be held and managed in accordance with Article 13 below.

Article 6.
Acquisition by Foreclosure of County Liens

6.1. Commencement of Foreclosure Lawsuits; Authority to Proceed. The County Attorney, at his or her discretion, shall be authorized to commence a lawsuit seeking the Acquisition of Real Estate through foreclosure of any valid County lien, subject to the limitations set forth herein. Examples of such County liens include, but are not limited to Code Enforcement Liens, Nuisance Abatement Liens, Mortgage liens, and HLPP Liens.

6.2. Prohibition of Foreclosure Lawsuits. The County Attorney shall, without further Board action, be prohibited from commencing such foreclosure lawsuit if any of the following conditions exist with regard to the Real Estate to be acquired:

6.2.1. The Real Estate is occupied as a homestead as provided in Article X, Section 4, Constitution of the State of Florida;

6.2.2. The Real Estate is subject to any lien, other than another County lien, deemed to be superior to the County lien, including, but not limited to, mortgages, judgments, and federal or state liens; provided, however, that the foreclosure lawsuit may be commenced if it is determined that the payoff amount of such superior liens could be satisfied with the proceeds of a Sale of such Real Estate.

6.3. Dismissal of Foreclosure Lawsuits. If, after the commencement of such foreclosure lawsuit and the discovery of additional information, it is revealed that one of the conditions in Section 6.2 above exists, the County Attorney shall proceed to dismiss such lawsuit without prejudice.

6.4. Purchase from LOLA in Lieu of Foreclosure. In lieu of a foreclosure lawsuit, the County Attorney, at his or her discretion, shall be authorized to coordinate with the RE Program to Purchase any Real Estate from the List of Lands Available, in accordance with Section 7.2 below, when the County Attorney deems that it is in the County's best interest to proceed with such Purchase rather than commence, or continue with, a foreclosure lawsuit.

6.5. Acceptance of Acquisition by Foreclosure. Upon the successful completion of the foreclosure lawsuit and the Clerk's recordation of the certificate of title, the Acquisition shall be deemed accepted by the County and the RE Program shall thereafter proceed with designating such Real Estate for purposes of Disposition and management in accordance with Section 9.2 below.

Article 7.
Acquisition of Tax Deed Parcels

7.1. Escheatment of Tax Deed Parcels. Upon the Clerk's recordation of an Escheatment Tax Deed and subsequent notification to the County of such Acquisition by Escheatment, the Acquisition shall be deemed accepted by the County and the RE Program shall thereafter proceed with designating such Tax Deed Parcel for purposes of Disposition and management in accordance with Section 9.2 below.

7.2. Purchase of Tax Deed Parcels from LOLA; Authority to Proceed. The County Administrator, or his or her authorized designee, may, without further Board action, direct the RE Program to proceed with a Purchase of any Real Estate from the List of Lands Available (LOLA) if such Purchase will satisfy one or more of the following conditions:

7.2.1. the Real Estate is suitable for use in an Affordable Housing program in accordance with Article 11 below;

7.2.2. the Real Estate is suitable for use in a planned County project;

7.2.3. the Real Estate is encumbered with a Code Enforcement Lien, Nuisance Abatement Lien, or a defaulted County lien that is inferior to a mortgage, judgment, or other such lien, and there are no superior federal or state liens that also encumber the Real Estate; or

7.2.4. the Purchase is in lieu of a foreclosure lawsuit pursuant to Section 6.4 above.

7.3. Acceptance of Acquisitions of Tax Deed Parcels Purchased from LOLA. Upon the Clerk's recordation of the Tax Deed that conveys such Tax Deed Parcel Purchase from the LOLA to the County, the Acquisition shall be deemed accepted by the County and the RE Program shall thereafter proceed with designating such Real Estate for purposes of Disposition and management in accordance with Section 9.2 below.

Article 8.
All Other Acquisitions by Purchase, Mortgage, Lease, or Donation

8.1. Purchases and Leases From Others; Authority to Proceed. If the County Administrator, or his or her authorized designee, deems that the County's Purchase or Lease of any Real Estate owned by others may be in the County's best interest, the matter shall be presented to the Board for consideration unless as otherwise provided in Sections 8.2, 8.6, and 8.7 below, or elsewhere in this Policy. Upon the Board's approval, as applicable, the RE Program staff may proceed with such Purchase or Lease in accordance with Section 8.3 below, or as otherwise applicable elsewhere in this Policy.

8.2. Donations From Others; Authority to Proceed. If the County Administrator, or his or her authorized designee, deems that a Donation to the County of any Real Estate owned by others is in the County's best interest, the County Administrator may, without further Board action, direct the RE Program to proceed with such Donation and may approve, execute, and accept any and all documents necessary to complete such Donation.

8.3. County Administrator's Scope of Authority for Purchases and Leases. Upon the Board's approval, as applicable, to proceed with a Purchase or Lease, the County Administrator, or his or her authorized designee, may, without further Board action, approve, execute, and accept any and all documents necessary to complete such Purchase or Lease for which the consideration amount to be paid by the County is within the scope of approval authority as set forth hereinbelow. The County Administrator, or his or her authorized designee, may, at his or her discretion, reject any offer or counteroffer in such Real Estate transactions regardless of the amount. If not rejected, any such offers or counteroffers for which the consideration amount to be paid by the County is beyond the County Administrator's scope of approval authority shall be presented to the Board for

consideration. The County Administrator's scope of approval authority granted herein shall be limited to such Purchases or Leases for which the consideration amount to be paid by the County is either:

8.3.1. A Purchase amount no greater than $25,000, regardless of the County's appraisal of the Fair Market Value for the Real Estate;

8.3.2. A Purchase amount no greater than $250,000, provided, however, that such amount does not exceed the County's appraisal of the Fair Market Value for the Real Estate by more than 25 percent;

8.3.3. An annual Lease payment amount no greater than $2,500 regardless of the estimate of the Fair Market Rental Rate for the Real Estate provided or otherwise obtained by RE Program staff; or

8.3.4. An annual Lease payment amount no greater than $25,000; provided, however, that the rental rate resulting in such annual Lease payment amount does not exceed the estimate of the Fair Market Rental Rate for the Real Estate provided or otherwise obtained by RE Program staff by more than 25 percent.

8.4. Leases From Others to County; Statutory Requirements. Pursuant to Section 125.031, Florida Statutes, as may be amended from time to time, any Lease agreement entered into by the County relating to Real Estate owned by others and needed for County purposes shall be for a period not to exceed 30 years at a stipulated rental amount to be paid from current or other legally available funds; provided, however, that when the term of such Lease agreement is for longer than 60 months, the rental shall be payable only from funds arising from sources other than ad valorem taxes.

8.5. Receipt of Inquiries to Purchase, Lease, or Donate From Others.

8.5.1. Any owner desiring to convey Real Estate to the County by Purchase, Lease, or Donation should deliver a written offer to the RE Program staff. In the event another County department is directly contacted with such an offer, the offer shall be forwarded to RE Program staff for handling.

8.5.2. Upon receipt of such offers, the RE Program staff shall circulate the offer to the appropriate departments for their review and comment as to any interest in the Real Estate for planned or future County projects.

8.5.3. If a County need for the Real Estate is identified, the RE Program staff shall prepare a written report to the County Administrator, or his or her authorized designee, with the following information included:

8.5.3.1. The estimated costs to the County if the offer is accepted;

8.5.3.2. Comments received from County departments identifying the existing and future need for the Real Estate;

8.5.3.3. Recommendations on whether or not to pursue the offer, and on the potential funding source(s).

8.5.4. If the County Administrator, or his or her authorized designee, concurs with the RE Program staff recommendation to pursue the offer, the conveyance of the Real Estate to the County by Purchase, Lease, or Donation shall proceed in accordance with this Article 8.

8.6. Purchases Pursuant to Policy 03-10, Flooded Property Acquisition Program. This Article 8 shall not be applicable to any Purchase that proceeds pursuant to Board Policy 03-10, Flooded Property Acquisition Program, or as that policy may be renamed or amended. In the event of any conflict between such policy and this Policy, the terms of Policy 03-10 shall prevail.

8.7. Other Donations Pursuant to Board Action, LC Code Provision, or Other Law. Except as otherwise provided hereinbelow, a conveyance of Real Estate to the County involving no monetary consideration and required or otherwise authorized pursuant to any Board action, any LC Code provision, or any other federal, state, or local law, regulation, or rule, as may be applicable, shall, for purposes of this Policy, be considered a Donation and shall proceed as authorized without further Board action; provided, however, that a conveyance of Roads, stormwater management areas and other such common areas by plat dedication shall not be considered a Donation. Examples of Donations include, but are not limited to:

8.7.1. Conveyances to the County of conservation easements and flood prone property required as a condition to a development permit pursuant to Chapter 10, LC Code, as may be amended from time to time;

8.7.2. Conveyances to the County of Real Estate associated with requests for road improvements, pursuant to Chapter 16, Article II, LC Code, as may be amended from time to time, or water and sewer improvements, pursuant to Chapter 18, Article II, Division 2, LC Code, as may be amended from time to time;

8.7.3. Conveyances to the County of Tax Deed Parcels by Escheatment; and

8.7.4. Conveyances to the County of Real Estate associated with completed public works projects constructed by the Leon County – City of Tallahassee Blueprint Intergovernmental Agency, the City of Tallahassee, the Florida Department of Transportation, or other such governmental entity.

8.8. Acquisition by Mortgage. If the County Administrator, or his or her authorized designee, deems that a Mortgage to the County of any Real Estate owned by others is in the best interest of the County's various relief programs, including, but not limited to, Affordable Housing and HLPP, the County Administrator may, without further Board action, direct the RE Program, Housing Program, or other appropriate County staff, to proceed with such Mortgage and may approve, execute, and accept any and all documents necessary to complete such Mortgage.

8.9. Acceptance of Real Estate Purchases and Donations. Upon the valid recordation of the deed, mortgage, easement, other such document that knowingly conveys such Real Estate to the County by Purchase, Mortgage, or Donation in accordance with this Policy, the Acquisition shall be deemed accepted by the County and the RE Program shall thereafter proceed with designating such Real Estate for purposes of Disposition and management in accordance with Section 9.2 below.

Article 9.
Designations for Purposes of Disposition and Management

9.1. Real Estate Inventory. The RE Manager shall be responsible for maintaining an inventory of all Real Estate owned and leased by the County. The inventory shall be organized in a manner which categorizes the Real Estate by such designations for purposes of Disposition and management. The designations shall be based upon the County's particular intended or proposed use, if any, for the Real Estate at the time of its Acquisition, and shall specify whether the Real Estate will be held and managed by the County or will be designated for Disposition in accordance with this Policy.

9.2. Designation for Disposition. Upon the Acquisition of any County-owned Real Estate, the RE Manager, with input from appropriate RE Program staff, shall determine if there is a particular intended or proposed County use for such Real Estate. If it is determined that no such particular intended or proposed County use exists, the RE Manager shall designate such Real Estate as a Surplus Parcel and the County Administrator, or his or her authorized designee, shall thereafter proceed with its Disposition in accordance with Section 12.2 below. The responsibility for management of any County-owned Real Estate during the process of Disposition, shall be as set forth in Article 13 below.

9.3. Affordable Housing Parcels.

9.3.1. In determining whether any parcel of County-owned Real Estate is deemed to be appropriate for use as Affordable Housing, Housing Program staff shall take into consideration the goals, objectives, and policies contained within the Housing Element of the Comprehensive Plan.

9.3.2. In accordance with Section 125.379, Florida Statutes, as may be amended from time to time, the RE Program shall, no less frequently than every three years, present to the Board the inventory list of all Pending Affordable Housing Parcels recommended for adoption on to the Affordable Housing List and to thereafter be designated as Certified Affordable Housing Parcels.

9.4. Management of County-owned Real Estate. The responsibility for management of any Real Estate to be held for use by the County and not designated for Disposition shall be as set forth in Article 13 below.

Article 10.
Disposition of Tax Deed Parcels

10.1. Sale to Prior Owner Pursuant to Statute; Authority to Proceed. The County Administrator, or his or her authorized designee, shall, as applicable and without further Board action, proceed as authorized pursuant to Section 197.592, Florida Statutes, as may be amended from time to time, with the Sale to the prior record fee simple owner of any Tax Deed Parcel. Any such Sale shall proceed in accordance with this Section10.1.

10.1.1. Homestead Tax Deed Parcels; Sale with HLPP Assistance. Upon the determination by RE Program staff that a Tax Deed Parcel is occupied and is subject to the Homestead Exemption for the previous record fee simple owner, it shall, before any designation for Disposition pursuant to Section 9.2 above, be offered for Sale to such previous owner subject to the satisfaction of the conditions as set forth hereinbelow. If such offer of Sale is rejected, the RE Program shall thereafter proceed with designating such Real Estate for purposes of Disposition and management in accordance with Section 9.2 above. The RE Program may thereafter proceed with its Disposition in accordance with this Policy; If such offer of Sale is accepted, it shall be completed subject to the satisfaction of the following conditions:

10.1.1.1. The previous record fee simple owner shall deliver to the RE Program a signed application, in a form prepared by the RE Program in accordance with Section 197.592(1)(a)-(g), Florida Statutes, as may be amended from time to time;

10.1.1.2. The application shall include the offer to pay an amount equal to all taxes, including County and municipal taxes and liens, if any, which had become delinquent, together with interest and costs provided by law, including, if applicable, any taxes for the current year and omitted years that have not yet been assessed, the latter amount to be determined by applicable millage for the omitted years and based on the last assessment of the Real Estate;

10.1.1.3. If the previous owner is unable to pay the required amount of taxes, the RE Program shall be authorized to offer to the previous owner the opportunity to apply for financial assistance to the extent provided in the County's Homestead Loss Prevention Policy (HLPP); and

10.1.1.4. The County Administrator, or his or her authorized designee, shall approve, execute, and accept any and all documents necessary to complete the Sale; provided, however, that the Board Chairman shall execute the County Deed.

10.1.2. Non-Homestead Tax Deed Parcels; Sale without HLPP Assistance. Upon the determination by RE Program staff that a Tax Deed Parcel is not the homestead of the previous record fee simple owner, the RE Program shall thereafter proceed with designating such Real Estate for purposes of Disposition and management in accordance with Section 9.2 above. The RE Program may thereafter proceed with its Disposition in accordance with this Policy; provided, however, that if it has been designated as a Surplus Parcel it may be offered for Sale to the previous record fee simple owner subject to the satisfaction of the following conditions:

10.1.2.1. The previous record fee simple owner shall deliver to the RE Program a signed application, in a form prepared by the RE Program in accordance with Section 197.592(1)(a)-(g), Florida Statutes, as may be amended from time to time;

10.1.2.2. The application shall include the offer to pay an amount equal to all taxes, including County and municipal taxes and liens, if any, which had become delinquent, together with interest and costs provided by law, including, if applicable, any taxes for the current year and omitted years that have not yet been assessed, the latter amount to be determined by applicable millage for the omitted years and based on the last assessment of the Real Estate.

10.1.2.3. The required amount of taxes shall be paid in its entirety by, or on behalf of, the previous record owner without any financial assistance provided by the County.

10.1.2.4. The County Administrator, or his or her authorized designee, shall approve, execute, and accept any and all documents necessary to complete the Sale; provided, however, that the Board Chairman shall execute the County Deed.

10.2. Writs of Assistance to Obtain Possession. If, upon rejection of an offer of Sale from the County, the previous owner refuses to turn over possession of the Real Estate to the County, the County Attorney shall be authorized to seek a writ of assistance from the Court pursuant to Section 197.562, Florida Statutes, as may be amended from time to time, and to seek any other remedy available by law to obtain possession. Upon obtaining possession, the RE Program shall thereafter proceed with designating such Real Estate for purposes of Disposition and management in accordance with Section 9.2 above.

10.3. Conveyance to City per Statute. Pursuant to Section 197.592(3), Florida Statutes, as may be amended from time to time, any Tax Deed Parcel satisfying the following criteria shall be conveyed by County Deed to the City of Tallahassee without further Board action. Such County Deed shall be executed by the Board Chairman. The Tax Deed Parcel shall be so conveyed to the City of Tallahassee if:

10.3.1. It has not been previously disposed of by Sale, was not acquired for infill housing, or has not been designated for a particular County use pursuant to Section 9.2 above;

10.3.2. It will not be disposed of by Sale to the previous record fee simple owner in accordance with Section 10.1 above; and

10.3.3. It is located within the City limits.

For purposes of this Section 10.3, the phrase "acquired for infill housing" shall refer to those Tax Deed Parcels that are inadequate in size for construction of houses and were acquired to assemble with abutting parcels for future development of Affordable Housing (*See*, Attorney General Opinion 2006-26, June 29, 2006).

Article 11.
Disposition of Affordable Housing Parcels

11.1. Sale or Lease of Affordable Housing Parcels; Authority to Proceed. The County Administrator, or his or her authorized designee, may, without further Board action, proceed with the Sale or Lease of any Affordable Housing Parcel. Any such Sale or Lease shall proceed in accordance with this Article 11, and shall be further subject to the appraisal report requirements in Section 4.1 above and the County Administrator's scope of authority for Sales, Leases, and Donations in Section 12.4 below.

11.2. HFA Right of First Refusal. In order to encourage the success of the Housing Finance Authority ("HFA") and its programs, the HFA shall have the right of first refusal to cooperate with

the County in the Sale or Lease of any Affordable Housing Parcel accordance with this Section 11.2.

11.2.1. Before proceeding, pursuant to Sections 11.3 or 11.4 below, with any Sale or Lease of an Affordable Housing Parcel, the County Administrator, or his or her authorized designee, shall offer the opportunity to the HFA to contribute to the County's costs associated with preparing such Affordable Housing Parcel for Sale or Lease.

11.2.2. Upon acceptance of such offer by the HFA, the Sale or Lease shall proceed in accordance with Sections 11.3 or 11.4 below, as appropriate, and any HFA funds shall be used solely for the County's costs associated with preparing the Affordable Housing Parcel for such Sale or Lease including, but not limited to, obtaining appraisals, insurable title, and surveys, obtaining Court assistance in quieting title or putting the County in possession, ongoing property maintenance, rehabilitation of existing improvements, or construction of new improvements. Such costs shall specifically not include the County's indirect costs incurred for the salaries or other compensation of the County employees involved in the Sale or Lease.

11.2.3. Upon the Sale or Lease of any such Affordable Housing Parcel, all proceeds remaining after deducting any direct costs incurred by the County, shall be paid to the HFA for use in its Affordable Housing programs.

11.3. Sale or Lease of Certified Affordable Housing Parcels; No Published Notice Calling for Bid. The County Administrator, or his or her authorized designee, may, without further Board action, direct the RE Program to proceed with the private Sale or Lease of any Certified Affordable Housing Parcel, requiring no published notice calling for bid, in accordance with Section 125.379(1), Florida Statutes, as may be amended from time to time. The Sale of such Certified Affordable Housing Parcel shall be subject to the appraisal report requirements in Section 4.1 above and the County Administrator's scope of authority in Section 12.4 below, and shall, in accordance with Section 125.379(2), Florida Statutes, as may be amended from time to time, be subject to the following limitations:

11.3.1. The proceeds of such Sale shall be used to Purchase Real Estate for the development of Affordable Housing or to increase the County's fund earmarked for Affordable Housing;

11.3.2. The Sale may proceed with a restriction that requires the development of such Certified Affordable Housing Parcel as permanent Affordable Housing;

11.3.3. The Sale may proceed as a Donation of such Certified Affordable Housing Parcel to a nonprofit housing organization for the construction of permanent Affordable Housing; or

11.3.4. The Certified Affordable Housing Parcel may be made available by the County for use in the production and preservation of permanent Affordable Housing, including, but not limited to, the Lease of such Certified Affordable Housing Parcel pursuant to any of the County's Affordable Housing programs.

11.4. Sale or Lease of Pending Affordable Housing Parcels; Published Notice Calling for Bids. The County Administrator, or his or her authorized designee, may, without further Board action, direct the RE Program to proceed with the Sale or Lease of any Pending Affordable Housing Parcel in accordance with Article 12 below. Such Sale or Lease shall proceed by published notice calling for bid in accordance with Section 12.5 below, unless exempted therefrom as applicable, and shall be subject to the appraisal report requirements in Section 4.1 above and the County Administrator's scope of authority in Section 12.4 below.

Article 12.
All Other Dispositions by Sale, Lease, or Donation

12.1. Sales and Leases To Others; Authority to Proceed. If the County Administrator, or his or her authorized designee, deems that a Sale or Lease of County-owned Real Estate may be in the best interest of the County, the matter shall be presented to the Board for consideration unless as otherwise provided in Article 10 or Article 11 above, in Sections 12.2, 12.3, or 12.6 below, or elsewhere in this Policy. Upon approval of the Sale or Lease, as applicable, the RE Program staff shall proceed with such Sale or Lease by published notice calling for bid in accordance with Section 12.5 below; provided, however, that such bid process shall not be required if the Sale or Lease is exempted therefrom pursuant to any federal, state, or local law including, but not limited to, the following Sections of the Florida Statutes:

12.1.1. Section 125.35(2), Private Sale or Lease, as addressed in Section 12.6 below;

12.1.2. Section 125.37, Exchange of County Property, as addressed in Section 12.7 below;

12.1.3. Section 125.379, Disposition of County Property for Affordable Housing, as addressed in Article 11 above;

12.1.4. Section 125.38, Sale or Lease of County Property to United States, or State, as addressed in Section 12.8 below;

12.1.5. Section 125.39, Nonapplicability to County Lands Acquired for a Specific Purpose, applicable to any County-owned Real Estate for which a reversionary clause was contained in the deed requiring conveyance back to the Grantor upon the County's failure to use the Real Estate for such specific purpose; or

12.1.6. Section 197.592, County Delinquent Tax Lands; Method and Procedure for Sale by County; Certain Lands Conveyed to Municipalities, as addressed in Article 10 above.

12.2. Sale or Lease of Surplus Parcels; Authority to Proceed. Except as otherwise provided in this Section 12.2 or elsewhere in this Policy, the County Administrator, or his or her authorized designee, may, without further Board action, proceed with the Sale or Lease of any County-owned Real Estate designated as a Surplus Parcel in accordance with this Article 12, and shall be further subject to the appraisal report requirements in Section 4.1 above and the County Administrator's scope of authority for Sales, Leases, and Donations in Section 12.4 below.

12.2.1. Within City Limits; Conveyance to City per Statute. With regard to any Surplus Parcel located within the City limits, the RE Program shall convey such Surplus Parcel to the City of Tallahassee in accordance with Section 10.3 above;

12.2.2. Within Unincorporated County; Notice of Availability to Adjacent Owners. With regard to any Surplus Parcel located within the unincorporated area of the County, the RE Program shall provide written notice to the owners of the parcels located adjacent to such Surplus Parcel that it is available for Sale by the County. Upon receipt by the RE Program of any responses expressing interest in the Surplus Parcel, the RE Program shall proceed with the Sale in accordance with this Article 12, subject to the appraisal report requirements in Section 4.1 above and the County Administrator's scope of authority for Sales, Leases, and Donations in Section 12.4 below.

12.3. Leases for LC Government Annex, Lake Jackson Town Center, or Cross Creek Square; Authority to Proceed. With regard to the conveyance, modification, or termination of a Lease for any part of the LC Government Annex, Lake Jackson Town Center, or Cross Creek Square, the County Administrator, or his or her authorized designee, may, without further Board action, direct the RE Program staff to proceed in accordance with Section 12.9 below, subject to the scope of the County Administrator's authority and responsibilities as set forth therein.

12.4. County Administrator's Scope of Authority for Sales, Leases, and Donations. Upon the Board's approval, as applicable, to proceed with a Sale or Lease, the County Administrator, or his or her authorized designee, may, without further Board action, approve, execute, and accept any and all documents necessary to complete a Sale or Lease, including Donations, for which the consideration amount to be received by the County is within the scope of approval authority as set forth hereinbelow; provided, however, that in a Sale or Donation the Board Chairman shall execute any deed, easement, or other such instrument of conveyance. The County Administrator, or his or her authorized designee, may, at his or her discretion, reject any offer or counteroffer in such Real Estate transactions regardless of the amount. If not rejected, any such offers or counteroffers for which the consideration amount to be received by the County is beyond the County Administrator's scope of approval authority shall be presented to the Board for consideration. The County Administrator's scope of approval authority granted herein shall be limited to such Sales or Leases, including Donations, for which:

12.4.1. the Fair Market Value of the Real Estate is no greater than $25,000, regardless of the Sale amount for the Real Estate;

12.4.2. the Fair Market Value of the Real Estate is no greater than $250,000, provided, however, that the Sale amount is no less than 75 percent of the Fair Market Value for the Real Estate;

12.4.3. the Fair Market Rental Rate would result in annual Lease payment amount of no greater than $500 regardless of the actual rental rate to be received by the County for the Real Estate; or

12.4.4. the Fair Market Rental Rate would result in annual Lease payment amount of no greater than $5,000 annually; provided, however, that the actual rental rate to be received by the County is no less than 75 percent of the Fair Market Rental Rate for the Real Estate.

12.5. Sale or Lease; Published Notice Calling for Bids. In accordance with Section 12.1 above, as applicable, any Sale or Lease by published bid shall, pursuant to Section 125.35(1)(c), Florida Statutes, as may be amended from time to time, proceed as follows:

12.5.1. The RE Program staff shall prepare a notice calling for bids for the Purchase or Lease of the Real Estate so advertised to be conveyed by Sale or Lease to the highest and best bidder satisfying the terms and conditions of such notice. At the discretion of the County Administrator, or his or her authorized designee, the bids may be received as sealed bids to be opened on the date and time provided in the notice or may be received at a public auction held on the date and time provided in the notice. The notice shall be published once a week for at least 2 weeks in a newspaper of general circulation published in the County.

12.5.2. Upon receipt of any bids responsive thereto, the RE Program staff shall compile and summarize the bid information and shall, subject to the County Administrator's scope of authority in Section 12.4 above, convey such Real Estate by Sale or Lease to the highest bidder complying with the terms and conditions set forth in the notice; provided, however, if the highest bid amount is less than the Property Appraiser's market value for the Real Estate, the RE Manager shall reject all offers and bids. A deposit or surety bond may be required to be made or given with each bid submitted.

12.6. Private Sale or Lease of Surplus Parcel; No Published Notice for Bids. The County Administrator, or his or her authorized designee, may, without further Board action, direct the RE Program staff, pursuant to Section 125.35(2), Florida Statutes, as may be amended from time to time, to proceed with a private Sale or Lease of a Surplus Parcel, with no published notice calling for a bid, if it is first determined by the RE Program staff that such Surplus Parcel is of insufficient size and shape to be issued a building permit for any type of development to be constructed on the Surplus Parcel or that the County's estimated Fair Market Value of the Surplus Parcel is $15,000 or less, and that, due to the size, shape, location, and value of the Surplus Parcel, it is of use only to one or more adjacent property owners. Under such circumstances, the Sale or Lease may proceed as follows:

12.6.1. After sending notice of the intended action to owners of adjacent property by certified mail, the RE Program staff may proceed with a Sale or Lease of the Surplus Parcel without receiving bids or publishing notice.

12.6.2. If, however, within ten working days after receiving such mailed notice, two or more owners of adjacent property notify the RE Program staff of their desire to Purchase or Lease the Surplus Parcel, the RE Program staff shall accept sealed bids for the Surplus Parcel from such property owners and shall, subject to the County Administrator's scope of authority in Section 12.4 above, convey it by Sale or Lease to the highest bidder complying with the terms and conditions set forth in the notice; provided, however, if the highest bid amount is less than the Property Appraiser's market value for the Surplus Parcel, the RE Manager shall reject all offers and bids.

12.7. Exchange of Real Estate. Pursuant to Section 125.37, Florida Statutes, as may be amended from time to time, upon the Board's adoption of a Resolution authorizing the exchange of any Real Estate owned by the County for other Real Estate owned by others, the RE Program staff may proceed with such Real Estate exchange, with no published notice calling for bid, in accordance with the requirements as set forth in Section 125.37, Florida Statutes, as may be amended from time to time. Before such Resolution is adopted by the Board, the RE Program staff shall prepare a notice setting forth the terms and conditions of the Real Estate exchange and

arrange for the notice to be published once a week for at least two weeks in a newspaper of general circulation published in the County.

12.8. Sale or Lease to Government or Non-Profit. Pursuant to Section 125.38, Florida Statutes, as may be amended from time to time, upon the Board's adoption of a Resolution approving the request to the Board by the United States, or any department or agency thereof, the State or any political subdivision or agency thereof, or any municipality of this State, or by a corporation or other organization not for profit which may be organized for the purposes of promoting community interest and welfare, of its desire to use County-owned Real Estate, the RE Program staff may proceed with a private Sale or Lease of such Real Estate, with no published notice calling for bid. Such private Sale or Lease of County-owned Real Estate shall be in accordance with the requirements as set forth in Section 125.38, Florida Statutes, as may be amended from time to time.

12.9. Lease of LC Government Annex, Lake Jackson Town Center, and Cross Creek Square.

12.9.1. The County Administrator, or his or her authorized designee, may, without further Board action, approve, execute, and accept any and all documents necessary to complete a conveyance, modification, or termination of a Lease for any part of the LC Government Annex, Lake Jackson Town Center, or Cross Creek Square for which the consideration amount to be received by the County is not less than the limitations as set forth hereinbelow; provided, however, that such transactions shall be in compliance, as determined by the County Attorney, with the statutory bid requirements as set forth in Section 125.35(1)(c), Florida Statutes, as may be amended from time to time. Any offers or counteroffers for such Lease transactions in which the consideration amount to be received by the County is less than such limitations may, at the discretion of the County Administrator, or his or her authorized designee, be rejected or be presented to the Board for consideration. Nothing herein shall be deemed to prohibit the County Administrator, or his or her authorized designee, from also rejecting an offer or counteroffer for a consideration amount that falls within his or her scope of authority. The County Administrator's authority shall be subject to the following limitations:

12.9.1.1. The amount of consideration paid for any such Lease conveyance or modification shall satisfy the following conditions:

12.9.1.1.1. The rental rate shall be no less than 90 percent of the Fair Market Rental Rate; and

12.9.1.1.2. The amount to be paid by the County as a tenant improvements allowance, if any, shall be no greater than $250,000 and shall be able to be recovered with the receipt of the total rent payments required by the tenant in the initial term of the Lease; and

12.9.1.2. Any such Lease modification or termination shall be limited to the following:

12.9.1.2.1. increases or decreases in the size of the space;

12.9.1.2.2. month-to-month extensions;

12.9.1.2.3. decreases in the length of the term; or

12.9.1.2.4. any other modification that results in a loss of no more than 25 percent of the total rent required to be paid by the tenant in the term during which the modification occurs.

12.9.2. The RE Program staff shall develop and maintain written procedures which shall govern the conveyance, modification, or termination of a Lease for any part of the LC Government Annex, Lake Jackson Town Center, or Cross Creek Square.

12.9.3. The County Administrator, or his or her authorized designee, shall, without further Board action, have the authority to reject any offer to lease LC Government Annex Real Estate, Lake Jackson Town Center Real Estate, or Cross Creek Square Real Estate for an intended use or term of use deemed incompatible, by the County Administrator or his or her authorized designee, with the County's use or intended use of the LC Government Annex, the Lake Jackson Town Center, or the Cross Creek Square.

12.10. Receipt of Inquiries to Sell, Lease, or Donate To Others. If the County is in receipt of an inquiry from an individual or entity interested in buying or leasing from the County any County-owned Real Estate, such individual or entity shall express such interest in the form of a written offer to be delivered to the RE Manager. Upon receipt of such written offer, the RE Program staff shall proceed as follows:

12.10.1. A written summary shall be prepared containing the following information about the Real Estate:

12.10.1.1. When the Real Estate was obtained by the County and the cost, if any, to the County for obtaining it;

12.10.1.2. The original reason, if any, for the County obtaining such Real Estate;

12.10.1.3. The site location and description including any improvements and zoning classification;

12.10.1.4. The size of the Real Estate; and

12.10.1.5. The current estimate of Fair Market Value.

12.10.2. The RE Program staff shall circulate the written summary seeking comments from the County department(s) maintaining the Real Estate or from all County departments if the Real Estate is designated as a Surplus Parcel.

12.10.3. Upon the RE Program staff's receipt of any responses to the written summary, the RE Program staff shall prepare a written report to the County Administrator, or his or her authorized designee, which summarizes the responses and recommends whether or not the Real Estate should be conveyed by Sale or Leased as requested.

12.10.4. Upon the concurrence of the County Administrator, or his or her authorized designee, of a recommendation that the Real Estate should be conveyed by Sale or Lease, the Sale or Lease shall proceed in accordance with Section 12.1 above.

12.11. Extended Possession in Eminent Domain Acquisitions. In any Eminent Domain Acquisition in which the Full Compensation to the owner includes an agreement by the County

for the owner to remain in possession of the Real Estate for a time certain after the closing date, such agreement for possession shall be exempt from this Article 12. In such Acquisitions, the agreement for possession shall be included as part of Full Compensation and transacted in accordance with Section 5.3 above.

Article 13.
Management of County-owned Real Estate; Miscellaneous Real Estate Transactions

13.1. County Administrator's Scope of Authority for Management. The County Administrator, or his or her authorized designee, shall have the authority and responsibility to manage all County-owned Real Estate pursuant to that specific duty to supervise the care and custody of all County property as set forth in Section 2-501(b)(4) of the Leon County Administrative Code in LC Code Chapter 2, Article X, as may be amended from time to time. The assignment of management responsibility for the various designations of County-owned Real Estate shall be as proscribed by the County Administrator at his or her discretion. The scope of authority provided herein shall include the approval, execution, and acceptance of any and all documents necessary to complete or otherwise accomplish the said transactions , subject to the limitations as set forth hereinbelow.

13.2. Private Improvements in Right-of-Way. Unless otherwise provided in any Board action, any LC Code provision, or any other federal, state, or local law, regulation, or rule, no private signs or other private improvements, such as fences and other such structures of any kind, shall be allowed on, in, or under any Right-of-Way unless specifically authorized by the County Administrator, or his or her authorized designee. Any such authorization for use of any Right-of-Way shall be governed by a License granted in accordance with Section 13.3 below.

13.2.1. Unauthorized Private Improvements. If private improvements have been constructed, installed, or placed within any Right-of-Way without authorization, the County Administrator, or his or her authorized designee, may direct the appropriate County staff to determine the person(s) responsible for the unauthorized improvements and request that they be immediately removed; provided, however, if the improvements are deemed to be a safety hazard, the County Administrator, or his or her authorized designee, may direct County staff to immediately remove the improvements without first making such request of the responsible person(s). Any costs incurred by the County in removing the unauthorized improvements, including staff time, shall be calculated and billed to the responsible person(s) with a demand for payment.

13.3. License of County-owned Real Estate; Authority to Proceed. Unless otherwise provided in any Board action, any LC Code provision, or any other federal, state, or local law, regulation, or rule, the County Administrator, or his or her authorized designee, may approve, execute, and accept any and all documents necessary to complete the grant of a License of County-owned Real Estate; provided, however, such License shall be subject to the satisfaction of the following conditions:

13.3.1. The licensee's permitted use shall not unreasonably interfere with the County use of the Real Estate;

13.3.2. The licensee shall pay a license fee in consideration for such License in amount considered by the RE Manager, based on input from RE Program staff, to be reasonable for the use permitted; provided, however, that in lieu of a monetary license fee, the licensee may provide services or other such non-monetary consideration in an amount as deemed sufficient by the County Attorney. If the licensee is the United States, or any department or agency thereof, the State or any political subdivision or agency thereof, or any municipality of this State, or by a corporation or other organization not for profit which may be organized for the purposes of promoting community interest and welfare, the license fee may be waived upon the approval of the County Administrator, or his or her authorized designee.

13.4. Conveyance of County Easements; Authority to Proceed. Unless otherwise provided in any Board action, any LC Code provision, or any other federal, state, or local law, regulation, or rule, the County Administrator, or his or her authorized designee, may approve, execute, and accept any and all documents necessary to complete the grant of a County Easement; provided, however, that the Board Chairman shall execute the easement or other such instrument of conveyance.

13.5. Release of Easements; Authority to Proceed. Unless otherwise provided in any Board action, any LC Code provision, or any other federal, state, or local law, regulation, or rule, the County Administrator, or his or her authorized designee, may approve, execute, and accept any and all documents necessary to complete the release, disclaimer, and abandonment of easements conveyed to the County, including, but not limited to, the easements set forth below.

13.5.1. Conservation easements pursuant to LC Code.

13.5.2. Temporary construction easements pursuant to the term of the temporary construction easement or upon completion of the project, whichever comes sooner.

13.6. Release of Liens; Authority to Proceed. Unless otherwise provided in any Board action, any LC Code provision, or any other federal, state, or local law, regulation, or rule, the County Administrator or his or her authorized designee, may approve, execute, and accept any and all documents necessary to complete the release, satisfaction, disclaimer, and abandonment of liens imposed on a parcel of Real Estate in favor of the County, including, but not limited to, the liens set forth below.

13.6.1. Code Enforcement Liens pursuant to LC Code.

13.6.2. Nuisance Abatement Liens pursuant to LC Code.

13.6.3. HLPP Liens pursuant to the terms of the written agreement which secured the participant's promise to pay such HLPP Lien.

13.6.4. Mortgage liens, pursuant to the terms of the Mortgage.

13.6.5. Special assessment liens pursuant to the terms of the special assessment.

13.6.6. Judgment liens pursuant to the terms of the judgment.

13.7. Restrictive Covenants on County-owned Real Estate; Authority to Proceed. Unless otherwise provided in any Board action, any LC Code provision, or any other federal, state, or local law, regulation, or rule, the County Administrator, or his or her authorized designee, may

approve, execute, and accept any and all documents necessary to place restrictive covenants on County-owned Real Estate pursuant to LC Code; provided, however, that the Board Chairman shall execute the instrument declaring the covenants, conditions and restrictions on County-owned Real Estate.

13.8. Dissent and Disclaimer of Deed. Unless otherwise provided in any Board action, any LC Code provision, or any other federal, state, or local law, regulation, or rule, the County Administrator, or his or her authorized designee, may approve, execute, and record any and all documents necessary to acknowledge the County's dissent and disclaimer to any deed, easement, or other such conveyance instrument which purports to convey to the County any ostensible or apparent interest in Real Estate and to which there was no knowing acceptance or acquiescence by the County.

Revised 9/14/2021

Leon County
Board of County Commissioners

Notes for Agenda Item #19

Leon County Board of County Commissioners

Agenda Item #19

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: Commissioner Appointments to the Value Adjustment Board

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	Mary Smach, Agenda Coordinator

Statement of Issue:

This item seeks Board approval to appoint Commissioners to the Value Adjustment Board.

Fiscal Impact:

This item has no fiscal impact.

Staff Recommendation:

Option #1: Full Board to appoint two Commissioners to the Value Adjustment Board for two-year terms ending April 30, 2024.

Option #2: Full Board to select one of the two Commissioners appointed to the Value Adjustment Board to serve as the Chair of the Value Adjustment Board.

Report and Discussion

Background:

Policy No. 11-2, "Commissioner Membership on Boards, Committees, Councils, and Authorities", delineates the authority to appoint members of the Board of County Commissioners to various boards, committees, councils, and authorities (collectively, Committees), and the terms of those appointments. Consistent with this policy, this item seeks Board appointment of two Commissioners to the VAB and the appointment of one of these Commissioners to serve as Chairman.

Analysis:

Value Adjustment Board (VAB)

Purpose: The VAB settles disputes between taxpayers and the Property Appraiser relating to denials of exemptions/classifications and market values. If the property owner feels the property's assessment, classification, or exemption is incorrect, a petition can be filed with the VAB. The VAB approves and hires Special Magistrates to conduct quasi-judicial hearings and render recommendations to the VAB for review. The VAB issues the final decisions.

Composition: Pursuant to Section 194.015, Florida Statutes, the VAB is composed of five members:

- 2 County Commissioners, elected by the Board of County Commissioners, one of whom shall be elected Chair of the VAB;
- 1 School Board member, elected by the School Board;
- 1 citizen appointed by the Board of County Commissioners. The citizen must own homestead property within the County; and
- 1 citizen appointed by the School Board. The citizen must own a business occupying commercial space located within the school district. This person must, during the entire course of service, own a commercial enterprise, occupation, profession, or trade conducted.

This item seeks the Board's appointment of two Commissioners to the VAB, and the Board's selection of one of these two appointed Commissioners to serve as the Chair of the VAB. Per Policy No. 11-2, Commissioners appointed to the VAB serve two-year terms. Currently, Commissioners Jackson and Maddox serve on the VAB, and Commissioner Maddox serves as the Chair of the VAB.

Vacancies: The terms of VAB members Commissioners Jackson and Maddox expired on April 30, 2022. See Table #1.

Table #1. Commissioner Appointments to the Value Adjustment Board

Board/Authority	Current Member	Term Expired	Recommended Action
Value Adjustment Board	Jimbo Jackson Nick Maddox	4/30/2022	Appoint **two** Commissioners to two-year terms ending April 30, 2024 **and** select one of the two as the Chair of the VAB.

In addition, on April 26, 2022, the Leon County School Board approved the reappointment of VAB member Alva Striplin, and the appointment of a citizen, Brian Rode to the VAB for two-year terms ending April 30, 2024 (Attachments #1 and #2).

Options:

1. Full Board to appoint two Commissioners to the Value Adjustment Board for two-year terms ending April 30, 2024.
2. Full Board to select one of the two Commissioners appointed to the Value Adjustment Board to serve as the Chair of the Value Adjustment Board.
3. Board direction.

Recommendation:

Options #1 and #2

Attachments:

1. April 26, 2022 Leon County School Board agenda item
2. Rode application and resume

Agenda Item Details

Meeting	Apr 26, 2022 - Business Meeting
Category	19. Items for Consideration
Subject	19.12 The Superintendent recommends that the School Board appoint citizen member Brian Rode to the Leon County Value Adjustment Board
Type	Action (Consent)

STAFF MEMBER REPORTING THIS ITEM/PHONE: Dr. Michelle Gayle/487-7177

ACTION REQUESTED: The Superintendent recommends that the School Board appoint citizen member Brian Rode to the Leon County Value Adjustment Board.

ITEM SUMMARY: In accordance with Florida Statute, 194.015, each county's Value Adjustment Board shall include one member of the school board as elected from the membership of the school board and one citizen member appointed by the school board.

The Leon County Value Adjustment Board includes membership representatives of the County Commission and the School Board. The purpose of the value adjustment board is to hear petitions relating to assessments; hear complaints relating to homestead exemptions; hear appeals from exemptions denied, or disputes arising from exemptions granted, upon the filing of exemption applications; and to hear appeals concerning ad valorem tax deferrals and classifications.

School Board Member Alva Striplin was elected to the Value Adjustment Board during the August 2, 2016 school board meeting and continues to serve in this role. Brian Rode has been recruited and is seeking approval to serve as a citizen member.

Our adopted rules of Parliamentary Procedure, Robert's Rules, provide for a consent agenda listing several items for approval of the Board by a single motion. Documentation concerning these items has been provided to all Board members and the public in advance to assure an extensive and thorough review. Items may be removed from the consent agenda at the request of any board member.

LEON COUNTY BOARD OF COUNTY COMMISSIONERS
CITIZEN COMMITTEE APPLICATION
VALUE ADJUSTMENT BOARD

It is the applicant's responsiblity to keep this information current. To advise the County of any changes please contact Mary Smach by telephone at 606-5300 or by e-mail at smachm@leoncoutyfl.gov.

Applications will be discarded if no appointment is made after two years.

Name: Mr. Brian Rode | **Date:** 4/1/2022 10:45:51 AM

Home Address:	5309 Touraine Drive Tallahassee, FL 32308	**Do you live in Leon County?**	Yes
		Do you live within the City limits?	No
		Do you own property in Leon County?	Yes
Home Phone:	(850) 445-8167	**Do you own property in the Tallahassee City Limits?**	Yes
Email:	brode@pcstally.com	**How many years have you lived in Leon County?**	21

(EMPLOYMENT INFORMATION)

Employer:	Premiere Computer Solutions	**Work Address:**	345 Office Plaza Drive Tallahassee, FL 32308
Occupation:	owner		
Work/Other Phone:	(850) 702-3840		

(OPTIONAL)

Leon County strives to meet its goals, and those contained in various federal and state laws, of maintaining a membership in its Advisory Committees that reflects the diversity of the community. Although strictly optional for Applicant, the following information is needed to meet reporting requirements and attain those goals.

Race: White **Gender:** M **Age:** 39

District: District II **Disabled?** No

(RESUME AND REFERENCES)

References (you must provide at least one personal reference who is not a family member):

Name:	Rob Mullinax	**Name:**	Ryan Poole
Address:	5508 Touraine drive Tallahassee, FL 32308	**Address:**	8023 evening star lane Tallahassee, FL 32312
Phone:	(850) 294-5018	**Phone:**	(478) 954-2153

Resume Uploaded? Yes

If no resume is available, in the space below briefly describe or list the following: any previous experience on other Committees; your educational background; your skills and experience you could contribute to a Committee; any of your professional licenses and/or designations and indicate how long you have held them and whether they are effective in Leon County; any charitable or community activities in which you participate; and reasons for your choice of the Committee indicated on this Application. Please attach your resume, if one is available.

(COMMITTEE QUESTIONNAIRE)

IMPORTANT LEGAL REQUIREMENTS FOR COMMITTEE/BOARD/AUTHORITY MEMBERSHIP

Citizen participation is important in developing Leon County's programs and policies, and in providing quality public services to the community. We appreciate your interest in serving on a committee and would like to bring a few items to your attention. As a member of a committee/board/authority, you will be obligated to follow any applicable laws regarding government-in-the-sunshine, code of ethics for public officers, and public records disclosure.

The consequences for violating these applicable laws include criminal penalties, civil fines, and the voiding of any committee/board/authority action and of any subsequent action by the Board of County Commissioners. In order to be familiar with these laws and to assist you in answering the following questions, please take a few minutes to complete the mandatory orientation. Your application will not be deemed complete until you have completed the orientation.

Have you completed the Applicant Orientation for membership on Citizen Committees, Board & Authorities?* *Yes*

Are you currently serving on a County Advisory Committee or other Committee/Authority/Board?* *No*

Have you served on any previous Leon County committees?* *No*

Are you willing to complete a financial disclosure form if applicable?* *Yes*

Do you know of any circumstances that would result in you having to abstain from voting on a Committee/Board/Authority due to voting conflicts? (Not applicable to Focus Groups)* *No*

Are you or your employer, or your spouse or child or their employers, currently doing business with Leon County?* *No*

Are you or your employer, or your spouse or child or their employers, currently doing business with the Committee/Board/Authority to which you are applying for membership?* *No*

Do you currently have any employment or contractual relationship that would create a continuing or frequently recurring conflict with regard to your participation on a Committee/Board/Authority? (i.e. would you have frequent or reoccurring voting conflicts?)* *No*

Do you foresee participating in any competitive bid process for Leon County business during your time serving on this committee/board/authority?* *No*

Do you foresee participating in any competitive bid process involving business with the Committee/Board/Authority to which you are applying, during your time serving on that entity?* *No*

Is your personal information exempt from public records disclosure in accordance with FS 119.071(2)(j)1 or FS 119.071(4)? *No*

The County appointed citizen member must own homestead property in Leon County.

Do you own homestead property in Leon County? *Yes*

The School Board appointed citizen member must own a business occupying commercial space located within the school district. This person must, during the entire course of service, own a commercial enterprise, occupation, profession, or trade conducted from a commercial space located within the school district and need not be the sole owner.

Do you own a business occupying commercial space located within the school district? *Yes*

In accordance with F.S. § 194.015, citizen members may not be a member or employee of any taxing authority.

Are you a member or employee of any taxing authority? *No*

In accordance with F.S. § 194.015, citizen members may not represent property owners, property appraisers, tax collectors, or taxing authorities in any administrative or judicial review of property taxes.

Do you represent property owners, property appraisers, tax collectors, or taxing authorities in any administrative or judicial review of property taxes? *No*

All statements and information provided in this application are true to the best of my knowledge.

Signature: Mr. Brian Rode

The application was electronically sent: 4/1/2022 10:45:51 AM

Brian Rode

Owner, Premiere Computer Solutions

850-445-8161
brode@pcstally.com

Technical Expertise

Network Routing and Switching
Legacy Phone System and VoIP Solutions
Wireless Facilities Systems Engineering
Network Topology Design

Education

BA Information Technology Florida State University Graduate: 2006

Awards, Affiliations and Certifications

2010 - 2012 Communications Chair
Tallahassee Network of Young Professionals

2012: Winner Information Technology Category
Golden A.C.E award Winner
(Top 20 under 40)

2016: Winner for Computer Repair Category
Best of Tallahassee

2016, 2017*:* Board Member
Tallahassee Quarterback Club

2019 & 2020*:* Award Winner
Seminole 100

Brian Rode has more than 15 years of experience in network security and design, engineering, and operations.

Knowledge

Project management for implementations spanning physical and logical infrastructure and system architecture.

Extensive expertise of wireless topology design, infrastructure planning, implementation, and physical construction.

Comprehensive experience encompassing implementation of scalable enterprise network architecture.

Experienced in, Microsoft Active Directory, Microsoft Exchange, Office 365, VMWare vSphere, & Hyper-V.

Complete network design and implementation for customer on-premise solutions.

Selected Professional Experience

Premiere Computer Solutions 2006 – Present
- Perform as owner and head technician
- Provide network support and consulting for over 80 businesses
- Perform IT and security audits for customers

Inspired Technologies 2006 – 2010
- Performed as network and system Consultant supporting network and system implementations across Inspired Technology's customer base.

Leon County
Board of County Commissioners

Notes for Agenda Item #20

Leon County Board of County Commissioners

Agenda Item #20

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: Full Board Appointments to the Advisory Committee for Quality Growth

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	Mary Smach, Agenda Coordinator

Statement of Issue:

This item seeks the full Board's consideration of the appointment of citizens to the Advisory Committee for Quality Growth.

Fiscal Impact:

This item has no fiscal impact.

Staff Recommendation:

Option #1: Reappoint one citizen, Elva Peppers, to Seat #2 on the Advisory Committee for Quality Growth as nominated by the Big Bend Contractors Association, for a three-year term ending on May 31, 2025.

Option #2: Appoint one citizen, Heath Annin, to Seat #4 on the Advisory Committee for Quality Growth as nominated by the Associated Builders and Contractors, for a three-year term ending on May 31, 2025.

Option #3: Reappoint one citizen, Michael Dobson, to Seat #8, a person who is employed by or represents a community-based environment-related organization, on the Advisory Committee for Quality Growth, for a three-year term ending on May 31, 2025.

Option #4: Appoint one citizen to Seat #10, a resident of Leon County, on the Advisory Committee for Quality Growth, for a three-year term ending on May 31, 2025. The eligible applicants are: Jabaree Allen and Dr. Steven Karacic.

Option #5: Appoint one citizen to Seat #16, an archaeologist, on the Advisory Committee for Quality Growth, for a three-year term ending on May 31, 2025. The eligible applicants are: Barbara Clark and Dr. Steven Karacic.

Report and Discussion

Background:

Pursuant to Policy No. 03-15, "Board-Appointed Citizen Committees", a General Business item is presented to fill vacancies for full Board appointments of citizens to Authorities, Boards, Committees, and Councils.

Analysis:

Advisory Committee for Quality Growth (ACQG)

Purpose: The Advisory Committee for Quality Growth serves as a standing advisory committee made up of development industry professionals and community stakeholders to provide continuous feedback and guidance to the Department of Development Support and Environmental Management (DSEM) on process improvements, service enhancements, and regulatory policies which support the highest quality growth and development attainable for our community. The ACQG is staffed by the Chief Development Resources Officer and charged with providing feedback and input on the overall customer experience at DSEM including proposed process improvements, customer service and desired regulatory enhancements. The responsibilities of the ACQG place a great emphasis on proactive input and feedback for all development review and approval matters.

Composition: The ACQG has sixteen (16) members appointed by the full Board: nine (9) are nominated by local organizations/associations and the remaining seven (7) do not require a nomination. The members serve three-year terms. The eligibility for each seat is as follows:

- Seat 1: a person who is engaged in providing construction development, planning or environmental-related services, nominated by the Tallahassee Builders Association.
- Seat 2: a person who is engaged in providing construction development, planning or environmental-related services, nominated by the Big Bend Contractors Association.
- Seat 3: a person who is engaged in providing construction development, planning or environmental-related services, nominated by the National Association of Women in Construction.
- Seat 4: a person who is engaged in providing construction development, planning or environmental-related services, nominated by the Associated Builders and Contractors of North Florida.
- Seat 5: a person who is employed by the university or local school system, no nomination required.
- Seat 6: a person who serves on a neighborhood association board or represents a neighborhood-based organization, nominated by the Council of Neighborhood Associations.
- Seats 7 & 8: persons employed by or who represents, a community-based, environment-related organization, no nomination required.
- Seats 9, 10 & 11: residents of Leon County, no nomination required.
- Seat 12: a person who represents a business association or organization, nominated by the Greater Tallahassee Chamber of Commerce.

- Seat 13: a person who represents a business association or organization, nominated by the Big Bend Minority Chamber of Commerce.
- Seat 14: a person who represents a business association or organization, nominated by the Network of Entrepreneurs & Business Advocates.
- Seat 15: a person who represents a business association or organization, nominated by the Capital City Chamber of Commerce.
- Seat 16: an archaeologist, no nomination required.

Diversity of Current Membership:

Total Seats	**Vacant Seats**	**Gender**	**Race**
16	0	Male - 11 Female - 5	White - 11 Black- 4 Not Available - 1

Vacancies: The terms of the following 5 members of the ACQG expire on May 31, 2022: Elva Peppers, Jay Bostwick, Michael Dobson, Jo Laurie Penrose, and Barbara Ann Clark. Ms. Peppers, Mr. Dobson, and Ms. Clark are seeking reappointment, and their applications with attendance records are included as Attachments #1, #3 and #6. The eligible applicants are listed in Table #1.

Table #1. Advisory Committee for Quality Growth

Vacancy / Category *Term Status*	**Term Expiration**	**Eligible Applicant** **(Application Attachment #)**	**Gender - Race**	**Recommended Action**
Elva Peppers Seat #2 – Big Bend Contractors Association nominee *Served one partial term and one full term* *Seeking reappointment*	5/31/2022	1. Elva Peppers	Female - White	Reappoint one eligible applicant for a three-year term ending May 31, 2025.
Jay Bostwick Seat #4 – Associated Builders & Contractors nominee *Not seeking reappointment*	5/31/2022	2. Heath Annin	Male - White	Appoint one eligible applicant for a three-year term ending May 31, 2025.
Michael Dobson Seat #8 – person who is employed by, or represents a community based, environment-related organization *Served one partial term and one full term* *Seeking reappointment*	5/31/2022	3. Michael Dobson	Male - Black	Reappoint one eligible applicant for a three-year term ending May 31, 2025.

Vacancy / Category *Term Status*	**Term Expiration**	**Eligible Applicant** (Application Attachment #)	**Gender - Race**	**Recommended Action**
Jo Laurie Penrose Seat #10 – a resident of Leon County *Not seeking reappointment*	5/31/2022	4. Jabaree Allen 5. Dr. Steven Karacic	Male – Black Male – White	Appoint **one** eligible applicant for a three-year term ending May 31, 2025.
Barbara Clark Seat #16 - an archaeologist *Served one partial term* *Seeking reappointment*	5/31/2022	6. Barbara Clark 5. Dr. Steven Karacic	Female – White Male – White	Appoint **one** eligible applicant for a three-year term ending May 31, 2025.

Options:

1. Reappoint one citizen, Elva Peppers, to Seat #2 on the Advisory Committee for Quality Growth as nominated by the Big Bend Contractors Association, for a three-year term ending on May 31, 2025.
2. Appoint one citizen, Heath Annin, to Seat #4 on the Advisory Committee for Quality Growth as nominated by the Associated Builders and Contractors, for a three-year term ending on May 31, 2025.
3. Reappoint one citizen, Michael Dobson, to Seat #8, a person who is employed by or represents a community-based environment-related organization, on the Advisory Committee for Quality Growth, for a three-year term ending on May 31, 2025.
4. Appoint one citizen to Seat #10, a resident of Leon County, on the Advisory Committee for Quality Growth, for a three-year term ending on May 31, 2025. The eligible applicants are: Jabaree Allen and Dr. Steven Karacic.
5. Appoint one citizen to Seat #16, an archaeologist, on the Advisory Committee for Quality Growth, for a three-year term ending on May 31, 2025. The eligible applicants are: Barbara Clark and Dr. Steven Karacic.
6. Board direction.

Recommendations:

Options #1 through #5

Attachments:

1. Peppers application, resume and attendance
2. Annin application and resume
3. Dobson application, resume and attendance
4. Allen application and resume
5. Karacic application and resume
6. Clark application, resume and attendance

LEON COUNTY BOARD OF COUNTY COMMISSIONERS
CITIZEN COMMITTEE APPLICATION
ADVISORY COMMITTEE FOR QUALITY GROWTH

It is the applicant's responsiblity to keep this information current. To advise the County of any changes please contact Mary Smach by telephone at 606-5300 or by e-mail at smachm@leoncoutyfl.gov.

Applications will be discarded if no appointment is made after two years.

Name: Ms. Elva Peppers | **Date:** 1/31/2022 1:25:22 PM

Home Address:	221-4 Delta Ct Tallahassee, FL 32303	**Do you live in Leon County?**	No
		Do you live within the City limits?	Yes
		Do you own property in Leon County?	No
Home Phone:	(850) 385-6255	**Do you own property in the Tallahassee City Limits?**	Yes
Email:	elvapeppers@felsi.org	**How many years have you lived in Leon County?**	9

(EMPLOYMENT INFORMATION)

Employer:	Florida Environmental & Land Services, Inc	**Work Address:**	221-4 Delta Ct Tallahassee, FL 32303
Occupation:	Biologist		
Work/Other Phone:	(850) 385-6255		

(OPTIONAL)

Leon County strives to meet its goals, and those contained in various federal and state laws, of maintaining a membership in its Advisory Committees that reflects the diversity of the community. Although strictly optional for Applicant, the following information is needed to meet reporting requirements and attain those goals.

Race: White **Gender:** F **Age:** 53

District: **Disabled?** No

(RESUME AND REFERENCES)

References (you must provide at least one personal reference who is not a family member):

Name:	Anna Wickman	**Name:**	Patrick Strauss
Address:	107 Hawk Meadow Dr, 32312	**Address:**	2016 Dogwood Hill, 32308
Phone:	(850) 567-2662	**Phone:**	(850) 508-0959

Resume Uploaded? Yes

If no resume is available, in the space below briefly describe or list the following: any previous experience on other Committees; your educational background; your skills and experience you could contribute to a Committee; any of your professional licenses and/or designations and indicate how long you have held them and whether they are effective in Leon County; any charitable or community activities in which you participate; and reasons for your choice of the Committee indicated on this Application. Please attach your resume, if one is available.

resume atttached

(COMMITTEE QUESTIONNAIRE)

IMPORTANT LEGAL REQUIREMENTS FOR COMMITTEE/BOARD/AUTHORITY MEMBERSHIP

Citizen participation is important in developing Leon County's programs and policies, and in providing quality public services to the community. We appreciate your interest in serving on a committee and would like to bring a few items to your attention. As a member of a committee/board/authority, you will be obligated to follow any applicable laws regarding government-in-the-sunshine, code of ethics for public officers, and public records disclosure.

The consequences for violating these applicable laws include criminal penalties, civil fines, and the voiding of any committee/board/authority action and of any subsequent action by the Board of County Commissioners. In order to be familiar with these laws and to assist you in answering the following questions, please take a few minutes to complete the mandatory orientation. Your application will not be deemed complete until you have completed the orientation.

Have you completed the Applicant Orientation for membership on Citizen Committees, Board & Authorities?* *Yes*

Are you currently serving on a County Advisory Committee or other Committee/Authority/Board?* *Yes*

If yes, on what Committee(s) are you a member? *Advisory committee for quality growth*

Have you served on any previous Leon County committees?* *No*

Are you willing to complete a financial disclosure form if applicable?* *Yes*

Do you know of any circumstances that would result in you having to abstain from voting on a Committee/Board/Authority due to voting conflicts? (Not applicable to Focus Groups)* *No*

Are you or your employer, or your spouse or child or their employers, currently doing business with Leon County?* *Yes*

If yes, please explain *occasionally do permitting projects for park projects or other development projects as a subconsultant*

Are you or your employer, or your spouse or child or their employers, currently doing business with the Committee/Board/Authority to which you are applying for membership?* *No*

Do you currently have any employment or contractual relationship that would create a continuing or frequently recurring conflict with regard to your participation on a Committee/Board/Authority? (i.e. would you have frequent or reoccurring voting conflicts?)* *No*

Do you foresee participating in any competitive bid process for Leon County business during your time serving on this committee/board/authority?* *Yes*

If yes, prior to or at the time of submission of any bid for county business, a Florida Commission on Ethics Form 3A **must be filed.**

Do you foresee participating in any competitive bid process involving business with the Committee/Board/Authority to which you are applying, during your time serving on that entity?* *No*

Is your personal information exempt from public records disclosure in accordance with FS 119.071(2)(j)1 or FS 119.071(4)? *No*

Members must meet one of the membership eligibility criteria. Please indicate your area of expertise:

- [x] Provider of construction development, planning or environmental-related services. (THIS SEAT REQUIRES A NOMINATION.)

  Name of nominating organization: *Big Bend Contractors Association*
- [ ] Employed by a university or local school system.
- [ ] Serves on a neighborhood association board or represents a neighborhood-based organization. (THIS SEAT REQUIRES A NOMINATION BY THE COUNCIL OF NEIGHBORHOOD ASSOCIATIONS.)
- [ ] Employed by or represents, a community-based, environment-related organization.
- [ ] Represent a business association or organization. (THIS SEAT REQUIRES A NOMINATION.)
- [ ] Archaeologist

☐ Resident of Leon County

All statements and information provided in this application are true to the best of my knowledge.

Signature: Ms. Elva Peppers

The application was electronically sent: 1/31/2022 1:25:22 PM

Elva Peppers
President
850.385.6255 | elvapeppers@felsi.org
221-4 Delta Court, Tallahassee, Florida 32303

Florida Environmental & Land Services Inc.



As President and Senior Ecologist of Florida Environmental & Land Services (FELSI), Elva Peppers provides overall project management of all in-house projects. Her expertise is in performing threatened and endangered species surveys, habitat classifications, and jurisdictional wetland determinations and verifications; conducting upland and wetland habitat assessments, critical habitat assessments, and natural feature inventories.

Ms. Peppers has experience in developing wetland mitigation, enhancement and hydrological restoration plans, implementing approved mitigation plans and conducting baseline and annual monitoring, and conducting water quality sampling and monitoring. She also has extensive experience in preparing local, state and federal permits.

Education

Bachelor of Science, Biology
Florida State University, 1990

Professional Registrations

Licensed Environmental Professional, State of Florida
License #340

Professional Memberships

Florida Association of Environmental Professionals, Vice President
Big Bend Contractors Association, Treasurer
Greater Tallahassee Chamber of Commerce, Member
International Society of Arboriculture, Member

Career History

Florida Environmental & Land Services, Inc.
21 years (2001-Present)
Years with Other Firms
10 years (1991-2001)

Certifications

Certified Florida Environmental Assessor
Certification #446
Qualified Stormwater Management Inspector (NPDES)
Inspector #1816
Authorized Gopher Tortoise Agent
ISA Certified Arborist
Certification #FL-9750A
Certified Women Owned/Minority Business
City of Tallahassee
Leon County
Leon County Schools
State of Florida (Office of Supplier Diversity)
Certified DBE (FDOT)
Certified SCUBA Diver

Experience

City of Tallahassee Urban Forest Survey
Tallahassee, FL 2018
Contracted to complete the sample inventory of trees within the City following random sample protocols for the development of an urban forest plan. Assisted with public meetings and participated in the planning process by offering recommendations on strategies for improving city code and policies.

Chadwick Estates
Crawfordville, FL 2019
Performed a gopher tortoise survey of the 72-acre parcel and assisted with FWC permitting for the excavation and relocation of five gopher tortoises from the site.

Project Title
City, State Year
Description
Project Title
City, State Year
Description
Project Title
City, State Year
Description

Committee Name: Advisory Committee on Quality Growth

Committee Member Name: Elva Peppers

Appointment Date: June 1, 2019

9/21/20	10/19/20	11/16/20	12/21/20	1/11/21	2/15/21	3/15/21	4/19/21	5/17/21	6/21/21	7/19/21	8/16/21	9/20/21	10/18/21	11/15/21	12/20/21	1/20/22	2/21/22	3/21/22
MC	MC	MC	X	MC	MC	MC	X	MC	MC	MC	MC	X	MC	MC	X	MC	X	A/E

X – Member in attendance.
A – Member absent
A/E – Member absent/excused
MC – Meeting cancelled

TE- Term Expired

LEON COUNTY BOARD OF COUNTY COMMISSIONERS
CITIZEN COMMITTEE APPLICATION
ADVISORY COMMITTEE FOR QUALITY GROWTH

It is the applicant's responsiblity to keep this information current. To advise the County of any changes please contact Mary Smach by telephone at (850) 606-5300 or by e-mail at smachm@leoncountyfl.gov.

Applications will be discarded if no appointment is made after two years.

Name: Mr. Robert Heath Annin | **Date:** 4/11/2022 5:22:39 PM

Home Address:	11288 Buck Lake Road Tallahassee, FL 32317	**Do you live in Leon County?**	Yes
		Do you live within the City limits?	No
		Do you own property in Leon County?	Yes
Home Phone:	(850) 545-1276	**Do you own property in the Tallahassee City Limits?**	No
Email:	hannin@ramflorida.com	**How many years have you lived in Leon County?**	34

(EMPLOYMENT INFORMATION)

Employer:	RAM Construction & Development, LLC	**Work Address:**	20 Ram Blvd. Midway, FL 32317
Occupation:	General Contractor - business owner		
Work/Other Phone:	(850) 545-1276		

(OPTIONAL)

Leon County strives to meet its goals, and those contained in various federal and state laws, of maintaining a membership in its Advisory Committees that reflects the diversity of the community. Although strictly optional for Applicant, the following information is needed to meet reporting requirements and attain those goals.

Race: White **Gender:** M **Age:** 54

District: District V **Disabled?** No

(RESUME AND REFERENCES)

References (you must provide at least one personal reference who is not a family member):

Name:	Paul Gleasman	**Name:**	Andy Bryan
Address:	915 Beard Street, Tallahassee, FL 32303	**Address:**	
Phone:	(850) 544-0498	**Phone:**	(850) 681-0849

Resume Uploaded? No

If no resume is available, in the space below briefly describe or list the following: any previous experience on other Committees; your educational background; your skills and experience you could contribute to a Committee; any of your professional licenses and/or designations and indicate how long you have held them and whether they are effective in Leon County; any charitable or community activities in which you participate; and reasons for your choice of the Committee indicated on this Application. Please attach your resume, if one is available.

Former two time chairman of Associated Builders & Contractors board of directors; Member of board of trustees @ Trinity United Methodist Church; FAMU graduate; TCC graduate; FL CGC 062608; small business owner since 2003

(COMMITTEE QUESTIONNAIRE)

IMPORTANT LEGAL REQUIREMENTS FOR COMMITTEE/BOARD/AUTHORITY MEMBERSHIP

Citizen participation is important in developing Leon County's programs and policies, and in providing quality public services to the community. We appreciate your interest in serving on a committee and would like to bring a few items to your attention. As a member of a committee/board/authority, you will be obligated to follow any applicable laws regarding government-in-the-sunshine, code of ethics for public officers, and public records disclosure.

The consequences for violating these applicable laws include criminal penalties, civil fines, and the voiding of any committee/board/authority action and of any subsequent action by the Board of County Commissioners. In order to be familiar with these laws and to assist you in answering the following questions, please take a few minutes to complete the mandatory orientation. Your application will not be deemed complete until you have completed the orientation.

Have you completed the Applicant Orientation for membership on Citizen Committees, Board & Authorities?* *Yes*

Are you currently serving on a County Advisory Committee or other Committee/Authority/Board?* *No*

Have you served on any previous Leon County committees?* *No*

Are you willing to complete a financial disclosure form if applicable?* *Yes*

Do you know of any circumstances that would result in you having to abstain from voting on a Committee/Board/Authority due to voting conflicts? (Not applicable to Focus Groups)* *No*

Are you or your employer, or your spouse or child or their employers, currently doing business with Leon County?* *Yes*

If yes, please explain *general contractor for Amtrak station renovations*

Are you or your employer, or your spouse or child or their employers, currently doing business with the Committee/Board/Authority to which you are applying for membership?* *No*

Do you currently have any employment or contractual relationship that would create a continuing or frequently recurring conflict with regard to your participation on a Committee/Board/Authority? (i.e. would you have frequent or reoccurring voting conflicts?)* *No*

Do you foresee participating in any competitive bid process for Leon County business during your time serving on this committee/board/authority?* *No*

Do you foresee participating in any competitive bid process involving business with the Committee/Board/Authority to which you are applying, during your time serving on that entity?* *No*

Is your personal information exempt from public records disclosure in accordance with FS 119.071(2)(j)1 or FS 119.071(4)? *No*

Members must meet one of the membership eligibility criteria. Please indicate your area of expertise:

- [x] Provider of construction development, planning or environmental-related services. (THIS SEAT REQUIRES A NOMINATION.)

  Name of nominating organization: *Associated Builders & Contractors of No. Florida*
- [ ] Employed by a university or local school system.
- [ ] Serves on a neighborhood association board or represents a neighborhood-based organization. (THIS SEAT REQUIRES A NOMINATION BY THE COUNCIL OF NEIGHBORHOOD ASSOCIATIONS.)
- [ ] Employed by or represents, a community-based, environment-related organization.
- [ ] Represent a business association or organization. (THIS SEAT REQUIRES A NOMINATION.)
- [ ] Archaeologist
- [x] Resident of Leon County

All statements and information provided in this application are true to the best of my knowledge.

Signature: Mr. Robert Heath Annin

The application was electronically sent: 4/11/2022 5:22:39 PM

From: Scott Brockmeier
To: DeeDee Rasmussen
Cc: Heath Anin; Kristin Mullikin; Mary Smach; Ashley Douglas
Subject: RE: AQGC
Date: Friday, April 1, 2022 10:23:24 AM

Thank you, Dee Dee and no worries. Seat 4 on the committee is still open and is specifically reserved for ABC North Florida.

Heath, thank you for your interest. The ACQG meets the third Monday of each month (except holidays) for about an hour (usually, noon- 1 p.m.). At each meeting, staff may present proposed Land Development Code amendments, policy changes, or improvements to the Department's permitting processes. The meetings include a fairly casual discussion where staff presents materials for discussion and the ACQG asks questions, provides feedback, and recommendations. Materials up for discussion are distributed about a week in advance of the meeting. If there are no items up for consideration for the monthly meeting, we send out advance notice of the cancellation. Since I have been facilitating the meetings, there hasn't been a need to meet every month. Where possible, we try to consolidate items to make the most of everyone's time. The meetings are available for in-person attendance or virtually (Zoom), if you prefer. Lunch is provided at each meeting and usually consists of Publix subs, chips, snacks, and beverages.

If you have any questions about the online application, please let us know.

Best regards,

Scott Brockmeier, CPM
Chief Development Resources Officer
Department of Development Support & Environmental Mgt.
435 N. Macomb St., 2nd Fl | Tallahassee, FL 32301
(850) 606-1317 /work | **(850) 606-1301** /fax
brockmeiers@leoncountyfl.gov

People Focused. Performance Driven.

Please note that under Florida's Public Records laws, most written communications to or from County staff or officials regarding County business are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.



From: DeeDee Rasmussen <Rasmussen@abcnorthflorida.org>
Sent: Friday, April 1, 2022 9:44 AM
To: Scott Brockmeier <BrockmeierS@leoncountyfl.gov>
Cc: Heath Anin <hannin@ramflorida.com>; Kristin Mullikin <Mullikin@abcnorthflorida.org>
Subject: AQGC

Scott: My apologies, once again, for the delay in filling this vacancy. I'm pleased to report that Heath Anin from RAM Construction might be willing to serve… assuming the vacancy still stands open?
Please let us know; Heath is reviewing the application and just wanted to know what sort of time commitment this committee will require?

rom: Scott Brockmeier <BrockmeierS@leoncountyfl.gov>
Sent: Thursday, February 10, 2022 3:17 PM
To: Kristin Mullikin <Mullikin@abcnorthflorida.org>
Cc: Mary Smach <SmachM@leoncountyfl.gov>
Subject: Leon County Advisory Committee for Quality Growth (ACQG) Nominee

Hello, Ms. Mullikin

My name is Scott Brockmeier and I work for Leon County's Department of Development Support & Environmental Management. I am the liaison for the County's 'Advisory Committee on Quality Growth' (ACQG). Mr. Jay Bostwick has graciously served on the County's ACQG for the past 2 + years. We are very grateful for his service over the last two years. Unfortunately, Mr. Bostwick's term ends May 31st and he has not confirmed whether he is seeking reappointment. His upcoming vacancy (Seat 4) is exclusive to a professional nominated by ABC. As such, we are seeking ABC's replacement nominee for the ACQG. To file an application for membership, ABC's nominee only needs to complete an application online.

ACQG members are community stakeholders from various backgrounds appointed by the Board of County Commissioners. The goal of the ACQG is to obtain input and feedback on proposed ordinances and land development processes that will have impact on how our community as we continue to grow.

If you have any questions, I am more than happy to assist.

Sincerely,

LEON COUNTY BOARD OF COUNTY COMMISSIONERS
CITIZEN COMMITTEE APPLICATION
ADVISORY COMMITTEE FOR QUALITY GROWTH

It is the applicant's responsiblity to keep this information current. To advise the County of any changes please contact Mary Smach by telephone at 606-5300 or by e-mail at smachm@leoncoutyfl.gov.

Applications will be discarded if no appointment is made after two years.

Name: Mr. Michael Jaray Dobson | **Date:** 1/31/2022 5:57:05 PM

Home Address:	4005 Brandon Hill Drive, 4005 Brandon Hill Dr 4005 Brandon Hill Dr Tallahassee, FL 32309	**Do you live in Leon County?**	Yes
		Do you live within the City limits?	Yes
		Do you own property in Leon County?	Yes
Home Phone:	(850) 241-5896	**Do you own property in the Tallahassee City Limits?**	Yes
Email:	Michael@dobsonandcraig.com	**How many years have you lived in Leon County?**	34

(EMPLOYMENT INFORMATION)

Employer:	Dobson , Craig and Associates	**Work Address:**	4005 Brandon Hill Drive Tallahassee, FL 32309
Occupation:	Governmental Relations and Business development and Consulting		
Work/Other Phone:	(850) 241-5896		

(OPTIONAL)

Leon County strives to meet its goals, and those contained in various federal and state laws, of maintaining a membership in its Advisory Committees that reflects the diversity of the community. Although strictly optional for Applicant, the following information is needed to meet reporting requirements and attain those goals.

Race: Black or African American **Gender:** M **Age:** 63

District: District II **Disabled?** No

(RESUME AND REFERENCES)

References (you must provide at least one personal reference who is not a family member):

Name:	Deborrah Brodsky	**Name:**	
Address:	1128 Marion Ave, Tallahassee Florida 32303	**Address:**	
Phone:	(850) 566-8944	**Phone:**	

Resume Uploaded? Yes

If no resume is available, in the space below briefly describe or list the following: any previous experience on other Committees; your educational background; your skills and experience you could contribute to a Committee; any of your professional licenses and/or designations and indicate how long you have held them and whether they are effective in Leon County; any charitable or community activities in which you participate; and reasons for your choice of the Committee indicated on this Application. Please attach your resume, if one is available.

(COMMITTEE QUESTIONNAIRE)

IMPORTANT LEGAL REQUIREMENTS FOR COMMITTEE/BOARD/AUTHORITY MEMBERSHIP

Citizen participation is important in developing Leon County's programs and policies, and in providing quality public services to the community. We appreciate your interest in serving on a committee and would like to bring a few items to your attention. As a member of a committee/board/authority, you will be obligated to follow any applicable laws regarding government-in-the-sunshine, code of ethics for public officers, and public records disclosure.

The consequences for violating these applicable laws include criminal penalties, civil fines, and the voiding of any committee/board/authority action and of any subsequent action by the Board of County Commissioners. In order to be familiar with these laws and to assist you in answering the following questions, please take a few minutes to complete the mandatory orientation. Your application will not be deemed complete until you have completed the orientation.

Have you completed the Applicant Orientation for membership on Citizen Committees, Board & Authorities?* *Yes*

Are you currently serving on a County Advisory Committee or other Committee/Authority/Board?* *Yes*

If yes, on what Committee(s) are you a member? *Advisory Committee for Quality Growth*

Have you served on any previous Leon County committees?* *No*

Are you willing to complete a financial disclosure form if applicable?* *Yes*

Do you know of any circumstances that would result in you having to abstain from voting on a Committee/Board/Authority due to voting conflicts? (Not applicable to Focus Groups)* *No*

Are you or your employer, or your spouse or child or their employers, currently doing business with Leon County?* *No*

Are you or your employer, or your spouse or child or their employers, currently doing business with the Committee/Board/Authority to which you are applying for membership?* *No*

Do you currently have any employment or contractual relationship that would create a continuing or frequently recurring conflict with regard to your participation on a Committee/Board/Authority? (i.e. would you have frequent or reoccurring voting conflicts?)* *No*

Do you foresee participating in any competitive bid process for Leon County business during your time serving on this committee/board/authority?* *No*

Do you foresee participating in any competitive bid process involving business with the Committee/Board/Authority to which you are applying, during your time serving on that entity?* *No*

Is your personal information exempt from public records disclosure in accordance with FS 119.071(2)(j)1 or FS 119.071(4)? *No*

Members must meet one of the membership eligibility criteria. Please indicate your area of expertise:

- [ ] Provider of construction development, planning or environmental-related services. (THIS SEAT REQUIRES A NOMINATION.)
- [ ] Employed by a university or local school system.
- [ ] Serves on a neighborhood association board or represents a neighborhood-based organization. (THIS SEAT REQUIRES A NOMINATION BY THE COUNCIL OF NEIGHBORHOOD ASSOCIATIONS.)
- [X] Employed by or represents, a community-based, environment-related organization.
- [ ] Represent a business association or organization. (THIS SEAT REQUIRES A NOMINATION.)
- [ ] Archaeologist
- [ ] Resident of Leon County

All statements and information provided in this application are true to the best of my knowledge.

Signature: Mr. Michael Jaray Dobson

The application was electronically sent: 1/31/2022 5:57:05 PM



Michael Dobson
Address:4005 Brandon Hill Drive, Florida 32309
(850) 241-5896. Fax (850) 254-9874
E-mail: Michael@DobsonandCraig.com

PERSONAL Birthplace: Born in Mulberry Florida, 1958 Age: 63

Family: 3 children ages 48, 21 and 23.

Also, 5 grandchildren

Spouse: Cynthia Craig

Education:
Bartow Senior High School, 1977 (Bartow, Florida) Bethune Cookman College, B.S. 1982
MBA studies, Florida A & M University, School of Business and Industry, 1990-1993

Interests:
Family time, freelance writing, reading, jogging, tennis, hiking, surfing the web

PROFESSIONAL Occupation:
President/ CEO Dobson, Craig and Associates,Inc (present)
President/CEO Florida Renewable Energy Producers Association,Inc (present)
Founder and Publisher, Talking Florida Politics(present)
President/CEO The Dream Foundation, Inc (Present)
Founder/President/CEO (2003) Home Based Businesses of Florida, Inc
Business Experience: Founder and President(1996), Dobson, Craig and Associates
Founder/President/CEO (2007) , Florida Renewable Energy Producers Association Renewable Energy Policy Expert: Called upon to speak on energy policy, currently slated to present at Southeast Renewable Energy Summit-2018
Executive Director/ Development consultant, Florida Association of Food Banks
Columnist for state/national newspapers and other publications
Sadowski Coalition, Member
Farmworker Housing Coalition , Member of Working group

Energy Integration Group
Project Development Consultant
Insurance Executive, ClaimPro Insurance
Insurance Claims Negotiator, State Farm Insurance
Business Owner and Manager (Entrepreneur)
State of Florida , Department of Health and Rehabilitative Services (currently DCF)- Rehabilitation Therapist at Sunland Training Center (HRS) Program Development Professional
Economic Development Coordinator (Deland)
Association Manager
Management Consultant

Public Policy And Professional Affiliations:

Horizon Communities In Prison, Inc,
Board Member Florida Renewable Energy Producers Association
Governmental Relations BioEnergy Solutions
Member, Governmental Relations Florida Society of Association Executives
Florida Council of Churches
Legislative Representative via Florida Impact Florida Hospital Association
Representing Sacred Heart Hospital Florida
Presbyterian Church, Legislative Representative via Florida Impact
Florida Coalition for the Homeless
Former Board Member Sadowski Act Coalition
Member(working to provide affordable housing through legislation) Florida Legal Services
Former Board Member via Florida Impact
Community Redevelopment Area Plan (CRA)-Participant
Clearinghouse on Human Services
Member Florida Coalition For Access To Quality Medicine, Member
Governmental Boards:
Appointed by Leon County Board of County Commission: - Leon County Advisory Board of Quality Growth… (June 2017-2021)

Civic Activities:

Saint Paul United Methodist Church –Member
Choir member Saint Paul United Methodist Church
Director of Jail/Prison Ministry
Capital City Chamber of Commerce, Inc- Volunteer and consultant Board Member
Horizon Communities In Prison Board Member
Indaba Theatre, Inc
Capital City Rotary

Tallahassee Civic Chorus
Leon County Election Poll Deputy
T-Ball Coach , Leon County Parks and Recreation
Tallahassee Senior Citizens Service Center
Volunteer Former President, Levy Park Neighborhood Association
Leon County Homeless Coalition (Former volunteer)
Department of Insurance Toastmasters, past Secretary and Treasurer
Tallahassee Urban League, Member
Tallahassee Homeless Shelter, Former Board Member
America's Second Harvest Big Bend, Former Board Member
Tallahassee YMCA, Former Board Member
Rev CK Steel Institute, Founding Board Member

Committee Name: Advisory Committee on Quality Growth

Committee Member Name: Michael Dobson

Appointment Date: June 1, 2019

9/21/20	10/19/20	11/16/20	12/21/20	1/11/21	2/15/21	3/15/21	4/19/21	5/17/21	6/21/21	7/19/21	8/16/21	9/20/21	10/18/21	11/15/21	12/20/21	1/20/22	2/21/22	3/21/22
MC	MC	MC	X	MC	MC	MC	X	MC	MC	MC	MC	X	MC	MC	X	MC	X	X

X – Member in attendance.
A – Member absent
A/E – Member absent/excused
MC – Meeting cancelled

TE- Term Expired

LEON COUNTY BOARD OF COUNTY COMMISSIONERS
CITIZEN COMMITTEE APPLICATION
ADVISORY COMMITTEE FOR QUALITY GROWTH

It is the applicant's responsiblity to keep this information current. To advise the County of any changes please contact Mary Smach by telephone at 606-5300 or by e-mail at smachm@leoncoutyfl.gov.

Applications will be discarded if no appointment is made after two years.

Name: Mr. Jabaree Allen

Date: 2/10/2022 10:10:49 AM

Home Address:	2311 Tina Drive Tallahassee, FL 32302	**Do you live in Leon County?**	Yes
		Do you live within the City limits?	Yes
		Do you own property in Leon County?	Yes
Home Phone:	(850) 879-3246	**Do you own property in the Tallahassee City Limits?**	Yes
Email:	jabaree.allen@businessautomationpros.com	**How many years have you lived in Leon County?**	15

(EMPLOYMENT INFORMATION)

Employer:	Business Automation Pros	**Work Address:**	1334 Timberlane Rd Tallahassee, FL 32302
Occupation:	President		
Work/Other Phone:	(888) 706-1811		

(OPTIONAL)

Leon County strives to meet its goals, and those contained in various federal and state laws, of maintaining a membership in its Advisory Committees that reflects the diversity of the community. Although strictly optional for Applicant, the following information is needed to meet reporting requirements and attain those goals.

Race: Black or African American **Gender:** M **Age:** 32

District: District III **Disabled?** No

(RESUME AND REFERENCES)

References (you must provide at least one personal reference who is not a family member):

Name:	Darryl Jones	**Name:**	Danielle McNeil
Address:	Tallahasee FL	**Address:**	Tallahassee FL
Phone:	(850) 528-5241	**Phone:**	(941) 705-1145

Resume Uploaded? Yes

If no resume is available, in the space below briefly describe or list the following: any previous experience on other Committees; your educational background; your skills and experience you could contribute to a Committee; any of your professional licenses and/or designations and indicate how long you have held them and whether they are effective in Leon County; any charitable or community activities in which you participate; and reasons for your choice of the Committee indicated on this Application. Please attach your resume, if one is available.

(COMMITTEE QUESTIONNAIRE)

IMPORTANT LEGAL REQUIREMENTS FOR COMMITTEE/BOARD/AUTHORITY MEMBERSHIP

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Have you completed the Applicant Orientation for membership on Citizen Committees, Board & Authorities?* *Yes*

Are you currently serving on a County Advisory Committee or other Committee/Authority/Board?* *No*

Have you served on any previous Leon County committees?* *Yes*

If Yes, on what Committee(s) have you served? *ACQG*

Are you willing to complete a financial disclosure form if applicable?* *Yes*

Do you know of any circumstances that would result in you having to abstain from voting on a Committee/Board/Authority due to voting conflicts? (Not applicable to Focus Groups)* *No*

Are you or your employer, or your spouse or child or their employers, currently doing business with Leon County?* *No*

Are you or your employer, or your spouse or child or their employers, currently doing business with the Committee/Board/Authority to which you are applying for membership?* *No*

Do you currently have any employment or contractual relationship that would create a continuing or frequently recurring conflict with regard to your participation on a Committee/Board/Authority? (i.e. would you have frequent or reoccurring voting conflicts?)* *No*

Do you foresee participating in any competitive bid process for Leon County business during your time serving on this committee/board/authority?* *Yes*

If yes, prior to or at the time of submission of any bid for county business, a Florida Commission on Ethics Form 3A **must be filed.**

Do you foresee participating in any competitive bid process involving business with the Committee/Board/Authority to which you are applying, during your time serving on that entity?* *No*

Is your personal information exempt from public records disclosure in accordance with FS 119.071(2)(j)1 or FS 119.071(4)? *No*

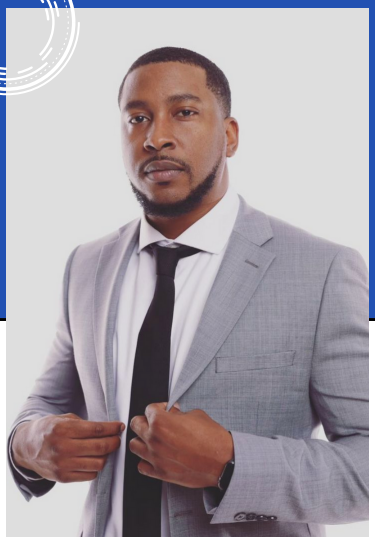
Members must meet one of the membership eligibility criteria. Please indicate your area of expertise:

- [ ] Provider of construction development, planning or environmental-related services. (THIS SEAT REQUIRES A NOMINATION.)
- [ ] Employed by a university or local school system.
- [ ] Serves on a neighborhood association board or represents a neighborhood-based organization. (THIS SEAT REQUIRES A NOMINATION BY THE COUNCIL OF NEIGHBORHOOD ASSOCIATIONS.)
- [ ] Employed by or represents, a community-based, environment-related organization.
- [ ] Represent a business association or organization. (THIS SEAT REQUIRES A NOMINATION.)
- [ ] Archaeologist
- [x] Resident of Leon County

All statements and information provided in this application are true to the best of my knowledge.

Signature: Mr. Jabaree Allen

The application was electronically sent: 2/10/2022 10:10:49 AM



SOLUTIONS ARCHITECT

JA'BAREE ALLEN

GET IN CONTACT

Mobile (850)879-3246
Jabaree.a89@gmail.com

2311 Tina Drive
Tallahassee, FL 32301

PERSONAL PROFILE

A results driven Solutions Architect with a passion for using technology to solve complex business problems and create long lasting, mutually beneficial relationships with both strategic partners and valued clients.

AREAS OF EXPERTISE

- Zapier, Laserfiche, Microsoft Office, Sales Force, Google Drive Suite
- Amazon Web Services and Web API experience
- Working knowledge of help desk IT support

OTHER SKILLS

- The ability to analyze complex technical information
- Can analyze, design and implement database structures
- Detail oriented
- Excellent problem solver

WORK EXPERIENCE

BUSINESS AUTOMATION PROS

Founder & President | 2016 - Present
- Directs solution design and implementation team
- Evaluates interface between hardware and software
- Advises customers regarding maintenance of software system
- Build long lasting relationships with executive and IT personnel

STAPLES BUSINESS ADVANTAGE

B2B Sales Consultant | 2018 - 2020
- Provide business solutions to local businesses looking to scale
- Exceed sales quota for Staples Business Advantage platform
- Prepared detailed reports of monthly sales and interaction using Sales Force CRM

MUNICIPAL CODE COMPANY INNOVATIONS

Lead Account Manager| 2013 - 2015
- Demonstrate software to new and existing clients
- Maintained and grew portfolio of accounts valued over $1.5 million
- Review server spec requirements and create proposals for clients
- Consult with clients on how to effectively use and grow systems

EDUCATION HISTORY

FLORIDA STATE UNIVERSITY

Bachelor of Science, Social Sciences 2013
~ Minor in Entrepreneurship from JMI of Global Entrepreneurship

TALLAHASSEE COMMUNITY COLLEGE

Associate of Arts, Business Track Spring 2010
Tallahassee Community College Men's Basketball 2007-2010

LEON COUNTY BOARD OF COUNTY COMMISSIONERS
CITIZEN COMMITTEE APPLICATION
ADVISORY COMMITTEE FOR QUALITY GROWTH

It is the applicant's responsiblity to keep this information current. To advise the County of any changes please contact Mary Smach by telephone at 606-5300 or by e-mail at smachm@leoncoutyfl.gov.

Applications will be discarded if no appointment is made after two years.

Name: Dr. Steven Thomas Karacic | **Date:** 3/29/2021 7:11:25 AM

Home Address:	1806 S Meridian St Tallahassee, FL 32301	**Do you live in Leon County?**	Yes
		Do you live within the City limits?	Yes
		Do you own property in Leon County?	Yes
Home Phone:	(850) 815-2857	**Do you own property in the Tallahassee City Limits?**	Yes
Email:	skaracic@paleowest.com	**How many years have you lived in Leon County?**	6

(EMPLOYMENT INFORMATION)

Employer:	PaleoWest LLC	**Work Address:**	916 East Park Ave Tallahassee, FL 32301
Occupation:	Archaeologist		
Work/Other Phone:			

(OPTIONAL)

Leon County strives to meet its goals, and those contained in various federal and state laws, of maintaining a membership in its Advisory Committees that reflects the diversity of the community. Although strictly optional for Applicant, the following information is needed to meet reporting requirements and attain those goals.

Race: White **Gender:** M **Age:** 36

District: District I **Disabled?** No

(RESUME AND REFERENCES)

References (you must provide at least one personal reference who is not a family member):

Name:	Julie Duggins	**Name:**	Jeff Shanks
Address:	PaleoWest LLC, 1942 2nd Ave South, Unit H., St. Petersburg, FL 33712	**Address:**	Southeast Archeological Center, National Park Service, Johnson Building, 2035 E. Paul Dirac Dr, Tallahassee, FL, 32310
Phone:	(670) 360-6243	**Phone:**	(850) 694-8600

Resume Uploaded? Yes

If no resume is available, in the space below briefly describe or list the following: any previous experience on other Committees; your educational background; your skills and experience you could contribute to a Committee; any of your professional licenses and/or designations and indicate how long you have held them and whether they are effective in Leon County; any charitable or community activities in which you participate; and reasons for your choice of the Committee indicated on this Application. Please attach your resume, if one is available.

I am an archaeologist with fifteen years of professional experience. My experience includes work in the private sector, government agencies, and academia. Currently, I manage PaleoWest's office in Tallahassee. PaleoWest is one of the largest archaeology firms in the United States, with 16 offices nationwide. Our Tallahassee Office completed over 300 projects in 2020, of which 28 were in Leon County. I have worked with government agencies and developers to navigate requirements related to the Natural Features Inventory as well as state and federal regulations. Attached you will find my resume. Please do not hestitate to contact me with additional questions.

(COMMITTEE QUESTIONNAIRE)

IMPORTANT LEGAL REQUIREMENTS FOR COMMITTEE/BOARD/AUTHORITY MEMBERSHIP

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Have you completed the Applicant Orientation for membership on Citizen Committees, Board & Authorities?* *Yes*

Are you currently serving on a County Advisory Committee or other Committee/Authority/Board?* *No*

Have you served on any previous Leon County committees?* *No*

Are you willing to complete a financial disclosure form if applicable?* *Yes*

Do you know of any circumstances that would result in you having to abstain from voting on a Committee/Board/Authority due to voting conflicts? (Not applicable to Focus Groups)* *No*

Are you or your employer, or your spouse or child or their employers, currently doing business with Leon County?* *No*

Are you or your employer, or your spouse or child or their employers, currently doing business with the Committee/Board/Authority to which you are applying for membership?* *No*

Do you currently have any employment or contractual relationship that would create a continuing or frequently recurring conflict with regard to your participation on a Committee/Board/Authority? (i.e. would you have frequent or reoccurring voting conflicts?)* *No*

Do you foresee participating in any competitive bid process for Leon County business during your time serving on this committee/board/authority?* *No*

Do you foresee participating in any competitive bid process involving business with the Committee/Board/Authority to which you are applying, during your time serving on that entity?* *No*

Members must meet one of the membership eligibility criteria. Please indicate your area of expertise:

- [ ] Provider of construction development, planning or environmental-related services. (THIS SEAT REQUIRES A NOMINATION.)
- [ ] Employed by a university or local school system.
- [ ] Serves on a neighborhood association board or represents a neighborhood-based organization. (THIS SEAT REQUIRES A NOMINATION BY THE COUNCIL OF NEIGHBORHOOD ASSOCIATIONS.)
- [ ] Employed by or represents, a community-based, environment-related organization.
- [ ] Represent a business association or organization. (THIS SEAT REQUIRES A NOMINATION.)
- [x] Archaeologist
- [ ] Resident of Leon County

All statements and information provided in this application are true to the best of my knowledge.

Signature: *Dr. Steven Thomas Karacic*

The application was electronically sent: 3/29/2021 7:11:25 AM

STEVE KARACIC, PH.D.

Office Principal

EDUCATION

Ph.D., Bryn Mawr College, 2014

M.A., Bryn Mawr College, 2009

B.A., DePauw University, 2007

YEARS OF PROFESSIONAL EXPERIENCE

15

YEARS W/ FIRM

3

REGISTRATIONS / CERTIFICATIONS

Register of Professional Archaeologists

PSMJ training for Project Management, Office Principals

PROFESSIONAL AFFILIATIONS

Florida Anthropological Society

Society for American Archaeology

American Schools of Oriental Research

Seminar for Arabian Studies

Dr. Karacic has fifteen years of experience overseeing cultural resource projects. He specializes in managing large, multi-disciplinary teams of cultural resource professionals. He has worked all over the world with extensive experience in the Southeastern United States and the Middle East. Dr. Karacic has authored or co-authored 30 scientific publications and has served on review committees for numerous journals. Throughout his career, Dr. Karacic has taken a solution-oriented approach to cultural resource management, ensuring that projects are completed on schedule and in compliance with all regulatory requirements.

Dr. Karacic manages PaleoWest's Tallahassee Office. In 2020 alone, the Tallahassee Office completed over 300 cultural resource projects, of which 28 projects were in Leon County and 162 projects were in Florida. The Tallahassee Office has conducted a wide range of cultural resource services including desktop assessments, cultural resource assessment surveys, archaeological testing, data recovery, underwater archaeological survey, cemetery documentation, cemetery relocation, historical studies, photogrammetric modeling, website development, and mitigation.

SELECT PROJECT EXPERIENCE

Orange Avenue Apartments Structure Documentation and Memorandum of Agreement, Leon County, FL. Project Manager (2020-2021). PaleoWest documented the historical structures of the Orange Avenue Apartments. After the Florida SHPO determined the structures to be eligible for the National Register of Historic Places, Dr. Karacic worked with the Tallahassee Housing Authority to develop mitigation strategies and sign a memorandum of agreement with the Florida SHPO. Mitigation strategies included the development of a website as an alternative to conventional mitigation efforts. Client: Columbia Residential

Southwood Phase III Data Recovery at 8LE01490, Leon County, FL. Project Manager (2020). PaleoWest conducted archaeological mitigation of 8LE01490. Thoughtful unit placement and research design led to successful data recovery, resulting in over 150 artifacts per cubic meter in some contexts. Dr. Karacic oversaw fieldwork and contributed to the report. Client: Florida Environmental & Land Services

Phase I Cultural Resources Assessment Survey and Phase II Archaeological Investigations, State Road 30 Landscaping, Franklin County, FL. Principal Investigator (2020). PaleoWest conducted a survey of 28.4 mi of State Road 30 through Franklin County. The Phase I survey recorded 16 historical structures and an archaeological site. Subsequent Phase II testing was necessary at the archaeological site. Dr. Karacic worked with the Florida SHPO to develop the Phase II testing strategy and oversaw the excavations. Using an all-digital documentation

Steve Karacic, Ph.D. (continued)

method for the Phase II testing, it was possible to complete all Phase II work, from research approval to the letter of concurrence, in 17 days. Client: Florida Department of Transportation

Phase I Cultural Resources Assessment Survey, I-10 Corridor Clearing and Grubbing, in Santa Rosa and Walton Counties, FL. Principal Investigator (2020). PaleoWest conducted a Phase I cultural resource assessment survey of over 50 miles along the I-10 corridor through Santa Rosa and Walton Counties. The client had limited resources available for this project. Working with the Florida SHPO, Dr. Karacic developed an innovative survey strategy that reduced the cost of the project while ensuring that all segments of the project areas were thoroughly sampled. Client: Florida Department of Transportation

Phase I Cultural Resources Assessment Survey and Phase II Archaeological Investigations, Villas at Raymond Diehl, Leon County, FL. Project Manager (2020). PaleoWest conducted a Phase I cultural resources assessment survey and identified an archaeological site (8LE6481) that was considered potentially eligible for the National Register of Historic Places. Dr. Karacic developed a research design and investigated the site, determining that it was not eligible. Client: Kimley-Horn and Associates, Inc.

Silvey Family Cemetery Relocation, Fulton County, GA. Principal in Charge (2021). PaleoWest documented, exhumed, and reburied 15 burials from a historical cemetery. The relocation of the cemetery was necessary because of encroaching land development. Dr. Karacic managed fieldwork and client communications, completing the fieldwork ahead of schedule. Client: Searles Family Foundation

S & C Cattle Cultural Resource Assessment Survey, Highlands County, FL. Principal Investigator (2020). PaleoWest conducted an 8,760-acre Phase I survey in Highlands County, Florida. Dr. Karacic managed communications with the client, oversaw fieldwork and reporting, and ensured that the deliverables were submitted on time. Client: Natural Resources Conservation Service

Carlton North Cultural Resource Assessment Survey, Highlands County, FL. Principal Investigator (2020). A 6,012-acre Phase I survey in Highlands County, Florida. Dr. Karacic managed communications with the client, oversaw fieldwork and reporting, and ensured that the deliverables were submitted on time. Client: Natural Resources Conservation Service

Fort Polk Task Order 4, Multiple Parishes, LA. Project Manager (2020). Phase II archaeological testing at ten pre-contact sites located on the Fort Polk military base. Dr. Karacic managed the completion of deliverables on time and implemented the quality control plan. Client: Fort Polk on behalf of National Park Service

Prospect Bluff Root Ball Clean-up, Franklin County, FL. Project Manager (2020-2021). PaleoWest conducted data recovery for over 100 trees that were uprooted by Hurricane Michael. The level of effort required test units excavated for each tree. Dr. Karacic managed fieldwork and reporting, and ensured that the project remained on schedule. Client: United States Forest Service

Egret's Reserve Cultural Resource Assessment Survey, Brevard County, FL. Principal Investigator (2020). PaleoWest conducted a 62-acre Phase I survey in Brevard County. Dr. Karacic managed communications with the client, oversaw fieldwork and reporting, and ensured that the deliverables were submitted on time. Client: Bussen and Mayer Engineering Group

Fort Jefferson Inscriptions Documentation, Monroe County, FL. Project Manager (2020-2021). PaleoWest documented historical inscriptions on the walls of Fort Jefferson in Dry Tortugas National Park using photogrammetry. Dr. Karacic managed communications with the client,

Steve Karacic, Ph.D. (continued)

oversaw fieldwork and reporting, and ensured that the project remained on schedule. Client: National Park Service

From: Steve Karacic
To: Mary Smach
Subject: Re: ACQG Vacancy
Date: Friday, February 4, 2022 8:49:40 AM
Attachments: image001.png
image002.png

Dear Mary,

Yes, I am still interested. Please include my previous application.

Steve

Steve Karacic | Office Principal
PaleoWest
skaracic@paleowest.com
850.815.2857
www.paleowest.com

Tallahassee Office
916 East Park Ave
Tallahassee, FL 32301

From: Mary Smach <SmachM@leoncountyfl.gov>
Date: Wednesday, February 2, 2022 at 11:34 AM
To: Steve Karacic <skaracic@paleowest.com>
Subject: ACQG Vacancy

Dear Dr. Steven Karacic,

The County has an upcoming vacancy on the Advisory Committee for Quality Growth. You had previously applied for the archeologist seat on the ACQG and we were wondering if you are still interested in being considered for the upcoming vacancy by the Board of County Commissioners. Please let me know whether to include your application which is attached, and if it is still accurate.

Thank you for your time.

Regards,

Mary Smach
Agenda Coordinator
County Administration
301 S. Monroe St. | Tallahassee, FL 32301
(850) 606-5311 /work | **(850) 606-5301** /fax
Smachm@leoncountyfl.gov

People Focused. Performance Driven.

Please note that under Florida's Public Records laws, most written communications to or from County staff or officials regarding County business are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.



LEON COUNTY BOARD OF COUNTY COMMISSIONERS
CITIZEN COMMITTEE APPLICATION
ADVISORY COMMITTEE FOR QUALITY GROWTH

It is the applicant's responsiblity to keep this information current. To advise the County of any changes please contact Mary Smach by telephone at 606-5300 or by e-mail at smachm@leoncoutyfl.gov.

Applications will be discarded if no appointment is made after two years.

Name: Ms. Barbara Ann Clark | **Date:** 2/10/2022 2:27:32 PM

Home Address:	2724 Via Milano Avenue Unit B Tallahassee, FL 32303	**Do you live in Leon County?**	Yes
		Do you live within the City limits?	Yes
		Do you own property in Leon County?	Yes
Home Phone:	(850) 933-5779	**Do you own property in the Tallahassee City Limits?**	Yes
Email:	BarbaraAClark@uwf.edu	**How many years have you lived in Leon County?**	8

(EMPLOYMENT INFORMATION)

Employer:	University of West Florida, Florida Public Archaeology Network	**Work Address:**	3540 Thomasville Road Tallahassee, FL 32303
Occupation:	Archaeologist		
Work/Other Phone:	(850) 270-7556		

(OPTIONAL)

Leon County strives to meet its goals, and those contained in various federal and state laws, of maintaining a membership in its Advisory Committees that reflects the diversity of the community. Although strictly optional for Applicant, the following information is needed to meet reporting requirements and attain those goals.

Race: White **Gender:** F **Age:** 40

District: District I **Disabled?** No

(RESUME AND REFERENCES)

References (you must provide at least one personal reference who is not a family member):

Name:	Tristan Harrenstein	**Name:**	Alicia Armstrong
Address:	3540 Thomasville Road Tallahassee, FL 32309	**Address:**	2615 Summerwood Dr. Tallahassee, FL 32303
Phone:	(402) 570-4337	**Phone:**	(854) 433-4447

Resume Uploaded? Yes

If no resume is available, in the space below briefly describe or list the following: any previous experience on other Committees; your educational background; your skills and experience you could contribute to a Committee; any of your professional licenses and/or designations and indicate how long you have held them and whether they are effective in Leon County; any charitable or community activities in which you participate; and reasons for your choice of the Committee indicated on this Application. Please attach your resume, if one is available.

(COMMITTEE QUESTIONNAIRE)

IMPORTANT LEGAL REQUIREMENTS FOR COMMITTEE/BOARD/AUTHORITY MEMBERSHIP

Citizen participation is important in developing Leon County's programs and policies, and in providing quality public services to the community. We appreciate your interest in serving on a committee and would like to bring a few items to your attention. As a member of a committee/board/authority, you will be obligated to follow any applicable laws regarding government-in-the-sunshine, code of ethics for public officers, and public records disclosure.

The consequences for violating these applicable laws include criminal penalties, civil fines, and the voiding of any committee/board/authority action and of any subsequent action by the Board of County Commissioners. In order to be familiar with these laws and to assist you in answering the following questions, please take a few minutes to complete the mandatory orientation. Your application will not be deemed complete until you have completed the orientation.

Have you completed the Applicant Orientation for membership on Citizen Committees, Board & Authorities?* *Yes*

Are you currently serving on a County Advisory Committee or other Committee/Authority/Board?* *No*

Have you served on any previous Leon County committees?* *Yes*

If Yes, on what Committee(s) have you served? *Advisory Committee for Quality Growth*

Are you willing to complete a financial disclosure form if applicable?* *Yes*

Do you know of any circumstances that would result in you having to abstain from voting on a Committee/Board/Authority due to voting conflicts? (Not applicable to Focus Groups)* *No*

Are you or your employer, or your spouse or child or their employers, currently doing business with Leon County?* *No*

Are you or your employer, or your spouse or child or their employers, currently doing business with the Committee/Board/Authority to which you are applying for membership?* *No*

Do you currently have any employment or contractual relationship that would create a continuing or frequently recurring conflict with regard to your participation on a Committee/Board/Authority? (i.e. would you have frequent or reoccurring voting conflicts?)* *No*

Do you foresee participating in any competitive bid process for Leon County business during your time serving on this committee/board/authority?* *No*

Do you foresee participating in any competitive bid process involving business with the Committee/Board/Authority to which you are applying, during your time serving on that entity?* *No*

Is your personal information exempt from public records disclosure in accordance with FS 119.071(2)(j)1 or FS 119.071(4)? *No*

Members must meet one of the membership eligibility criteria. Please indicate your area of expertise:

- [ ] Provider of construction development, planning or environmental-related services. (THIS SEAT REQUIRES A NOMINATION.)
- [x] Employed by a university or local school system.

  Name of Employer: *University of West Florida*
- [ ] Serves on a neighborhood association board or represents a neighborhood-based organization. (THIS SEAT REQUIRES A NOMINATION BY THE COUNCIL OF NEIGHBORHOOD ASSOCIATIONS.)
- [ ] Employed by or represents, a community-based, environment-related organization.
- [ ] Represent a business association or organization. (THIS SEAT REQUIRES A NOMINATION.)
- [x] Archaeologist
- [x] Resident of Leon County

All statements and information provided in this application are true to the best of my knowledge.

Signature: Ms. Barbara Ann Clark

The application was electronically sent: 2/10/2022 2:27:32 PM

Barbara Ann Clark (Hines), RPA, MSA

BarbaraAClark@uwf.edu
850.933.5779

Education:

2005 B.S. Anthropology, Florida State University
2008 M.A. Archaeology and Heritage, University of Leicester
2018 Certificate in Nonprofit Management, University of West Florida
2019 M.S. Public Administration, University of West Florida

Professional Development/Certifications:

2016 Advanced Metal Detecting for the Archaeologist (RPA Continuing Professional Education)
2013 Compressed Gas Cylinder Visual Inspector Training (SCIDI Inspector # 047)
2013 Computer Nitrox Certification
2012 SSI Open Water SCUBA Certification
2011 Project Archaeology Facilitator Training
2010 Certified Interpretive Guide, National Association for Interpretation
2009 Grant Writing Workshop, Tallahassee Community College, Wakulla Center
2008 Registered Professional Archaeologist, Register of Professional Archaeologists
2004 International Mission in Anthropology and Archaeology, University of Beijing
2003 Spring Externship, National Park Service, Southeast Archaeological Center

Specializations and Interests:
Public Archaeology, Historical Archaeology, Cultural Resource Management, Public Interpretation, Nonprofit Management, Historic Cemetery Management, Public Affairs, Ethics, Communication, Event Planning, Public Policy, Public Engagement, Historic Preservation, Heritage Protection

Employment:

2014-Present Regional Director, Florida Public Archaeology Network (850.595.0050)

Responsibilities include managing staff in the Northwest(Pensacola) and North Central (Tallahassee) Regional Centers, planning and executing public outreach programming for adults and children within the combined 25 county region, assisting with legislative efforts pertaining to the protection of Florida's cultural resources, planning the Annual Archaeology Advocacy Day at the Florida capitol, assisting local governments with their cultural resources needs and assisting the Florida Division of Historical Resources.

2010-2014 Outreach Coordinator, Florida Public Archaeology Network (850.595.0050)

Responsibilities include educating the public about archaeological resources and preservation issues, assisting the Florida Division of Historical Resources in educating the public, planning and implementing outreach events/activities, assisting local governments in implementing local ordinances to protect culturally significant sites and structures.

2005-2010 Project Archaeologist, PBS&J Tallahassee (850.575.1800)

Responsibilities included both leading and assisting on all phases of archaeological fieldwork, writing all levels of Cultural Resources Assessments and technical memorandums, conducting background research and identifying, evaluating and documenting archaeological sites, historic structures and other cultural resources in the Southeastern United States. Additional Responsibilities included curating artifacts and associated materials according to professional archaeological standards, assisting clients (both in the public and private sector) with their cultural resource permitting needs.

2004-2005 Field Technician, Garlick Environmental Associates (850.510.3308)

Responsibilities included assisting with all phases of archaeological fieldwork and curating artifacts and associated material according to professional archaeological standards.

Conference Presentations:

Hines, Barbara A.
"Rollin' on the River: Archaeotourism on the Wakulla River". Presented at Florida Anthropological Society 2011 Annual Meeting, Orlando, FL, May 6-8, 2011.

Hines, Barbara A.
"The Florida Public Archaeology Network: How Can We Assist You?". Presented at the First Floridians, First Americans Conference, Monticello, FL, October 4-6, 2012.

Hines, Barbara A.
"An Archaeological Survey of the Town of Jay, Florida: A Crossroads in History". Presented at the Society for Historical Archaeology 2013 Conference, Leicester, England, January 9-12, 2013.

Hines, Barbara A. and Drew Wise
"Identifying Unmarked Burials Using Cadaver Dogs and GPR: A Grassroots Preservation Effort at Munree Cemetery in Tallahassee, Florida". Presented at Florida Anthropological Society 2013 Annual Meeting, St. Augustine, FL. May 9-12, 2013.

Clark, Barbara A.
"The Benefits of Public Archaeology Days". Presented at the Society for American Archaeology Annual Conference, San Francisco, CA. April 15-19, 2015.

Clark, Barbara A.
"The Best Days at FPAN are Shared with Others: FPAN Partnerships through the Years". Presented at the Society for American Archaeology Annual Conference, Orlando, FL. April 6-10, 2016.

Clark, Barbara A.
"A Conflict of Values: Bridging the Gap between Collectors and Professional Archaeologists". Presented at the Society for Historical Archaeology Annual Conference, St. Charles, MO. January 9-12, 2019

Clark, Barbara A.
"Rest in Peace: Protecting Historic Cemeteries from Natural Disasters". Poster Presentation at the Society for Historical Archaeology Annual Conference, Boston, MA. January 8-11, 2020

Publications:

Clark, Barbara A. (2015). *The Benefits of Public Archeology Days*, Public Archaeology, 14:3, 214-220, DOI 10.108/14655187.2015.1191917

Clark, Barbara A. (2018). *Monument mementos leave a mess.* Op Ed, Tallahassee Democrat, October 8, 2018.

Clark, Barbara A. (2016). *Why aren't we talking about COPD?* Op Ed, Tallahassee Democrat, September 23, 2016

Technical Reports:

Cremer, David E. and Barbara A. Hines

2009 A Phase I Cultural Resources Assessment of Progress Energy's Tree Maintenance within the Apalachicola National Forest's Existing Easement, Crawfordville Substation to the Apalachicola River, Franklin, Liberty and Wakulla Counties, Florida. Ms. on file Florida Master Site File, Tallahassee, FL.

2006 A Cultural Resources Assessment of the East Bay Plantation Tract, Bay County, Florida. Ms. on file Florida Master Site File, Tallahassee, Florida.

Hines, Barbara A.

2009 A Phase I Cultural Resource Assessment of a Circa-26.25 Mile Corridor along State Road 65 through the Apalachicola National Forest. Ms. on file Florida Master Site File, Tallahassee, Florida.

2009 A Phase I Cultural Resource Assessment of the Douglas Almanac Road Subdivision Tract, Leon County, Florida. Ms. on file Florida Master Site File, Tallahassee, Florida.

2009 A Phase I Cultural Resource Assessment of the Southwest Escambia County Sports Complex, Escambia County, Florida. Ms. on file Florida Master Site File, Tallahassee, Florida.

2008 A Reconnaissance-Level Cultural Resource Assessment of the Stadium West Student Housing Tract, Leon County, Florida. Ms. on file Florida Master Site File, Tallahassee, Florida.

2008 A Phase I Cultural Resource Assessment of the Lake Bradford Waste Water Treatment Facility, Leon County, Florida. Ms. on file Florida Master Site File, Tallahassee, Florida.

2008 A Phase I Cultural Resources Assessment of the Tom Brown Park Easterwood Development, Leon County, Florida. Ms. on file Florida Master Site File, Tallahassee, Florida.

2007 A Reconnaissance-Level Cultural Resource Assessment of the High Point Village Tract, Leon County, Florida. Ms. on file Florida Master Site File, Tallahassee, Florida.

2007 A Reconnaissance-Level Cultural Resources Assessment of the Florida Baptist Children's Home, Leon County, Florida. Ms. on file Florida Master Site File, Tallahassee, Florida.

2007 A Reconnaissance-Level Cultural Resource Assessment of the Suber Tract, Leon County, Florida. Ms. on file Florida Master Site File, Tallahassee, Florida.

2007 A Cultural Resource Assessment of the Kendall Hills Subdivision Tract, Leon County, Florida. Ms. on file Florida Master Site File, Tallahassee, Florida.

2006 A Cultural Resource Assessment of the Mariana Oaks Project Tract, Leon County, Florida. Ms. on file Florida Master Site File, Tallahassee, Florida.

2006 A Phase I Cultural Resource Assessment of the Mason's Creek Project Tract, Leon County, Florida. Ms. on file Florida Master Site File, Tallahassee, Florida.

2006 A Cultural Resource Assessment of the Canopy Trails Development Tract, Leon County, Florida. Ms. on file Florida Master Site File, Tallahassee, Florida.

2006 A Reconnaissance-Level Cultural Resource Assessment of the Horseman's Association Road Tract, Leon County, Florida. Ms. on file Florida Master Site File, Tallahassee, Florida.

Keel, Frank and Barbara A. Hines

2006 A Reconnaissance-Level Cultural Resource Assessment of the Jordan Bayou Preserve Project, Franklin County, Florida. Ms. on file Florida Master Site File, Tallahassee, Florida.

Professional Affiliations/Committees:

Register of Professional Archaeologists, Secretary/ Treasurer 2019-2021
Society for Historical Archaeology, Public Education and Interpretation Committee
Society for American Archaeology, Public Education Committee State Coordinator for Florida
National Forests in Florida Secure Rural Schools Resource Advisory Committee (previous member)
Florida Archaeological Council, Director at Large

Civic Organizations:

Junior League of Tallahassee
Literacy Volunteers of Leon County, President of Board of Directors, 2018-2020
Tallahassee Big Dog Rescue
Tallahassee Trust for Historic Preservation, Chair 2019 to present
Northwest Florida Maritime Landscape Alliance for Preservation

Thesis (MA in Archaeology and Heritage):

2008 Hines, Barbara A.
"An Archaeological and Structural Investigation of the Lawhon Property in Sopchoppy, FL: Property Ownership and Perceptions of Social Class". University of Leicester: Leicester, England, M.A. Program. (Committee Chair: Dr. Andrea Horning, University of Leicester, School of Archaeology and Ancient History.)

Capstone (Masters of Public Administration):

2019 Clark, Barbara A.
"A Comparative Analysis of Bicycle Safety in the State of Florida and Proposed Actionable Items for Improvement Utilizing the Quadruple Bottom Line". University of West Florida, Pensacola, FL. (Advisor: Dr. Richard Hough, University of West Florida, School of Administration and Law)

LEON COUNTY ADVISORY COMMITTEE ON QUALITY GROWTH
ATTENDANCE REPORT

Committee Name: Advisory Committee on Quality Growth

Committee Member Name: Barbara Clark

Appointment Date: April 13, 2021

4/19/21	5/17/21	6/21/21	7/19/21	8/16/21	9/20/21	10/18/21	11/15/21	12/20/21	1/20/22	2/21/22	3/21/22
X	MC	MC	MC	MC	X	MC	MC	X	MC	X	X

X – Member in attendance.
A – Member absent
A/E – Member absent/excused
MC – Meeting cancelled

TE- Term Expired

Leon County
Board of County Commissioners

Notes for Agenda Item #21

Leon County Board of County Commissioners

Agenda Item #21

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Chasity H. O'Steen, County Attorney

Vincent S. Long, County Administrator

Title: First and Only Public Hearing to Consider Adopting a Proposed Ordinance to Repeal Section 18-142 of the Leon County Code of Laws Regarding Open Burning

Review and Approval:	Vincent S. Long, County Administrator Chasity H. O'Steen, County Attorney
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator
Lead Staff/ Project Team:	Chasity H. O'Steen, County Attorney

Statement of Issue:

As directed at the April 12, 2022, meeting, this item requests the Board conduct the first and only public hearing to consider adopting a proposed Ordinance to repeal Section 18-142 of the Leon County Code of Laws regarding open burning.

Fiscal Impact:

This item has no fiscal impact.

Staff Recommendation:

Option #1: Conduct the first and only public hearing and adopt the proposed Ordinance repealing Section 18-142 of the Leon County Code of Laws, regarding open burning (Attachment #1).

Report and Discussion

Background:

At the April 12, 2022, meeting, the Board considered a status report on open burning, including an analysis of the Leon County Code of Laws (Code) concerning open burning, as well as the steps required to develop a local pollution control program, or a limited version of the program, for approval by the Florida Department of Environmental Protection (FDEP). The status report also provided an in-depth analysis of the estimated costs to implement the local pollution control program. After much discussion, the Board approved the status report and directed the scheduling of the first and only public hearing to consider adopting the proposed Ordinance repealing Section 18-142 of the Code regarding open burning (Attachment #1).

Analysis:

Section 18-142 of the Code was most recently amended on May 12, 2015, with the adoption of Ordinance No. 15-05. This Code provision currently reads as follows:

> Sec. 18-142. Burning. The county shall follow the regulations set forth by the state department of agriculture and consumer services, state forest service's outdoor burning and forest fire regulations and laws. The state forest service is delegated all permitting authority in the county's unincorporated area in accordance with said regulations and laws. This shall include, but is not limited to burning in accord with their definition of yard waste and the permitting of larger fires. Any person violating the terms of this section relative to the burning of yard waste only shall be guilty of a civil infraction, which is punishable by a civil penalty of $100.00 for the first violation, $250.00 for the second violation, and $500.00 for the third and subsequent violations.

Contrary to the statement in Section 18-142 that the County has delegated permitting authority related to burning in the unincorporated area of the County to the Florida Forestry Service (FFS), the FFS has the preemptive authority to manage and enforce regulations pertaining to open burning throughout Leon County. The authority of FFS includes managing and enforcing the state's laws and regulations for the open burning of yard trash and land clearing debris in the County, unless FFS delegates its authority to the County, which has not occurred, or the County pursues FDEP approval of a local pollution control program or a limited local pollution control program.

Due to the present inconsistencies in the Code with regard to the permitting authority concerning open burning, it is recommended that the Board conduct the first and only public hearing and adopt the proposed Ordinance repealing Section 18-142 of the Code. As required by Section 125.66(2)(a), Florida Statutes, notice of the public hearing was timely published in the *Tallahassee Democrat* (Attachment #2).

Options:

1. Conduct the first and only public hearing and adopt the proposed Ordinance repealing Section 18-142 of the Leon County Code of Laws, regarding open burning (Attachment #1).
2. Conduct the first and only public hearing and do not adopt the proposed Ordinance repealing Section 18-142 of the Leon County Code of Laws, regarding open burning.
3. Board direction.

Recommendation:

Option #1

Attachments:

1. Proposed Ordinance repealing Section 18-142 of the Leon County Code of Laws
2. Notice of Public Hearing

LEON COUNTY ORDINANCE NO. 2022-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 18 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA; REPEALING SECTION 18-142 ENTITLED BURNING; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Florida Forest Service has the power and authority to manage and enforce regulations pertaining to open burning in the unincorporated area of the County, including the open burning of yard trash and land clearing debris; and

WHEREAS, the Board desires to repeal Section 18-142 of the Code of Laws of Leon County, pertaining to open burning;

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, that:

Section 1. Amendments to Code.

Section 18-142 of Article VI of Chapter 18 of the Code of Laws of Leon County, Florida, entitled "Burning," is hereby repealed in its entirety.

Section 2. Conflicts.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon County 2030 Comprehensive Plan as amended, which provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.

Section 3. Severability.

If any word, phrase, clause, section, or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

Section 4. Effective Date.

This ordinance shall have effect upon becoming law.

DONE, ADOPTED AND PASSED by the Board of County Commissioners of Leon County, Florida, this 10th day of May, 2022.

LEON COUNTY, FLORIDA

By:_____
Bill Proctor, Chairman
Board of County Commissioners

ATTESTED BY:
Gwendolyn Marshall Knight, Clerk of the Court
& Comptroller, Leon County, Florida

By:_____

APPROVED AS TO FORM:
Chasity H. O'Steen, County Attorney
Leon County Attorney's Office

By:_____

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Board of County Commissioners of Leon County, Florida will conduct a public hearing on Tuesday, May 10, 2022, at 6:00 p.m., or as soon thereafter as such matter may be heard, at the County Commission Chambers, 5th Floor, Leon County Courthouse, 301 South Monroe Street, Tallahassee, Florida, to consider adoption of an ordinance entitled to wit:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 18 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA; REPEALING SECTION 18-142 ENTITLED BURNING; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Leon County will also be broadcasting the public hearing on Comcast channel 16, the Leon County Florida channel on Roku, and the County's Facebook page (https://www.facebook.com/LeonCountyFL/), YouTube channel (https://www.youtube.com/user/LeonCountyFL), and web site (www.LeonCountyFL.gov).

All interested parties are invited to present their comments at the public hearing at the time and place set out above.

Interested parties may also provide virtual real-time public comments during the public hearing. Interested parties wishing to provide virtual real-time public comments must complete and submit the registration form provided at https://www2.leoncountyfl.gov/coadmin/agenda/ by 8:00 p.m. on Monday, May 9, 2022. Following submittal of the registration form, further instructions for participating in the meeting will be provided. Persons needing assistance with registering or providing real-time comments may contact County Administration via telephone at (850) 606-5300. Please note that Board of County Commissioners Policy 01-05, Article IX., Section E., entitled "Addressing the Commission", and Article IX., Section F., entitled "Decorum", shall remain in full force and effect.

Anyone wishing to appeal the action of the Board with regard to this matter will need a record of the proceedings and should ensure that a verbatim record is made. Such record should include the testimony and evidence upon which the appeal is to be based, pursuant to Section 286.0105, Florida Statutes.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing a special accommodation to participate in this proceeding should contact Mathieu Cavell or Facilities Management, Leon County Courthouse, 301 South Monroe Street, Tallahassee, Florida 32301, by written request at least 48 hours prior to the proceeding. Telephone: 850-606-5300 or 850-606-5000; 1-800-955-8771 (TTY), 1-800-955-8770 (Voice), or 711 via Florida Relay Service.

Copies of the Ordinance may be inspected as part of the agenda package on the County's web site (https://www2.leoncountyfl.gov/coadmin/agenda/). To receive copies of the Ordinance by other means, such as email, mail, or facsimile transmittal, contact County Administration at 850-606-5300.

Advertise: April 29, 2022

Leon County
Board of County Commissioners

Notes for Agenda Item #22

Leon County Board of County Commissioners

Agenda Item #22

May 10, 2022

To: Honorable Chairman and Members of the Commission

From: Vincent S. Long, County Administrator

Title: First and Only Public Hearing to Consider Adopting an Ordinance Amending the Official Zoning Map to Change the Zoning Classification from Manufactured Home and Single-Family Detached (R-5) Zoning District to Office Residential (OR-2) Zoning District, for 11.07 Acres Located at 6034 W. Tennessee Street

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Ken Morris, Assistant County Administrator Benjamin H. Pingree, Director, Planning, Land Management & Community Enhancement Artie White, Director, Planning Department
Lead Staff/ Project Team:	Russell Snyder, Administrator, Land Use Planning Division Susan Denny, Senior Planner, Land Use Planning Division

Statement of Issue:

This item requests the Board conduct the first and only public hearing to consider adopting a proposed ordinance amending the Official Zoning Map to change the zoning classification from Manufactured Home and Single-Family Detached (R-5) zoning district to the Office-Residential 2 (OR-2) zoning district for property located at 6034 W. Tennessee Street. The subject property is the 11.07-acre northern portion of a 17.1-acre parcel located on the north side of West Tennessee Street (US 90), approximately 70 feet west of Emily Loop. The proposed ordinance, including a location map, is included as Attachment #1.

Fiscal Impact:

This item has no fiscal impact.

Staff Recommendation:

Option #1: Conduct the first and only public hearing and adopt the proposed Ordinance (Attachment #1), thereby amending the Official Zoning Map to change the zoning classification from Manufactured Home and Single-Family Detached (R-5) zoning district to Office Residential (OR-2) zoning district, for 11.07 acres located at 6034 W. Tennessee Street, based on the findings of fact and conclusions of law of the Planning Commission and any evidence submitted at the hearing hereon.

Report and Discussion

Background:

This item requests the Board conduct the first and only public hearing to consider adopting a proposed Ordinance (Attachment #1) amending the Official Zoning Map to change the zoning classification from Manufactured Home and Single-Family Detached (R-5) zoning district to the Office-Residential 2 (OR-2) zoning district for property located at 6034 W. Tennessee Street. The subject property is the 11.07-acre northern portion of a 17.1-acre parcel located on the north side of W. Tennessee Street (US 90), approximately 70 feet west of Emily Loop. The 6.03 acres southern portion of the 17.1-acre parcel is in the Commercial Parkway (CP) zoning district and is currently a shed sales business. The zoning district of the southern portion will not be changed by the proposed rezoning.

The applicant is Poplin 4651 Hickory Forest Circle, LLC (Michael G. Poplin, Officer) and the agent is Jim Canter, AICP. Presently, the entire 17.1-acre parcel is under common ownership. A limited petition subdivision of the 17.1-acre parcel will be required prior to the development of the property subject to the current rezoning to eliminate split zoning on the overall parcel as well as provide a process for establishing utility and access easements to the subject property.

Historic Zoning: The 1990 Historic Zoning Atlas indicates that the subject property was in the Commercial Parkway (CP) zoning district, which allowed for office, retail and office development, but did not allow for automobile-oriented retail such as vehicle sales.

1992: The Official Zoning Map for Leon County was adopted by Ordinance No. 92-11 to implement the 1990 Tallahassee-Leon County Comprehensive Plan. The subject parcel was zoned Mixed Use "B", a performance zoning that allowed a variety of office, commercial, residential, and community service uses based on specific performance criteria.

1997: Leon County Ordinance established Site-Specific zoning districts in Leon County and Ordinance No. 95-15 mapped the new Euclidian zoning districts. The subject property was placed in the R-5 zoning district.

April 7, 2022: The Planning Commission held a public hearing on the proposed Ordinance and voted 5-0 to find the proposed Ordinance consistent with the comprehensive plan, and to recommend approval to the Board of County Commissioners.

Planning Commission Discussion

On April 7, 2022, the Planning Commission held a public hearing on this item and voted 5-0 to find the application consistent with the Comprehensive Plan and recommend that the Board of County Commissioners adopt the proposed Ordinance (Attachment #1). There were no speakers. The Planning Commission did not discuss the item.

Analysis:

In accordance with Section 10-6.205(b) 11 (Procedures for Ordinance and Official Zoning Map Amendments) of the *Leon County Code of Ordinances*, the County shall consider the following in determining whether to recommend approval or denial of an application:

1. ***Comprehensive Plan.*** Is the proposal consistent with all applicable policies of the adopted Comprehensive Plan?

   Yes. The subject property is located within the Urban Services Area in the Suburban Future Land Use Map (FLUM) Category. Policy 2.2.5 [L] of the Comprehensive Plan (Attachment #2) states that it is the intent of the suburban FLUM to create an environment for economic investment or re-investment through the mutually advantageous placement of employment and shopping opportunities with convenient access to low- to medium-density residential areas." The Suburban FLUM category also states that "business activities are not intended to be limited to serve area residents; and may attract shoppers from throughout larger portions of the community."

   The Suburban FLUM development pattern is Suburban Corridor, which includes office, residential, commercial, and infrastructure uses up to 16 dwelling units per acre for residential uses, and 25,000 sq. ft per acre for nonresidential use. These densities and intensities are consistent with residential densities and commercial intensities in the OR-2 zoning district.

   Land Use Policy 1.1.7[L] (Attachment #2) states that "higher density and mixed-use development and its ancillary activities shall be channeled into locations which have proper access to the existing transportation system; minimal environmental constraints; sufficient stormwater treatment capacity; compatible existing land use and readily available sewer and water infrastructure."

   All five of the conditions listed in Policy 1.1.7[L] exist, or will exist, when the subject property is developed consistent with the OR-2 zoning district and other adopted land development standards. Each standard is discussed below:

   1) **Proper access:** The subject property is a portion of a larger 17.4-acre parcel (21-30-20-206-0000) with legal access to West Tennessee Street (U.S. 90), a principal arterial roadway. Through the limited partition process an easement will be obtained to provide access to the subject property to Tennessee Street.

   2) **Environmental constraints:** The subject property appears to have minimal environmental constraints. There is a small part of a karst depression on the southern border of the of the property. This area is also in the 100-year FEMA flood zone. There is also another small area of FEMA flood zone in the northeast corner of property. A Natural Features Inventory and Environmental Impact Analysis will be completed in association with future development of the site and conservation and preservation

features will be preserved consistent with the Comprehensive Plan Conservation Element.

3) **Stormwater capacity:** The land development regulations ensure that there will be sufficient stormwater treatment capacity at the time of development.

4) **Compatible existing land uses:** There is an existing manufactured home park along the eastern boundary of the subject property. There is also a residential structure on the northern boundary of the subject property fronting WB Rogers Road. These homes will be buffered from the adverse impacts of any potential nonresidential development on the subject site by the existing land development regulations, consistent with the requirements of Policy 2.1.1[L] of the Comprehensive Plan (Attachment #2).

5) **Readily available sewer and water:** The subject property is in the City of Tallahassee water and sewer service area. According to the City of Tallahassee, water is available through an 8-inch main running along the north side of U.S. 90. Sanitary sewer is available on the south side of U.S. 90 and will require a connection across the roadway for development of the site. A limited petition subdivision will be required to establish utility easements from Tennessee Street through the southern portion of the parcel.

2. Conformance with the Land Development Regulations. *Is the proposal in conformance with any applicable substantive requirements of the land development regulations, including minimum or maximum district size?*

Yes. The OR-2 zoning district is intended to be located where employment and residential uses can be in close proximity to each other. The OR-2 zoning district is also intended to promote mixed-use and urban intensities and densities in areas with adequate public infrastructure available. These conditions exist for the subject property.

A comparison of existing and proposed uses in the R-5 and OR-2 zoning districts is provided in Table 1, and a comparison of the allowable density and intensity is contained in Table 2, below.

Table 1: Comparison of Existing and Proposed Permitted Uses

Permitted Uses	Zoning Districts	
	R-5	OR-2
Banks and other financial institutions		X
Broadcasting studios		X
Community facilities related to residential uses religious facilities, police/fire stations, and elementary, middle, high, and vocational schools.		X
Community facilities related to residential uses religious facilities, police/fire stations, and elementary, middle, and vocational schools. Library, high school prohibited	X	
Day Care Centers		X
Golf Courses	X	X
Hotels and Motels including bed and breakfast inns		X
Medical and dental offices and services, laboratories, and clinics		X
Manufactured Homes	X	
Multiple-family dwellings		X
Non-medical offices and services, including business and government offices		X
Nursing homes		X
Off-street parking facilities		X
Passive and active recreation	X	X
Personal services		X
Retail drug store with drive-thrus (only allowed in a business park development). without drive-thrus (only allowed in a business park development)		X
Retail food and grocery (only allowed in a business park)		X
Stand-alone restaurants without drive-thrus (only allowed in a business park development).		X
Single-family attached dwelling	X	X
Single-family detached dwellings		X
Social, fraternal, recreational clubs and lodges and assembly halls		X
Studios for music, art, dance, drama, and voice		X
Veterinary services		X
Two-family dwelling units		
Zero lot line single-family dwellings		X
Any C-1 use on a multi-story building with office and residential uses on second floor		X

See Attachment #2: §10-6.639 R-5 Single- and Two-Family Residential; §10-6.643, OR-2 Office-Residential district charts.

Table 2: Development Intensity Allowed by District

Zoning District	Maximum Residential Density	Maximum Non-Residential Building Size	Allowable Density for Subject Site (11.07 acres)	Allowable Non-Residential Intensity for Subject Site (11.07 acres)
OR-2 (Proposed)	16 du/acre	20,000 square feet per gross acre; Max. 3 stories.	177 dwelling units	221,400 sf office
R-5 (Existing)	8 du/acre	10,000 square feet per acre	88 dwelling units	110,700 sf nonresidential
Net Change in Use			**+ 89 Units**	**+110,700 sf**

3. Changed Conditions. *Have the land use and development conditions changed since the effective date of the existing zoning district regulations involved, which are relevant to the properties?*

No.

4. Land Use Compatibility. *Will the proposal result in any incompatible land uses, considering the type and location of uses involved?*

No. As indicated by the chart in Table #3, the subject property is adjacent to commercial uses to the south and west, and residential or potentially residential, uses to the north and east. The rezoning of the subject property would provide a transition from the CP-zoned commercial properties, which allows a higher intensity of nonresidential development. In addition, any development of the subject property would be required to be consistent with Comprehensive Plan Policy 2.1.1[L] and Leon County Land Development regulations that require vegetative buffers and other measures to mitigate for adjacent incompatible uses (Attachment # 2).

Table 3: Surrounding Zoning and Future Land Use

Area	Zoning	Future Land Use	Physical Use	Comments
Subject Property	**R-5**	**Suburban**	**Vacant**	
North	R-5	Suburban	Single-family lot and a vacant lot	
South	CP	Suburban	Shed Sales	Southern portion of subject parcel
West	CP, MH	Suburban	Manufactured home repair, parts and supplies, and sporting goods supplies.	
East	CP, MH	Suburban	Manufactured Homes	

5. School Considerations. *Is there capacity in area schools? What effects on enrollment could the proposed rezoning have on area schools?*

The Leon County School Board staff analyzed the zoning change and did not identify any issues (Attachment #3). The Leon County School Board approved the school impact analysis (SIA) on March 22, 2022.

6. Other Matters*. Are there any other matters, which the Commission may deem relevant and appropriate?*

No.

Public Notification & Response:

This rezoning request has been noticed and advertised in accordance with the provisions of the *Leon County Code of Ordinances* (Attachment #4). The Planning Department mailed 36 notices to property owners within 1,000 feet of the subject property. To date, the Planning Department has received no responses on the proposed rezoning.

Options:

1. Conduct the first and only public hearing and adopt the proposed Ordinance (Attachment #1) thereby amending the Official Zoning Map to change the zoning classification from the Manufactured Home and Single-Family Detached (R-5) zoning district to the Office Residential (OR-2) zoning district, for 11.07 acres located at 6034 W. Tennessee Street, based on the findings of fact and conclusions of law of the Planning Commission and any evidence submitted at the hearing hereon.
2. Conduct the first and only public hearing and do not adopt the proposed Ordinance , thereby not amending the Official Zoning Map to change the zoning classification from the Manufactured Home and Single-Family Detached (R-5) zoning district to the Office Residential (OR-2) zoning district, for 11.07 acres located at 6034 W. Tennessee Street, based on the findings of fact and conclusions of law of the Board of County Commissioners and any evidence submitted at the hearing hereon.
3. Board direction.

Recommendation:

Option #1

Attachments:

1. Proposed Ordinance and Location Map
2. Comprehensive Plan Policies and land development regulations
3. School Impact Analysis Form
4. Notice of Public Hearing

LEON COUNTY ORDINANCE NO. 22-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING THE OFFICIAL ZONING MAP AS ADOPTED IN LEON COUNTY ORDINANCE NO. 92-11 TO PROVIDE FOR A CHANGE IN ZONE CLASSIFICATION FROM THE MANUFACTURED HOME AND SINGLE FAMILY DETACHED RESIDENTIAL ZONING DISTRICT TO THE OFFICE RESIDENTIAL (OR-2) ZONING DISTRICT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, that:

Section 1. Amendment.

The Official Zoning Map as adopted in Leon County Ordinance No. 92-11 is hereby amended as it pertains to the following described real property:

LRZ220001: From Manufactured Home and Single Family Detached Residential (R-5) to Office Residential (OR-2)

(See Exhibit A)

Section 2. Conflicts.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon County 2030 Comprehensive Plan as amended, which provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.

Section 3. Severability.

If any word, phrase, clause, section, or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

Section 4. Effective Date.

This ordinance shall have effect upon becoming law.

DONE, ADOPTED AND PASSED by the Board of County Commissioners of Leon County, Florida, this _____ day of _____, 20____.

LEON COUNTY, FLORIDA

By:_____

Bill Proctor, Chair

Board of County Commissioners

ATTESTED BY:

Gwendolyn Marshall Knight, Clerk of Court

& Comptroller, Leon County, Florida

By:_____

APPROVED AS TO FORM:

Chasity H. O'Steen, County Attorney

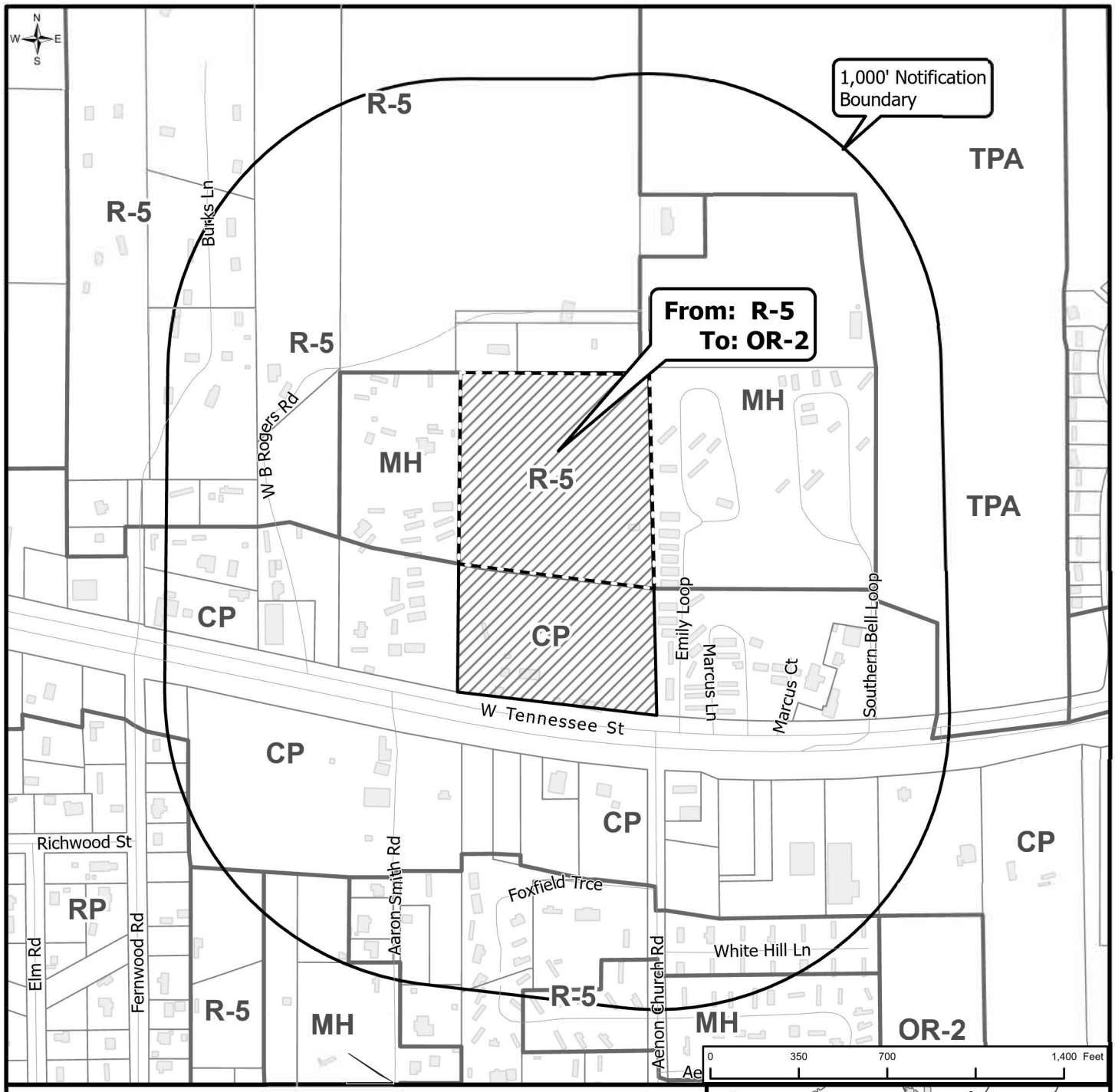
Leon County Attorney's Office

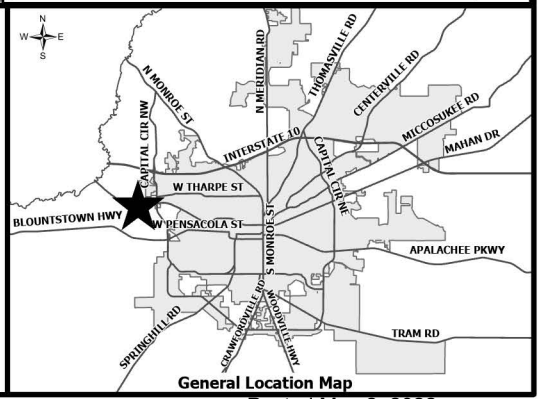
By:_____

6034 W Tennessee Street Rezoning

PLANNING DEPARTMENT a division of PLACE

LRZ #220002





General Location Map

Parcel ID: 21-30-20-206-0000

Size: +/- 11.07 acres

Current Zoning: R-5 (Manufactured Home and Single-Family Detached)

Proposed Zoning: OR-2 (Office Residential)

GARY GEE ALLEN
REGISTERED LAND SURVEYOR , INC.
LAND SURVEYING

GARY G. ALLEN, P.L.S, PRES.
B.J. ALLEN, V.P.
MARK T. HENDERSON,P.L.S.

E-MAIL: GARY@GARYALLENLANDSURVEYING.COM
PHONE: (850) 877-0541
FAX NO. (850) 877-0041

4101 APALACHEE PARKWAY
TALLAHASSEE, FLORIDA, 32311

11th. March, 2022

Legal description for zoning purposes

The intent of this description is to describe, for rezoning purposes, part of that property as described in Official Records Book 5151 on Page 1314 of Leon county, Florida.
Described as follows:

Commence the Northwest corner of Section 30, Township 1 North, Range 1 West Leon county, Florida and run South 00 degrees 54 minutes 55 seconds East 1319.42 feet; thence East 663.45 feet to the Northwest corner of the Southeast Quarter of the Northwest Quarter of said Section 30 for the POINT OF BEGINNING.
From said POINT OF BEGINNING run thence South 89 degrees 07 minutes 58 seconds East 663.45 feet to the Northeast corner of the East Half of the Southwest Quarter of the Northwest Quarter of Section 30; thence South 89 degrees 07 minutes 10 seconds East 30.00 feet; thence South 00 degrees 35 minutes 40 seconds East along the Easterly boundary of said referenced property 723.00 feet; thence North 84 degrees 05 minutes 50 seconds West 704.61 feet to the Westerly boundary of said property as described in Official Records Book 5151 on Page 1314; thence North along said Westerly boundary line 661.00 feet to the POINT OF BEGINNING.
Containing 482240.87 Square Feet or 11.07 Acres, more or less.

Bearings for this description are based on the Westerly boundary of said property as described in Offical records Book 5151 on Page 1314 of the public records of Leon county, Florida. The bearing of North was taken from the legal description.

This description is based on a boundary survey prepared by Spectra Engineering & Research, Inc. on Jan. 16th 2018, Job Number 17-169.

NO FIELD WORK HAS BEEN PERFORMED BY THIS SURVEYOR TO SUBSTANTIATE THE ACCURACY OF THIS DESCRIPTION.

I hereby certify that the legal description shown hereon meets the minimum technical standards as established by chapter 5J-17.051 of the Florida Administrative Code.

Mark T. Henderson
Reg. Surveyor & Mapper
Fl. Cert. No. 4354

CERTIFICATE No. 4354 STATE OF FLORIDA PROFESSIONAL SURVEYOR & MAPPER

PAGE 2 OF 2
Job # 22-241

Policy 2.2.5: [L]

SUBURBAN (EFF. 3/14/07)

To create an environment for economic investment or reinvestment through the mutually advantageous placement of employment and shopping opportunities with convenient access to low to medium density residential land uses. Employment opportunities should be located near residential areas, if possible within walking distance. This category recognizes the manner in which much of Tallahassee-Leon County has developed since the 1940s. The category predominantly consists of single-use projects that are interconnected whenever feasible. Mixed-use projects and the principles of traditional neighborhood developments are encouraged, though not required. The Suburban category is most suitable for those areas outside of the Central Core. However, additional areas inside the Central Core may be designated as appropriate based on existing land use pattern.

To complement the residential aspects of this development pattern, recreational opportunities, cultural activities, commercial goods and services should be located nearby. To reduce automobile dependency of residents and employers alike, mass transit stops should be located at large commercial centers and appropriate street and pedestrian connections established between commercial and residential areas. Except within mixed use centers, larger scale commercial development should be buffered from adjacent residential neighborhoods.

Development shall comply with the Suburban Intensity Guidelines. Business activities are not intended to be limited to serve area residents; and as a result may attract shoppers from throughout larger portions of the community.

Suburban Intensity Guidelines (EFF. 3/14/07; REV. EFF. 7/14/14; REV. EFF. 5/31/18)

Table 4: Suburban Intensity Guidelines

Development Patterns	Allowed Land Uses	Gross Residential Density	Non-Res Intensity	Percentage Mix of Uses
Low Density Residential	Residential, Recreation, Light Infrastructure & Community Service	0 to 8 UNITS/ ACRE (4)	10,000 SQ FT/ACRE	65-80%
Low Density Residential Office	Residential, Office, Recreation, Light Infrastructure & Community Service	0 to 8 UNITS/ ACRE (4)	10,000 SQ FT/ACRE (5)	
Medium Density Residential	Residential, Recreation, Light Infrastructure & Community Service	8 to 16 UNITS/ ACRE	20,000 SQ FT/ACRE	
Medium Density Residential Office	Residential, Office, Ancillary 1st Floor Commercial, Recreation, Light Infrastructure, Community Service & Post-Secondary Schools	8 to 20 UNITS/ ACRE	20,000 SQ FT/ACRE(6)	
Village Center	Residential, Office, Commercial up to 50,000 SQ FT, maximum business size. Centers shall not be located closer than ¼ mile to another village center or commercial development including more than 20,000 SQ FT of floor area.	8 to 16 UNITS/ ACRE	12,500 SQ FT/ACRE per parcel for center 20 acres or less (7)	
Urban Pedestrian Center	Residential, Office, Commercial, Recreation, Light Infrastructure & Community Service	6 to 16 UNITS/ ACRE (3)	Up to 20,000 SQ FT/ACRE (3)	35-50%
Suburban Corridor	Residential, Office, Commercial, Recreation, Light & Heavy Infrastructure & Community Service	Up to 16 UNITS/ ACRE	Up to 25,000 SQ FT/ACRE (8)	
Medical Center	Residential, Office, Commercial, Recreation, Light Infrastructure & Community Service	6 to 20 UNITS/ ACRE (1)	80,000 SQ FT/ACRE (2)	
Business Park	Office, Residential and Commercial	Up to 16 UNITS/ ACRE	20,000 SQ FT/ ACRE	5-10%

Notes:
(1) 8 units/acre minimum for exclusively residential;
(2) Hospitals up 176,000 sq ft/acre;
(3) 20 units/acre and 40,000 sq ft/acre for multiple use development; Combined residential and non-residential development may have up to 40,000 SF and up to a six story building. Residential use, office use and commercial use is allowed.
(4) Low Density Residential and Residential Office development patterns can have a minimum of 1 unit per acre if water and sewer are not available.
(5) The maximum square footage is increased to 12,500 SF if the project is a mixed-use development.
(6) The maximum square footage increases to 40,000 SF per acre and maximum height increases to six stories if 50% of parking is structured. This provision only applies to areas previously designated as Mixed Use C
(7) 250,000 SF of total development permitted on 20 to 30 acre centers.
(8) Storage areas may be 50,000 SF per acre. Office and Retail is allowed.

While mixed land uses are encouraged in the Suburban Future Land Use Category, the more prevalent pattern will be a compatibly integrated mix of single-use developments that include low and medium density residential, office, and retail development. Allowed land uses within the Suburban Future Land Use Category shall be regulated by zoning districts which implement the intent of this category, and which recognize the unique land use patterns, character, and availability of infrastructure in the different areas within the Suburban Future Land Use Category. In those areas lacking the necessary infrastructure, the Land Development Regulations may designate a low intensity interim use. Any evaluation of a proposed change

of zoning to a more intensive district shall consider, among other criteria, the availability of the requisite infrastructure.

Policy 1.1.7: [L] (EFF. 7/16/90) Higher density and mixed use development and its ancillary activities shall be channeled into locations which have proper access to the existing transportation system; minimal environmental constraints; sufficient stormwater treatment capacity; compatible existing land use and readily available sewer and water infrastructure.

Policy 2.1.1: [L] (REV. EFF. 6/28/95; REV. EFF. 7/26/06; REV. EFF. 5/31/18) Protect existing residential areas from encroachment of incompatible uses that are destructive to the character and integrity of the residential environment. Comprehensive Plan provisions and Land Development Regulations to accomplish this shall include, but are not limited to:

a) Inclusion of a Residential Preservation category on the Future Land Use Map.

b) Limitations on future commercial intensities adjoining low density residential areas. Such limitations are to result in effective visual and sound buffering (either through vegetative buffering or other design techniques) between the commercial uses and the low density residential uses; and are to allow only those commercial activities which are compatible with low density residential development in terms of size and appearance.

c) Limitations on future higher density residential adjoining low density residential areas. Such limitations are to result in effective visual and sound buffering (either through vegetative buffering or other design techniques) between the higher density residential uses and the low density residential uses.

d) Limitations on future light industry adjoining low and medium density residential areas. Such limitations are to result in effective visual and sound buffering (either through vegetative buffering or other design techniques) between the light industrial uses and the low density residential uses.

e) Prevention or mitigation of off-site impacts from Industry and Mining uses. I. Land Use Tallahassee-Leon County 2030 Comprehensive Plan (as of 2021-01ESR Amendment Cycle, eff. 7/17/21) 22

f) Additional development requirements for allowed community facilities when adjoining low density residential areas, except for cemeteries or religious facilities to be used solely for religious functions. Such development requirements will also apply if ancillary facilities are proposed in conjunction with religious facilities, and are to result in effective visual and sound buffering (either through vegetative buffering or other design techniques) between the community facilities and the low density residential uses.

Section 10-6.639. R-5 Manufactured Home and Single-Family Detached District.

1. District Intent	PERMITTED USES	
	2. Principal Uses	3. Accessory Uses
The R-5 district is intended to be located in areas designated Bradfordville Mixed Use, Urban Residential-2, Suburban or Woodville Rural Community on the Future Land Use Map of the Comprehensive Plan which exhibit a predominant existing development pattern of single-family detached housing and manufactured homes on individual, standard sized lots. The maximum gross density allowed for new residential development in the R-5 district is 8 dwelling units per acre. Certain community and recreational facilities related to residential uses are also permitted.	(1) Community facilities related to residential uses, including religious facilities, police/fire stations, and elementary, middle, vocational, and exceptional student education schools. Libraries and high schools are prohibited. Other community facilities may be allowed in accordance with Section 10-6.806 of these regulations. (2) Golf courses. (3) Manufactured homes. (4) Passive and active recreational facilities. (5) Single-family detached dwellings.	(1) A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure and which comprises no more than 33 percent of the floor area or cubic volume of the principal use or structure, as determined by the County Administrator or designee. (2) Light infrastructure and/or utility services and facilities necessary to serve permitted uses, as determined by the County Administrator or designee.

DEVELOPMENT STANDARDS

	4. Minimum Lot or Site Size			5. Minimum Building Setbacks				6. Maximum Building Restrictions	
Use Category	**a. Lot or Site Area**	**b. Lot Width**	**c. Lot Depth**	**a. Front**	**b. Side-Interior Lot**	**c. Side-Corner Lot**	**d. Rear**	**a. Building Size (excluding gross building floor area used for parking)**	**b. Building Height (excluding stories used for parking)**
Single-Family Detached and Mobile Homes Dwellings	5,000 square feet	50 feet	100 feet	15 feet	7.5 feet on each side; or any combination of setbacks that equals at least 15 feet, provided that no such setback shall be less than 5 feet	15 feet	25 feet	not applicable	3 stories
Any Permitted Principal Non-Residential Use	12,000 square feet	80 feet	100 feet	25 feet	7.5 feet on each side; or any combination of setbacks that equals at least 15 feet, provided that no such setback shall be less than 5 feet	15 feet	25 feet	10,000 square feet of gross building floor area per acre	3 stories

GENERAL NOTES:

1. If central sanitary sewer is not available, residential development is limited to a minimum of 0.50 acre lots and non-residential development is limited to a maximum of 2,500 square feet of building area. Community services facilities are limited to a maximum of 5,000 square feet of building area or a 500 gallon septic tank. Also, refer to Sanitary Sewer Policy 2.1.12 of the Comprehensive Plan for additional requirements.

2. Refer to the Environmental Management Act (EMA) for information pertaining to the regulation of environmental features (preservation/conservation features), stormwater management requirements, etc.

3. Refer to the Concurrency Management Ordinance for information pertaining to the availability of capacity for certain public facilities (roads, parks, etc.).

Section 10-6.643. OR-2 Office Residential district.

1. District Intent	PERMITTED USES 2. Principal Uses		3. Accessory Uses
The OR-2 district is intended to be located within areas designated Bradfordville Mixed Use or Suburban on the Future Land Use Map of the Comprehensive Plan in areas where employment and residential uses are encouraged to locate in close proximity to each other. The provisions of this district are intended to promote urban density and intensity of residential and office uses and the mixing of permitted uses to promote the use of public transit and the efficient use of public infrastructure. Off-street parking facilities in the OR-2 district shall be located and designed to promote convenient access to pedestrian and mass transit facilities. A variety of housing types, compatible non-retail activities of moderate intensity, retail commercial activities (limited to the ground floor), and certain community and recreational facilities related to office or residential uses are permitted in the OR-2 district. The maximum gross density allowed for new residential development in the OR-2 district is 16 dwelling units per acre, while the minimum gross density allowed is 8 dwelling units per acre, unless constraints of concurrency or preservation and/or conservation features preclude the attainment of the minimum densities. In order to implement the business park development pattern, a minimum of 10 acres is required with at least 3 types of uses which shall include office and commercial.	(1) Banks and other financial institutions. (2) Broadcasting studios. (3) Community facilities related to office or residential facilities, including libraries, religious facilities, police/fire stations, and elementary and middle schools and vocational schools. Other community facilities may be allowed in accordance with Section 10-6.806 of these regulations. (4) Day care centers. (5) Golf courses. (6) Hotels and motels, including bed and breakfast inns. (7) Medical and dental offices and services, laboratories, and clinics. (8) Multiple-family dwellings. (9) Non-medical offices and services, including business and government offices and services. (10) Nursing homes and other residential care facilities. (11) Off-street parking facilities.	(12) Passive and active recreational facilities. (13) Personal services. (14) Retail drug store with drive thrus (only allowed in a business park development) (15) Retail food and grocery (only allowed in a business park development) (16) Single-family attached dwellings. (17) Single-family detached dwellings. (18) Social, fraternal, and recreational clubs and lodges, including assembly halls. (19) Stand alone restaurants without drive thrus (only allowed in a business park development) (20) Studios for photography, music, art, dance, drama, and voice. (21) Two-family dwellings. (22) Veterinary services, including veterinary hospitals. (23) Zero-lot line single-family detached dwellings. (24) Any use permitted in the C-1 district (and is not listed in uses 1-20 above), provided that the use is on the first floor of a multi-story building containing office and/or residential uses on any of the floors above the first floor.	(1) A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure and which comprises no more than 33 percent of the floor area or cubic volume of the principal use or structure, as determined by the County Administrator or designee. (2) Light infrastructure and/or utility services and facilities necessary to serve permitted uses, as determined by the Administrator or designee.

DEVELOPMENT STANDARDS

	4. Minimum Lot or Site Size			5. Minimum Building Setbacks				6. Maximum Building Restrictions	
Use Category	**a. Lot or Site Area**	**b. Lot Width**	**c. Lot Depth**	**a. Front**	**b. Side-Interior Lot**	**c. Side-Corner Lot**	**d. Rear**	**a. Building Size (excluding gross building floor area used for parking)**	**b. Building Height (excluding stories used for parking)**
Single-Family Detached Dwellings	5,000 square feet	50 feet	100 feet	15 feet	7.5 feet on each side; or any combination of setbacks that equals at least 15 feet, provided that no such setback shall be less than 5 feet	15 feet	25 feet	not applicable	3 stories
Two-Family Dwellings	8,500 square feet	70 feet	100 feet	15 feet	same as single-family above	15 feet	25 feet	not applicable	3 stories
Single-Family Attached Dwellings	1,600 s.f. min.; avg. of 2,000 square feet	16 feet	none	15 feet	none	15 feet	25 feet	not applicable	3 stories

Development Standards Continued on Page 2 of 2

DEVELOPMENT STANDARDS									
Multiple-Family Dwellings	10,000 square feet	80 feet	100 feet	15 feet	15 feet on each side	25 feet	10 feet	not applicable	3 stories
Zero-Lot Line Single-Family Detached Dwellings	3,750 square feet	30 feet interior lot; 40 feet corner lot	100 feet	20 feet	0 feet one side; 5 feet other side	15 feet	25 feet	not applicable	3 stories
Any Permitted Principal Non-Residential Use	12,000 square feet	60 feet	100 feet	15 feet	15 feet on each side	25 feet	10 feet	20,000 square feet of gross building floor area per acre	3 stories
Commercial Uses (Only Allowed in Business Park Development)	12,000 square feet	60 feet	100 feet	15 feet	15 feet on each side	25 feet	10 feet	20,000 square feet of gross building floor area per acre; Individual buildings may not exceed 15,000 gross square feet	3 stories
7. Additional Criteria and Restrictions for Business Park Development: Commercial uses shall not exceed 25% of the total square feet of the development.									

GENERAL NOTES:

1. If central sanitary sewer is not available, residential development is limited to a minimum of 0.50 acre lots and non-residential development is limited to a maximum of 2,500 square feet of building area. Community service facilities are limited to a maximum of 5,000 square feet of building area or a 500 gallon septic tank. Also, refer to Sanitary Sewer Policy 2.1.12 of the Comprehensive Plan for additional requirements.

2. Refer to the Environmental Management Act (EMA) for information pertaining to the regulation of environmental features (preservation/conservation features), stormwater management requirements, etc.

3. Refer to the Concurrency Management Ordinance for information pertaining to the availability of capacity for certain public facilities (roads, parks, etc.).

SCHOOL IMPACT ANALYSIS FORM

Agent Name: Jim Canter, AICP **Applicant Name**: Poplin 4561 Hickory Forest Circle LLC **Address:** 267 John Knox Rd., STE 120 Tallahassee, FL 32303	**Date**: 03-02-2022 **Telephone:** **Fax:** **Email:** jcantergroup@cs.com

① **Location of the proposed Comprehensive Plan Amendment or Rezoning:**

Tax ID #: 21-30-20-206-0000 (10.4 ac northern portion of total 17.1 acre parcel)
Property address: Property is located at 6034 W Tennessee Street
Related Application(s):

② **Type of requested change (check one):**

☐ Comprehensive plan land use amendment that permits residential development.
☒ Rezoning that permits residential development.
☐ Nonresidential land use amendment adjacent to existing residential development.
☐ Nonresidential rezoning adjacent to existing residential development. *

③ **Proposed change in Future Land Use or Zoning classification:**

☐ *Comprehensive plan land use* From: _____ To: _____

☒ *Zoning* From R-5 To: OR-2

***Planning Department staff use only*:**

④ **Maximum potential number of dwelling units permitted by the request:**

Number of dwelling units: 16 dwelling units per acre
Type(s) of dwelling units: Single family detached and attached, two family and multiple family (apartment) dwelling units

***Leon County Schools staff use only*:**

⑤ **School concurrency service areas (attendance zones) in which property is located.**

Approved by the School Board 3/22/22.

	***Elementary*: Riley**	***Middle:* Griffin**	***High:* Godby**
Present capacity	112	192	554
Post Development capacity	57	168	531

Calculated at maximum possible impact (Single Family < 1000 base square foot)

This form is required by §8.3 of the Public School Concurrency and Facility Planning Interlocal Agreement as adopted on September 1, 2006 by the City of Tallahassee, Leon County, and Leon County School Board. Pursuant to §6.4 of the Agreement, the City or County will transmit the School Impact Analysis Form to a designated employee of the School Board for review at the same time the application is submitted to all departments for review.

Notice of Public Hearing

This Tallahassee-Leon County Planning Commission Meeting may be held at a different location. Please continue to check our website at Talgov.com/PCAgenda for further information.

The proposed ordinance listed below will be considered at the following public meetings:

1. Tallahassee-Leon County Planning Commission Meeting on **April 7, 2022, at 6:00 PM**, 2nd Floor Conference Room, 435 North Macomb Street
2. City Commission Meeting on **May 11, 2022, at 6:00 PM**, City Commission Chambers, 2nd Floor, City Hall, 300 South Adams Street

2412 W TENNESSEE STREET
ORDINANCE NO. 22-Z-15

AN ORDINANCE OF THE CITY OF TALLAHASSEE, FLORIDA DESIGNATING AND INCLUDING ADDITIONAL TERRITORY LOCATED ON 2.63 ACRES LOCATED AT THE NORTHWEST INTERSECTION OF WHITE DRIVE AND W TENNESSEE STREET BETWEEN DIXIE DRIVE AND WHITE DRIVE AS AND IN CITY OF TALLAHASSEE COMMERCIAL PARKWAY CP FROM MEDIUM DENSITY RESIDENTIAL MR-1 ON THE OFFICIAL ZONING MAP OF THE CITY OF TALLAHASSEE ADOPTED AND ESTABLISHED BY THE CITY COMMISSION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Notice is hereby given that Leon County will consider at the public hearing set forth below enactment of the proposed ordinances as follows:

1. Tallahassee-Leon County Planning Commission **Meeting on April 7, 2022, at 6:00 PM**, 2nd Floor Conference Room, 435 N. Macomb Street

LEON COUNTY ORDINANCE 22-___

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING THE OFFICIAL ZONING MAP AS ADOPTED IN LEON COUNTY ORDINANCE NO. 92-11 TO PROVIDE FOR A CHANGE IN ZONE CLASSIFICATION FROM THE MANUFACTURED HOME AND SINGLE FAMILY DETACHED RESIDENTIAL (R-5) ZONING DISTRICT TO THE OFFICE RESIDENTIAL (OR-2) ZONING DISTRICT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

LEON COUNTY ORDINANCE 22-___

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 10 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA; REPEALING AND REPLACING ARTICLE IX, ENTITLED "SIGNS;" AMENDING SECTION 10-1.101, ENTITLED "DEFINITIONS;" AND AMENDING SECTIONS 10-6.612, 10-6.653, 10-6.654, 10-6.654.2, 10-6.655, 10-6.660, 10-6.673, 10-6.674, 10-6.675, 10-6.676, AND 10-6.680 TO ELIMINATE DUPLICATIVE SIGN REGULATIONS IN INDIVIDUAL ZONING DISTRICTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Due to ongoing public health concerns, there will be three options for sharing public comment.

- In-person at the meetings; or
- Written via online submission at beth.perrine@talgov.com. Public comment can be submitted online until 9 p.m. on Wednesday, April 6. Comments submitted after this time (up to the time of the public hearings) will be accepted and included in the official record of the meetings; or
- Virtually via an online platform during the meetings. Citizens wishing to provide public comments virtually during the meetings must register before 9 p.m. on Wednesday, April 6 at Talgov.com/PCAgenda.

Face coverings are encouraged in indoor public spaces per action of the Leon County Commission.

The Planning Commission will review this application at the public hearing listed above. Persons with standing may file a petition for quasi-judicial proceedings within 15 days (or 30 days for a decision on a Type C application) from the date the decisions were rendered (City); or within fifteen (15) calendar days of the date of publication of notice of the Planning Commission Public Hearing on the application in the Tallahassee Democrat (County); in accordance with the Bylaws of the Planning Commission and the City of Tallahassee and Leon County Land Development Codes. Copies of the Bylaws and or further information are available from the Planning Department at the Planning Department, 435 North Macomb Street, Tallahassee, FL, (850) 891-6400.

NOTICE: You are hereby notified in accordance with Chapter 286.0105, Florida Statutes, should you decide to appeal any decision made by the Commissions or take exception to any findings of fact with respect to any matter considered at the hearings referenced to above, you may need to ensure that verbatim record of the proceedings is made. Such a record shall include the testimony and evidence upon which the appeal is based. Planning Commission will review these applications at the public hearing listed above. Persons with standing may file a petition for quasi-judicial proceedings within 15 days from the date the decisions is rendered in accordance with the Bylaws of the Planning Commission and the City of Tallahassee Land Development Code. Copies of the Bylaws and or further information are available from the Planning Department located at 435 North Macomb Street, Tallahassee, FL, (850) 891-6400.

LOCAL PLANNING AGENCY BRIEFING
April 7, 2022, at 6:00 PM

The Local Planning Agency (LPA) may receive a briefing from staff regarding the Comprehensive Plan Amendments and/or approval of meeting minutes, as appropriate.

For more information on these projects please go to Talgov.com/planning (see public notices tab).

Leon County
Board of County Commissioners

Notes for Agenda Item #23

Leon County Board of County Commissioners

Agenda Item #23

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: First and Only Public Hearing to Consider Adopting an Ordinance Amending Section 10-1.101 of the Land Development Code Entitled "Definitions", and Creating a New Section 10-7.545.1 Entitled "Electric Vehicle Charging Station Infrastructure and Electric Vehicle Parking Requirements"

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Ken Morris, Assistant County Administrator Benjamin H. Pingree, Director, Planning, Land Management & Community Enhancement Artie White, Director, Planning Department Barry Wilcox, Director, Development Support and Environmental Management Maggie Theriot, Director, Office of Resource Stewardship
Lead Staff/ Project Team:	Ryan Culpepper, Director, Development Services Cyndel Brunell, Sustainability Manager Nancy Garcia, Senior Planner, Development Services

Statement of Issue:

This item requests the Board conduct the first and only public hearing to consider adopting a proposed Electric Vehicle Ready Ordinance. The intent of the proposed Ordinance is to facilitate the use of electric vehicles and to further the establishment of a convenient, cost-effective electric vehicle infrastructure that will also accommodate future technology advancement.

Fiscal Impact:

This item has no fiscal impact.

Staff Recommendations:

Option #1: Conduct the first and only public hearing and adopt the proposed Ordinance amending Section 10-1.101 of the Leon County Land Development Code, entitled "Definitions" and creating a new Section 10-7.545.1 entitled "Electric Vehicle Charging Station Infrastructure and Electric Vehicle Parking Requirements" (Attachment #1).

Report and Discussion

Background:

On March 8, 2022, the Board approved the scheduling of a Public Hearing to consider adopting an Ordinance amending the Land Development Code to establish electric vehicle charging provisions to facilitate the use of electric vehicles (EVs). This item requests the Board conduct the public hearing to consider adopting an Ordinance amending Section 10-1.101 of the Leon County Land Development Code, entitled "Definitions" and creating a new Section 10-7.545.1 entitled "Electric Vehicle Charging Station Infrastructure and Electric Vehicle Parking Requirements" (Attachment #1). The intent of the proposed Ordinance is to facilitate the use of EVs and to further the establishment of a convenient, cost-effective electric vehicle infrastructure that will also accommodate future technology advancement. The pursuit of such Ordinance is included as an action item in the County's Integrated Sustainability Action Plan.

The proposed Ordinance will apply to all development subject to Type A, B, C or D site and development plan review, as outlined in Section 10-7.402 of the Land Development Code (LDC) with the following property classifications: townhomes providing more than three (3) individual units and containing individual garages, multifamily residential proposing common surface parking areas or multilevel parking garages, and commercial. Depending on the property classification and intensity, the Ordinance recommends a certain number of EV ready spaces to be provided. There is no proposed language in the Ordinance pertaining to single-family residential units which would require an amendment to the Florida Building Code.

The proposed Ordinance advances the following FY2022-FY2026 Strategic Initiative from the Leon County Government Strategic Plan:

- *Enact the County's Integrated Sustainability Action Plan to further reduce the County Government's carbon footprint. (2022-15)*

This particular Strategic Initiative aligns with the Board's Environment Strategic Priority:

- *(EN4) - Reduce our carbon footprint.*

The Integrated Sustainability Action Plan (ISAP) was approved by the Board in 2018 and includes 18 goals and 91 action items with the overarching goal to reduce the county's greenhouse gas (GHG) emissions by 30% by 2030 based on a 2015 baseline. Fleet management and transportation are key elements in reducing GHG emissions. Fleet Management and Sustainability staff continually work together to implement new technologies and protocols to reach ISAP goals associated with advancing efficiencies in the County's fleet. These initiatives support goals to reduce fuel consumption, procure electric vehicles, and employ strategies to support efficient driving behavior. To encourage both Leon County citizens and employees to transition to electric vehicles, six electric vehicle charging stations have been installed at various Leon County facilities for use at no charge to the owner of the vehicle. The County fleet will have four fully electric vehicles this year, with plans to transition 30% of the light duty fleet to EVs by 2030. The proposed

EV Ready Ordinance supports advancement of EVs in the public realm, furthering the County's commitment to sustainable transportation.

In recent years, the U.S. passenger EV market has expanded rapidly. Florida is a national leader in EV adoption. It is estimated that in the next few years the price of electric vehicles will fall below the price of a new internal combustion engine vehicle. This price parity with fossil-fuel vehicles is anticipated to mark a major turning point in electric vehicle adoption, as EVs will become more accessible and affordable to the public. This emerging industry is a focus on Federal, State, and local levels and straddles both public and private industry. The implementation of an EV Ready Ordinance would better prepare Leon County to adapt to and meet the evolving demands of the EV market in Florida. It would also complement Section 718.113(8) Florida Statutes, in which the Florida Legislature has declared that the use of electric vehicles "conserves and protects the state's environmental resources, provides significant economic savings to drivers and serves an important public interest."

Electric Vehicle Readiness is defined as a plan created to equip new construction or applicable renovations with the necessary infrastructure to later install an EV charging station. Ensuring this infrastructure is installed at the point of construction saves an estimated 75% in comparison to later retrofitting existing building stock. Fostering infrastructure in new construction can help break down a key barrier to EV adoption. In 2021, the cities of Orlando and Winter Park joined the growing list of cities and counties in Florida, including Boca Raton, Miami-Dade County, St. Petersburg, Miami Beach, and Coral Gables, that have implemented an EV Ready Ordinance.

Analysis:

Knowing EVs are an evolving topic, Sustainability staff remain up-to-date with the current state of affairs through regional networks, listening sessions, and resource sharing across municipalities in Florida and nationally. Most commonly, local governments have contributed to the positive momentum of EVs through adoption of EV Ready Ordinances. Transition to an EV friendly domain will require action on all levels of government and between the public and private sector.

Federal and State EV Readiness

In recent years, the U.S. passenger EV market has expanded rapidly with over 1.6 million EVs on the road and more than 80 models of new EVs for sale. It is estimated that 30% of passenger vehicles on the road in 2030 will be electric vehicles. Florida consumers have become a leader in the EV consumer market ranking second nationally with over 65,000 electric vehicles on the road. As of July 2021, Leon County had 893 registered EVs on the road. Despite rapid vehicle growth, Florida currently ranks 30th in EV charging stations per capita. It is estimated there is one publicly available charger for every 30 EVs on the road in Florida.

In response to the rapid increase of EV use in Florida, two reports, the Florida Department of Motor Vehicles (FDOT) EV Masterplan and the Florida Department of Agriculture & Consumer Services (FDACS) EV Roadmap, were released in late 2021. The State and private markets have

prioritized current and future investment of EV infrastructure for high population emergency evacuation routes and high traffic tourism corridors. The State's EV Master Plan and EV Roadmap leave north Florida with no immediate largescale planned investment. Both State reports provide suggestions as to the role local government can play to support growing EV demands, pointing to implementation of an EV Ready Ordinance, as such ordinances are a key method to mitigate the disproportionately high retrofit expenses to install EV charging infrastructure in the future.

In late 2021, the Infrastructure Investment and Jobs Act was signed into law by President Biden which includes $7.5 billion dollars for EV infrastructure - $198 million of which is earmarked for Florida. In February 2022, the U.S. Department of Transportation announced funding will be distributed to states on a formula basis, with Florida's initial allocation being $29 million to create EV charging station corridors. States will submit plans to the Federal Highway Administration and Joint Office of Energy and Transportation for utilizing the funding. Federal approval of the states' plans is anticipated by October. As noted above, based upon the FDOT and FDACS reports, no corridors have been prioritized in the North Florida area. As a result, it is not anticipated that Tallahassee or Leon County would benefit from the initial $29 million being allocated to Florida. However, there will be a separate funding opportunity for competitive grants.

Overseen by the Federal Highway Administration, specific guidance for the competitive grants will be published later this year. It is anticipated that local governments will be eligible to apply. Based on a recent meeting between the County and representatives of the U.S. Department of Transportation during the National Association of Counties 2022 Legislative Conference, establishing local partnerships and adopting an EV Ready Ordinance are initial steps that local governments may take to best position themselves to be competitive for future grant funding. As such, this item recommends engaging with the City of Tallahassee and other members of the Capital Area Sustainability Compact (CASC), including the Compact's administrator, Apalachee Regional Planning Council, to begin identifying locations for charging stations to ensure a plan is ready when grant funding becomes available. Engaging these partners and being prepared for future grant applications has the potential to dramatically expand the community's charging infrastructure. Staff will continue working with the County's federal lobbying team, Squire Patton Boggs, and our sustainability networks to be best positioned for the dispersal and use of Federal and State funds.

Proposed Ordinance

As noted, the implementation of an Electric Vehicle Ready Ordinance would better prepare Leon County to compete for grant funding that will be made available under the federal Infrastructure Investment and Jobs Act. In drafting the proposed Ordinance, staff examined industry best practices, including reviewing strategies adopted by several municipalities. Working with organizations such as the Southern Alliance for Clean Energy and the National Electrification Coalition provided further context and insight on evolving State and Federal EV programs. The proposed Ordinance reflects feedback from stakeholder groups within the Office of Sustainability (Insights and Inputs Committee), the DSEM's Advisory Committee for Quality Growth (ACQG) and the Building Industry Association (BIA).

Electric vehicle readiness is equipping all applicable development with the necessary infrastructure to later install an EV charging station. Instead of utilizing gas for fuel, electric vehicles store electricity in a battery to operate; therefore, availability of charging stations is necessary to ensure continual operation of EVs. For a site to be EV ready it must have sufficient electrical panel service capacity, overcurrent protection devices, wire, listed raceway (conduit), and suitable termination points to support EV charging safely in accordance with National Electrical Code. There are three levels (speeds) of charging:

- Level 1 (slow charging) from standard home electric voltage;
- Level 2 (medium charging); and
- Level 3 (fast charging) which require a higher voltage and special 240-volt outlet similar to that of a household clothes dryer.

Ensuring this infrastructure is installed at point of construction saves an estimated 75% in retrofit costs after-the-fact, which can help provide more access to charging infrastructure, which is a key barrier to EV adoption. For most construction projects, EV readiness is estimated to add about $500 - $700 at the point of construction to install the necessary electrical capacity and conduit to a single charging station location. This estimate is only for the installation of the electrical lines necessary for an EV charger to be installed, and not for the charger itself. Conduits installed for EV infrastructure can be used for multiple charging stations, provided there is sufficient capacity which can vary between projects. It is not uncommon to have multiple EV charging stations on a single raceway. After construction, installing this same raceway can cost between $1,500 - $3,000, and is one of the largest expenses associated with installing new EV charging stations. Providing an exact cost estimate disparity from installing EV infrastructure at the point of construction versus after the fact is difficult as there are a number of variables that impact the price, such as electrical panel capacity, which can significantly drive up project costs if it is determined to be insufficient. Despite variables, the most cost-effective way to install EV infrastructure is at the point of construction versus retrofits.

For townhomes, apartment complexes, and small shopping centers, the infrastructure cost of running electrical conduits to multiple parking spaces is relatively similar and will likely range between $500 and $700 per EV parking space to install the necessary components to become EVSE Ready. Larger commercial projects have the potential to exceed this cost estimate depending on the required number of EVSE spaces and the length the conduit must run to serve these spaces. Larger projects must also take into consideration the size of the electric panel and the capacity it can support. EV changing can add significant electrical load and may require upgrades to the electric panel. For a fully packed electrical panel, upgrade costs can range from $500 to $2,500.

The proposed Ordinance will apply to all developments subject to Type A, B, C or D site and development plan review, as outlined in Section 10-7.402 of the LDC, with the following property classifications: townhomes providing more than three individual units and containing individual garages, multi-family residential proposing common surface parking areas or multi-level parking garages, and commercial. Depending on the property classification and intensity, the Ordinance recommends a certain number of EV ready spaces to be provided as follows:

- For townhomes or multifamily development providing more than three individual units and containing individual garages, EV readiness would consist of a 240-volt outlet within the garage available for future use.
- For multifamily units with surface parking lots or multi-level parking garages, EV readiness would consist of the electrical capacity for a future charging station installed for 10% of the required parking spaces.
- For commercial development with over 25 parking spaces, EV readiness would consist of the electrical capacity for a future charging station installed for 10% of the required parking spaces.

Whether a property is classified as a townhome, multifamily residential or commercial, the minimum speed of charging required is Level 2, or medium speed. The requirements in the proposed Ordinance meet or exceed industry best practices and are in line with other cities and counties in Florida. The Ordinance also permits an owner of new EV ready spaces to charge a fee for the use of such station by a resident, guest, invitee or employee.

The proposed Ordinance (Attachment #1) meets or exceeds industry best practices. Through resources available from the Southern Alliance for Clean Energy, staff were able to cross reference the key aspects of Leon County's proposed Ordinance to others across Florida and the region. Local interest groups and EV users were engaged to provide feedback on the proposed Ordinance, ensuring it meets current need and future demand. These feedback sessions were critical to the development of the Ordinance and its key features such as the percentage of parking spaces that should be EV ready in any given parking lot.

Stakeholder Meetings:
Staff has already presented this item to the Sustainability Insights and Inputs Committee on January 21, 2022, and to the DSEM ACQG for review and recommendations on February 21, 2022. It was also reviewed by the BIA on April 7, 2022. The ACQG suggested revisions to better differentiate the readiness requirements between the residential developments that are proposing garages versus surface parking lots. The Ordinance has since been revised to reflect the input from the ACQG.

Comprehensive Plan Consistency Determination:
The Planning Department has conducted a consistency review of the proposed Ordinance and has found the Ordinance to be consistent with the Comprehensive Plan. In addition, amendments to the Land Development Code required a consistency review by the Planning Commission at a Public Hearing. On March 1, 2022, the Planning Commission conducted a Public Hearing to determine if the proposed Ordinance was consistent with the Comprehensive Plan. At its March 1, 2022 meeting, the Planning Commission requested staff provide additional clarification as to when the proposed Ordinance would apply to development and continued the item to the April 7, 2022 Public Hearing. Staff revised the Ordinance to apply to any development requiring Type "A, B, C, or D" site and development plan review. At its April 7, 2022 meeting, the Planning Commission voted unanimously to find the proposed Ordinance to be consistent with the Comprehensive Plan and recommended that the Board adopt the Ordinance.

Conclusion
The U.S. passenger EV market has expanded rapidly in recent years. An expanded and connected infrastructure of charging stations will be needed to support future growth, requiring action on all levels of government and between the public and private sector. Federal funding is allocated to assist states in expanding charging infrastructure. The State's plan will prioritize investment outside of North Florida, with a focus on areas of high tourism and highly populated hurricane evacuation routes. However, there will be a separate federally funded opportunity for competitive grants. Establishing partnerships and the adoption of an EV Ready Ordinance will better posture applicants for success. Upon Board acceptance, staff is prepared to engage the City of Tallahassee and other members of the Capital Area Sustainability Compact in developing a future grant application. Furthermore, upon Board approval a Public Hearing will be scheduled to consider an EV Ready Ordinance, following industry best practice.

As requested by the Board, staff examined the potential for public private partnerships. However, partnerships are generally between utilities and a local judication. Staff have begun discussions of what a potential partnership could look like between the City and County. As the EV industry is emerging, Sustainability staff will continue to stay up-to-date on the latest trends and best practices to support EV advancements in the public realm and within County fleet. Staff will continue to attend listening sessions and receive guidance on Federal and State legislation, grants, and funding opportunities to support the development of EV infrastructure in Leon County.

Public Notification:
Notice of the Public Hearing has been published in accordance with the requirements of Florida Statutes (Attachment #4).

Options:

1. Conduct the first and only Public Hearing and adopt the proposed Ordinance amending Section 10-1.101 of the Leon County Land Development Code, entitled "Definitions" and creating a new Section 10-7.545.1 entitled "Electric Vehicle Charging Station Infrastructure and Electric Vehicle Parking Requirements" (Attachment #1).
2. Conduct the first and only Public Hearing and do not adopt the proposed Ordinance amending Section 10-1.101 of the Leon County Land Development Code, entitled "Definitions" and creating a new Section 10-7.545.1 entitled "Electric Vehicle Charging Station Infrastructure and Electric Vehicle Parking Requirements".
3. Board direction.

Recommendation:

Option #1

Attachments:

1. Proposed EV Ordinance
2. Consistency Memorandum from Planning Department
3. EV Readiness Brochure
4. Notice of Public Hearing

LEON COUNTY ORDINANCE NO. 22- ___

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 10, THE LAND DEVELOPMENT CODE, OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA; AMENDING SECTION 10-1.101, DEFINITIONS; CREATING A NEW SECTION 10-7.545.1, ELECTRIC VEHICLE CHARGING STATION INFRASTRUCTURE AND ELECTRIC VEHICLE PARKING REQUIREMENTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, since 2009 the Leon County Office of Sustainability has been working to transform Leon County into one of the most environmentally friendly, socially equitable, and economically vibrant counties in America; and

WHEREAS, to achieve this vision, Leon County adopted a Green Fleet Policy in 2012 to maintain a fleet that is as fuel-efficient, cost efficient and environmentally friendly as possible; and

WHEREAS, electric vehicles (EVs) reduce greenhouse gas emissions by 64% on a per mile basis when powered on the Florida electric grid, as compared to gasoline and diesel-powered vehicles; and

WHEREAS automotive manufacturers have committed to 100% electric passenger fleets in the near-term including GM (2035), Volvo (2030), Range Rover Jaguar (2025), and Honda (2040), and Ford has committed $24 billion towards EV fleet development by 2025. Ride hail services including Lyft and Uber have also committed to 100% electric services by 2030; and

WHEREAS, the U.S. passenger EV market has expanded rapidly in recent years with over 1.6 million EVs on the road and more than 80 models of new EVs for sale. It is estimated that 30% of passenger vehicles on the road in 2030 will be EVs; and

WHEREAS, Florida consumers have become a front runner in new electric vehicle adoption ranking second nationally with over 65,000 EVs on the road in the State; and

WHEREAS, one barrier to adoption of EV by drivers is the inadequate and insufficient charging support infrastructure in local communities; and

WHEREAS, Florida currently ranks 30th in EV charging stations per capita in the nation and there is an estimated one charger for every thirty EVs on the road in Florida; and

WHEREAS, ensuring EV infrastructure is installed at the point of construction saves an estimated 75% in retrofit costs after-the-fact, and

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WHEREAS, as recognized by the Legislature of the State of Florida in §718.113(8), Florida Statutes, the use of electric vehicles "conserves and protects the state's environmental resources, provides significant economic savings to drivers, and serves an important public interest;" and

WHEREAS, the Florida Department of Transportation has published initial recommendations for the state's Electric Vehicle Master Plan that includes recommendations for the state to develop model zoning and building codes to incorporate Electric Vehicle Supply Equipment (EVSE); and

WHEREAS, according to the Southern Alliance for Clean Energy (SACE), Florida is #2 in the nation in passenger EV sales. EV sales in the state increased by 20% between 2018 and 2019; and

WHEREAS, in order to reduce greenhouse gas emissions, the County desires to encourage electric vehicle use by including provisions in the land development code for electric vehicle readiness.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA:

Section 1. Section 10-1.101 of Article I of Chapter 10, the Land Development Code, of the Code of Laws of Leon County, Florida, entitled "Definitions," is hereby amended to include the following definitions:

Sec. 10-1.101. Definitions.

*** * ***

1. *Electric vehicle* means any motor vehicle registered to operate on public roadways that operates either partially or exclusively on electric energy. Electric vehicles (EVs) include: (a) All-electric vehicles; (b) Plug-in hybrid electric vehicles; (c) All-electric motorcycles; and (d) fuel cell vehicles.

2. *Electric vehicle charging level* means the standardized indicators of electrical force, or voltage, amps and kilowatts by which an electric vehicle's batteries are recharged. EV recharging equipment is commonly known as Electric Vehicle Service Equipment (EVSE) and can output either Alternating Current (AC) or Direct Current (DC). EVSE are technically not chargers, they are power supply units, the charger is onboard the vehicle. The onboard charger helps manage the charging session and converts an AC input to DC to charge the vehicle's batteries; if a DC input is supplied the charger passes the power directly to the batteries. The terms Level 1 (L1), Level 2 (L2), and Level 3 (L3) are the most common charging levels; L3 is also referred to DCFC or DC Fast Charging, and include the following specifications:
    a) Level-1 is considered slow charging. Voltage including the range from 0 through 120.
    b) Level-2 is considered medium charging. Voltage is greater than 120, up to 240.

c) Level-3 is considered fast or rapid charging, is also referred to DCFC or DC Fast Charging. Voltage is greater than 240.

3. *Electric vehicle charging station* means battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

4. *Electric Vehicle Supply Equipment (EVSE) Ready* means sufficient electrical panel service capacity, overcurrent protection devices, wire, listed raceway (conduit), and suitable termination points such as a junction box with a service loop or directly landed (i.e. Full Circuit), or a 240-volt charging outlet, in accord with the National Electrical Code.

5. *Electric vehicle charging space* means any off-street parking space that is equipped with an electric vehicle charging infrastructure and associated charging equipment exclusively for use by electric vehicles.

Section 2. Creating Section 10-7.545.1.

Section 10-7.545.1 of Article VI of Chapter 10, the Land Development Code, of the Code of Laws of Leon County, Florida, entitled "Electric Vehicle Charging Station Infrastructure and Electric Vehicle Parking Space Requirements," is hereby created to read as follows:

a) *Intent and purpose.* The intent of this section is to facilitate and encourage the use of electric vehicles and to expedite the establishment of a convenient, cost-effective electric vehicle infrastructure that will also accommodate future technology advancements.

b) *Readiness requirements.* In order to proactively plan for and accommodate the anticipated future growth in market demand for electric vehicles, all development subject to Type A, B, C or D site and development plan review, as outlined in Section 10-7.402, shall provide electric vehicle charging station infrastructure per this section. The infrastructure shall be installed per the requirements of the current edition of the National Electrical Code as adopted and amended by the State of Florida for enforcement by the County.

1. Townhouse or Condominium or multi-family residential projects proposing more than three individual units and containing individual garages for each unit shall be constructed to provide a 220-240-volt / 40 amp outlet on a dedicated circuit within the garage and in close proximity to one designated vehicle parking space per unit to accommodate the potential future hardwire installation of, at the minimum, a Level-2 vehicle charging station.

2. Multi-family residential properties with common use surface parking or spaces within a multi-level parking garage, and non-residential properties with surface parking or spaces within a multi-level parking garage, shall provide the electrical capacity and buried raceway necessary to accommodate the future hardwire installation, at the minimum, a Level-2 vehicle charging station, for a minimum ratio of 10% of the total required parking spaces.

c) *Electric vehicle parking space requirement for multi-family residential and non-residential properties of a certain intensity.* All sites in which multifamily residential, commercial, office, institutional or industrial uses, or any combination thereof, are required to provide 25 or more regular parking spaces, shall provide a minimum of one electric vehicle charging space; if required to provide 50 or more regular parking spaces, then two electric vehicle charging spaces and, if required to provide 100 regular parking spaces or above, then ten (10%) percent of the required off-street parking shall have electric vehicle charging spaces (such spaces shall be counted toward meeting the overall parking requirement) in accordance with the following standards:

1. Minimum standards. Electric vehicle parking spaces shall, at a minimum, be equipped with an EVSE ready parking space.

2. Exclusive use. When a charging station has been installed in an EVSE ready space, the parking space shall be reserved for the exclusive use of electric vehicles, actively engaged in a recharging session.

3. Fees. Nothing herein shall prohibit the charging of a fee for the use of an electric vehicle charging station by a resident, guest, invitee or employee.

4. ADA Accessible Spaces. A minimum of one (1) electric vehicle charging space must be located adjacent to a required accessible parking space such that the electric vehicle charging space can be shared between an accessible parking space and electric vehicle charging space.

5. Lighting. Site lighting shall be provided where an electric vehicle charging space is installed.

6. Equipment Standards and Protection. Battery charging station outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the surface where mounted. Equipment mounted on pedestals, lighting posts, bollards, or other devices shall be designed and located as to not impede pedestrian travel or create trip hazards on sidewalks. Adequate battery charging station protection, such as concrete-filled steel bollards, shall be used. Curbing may be used in lieu of bollards, if the battery charging station is setback a minimum of 24 inches from the face of the curb.

7. Signage. (1) Information shall be posted identifying voltage and amperage levels and any time of use, fees, or safety information related to the electric vehicle charging space. (2) Each electric vehicle charging space shall be posted with signage indicating the space is for electric vehicle charging purposes. For purposes of this subsection, “charging” means that an electric vehicle is parked at an electric vehicle charging space and is connected to the battery charging space equipment and is actively charging. (3) Restrictions shall be included on the signage, if removal provisions are to be enforced by the property owner pursuant to state

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statutes.

8. Maintenance. Electric vehicle charging spaces and associated charging equipment shall be maintained in good condition in all respects, including the functioning of the equipment, by the property owner. Removal of any required EV charging spaces and associated charging equipment is prohibited. A phone number or other contact information shall be provided on the equipment for reporting when the equipment is not functioning, or other problems are encountered.

d) *Exception*. Where the installation of one or more electric vehicle charging spaces, and/or the installation of electric vehicle charging station infrastructure to allow for the future installation of electric vehicle charging stations, are required by this article, an exception may be granted by the approval entity through the site plan approval process only where it is demonstrated that the extension of the electrical power supply to the effected location is physically impractical. Financial impracticality is not a valid criterion for granting such an exception.

Section 3. Conflicts.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon County 2030 Comprehensive Plan as amended, which provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.

Section 4. Severability.

If any word, phrase, clause, section, or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

Section 5. Codification.

It is the intention of The Board of County Commissioners of Leon County, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Chapter 10 Land Development Code, of The Code of Laws of Leon County, Florida. Upon codification, and except as to the desired Chapter, Article and Section numbers, any portion of this Ordinance shall be permitted to be renumbered or relettered, as appropriate.

Section 6. Effective Date.

This ordinance shall have effect upon becoming law.

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DONE, ADOPTED AND PASSED by the Board of County Commissioners of Leon County, Florida, this _____ day of _____, 2022.

LEON COUNTY, FLORIDA

By:_____
Bill Proctor, Chair
Board of County Commissioners

Date: _____

ATTESTED BY:
Gwendolyn Marshall Knight, Clerk of the Court
& Comptroller, Leon County, Florida

By:_____

APPROVED AS TO FORM:
Chasity H. O'Steen, County Attorney
Leon County Attorney's Office

By:_____

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PLANNING DEPARTMENT
a division of PLACE

MEMORANDUM

TO: Nancy Garcia, Development Services Division
FROM: Chris Ibarra, Planner I, Land Use Planning
Tallahassee-Leon County Planning Department
DATE: February 7, 2022
SUBJECT: Consistency Review—Ordinance No. 22 ____

Description of the Proposed Change:

The proposed ordinance amends the *Leon County Land Development Code,* Chapter 10, Section 10-1.101, "Definitions," and creates a new Section 10-7.545.1, "Electric Vehicle Charging Station Infrastructure and Electric Vehicle Parking Space Requirements." The proposed changes will update the *Leon County Land Development Code* to require all new development to provide electric vehicle charging station infrastructure.

Text updates

1. *Electric vehicle* means any motor vehicle registered to operate on public roadways that operates either partially or exclusively on electric energy. Electric vehicles (EVs) include: (a) All-electric vehicles; (b) Plug-in hybrid electric vehicles; (c) All-electric motorcycles; and (d).

2. *Electric vehicle charging level* means the standardized indicators of electrical force, or voltage, amps and kilowatts by which an electric vehicle's batteries are recharged. EV recharging equipment is commonly known as Electric Vehicle Service Equipment (EVSE) and can output either Alternating Current (AC) or Direct Current (DC). EVSE are technically not chargers, they are power supply units, the charger is onboard the vehicle. The onboard charger helps manage the charging session and converts an AC input to DC to charge the vehicle's batteries; if a DC input is supplied the charger passes the power directly to the batteries. The terms Level 1 (L1), Level 2 (L2), and Level 3 (L3) are the most common charging levels; L3 is also referred to DCFC or DC Fast Charging, and include the following specifications:
    a) Level-1 is considered slow charging. Voltage including the range from 0 through 120.
    b) Level-2 is considered medium charging. Voltage is greater than 120, up to 240.
    c) Level-3 is considered fast or rapid charging, is also referred to DCFC or DC Fast Charging. Voltage is greater than 240.

3. *Electric vehicle charging station* means battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

4. *Electric Vehicle Supply Equipment (EVSE) Ready* means sufficient electrical panel service capacity, overcurrent protection devices, wire, listed raceway (conduit), and suitable termination points such as a junction box with a service loop or directly landed (i.e. Full Circuit), or a 240-volt charging outlet, in accord with the National Electrical Code.

5. *Electric vehicle parking space* means any off-street parking space that is equipped with an electric vehicle charging station exclusively for use by electric vehicles.

Creating Section 10-7.545.1.

Section 10-7.545.1 of Article VI of Chapter 10, the Land Development Code, of the Code of Laws of Leon County, Florida, entitled "Electric Vehicle Charging Station Infrastructure and Electric Vehicle Parking Space Requirements", is hereby created to read as follows:

a) *Intent and purpose.* The intent of this section is to facilitate and encourage the use of electric vehicles and to expedite the establishment of a convenient, cost-effective electric vehicle infrastructure that will also accommodate future technology advancements.

b) *Readiness requirements.* In order to proactively plan for and accommodate the anticipated future growth in market demand for electric vehicles, all new development shall provide electric vehicle charging station infrastructure per this section. The infrastructure shall be installed per the requirements of the current edition of the National Electrical Code as adopted and amended by the State of Florida for enforcement by the County.

1. Townhouse fee-simple or Condominium multi-family residential projects and properties with more than three individual units, either with individual garages for each unit or with underground parking garages serving the majority of the units, shall be constructed to provide a 220-240-volt / 40 amp outlet on a dedicated circuit within the garage and in close proximity to one designated vehicle parking space per unit to accommodate the potential future hardwire installation of, at the minimum, a Level-2 vehicle charging station.

2. Multi-family residential properties with common use surface parking or spaces within an above grade parking garage, and non-residential properties with surface parking or spaces within an above grade parking garage, shall provide the electrical capacity and buried raceway necessary to accommodate the future hardwire installation, at the minimum, a Level-2 vehicle charging station, for a minimum ratio of 10% of the total required parking spaces.

c) *Electric vehicle parking space requirement for multi-family residential and non-residential properties of a certain intensity.* All sites in which multifamily residential, commercial, office, institutional or industrial uses, or any combination thereof, are required to provide 25 or more motor vehicle parking spaces, shall provide a minimum of one electric vehicle charging station; if required to provide 50 or more parking spaces, then two electric vehicle charging stations and if required to provide 100 spaces or above, then ten (10%) percent of the required off-street parking shall have electric vehicle charging stations (such spaces shall be counted toward meeting the overall parking requirement) in accordance with the following standards:

1. Minimum standards. Electric vehicle parking spaces shall, at a minimum, be equipped with an EVSE ready parking space.

2. Exclusive use. When a charging station has been installed in an EVSE ready space, the parking space shall be reserved for the exclusive use of electric vehicles, actively engaged in a recharging session.

3. Fees. Nothing herein shall prohibit the charging of a fee for the use of an electric vehicle charging station by a resident, guest, invitee or employee.

4. ADA Accessible Spaces. A minimum of one (1) electric vehicle parking space must be located adjacent to a required accessible parking space such that the electric vehicle charging station can be shared between an accessible parking space and electric vehicle parking space.

5. Lighting. Site lighting shall be provided where an electric vehicle charging station is installed.

6. Equipment Standards and Protection. Battery charging station outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the surface where mounted. Equipment mounted on pedestals, lighting posts, bollards, or other devices shall be designed and located as to not impede pedestrian travel or create trip hazards on sidewalks. Adequate battery charging station protection, such as concrete-filled steel bollards, shall be used. Curbing may be used in lieu of bollards, if the battery charging station is setback a minimum of 24 inches from the face of the curb.

7. Signage. (1) Information shall be posted identifying voltage and amperage levels and any time of use, fees, or safety information related to the electric vehicle charging station. (2) Each electric vehicle charging station space shall be posted with signage indicating the space is only for electric vehicle charging purposes. For purposes of this subsection, "charging" means that an electric vehicle is parked at an electric vehicle charging station and is connected to the battery charging station equipment and is actively charging. (3) Restrictions shall be included on the signage, if removal provisions are to be enforced by the property owner pursuant to state statutes.

8. Maintenance. Electric vehicle charging stations shall be maintained in good condition in all respects, including the functioning of the equipment, by the property owner. Removal of any required EV charging stations is prohibited. A phone number or other contact information shall be provided on the equipment for reporting when the equipment is not functioning or other problems are encountered.

d) *Exception*. Where the installation of one or more electric vehicle parking spaces, and/or the installation of electric vehicle charging station infrastructure to allow for the future installation of electric vehicle charging stations, are required by this article, an exception may be granted by the approval entity through the site plan approval process only where it is demonstrated that the extension of the electrical power supply to the effected location is physically impractical. Financial impracticality is not a valid criterion for granting such an exception.

Analysis of Consistency with the Tallahassee-Leon County Comprehensive Plan

Welaunee Critical Area Plan Goal 13: [L] Policy 13.2.27: Electric, Connected and Automated Vehicles within the Tallahassee-Leon County Comprehensive Plan states:

> "Policy 13.2.27: Electric, Connected and Automated Vehicles. (EFF. 1/11/21) As PUDs are developed, coordination with the Planning Department and the City's Public Infrastructure departments shall occur to ensure the plan accommodates necessary infrastructure to support charging infrastructure for electric vehicles and infrastructure to support Connected and Automated Vehicles (CAV). PUDs may include incentives, such as reduced parking and setback requirements, for development that is electric vehicle capable or electric vehicle ready by providing for the future installation and use of Electric Vehicle Supply Equipment (EVSE) in accordance with the National Electrical Code. Incentives will be greater for electric vehicle-ready than for electric vehicle-capable developments."

While Policy 13.2.27 does address electric, connected and automated vehicles, this only applies to the Welaunee Critical Area Plan.

Outside the Welaunee Critical Area Plan, the *Tallahassee-Leon County Comprehensive Plan* has no goals, objectives, and policies that explicitly reference electric vehicle charging stations and infrastructure. Furthermore, the proposed ordinance supports and furthers the principles and strategies detailed in the comprehensive plan, particularly the

Mobility Element Overall Goal and Objectives 1.1: [M] & 1.3 [M]: of the Mobility Element. Additionally, the proposed ordinance implements Policy 1.3.4: [M] of the Mobility Element.

The Mobility Elements Overall Goal of the Tallahassee-Leon County Comprehensive Plan states:

> "Establish a safe, energy efficient multi-modal transportation system that provides mobility for pedestrians, bicyclists, transit users, motorized vehicle users, users of rail and aviation facilities, supports public health through active living, and is sensitive to the cultural and environmental amenities of Tallahassee and Leon County".

The Mobility Element Objectives of the Tallahassee-Leon County Comprehensive Plan states the following:

a. 1.1 [M] Land Use and Transportation Coordination: ""Coordinate transportation and land use systems that foster vibrant communities with compact urban forms and a mixture of uses to minimize travel distances, reduce vehicle miles traveled and greenhouse gases, and to enhance pedestrian and bicycle mobility and transit accessibility."
b. 1.3: [M]: Environmental and Neighborhood Protection "Evaluate and minimize impacts of transportation projects on the natural environment and neighborhood integrity by using transportation demand reduction strategies to maximize existing roadway capacity, reduce the need for new roadway construction or expansion, reduce peak time traffic, reduce vehicle miles traveled, and reduce greenhouse gas emissions and other environmentally damaging pollutants."

Additionally, the proposed ordinance implements Policy 1.3.4: [M] of the Mobility Element:

> a. "Design, construct, and maintain transportation facilities to prevent flooding, minimize pollution, and maintain natural stormwater quantity, timing, rate, and direction of flow characteristics consistent with the adopted Stormwater Level of Service Standard."

The proposed ordinance would require that all new development shall provide electric vehicle charging station infrastructure, which can reduce the overall effect of pollution distributed into the air and provide a safe and energy efficient multi-modal transportation system.

Finding of Consistency with the Tallahassee-Leon County Comprehensive Plan

Based on the findings above, the Planning Department finds Ordinance No. 22 ___ consistent with the *Tallahassee-Leon County Comprehensive Plan*.

LEON COUNTY
Electric Vehicle Readiness Guide



ABOUT THE LEON COUNTY EV READY ORDINANCE

As part of Leon County's ongoing commitment to sustainability-related action items laid out in the County's Integrated Sustainability Action Plan, the Leon County Electric Vehicle (EV) Ready Ordinance is an amendment to Leon County Land Development Code (LDC) requiring specific new development projects in Leon County to implement Electric Vehicle ready infrastructure to proactively plan for future charging demands as electric vehicle adoption increases.

In the United States, estimates suggest that 30% of passenger vehicles on the road in 2030 will be electric vehicles. Florida is consistently among the top states for electric vehicle sales, yet Florida's charging network lags most of the nation.

The EV Ready Ordinance increases the EV charging network within Leon County, yielding environmental and financial benefits. Including EV ready infrastructure makes owning and driving an electric vehicle more accessible for Leon County residents and makes new developments more attractive to the growing number of electric vehicle owners.

DOES THE EV READY ORDINANCE APPLY TO MY DEVELOPMENT PROJECT?

The EV Ready Ordinance applies to the following types of development that are subject to Type 'A' through 'D' site and development plan review, as outlined in Section 10-7.402 of the LDC:

- ☑ Townhouses, condominiums, or multi-family residential projects with more than three individual units and that have individual garages
- ☑ Multi-family residential properties with surface parking or a multi-level parking garage
- ☑ Non-residential properties with surface parking or a multi-level parking garage
- x The EV Ready Ordinance does not apply to single-family homes.

LEON COUNTY
Electric Vehicle Readiness Guide

WHAT DO I NEED TO INSTALL TO BE EVSE READY?

If the Leon County EV Ordinance applies to your project, then a number of spaces must be able to support Level 2 (medium) EV chargers.

A level 2 station requires a 240 outlet, the same that is required for a household clothing dryer. An Electric Vehicle Supply Equipment (EVSE) Ready parking space must have sufficient electrical panel service capacity, overcurrent protection devices, wire, raceway/conduit, and termination points such as a junction box or a 240-volt charging outlet.

Note: the Leon County EV Ready Ordinance requires the components needed for a space to be compatible with a Level 2 EV charger, but does not require the installation of an electric vehicle charging station.

HOW MANY EVSE SPACES DO I NEED TO INSTALL?

Depending on the property classification, the Ordinance requires a certain number of EVSE Ready spaces to be provided as follows:

- ☑ Townhouse, condominium, or multifamily residential projects providing more than three individual units and containing individual garages, EV readiness would consist of a 240-volt outlet within each garage available for future use.
- ☑ For multifamily units with surface parking lots or multi-level parking garages, EV readiness would consist of EVSE ready spaces installed for 10% of the required parking spaces.
- ☑ For non-residential properties with surface parking or a multi-level parking garage:

Required # of Regular Parking Spaces	Required # of EVSE Ready Parking Spaces*
25 - 49	1
50 - 99	2
100+	10% of required parking

**such spaces shall be counted toward meeting the overall parking requirement*

CONTACT US

Please contact the Department of Development Support and Environmental Management Development Services with any questions about Leon County's EV Ready Ordinance.

Department of Development Support and Environmental Management Development Services Division

Renaissance Center, 2nd Floor

435 N. Macomb Street,
Tallahassee, FL 32301

(850) 606-1300

People Focused.
Performance Driven.

Posted May 2, 2022

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Board of County Commissioners of Leon County, Florida will conduct a public hearing on Tuesday, May 10, 2022, at 6:00 p.m., or as soon thereafter as such matter may be heard, at the County Commission Chambers, 5th Floor, Leon County Courthouse, 301 South Monroe Street, Tallahassee, Florida, to consider adoption of an ordinance entitled to wit:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 10, THE LAND DEVELOPMENT CODE, OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA; AMENDING SECTION 10-1.101, DEFINITIONS; CREATING A NEW SECTION 10-7.545.1, ELECTRIC VEHICLE CHARGING STATION INFRASTRUCTURE AND ELECTRIC VEHICLE PARKING REQUIREMENTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Leon County will also be broadcasting the public hearing on Comcast channel 16, the Leon County Florida channel on Roku, and the County's Facebook page (https://www.facebook.com/LeonCountyFL/), YouTube channel (https://www.youtube.com/user/LeonCountyFL), and web site (www.LeonCountyFL.gov).

All interested parties are invited to present their comments at the public hearing at the time and place set out above.

Interested parties may also provide virtual real-time public comments during the public hearing. Interested parties wishing to provide virtual real-time public comments must complete and submit the registration form provided at https://www2.leoncountyfl.gov/coadmin/agenda/ by 8:00 p.m. on Monday, May 9, 2022. Following submittal of the registration form, further instructions for participating in the meeting will be provided. Persons needing assistance with registering or providing real-time comments may contact County Administration via telephone at (850) 606-5300. Please note that Board of County Commissioners Policy 01-05, Article IX., Section E., entitled "Addressing the Commission", and Article IX., Section F., entitled "Decorum", shall remain in full force and effect.

Anyone wishing to appeal the action of the Board with regard to this matter will need a record of the proceedings and should ensure that a verbatim record is made. Such record should include the testimony and evidence upon which the appeal is to be based, pursuant to Section 286.0105, Florida Statutes.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing a special accommodation to participate in this proceeding should contact Mathieu Cavell or Facilities Management, Leon County Courthouse, 301 South Monroe Street, Tallahassee, Florida 32301, by written request at least 48 hours prior to the proceeding. Telephone: 850-606-5300 or 850-606-5000; 1-800-955-8771 (TTY), 1-800-955-8770 (Voice), or 711 via Florida Relay Service.

Copies of the Ordinance may be inspected as part of the agenda package on the County's web site (https://www2.leoncountyfl.gov/coadmin/agenda/). To receive copies of the Ordinance by other means, such as email, mail, or facsimile transmittal, contact County Administration at 850-606-5300 or the Department of Development Support and Environmental Management at 850-606-1300.

Advertise: April 29, 2022

Leon County
Board of County Commissioners

Notes for Agenda Item #24

Leon County Board of County Commissioners

Agenda Item #24

May 10, 2022

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator

Title: First of Two Public Hearings to Consider Adopting an Ordinance Amending Chapter 10, the Land Development Code to Address the Sign Regulations

Review and Approval:	Vincent S. Long, County Administrator
Department/ Division Review:	Alan Rosenzweig, Deputy County Administrator Ken Morris, Assistant County Administrator Barry Wilcox, Director, Development Support and Environmental Management
Lead Staff/ Project Team:	Ryan Culpepper, Director, Development Services Anastasia Richmond, Development Services Administrator

Statement of Issue:

This item requests the Board conduct the first of two required Public Hearings to consider adopting an Ordinance that amends numerous sections of Chapter 10 of the Land Development Code, to address existing content-based sign regulations that have been ruled unconstitutional by the United States Supreme Court, as well as modify and enhance current regulations.

Fiscal Impact:

This item has no fiscal impact.

Staff Recommendation:

Option #1: Conduct the first of two Public Hearings to consider adopting an Ordinance amending Chapter 10, the Land Development Code, to address the sign regulations (Attachment #1), and schedule the second and final Public Hearing for June 14, 2022 at 6:00 p.m.

Report and Discussion

Background:

On March 8, 2022, the Board approved the scheduling of two Public Hearings to consider adopting an Ordinance amending the Land Development Code to address the existing sign regulations. This item requests the Board conduct the first of two required Public Hearings to consider the adoption of an Ordinance that amends numerous sections of Chapter 10 of the Land Development Code to address existing content-based sign regulations that have been ruled unconstitutional by the United States Supreme Court (Attachment #1).

The U.S. Supreme Court decision in *Reed v. Town of Gilbert , Arizona, 576 U.S. 155*clarified the law in the area of sign regulation by applying a straightforward strict scrutiny analysis to invalidate several sign regulation distinctions based on the message or content of the sign. The *Reed* decision found the Town of Gilbert's (Town) sign code unconstitutional and determined that the Town's regulations pertaining to temporary signs failed the strict scrutiny test for content-based sign regulations (Attachment #2). Therefore, throughout the country, the *Reed* decision rendered a portion of many local sign codes invalid to the extent that they included similar distinctions. As a result, the Board authorized staff to review Leon County's Sign Code (Sign Code) and propose amendments to ensure its constitutionality.

Leon County's Sign Code was adopted in 1972 and was superseded in 2000 and again in 2007. Since 2007, the Sign Code has had relatively minor amendments. As a result of the Supreme Court's ruling in *Reed,* portions of Leon County's Sign Code have been rendered unenforceable and need to be revised. During the review of the Sign Code to address its constitutionality, it was determined that a more holistic approach was needed to update the entire Sign Code to address changing technology and community needs and priorities. Additionally, staff was directed to include the North Monroe Corridor as a "gateway" corridor, thereby, limiting billboards and nuisance signage to enhance the character of the corridor.

For example, over the past decade, specific sign regulations were added to the development standards section of a zoning district instead of updating the Sign Code to address signage in these special districts. This practice has led to confusing and contradictory regulations created uncertainty within the development industry and have often led to the need to interpret the intent of certain regulations. The amended Sign Code will consolidate all sign regulations into one area of the Land Development Code (LDC), update the code to address changing technologies and community strategic initiatives, and clearly outline permitting steps.

The *Reed* Decision

Prior to *Reed,* the Supreme Court acknowledged that governments are authorized to regulate signs as a lawful exercise of their police power. In *City of Ladue v. Gilleo,* 512 U.S. 43 (1994), the Supreme Court explained that although signs are a form of protected free speech under the U.S. Constitution, they also can create other problems such as taking up space, obstructing views, and distracting motorists, among other legitimate problems that can be subject to local regulation. Based on this precedent, many jurisdictions across the country adopted sign codes that, for the most part, avoid any regulation of the content of signs. However, some jurisdictions retained

provisions that distinguished such signs based on the type of content they were displaying for the purposes of determining the appropriate size, duration, or location to be applied to the sign, without an intent to regulate the viewpoint of the speech. For example, a town may allow a "political sign" for up to 30 days after an election day, while allowing a sign with a religious message to be erected without any specific duration for removal. So, while the 30-day regulation for "political signs" does not prefer one type of political speech over another, signs depicting religious content are treated more favorably than signs with a political message.

In 2007, Clyde Reed, pastor for the Good News Community Church (Church), sued the Town after it sought to advertise the time and location of their church services which were traditionally held at different places around the Town, as the Church did not have a central location. Prior to each service, the Church placed approximately 15 to 20 temporary signs in the public right-of-way on Saturday morning that were removed around midday Sunday. The Town cited the Church and Mr. Reed for noncompliance with the sign code for exceeding the time limits for temporary directional signs and for failure to include the date of the event on the signs. As a result, Mr. Reed sued alleging that the Town's sign code violated his freedom of speech as outlined in the First and Fourteenth Amendments to the U.S. Constitution.

Generally, the Town's sign code required a permit for all outdoor signs but exempted 23 categories of signs from the permitting requirement. The various exempted categories were identified based on the information or message the sign conveyed. The U.S. Supreme Court analyzed three of these exempt categories as relating to the signs at issue: ideological signs, political signs, and temporary directional signs. Each exempt sign category had a definition that required a review of the sign's content to determine the category applicable to the sign. Then, the Town subjected each category to different limitations, such as total number of signs or total square footage of signs.

Initially, the U.S. District Court and the Ninth Circuit both held that the Town's sign code did not regulate speech on the basis of content, with the Ninth Circuit reasoning that the "cursory examination" of the content of the sign to determine the regulations to be applied does not amount to a regulation of the content of the sign itself. *Reed v. Town of Gilbert, Arizona,* 587 F.3d 966, 978 (9th Cir. 2009).

This decision was appealed to the Supreme Court which held that, due to the mere fact that one must read the sign to determine its content and the regulations that are applied to that content, the sign code was facially content-based and, therefore, presumptively unconstitutional. Content-based regulations are subject to strict scrutiny and are only permissible if the regulations are narrowly tailored to achieve a compelling state interest. Restrictions on speech rarely survive strict scrutiny and are almost always found unconstitutional.

The Town argued that aesthetics and traffic safety qualified as compelling interests, but the Supreme Court found that the sign code's distinctions were vastly underinclusive and not narrowly tailored to the state interest. For example, the Town could not claim aesthetic appeal as a compelling state interest when it limited temporary directional signs while allowing an unlimited number of ideological signs. Thus, the Supreme Court held the Town's sign code as unconstitutional.

Similarly, Leon County's Sign Code contains provisions that apply certain regulations based on a review of the content of the sign, including references to political signs, promotional signs, and real estate signs. Additionally, the references distinguish between these signs because the signs are regulated differently than each other. As a result, these portions of the Sign Code have been rendered unenforceable by the Supreme Court's ruling in *Reed* and need to be revised.

An exemption based on the content of the sign is allowable if the exempt sign conveys "government speech." See *Pleasant Grove City v. Summum,* 555 U.S. 460, 467-469 (2009). Therefore, the County retains the ability to provide for government signage, promote safety, provide directional signs, and provide for other signage in public areas and on public rights-of-way without a permit.

Analysis:

Signage can be one of the most powerful elements of the public realm. Signs are an important design element that can improve the visual quality of a community, bring human scale to the street environment, and create a sense of interest and activity. At the same time, signage should not overwhelm the street environment and should keep with the character of the building, street and neighborhoods in which they are located.

The new Sign Code recognizes the business community's need for effective, individualized identity and public awareness while at the same time preserving the residential character of neighborhoods. Moreover, the Sign Code has been designed in a manner consistent with the First Amendment guarantee of free speech in line with the *Reed* decision. If any provisions of the Sign Code were found by a Court of competent jurisdiction to be invalid, a severability clause has been added that states that such a finding shall not affect the validity of any other provisions of the code which can be given effect without the invalid provision.

The new Sign Code reflects current planning practices, administrative practices and more recent allowances for master sign plans in special districts. The County's existing Sign Code only allows for one ground sign and one wall sign per premise. In order to allow for more wall or ground signs, an applicant would currently have to submit an application to the Board of Adjustment and Appeals (BOAA) and prove a hardship to allow more signage. The hardship criteria are quite stringent, as they should be, and staff typically would advise an applicant if DSEM could support the request prior to submitting an application and the associated $960 fee. Over the years, to provide some flexibility, DSEM has made allocations for more signage through the development of specific sign guidelines in certain zoning districts. Providing greater flexibility in the allowable signage based on the type, size and intensity of a development is more in line with best planning practices. Therefore, the proposed Ordinance includes wall signage based on the scale of the development and the option for a master sign plan required for certain developments.

Staff recently tested the feasibility of allowing for a master sign plan for larger developments and shopping centers in order to allow more flexibility and creativity in design while working with the DesignWorks team to reduce the visual clutter and grandiose stature that most developments desire in their signage. The most recent development to adopt a master sign plan is the Cawthon

Commercial development along Bannerman Road. Through the development of a master sign plan, the shopping center was afforded small ground monument signs for each of its future outparcel tenant spaces along Bannerman and the Bull Headley extension (south) at a height of only 4 feet and a monument multi-tenant sign designed at a neighborhood-friendly scale of only 7 feet which allows for 6 tenant spaces on each side of the sign. Additionally, the largest building to ever be permitted and constructed in Leon County for Amazon agreed to construct a multi-panel (directional) monument sign for their development at a height of only seven feet. These success of these developments highlights the need for flexibility to identify the actual signage appropriate for a development's use, while limiting the offsite impact of those signs by reducing sign height.

During the drafting of the Sign Code revisions, comparisons were made with existing sign codes from comparable-sized municipalities in Florida and professional documents from the American Planning Association and the United States Sign Counsel's Model On-Premise Sign Code were cross-referenced for accuracy. During this process, it has become clear that smaller height signs are possible, feasible and still allow a business to advertise and not diminish their economic development potential.

Conformance with *Reed*

The proposed Ordinance seeks to eliminate all content-based regulations throughout the Sign Code following the Supreme Court's guidance in *Reed.* To accomplish this task, the proposed Ordinance no longer refers to the content on a sign to determine the regulations that apply, except to distinguish between commercial and non-commercial signage. This distinction is valid under the First Amendment as commercial speech is not accorded the same level of protection as non-commercial speech. To further this intent, the proposed Ordinance allows for the substitution of non-commercial speech for commercial speech on any sign, which may occupy the entire sign or any portion thereof, in order to avoid the unintended preferential treatment of commercial speech over non-commercial speech.

The most important section to update following *Reed* was the regulation of temporary signs. Currently, the definitions and regulations are unenforceable because they treat temporary signs differently based on their content, such as political signs, real estate signs, and temporary event signs. For example, in the current code, political signs are exempt from permitting, may be posted an indeterminable time prior to an election, but must be removed within 30 days of the withdrawal of a candidate, elimination as a political candidate, or election to office. To the contrary, temporary signs for a temporary event shall not be utilized for more than 60 days. Therefore, a political sign can be displayed for an unspecified amount of time without a permit, but temporary event signs may only be displayed for 60 days, and arguably would require a permit.

Under *Reed*, this disparate treatment of two temporary signs is not narrowly tailored to achieve the state interests of aesthetics or safety. Additionally, the inclusion of political signs and real estate signs in the exempt section would allow a sign with a political message to be erected without a permit, while a similarly situated sign expressing some other form of speech, such as "Save the Rainforest," would require a permit under the Sign Code.

The proposed changes to the Sign Code exempt all temporary signs, as defined, from permitting requirements. The proposed Ordinance defines a temporary sign as "a sign or advertising display constructed of cloth, canvas, fabric, paper, plywood, or other light material, and intended to be displayed for a specific and limited period of time." The proposed regulation of temporary signs does not include any reference to the content of the sign or treat any form of protected speech differently than another. Rather, a property less than 5 acres is allowed one temporary sign, while properties over 5 acres and non-residential properties are allowed one temporary sign for every 5 acres or major fraction thereof. These temporary signs are allowed to be placed 30 calendar days prior to an event or occurrence and removed 10 days after the event or occurrence. The maximum duration of a temporary sign is 60 days. A property will also be allowed an additional temporary sign during periods of time when the subject property is actively listed for sale or for lease. Other restrictions on signs are solely related to the size, location, type and illumination of the temporary signs.

On another note, temporary signs are often placed in the right-of-way and impact the aesthetics and safety of the roadways. As such, the proposed Ordinance prohibits all signs within the right-of-way, except for traffic control devices and other signs installed by governmental units having jurisdiction as required by law or to protect the public health, safety and welfare.

Ground Signs

The overall height of ground signs is being reduced throughout the County to be more consistent with the City's regulations. A comparison chart between the exiting City, existing County and proposed County sign regulations can be found in Attachment #3.

For properties with more than one street frontage, one ground sign shall be allowed per nonlocal street frontage. For example, if the property has frontage along an arterial and local street, a ground sign shall only be allowed along the arterial street. If the property has frontage along an arterial and collector street, the property can have a ground sign along each frontage. If the property only has frontage along a local street, then one ground sign is allowed on that frontage.

Gateway Roads

The existing Sign Code speaks to gateway roads only in the off-site sign (billboard) section which prohibits any new billboards from being constructed along certain stretches of these roadways. The new Sign Code adds the North Monroe corridor, from North of I-10 and extending to the County jurisdictional line, as a gateway prohibiting new billboards. Additionally, a new section has been added to the on-site signs portion of the code to limit the height and overall square footage of signs along these same designated gateway roads.

Previously, on-site signs were regulated for height dependent on the class of roadway the property abutted. North Monroe is an arterial roadway; therefore, businesses were afforded a sign height of up to 35 feet under the existing Sign Code. In the proposed Ordinance, on-site signs along gateway roads will be limited to 10 feet in height and a maximum sign surface area of 60 square feet. These revisions to the Sign Code related to Gateway Roads, and specifically the unincorporated segment of the North Monroe Corridor, will be a welcomed enhancement among

area residents and neighborhoods seeking to reduce blighted conditions and revitalize North Monroe Street.

Wall Signs

The current Sign Code allows only one wall sign per tenant regardless of the building size. The new Sign Code provides for flexibility on not only the number of signs allowed for large single tenant buildings but also the area of the sign, making the sign proportionate to the building area and reducing the need for a tenant to request a variance from the new Sign Code. The provision for a Master Sign Plan in the new Sign Code addresses multi-tenant buildings and their needs for wall signage, while providing predictability and less visual clutter for the public.

Electronic Message Centers (EMCs)

An EMC is a sign that is capable of displaying words, symbols, figures or images that can be electronically changed by remote or automated means. EMC's have gained popularity over the last decade. Most local governments in Florida have placed restrictions on EMCs to avoid excessive banners and other forms of visual clutter. Some counties have prohibited EMC's while most regulate either the size of the EMC, capping it at thirty (30) feet or fifty percent of the area of the allowed ground sign. When an EMC is allowed, the size of the EMC is counted towards the overall sign total. Within Tallahassee-Leon County, the sign industry has indicated the most commonly permitted EMC is 50 square feet. Staff's recommendation in the proposed Ordinance is to not have a percentage of the sign dedicated to the EMC, but rather to limit the size of the EMC. Staff worked diligently with the stakeholder group balancing interests on EMCs to arrive at this recommendation.

Stakeholder Outreach

A stakeholder group was created in November 2021 to review and discuss the proposed changes to the Sign Code. The group consists of members of the sign industry that have worked closely with the County on permitting signs and members of the general public that have been vocal on matters related to signage and were involved in the North Monroe Corridor Task Force. A list of the stakeholder group members is attached for reference (Attachment #4). Four meetings were held with the stakeholder group to obtain feedback on the draft Sign Code: November 16, 2021; December 21, 2021; January 13, 2022; and February 3, 2022. Changes that have been made to the draft Sign Code as a result of these stakeholder meetings include removal of the consideration of a landscaping requirement, finding agreement on EMC regulation and language relating to signage illumination.

An overview of the proposed Sign Code was presented to the DSEM Advisory Committee for Quality Growth (ACQG) for their review and recommendations prior to the Public Hearings. The ACQG consists of representatives from diverse organizations which are intended to garner broader stakeholder input on draft policies being proposed by DSEM. The ACQG had questions regarding the changes in wall signs for larger buildings such as the new Amazon fulfillment center, but had no further recommendations.

Comprehensive Plan Consistency Determination

Tallahassee-Leon County Planning Department staff conducted a review of the proposed Ordinance and determined that it is consistent with the Tallahassee-Leon County Comprehensive Plan (Attachment #5). The proposed Ordinance also required a consistency review by the Planning Commission at a Public Hearing, which was held on April 7, 2022. At the Public Hearing, the Planning Commission voted unanimously to find the Ordinance consistent with the Comprehensive Plan and to recommend the Board adopt the proposed Ordinance as currently drafted.

Public Notification:

Notice of the Public Hearing has been published in accordance with the requirements of Florida Statutes (Attachment #6).

Options:

1. Conduct the first of two Public Hearings to consider adopting an Ordinance amending Chapter 10, the Land Development Code, to address the sign regulations (Attachment #1), and schedule the second and final Public Hearing for June 14, 2022 at 6:00 p.m.
2. Conduct the first of two Public Hearings to consider adopting an Ordinance amending Chapter 10, the Land Development Code, to address the sign regulations (Attachment #1), and do not schedule the second and final Public Hearing.
3. Board direction.

Recommendation:

Option #1

Attachments:

1. Proposed Sign Code Ordinance
2. *Reed v. Town of Gilbert*
3. Sign Code Comparison Charts
4. Sign Code Stakeholders Group Members
5. Consistency memorandum from Planning Department
6. Notice of Public Hearing

LEON COUNTY ORDINANCE NO. 22-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 10 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA; REPEALING AND REPLACING ARTICLE IX, ENTITLED "SIGNS;" AMENDING SECTION 10-1.101, ENTITLED "DEFINITIONS;" AND AMENDING SECTIONS 10-6.612, 10-6.653, 10-6.654, 10-6.654.2, 10-6.655, 10-6.660, 10-6.673, 10-6.674, 10-6.675, 10-6.676, AND 10-6.680 TO ELIMINATE DUPLICATIVE SIGN REGULATIONS IN INDIVIDUAL ZONING DISTRICTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, the United States Supreme Court has upheld the regulation of signs and their negative impacts as permissible municipal police power so long as such regulations do not aim to regulate the viewpoint of the speaker, as indicated in *City of Ladue v. Gilleo*, 512 U.S. 43, 114 S.Ct. 2083 (U.S. 1994); and

WHEREAS, Policy 1.2.12 of the Mobility Element of the Tallahassee-Leon County Comprehensive Plan requires the County to adopt and maintain a County sign ordinance to control sign and billboard placement and limit lighted and motion activated sign usage; and

WHEREAS, Section 163.202, Florida Statutes, requires each local government in the State of Florida to adopt or amend land development code regulations that are consistent with and implement its adopted Comprehensive Plan; and

WHEREAS, the County currently regulates signs within its jurisdiction, pursuant to Article IX of Chapter 10 of the Code of Laws of Leon County, Florida ("Sign Code"); and

WHEREAS, since 2007, the Sign Code has had relatively minor amendments; and

WHEREAS, on June 18, 2015, the United States Supreme Court held unanimously in *Reed v. Town of Gilbert, Arizona*, 135 S. Ct. 2218 (U.S. 2015), that the provisions of the Town of Gilbert's sign code, which regulate signs by category according to the type of information they convey, are content-based and therefore subject to strict scrutiny under the First Amendment of the United States Constitution; and

WHEREAS, the Board of County Commissioners of Leon County, Florida (Board) wishes to revise the Sign Code to comply with the Supreme Court's decision in *Reed* and all other constitutional and legal requirements; and

WHEREAS, prior to *Reed*, sign codes across the nation typically differentiated signs based on their content to determine which regulations apply to the sign, without the intent to regulate the content itself; and

WHEREAS, compliance with *Reed* requires that sign codes eliminate different categories of signs with reference to their content and regulate all signs in the same manner; and

WHEREAS, in *Reed*, Justice Alito, in a concurring opinion joined in by Justices Kennedy and Sotomayor, pointed out that municipalities still have the power to enact and enforce reasonable sign regulations; and

WHEREAS, in *Reed*, Justice Alito, in a concurring opinion joined in by Justices Kennedy and Sotomayor, provided a list of rules that would not be content-based; and

WHEREAS, Justice Alito noted that these rules were not a comprehensive list of such rules; and

WHEREAS, Justice Alito included the following rules among those that would not be content-based: (1) rules regulating the size of signs, which rules may distinguish among signs based upon any content-neutral criteria such as those listed below; (2) rules regulating the locations in which signs may be placed, which rules may distinguish between freestanding signs and those attached to buildings; (3) rules distinguishing between lighted and unlighted signs; (4) rules distinguishing between signs with fixed messages and electronic signs with messages that change; (5) rules that distinguish between the placement of signs on private and public property; (6) rules distinguishing between the placement of signs on commercial and residential property; (7) rules distinguishing between on-premises and off-premises signs; (8) rules restricting the total number of signs allowed per mile of roadway; and (9) rules imposing time restrictions on signs advertising a one-time event, where rules of this nature do not discriminate based on topic or subject and are akin to rules restricting the times within which oral speech or music is allowed; and

WHEREAS, the County recognizes that Justice Alito further noted that, in addition to regulating signs put up by private actors, government entities may also erect their own signs consistent with the principles that allow governmental speech [see *Pleasant Grove City* v. *Summum*, 555 U.S. 460, 467-469 (2009)], and that government entities may put up all manner of signs to promote safety, as well as directional signs and signs pointing out historic sites and scenic spots; and

WHEREAS, the County recognizes that Justice Alito noted that the *Reed* decision, if properly understood, will not prevent cities from regulating signs in a way that fully protects public safety and serves legitimate esthetic objectives, including rules that distinguish between on-premises and off-premises signs; and

WHEREAS, in addition to amendments following the Supreme Court's decision in *Reed*, on January26, 2016, the Board adopted a Strategic Initiative for the creation of the North Monroe Corridor Task Force for the purposes of revitalization; and

WHEREAS, on February 9, 2016, the Board established the North Monroe Street Stakeholders Task Force (Task Force), which consisted of representatives from businesses, adjacent neighborhoods and the Florida Department of Transportation, with support of County staff, for the purpose of providing a Corridor Plan for the revitalization of the corridor; and

WHEREAS, in its Corridor Plan the Task Force recommended that the Sign Code be revised to reduce blight and establish a gateway signage standard that limits billboards, establishes similar sign code standards as the Bradfordville zoning districts and provide for the replacement of existing blighted signs; and

WHEREAS, the County finds and determines that the purpose, intent and scope of its signage standards and regulations should be detailed so as to further describe the beneficial aesthetic and other effects of the County's sign standards and regulations, and to reaffirm that the sign standards and regulations are concerned with the secondary effects of speech and are not designed to censor speech or regulate the viewpoint of the speaker; and

WHEREAS, the County finds and determines that the provisions of Article IX of the Land Development Code set forth in this Ordinance that replace the current Sign Code are consistent with all applicable policies of the County's adopted Comprehensive Plan; and

WHEREAS, the County finds and determines that these amendments are not in conflict with the public interest; and

WHEREAS, the number, size, height, lighting, design, location, portability, changing frequency, and other physical characteristics of signs in the County directly affect the public health, safety and welfare of its citizens and visitors alike; and

WHEREAS, the County finds and determines that in order to preserve the County as a desirable community in which to live, vacation and do business, a pleasing, visually-attractive urban environment is of foremost importance; and

WHEREAS, the County finds and determines that the regulation of signs within the County is a highly contributive means by which to achieve this desired end, and that the sign standards and regulations of this Ordinance are prepared with the intent of enhancing the urban environment and promoting the continued well-being of the County; and

WHEREAS, the County finds and determines that the regulation of signage for purposes of aesthetics is a substantial governmental interest and directly serves the policy articulated in Article II, Section 7, of the Florida Constitution, by conserving and protecting its scenic beauty; and

WHEREAS, the County finds and determines that the regulation of signage for purposes of aesthetics has long been recognized as advancing the public welfare; and

WHEREAS, the County is the home to Florida's Capital, the City of Tallahassee, where legislators and lobbyists gather annually from around the State of Florida, which benefits the local economy; and

WHEREAS, as the Capital of Florida, the County is home to museums and exhibits highlighting various aspects of Florida's history which attract tourists from around the state and nation which benefits the local economy; and

WHEREAS, at the heart of the County are two nationally renowned public universities which attract student bodies and faculty from all over the nation and drive a significant portion of the County's economy; and

WHEREAS, the County finds and determines that the regulation of signage benefits the local economy by providing for an aesthetically pleasing environment, and provides an efficient means of way-finding to significant locations, services, attractions, and events to the many students and visitors from outside of the County; and

WHEREAS, the County finds and determines that the enhancement of the visual environment is critical to a community's image and its continued presence as a tourist destination; and

WHEREAS, the County finds and determines that the sign control principals set forth in this Ordinance create a sense of character and ambiance that distinguishes the County as one with a commitment to maintaining and improving an attractive environment; and

WHEREAS, the County finds and determines that the County's beauty, both with regard to its natural and developed environment, has provided the foundation for the economic base of the County's development, and that the County's sign regulations not only help create an attractive community for its residents, but also bolster the County's image as a tourist destination; and

WHEREAS, the County finds and determines that, from a planning perspective, one of the most important community goals is to define and protect aesthetic resources and community character; and

WHEREAS, the County finds and determines that, from a planning perspective, sign regulations are especially important to counties and cities with a tourist-based economy, and sign control can create a sense of character and ambiance that distinguishes one community from another; and

WHEREAS, the County agrees with the American Society of Landscape Architects' determination that billboards tend to deface nearby scenery, whether natural or built, and the Sierra Club's opposition to billboard development and proliferation, and the American Society of Civil Engineers Policy Statement 117 on Aesthetics that aesthetic quality should be an element of the planning, design, construction, operations, maintenance, renovation, rehabilitation, reconstruction, and security enhancement of the built environment; and

WHEREAS, the County finds and determines that a regulation of the erection of billboards will reduce the number of driver distractions and the number of aesthetic eyesores along the roadways and highways of the County [*see, e.g., E. B. Elliot Adv. Co v. Metropolitan Dade County*, 425 F.2d 1141, 1154 (5th Cir. 1970), *cert. denied,* 400 U.S. 8058 (1970)]; and

WHEREAS, the County finds and determines that various signs that serve as signage for particular land uses, such as drive-through lanes for businesses, are based upon content-neutral criteria in recognition of the specific functions served by those land uses, but are not based upon any intent to favor any particular viewpoint or control the subject matter of the sign; and

WHEREAS, visual clutter is potentially harmful to property values, economic development and quality of life; and

WHEREAS, the County finds and determines that the sign regulations set forth in this Ordinance are intended to protect the public from the dangers of unsafe signs; and

WHEREAS, the County finds and determines that the sign regulations set forth in this Ordinance are intended to regulate signs in a manner so as to not interfere with, obstruct the vision of, or distract motorists, bicyclists or pedestrians; and

WHEREAS, the County finds and determines that the sign regulations set forth in this Ordinance are intended to require signs to be constructed, installed and maintained in a safe and satisfactory manner; and

WHEREAS, the County finds and determines that any sign beside the road is intended to divert the attention of drivers and tends to distract the driver of a motor vehicle, which directly affects traffic safety and may reasonably be found to increase the danger of accidents, and agrees with the courts that have reached the same determination [*see, In re Opinion of the Justices,* 103 N.H. 268, 169 A.2d 762 (1961); *Newman Signs, Inc. v. Hjelle,* 268 N.W. 2d 741 (N.D. 1978)]; and

WHEREAS, the County finds and determines that in addition to the sign regulations set forth in this Ordinance, signs may also be subject to applicable building and electrical codes; and

WHEREAS, the County finds and determines that in order to overcome any constitutional objection that this Ordinance impermissibly favors commercial speech over noncommercial speech, the County has allowed noncommercial messages to appear wherever commercial speech are permitted; and

WHEREAS, the County finds and determines that a traffic control device sign, exempt from regulation under the County's land development regulations for signage, is any government sign located within the right-of-way that functions as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) and approved by the Federal Highway Administrator as the National Standard, and that according to the MUTCD, traffic control device signs include those signs that are classified and defined by their function as regulatory signs (that give notice of traffic laws or regulations), warning signs (that give notice of a situation that might not readily be apparent), and guide signs (that show route designations, directions, distances, services, points of interest, and other geographical, recreational, or cultural information); and

WHEREAS, technology has improved since the inception of the Sign Code, necessitating updates to the regulation of digital signs, or those signs emitting light, scent, sounds, smoke or other emissions; and

WHEREAS, the County finds and determines that the sign standards and regulations adopted hereby allow and leave open adequate alternative means of communications, such as newspaper advertising and communications, internet advertising and communications, advertising and communications in shoppers and pamphlets, advertising and communications in telephone books, advertising and communications on cable and satellite television, advertising and communications on UHF and/or VHF television, advertising and communications on AM and/or FM radio, advertising and communications on satellite and internet radio, advertising and communications via direct mail, and other avenues of communication available in the County [*see State v. J & J Painting*, 167 N.J. Super. 384, 400 A.2d 1204, 1205 (Super. Ct. App. Div. 1979); *Board of Trustees of State University of New York v. Fox*, 492 U.S. 469, 477 (1989); *Green v. City of Raleigh*, 523 F.3d 293, 305-306 (4th Cir. 2007); *Naser Jewelers v. City of Concord*, 513 F.3d 27 (1st Cir.2008); *Sullivan v. City of Augusta*, 511 F.3d 16, 43-44 (1st Cir. 2007); *La Tour v. City of Fayetteville*, 442 F.3d 1094, 1097 (8th Cir. 2006); *Reed v. Town of Gilbert*, 587 F.3d 966, 980-981 (9th Cir. 2009), *aff'd in part &remanded in part on other grounds*, 832 F. Supp. 2d 1070, *aff'd*, 707 F.3d 1057, 1063 (9th Cir. 2013), *cert. granted*, 134 S. Ct. 2900 (2014), *rev'd on other grounds & remanded*, 135 S. Ct. 2218 (2015)]; and

WHEREAS, the County finds and determines that there have been several judicial decisions where the courts have not given full effect to severability clauses that applied to sign regulations, and where the courts have expressed uncertainty over whether the legislative body intended that severability would apply to certain factual situations despite the presumption that would ordinarily flow from the presence of a severability clause; and

WHEREAS, the County finds and determines that it intends that the severability clause provided in this Ordinance be applied to the maximum extent possible, even if less speech would result from a determination that any provision is invalid or unconstitutional for any reason whatsoever; and

WHEREAS, the County finds and determines that it is appropriate to repeal sections, subsections, paragraphs, subparagraph, divisions, subdivisions, clauses, sentences, phrases, words, and provisions of the existing Sign Code which are obsolete or superfluous, and/or which have not been enforced, and/or which are not enforceable, and/or which would be severable by a court of competent jurisdiction; and

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, that:

Section 1. Amendments to Code.

The Code of Laws of Leon County, Florida, is hereby amended by repealing Article IX of Chapter 10, regarding "Signs" in its entirety, and adopting a new Article IX of Chapter 10, which article reads as follows:

IX. SIGNS

DIVISION 1. GENERAL PROVISIONS

Sec. 10-9.101. Purpose and Intent.

(a) It is the purpose and intent of this Article to promote the public health, safety, and general welfare of Leon County through reasonable, consistent, and non-discriminatory sign standards. The sign regulations in this Article are not intended to censor speech or regulate viewpoints, but instead are intended to regulate the time, place, and manner of speech, as well as regulate the impact signs have on aesthetics and traffic and pedestrian safety. The sign regulations are designed to serve substantial governmental interests, and in some cases, compelling governmental interests such as traffic safety.

(b) In order to preserve and enhance Leon County as a desirable community in which to live, visit, and do business, a pleasing, visually attractive environment is of the foremost importance. These sign regulations have been prepared with the intent of enhancing the visual environment of Leon County and promoting its continued well-being. Leon County has the following objectives in implementing these sign regulations: establish a set of fair and comprehensive standards for the erection, use, installation, maintenance, alteration, and placement of all signs, symbols, markings, or advertising devices within Leon County.

(c) This Article regulates signs, as defined in this Land Development Code, which are placed on private property or on property owned by public agencies including the county and over which the county has zoning authority. This Article is not intended to extend its regulatory regime to objects that are not traditionally considered signs for purpose of government regulation.

(d) These standards are designed to protect and promote the health, safety, welfare, and general well-being of the community's citizens in a manner consistent with the following objectives:

(1) To enhance the visual attractiveness of the environment of the County, which is important to making the County a desirable place to visit by seasonal residents and tourists who provide an economic base to the County;

(2) To foster a good visual environment and enhance the economic well-being of the community as a place in which to live, visit, and conduct business;

(3) To preserve the aesthetic, natural, and historical qualities of the community;

(4) To contribute to the safe movement of traffic by controlling the excessive height, area, and bulk of signs, as well as certain types and lighting of signs which can distract the attention of pedestrians and motorists so as to constitute hazards to traffic safety;

(5) To encourage creativity and allow the sufficient conveyance of a message in a manner which promotes traffic safety and avoids visual blight;

(6) To control the use of signs determined to be detrimental to the aesthetic sense and welfare of the community;

(7) To regulate signs in a manner so as not to interfere with, obstruct the vision of, or distract motorists, bicyclists or pedestrians;

(8) To encourage signs appropriate to the zoning district in which they are located and consistent with the category of use to which they pertain;

(9) To encourage the effective use of signs as a means of communication in the County;

(10) To allow for traffic control devices consistent with national and state standards and whose purpose is to promote highway safety and efficiency by providing for the orderly movement of road users on streets and highways, and that notify road users of regulations and provide warning and guidance needed for the safe, uniform, and efficient operation of all elements of the traffic stream;

(11) To allow signs that are compatible with their surroundings, while precluding the placement of signs that contribute to sign clutter or that conceal or obstruct land uses and/or signs;

(12) To regulate the appearance and design of signs in a manner that promotes and enhances the beautification of the County and that compliments the natural surroundings in recognition of the County's reliance on its natural surroundings and beautification efforts;

(13) To foster the integration of signage with architectural and landscape designs;

(14) To ensure that signs are installed, constructed, and maintained in a safe and satisfactory manner, and protect the public from unsafe signs, except to the extent such action is expressly preempted by state or federal law;

(15) To enable the fair and consistent enforcement of these sign regulations;

(16) To lessen the visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive size (area) of signs which compete for the attention of pedestrian and vehicular traffic;

(17) To allow signs that are compatible with their surroundings and aid orientation, while preluding the placement of signs that contribute to sign clutter or that conceal or obstruct adjacent land uses or signs;

(18) Except to the extent expressly preempted by state or federal law, to ensure that signs are constructed, installed, and maintained in a safe and satisfactory manner, and to protect the public from unsafe signs;

(19) To protect property values by precluding, to the maximum extent possible, sign types that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness, or movement;

(20) To protect property values by ensuring that sign types, as well as the number of signs, are in harmony with building, neighborhoods, and confirming signs in the area; and

(21) To enable the fair and consistent enforcement of these sign regulations.

Sec. 10-9.102. Substitution of Noncommercial Speech for Commercial Speech.

Notwithstanding anything contained in this Article to the contrary, any sign erected pursuant to the provisions of this Article may, at the option of the owner, contain a non-commercial message in lieu of a commercial message and the noncommercial copy may be substituted at any time in place of the commercial copy. The noncommercial message (copy) may occupy the entire sign face or any portion thereof. The sign face may be changed from a commercial message to a noncommercial message or from one noncommercial message to another noncommercial message; provided, however, that there is no change in the size, height, setback or spacing criteria contained in this article.

Sec. 10-9.103. Viewpoint Neutrality.

Notwithstanding anything in this Article to the contrary, no sign or sign structure shall be subject to any limitation based upon the viewpoint of the message contained on such sign or displayed on such sign structure.

Sec. 10-9.104. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory sign shall mean a sign that is secondary in purpose.

Animated sign shall mean any sign of which all or any part thereof visibly moves in any electronic fashion whatsoever; and any sign which contains or uses for illumination any light, lights, or lighting device or devices which change color, flash or alternate, show movement or motion, or change the appearance of said sign or any part thereof automatically. The term "animated sign" shall not include revolving signs or multi-face mechanical (tri-vision) signs.

Animated sign shall mean any sign which contains or uses for illumination any light, lights, or lighting device or devices which change color, flash or alternate, show movement or motion, or change the appearance of said sign or any part thereof automatically, excepting any digital billboard sign. The term "animated sign" shall not include revolving signs, or multifaced mechanical (multivision) signs, or digital billboard signs.

Awning sign. See Figure 1.

Bandit sign shall mean any sign placed on wooden stakes or wire supports that are driven into the ground.

Banner shall mean any hanging sign possessing characters, letters, illustrations or ornamentations applied to paper, plastic or fabric of any kind. This classification shall not include plastic or fabric signs which are permanently attached within a rigid frame which are intended to be used as a permanent sign. National or state flags, flags of political subdivisions, and symbolic flags of any institution or business shall not be considered banners for the purpose of this article.

Bench sign shall mean a sign located on any part of the surface of a bench or seat placed adjacent to a public right-of-way.

Blade sign shall mean a projecting sign mounted on a building façade or storefront pole, or attached to a surface perpendicular to the normal flow of traffic.

Canopy sign. See "marquee." See Figure 2.

Canopy sign, under shall mean any permanent sign attached to or constructed underneath a canopy. These signs are below a projecting structure which extends over the pedestrian walkway which effectively prevents the walls signs from being visible to the pedestrian walking underneath the canopy. See Figure 3.

Changeable copy sign shall mean any poster board, bulletin board, neon sign, screen, surface, or wall, with characters, letters or illustrations affixed thereto or thereon, by any method or means whatsoever, that can be changed, rearranged, or altered without changing the face of the poster board, bulletin board, neon sign, screen, surface, or wall.

Copy shall mean the wording on a sign surface in either permanent or removable letter form.

Digital billboard sign shall mean a sign without moving parts whose content may be changed by electronic process through the use of intermittent light or lights, including light emitting diodes, liquid crystal display, and plasma screen image display.

Double-faced sign shall mean a sign having two display surfaces, not necessarily displaying the same copy, which are usually parallel and back-to-back and not more than 24 inches apart. When the display surfaces of a double-faced sign are not parallel, the interior angle created by said surfaces shall not exceed 60 degrees and the two sides may be joined at a vertex or separated by no more than 60 inches where closest to one another.

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Electronic message center (EMC) shall mean a sign or portion thereof on which the copy or symbols change either automatically through electrical or electronic means (for example, time and temperature units). This may also be referred to as an electronic message board.

Flag shall mean a piece of woven cloth or other material designed to be flown from a pole or mast.

Flashing sign shall mean a sign designed to attract attention through the use of a light source that flashes, flickers, or revolves, or a change of light intensity.

Ground sign shall mean a sign supported permanently upon the ground by poles, pylons, or a solid base, and not attached to any building. Ground signs include those signs otherwise known as "pole signs," "pylon signs," and "monument signs." See Figure 4.

Illuminated sign shall mean a sign which contains a source of light or which is designed or arranged to reflect light from an artificial source, including indirect lighting, neon, incandescent, or back lighting.

Internally illuminated sign shall mean a light source which is enclosed within the sign and viewed through a translucent panel. This type of illumination is often referred to as direct.

Marquee shall mean a canopy or covered structure projecting from and supported by a building when such canopy or covered structure extends beyond the building line or property line.

Masonry wall sign. See Figure 5.

Monument sign. See definition of a ground sign and Figure 4.

Multivision sign shall mean a sign composed of mechanically operated louvers or slats containing multiple separate messages, each of which becomes visible when the louvers are synchronically rotated to one of a multiple of positions.

Nonconforming sign shall mean any sign, legal at the time of its erection, which does not conform to the requirements of this article.

On-site sign shall mean a sign relating its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises.

Off-site sign shall mean any sign whose purpose is to advertise, display, identify, direct attention to, or in any other way present to the public a message or other activity conducted by any company, person, or organization that is not located, purchased, rented, based, offered, furnished, or otherwise associated with the property on which the sign is located. This includes a sign erected by an outdoor advertising business, a digital billboard sign, a multivision sign, or any other sign meeting the definition of off-site sign. An off-site sign shall include a sign structure and sign display surface, upon which copy or information content is intended to be displayed. A sign structure without display surface shall not be construed to be an off-site sign, nor shall a sign structure with only nondurable paper, cloth, or plastic sheeting, without a rigid frame, be construed to be an off-site sign.

Painted wall sign shall mean any sign which is applied with paint or similar substance on the face of a wall.

Permanent sign shall mean a sign permanently affixed to a building or to the ground.

Pole or pylon sign. See definition of ground sign and Figure 6.

Premises shall mean an area of land with its appurtenances and buildings which, because of its unity of use, may be regarded as the smallest conveyable unit of real estate.

Projecting sign shall mean any sign, other than a wall sign affixed to any building or wall, whose leading edge extends beyond such building or wall.

Rear identification sign shall mean a sign located over a secondary entrance to a business or establishment for the purpose of identifying the establishment from the rear parking or loading area. See Figure 7.

Revolving sign shall mean any sign so erected or constructed as to periodically change the direction toward which any plane containing the sign surface area is oriented.

Roof sign shall mean any sign erected, constructed, and maintained wholly upon or over the roof of any building with the principal support on the roof structure.

Shopping center shall mean a group of two or more retail and service establishments of more than 30,000 square feet gross floor area on the ground floor and located on commonly owned property, sharing the same parking facilities and connected together by common walls, interior aisles, or malls.

Sign shall mean any combination of structure and/or message in the form of a display, device, figure, painting, drawing, message, placard, poster, billboard, advertising structure, advertisement, logo, symbol, graphic, or other form, designed, intended, or used to advertise or inform. Drawings of articles for sale on the premises that are related to the business and are intended to advertise or inform, rather than being merely aesthetic, shall be classified as a sign under this Article. The term does not include an official traffic control sign, official marker, national or state flags permitted by this Article, athletic scoreboards, or the official announcements or signs of government. "Sign" includes sign structure. The following are not traditionally considered "signs" and are not included in the definition of sign in this Article: graveyard or cemetery markers visible from a public area, vending machines or express mail drop-off boxes visible from a public area, decorations that do not constitute advertising visible from a public area, artwork that does not constitute advertising or a building's architectural features visible from a public area, or a manufacturer's or seller's markings on machinery or equipment visible from a public area.

Sign direction shall mean that direction from which the message or informative contents are most visible to oncoming traffic on the main-traveled way.

Sign face shall mean the area of a sign, including trim and background, which contains the message or informative contents.

Sign height shall mean the vertical distance from the finished grade of the road or at the base of the supporting structure to the top of the sign, or its frame or supporting structure, whichever is higher. Allowances in height should be made on a case-by-case basis and only for unusual topographical features.

Sign number. For the purpose of determining the number of signs, a sign shall be construed to be a single display surface or device containing elements organized, related, and composed to form a single unit. In cases where material is displayed in a random or unconnected manner, or where there is reasonable doubt as to the intended relationship of such components, each component or element shall be considered to be a single sign. A projecting sign or ground sign with sign surface on both sides of such sign shall be construed as a single sign, and the total area of such sign shall be the area computed on a single side.

Sign surface area. The surface area of a sign shall be computed for the entire area within the periphery of a regular geometric form, or combination of regular geometric forms, comprising all of the display area of the sign and including all of the elements of the matter displayed, but not including structural elements of the sign bearing no advertising matter. The surface area of a sign shall be measured from the outside edges of the sign or the sign frame, whichever is greater.

Sign structure shall mean all the interrelated parts and materials, such as beams, poles, and stringers, which are constructed for the purpose of supporting or displaying a message or informative contents.

Sign width shall mean the horizontal distance from the outer edges from side to side of a sign, or its frame or supporting structure, whichever is greater.

Snipe sign shall mean any sign of any material whatsoever that is attached in any way to a utility pole, tree, fence post, or any other similar object located or situated on public or private property.

Subdivision sign, primary shall mean any ground at an entrance to a residential subdivision or neighborhood, multi-family residential development, or manufactured housing park, contiguous to an entrance.

Subdivision sign, secondary shall mean any ground sign at an entrance to a subdivision or neighborhood at the point of internal interconnection between two subdivisions.

Temporary sign shall mean a sign or advertising display constructed of cloth, canvas, fabric, paper, plywood, or other light material, and intended to be displayed for a specific and limited period of time.

Vehicular sign shall mean any sign permanently or temporarily attached or placed on a vehicle or trailer.

Wall sign shall mean a sign attached to or erected against the wall of a building with the face in a parallel plane to the plane of the building wall.

Window sign shall mean any sign placed inside or upon a window facing the outside, which is intended to be seen from the exterior and is intended to identify or advertise activities, services, goods, or products available within the building.

Wind sign shall mean any sign, object, or material fastened in such a manner as to move upon being subjected to pressure by wind, and shall include, but not be limited to, pennants, ribbons, spinner, streamers, inflatables, or captive balloons. The term wind sign shall not include flags.

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Figure 1 Awning Sign

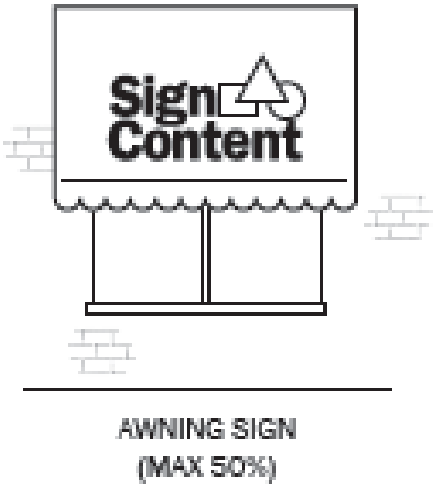
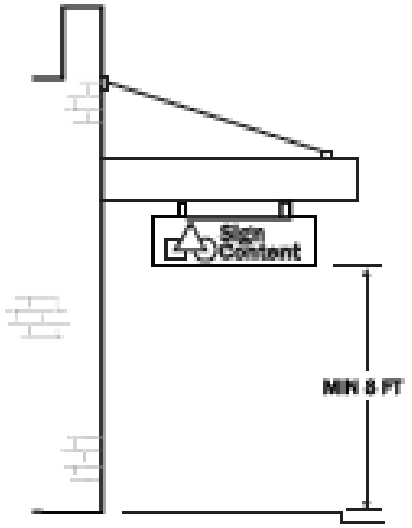


Figure 2 Canopy Sign



Figure 3 Under Canopy Sign



UNDER CANOPY SIGN
(MAX 8 SQ FT)

Figure 4 Ground or Monument Sign



MONUMENT SIGN

Figure 5 Masonry Wall Sign



Figure 6 Pole or Pylon Sign



Figure 7 Rear Identification Sign



DIVISION 2. PROHIBITIONS AND EXEMPTIONS

Sec. 10-9.201. Prohibited Signs.

(a) No person, firm, corporation or other entity, shall erect, place, post, install, affix, attach, or in any other way locate or maintain any unlawful or prohibited signs. Information contained in any sign, including names, addresses, or telephone numbers of persons or entities benefiting from or advertising on the sign, shall be sufficient evidence of ownership or beneficial use or interest for purposes of enforcing this section. More than one person or entity may be deemed jointly and severally liable for the placement or erection of the same sign. Each unlawful sign shall be deemed a separate violation of this section.

(b) The following signs are prohibited, except as otherwise provided by the article:

(1) *Signs in the right-of-way*. Signs upon, within or otherwise encroaching on a right-of-way or upon a structure located within such a right-of-way, except for signs installed by governmental units having jurisdiction as may be required by law or to protect the public health, safety and welfare, or signs authorized to be placed on transit shelters or other governmental fixtures approved for placement in the right-of-way.

(2) *Signs on canopy roads.* No billboards shall be permitted within 300 feet from the centerline of a canopy road regardless of the zoning district.

(3) Animated signs, flashing signs, or signs that scroll or flash text or graphics.

(4) Bench signs and other signs on bus stop facilities.

(5) Projected image signs.

(6) Membrane adhesive signs.

(7) Roof signs.

(8) Signs that imitate, resemble, interfere with, or obstruct official traffic lights, signs, or signals.

(9) Signs erected or maintained upon trees or fences, or painted or drawn upon rocks or other natural features, except for "posted land" signs as authorized and defined by statute.

(10) Signs which emit visible smoke, vapor, particles, sound, odor, or contain open flames.

(11) Bandit signs, except as may be allowed as a temporary sign or as part of a temporary use permit under section 10-6.804.

(12) Vehicular signs attached to or painted onto a vehicle parked for the primary purpose or outcome of providing signs not otherwise allowed by this article. This regulation does not include the use of advertising logos or identification signs on vehicles primarily and actively used for business purposes and/or personal transportation.

(13) Wind signs, except as may be allowed as a temporary sign.

Sec. 10-9.202. Exempt from requiring a sign permit.

(a) The following signs may be used without the need to first obtain a sign permit, except for signs that contain components that need to demonstrate compliance with the minimum standards of the Florida Building Code and the National Electric Code.

(1) Address or mailbox signs

(2) Flags, limited to three (3) per premise and not to exceed a pole height of 20 feet in residential districts and 30 feet in non-residential districts. Flag poles shall be setback a minimum of 10 feet from the property line. No rooftop flag poles shall be allowed.

(3) Historical markers, memorial signs or tablets and names of buildings and date of erection for buildings determined to have historical interest or value when designated as part of a federal, state or local historic designation program or other historical marker program.

(4) Identification signs at the entrance drive of residences, estates, farms, ranches, plantations and religious institutions which do not exceed four (4) square feet in area.

(5) Legal notices and official instruments required by law or as a condition of a building permit, or other governmental permit.

(6) Signs inside a building.

(7) Signs required by federal or state statute, or local regulation.

(8) Signs required by a government authority, agency, or utility to ensure public safety, related but not limited to, traffic, utility, and railroad crossings.

(9) Signs on the body of vending machines, gasoline pumps, ice vending equipment, or similar, which identify or advertise the product or service dispensed by the machine or equipment.

(10) Signs placed to warn of a general safety concern or to prohibit trespassing, not to exceed six (6) square feet in sign surface area and six (6) feet in height. Size limitations do not apply to those signs regulated by statute.

(11) Scoreboard signs and off-premises signs placed inside recreation facilities.

(12) Temporary signs.

(13) Signs located inside windows which identify or advertise activities, services, goods, or products available within the building, and which collectively cover 25 percent or less of the window glass surface area. Window film with graphics is counted as a window sign and is prohibited in some special districts.

(14) Signs guiding vehicles to entrances, exits, loading and delivery areas, or similar, when they do not exceed four (4) square feet in sign surface area and four (4) feet in height. No more than four (4) signs shall be allowed per premise.

(15) Changeable copy signs for movie theaters or playhouses used to identify current or coming attractions. No more than six (6) single-face wall signs no larger than 27” x 41” each shall be allowed.

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DIVISION 3. PERMITS AND ENFORCEMENT

Sec. 10-9.301. Permits.

(a) Except as otherwise provided in this article, no sign shall be erected without a permit and as a condition of permit issuance, all signs shall comply with:

(1) the development standards and permitting requirements of this article; and

(2) Chapter 16 and Appendix H (Signs) of the Florida Building Code, as may be amended; and

(3) the National Electrical Code, Article 600-4, as may be amended; and

(4) the Environmental Management Act, as adopted in article IV of this chapter of the Leon County Code of Laws; and

(5) all applicable sections of F.S. Ch. 479, in the case of signs in the state right-of-way, interstate system, or federal aid primary system; and

(6) wherever there is an inconsistency between these regulations and the building or electrical code, the more stringent requirement shall apply.

(b) The county shall make available an application that will require information deemed necessary to review the sign structure for compliance with this article. No sign may be displayed without the consent of the legal owner of the property on which the sign is mounted or displayed. For purposes of this article, "owner" means the holder of the legal title to the property and any party and person holding a present legal right to possession, control, or use of the property. The application will require at a minimum:

(1) identification of land ownership and proof of land authorization; and

(2) a site plan that includes the boundaries of the property and adjacent roadways; the proposed sign location, orientation and setbacks; location of building(s); building and tenant space dimensions; distance of proposed sign from the nearest residentially zoned property; easements; and designated landscape areas, buffering, and all environmentally sensitive features; and

(3) sign construction and elevation drawings that include views from the front and side and that include the following information based on the type of sign proposed:

a. ***wall signs***: proposed sign location; entrances to building or tenant space; height to the top of the sign and other signs on the wall where the sign is proposed; and fastener details identifying number, size and spacing;

b. ***ground-mounted monument, pole or pylon signs***: show views from all sides (include height from ground level to the top of the sign); foundation details for new sign locations; advertising surfaces, wording and design elements (not required for changeable copy signs);

c. ***electrical signs***: lighting details and the location of disconnects. To comply with the National Electrical Code Article 600-4, an authorized testing laboratory must list every electrical sign of any type. The name of the sign manufacturer, the listing and number assigned by the testing laboratory, as well as the installation instructions for the listed sign, shall be provided;

d. ***all signs subject to wind exposure***: shall be signed and sealed by a State of Florida registered architect or engineer to demonstrate compliance with the county's minimum wind speed requirements, per Chapter 16 of the Florida Building Code. Sign face changes on existing signs do not need to be signed/sealed but must be clearly marked "face changes only" on the application.

(c) Upon a showing of compliance with the requirements of the applicable provisions of Chapter 10 and upon payment of the proper permit fee, the Board of County Commissioners or designee may issue a permit. A certificate of completion shall be issued upon approval of all required inspections. Final disposition of complete applications will be provided within 90 calendar days of completeness determination.

Sec. 10-9.302. General Construction and Maintenance.

Every permanent sign and its supporting structures, including signs exempt from county permitting, shall be designed, constructed, placed, and maintained in compliance with applicable provisions of the state building code and the following construction and maintenance requirements:

(a) *Weather resistance.* Signs shall be constructed of weather resistant materials.

(b) *Use of wood.* Bare wood is prohibited as part of any sign face, and wood embedded in the soil as structural support for permanent signs shall be treated for in-ground use.

(c) *Wind hazard.* Signs exempt from wind load requirements of the state building code shall, nevertheless, be sufficiently constructed and anchored to avoid the hazard of contributing to windborne debris during severe weather.

(d) *Maintenance.* All signs and sign structures, together with their supports, anchors, and electrical components, shall be maintained in good repair and safe condition to ensure sign messages are clearly legible and to avoid the blight and hazards of deteriorated signs.

(e) *Nuisance.* The Building Official may order the repair of signs declared a nuisance. The Building Official shall immediately notify, in writing, the owner of such sign who shall correct such condition within forty-eight (48) hours. Should the Building Official determine a public nuisance presents imminent peril to the public health, or general welfare, or immediate danger to the life or safety of any person, the Building Official may abate such nuisance following the processes outlined in section 14-55 of the Leon County Code of Laws.

Sec. 10-9.303. Priority of signs.

Where the location of two or more signs or applications for signs conflict under the requirements of this article, a complete application for the replacement or repair of an existing, conforming sign, shall have priority over all other applications; otherwise, the first application determined complete by Leon County shall have priority over other applications.

Sec. 10-9.304. Enforcement.

(a) In the event of a violation of this article, the county may apply any one or a combination of the remedies available at law, including but not limited to, the Code of Laws of Leon County, Florida, F.S. Ch. 162 and [F.S.] § 403.413, as may be amended, or equity.

(b) Whenever a violation of this article occurs or exists, or has occurred or existed, any person, firm, corporation or other entity, who has legal, beneficial, or equitable interest in the facility or instrumentality causing or contributing to the violation, shall be liable for such violation.

(c) Failure of the county to enforce any requirements of this division shall not constitute a waiver of the county's right to enforce this article with respect to that violation or subsequent violations of the same type or to seek appropriate enforcement remedies.

Sec. 10-9.305. Removal.

Except as provided otherwise in this article, any sign on a right-of-way in violation of section 10-9.201 shall be subject to immediate removal and destruction without notice, by any code inspector or designee, and at the joint and several expense of the person, firm, corporation, or other entity having beneficial use of the sign, or the sign contractor.

Sec. 10-9.306. Severability.

If any or more provisions of this article are held to be invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby and this article shall be treated a though the invalidated portion(s) had never been a part thereof.

DIVISION 4. ON-SITE SIGNS

Sec. 10-9.401. Permanent on-site sign standards.

(a) *Sign face and sign surface area measurement.* For the purposes of this article, the surface area of a sign is the area of the smallest regular geometric shape (rectangle, triangle, circle, etc.), or simple combination of such shapes, that forms or approximates the perimeter of all sign message elements and comprises the sign face. When a background to the message elements is defined by a frame, outline, panel, or other border, the area of the background defined by that border is the sign area. Sign faces having no shared support from the same structure constitute separate signs and are subject to area (and other) standards accordingly. In the calculation of sign surface area, the county administrator or designee may exclude minor appendages beyond the regular shape of the sign area perimeter. See Figure 1.

(b) *Sign number.* For the purpose of determining the number of signs, a sign shall be construed to be a single display surface or device containing elements organized, related, and composed to form a single unit. In cases where material is displayed in a random or unconnected manner, or where there is reasonable doubt as to the intended relationship of such components, each component or element shall be a single sign. A projecting sign or ground sign with sign surface on both sides of such sign shall be construed as a single sign, and the total area of such sign shall be the area computed on a single side.

(c) *Sign height measurement.* The height of all ground signs, unless otherwise noted, shall be measured from the average adjacent grade at the base of the sign. In the calculation of sign height, the county administrator or designee may exclude minor appendages beyond the regular shape of the sign area perimeter.

(d) *Sign width measurement.* The width of all ground signs, unless otherwise noted, shall be measured from the outer edges side to side. In the calculation of sign height, the county administrator or designee may exclude minor appendages beyond the regular shape of the sign area perimeter.

(e) *Sign illumination.* Signs may be illuminated by internal or external light sources that comply with the following standards:

(1) *Luminance and Glare.* Signs shall not utilize lights which may be confused with traffic lights or lights on emergency vehicles. Sign lighting shall not obstruct the view of traffic control devices or signs and shall not project into the line of vision of any traffic control signal from any point in a moving traffic lane within 660 feet of the signal.

(2) *Lighting source and direction.* External light sources shall be shielded to minimize light pollution and shall only be directed onto sign faces Internally illuminated signs shall use semi-opaque materials for sign text and logos such that the light emanating from the sign is diffused. Transparent or clear materials are not allowed for sign text and logos. Non-text portions of the sign (e.g., background and graphics other than the logo) shall be made of completely opaque material.

(3) *Disconnect.* All electrically illuminated signs shall have a default control or disconnecting switch located in accordance with the provisions of the National Electrical Code which shall turn off the sign or freeze the message in one position if a malfunction of normal operation occurs.

(f) *Gateway Roads.* The following roadways shall be considered gateway roadways for the purposes of on-site sign placement:

(1) Thomasville Road;
(2) Welaunee Boulevard;
(3) Mahan Drive; and
(4) North Monroe Street.

(g) *Electronic message center (EMC) signs.* EMCs, or similar electronic or digital signs, shall only be allowed in conjunction with a ground sign and shall not be allowed as, or in conjunction with, a wall sign and shall comply with the following standards:

(1) *Exceptions.* This section shall not apply to billboards, electronic fuel pricing signs at gas stations, or signs defined as accessory, which are regulated by other sections of this article.

(2) *Location.* EMCs shall only be allowed along principal arterial, minor arterial or major collector roadways on property zoned AC, CP, C-2, CM, I, IC, M-1, UP-1, UP-2 or WC. EMCs shall also be allowed along principal arterial, minor arterial or major collector roadways on property zoned C-1, OR-1, OR-2, OR-3 zoning districts when the sign location would not directly face property zoned for or constructed with a residential use.

(3) *Prohibitions.* EMCs shall not be allowed on any property that is within a historic preservation district, historic preservation overlay, has been listed on the local or national register, or as otherwise outlined in section 10-6.708 of this chapter. Additionally, EMCs shall not be permitted on a canopy road, as designated by the comprehensive land use map of the county and as defined in section 10-6.707 of this chapter.

(4) *Maximum Surface Area Allowance.* The EMC component of a sign shall not exceed 50 square feet.

(5) *Movement.* No flashing, traveling, animation or other movement shall be allowed.

(6) *Display times.* Each message shall be displayed for a minimum of six consecutive seconds and the time to completely change from one message to the next shall be a maximum of two seconds.

(7) *Dimming Technology.* All permitted EMCs shall be equipped with a sensor or other device that automatically determines the ambient illumination and is programmed to automatically dim

according to ambient light conditions. Each application for an EMC sign permit shall include a certificate signed by the contractor that the sign will be equipped with such automatic dimming technology.

(h) *Planned Unit Developments (PUD) districts.* All new PUD districts shall submit a master sign plan in conjunction with the first PUD final plan. Different PUD sub-districts may be allowed to submit separate master sign plans if the County Administrator or designee decides it is more appropriate or feasible. Existing PUD districts without clearly defined sign standards or allowances, or which defer to the land development code, shall follow the sign allowances of this division for individual signs or may elect to submit a master sign plan.

(i) *Ground sign standards*. These requirements shall apply to all types of ground signs in this section, notwithstanding any additional requirements or allowances which have been provided for in this article.

(1) *Sign Allowances.* The height, width, sign copy area, type and number of signs allowed per premise are outlined in Table 10-9.3a, or as otherwise provided in this section.

(2) *Height Adjustments.* To allow for flexibility in sign design and to aid visibility based on site specific conditions, sign height adjustments may be requested. Each request for sign height adjustment shall be considered unique and shall not set a precedent for others.

a. *Adjustment criteria*. Height adjustment requests are limited to on-site ground signs when necessary to clear obstruction or interference by significant or severe grades, buildings, bridges, trees or like physical conditions, provided that all the other requirements of this code are met. Height adjustments approvals shall only be granted for the minimum height adjustment deemed necessary and shall not exceed 25% over the maximum sign height allowed by this section.

b. *Submittal requirements.* All height adjustment requests shall be made in writing to the county and provide the following: a narrative of the request, including supporting documentation for the request based on site-specific criteria; associated sign renderings to scale with lighting details; and a site plan that shows minimum setback requirements based on the requested sign height adjustment.

c. *Review process and fees*. A height adjustment of up to 25% can be granted through administrative approval and shall be assessed the same fees as other sign permit compliance reviews. Height adjustments greater than 25% will require review and approval by the Board of Adjustment and Appeals and assessed review fees accordingly.

Table 10-9.3a – Ground Sign Allowances for Non-Residential Uses:

Allowances	**Interstate Highway Interchange**	**Arterial Roads**	**Major Collector Roads**	**Minor Collector & Gateway Roads**	**Local Roads & Special Zoning Districts (LPN, MCN, MCR, NBO, R)**
Maximum Height (in feet)	100	25	15	10	8
Maximum Width (in feet)	In no case shall the width of a sign exceed 175% of the height of the sign. In calculating the width of a pole sign, the sign copy area, including frame, shall be used but not the height of the pole itself.				
Maximum Sign Copy Area (SF) for each sign	150	100	80	60	40

Sign Structure Type	Pole, pylon or monument	Pole, pylon or monument[1]	Monument	Monument	Monument
	[1] A monument sign is required along arterial roads when adjacent to a residential zoning district or a property containing a residential land use.				
Maximum Number of Ground Signs	2 per premise[2]				
Calculation of Maximum Number	[2] For properties with more than one street frontage, one ground sign shall be allowed per non-local street frontage. For example, if the property has frontage along an arterial and a local street, a ground sign shall only be allowed along the arterial street. If the property has frontage along an arterial and a collector street, the property can have a ground sign along each frontage. If the property only has frontage along a local street, then one ground sign is allowed on that frontage.				

(3) *Structure type*. All monument signs shall be constructed with a base full width to the sign face that shall be architecturally designed to incorporate details and materials which are complementary to those utilized in the primary building facade.

(4) *Setbacks and Spacing*. All ground signs shall meet the following minimal setback requirements:

a. All ground signs shall comply with the requirements for preserving corner visibility at street intersections contained in section 10-7.506 and transportation right-of-way preservation contained in section 10-7.530 of this Code which may increase the minimum setback requirements of this section.

b. All ground signs shall maintain a minimum 5-foot setback from all property lines, except in the BC-1, BC-2, BCS and BOR zoning districts which shall maintain a 10-foot setback from the property line.

c. All ground signs shall maintain a minimal peripheral spacing of fifty (50) feet between sign structures, including those off-site.

d. Where adjoining single-family residential uses, all ground signs shall be set back a minimum of 50 feet from adjoining property lines.

(5) *Maintenance entity*. A legal entity, such as a homeowner's association, property owner's association, or similar entity, shall be provided to ensure the maintenance of the ground sign if located in a residential subdivision, shopping center, or mixed-use development. If a sign is not located within common areas with a defined maintenance entity, then a sign easement area will be required.

(6) *Landscaping requirements*. Landscape areas are intended to enhance the aesthetic value of the sign. All permanent ground signs greater than 32 square feet of sign surface area shall be subject to landscape requirements. Signs less than 32 square feet of sign surface area are encouraged, but not required, to incorporate landscaping as outlined herein. Existing signs shall comply with this section at the time of new development or redevelopment that requires site plan review.

a. A landscape area shall be provided within 4 feet of the base of the sign. The landscape area is not required to completely encircle the sign but should enhance the area of the sign without obstructing its visibility or readability. The applicant may incorporate the sign landscape area within a required perimeter landscape area pursuant to Article IV of this chapter and receive sign landscape credits.

b. The required landscape area shall be a minimum of ½ of the surface area of the sign. Applicants are encouraged to exceed the minimum landscaping requirements with an attractive design.

c. Native plant species shall be utilized in the landscape design, and zero-scaping is encouraged.

d. The landscape area shall be approved in conjunction with the associated site plan for the development and shall include a maintenance plan.

(j) *Masonry-wall signs*: Masonry-wall signs shall be considered a type of ground and shall adhere to the allowances and requirements for ground signs outlined in this article. Signs shall be mounted directly to the masonry-wall surface.

(k) *Interstate highway signs*. Interstate highway signs shall only be allowed on properties within 660 feet of an intersection of an interstate highway interchange. Interstate highway signs shall not exceed 100 feet in height and a maximum sign surface area of 150 square feet. An interstate highway sign shall count toward a property's maximum number of ground sign allowances outlined in Table 10-9.3a. Interstate highway signs shall incorporate trees into the required landscaping plan. The type of trees required (canopy or understory) shall depend on the site and be determined in coordination with the county and the utility provider if the sign location impacts utility services.

(l) *Residential subdivision signs.* Ground signs, including monument, masonry-wall, and pole signs, are allowed for residential subdivisions, multi-family residential developments, or manufactured housing parks, contiguous to an entrance, provided the following requirements are met:

(1) *Non-commercial message*. Signs shall contain only the name of the subdivision, development, or park, and an address. The sign shall not contain promotional or sales material.

(2) *Sign area and height*. The sign surface area shall not exceed 40 square feet and shall not be greater than six (6) feet in height.

(3) *Number of primary signs.* One double-faced or two single-faced signs are allowed per entrance when located on an arterial or collector roadway. One single-faced or one double-faced sign is allowed per entrance when located on a local roadway. The term "entrance" in this section does not apply to the points of interconnection between two subdivisions.

(4) *Number of secondary signs.* Two additional signs shall be allowed at each point of internal interconnection between two subdivisions for neighborhood identification. Signs shall not exceed 10 square feet in sign surface area and four (4) feet in height.

(m) *Signs accessory to services offered to patrons within vehicles.* Businesses which offer services to patrons within vehicles shall be afforded the following additional ground and/or wall sign allowances. To qualify, the sign shall be purely accessory, generally informational, or directional in nature.

(1) *Signs accessory to drive-thru banks, drugstores, pharmacies, and other similar uses as determined by the County Administrator or designee.*

a. One drive-thru lane indicator sign which directs patrons to lanes which are open, closed, or similarly directional is allowed per drive-thru lane, not to exceed 3 square feet of sign copy area.

(2) *Signs accessory to drive-thru restaurants, car washes or other similar uses as determined by the County Administrator or designee.*

a. One ground drive-thru menu item preview sign display comprised of up to 10 square feet of sign copy area shall be permitted per drive-thru lane.

b. One ground drive-thru menu display comprised of up to 80 square feet of sign copy area shall be permitted per drive-thru lane. Content upon such signage shall be permitted to change but shall not include video, flashing images, or effects.

c. One ground drive-thru order confirmation sign display comprised of up to 2.5 square feet of sign copy area shall be permitted per drive-thru lane.

(3) *Signs accessory to emergency medical drive-thru facilities or other similar uses as determined by the County Administrator or designee.* One additional wall sign comprised of up to 25 square feet of sign copy area shall be permitted per drive thru canopy over emergency and ambulance entrances.

(4) *Signs accessory to the sale of gasoline*. Up to 3 sides of canopy shall be allowed to have signage, provided the total sign surface area for all canopy signs shall not exceed 30 square feet. Striping and coloring that may be associated with a corporate logo shall not be counted as part of the sign surface area.

(n) *Shopping center signs.* One ground monument sign shall be allowed in a shopping center for the first 500 linear feet of frontage adjacent to a street and one additional ground monument sign for each additional 500 linear feet of frontage or major fraction thereof. A master sign plan, as outlined in subsection 10-9.402, is required for shopping centers. Sign height and surface area allowances shall be as follows:

(1) Overall maximum surface area for shopping center ground signs shall be based on the gross leasable area (GLA) within the shopping center as follows:

a. *Neighborhood Center, at least 30,000 but less than 125,000 square feet GLA:* One hundred seventy-five square feet.

b. *Community Center, at least 125,000 but less than 400,000 square feet GLA:* Two hundred square feet.

c. *Regional Mall, at least 400,000 square feet GLA:* Three hundred square feet.

(2) Each monument sign may include the name of the shopping center, which shall not be counted in the calculation of allowable sign surface area.

(o) *Wall signs.* Wall signs shall be subject to the allowances and requirements herein. Allowable sign surface area may be further limited by the placement standards outlined in this section. Calculations for allowable sign surface area will need to be demonstrated on the sign permit application.

(1) *Sign surface area allowances:* The maximum sign surface area allowance for all wall signs shall be calculated as two square feet (2 SF) of area for each foot of building frontage occupied by the business displaying signs, or one square foot (1 SF) of area for each foot of frontage of property occupied by the building, whichever is greater. However, in no case shall the total square footage of all wall signs exceed the maximum sign surface area outlined in Table 10-9.3b.

Table 10-9.3b – Wall Sign Allowances for Non-Residential Uses:

Building Footprint (Single-Use Tenant)	Maximum Wall Sign Surface Area	Maximum Number of Wall Signs*	Location
1 SF – 50,000 SF	100 SF	2	(1) Primary frontage; or (2) Secondary frontage*, when same or similar facade treatment is used on both the front and side of the building *When signs are only proposed on the primary frontage, the maximum number of signs allowed shall be reduced by one.
50,001 – 100,000 SF	250 SF	3	
100,001 – 200,000 SF	350 SF		
200,001 – 400,000 SF	500 SF	4	
400,001 – 600,000 SF	650 SF		
600,001 – 800,000 SF	800 SF	5	
800,001+	900 SF		

(2) *Placement and Sign Surface Area Limitations*:

a. *Wall signs.* Wall signs shall not extend more than 12 inches from the building wall to which they are attached and shall adhere to the placement standards outlined below:

i. Walls signs shall be compatible in scale with the building façade on which they are located and shall not block or cover architectural features.

ii. A wall mounted sign shall not exceed ten (10) percent of the area of the tenant wall area on which it is mounted and shall maintain a minimum of ten (10) percent clear area on each outer edge of the tenant space or the edge of the architectural features of the façade, whichever is more restrictive.

iii. Wall signs for multiple tenant commercial buildings shall be uniformly designed and placed.

iv. Wall sign placement for buildings with multiple tenant floors shall be approved as part of a master sign plan.

b. *Projecting or blade signs.* Projecting or blade signs shall be considered a type of wall sign and shall be calculated in the overall sign surface area allowances for wall signs. Projecting or blade signs shall not project four (4) feet beyond the surface portion of the building to which they are attached and shall not project vertically above the roofline. Such signs under which a pedestrian walkway passes shall maintain an eight (8) foot vertical clearance.

c. *Canopy signs.* Canopy signs shall be wall signs and shall be calculated in the overall sign surface area allowances for wall signs. Signs or sign structures located on a canopy, including a marquee, shall be affixed flat to the surface and shall not be greater than two (2) feet in vertical dimension above the marquee and shall not extend horizontally beyond the canopy.

d. *Awning signs.* Awning signs with words shall be considered a wall sign and shall be calculated in the overall sign surface area allowances for wall signs. No more than 2 awning signs shall be allowed per single-use tenant and shall not exceed 50% of the awning face to which it is applied. Awning signs shall be considered accessory signs only when graphics are used without words. No more than 6 accessory awning signs (graphics only) shall be allowed per single-use tenant and shall not exceed

25% of the awing face to which it is applied. No more than 6 total awning signs (word signs, graphics or a combo of both) shall be allowed for each premise.

e. *Rear identification signs*. Rear identification signs shall be considered accessory signs and shall not be calculated in the overall sign surface area allowances for wall signs. Establishments with access through the rear of the building shall be allowed one rear identification sign for the purpose of identifying the establishment from a rear parking or loading area. The rear identification sign shall not exceed ten (10) square feet of sign surface area.

f. *Under canopy signs.* Under canopy signs shall be considered accessory signs and shall not be calculated in the overall sign surface area allowances for wall signs. Under canopy signs shall not exceed six (6) square feet, including the sign structure but excluding hanging brackets or other hanging mechanisms. Under canopy signs may extend below a canopy but shall maintain an eight (8) foot vertical clearance and shall not exceed the width of the canopy.

g. *Window signs and graphics*. Window signs and graphics are considered accessory signs and shall not be calculated in the overall sign surface area allowances for wall signs. The placement of window signs shall not obscure more than 25 percent of the area of the window or spandrel glass in or on which they are placed or through which they are viewed.

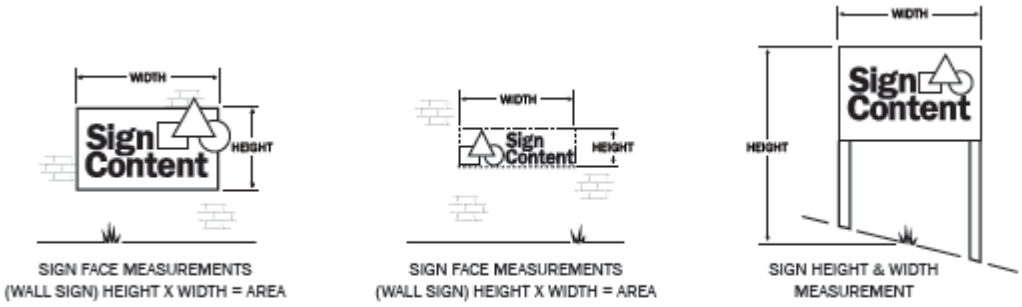


Figure 1 Sign Measurements

Sec. 10-9.402. Master Sign Plan.

Master sign plan. Development plans for any shopping center, office park, industrial park or any other multi-tenant non-residential development with 30,000 gross leasable square feet or greater and more than 3 tenant spaces, shall include a master sign plan for the development's ground signage and wall signage. The master sign plan shall establish an adequate distribution among tenants, and any associated or related outparcels, for the total non-exempt ground site sign allowances as outlined in this article. Existing non-residential development and redevelopment may have the option of submitting for a master sign plan if desired. Other development, under the 30,000-gross leasable square footage, may also have the option of submitting for a master sign plan.

(1) *Allowances.* Where required, sites shall present a master sign plan which demonstrates the following:

a. The total square footage of all wall signs and ground signs (not including any exempt signage) added together does not exceed the standards as set by this article.
b. The allowable wall sign(s) square footage may be transferred to the allowable ground sign(s) on a site.

c. The allowable ground sign(s) square footage may be transferred to the allowable wall sign(s) on a site.

d. Wayfinding signs may be allowed, where determined appropriate, within a master sign plan and shall not count towards the overall square footage allowances allotted to a development. Wayfinding signs shall not exceed 6 feet in height and 25 SF in sign surface area.

(2) *Review Process.*

a. *New development.* A master sign plan shall be established at the time of site plan review for the first development on the property(ies), including any outparcels or areas under common ownership or control.

b. *Redevelopment.* A master sign plan shall be established at the time of site plan review for the redevelopment of the property. If the property is a smaller portion of an area under common ownership or control, then these areas may also be required to be included in the master sign plan as determined by the County Administrator or designee.

c. *Existing development.* A master sign plan may be submitted at any time to allow more flexibility in signage for a site. If the property is a smaller portion of an area under common ownership or control, then these areas may also be required to be included in the master sign plan as determined by the County Administrator or designee.

d. *Fees.* A master sign plan and/or master sign plan modification shall be assessed the same fees as other sign permit compliance review.

e. *Approval Authority.* The entity with the authority to approve the associated site and development plan shall review and approve the master sign plan.

(3) *Submittal requirements.* The master sign plan application shall include, at a minimum, the following information; however, additional information may be required as determined by the County Administrator or designee:

a. A map of all the parcels included in the signage plan.

b. A location map of all proposed grounds signs shown with setbacks from property lines and other ground signs.

c. A chart showing the height and square footage of all ground signs.

d. Standards and square footage allowances for all tenant wall signs. Tenant spaces can be further defined to allow anchor tenants more square footages than smaller tenants. Individual wall signs do not have to be shown or dimensioned at this time.

e. Lighting details for all ground signs and wall signs noting if up-lighting or down-lighting is being incorporated in the building construction.

(4) *Plan authority.* Upon county approval of the master sign plan, non-exempt ground and wall signage for the entire development and its tenants shall be as prescribed by the plan, regardless of subsequent changes in property ownership or tenancy, unless a modified signage plan for the entire development is resubmitted by the property owner(s) and approved by the county.

(5) *Plan modifications.* Modifications to existing master sign plan shall include a written narrative of the proposed changes, including a justification for these changes, along with a site plan showing the new proposed sign locations.

(6) *Prohibitions.* Billboards, or other off-site signs, shall not be included as part of a master sign plan and shall require separate review and approval as outlined in this article. Additionally, a master sign plan shall not be a mechanism used to bring non-conforming signs into compliance by the creation of standards which exceed the standards contained in this article.

DIVISION 5. TEMPORARY SIGNS

Sec. 10-9.501. Temporary Signs.

Temporary signs on real property shall only be permitted as outlined in Table 10-9.5.

Table 10-9.5 - Temporary Sign Standards:

TEMPORARY SIGN STANDARDS	Residential Properties 5 Acres of Less	Residential Properties Greater than 5 Acres and all Non-Residential Properties
Number of Signs per Event or Occurrence	One	One for every 5 acres or major fraction thereof
Frequency	No more than 3 times during any calendar year	
Duration	30 calendar days prior to the event or occurrence with a maximum duration of 60 calendar days total	
Removal	No later than 10 days after the event or occurrence	
Additional Temporary Sign	One additional sign shall be allowed on property when such property is actively listed for sale or for lease and shall conform with the standards as set forth herein. This additional sign shall be removed within one week of the execution of an agreement for sale or lease of the property.	
Maximum Area	8 SF	32 SF
Maximum Height	4 feet	6 feet
Minimum Setback	5 feet from all property lines	10 feet from all property lines
Illumination	Temporary signs shall not be illuminated	
Sign Type	May only be in ground, building mounted, or a banner	

DIVISION 6. BILLBOARDS

Sec. 10-9.601. Application approval requirements for billboards.

(a) No billboard shall be allowed unless an application, pursuant to this section, has been approved.

(b) An application for a billboard shall be made on a form prescribed by the county, and a separate application shall be submitted for each requested sign structure.

(c) An approved application is valid only for the location specified in the application.

(d) The county will act on applications in the order of the date of receipt of a complete application.

(e) An application will be considered complete when all the items on the application form, which is to be completed by the applicant, have been filled in, all required attachments received, and the correct permit fee submitted. All information provided on the application by the applicant must be certified as true and correct. The applicant may utilize information derived from the Tallahassee-Leon County Geographic Information Systems database as the basis of the application. To be determined complete, an application shall include, at a minimum, the following content, unless the County Administrator or designee waives any requirement, with documentation, as inapplicable to the application:

(1) Tax identification numbers for the parcel or parcels that are the subject of application, along with a completed owner's affidavit attesting that they own the subject property and have authorized the construction of the proposed sign thereupon.

(2) Names, addresses, and telephone numbers of all owners of the parcel on which the sign is to be located, along with the same information for the sign's owners, and any optionees, and agents.

(3) Total acreage of the parcel or parcels, and, if the development is on a portion of a larger parcel, the acreage of the larger parcel and of the portion on which the billboard is proposed to be located.

(4) A graphic plan, 11 inches × 17 inches or larger, containing the following:

a. The date of the application preparation, north arrow, and the scale of the site plan, both written and graphic.

b. Location of sign to be constructed by the applicant.

c. Rendering of sign and sign structure, in plan view and in section view, either drawn to scale or with dimensions labeled, and illustrating the orientation of the sign relevant to the property boundaries.

d. Latitude and longitude of proposed sign location (GPS coordinates).

e. Type of sign to be constructed (standard/multivision/digital; copy on one or two faces).

f. Location of off-site signs removed in exchange for the billboard proposed by the application, along with documentation (original certificates of removal) for each such sign removed.

g. Lot and block numbers, if applicable.

h. Location of access/driveway connections and sidewalks within 100 feet of the proposed sign location.

i. Proposed changes to existing topography; if no changes are proposed, indicate accordingly.

j. Location and depth of setback from all streets and roadways within 100 feet of the proposed sign location.

k. Where the site and development plan covers only a portion of the landowner's entire parcel, a map depicting all of the landowner's contiguous property and proposed use for the balance of the parcel or parcels, not including the site which is the subject of the application.

l. Identification of trees that would require removal or be impacted by the proposed billboard.

m. Additional information as may be required by the county to clarify relevant points.

(f) Construction plans (may be provided on either legal size or larger plans) illustrating the face of the sign, the supporting structure, the foundation, the electrical plan for the illumination of the sign, and the wind analysis evaluation. The construction plans must be sealed by a professional engineer licensed in the state.

(g) Incomplete applications shall be returned to the applicant.

(h) Completion of or corrections to the original submitted document must be initialed by the applicant.

(i) Final disposition of complete applications will be provided within 90 calendar days of completeness determination. Final disposition will constitute either approval of the application; approval of the application, subject to conditions; or denial of the application. No environmental or building permit shall be issued for any billboard unless an application has been approved in compliance with this section; any environmental or building permit for a billboard shall be consistent with the application approved in compliance with this section. No modification of an approved environmental permit or building permit for an off-site sign shall be authorized unless an application has been approved in compliance with this section.

(j) Applications for the construction of billboards shall require the applicant to furnish location coordinates for the proposed sign or billboard. The coordinates shall indicate the latitude and longitude in decimal degrees of the proposed sign or billboard and shall conform to the standards of the Global Coordinate System WGS84. For monopole supported signs and billboards, the coordinates provided shall refer to the location of the center of the pole. For billboards proposed to utilize multiple support structures, the coordinates shall refer to the location of the center of the sign.

Sec. 10-9.603. Location standards.

(a) Billboards shall be located only in the following zoning districts:

(1) CP - Commercial Parkway District.

(2) C-2 - General Commercial.

(3) M-1 - Light Industrial District.

(4) I - Industrial District.

(5) IC - Interchange Commercial District.

(6) PUD - Planned Unit Development District. If located inside the urban services area, signs may be located within PUD districts if "billboard or off-site sign" is an allowed use in the approved PUD

concept plan or if commercial or industrial uses are allowed uses and residential use is not an allowed use.

(7) DRI - Development of Regional Impact District. If located inside the urban services area, signs may be located within areas allowing commercial or industrial use if "billboard or off-site sign" is an allowed use in the approved application for development approval or other implementing development order.

(b) Gateway and canopy road overlay restrictions. Billboards shall be prohibited in the following locations:

(1) Within 200 feet of the right-of-way of Thomasville Road.

(2) Within 200 feet of the right-of-way of Kerry Forest Extension.

(3) Within 200 feet of the right-of-way of Welaunee Boulevard.

(4) Within 200 feet of the right-of-way of that segment of Mahan Drive, extending from Buck Lake Road generally eastward to the Jefferson County Boundary, except for that segment between Thornton Road and I-10.

(5) Within 200 feet of the right-of-way of N. Monroe Street, north of I-10 and extending to the Leon County jurisdictional line.

(6) Within 300 feet from the centerline of a canopy road regardless of the zoning district.

(c) No billboard shall be located in any location where existing trees in the public right-of-way, or trees proposed as part of an approved/permitted beautification project approved prior to the application, must be cut, trimmed, or removed so that the sign face is visible from the public right-of-way.

(d) No standard billboard shall be permitted within 150 feet of any residentially zoned property; this standard shall be applied to properties located both within and without the unincorporated area of the county. Minimum setbacks from residentially zoned property for multivision signs and digital billboards are set out in sections 10-9.307 and 10-9.308, respectively.

(e) No billboard shall be located within 50 feet of the right-of-way of a street classified as a principal arterial, minor arterial or major collector in the comprehensive plan.

(f) No billboard sign shall be located closer than 15 feet from the nearest right-of-way line, as measured from any point of the structure.

(1) Billboards shall be set back from all other existing or permitted off-site signs as follows:

(2) Billboards shall be set back a minimum of χ feet from any other existing or permitted billboard located along a street, where χ =:

a. 1,500 feet between two standard off-site signs;

b. 1,800 feet between a standard off-site sign and a multivision sign or digital billboard; and

c. 2,700 feet between two digital billboards, two multivision signs, or a digital billboard and multivision sign.

(3) Setbacks between signs are required between billboards located on the same side of a street. No setback is required between billboards located on opposite sides of the right-of-way boundary of a street.

(4) Setbacks between billboards signs shall be measured from the shortest point-to-point distance between closest portions of signs.

(5) Billboards shall be considered to be located along a street when located 660 feet or less from that street's right-of-way boundary.

(6) This standard shall be applied to properties located both within and without the unincorporated area of Leon County.

Sec. 10-9.604. Maximum number of billboards allowed within the unincorporated county.

(a) *Billboard inventory will be maintained by the county.* The department of development support and environmental management will maintain an annual inventory of billboards within the unincorporated portion of the county. The county will conduct an annual audit of permits issued for billboards to determine the current number of such signs within the unincorporated portion of the county. Signs located within areas subsequently annexed into corporate municipal limits shall be deleted from the county's inventory of billboards.

(b) *The maximum number of permitted billboards shall be equivalent to the number in the inventory.* The maximum number of billboards allowed within the county shall be limited to the number of signs included in the billboard inventory.

Sec. 10-9. 605. Maximum height.

The maximum height of an off-site sign shall be measured from the crown of the right-of-way where the sign is affixed to the ground. The maximum height of an off-site sign shall be 40 feet.

Sec. 10-9.606. Maximum-size and structural requirements.

Billboards shall not exceed the following maximum size limits: including border and trim, but excluding the supporting framework, of 380 square feet per face. No more than two sign faces may be located on one sign structure. Signs may not be stacked (vertically or horizontally). Faces on a sign may be parallel to one another, or arranged to form an angle not exceeding 60 degrees. When faces on a sign are not parallel to one another, they may be joined at a vertex or separated by no more than 60 inches where closest to one another.

Sec. 10-9. 607. Procedural requirements to obtain a new billboard.

A building permit for the construction of a new billboard may be issued only after the removal of one or more existing billboards with its supporting structure. Confirmation of removal of an existing off-site sign shall be on file in the county department of development support and environmental management prior to issuance of a building permit to construct a new sign. Such documentation shall be in the form of a site inspection by county staff. Upon documentation of the removal of a billboard with its supporting structure, a certificate shall be issued by the county for each billboard and structure removed. The certificate of removal (COR) shall allow the holder to apply for a permit for construction of a sign having a surface area no greater than that of the sign removed. The owner of the certificate may hold the certificate, redeem it as a prerequisite for a building permit to construct a new billboard, or convey the certificate to a third party.

Sec. 10-9. 608. Requirements for multivision signs.

In addition to the requirements provided for all billboards, multivision signs shall also comply with the following criteria:

(a) In order to obtain an approval for a new multivision sign, the applicant must permanently remove one existing multivision sign or two standard billboards; for purposes of this requirement, any existing sign considered to be nonconforming with regard to those location standards, set out in section 10-9.302(a), (d) and (e), shall be considered to be equivalent to two standard billboards;

(b) No multivision sign shall be located within 200 feet of any residentially zoned property;

(c) The static display time for each message is a minimum of six seconds;

(d) The time to completely change from one message to the next is a maximum of two seconds;

(e) The change of message occurs simultaneously for the entire sign face; and

(f) The sign shall contain a default design that will hold the face of the sign in one position in the event of malfunction.

Sec. 10-9.609. Requirements for digital billboard signs.

The following standards shall apply to digital billboard signs:

(a) *Number of digital billboards allowed.* No more than six digital billboard signs shall be allowed. An applicant shall not be eligible to apply for or receive more than two-thirds of the six digital billboards allowed.

(b) *Removal of off-site signs required in exchange for digital billboard signs.* An applicant shall be eligible to receive a permit for one digital billboard sign after the permanent removal of four existing off-site signs so long as their application complies with applicable regulations and standards set out in this article. For purposes of this requirement, any existing sign considered to be nonconforming with regard to those location standards, as set out in section 10-9.302(a), (d) and (e), shall be considered to be equivalent to two off-site signs, any existing multivision sign shall be considered to be equivalent to two off-site signs, and any existing multivision sign or digital billboard sign considered to be nonconforming with regard to gateway road overlay restrictions as set out in section 10-9.302(b), shall be considered to be equivalent to four billboards. At least one of the signs removed must be from the county commission district in which the new digital billboard sign is to be permitted and constructed.

(c) *Signs to be deleted from inventory.* Standard billboards removed in exchange for digital billboards shall be deleted from the county inventory of billboards.

(d) *Standards for digital billboards.* Digital billboards shall be required to comply with all requirements for off-site signs, and, in addition, all digital billboard signs shall comply with the following standards:

1. No digital billboard sign shall be located within 300 feet of any residentially zoned property;
2. No flashing lights, traveling messages, animation, or other movement shall be allowed;
3. No message may be displayed for less than six seconds;
4. The time to completely change from one message to the next is a maximum of two seconds;

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5. Illumination of a digital billboard sign shall not exceed the following brightness limits measured as candelas per square foot at any focal point on any roadway, berm, or vehicular approach to any roadway:

Color	Day	Night
Red	200	67
Green	400	133
Amber	300	100
Blue	500	210
All Colors	400	170

(e) The sign shall contain a default design that will hold the face of the sign in one position if a malfunction occurs.

DIVISION 7 - NONCONFORMING SIGNS

Sec. 10-9.701. General Provisions.

(a) *Addition of ground signs to property with non-conforming ground signs.* No property shall be allowed to add new ground signs as afforded by this article until such time that all non-conforming ground signs are made conforming to the standards outlined in this article, with the exception of meeting setbacks, or a variance is granted by the board of adjustment and appeals.

(b) *Alterations, modifications, and rebuilding.* Non-conforming permanent on-site sign or billboard sign shall not be altered, modified, or rebuilt except in conformity with this article, unless a variance is granted by the board of adjustment and appeals in accordance with article II, division 3, subdivision 3 of this chapter based upon a demonstration of hardship not resultant of the sign owner's or property owner's actions, and no increase in degree of nonconformity.

(c) *Maintenance and repair*. Non-conforming permanent on-site signs and billboards may be maintained and repaired but shall not be structurally or mechanically extended or altered to further the non-conformance, except as required by the building official in cases where it has been determined that there exists imminent danger to the public safety.

(d) *Relocation of billboards*. Notwithstanding those regulations, requirements, and standards as set out in article VI, division 6 of this chapter, any existing and lawfully established billboard which is non-conforming as to location requirements may be relocated upon receipt of a variance from the board of adjustment and appeals, based upon the following findings:

(1) The applicant has demonstrated a hardship not resultant of the sign owner's actions;

(2) The relocation of the sign is by not greater than 50 feet;

(3) The relocation of the sign is to another portion of the same parcel of property;

(4) The relocation of the sign shall comply with the applicable standards for setback from residentially zoned property as established in section 10-9.602 for standard off-site signs, section 10-9.607 for multivision signs, and section 10-9.608 for digital billboards;

(5) Existing trees in the public right-of-way, or trees proposed as part of an approved/permitted beautification project approved prior to the application, will not be cut, trimmed, or removed to make the sign face visible from the main travel way;

(6) The sign conforms with all other applicable standards in Chapter 10 of the Leon County Code of Laws; and,

(7) The new location does not increase the degree of nonconformity as to location.

Sec. 10-9.702. Limitations for Non-Conforming Signs, Not Including Billboards.

(a) A non-conforming sign shall be removed upon verification that any of the following conditions have been met:

(1) The use in which such non-conforming sign references has been abandoned for more than 24 months; or

(2) The regulations or amendment to these regulations which made the sign non-conforming has been in effect for ten (10) years or more.

(b) *Extension of time to comply.* The dates established in this section for a sign to be brought into compliance with the requirements of these regulations may be extended at the request of the sign owner or lessee. In evaluating the extension of time for a nonconforming sign, the applicant shall provide documentation and the county shall consider the following factors to determine whether the owner of the sign has had a reasonable amount of time to recoup the initial investment:

(1) The value of the sign at the time of construction and the length of time the sign has been in place;

(2) The life expectancy of the original investment in the sign and its salvage value, if any;

(3) The amount of depreciation and/or amortization of the sign already claimed for tax or accounting purposes;

(4) The length of the current tenant lease or expected occupancy compared to the date the sign is to be brought into compliance;

(5) The extent to which the sign is not in compliance with the requirements of these regulations; and

(6) The degree to which the county determines that the sign is consistent with the purposes of these regulations.

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DIVISION 8. ABANDONED SIGNS

Sec. 10-9.801. Abandoned Signs.

(a) Sign structures that remain vacant, unoccupied, devoid of any message, or display a message pertaining to a time, event, or purpose that no longer applies, for a period of 24 months, shall be deemed to be abandoned.

(b) A non-conforming sign deemed abandoned shall immediately terminate the right to maintain such sign.

(c) After a sign structure has been deemed abandoned, it shall be the responsibility of the property owner or the property owner's authorized agent to remove the abandoned sign and to patch and conceal any and all damage to any other structure resulting from the removal of the sign.

(d) When a sign is deemed abandoned, all components, including foundation, shall be removed.

DIVISION 9. VARIANCES AND APPEALS

Sec. 10-9.901. Variances and appeals.

(a) Application of the provisions of this article may be varied by the board of adjustment and appeals, in accordance with article II, division 3, subdivision 3 of this chapter where such variance will not be contrary to the public interest and, where owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the code involved would result in an unnecessary or a unique hardship.

(b) Whenever it is claimed that the true intent or meaning of any of the provisions in this article or any of the regulations contained therein or promulgated thereunder have been misconstrued or wrongly interpreted, the property or sign owner or his duly authorized agent may appeal from the decision of the administrative officer to the board of adjustment and appeals in accordance with article II, division 3, subdivision 3 of this chapter. In addition, a request for an extension of time to avoid a determination that a discontinuance of use constitutes an abandonment of a sign for purposes of this article shall be processed as an appeal.

(c) Requests for variances or appeals shall be made in written form to the board of adjustment and appeals.

(d) Decisions of the board of adjustment and appeals shall be final, subject to such legal remedy as any aggrieved party might have.

Section 2. Amendments to Section 10-1.101 of the Code of Laws of Leon County, Florida.

Section 10-1.101 of Article I of Chapter 10, the Land Development Code, of the Code of Laws of Leon County, Florida, entitled "Definitions," is hereby amended to read as follows:

Sec. 10-1.101. Definitions.

The following words, terms, phrases, and abbreviations and their derivations, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning, or a different meaning is ascribed to them under another section in this chapter. Words defined herein shall be construed as defined, whether or not the first letter of the defined term is capitalized. Words, terms, and phrases not defined herein shall be construed to have the meaning given by their common and ordinary use. When consistent with the context, words used in the present tense include the future tense,

words used in the plural tense include the singular tense, and words used in the singular tense include the plural tense.

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Animal feedlot means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and is specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For the purpose of this chapter, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under this chapter.

~~*Animated sign* means any sign of which all or any part thereof visibly moves in any electronic fashion whatsoever; and any sign which contains or uses for illumination any light, lights, or lighting device or devices which change color, flash or alternate, show movement or motion, or change the appearance of said sign or any part thereof automatically. The term "animated sign" shall not include revolving signs or multi-face mechanical (tri-vision) signs.~~

Apartment means a multifamily dwelling unit containing a room or suite of rooms together with kitchen or kitchenette and sanitary facilities.

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Available capacity means the capacity of a concurrency facility available for use by the demand from new development.

~~*Bandit sign* means any sign placed on wooden stakes or wire supports that are driven into the ground.~~

~~*Banner* means any hanging sign possessing characters, letters, illustrations or ornamentations applied to paper, plastic or fabric of any kind. This classification shall not include plastic or fabric signs which are permanently attached within a rigid frame which are intended to be used as a permanent sign. National flags, flags or political subdivisions and symbolic flags of any institution or business shall not be considered banners for the purpose of this chapter.~~

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation shall mean the flood elevation having a one-percent chance of being equaled or exceeded in any given year, relative to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or other datum specified on the flood insurance rate map (FIRM).

Basement means the part of a building that has at least half of its height below ground level. The basement of a building will be included in calculation of a floor area ratio if it is finished sufficiently to serve as space that is suitable for the primary activities for which the building was designed and constructed.

Bed and breakfast inn means an owner-occupied structure originally built and utilized as a single-family residence converted to function as a single-family residence providing a limited number of guest rooms available on a daily rental basis. Kitchen facilities are not available in individual rooms.

~~*Bench sign* means a sign located on any part of the surface of a bench or seat placed adjacent to a public right-of-way.~~

Best management practice (BMP) means a practice or principle designed to reduce and manage pollution, the adverse impact of changes in the natural ecosystem, and in some cases, protect wildlife and habitat. These principles and practices are generally outlined in the latest updated version of various BMP manuals, including Silviculture Best Management Practices; Best Management Practices, A Landowners Handbook for Controlling Erosion for Forestry Operations; Management Guidelines for Forested Wetlands; DER: Florida Development Manual, A Guide to Sound Land and Water Management; and other publications on best management practices that are generally accepted by the industries and regulatory bodies.

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Coop means a covered house, structure, or room that will provide chickens with shelter from weather and with a roosting area protected from predators. A coop typically includes an outside exercise area to allow chickens access to foraging and sunlight.

~~*Copy* means the wording on a sign surface in either permanent or removable letter form.~~

Correction plat means a plat which contains dimensional or notational corrections of erroneous information contained on the originally approved and recorded plat. A correctional plat is intended solely to

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Housing, special needs, mean that part of the housing provision system designed to fulfill the demand of a household or individual who needs assistance, either permanent or temporary, in obtaining basic shelter, including, but not limited to, very low and low income individuals, persons with disabilities , or homeless persons. Special needs housing includes group homes for persons with physical, emotional or cognitive disabilities; shelters for battered victims; adult congregate living facilities; and halfway houses for the noncriminal or nondelinquent.

~~*Identification sign* means a sign which depicts the name and/or address of a building or establishment on the premises where the sign is located as a means of identifying said building or establishment.~~

Impact fee means collectively the countywide road impact fee and the collector road impact fee.

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Owner means the person holding fee simple title to a parcel, building, or structure.

~~*Painted wall sign* means any sign which is applied with paint or similar substance on the face of a wall.~~

Parcel means real property in the county, which has a single property certification number assigned to it by the property appraiser of the county.

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Waiver means a grant of permission which is authorized under this chapter that authorizes an applicant to deviate from specific standards or provisions of Article VI of this chapter.

~~*Wall sign* means a sign attached to or erected against the wall of a building with the face in a parallel plane to the plane of the building wall.~~

Warehouses, miniwarehouses, or self-storage facilities mean a building used primarily for storage of goods and materials.

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Wildlife habitat enhancements mean elements of a landscape design which facilitate the use of a landscaped area by wildlife. Such elements may include hummingbird and butterfly gardens, use of native shrubs which provide food for wildlife, birdhouses, bathhouses, and water gardens.

~~*Window sign* means any sign placed inside or upon a window facing the outside and which is intended to be seen from the exterior.~~

Xeriscaping means landscaping or other planting or preservation of areas in a manner that will require minimal irrigation for survival of vegetation, including planting or preservation of native and natural species.

Yard, required, means the minimum lot area as specified in these regulations for front, side, and rear yards, as distinguished from any yard area in excess of the minimum required.

Zero lot line means the location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

Section 3. Amendments to Section 10-6.612 of the Code of Laws of Leon County, Florida.

Section 10-6.612 of Article VI of Chapter 10, the Land Development Code, of the Code of Laws of Leon County, Florida, entitled "Rural Zoning District," is hereby amended to read as follows:

Sec. 10-6.612. – Rural Zoning District

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7. Development Standards									
Use Category	**a. Lot area (acres)**	**b. Minimum lot frontage**	**c. Front yard setback**	**d. Corner yard setback**	**e. Side yard setback**	**f. Rear Yard setback**	**g. Maximum height at building envelope perimeter**	**h. Maximum height per additional setback**	**i. Total maximum height**
Low density residential	10 acres minimum	15 feet	30 feet	30 feet	20 feet	50 feet	35 feet	1′/1′	Not applicable
Rural commercial	3.0 acres minimum, 5.0 acres maximum*	40 feet	50 feet building, 50 feet parking	50 feet building, 50 feet parking	50 feet building, 50 feet parking	50 feet building, 50 feet parking	35 feet	1′/1′	45 feet

Community services	See Development Standards for Community Services in Section 8	40 feet	50 feet building, 50 feet parking 100 feet building, 100 feet parking (for structures greater than 5,000 square feet)	50 feet building, 50 feet parking 100 feet building, 100 feet parking (for structures greater than 5,000 square feet)	50 feet building, 50 feet parking 100 feet building, 100 feet parking (for structures greater than 5,000 square feet)	50 feet building, 50 feet parking 100 feet building, 100 feet parking (for structures greater than 5,000 square feet)	35 feet	1′/1′	45 feet
Restricted uses; passive recreation facilities	3.0 acres minimum	Not applicable	50 feet building, 50 feet parking; unless otherwise specified in subsection 10 of this section	50 feet building, 50 feet parking; unless otherwise specified in subsection 10 of this section	50 feet building, 50 feet parking; unless otherwise specified in subsection 10 of this section	50 feet building, 50 feet parking; unless otherwise specified in subsection 10 of this section	35 feet	1′/1′	45 feet
Comp. Plan Policy 2.1.9 subdivision	0.5 acres minimum	15 feet	25 feet	25 feet	15 feet	50 feet	35 feet	1′/1′	Not applicable

8. Development Standards for Community Service Uses:
(1) The maximum single structure size and site area shall be limited by the overall acreage of the parcel to preserve the rural character through proper scale and massing. Community service uses shall also be subject to the site design criteria of subsection 11 of this section.

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Parcel size	**Less than or equal to 10 acres**	**>10 to 49 acres**	**50 acres +**
Maximum single structure size (gross building floor area)	5,000 square feet	10,000 square feet	15,000 square feet
Site area	Min: 3 ac Max: 5 ac	Min: 3 ac Max: 10 ac	Min: 3 ac Max: 15 ac
Existing, lawfully established non-conforming community services uses will be afforded flexibility with the required development standards, to the extent practical, when improvements are necessary to meet minimum health and safety standards according to the Florida Building Code (FBC), including, but not limited to ADA accessibility requirements.			

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9. Rural Commercial Intersection Location Standards: The intersection location standard is intended to group rural commercial activities toward intersections to provide access and to prevent fragmentation of agricultural uses.
(1) Major function: Provide sales and services functionally related to and supportive of agriculture, silviculture and natural resource-based activities.
(2) Location: On or near the intersection (access within 330 feet of the centerline of the intersection) of an arterial/arterial or arterial/major collector roadway.
(3) Site area: 3.0 acres minimum with a maximum of 5.0 acres per quadrant.
(4) Allowable building square footage: Maximum of 10,000 gross square feet per intersection (only 2 quadrants per intersection may be developed for rural commercial). Single structure limited to a maximum of 5,000 gross square feet.

10. Development Standards for Restricted Uses: All proposed restricted uses shall meet the applicable provisions of section 10-6.611; the applicable design standards noted in subsection 11 of this section; the buffer zone standards (section 10-7.522); and the parking and loading requirements (subdivision 3, division 5, article VII of this chapter). All restricted uses shall be limited to a maximum building area of 2,000 gross square feet per acre with no more than 5,000 gross square feet of retail commercial or office space. The following restricted uses require satisfaction of additional criteria:
(1) Mining activities.
a. All mining activities as defined on the schedule of permitted uses must meet the specific development standards, as follows upon review and approval by the Board of County Commissioners following a duly noticed public hearing. This includes NAICS items 212321 and 212324.
b. A plan must be submitted demonstrating protection of adjacent properties and public interest which shall include, but not be limited to the following:
1. The mining activity, all accessory uses and structures, internal roadways, and driveways onto the adjacent streets shall be set back a minimum of 100 feet from the perimeter property boundaries or 200 feet from the nearest off-site residence, residential zoning district, or subdivision intended primarily for residential land use, whichever distance is greater. This setback standard may be reduced if less of a setback is approved in writing by the adjacent property owner prior to site plan approval or if the adjacent property is also used as a mining activity.
2. A plan of vehicular access to and from the site demonstrating that heavy trucks and equipment will not travel on that portion of a local or minor collector street with frontage containing residential land use, zoned for residential land use, or containing subdivision lots intended primarily for residential land use. For purposes of this requirement, local and minor collector streets shall be those identified in the local government Comprehensive Plan and the Tallahassee-Leon County Long Range Transportation Plan.
3. A land reclamation plan shall be submitted demonstrating that upon termination of the activity the land shall be returned to a condition that will allow an effective reuse comparable to surrounding properties.
4. Fencing requirement: All areas proposed for use in open-pit mining operations and/or construction and demolition debris disposal must be secured by a fence, unless the area is determined by the County Administrator or designee to be a reclaimed open-pit mine. The fence must be at least four feet in height with openings that will reject the passage of a seven-inch diameter sphere. The fence must be equipped with a gate which shall remain locked when workers or employees of the land owner or mining company are not present at the site. At every gate or access point, at least one sign must be posted which states, in at least four-inch tall letters. "Danger," "Keep Out," "No Trespassing," or similar language indicate that there may be hazardous conditions on the premises.
(2) Camps and recreational vehicle parks (NAICS 721211 and 721214).
a. All camps and recreational vehicle parks must meet the specific development standards, as follows upon review and approval by the Board of County Commissioners following a duly noticed public hearing. A plan must be submitted demonstrating protection of adjacent properties and public interest which shall include, but not be limited to the following:
1. Sanitary facilities shall be provided.
2. Not more than 5 campsites per gross acre shall be provided.
3. Individual campsites, roadways, and accessory structures shall be located to meet the minimum building setback standards from the exterior property lines of the campground.
(3) Airports, flying fields and services.

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a. All airports, flying fields and services must meet the specific development standards as noted in this section and as required by state or federal law, and shall require review and approval by the Board of County Commissioners following a duly noticed public hearing.
(4) Outdoor sport shooting ranges.
a. This subsection shall not apply to personal firearm use on private property or to businesses that operate an outdoor sport shooting range as an ancillary use to a legal, principal use, such as, but not limited to, a hunting plantation, timber plantation, or special event venue.
b. All outdoor sport shooting ranges must meet the specific development standards as noted in this section, and shall require a Type C review and approval by the Board of County Commissioners following a duly noticed public hearing.
c. All outdoor sport shooting ranges must demonstrate protection of adjacent properties and the public interest which shall include, but not limited to the following:
1. An outdoor sport shooting range shall not be located within an unrecorded or recorded subdivision or in the residential preservation overlay district.
2. No outdoor sport shooting range shall be permitted within 500 feet of the property line.
3. The firing lines shall be oriented to minimize off-site impacts, including, but not limited to, noise and safety of existing structures and roadways.
4. Access to Canopy Road shall be subject to division 7, article VI of this chapter.
5. A minimum of a Type D buffer and a 15-foot high berm behind the line of fire/targets shall be constructed.
6. The county encourages the use of the National Rifle Association's Range Source Book for best practices.
7. The county encourages compliance with the state department of environmental protection's best management practices for environmental stewardship of state shooting ranges.
8. The county encourages outdoor sport shooting ranges to have range safety officers on the premises during the hours of operation.
9. To ensure compatibility with the surrounding area, additional site specific conditions may be imposed, such as, but not limited to, conditions related to noise reduction and safety.

11. Site Design Criteria: Rural commercial uses, community service uses and restricted uses shall be subject to the locational and design standards as noted herein. ~~(1) Signs: Freestanding on-site signs shall be limited to monument-style signs and the sign base shall be consistent with the materials and design context of the primary on-site building. Signs shall be illuminated with externally mounted lighting focused on the sign in a manner that limits off-site illumination. Internally illuminated signs and pole signs are prohibited. For sites not located at intersections, on-site ground signs shall be limited to no more than 32 square feet in area and limited to no more than 10 feet in height.~~
A plan and supporting narrative must be submitted pursuant to the applicable site and development plan process outlined in article VII of this chapter that demonstrates compliance, as applicable, with the following:
(~~2~~1) Building and Site Design Standards: All primary buildings and accessory structures shall reflect or compliment the local vernacular architectural style. Building facade treatments and materials shall provide architectural interest through, but not limited to: the utilization of fenestration that allows for natural surveillance and gabled or parapet roof treatments.
(~~3~~2) Lighting: On-site lighting including 24-hour security lighting shall be wall mounted with illumination focused on the building in a manner that limits off-site illumination, consistent with the "Dark Sky Friendly" guidelines. All exterior lighting shall have recessed bulbs and filters which conceal the source of illumination. Security lighting is permitted; however, wall or roof mounted flood or spot lights used as general grounds lighting are prohibited. Lighting at the property line (six feet above ground) adjacent to residential uses shall not exceed 0.1 footcandles. Lighting for parking areas shall not exceed 15 feet in height as measured from average grade to the light fixture.
(~~4~~5) Perimeter Buffering and Fencing: If the adjacent residential density is 0.5 dwelling units per acre or greater, a Type C buffer shall be required. A wooden buffer fence may be utilized on sites where the required vegetative buffer cannot be established based on site limitations or constraints.
(5) Fencing and Screening of Outdoor Service Areas and Equipment:
a. Refuse collection areas shall be located in the side or rear yard and shall be fenced with a material and design treatment consistent with the building facade of the principal building and screened with vegetation.
b. All appurtenant mechanical and electrical equipment, outside collection/drop-off/storage areas, and other accessory or ancillary structures shall be screened from public view. The screening material shall be consistent with the materials and design context of the primary on-site building.

(6.) Hours of Operation: The hours of operation shall be limited to 6:00 a.m. to 8:00 p.m. Community service uses shall not be limited in hours of operation; however, typical hours of operation for facility shall be identified on final development plans.

*If subdivision is proposed to create the rural commercial parcel, then the remaining portion of the property shall meet the minimum lot size standards noted herein.

General notes:

(1) If central sanitary sewer is not available, residential development shall provide no less than 0.50 acre of buildable area. Non-residential development and community service facilities located within the USA are limited to a maximum of 900 gallons of wastewater flow per day. Refer to Sanitary Sewer Policy 2.1.2 of the Comprehensive Plan for additional requirements.

(2) Refer to the Environmental Management Act (EMA) for information pertaining to the regulation of environmental features (preservation/conservation features), stormwater management requirements, etc.

(3) Refer to the concurrency management ordinance for information pertaining to the availability of capacity for certain public facilities (roads, schools, parks, etc.).

Section 4. Amendments to Section 10-6.653 of the Code of Laws of Leon County, Florida.

Section 10-6.653 of Article VI of Chapter 10, the Land Development Code, of the Code of Laws of Leon County, Florida, entitled "IC Interchange Commercial District," is hereby amended to read as follows:

Sec. 10-6.653. IC Interchange Commercial District.

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Development Standards									
	4. Minimum Lot or Site Size			**5. Minimum Building Setbacks**				**6. Maximum Building Restrictions**	
Use Category	**a. Lot or Site Area**	**b. Lot Width**	**c. Lot Depth**	**a. Front**	**b. Side-Interior Lot**	**c. Side-Corner Lot**	**d. Rear**	**a. Building Size (excluding gross building floor area used for parking)**	**b. Building Height (excluding stories used for parking)**
Permitted Non-Industrial or Non-Office Principal Uses	None	None	1,000 square feet	50 feet	None	25 feet	10 feet	25,000 square feet of gross building floor area per acre not to exceed 200,000 square feet per site. 50,000 square feet of gross building floor area per acre for	4 stories

								storage areas within buildings.	
All Other Principal Uses	None	None	1,000 square feet	50 feet	None	25 feet	10 feet	25,000 square feet of gross building floor area per acre. 50,000 square feet of gross building floor area per acre for storage areas within buildings.	4 stories

7. Urban Design Criteria—Development within the IC district shall meet the following criteria:
a. All buildings elevations which may be viewed from a public street shall be finished in brick, stucco, glass curtain wall, architectural concrete or textured block. All building elevations which may be viewed from a public street shall have an uniform appearance consistent with the front building elevation.
b. All buildings shall screen utility connections, roof top equipment and meter locations with materials found on the building exterior or with evergreen landscaping.
c. All buildings shall screen trash collection/storage areas with materials found on the exterior of the building.
d. All delivery truck docks shall provide a screen of sufficient height and length to screen loading and unloading trucks.
e. Sidewalks shall be a minimum 6 feet in width and form a continuous system on the site.
f. All electrical and telecommunication utilities shall be located underground except for antennae.
g. Parking shall not exceed a concentration of 100 spaces per net acre of parking lot and adjacent landscaping.
h. Each development within the IC district shall establish a uniform sign design for all signs.
~~i. All wall signs shall be internally illuminated individual letters, or an internally illuminated logo not exceeding 80 square feet in area. No other wall mounted signs are permitted. Signs composed solely of upper case letters shall not exceed 36 inches in height. Signs composed of upper and lower case letters shall not exceed 45 inches in height including the decender.~~
~~j. No roof signs, not billboards are permitted.~~
~~k. One freestanding sign per public street frontage per site is permitted. Freestanding signs shall be constructed with a base using material found on the principal structure. Freestanding signs shall not exceed 400 square feet in area per face, nor have more than 2 faces, not exceed 50 feet in height.~~
~~l. Temporary signs, not to exceed 30 days per of display per calendar year are permitted, except for "for sale" and "for lease" signs which are not subject to this limitation.~~
~~m. No other signs are permitted in the IC district except for the signs listed in subsection 7.i—m of this section~~.
~~n~~i. Parking lots and driveways shall be designed to achieve a 60 percent tree canopy coverage within 10 years of development.
~~o~~j. All development shall develop and maintain a 30-foot landscape area adjacent to all public streets. This landscape area shall have at least one street tree for every 40 feet of street frontage. The landscape area may contain a sidewalk and be crossed by driveway entrances no wider than 30 feet.

8. Street Access Restrictions: Properties within the IC zoning district may have vehicular access to the types of streets listed below. For the purpose of this section, a "type" of street refers to the functional classification of the street according to the "Roadway Functional Classification" map adopted in the transportation element of the 2010 Comprehensive Plan. Also for the purpose of this section, a street is considered to be "at the border" of the M-1 zoning district if a zoning district other than the M-1 zoning district is located on the other side of the street.
a. To any street classified as a collector or arterial that is located inside or at the border of the IC zoning district;
b. To any street classified as a local that is located inside of the IC zoning district; or
c. To any street classified as a local that is located at the border of the IC zoning district, except that properties in

the IC zoning district shall not have vehicular access to a local street if the local street is located at the border of the M-1 zoning district and a residential zoning district is located on the other side of the local street. For the purpose of this section, residential zoning districts include the following: RA, R-1, R-3, R-4, R-5, MR, MR-1, and the RP zoning districts.

General notes:

(1) If central sanitary sewer is not available, residential development is limited to a minimum of 0.50-acre lots and non-residential development is limited to a maximum of 2,500 square feet of building area. Community service facilities are limited to a maximum of 5,000 square feet of building area or a 500-gallon septic tank, also, refer to Sanitary Sewer Policy 2.1.12 of the Comprehensive Plan for additional requirements.

(2) Refer to the Environmental Management Act (EMA) for information pertaining to the regulation of environmental features (preservation/conservation features), stormwater management requirements, etc.

(3) Refer to the concurrency management ordinance for information pertaining to the availability of capacity for certain public facilities (roads, parks, etc.).

Section 5. Amendments to Section 10-6.654 of the Code of Laws of Leon County, Florida.

Section 10-6.654 of Article VI of Chapter 10, the Land Development Code, of the Code of Laws of Leon County, Florida, entitled "MCN Mahan Corridor Node District," is hereby amended to read as follows:

Sec. 10-6.654. – MCN Mahan Corridor Node District.

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10. Building Size Standards		
Use Category	**a. Maximum Building Footprint**	**b. Maximum building floor area per structure**
Single-Family Attached Residential	N/A	N/A
Multifamily Residential	15,000 square feet	N/A
Non-Residential and Community Facilities	Standard: 8,000 square feet With master planning bonus: 10,000 square feet	Standard: 14,000 square feet With master planning bonus: 20,000 square feet
Mixed-Use Development	Standard: 10,000 square feet With master planning bonus: 15,000 square feet	Standard: 30,000 square feet With master planning bonus: 40,000 square feet

11. Mixed Use Incentive Qualifications: Developments incorporating both residential and non-residential uses within a single development application or those which retrofit an existing development to include both residential and non-residential uses, qualify for additional density and intensity provided for mixed-use development, pursuant to the following criteria:

a. At the completion of all development phases, no less than 20 percent of the gross floor area within the development is devoted to either residential use or non-residential use;

b. The development consists of a mixture of uses within a single building or within multiple adjacent

buildings, wherein the different uses are located no further than 200 feet apart; and,
c. The development application must provide a common plan for the development of all included parcels, including shared infrastructure.

12. Master Planning Bonus: The following shall be entitled to the master planning bonus:
a. Any development site area of 8 or more acres;
b. Development site area of 5 or more acres wherein at least 50 percent of associated off-street parking will be provided in a shared facility; and at least 50 percent of the surface area required for stormwater management facility area is located below grade, or in a shared facility; or
c. The development site area may be composed of multiple parcels; in those instances, the development application must provide a common plan for the development of all included parcels.

13. Access Management:
a. Direct access to Mahan Drive shall be limited and provided via public right-of-way.
b. There shall be no more than one public right-of-way connection to Mahan Drive and to each adjacent collector street per each nodal quadrant; until such time as a street system is created to provide access to all parcels adjoining Mahan Drive and the adjacent collector street, individual properties may obtain access, if needed, on a temporary basis.
c. Applicants for development shall enter an agreement to cooperate in any future project to consolidate access points or to share access with abutting properties as opportunities arise.

14. Blocks, Frontage, and Sidewalks: Street design and layout shall support an interconnected street network and pattern of a scale conducive to pedestrian and bicycle use.
a. Block length: Long side: 600 feet maximum, except where divided by a mid-block pedestrian crossing or alley, in which case, maximum block length may be 850 feet. Short side: Distance may vary between 200 and 400 feet to accommodate environmental and physiographic limitations.
b. Mid-block pedestrian crossings: A publicly accessible pedestrian crossing shall be provided for blocks with a length greater than 600 feet on one or more sides.
c. Sidewalk width and placement: Frontage sidewalks shall be a minimum of 8 feet in width. All other sidewalks shall be no less than 5 feet in width.
d. Pedestrian weather protection: Where practical, non-residential and mixed-use buildings shall provide weather protection, arcade, awning, etc., along the frontage sidewalk extending at least 3 feet.
e. Alternative Surface Material: Use of distinctive paving texture, type, and color for transitions between neighborhoods and within pedestrian areas is encouraged. Interconnections between neighborhoods should also be distinguished through the use of vertical architectural elements, such as archways, gateways, or bollards.

15. Street Trees: All development or redevelopment shall incorporate street trees within the right-of-way, preferably between the back of curb and sidewalk.
a. Street trees shall be planted between 20—30 feet on center, except when a greater distance may be required to avoid conflict with visibility, street lamps, utilities, or safety issues would be compromised with the required location.
b. A minimum planting strip of six feet shall be provided between the back of curb and sidewalk, except where on-street parking is provided and tree wells or planters are more appropriate.
c. Tree selection and location shall be approved by the local utility provider and shall be no higher than 20 feet at maturity when located beneath power lines.

16. Parking:
a. Location: Parking shall not be located between the building facade and the right-of-way, and shall be located on-street, internal to the block, or to the rear of structures. Where site constraints necessitate, up to 25 percent of required parking may be permitted to the side of buildings.
b. On-street parking: All streets created or expanded in association with development in this district shall be designed to accommodate on-street parking.
c. Quantity: On-site parking shall be limited to a range of 40 percent to 70 percent of the general

parking standard set forth in section 10-7.545, schedule 6-2. On-street parking, provided on adjacent rights-of-way within the MCN zoning district without crossing an arterial or collector street may be counted towards meeting the parking requirement. Shared parking may also count toward the requirement.
d. Size: Individual off-street surface parking lots shall not exceed 0.75 acre.

17. Building Position:
a. Orientation: The principal building entryway shall be oriented to the street, other than Mahan Drive, and be designed to provide direct pedestrian access from that street. Where buildings are equidistant to two or more streets, the principal entryway may be located on either street. Buildings may be oriented toward Mahan Drive so long as there is a parallel street located between Mahan Drive and the building.
b. Encroachments: Porches, balconies, patios, pedestrian weather protection features and other like architectural features may encroach into 50 percent of the front setbacks. Seating within the required yard setbacks shall be allowed. Encroachments, permanent and temporary, shall not result in a constrained pedestrian passageway of less than 5 feet in width.

18. Building Facade Length: Non-residential and mixed-use building facades along any public street frontage shall not exceed 100 feet, unless vertical structural elements and functional entrance doors divide that facade no less than every 50 feet.

19. Transparency: Adjacent to streets, sidewalks, and publicly accessible parking areas, non-residential and mixed-use buildings shall provide a minimum facade transparency of 50 percent at pedestrian level, between two and 8 feet above finished grade, and residential buildings shall provide a minimum facade transparency of 25 percent at pedestrian level.

20. Building Materials:
a. The following materials are prohibited: corrugated metal, standing seam, or v-crimp metal sheeting exterior walls or wall coverings.
b. The use of vinyl siding may not comprise more than 20 percent of any wall plane.

21. Roof types:
a. All roof types are allowed. The use of gable roofs, cross gable roofs, and dormers are encouraged for buildings of two stories or less.
b. Flat roofs shall provide horizontal articulation with a building cap at the top of the building base and/or incorporate the use of parapets.

22. Buffering, Fencing, and Screening:
a. Buffer zone standards: Buffering is not required between uses in the MCN zoning district. Where development abuts Residential Preservation future land use areas, the landscape buffer standards of section 10-7.522 shall apply.
b. Fencing: Chainlink fencing visible from public right-of-way or property is prohibited, unless screened by vegetation that covers completely at plant maturity.
c. Screening of service connections and facilities: Outdoor service areas; loading docks, trash collection, outdoor storage, mechanical equipment; shall be mitigated by the use of screening material consistent with the materials and design treatments of the primary facade of the primary building and/or evergreen landscape plant material.
i. Landscape plans shall provide sight lines for natural surveillance between 3 and 8 feet above grade.
ii. The service areas shall not be within 50 feet of any adjoining residential property.
iii. The service areas shall be screened with vegetation and fences/masonry walls that are of sufficient height (minimum six feet) and opacity (minimum 50 percent) to screen from nearby streets and residential areas. Fences or masonry walls shall be constructed with materials that are incorporated in the design of the principal building.
iv. Above ground utility boxes visible from the street shall be screened with landscaping on at least two sides, thereby preserving access for the utility provider.
d. Off-street parking; landscaping: A minimum ten-feet wide landscaping strip shall line the perimeter of surface parking lots, and shall be landscaped with one canopy tree per 20 linear feet of frontage and

a continuous row of shrubbery not to exceed 3 feet at maturity.
e. Required landscaping; alternative compliance methods. Development is encouraged to utilize the site design alternatives set out in sections 110-4.347 and 10-4.350.

23. Lighting:
a. Intensity limits. Lighting levels at the property line as measured at six feet above ground level shall not exceed 0.5 footcandles. The footcandle average in on-site parking lots should not exceed 2.0 footcandles. The recommended maximum uniformity ratio (average: minimum light level) is 4:1.
b. Light fixture types and location:
i. "Shoebox" and "Cobrahead" lights are prohibited.
ii. All light fixtures shall be full cut-off type fixtures and direct light internal to the site.
iii. Individual light poles and wall mounted light fixtures shall be no taller than 20 feet above grade. Wall mounted light fixtures shall be placed no closer than every 25 feet along the facade. Lighted bollards are encouraged along pedestrian routes.

~~**24. Signage:** All signs shall comply with the county sign code and requirements set out in this section; where conflicts occur, the most restrictive standard applies.~~
~~a. Prohibited signs: Roof signs, billboard signs, pole signs, signs that rotate or are in motion, including animated signs, are not allowed in this district. b. One free-standing monument ground sign of no greater than 80 square feet display area per side, with no more than two sides, may be provided for each tenant. Properties shall be entitled to one ground sign per 500 feet of frontage.~~
~~c. Maximum height of monument signs shall not exceed six feet above grade for single tenant structures and shall not exceed 15 feet above grade for multiple tenant structures.~~
~~d. Monument ground signs shall incorporate the same exterior materials as the principal structure, and should utilize exterior finish of metal, wood, or masonry materials.~~
~~e. Two on-site directional signs, not to exceed 4 square feet each, shall be allowed per tenant. Such signs are intended for navigational purposes and shall be free of logos, advertisements, badges, or slogans.~~
~~f. Sign illumination:~~
~~i. Prohibited lighting: Flashing, rotating, pulsing, search, laser, or lights moving in any manner.~~
~~ii. Ground sign lighting: Ground signs are encouraged to be illuminated with an opaque field and letters of a lighter tone to control glare.~~
~~iii. Wall sign lighting: Wall mounted signs shall be internally illuminated or externally illuminated with full cut-off type light fixtures directed downward.~~

~~25~~**24. Stormwater Management Facilities:**
a. Whenever possible, low impact development (LID) techniques such as rain gardens and bio-retention swales are encouraged to allow stormwater infiltration to occur as close to the source as possible. A decentralized stormwater management design which disperses stormwater facilities across the site rather than to a centralized treatment facility is encouraged.
b. Landscape vegetation shall be incorporated around the perimeter of the stormwater facility, which at maturity will visually conceal required fencing.
c. Landscape plants should be native. A minimum of 4 different species of trees and shrubs shall be utilized. Stormwater management facilities shall incorporate appropriate tree and plant species that take into account the soil, hydrologic, and other site and facility conditions. Existing vegetation should be incorporated into the facility design where possible.

~~26~~**25. Facility Accommodation Credit Exchange:** Where land area is dedicated to the state, the county, or City of Tallahassee for public facility development, the associated development rights may be transferred in whole or part to any other parcel within the MCN district. The resulting density and intensity shall not be greater than 200 percent of the amount which would otherwise be authorized to be developed.

General notes:

1. If central sanitary sewer is not available, residential development is limited to a minimum of 0.50 acre lots and non-residential development is limited to a maximum of 2,500 square feet of building area. Community service facilities are limited to a maximum of 5,000 square feet of building area or a 500-gallon septic tank, also, refer to Sanitary Sewer Policy 2.1.12 of the Comprehensive Plan for additional requirements.
2. Refer to the Environmental Management Act (EMA) for information pertaining to the regulation of environmental features (preservation/conservation features), stormwater management requirements, etc.
3. Refer to the concurrency management ordinance for information pertaining to the availability of capacity for certain public facilities (roads, schools, parks, etc.).

Section 6. Amendments to Section 10-6.654.2 of the Code of Laws of Leon County, Florida.

Section 10-6.654.2 of Article VI of Chapter 10, the Land Development Code, of the Code of Laws of Leon County, Florida, entitled "MCR Mahan Corridor Ring District," is hereby amended to read as follows:

Sec. 10-6.654.2. MCR Mahan Corridor Ring District.

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DEVELOPMENT STANDARDS									
	5. Minimum Lot or Site Size			**6. Minimum Building Setbacks**				**7. Maximum Building Restrictions**	
Use Category	**a. Lot Area**	**b. Lot Width**	**c. Lot Depth**	**a. Front**	**b. Side-Interior Lot**	**c. Side-Corner Lot**	**d. Rear (Alley setback)**	**a. Building Size**	**b. Building Height (See number 8)**
Single-Family Detached Dwellings	N/A	40 feet	70 feet	15 feet	5 feet	15 feet	20 feet (5 feet from alley)	N/A	35 feet
Zero-Lot Line, Single-Family Detached Dwellings (not allowed when adjoining RP Future Land Use areas)	N/A	30 feet interior lot; 40 feet corner lot	70 feet	15 feet	0 feet one side; 6 feet other side	15 feet	20 feet (5 feet from alley)	N/A	35 feet
Single-Family Attached Dwellings (not	N/A	20 feet	70 feet	15 feet	N/A	15 feet	20 feet (5 feet from alley)	Maximum length: 8 units	35 feet

allowed when adjoining RP Future Land Use areas)									
Two-Family Dwellings (not allowed when adjoining RP Future Land Use areas)	N/A	40 feet	70 feet	15 feet	5 feet	15 feet	20 feet (5 feet from alley)	N/A	35 feet
Multifamily Dwellings (not allowed when adjoining RP Future Land Use areas)	N/A	50 feet	80 feet	15 feet	15 feet	15 feet	25 feet	Maximum 12,000 square ft building footprint	35 feet
Community Facilities and Service Uses	N/A	50 feet	80 feet	N/A	15 feet	15 feet	50 feet (25 feet from alley)	8,500 square feet of gross building floor area per acre	35 feet

8. Building Height: When located immediately adjacent to RP Future Land Use areas, the maximum building height shall be 25 feet.

9. Roof Types:
a. All roof types are allowed. The use of gable roofs, cross gable roofs, and dormers are encouraged for non-residential buildings.
b. Flat roofs shall provide horizontal articulation with a building cap at the top of the building base and/or incorporate the use of parapets.

10. Encroachments: Porches, balconies, patios, pedestrian weather protection features and other like architectural features may encroach into 50 percent of the front setbacks. Encroachments, permanent and temporary, shall not result in a constrained pedestrian passageway of less than 5 feet in width.

11. Access Management:
a. Direct access to Mahan Drive shall be limited and provided via public right-of-way.
b. There shall be no more than one public right-of-way connection to Mahan Drive and to each adjacent collector street per each nodal quadrant; until such time as a street system is created to provide access to all parcels adjoining Mahan Drive and the adjacent collector street, individual properties may obtain access, if needed, on a temporary basis.
c. Applicants for development shall enter an agreement to cooperate in any future project to consolidate access points or to share access with abutting properties as opportunities arise.

12. Blocks, Frontage, and Sidewalks: Street design and layout shall support an interconnected street network and pattern of a scale conducive to pedestrian and bicycle use.
a. Block length: Long side: 600 feet maximum, except where divided by a mid-block pedestrian crossing or alley, in which case, maximum block length may be 850 feet. Short side: Distance may vary between 200 and 400 feet to accommodate environmental and physiographic limitations.
b. Mid-block pedestrian crossings: A publicly accessible pedestrian crossing shall be provided for blocks with a length greater than 600 feet on one or more sides.
c. Sidewalk width and placement: All sidewalks shall be no less than 5 feet in width.

13. Off-Street Parking:
a. All off-street residential parking shall be either side-entry, rear-loaded (accessed by alley) or recessed as noted in subsection b of this section).
b. Recessed garages shall be setback, at minimum, an additional 10 feet from the street than the front facade of the principal structure.
c. All off-street parking associated with community facilities shall be located to the side or rear of the principal structure and shall meet the screening requirements set forth in subsection 14 of this section.
d. The use of shared driveways is encouraged, where there is the ability to reduce impervious surface area and stormwater runoff.

14. Buffering, Fencing, and Screening:
a. Buffer zone standards: Buffering is not required between uses within the MCR zoning district. Where development abuts a residential zoning district, the landscape buffer standards of section 10-7.522 shall apply.
b. Fencing: Chainlink fencing visible from public right-of-way or public property is prohibited.
The following provisions (subsections c through e of this section) apply only to community facilities or non-residential uses:
c. Screening of service connections and facilities: Outdoor service areas, loading docks, trash collection, outdoor storage, mechanical equipment, shall be mitigated by the use of screening material consistent with the materials and design treatments of the primary facade of the primary building and/or evergreen landscape plant material.
i. Landscape plans shall provide sight lines for natural surveillance between 3 and 8 feet above grade.
ii. The service areas shall not be within 50 feet of any adjoining residential property.
iii. The service areas shall be screened with vegetation and fences/masonry walls that are of sufficient height (minimum six feet) and opacity (minimum 50 percent) to screen from nearby streets and residential areas. Fences or masonry walls shall be constructed with materials that are incorporated in the design of the principal building.
iv. Service area gates to any enclosure shall be solid wood or metal doors.
v. Above ground utility boxes visible from the street shall be screened with landscaping on at least two sides, thereby preserving access for the utility provider.
d. Off-street parking; landscaping: A minimum 10-feet wide landscaping strip shall line the perimeter of surface parking lots, and shall be landscaped with one canopy tree per 20 linear feet of frontage and a continuous row of shrubbery not to exceed 3 feet at maturity.
e. Required landscaping; alternative compliance methods. Development is encouraged to utilize the site design alternatives set out in sections 10-4.347 and 10-4.350.

15. Street Trees: All development or redevelopment shall incorporate street trees within the right-of-way, preferably between the back of curb and sidewalk.
a. Street trees shall be planted between 20—40 feet on center, except when a greater distance may be required to avoid conflict with driveways, street lamps, other utilities, or visibility or safety issues would be compromised with the required location.
b. A minimum planting strip of six feet shall be provided between the back of curb and sidewalk,

except where on-street parking is provided and tree wells or planters are more appropriate.
c. Tree selection and location shall be approved by the local utility provider and shall be no higher than 20 feet at maturity when located beneath power lines.

16. Stormwater Management Facilities:
a. Whenever possible, low impact development (LID) techniques such as rain gardens and bio-retention swales are encouraged to allow stormwater infiltration to occur as close to the source as possible. A decentralized stormwater management design which disperses stormwater facilities across the site rather than to a centralized treatment facility is encouraged.
b. Landscape vegetation shall be incorporated around the perimeter of the stormwater facility, which at maturity will visually conceal required fencing.
c. Landscape plants should be native. A minimum of 4 different species of trees and shrubs shall be utilized. Stormwater management facilities shall incorporate appropriate tree and plant species that take into account the soil, hydrologic, and other site and facility conditions. Existing vegetation should be incorporated into the facility design where possible.
d. Landscaping shall be situated to visually integrate the stormwater system into the overall landscape design.

17. Lighting for Community Facilities and Non-Residential Uses:
a. Intensity limits: Lighting levels at the property line, as measured at six feet above ground level, shall not exceed 0.5 footcandles. The footcandle average in on-site parking lots should not exceed 2.0 footcandles. The recommended maximum uniformity ratio (average: minimum light level) is 4:1.
b. Light fixture types and location:
i. "Shoebox" and "cobrahead" lights are prohibited. Flood or spotlights used as general grounds lighting are prohibited.
ii. All light fixtures shall be full cut-off type fixtures and shall direct light internal to the site.
iii. Individual light poles and wall mounted light fixtures shall be no taller than 20 feet above grade. Wall mounted light fixtures shall be placed no closer than every 25 feet along the facade. Lighted bollards are encouraged along pedestrian routes.
iv. Exterior lighting shall not exceed 0.5 footcandles, as measured at the property line and six feet above grade.

~~**18. Signage for Community Facilities and Non-Residential Uses:** All signs within this district shall meet the sign standards set forth in this section in addition to current locally adopted sign code regulations. A uniform sign design for the parcels included within the district shall conform to the following standards:~~
~~a. Wall-mounted signs: One wall-mounted sign is allowed per tenant per street frontage. In no case shall any wall mounted sign exceed an area of 24 square feet.~~
~~b. Prohibited signs: Roof signs, billboard signs, pole signs, signs that rotate or are in motion, including animated signs, are not allowed in this district.~~
~~c. Ground signs: One ground sign is allowed per street frontage. Ground signs shall be shared when a building contains multiple tenants or when there are multiple tenants located on the premise. The maximum surface area or display area for a ground sign within this district is 35 square feet per side with no more than two sides. Ground signs, including the sign structure itself, are limited to a maximum height of six feet from grade. Ground signs shall be constructed with a base full width to the sign face or pedestal-mounted with materials that are consistent and compatible with those utilized on the principal building.~~
~~d. Sign illumination:~~
~~i. Prohibited lighting: Flashing, rotating, pulsing, search, laser, or lights moving in any manner.~~
~~ii. Ground sign lighting: Ground signs are encouraged to be illuminated with an opaque field and letters of a lighter tone to control glare.~~
~~iii. Wall sign lighting: Wall mounted signs shall internally illuminated or externally illuminated with full cut-off-type light fixtures directed downward.~~

General notes:

1. If central sanitary sewer is not available, residential development is limited to a minimum of 0.50-acre lots and non-residential development is limited to a maximum of 2,500 square feet of building area. Community service facilities are limited to a maximum of 5,000 square feet of building area or a 500-gallon septic tank, also, refer to Sanitary Sewer Policy 2.1.12 of the Comprehensive Plan for additional requirements.
2. Refer to the Environmental Management Act (EMA) for information pertaining to the regulation of environmental features (preservation/conservation features), stormwater management requirements, etc.
3. Refer to the concurrency management ordinance for information pertaining to the availability of capacity for certain public facilities (roads, schools, parks, etc.).

Section 7. Amendments to Section 10-6.655 of the Code of Laws of Leon County, Florida.

Section 10-6.655 of Article VI of Chapter 10, the Land Development Code, of the Code of Laws of Leon County, Florida, entitled "Neighborhood boundary office," is hereby amended to read as follows:

Sec. 10-6.655. Neighborhood boundary office.

(a) *Purpose and intent.* The purpose and intent of this district is to provide minor office opportunities and higher intensity residential land uses up to a maximum of eight dwelling units per acre. The district is intended to be located on the edges of existing or planned single-family neighborhoods fronting on arterial and collector roadways and provides a transition between the residential development and more intensive development. This zoning district is not intended to be applied to the interior of an existing neighborhood or in areas designated as lake protection on the future land use map of the Comprehensive Plan. The provisions of this district are intended to allow higher density residential development and non-residential development that is compatible in scale and design with adjoining residential neighborhoods. The maximum amount of non-residential square footage allowed per acre is 10,000 square feet, but additional criteria may further limit that amount. Design guidelines applicable to this district include building orientation, lighting criteria for non-residential use, street vehicular access requirements, fencing, buffering, and screening requirements, ~~signs,~~ noise source restrictions, and solid waste container restrictions.

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(d) *Development standards.* All proposed development shall meet the buffer zone standards (section 10-7.522); the parking and loading requirements (subdivision 3, division 5, article VII of this chapter) and the land use development criteria as specified below:

Development Standards									
	4. Minimum Lot or Site Size			5. Minimum Building Setbacks (Note 4)				6. Maximum Building Restrictions	
Use Category	**a. Lot or Site Area**	**b. Lot Width**	**c. Lot Depth**	**a. Front**	**b. Side-Interior Lot**	**c. Side-Corner Lot**	**d. Rear**	**a. Building Size (excluding gross building floor area**	**b. Building Height (excluding stories used for parking)**

								used for parking)	
Single-Family Detached Dwellings	5,000 square feet	50 feet	100 feet	20 feet	7.5 feet on each side; or any combination of setbacks that equals at least 15 feet, provided that no such setback shall be less than 5 feet.	15 feet	25 feet	Not applicable	2 stories including floors devoted to parking.
Single-Family Attached Dwellings	3,750 square feet end unit; 2,400 square feet interior lot	37.5 feet end unit; 25 feet interior lot	80 feet	20 feet	Not applicable	15 feet	25 feet	Maximum length: 4 residential units	2 stories including floors devoted to parking.
Two-Family Dwellings	8,000 square feet	60 feet	100 feet	20 feet	Same as for single-family detached dwellings	15 feet	25 feet	A) Residential structures adjacent to existing single-family detached dwellings structures may not be less than 50 percent smaller than the smallest adjacent principal single-family detached dwelling structure:	2 stories including floors devoted to parking.

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								and B) All other two-family residential has no size limitations.	
Any Permitted Non-Residential Principal Use	None	80 feet	None	25 feet	15 feet on each side	25 feet	25 feet	A) Non-residential structures adjacent to existing residential single-family detached structures may not exceed 2 times that of the largest adjacent principal residential structure: and B) All other no-residential structures shall not exceed 5,000 square feet of non-residential gross building floor area per parcel and 10,000 square feet per acre.	2 stories including floors devoted to parking.
Community Facilities and	N/A	50 feet	80 feet	N/A	15 feet	15 feet	50 feet	8,500 square feet of gross building	35 feet

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Service Uses								floor area per acre.	

7. Building Orientation:
a. Non-residential development and/or redevelopment of properties located at the intersection of arterial or collector roadways shall have a primary building entrance oriented toward the arterial or collector roadway.

8. Lighting Criteria for Non-Residential Uses: All nighttime lighting including wall mounted security lightning, shall not exceed 0.5 vertical surface footcandle measured at the property line 6 feet above grade. Lighting shall not exceed 10 feet in height and shall have recessed bulbs and filters, which conceal the source of illumination. No wall or roof mounted flood or spotlights used as general grounds lighting are permitted. Wall mounted security lighting is permitted.

9. Street Vehicular Access Requirements:
a. Properties in the NBO zoning district may have vehicular access to any type of street except where specifically prohibited by this section.
b. Residential developments shall have access to the street serving the adjoining residential neighborhood where possible.
c. Non-residential development is not permitted access onto the street serving the residential neighborhood, or local street, and must have access onto the collector or arterial roadway.
d. All new non-residential development shall construct a vehicular and pedestrian interconnection to adjoining properties that have an existing commercial use. Interconnections shall be required to adjoining vacant properties, which are zoned for commercial and/or office use. The vehicular interconnection shall be constructed with material consistent with constructed or proposed vehicular use areas. Location of such interconnections shall be approved by the county Engineer or designee and constructed prior to issuance of a certificate of occupancy. Required interconnections between properties and/or to a private or public roadway shall be placed in a cross access easement acceptable by the County Attorney. The parking standards committee shall approve exemptions to and deviations from the interconnection requirements of this section.

10. Fencing, Buffering and Screening Requirements:
a. Chainlink fencing is prohibited.
b. Buffering shall be in accordance with the provisions of section 10-7.522. Notwithstanding that any existing trees and vegetation are required to remain in place and must be used to either fully or partially satisfy the buffering requirements of section 10-7.522. In instances where existing trees and vegetation are not present or are not sufficient to satisfy the buffering requirements of section 10-7.522, then new plantings shall be required.
c. The off-site visual impacts associated with outdoor service functions or areas such as loading areas, trash collections, outdoor storage, or mechanical equipment shall be mitigated by the use of screening material consistent with the materials and design treatments of the primary facade of the primary building and/or evergreen landscape plant material.
d. On-site parking adjoining roadways shall be screened from view from public roadways by landscape buffers with a minimum height of 3 feet. Approved height of screening shall take into consideration the elevation of the site in relation to the public roadway.
e. Landscaping should be used to define on-site pedestrian corridors, building design elements, public areas, and viewscapes.

~~**11. Signs:** All signs within the NBO district shall be designed in accordance with the current locally adopted sign code. Where conflict between standards of this district and other rules or regulations occur, the stricter of the two shall apply. A uniform sign design for the parcels included within the NBO district shall conform to the following minimum guidelines:~~
~~a. One wall-mounted sign per building per collector or arterial street frontage is permitted. A wall-mounted sign shall not exceed 10 percent of the area of the building wall area on which it is mounted. Wall signs for~~

~~multiple tenant commercial buildings shall be uniformly designed and placed. Only one wall sign for multiple tenant office land uses shall be allowed.~~
~~b. No roof signs, billboard signs, pole signs, flashing signs or signs in motion are permitted.~~
~~c. Freestanding signs shall be setback a minimum of 10 feet from the right-of-way line.~~
~~d. Freestanding signs shall be constructed with a base full width to the sign face that is constructed with materials that are consistent with the principal building.~~
~~e. One free standing sign per driveway access along the collector or arterial street frontage is permitted and shall be internally illuminated with an opaque field to control glare. The Maximum sign area permitted is 36 square feet with a maximum height of 10 feet.~~

~~12~~11. **Noise Source Restrictions:** In the event that a property zoned NBO abuts a residential property, the noise source of the NBO zoned property shall not exceed an L10 noise level of 60 dBA in the daytime (7:00 a.m. to 7:00 p.m.) and an L10 noise level of 50 dBA in the night time (7:00 p.m. to 7:00 a.m.) as measured on the property line abutting the source.

~~13~~12. **Solid Waste Restrictions:** New development and redevelopment may not place solid waste facilities within 30 feet of an adjoining residential property. However, such facilities shall be screened with a material consistent with the principal structure. The use of solid waste facilities greater than 90 gallons is prohibited within in the NBO district.

~~14~~13. **Additional Criteria for the Construction of New Non-Residential Buildings and Additions:** The overall goals of this district is to provide a unified sense of place, a pedestrian scale, and design that reflects the general character and scale of typical residential structures in adjacent neighborhoods. No particular architectural style or materials are mandated variety within these design criteria is encouraged. However, buildings shall be designed to reduce the mass, scale, and monolithic appearance of large structures. Flat roofs are prohibited. Roofs shall be designed with a minimum pitch of 4 in 12 (four feet of rise per 12 feet of run). The horizontal footprint of a single roof plane may not exceed 1,000 square feet. Doors and windows shall be placed to reflect the predominant character and scale of adjacent residential structures, and to provide natural surveillance opportunities to discourage criminal activities. Exterior walls shall be designed with doors or windows spaced horizontally no more than 14 feet from each other. For purposes of this requirement, doors and windows shall be defined as having a horizontal dimension of no less than 3 feet and no more than 10 feet. Development and redevelopment applications shall provide sufficient documentation including, but not limited to, architectural elevations (at time of site plan submittal) demonstrating that the proposed development is consistent with the following features of the adjoining neighborhood:
a. Building facades including building material, architectural style, and colors.
b. Roof form.
These criteria shall only apply to new construction and when building additions are being proposed.

General notes:

(1) If central sanitary sewer is not available, residential development is limited to a minimum of 0.50-acre lots and inside the Urban Service Area, non-residential development is limited to a maximum of 2,500 square feet of building area. Also, refer to sanitary sewer policies 3.1.6 and 3.1.7 of the Comprehensive Plan for additional requirements.

(2) Refer to the Environmental Management Act (EMA) for information pertaining to the regulation of environmental features (preservation/conservation features), stormwater management requirements, etc.

(3) Refer to the concurrency management: ordinance for information pertaining to the availability of capacity for certain public facilities (roads, parks, etc.).

(4) If setbacks have been previously established by a preliminary plat or recorded plat, then setbacks that have been established shall apply except where approved by the development review committee.

(e) *Specific restrictions.* If uses are restricted according to the scheduled of permitted uses, they must follow the general development guidelines for restricted uses as provided in this division.

Section 8. Amendments to Section 10-6.660 of the Code of Laws of Leon County, Florida.

Section 10-6.660 of Article VI of Chapter 10, the Land Development Code, of the Code of Laws of Leon County, Florida, entitled "Lake Protection Node Zoning District," is hereby amended to read as follows:

Sec. 10-6.660. Lake Protection Node Zoning District.

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13. Buffering, Screening and Outdoor Service Areas:
(a) **Buffer zone standards:** Buffering is not required between uses within the LPN zoning district. Where development abuts existing single-family subdivisions, the landscape buffer standards of section 10-7.522 shall apply.
(b) **Fencing:** Chain link fencing visible from public streets or adjoining property is prohibited, unless it is screened by vegetation that provides 100% opacity within 5 years from planting or at plant maturity, whichever is less.
(c) **Outdoor service areas, loading docks, delivery areas:**
1. Location: Shall only be located to the rear, side of a building, or in an interior location and shall adhere to the screening requirements in subsection (c)(2). Additionally, all outdoor services areas, loading docks and delivery areas shall be set back a minimum of 75-feet from the nearest residential structure in an adjoining zoning district.
2. Screening: Outdoor service areas, loading docks, delivery areas, trash collection, outdoor storage, and mechanical equipment shall be mitigated using screening material consistent with the materials and design treatments of the primary facade of the primary building and/or evergreen landscape plant material.
a. Landscape plans shall provide sight lines for natural surveillance between 3 and 8 feet above grade.
b. The service areas shall not be within 50 feet of any adjoining residential property.
c. The service areas shall be screened with vegetation and fences/masonry walls that are of sufficient height (minimum six feet) and opacity (minimum 50 percent) to screen from nearby streets and residential areas. Fences or masonry walls shall be constructed with materials that are incorporated in the design of the principal building.
d. Above ground utility boxes visible from the street shall be screened with landscaping on at least two sides, thereby preserving access for the utility provider.
(d) **Required landscaping; alternative compliance methods:** Development is encouraged to utilize the site design alternatives set out in sections 10-4.347 and 10-4.350.

14. Lighting: A lighting and photometric plan that includes all lighting proposed on-site shall be provided at the time of site plan review to demonstrate compliance with this section.
(a) **Parking Areas and Pedestrian Pathways:**
1. Intensity limits: Lighting levels adjacent to residential areas shall not exceed 0.5 footcandles at the property line as measured at 6 feet above ground level. The footcandle average for on-site parking lots shall not exceed 2.0 footcandles. The recommended maximum uniformity ratio (average: minimum light level) is 4:1.
2. Light fixture types and location:
a. Dark Sky compliant fixtures are encouraged.
b. All light fixtures shall be full cut-off type fixtures and direct light internal to the site.
c. Parking lighting shall be spaced a maximum of 50 feet apart and shall not exceed 20 feet in height above grade.
d. Lighting for off-street walkways shall be spaced no more than 30 feet apart and shall not exceed

10 feet in height.
(b) **Building Lighting:** Lighting should be concentrated at ground floor. Above the ground floor, lighting shall only be used to selectively highlight specific architectural features and signs without lighting up an entire façade of the building. General floodlighting of building facades is not permitted.

~~**15. Signage:** All signs shall comply with the county sign code (Article IX) and any additional requirements set out in this section. Where conflicts occur, the most restrictive standard shall apply.~~
~~(a) **Prohibitions:** Roof signs, billboard signs, electronic message centers, pole signs, signs that rotate or are in motion, or signs that contain flashing, rotating, pulsing, search, laser, or lights which move in any manner.~~
~~(b) **Allowances:**~~
~~1. A master sign plan for the entire LPN zone or unified development plan is highly encouraged. Additional sign allowances may be granted through a deviation process during site plan review if a master sign plan is developed and approved. Any future modifications to an approved master sign plan will require a site plan modification with associated fee.~~
~~2. Monument signs shall not exceed six feet above grade for single tenant structures and 15 feet above grade for multiple tenant structures.~~
~~3. All monument signs shall be setback a minimum of 10 feet from the right-of-way line and shall be constructed with a full base width to the sign face that is constructed with materials that are consistent with the principal building. It is encouraged that the base is constructed with either metal, wood, or masonry materials.~~
~~4. One wall mounted sign per tenant is permitted. A wall mounted sign shall not exceed 10 percent of the area of the tenant wall area on which it is mounted. Wall signs for multiple tenant commercial buildings shall be uniformly designed and placed. Wall mounted signs shall be internally illuminated or externally illuminated with full cut-off-type light fixtures directed downward.~~
~~5. Two on-site directional signs, not to exceed 4 square feet each, shall be allowed per tenant. Such signs are intended for navigational purposes and shall be free of logos, advertisements, badges, or slogans.~~

~~16~~15. **Stormwater Management Facilities:** All stormwater management facilities shall be constructed with 4:1 side slopes. Refer to section 10-4.301 for water quality treatment and volume control standards associated with development.
(a) Stormwater ponds shall be designed to imitate "natural" pond characteristics, including curved geometrics, gently sloping edges, landscaping and paving materials, and should be placed to be focal design amenities. A decentralized stormwater management design which disperses stormwater facilities across the site rather than to a centralized treatment facility is encouraged. Low impact development (LID) techniques, such as rain gardens and bio-retention swales, are encouraged to allow stormwater infiltration to occur as close to the source as possible.
(b) Landscape vegetation shall be incorporated around the perimeter of the stormwater facility, which at maturity will visually conceal required fencing. Landscape plants should be native and a minimum of four different species of trees and shrubs shall be utilized. Stormwater management facilities shall incorporate appropriate tree and plant species that consider the soil, hydrologic, and other site and facility conditions. Existing vegetation should be incorporated into the facility design wherever possible.
(c) Chain-link and vinyl clad fencing enclosures are prohibited where stormwater management facilities are visible from public roadways/access ways. Where fencing and/or retaining walls are proposed and visible from a public roadway/access way, such fencing shall be architecturally compatible with the principal structure.

~~17~~16. **Single-Family Attached Dwelling Units:** Front-loaded units are prohibited. Driveway and parking access shall be from the rear of the unit.

~~18~~17. **Existing Single-Family Detached Dwelling Units:** Individual single-family homes in the LPN zoning district that became non-conforming as of the date of this ordinance, shall be allowed to make

improvements such as additions to the home, porches, accessory structures and an accessory dwelling unit provided they meet all the requirements for establishing such improvements on the property. Setback standards for single-family detached dwelling units shall be as follows: 10-foot front yard setback, 20-foot rear yard setback, 10-foot side corner setback and 10-foot maximum side yard setback. In the event of casualty, in whole or in part, structures located on the property shall be allowed to rebuild provided all provisions and requirements of the county's land development code have been met.

General notes:

(1) Central sanitary sewer and water are required within LPN.

2. Refer to the Environmental Management Act (EMA) for information pertaining to the regulation of environmental features (preservation/conservation features), stormwater management requirements, etc.

3. Refer to the concurrency management ordinance for information pertaining to the availability of capacity for certain public facilities (roads, schools, parks, etc.).

4. Development standards. All proposed development shall meet the buffer zone standards (section 10-7.522), and the parking and loading requirements (subdivision 3, division 5, article VII of this chapter).

Section 9. Amendments to Section 10-6.673 of the Code of Laws of Leon County, Florida.

Section 10-6.673 of Article VI of Chapter 10, the Land Development Code, of the Code of Laws of Leon County, Florida, entitled "BC-1 Bradfordville Commercial Auto-Oriented District," is hereby amended to read as follows:

Sec. 10-6.673. BC-1 Bradfordville Commercial Auto-Oriented District.

[* * * * *]

Development Standards									
	4. Minimum Lot or Site Size			5. Minimum Building Setbacks				6. Maximum Building Restrictions	
Use Category	**a. Lot or Site Area**	**b. Lot Width**	**c. Lot Depth**	**a. Front**	**b. Side-Interior Lot**	**c. Side-Corner Lot**	**d. Rear**	**a. Building Size (excluding gross building floor area used for parking)**	**b. Building Height (excluding stories used for parking)**
Any permitted principal and special exception use	None	None	None	20 feet	15 feet	25 feet	10 feet	17,000 square feet of commercial floor area per acre. No single use tenant shall exceed 10,000	30 feet (within Lake McBride Overlay District); otherwise, 3 stories.

								gross square feet.	

7. Access Management Criteria: (In case of a conflict with the provisions of other ordinances or regulations, the most strict provisions shall apply).
(a.) Arterial and collector roads. Direct driveway access to arterial and collector roads is prohibited except for:
1) Existing driveway access as of July 28, 1998;
2) A single driveway access for properties in existence before July 28, 1998 which have sole access to the arterial road and does not have other street access; and
3) Temporary driveway access may be permitted for properties which establish permanent access to another public street and grant the local government with jurisdiction the right to close the temporary access without compensation upon opening of access to an alternative roadway.
(b.) All properties. All properties shall provide cross access easements benefiting adjoining properties to permit the development of an internal vehicular and pedestrian circulation system. All non-residential properties shall provide driveway interconnections to adjoining non-residential properties. All new developments proposing subdivision shall have shared access for every two parcels created.
(c.) Local streets. Full movement access to a local street shall not be permitted within 200 feet of a signalized intersection. Right-in/right-out access to a local street shall not be permitted closer than 100 feet to another access point or intersecting public street, nor within 200 feet of a signalized intersection, except properties with sole access to a local street are permitted at least one access point, which may be limited to right-in/right-out based upon a traffic safety evaluation.

8. Street Vehicular Access Restrictions: Properties in the BC-1 zoning district may have vehicular access to any type of street. However, in order to protect residential areas and neighborhoods from non-residential traffic, vehicular access to a local street is prohibited if one of the following zoning districts is located on the other side of the local street: RA, R-1, R-2, R-3, R-4, R-5, MH, MR-1, R, and RP.

9. Landscape Standards: Development within the BC-1 shall be subject to the landscape requirements of this section in addition to those requirements of the Environmental Management Act (EMA). Where standards conflict, the stricter of the two shall apply. All landscape plans shall be prepared by a registered landscape architect as per F.S. ch. 481.
(a.) Arterial road landscaping. All properties fronting arterial roads shall provide and maintain a 30-foot-wide landscape area immediately adjoining the arterial road. All vegetation within the 30-foot-wide landscaped area of good condition four inches and larger shall be preserved. This landscape area shall be planted with canopy trees with at least one tree for each 200 square feet of landscape area. Creative design and spacing is encouraged. The landscape area may be crossed by driveways permitted pursuant to subsection 7 of this section, but compensatory area shall be added, equal to the area of the driveway, adjacent to the required landscape area. Sidewalks are not permitted within the landscaped area except for interconnections to sidewalks fronting public roadways. Signs in accordance with subsection 13 of this section may be located within the landscape area, but shall not reduce the tree planting requirement. Existing healthy trees in the landscape area may be counted as prescribed in section 10-4.350(b) toward meeting the tree planting requirement. Management of the existing trees within the 30 feet shall include pruning of dead and hazardous tree limbs, pruning of live limbs less than 25 percent of the green mass of the tree, fertilization, pest control, and control of invasive vegetation. Mechanical methods which compact the earth or root systems shall not be allowed.
(b.) Collector and local road landscaping. All properties fronting collector and local roads shall provide and maintain a 20-foot-wide landscape area immediately adjoining the collector or local road. All vegetation within the 20-foot-wide landscaped area of good condition four inches and larger shall be preserved (This provision shall not apply where a primary entrance is oriented toward the street and there is no vehicular use area between the building and roadway). This landscape area shall be planted with canopy trees with at least one tree for each 200 square feet of landscape area. Creative design and

spacing is encouraged. The landscape area may be crossed by driveways permitted pursuant to subsection 7 of this section, but compensatory area shall be added equal to the area of the driveway within the required landscape area. Sidewalks are not permitted within the landscaped area except for interconnections to sidewalks fronting public roadways. Signs in accordance with subsection 13 of this section may be located within the landscape area, but shall not reduce the tree planting requirement. Existing healthy trees in the landscape area may be counted as prescribed in section 10-4.350(b) toward meeting the tree planting requirement. Management of the existing trees within the 20 feet shall include pruning of dead and hazardous tree limbs, pruning of live limbs less than 25 percent of the green mass of the tree, fertilization, pest control, and control of invasive vegetation. Mechanical methods which compact the earth or root systems shall not be allowed.

(c.) Street trees. All existing and proposed roadways/access ways shall be planted with canopy trees at a standard of one canopy tree per 200 square feet of landscaped area. Credit shall be given for existing vegetation within the required landscaped areas as identified in subsections (a.) and (b.) of this section. Creative design and spacing is encouraged.

(d.) Parking areas. All vehicular use areas shall be buffered from view from public streets and/or access ways through the use of vegetation and/or topography or other manmade structures so long as such structures are architecturally compatible with the principle structure. All manmade visual buffers greater than 20 feet in unbroken length shall be designed to provide interesting visual effects and reduce apparent mass though the use of vegetation and plane projections, material changes, changes in scale or other architectural features. Canopy tree cover for the parking area shall be provided so as to attain a minimum of 60 percent plan view shading within 10 years of planting date. At grade parking grade shall include interior landscaped areas at a minimum ration of 400 square feet per 5,000 square feet of vehicular use area located internally to the parking area. Where interior landscaped areas cannot be obtained, the required landscaped area shall be placed between the proposed vehicular use area and the public right-of-way and/or access way. Existing vegetation shall be incorporated into the landscaped areas to the greatest extent possible. Planting areas shall have a minimum area of 400 square feet, with a minimum dimension of 10 feet and shall have a depth of 3 feet of good planting soil.

(e.) Trees planted within a sidewalk area shall incorporate tree grates or other surfacing so as to not impede the flow of pedestrian traffic.

(f.) Buffer standards for uncomplimentary land uses shall meet the requirements of section 10-7.522.

(g.) Developments within this district shall preserve a minimum of 25 percent of the total site as natural area. The required natural area may be located off-site if the required area is designated as public open space and is accepted by the public works department. On-site natural area shall encompass significant, naturally occurring vegetation areas or other significant environmental features.

(h.) Stormwater management facilities shall be landscaped in accordance with the Environmental Management Act, however, development is encouraged to provide innovative designs making such facilities an amenity to the site. All stormwater management facilities are encouraged to be constructed with 4:1 side slopes. Chainlink and vinyl clad fencing enclosures are prohibited where stormwater management facilities are visible from public roadways/access ways. Where fencing and/or retaining walls are proposed and visible from a public roadway/access way, such fencing shall be architecturally compatible with the principle structure. Stormwater ponds shall be designed to imitate "natural" pond characteristics, including curved geometrics, gently sloping edges, landscaping and paving materials, and should be placed so as to be focal design amenities.

10. Signs: ~~All signs within the BC-1 district shall be designed in accordance with the current locally adopted building code. Where conflict between standards of this district and other rules or regulations occur, the stricter of the two shall apply. A uniform sign design for the parcels included within the BC-1 district shall conform to the following minimum guidelines:~~

~~(a.) One wall mounted sign per tenant per street frontage is permitted. A wall mounted sign shall not exceed 10 percent of the area of the tenant wall area on which it is mounted. Wall signs for multiple~~

~~tenant commercial buildings shall be uniformly designed and placed. Only one wall sign for multiple tenant office land uses shall be allowed.~~
~~(b.) No roof signs, billboard signs, pole signs, flashing signs or signs in motion are permitted.~~
~~(c.) Freestanding signs shall be setback a minimum of 10 feet from the right-of-way line.~~
~~(d.) Temporary signs (not to exceed 30 days of display in a calendar year) are permitted at the discretion of the developer, except signs advertising property for sale or lease are not subject to this restriction.~~
~~(e.) Freestanding signs shall be constructed with a base full width to the sign face that is constructed with materials that are consistent with the principle building. One freestanding sign per driveway access per street frontage is permitted and shall be internally illuminated with an opaque field to control glare. Freestanding signs are sized proportional to the type of roadway to which they are adjacent. Allowable size restrictions are as follows:~~
~~1.) Arterial roads: Maximum area: 150 square feet, maximum height: 25 feet.~~
~~2.) Major collector roads: Maximum area: 100 square feet, maximum height: 20 feet.~~
~~3.) Minor collector and local roads: Maximum area: 36 square feet, maximum height: eight feet.~~

~~11~~**10. Parking Standards:**
(a.) Properties fronting an arterial road shall be allowed to construct 50 percent of all parking required by the land development code in front of the proposed building/structure and/or adjacent to a public roadway. Additional parking, above code requirements shall be located to a side or rear of the proposed building/structure that is not fronting a public or private roadway or access way.
(b.) Properties fronting a collector or local road shall be allowed to construct a single parking aisle between the proposed building and the collector and/or local road.

~~12~~**11. Lighting Standards:**
(a.) All exterior lighting shall have recessed bulbs and filters which conceal the source of illumination. No wall or roof mounted flood or spot lights used as general grounds lighting are permitted. Security lighting is permitted.
(b.) Lighting for off-street walkways shall be spaced no more than 30 feet apart, and shall not exceed 10 feet in height.
(c.) Parking lighting shall be spaced a maximum of 50 feet apart and shall not exceed 20 feet in height.
(d.) Lighting levels adjacent to residential areas shall not exceed 0.5 footcandles at the property line (six feet above ground).

~~13~~**12. Noncompliance:** Existing noncompliance of the standards set forth in this section shall be subject to the provisions of division 3 of this article.

~~14~~**15. Variance Procedure:** Conformance to these design criteria shall be verified by the county during the site and development plan review process required for individual development projects. Deviation from the following subsections of this section may be requested pursuant to article I of the Leon County Land Development Code: subsections 5, 6, 7, 8, 10(c) and 11 of this section.

~~15~~**14. Incentives for Site Design Alternatives:** An intensity bonus shall be provided to developments incorporating any of the following site design alternatives:
1) An intensity bonus of 3,000 square feet per acre (maximum) shall be allowed provided new development or redevelopment utilizes one or more of the following:
a) For properties fronting an arterial or collector roadway, no less than 25 percent of the parking will be provided in a shared facility.
b) Development site areas of 3 or more acres wherein at least 50 percent of the parking will be provided in a shared facility.
c) Parking is provided within a range of 50 percent—75 percent of the parking requirements in section 10-7.545.
d) The development contains a minimum of 35 percent natural open space.

General notes:

(1) If central sanitary sewer is not available, non-residential development is limited to a maximum of 2,500 square feet of building area. Community service facilities are limited to a maximum of 5,000 square feet of building area of a 500-gallon septic tank. Also, refer to sanitary sewer policy 2.1.12 of the Comprehensive Plan for additional requirements.

(2) Refer to the Environmental Management Act (EMA) for information pertaining to the regulation of environmental features (preservation/conservation features), stormwater management requirements, etc.

(3) Refer to the concurrency management ordinance for information pertaining to the availability of capacity for certain public facilities (roads, parks, etc.).

Section 10. Amendments to Section 10-6.674 of the Code of Laws of Leon County, Florida.

Section 10-6.674 of Article VI of Chapter 10, the Land Development Code, of the Code of Laws of Leon County, Florida, entitled "BC-2 Bradfordville Commercial Pedestrian-Oriented District," is hereby amended to read as follows:

Sec. 10-6.674. BC-2 Bradfordville Commercial Pedestrian-Oriented District.

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Development Standards									
	4. Minimum Lot or Site Size			**5. Minimum Building Setbacks**				**6. Maximum Building Restrictions**	
Use Category	**a. Lot or Site Area**	**b. Lot Width**	**c. Lot Depth**	**a. Front**	**b. Side-Interior Lot**	**c. Side-Corner Lot**	**d. Rear**	**a. Building Size (excluding gross building floor area used for parking)**	**b. Building Height (excluding stories used for parking)**
Any Permitted Principal and Special Exception Use	None	None	None	None (5 feet maximum)	None	None	30 feet	18,000 square feet of commercial floor area per acre. No single use tenant shall exceed 10,000 gross square feet.	3 stories

7. Access Management Criteria: (In case of a conflict with the provisions of other ordinances or regulations, the most strict provisions shall apply).
(a.) Arterial and collector roads. Direct driveway access to arterial and collector roads is prohibited except for:
1) Existing driveway access as of July 28, 1998;
2) A single driveway access for properties in existence before July 28, 1998 which have sole access to the arterial road and does not have other street access; and
3) Temporary driveway access may be permitted for properties which establish permanent access to another public street and grant the local government with jurisdiction the right to close the temporary

access without compensation upon opening of access to an alternative roadway.
(b.) All properties. All properties shall provide cross access easements benefiting adjoining properties to permit the development of an internal vehicular and pedestrian circulation system. All non-residential properties shall provide driveway interconnections to adjoining non-residential properties. All new developments proposing subdivision shall have shared access for every two parcels created where accessed from a local street.
(c.) Local streets. Full movement access to a local street shall not be permitted within 200 feet of a signalized intersection. Right-in/right-out access to a local street shall not be permitted closer than 100 feet to another access point or intersecting public street, nor within 200 feet of a signalized intersection, except properties with sole access to a local street are permitted at least one access point, which may be limited to right-in/right-out based upon a traffic safety evaluation.

8. Street Vehicular Access Restrictions: Properties in the BC-2 zoning district may have vehicular access to any type of street. However, in order to protect residential areas and neighborhoods from non-residential traffic, vehicular access to a local street is prohibited if one of the following zoning districts is located on the other side of the local street: RA, R-1, R-2, R-3, R-4, R-5, MH, MR-1, R, and RP.

9. Landscape Standards: Development within the BC-2 shall be subject to the landscape requirements of this section in addition to those requirements of the Environmental Management Act (EMA). Where standards conflict, the stricter of the two shall apply. All landscape plans shall be prepared by a registered landscape architect as per F.S. ch. 481.
(a.) Arterial road landscaping. All properties fronting arterial roads shall provide and maintain a 30 foot wide landscape area immediately adjoining the arterial road. All vegetation within the 30 foot wide landscaped area of good condition four inches and larger shall be preserved. This landscape area shall be planted with canopy trees with at least one tree for each 200 square feet of landscape area. Creative design and spacing is encouraged. The landscape area may be crossed by driveways permitted pursuant to subsection 7 of this section, but compensatory area shall be added, equal to the area of the driveway, adjacent to the required landscape area. Sidewalks are not permitted within the landscaped area except for interconnections to sidewalks fronting public roadways. Signs in accordance with section 13. of this section may be located within the landscape area, but shall not reduce the tree planting requirement. Existing healthy trees in the landscape area may be counted as prescribed in section 10-4.350(b) toward meeting the tree planting requirement. Management of the existing trees within the 30 feet shall include pruning of dead and hazardous tree limbs, pruning of live limbs less than 25 percent of the green mass of the tree, fertilization, pest control, and control of invasive vegetation. Mechanical methods which compact the earth or root systems shall not be allowed.
(b.) Collector road landscaping. All properties fronting collector and local roads shall provide and maintain a 20-foot-wide landscape area immediately adjoining the collector road. All vegetation within the 20-foot-wide landscaped area of good condition four inches and larger shall be preserved (This provision shall not apply where a primary entrance is oriented toward the street and there is no vehicular use area between the building and roadway). This landscape area shall be planted with canopy trees with at least one tree for each 200 square feet of landscape area. Creative design and spacing is encouraged. The landscape area may be crossed (for redevelopment projects only) by driveways permitted pursuant to subsection 7 of this section, but compensatory area shall be added equal to the area of the driveway within the required landscape area. Sidewalks are not permitted within the landscaped area except for interconnections to sidewalks fronting public roadways. Signs in accordance with subsection 13 of this section may be located within the landscape area, but shall not reduce the tree planting requirement. Existing healthy trees in the landscape area may be counted as prescribed in section 10-4.350(b) toward meeting the use planting requirement. Management of the existing trees within the 20 feet shall include pruning of dead and hazardous tree limbs, paining of live limbs less than 25 percent of the green mass of the tree, fertilization, post control, and control of invasive vegetation. Mechanical methods which compact the earth or root systems shall not be allowed.
(c.) Local road and access ways landscaping. All properties fronting a local road and every access way

shall provide one canopy tree for every 15 linear feet of local road frontage and/or access way.
(d.) Street trees. All canopy tree planting areas shall contain a minimum of 200 square feet of landscaped area. Creative design and spacing is encouraged.
(e.) Parking areas. All vehicular use areas shall be buffered from view from public streets and/or access ways through the use of vegetation and/or topography or other manmade structures so long as such structures are architecturally compatible with the principle structure. All manmade visual buffers greater than 20 feet in unbroken length shall be designed to provide interesting visual effects and reduce apparent mass though the use of vegetation and plane projections, material changes, changes in scale or other architectural features. Canopy tree cover for the parking area shall be provided so as to attain a minimum of 60 percent plan view shading within 10 years of planting date. At grade parking grade shall include interior landscaped areas at a minimum ratio of 400 square feet per 5,000 square feet of vehicular use area located internally to the parking area. Where interior landscaped areas cannot be obtained, the required landscaped area shall be placed between the proposed vehicular use area and the public right-of-way and/or access way. Existing vegetation shall be incorporated into the landscaped areas to the greatest extent possible. Planting areas shall have a minimum area of 400 square feet, with a minimum dimension of 10 feet and shall have a depth of 3 feet of good planting soil.
(f.) Trees planted within a sidewalk area shall incorporate tree grates or other surfacing so as to not impede the flow of pedestrian traffic.
(g.) Buffer standards for uncomplimentary land uses shall meet the requirements of section 10-7.522.
(h.) Developments within this district shall preserve a minimum of 25 percent of the total site as natural area. The required natural area may be located off-site if the required area is designated as public open space and is accepted by the public works department. On-site natural area shall encompass significant, naturally occurring vegetation areas or other significant environmental features.
(i.) Stormwater management facilities shall be landscaped in accordance with the Environmental Management Act, however, development is encouraged to provide innovative designs making such facilities an amenity to the site. All stormwater management facilities are encouraged to be constructed with 4:1 side slopes. Chainlink and vinyl clad fencing enclosures are prohibited where stormwater management facilities are visible from public roadways/access ways. Where fencing and/or retaining walls are proposed and visible from a public roadway/access way, such fencing shall be architecturally compatible with the principle structure. Stormwater ponds shall be designed to imitate "natural" pond characteristics, including curved geometrics, gently sloping edges, landscaping and paving materials, and should be placed so as to be focal design amenities.

10. Signs: ~~All signs within the BC-2 district shall be designed in accordance with the current locally adopted building code. Where conflict between standards of this district and other rules or regulations occur, the stricter of the two shall apply. A uniform sign design for the parcels included within the BC-2 district shall conform to the following minimum guidelines:~~
~~(a.) One wall mounted sign per tenant per street frontage is permitted. A wall mounted sign shall not exceed 10 percent of the area of the tenant wall area on which it is mounted. Wall signs for multiple tenant commercial buildings shall be uniformly designed and placed.~~
~~(b.) No roof signs, billboard signs, pole signs, flashing signs or signs in motion are permitted.~~
~~(c.) Freestanding signs shall be setback a minimum of 10 feet from the right-of-way line.~~
~~(d.) Temporary signs (not to exceed 30 days of display in a calendar year) are permitted at the discretion of the developer, except signs advertising property for sale or lease are not subject to this restriction.~~
~~(e.) Free-standing signs shall be constructed with a base full width to the sign face that is constructed with materials that are consistent with the principle building. One free standing sign per driveway access per street frontage is permitted and shall be internally illuminated with an opaque field to control glare. Freestanding signs are sized proportional to the type of roadway to which they are adjacent. Allowable size restrictions are as follows:~~
~~1.) Arterial roads: Maximum area: 150 square feet, maximum height: 25 feet.~~

~~2.) Major collector roads: Maximum area: 100 square feet, maximum height: 20 feet.~~ ~~3.) Minor collector and local roads: Maximum area: 36 square feet, maximum height: 8 feet.~~
~~11~~10. Parking Standards: (a) Off-street parking is prohibited between buildings fronting a local street and/or access way.
~~12~~11. Lighting Standards: (a.) All exterior lighting shall have recessed bulbs and filters which conceal the source of illumination. No wall or roof mounted flood or spot lights used as general grounds lighting are permitted. Security lighting is permitted. (b.) Lighting for off-street walkways shall be spaced no more than 30 feet apart, and shall not exceed 10 feet in height. (c.) Parking lighting shall be spaced a maximum of 50 feet apart and shall not exceed 20 feet in height. (d.) Lighting levels adjacent to residential areas shall not exceed 0.5 footcandles at the property line (six feet above ground).
~~13~~12. Noncompliance: Existing noncompliance of the standards set forth in this section shall be subject to the provisions of division 3 of this article.
~~14~~13. Variance Procedure: Conformance to these design criteria shall be verified by the county during the site and development plan review process required for individual development projects. Deviation from the following subsections of this section may be requested pursuant to article I of the Leon County Land Development Code: subsections 4, 6, 7, 8, 9, 11(a), and 12 of this section.
~~15~~14. Incentives for Site Design Alternatives: An intensity bonus shall be provided to developments incorporating any of the following site design alternatives. 1) An intensity bonus of 2,000 square feet per acre (maximum) shall be allowed provided new development or redevelopment utilizes one or more of the following: a) For properties fronting an arterial or collector roadway, no less than 25 percent of the parking will be provided in a shared facility. b) Development site areas of 3 or more acres wherein at least 50 percent of the parking will be provided in a shared facility. c) Parking is provided within a range of 50 percent—75 percent of the parking requirements in section 10-7.545. d) The development contains a minimum of 35 percent natural open space.

General notes:

(1) If central sanitary sewer is not available, non-residential development is limited to a maximum of 2,500 square feet of building area. Community service facilities are limited to a maximum of 5,000 square feet of building area or a 500-gallon septic tank. Also, refer to Sanitary Sewer Policy 2.1.12 of the Comprehensive Plan for additional requirements.

(2) Refer to the Environmental Management Act (EMA) for information pertaining to the regulation of environmental features (preservation/conservation features), stormwater management requirements, etc.

3) Refer to the concurrency management ordinance for information pertaining to the availability of capacity for certain public facilities (roads, parks, etc.).

Section 11. Amendments to Section 10-6.675 of the Code of Laws of Leon County, Florida.

Section 10-6.675 of Article VI of Chapter 10, the Land Development Code, of the Code of Laws of Leon County, Florida, entitled "BCS Bradfordville Commercial Services District," is hereby amended to read as follows:

Sec. 10-6.675. BCS Bradfordville Commercial Services District.

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Development Standards									
	4. Minimum Lot or Site Size			5. Minimum Building Setbacks				6. Maximum Building Restrictions	
Use Category	**a. Lot or Site Area**	**b. Lot Width**	**c. Lot Depth**	**a. Front**	**b. Side-Interior Lot**	**c. Side-Corner Lot**	**d. Rear**	**a. Building Size (excluding gross building floor area used for parking)**	**b. Building Height (excluding stories used for parking)**
Any Permitted Principal and Special Exception Use	None	None	None	20 feet	15 feet	25 feet	10 feet	Gross floor area shall not exceed 15,000 square feet per acre, except for buildings or portions thereof which are used for storage which may not exceed 17,000 square feet per acre. No single use tenant shall exceed 10,000 square feet.	2 stories

7. Access Management Criteria: (In case of a conflict with the provisions of other ordinances or regulations, the most strict provisions shall apply.)
(a) Arterial and collector roads. Direct driveway access to arterial and collector roads is prohibited except for:
1) Existing driveway access as of July 28, 1998;
2) A single driveway access for properties in existence before July 28, 1998, which have sole access to the arterial road and does not have other street access; and
3) Temporary driveway access may be permitted for properties which establish permanent access to another public street and grant the local government with jurisdiction the right to close the temporary access without compensation upon opening of access to an alternative roadway.
(b) All properties. All properties shall provide cross access easements benefiting adjoining properties to permit the development of an internal vehicular and pedestrian circulation system. All non-residential properties shall provide driveway interconnections to adjoining non-residential properties.

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All new developments proposing subdivision shall have shared access for every two parcels created.
(c) Local streets. Full movement access to a local street shall not be permitted within 200 feet of a signalized intersection. Right-in/right-out access to a local street shall not be permitted closer than 100 feet to another access point or intersecting public street, nor within 200 feet of a signalized intersection, except properties with sole access to a local street are permitted at least one access point, which may be limited to right-in/right-out based upon a traffic safety evaluation.

8. Street Vehicular Access Restrictions: Properties in the BCS zoning district may have vehicular access to any type of street. However, in order to protect residential areas and neighborhoods from non-residential traffic, vehicular access to a local street is prohibited if one of the following zoning districts is located on the other side of the local street: RA, R-1, R-2, R-3, R-4, R-5, MH, MR-1, R, and RP.

9. Landscape Standards: Development within the BCS shall be subject to the landscape requirements of this section in addition to those requirements of the Environmental Management Act (EMA). Where standards conflict, the stricter of the two shall apply. All landscape plans shall be prepared by a registered landscape architect as per F.S. ch. 481.
(a.) Arterial road landscaping. All properties fronting arterial roads shall provide and maintain a 30 foot wide landscape area immediately adjoining the arterial road. All vegetation within the 30-foot-wide landscaped area of good condition four inches and larger shall be preserved. This landscape area shall be planted with canopy trees with at least one tree for each 200 square feet of landscape area. Creative design and spacing is encouraged. The landscape area may be crossed by driveways permitted pursuant to subsection 7 of this section, but compensatory area shall be added, equal to the area of the driveway, adjacent to the required landscape area. Sidewalks are not permitted within the landscaped area except for interconnections to sidewalks fronting public roadways. Signs in accordance with subsection 13 of this section may be located within the landscape area, but shall not reduce the tree planting requirement. Existing healthy trees in the Landscape area may be counted as prescribed in section 10-4.350(b) toward meeting the tree planting requirement. Management of the existing trees within the 30 feet shall include pruning of dead and hazardous tree limbs, pruning of live limbs less than 25 percent of the green mass of the tree, fertilization, past control, and control of invasive vegetation. Mechanical methods which compact the earth or root systems shall not be allowed.
(b.) Collector and local road landscaping. All properties fronting collector and local roads shall provide and maintain a 20-foot-wide landscape area immediately adjoining the collector or local road. All vegetation within the 20-foot-wide landscaped area of good condition four inches and larger shall be preserved (This provision shall not apply where a primary entrance is oriented toward the street and there is no vehicular use area between the building and roadway). This landscape area shall be planted with canopy trees with at least one tree for each 200 square feet of landscape area. Creative design and spacing is encouraged. The landscape area may be crossed by driveways permitted pursuant to subsection 7 of this section, but compensatory area shall be added equal to the area of the driveway within the required landscape area. Sidewalks are not permitted within the landscaped area except for interconnections to sidewalks fronting public roadways. Signs in accordance with subsection 13 of this section may be located within the landscape area, but shall not reduce the tree planting requirement. Existing healthy trees in the landscape area may be counted as prescribed in section 10-4.350(b) toward meeting the tree planting requirement. Management of the existing trees within the 20 feet shall include pruning of dead and hazardous tree limbs, pruning of live limbs less than 25 percent of the green mass of the tree, fertilization, post control, and control of invasive vegetation. Mechanical methods which compact the earth or root systems shall not be allowed.
(c.) Street trees. All existing and proposed roadways/access ways shall be planted with canopy trees at a standard of one canopy tree per 200 square feet of landscape area. Credit shall be given for existing vegetation within the required landscaped areas as identified in subsection 9.(a) and (b) of this section. Creative design and spacing is encouraged.
(d.) Parking areas. All vehicular use areas shall be buffered from view from public streets and for

access ways through the use of vegetation and/or topography or other manmade structures so long as such structures are architecturally compatible with the principle structure. All manmade visual buffers greater than 20 feet in unbroken length shall be designed to provide interesting visual effects and reduce apparent mass though the use of vegetation and plane projections, material changes, in scale or other architectural features. Canopy tree cover for the parking area shall be provided so as to attain a minimum of 60 percent plan view shading within 10 years of planting date. At grade parking areas shall include interior landscaped areas at a minimum ratio of 400 square feet per 5,000 square feet of vehicular use area located internally to the parking area. Where interior landscaped areas can not be obtained, the required landscaped area shall be placed between the proposed vehicular use area and the public right-of-way and/or access way. Existing vegetation shall be incorporated into the landscaped areas to the greatest extent possible. Planting areas shall have a minimum area of 400 square feet, with a minimum dimension of 10 feet and shall have a depth of 3 feet of good planting soil.
(e.) Trees planted within a sidewalk area shall incorporate tree grates or other surfacing so as to not impede the flow of pedestrian traffic.
(f.) Buffer standards for uncomplimentary land uses shall meet the requirements of section 10-7.522.
(g.) Developments within this district shall preserve a minimum of 25 percent of the total site as natural area. On-site natural area shall encompass significant, naturally occurring vegetation areas or other significant environmental features.
(h.) Stormwater management facilities shall be landscaped in accordance with the Environmental Management Act, however, development is encouraged to provide innovative designs making such facilities an amenity to the site. All stormwater management facilities are encouraged to be constructed with 4:1 side slopes. Chainlink and vinyl clad fencing enclosures are prohibited where stormwater management facilities are visible from public roadways/access ways. Where fencing and/or retaining walls are proposed and visible from a public roadway/access way, such fencing shall be architecturally compatible with the principle structure. Stormwater ponds shall be designed to imitate "natural" pond characteristics, including curved geometrics, gently sloping edges, landscaping and paving materials, and should be placed so as to be focal design amenities.

~~**10. Signs:** All signs within the BCS district shall be designed in accordance with the current locally adopted building code. Where conflict between standards of this district and other rules or regulations occur, the stricter of the two shall apply. A uniform sign design for the parcels included within the BCS district shall conform to the following minimum guidelines:~~
~~(a.) One wall mounted sign per tenant per street frontage is permitted. A wall mounted sign shall not exceed 10 percent of the area of the tenant wall area on which it is mounted. Wall signs for multiple tenant commercial buildings shall be uniformly designed and placed.~~
~~(b.) No roof signs, billboard signs, pole signs, flashing signs or signs in motion are permitted.~~
~~(c.) Freestanding signs shall be setback a minimum of 10 feet from the right-of-way line.~~
~~(d.) Temporary signs (not to exceed 30 days of display in a calendar year) are permitted at the discretion of the developer, except signs advertising property for sale or lease are not subject to this restriction.~~
~~(e.) Freestanding signs shall be constructed with a base full width to the sign face that is constructed with materials that are consistent with the principle building. One freestanding sign per driveway access per street frontage is permitted and shall be internally illuminated with an opaque field to control glare. Freestanding signs are sized proportional to the type of roadway to which they are adjacent. Allowable size restrictions are as follows:~~
~~1.) Arterial Roads: Maximum area: 150 square feet, maximum height: 25 feet.~~
~~2.) Major Collector Roads: Maximum area: 100 square feet, maximum height: 20 feet.~~
~~3.) Minor Collector and Local Roads: Maximum area: 36 square feet, maximum height: 8 feet.~~

~~11~~10. Parking Standards:
(a) Properties fronting an arterial road shall be allowed to construct 50 percent of all parking required by the land development code in front of the proposed building/structure and/or adjacent to a public

roadway. Additional parking, above code requirements shall be located to a side or rear of the proposed building/structure that is not fronting a public or private roadway or access way. (b) Properties fronting a collector or local road shall be allowed to construct a single parking aisle between the proposed building and the collector and/or local road.
~~12~~11. Lighting Standards: (a.) All exterior lighting shall have recessed bulbs and filters which conceal the source of illumination. No wall or roof-mounted flood or spot lights used as general grounds lighting are permitted. Security lighting is permitted. (b.) Lighting for off-street walkways shall be spaced no more than 30 feet apart, and shall not exceed 10 feet in height. (c.) Parking lighting shall be spaced a maximum of 50 feet apart and shall not exceed 20 feet in height. (d.) Lighting levels adjacent to residential areas shall not exceed 0.5 footcandles at the property line (six feet above ground).
~~13~~12. Noncompliance: (a.) Existing noncompliance of the standards set forth in this section shall be subject to the provisions of division 3 of this article.
~~14~~13. Variance Procedure: Conformance to these design criteria shall be verified by the county during the site and development plan review process required for individual development projects. Deviation from the following subsections of this section may be requested pursuant to article I of the Leon County Land Development Code: subsections 5, 6, 7, 8, 10(a), 10(c), and 11 of this section.
~~15~~14. Incentives for Site Design Alternatives: An intensity bonus shall be provided to developments incorporating any of the following site design alternatives: 1) An intensity bonus of 2,500 square feet per acre (maximum) shall be allowed provided new development or redevelopment utilizes one or more of the following: a) For properties fronting an arterial or collector roadway, no less than 25 percent of the parking will be provided in a shared facility. b) Development site areas of 3 or more acres wherein at least 50 percent of the parking will be provided in a shared facility. c) Parking is provided within a range of 50 percent—75 percent of the parking requirements in section 10-7.545. d) The development contains a minimum of 35 percent natural open space.

General notes:

(1) If central sanitary sewer is not available, non-residential development is limited to a minimum of 0.50 acre lots and non-residential development is limited to a maximum of 2,500 square feet of building area. Community service facilities are limited to a maximum of 5,000 square feet of building area or a 500-gallon septic tank. Also, refer to Sanitary Sewer Policy 2.1.12 of the Comprehensive Plan for additional requirements.

(2) Refer to the Environmental Management Act (EMA) for information pertaining to the regulation of environmental features (preservation conservation features), stormwater management requirements, etc.

(3) Refer to the concurrency management ordinance for information pertaining to the availability of capacity for certain public facilities (roads, parks, etc.).

Section 12. Amendments to Section 10-6.676 of the Code of Laws of Leon County, Florida.

Section 10-6.676 of Article VI of Chapter 10, the Land Development Code, of the Code of Laws of Leon County, Florida, entitled "BOR Bradfordville Office Residential District," is hereby amended to read as follows:

Sec. 10-6.676. BOR Bradfordville Office Residential District.

[* * * * *]

Development Standards									
	4. Minimum Lot or Site Size			5. Minimum Building Setbacks				6. Maximum Building Restrictions	
Use Category	**a. Lot or Site Area**	**b. Lot Width**	**c. Lot Depth**	**a. Front**	**b. Side-Interior Lot**	**c. Side-Corner Lot**	**d. Rear**	**a. Building Size (excluding gross building floor area used for parking)**	**b. Building Height (excluding stories used for parking)**
Single-Family Detached Dwellings	5,000 square feet	50 feet	100 feet	20 feet	7.5 feet on each side; or any combination of setbacks that equals at least 15 feet, provided that no such schools shall be less than 5 feet	20 feet	25 feet	Not applicable	3 stories
Two-Family Dwellings	8,500 square feet	70 feet	100 feet	20 feet	Same as single-family above	20 feet	25 feet	Not applicable	3 stories
Single-Family Attached Dwellings	3,750 square feet end unit; 2,400 square feet interior lot	37.5 feet end unit; 25 feet interior lot	80 feet	20 feet	None	20 feet	25 feet	Maximum length: 8 units	3 stories
Any Permitted Principal Non-Residential Use	6,000 square feet	50 feet	100 feet	20 feet	Same as single-family above	20 feet	10 feet	10,000 square feet of gross building floor area per acre (does not apply to a	3 stories

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								conversion of an existing structure)	

7. Access Management Criteria: (In case of a conflict with the provisions of other ordinances or regulations, the most strict provisions shall apply).
(a.) Arterial and collector roads. Direct driveway access to arterial and collector roads is prohibited except for:
1) Existing driveway access as of July 28, 1998;
2) A single driveway access for properties in existence before July 28, 1998, which have sole access to the arterial road and does not have other street access; and
3) Temporary driveway access may be permitted for properties which establish permanent access to another public street and grant the local government with jurisdiction the right to close the temporary access without compensation upon opening of access to an alternative roadway.
(b.) All properties. All properties shall provide cross access easements benefiting adjoining properties to permit the development of an internal vehicular and pedestrian circulation system. All non-residential properties shall provide driveway interconnections to adjoining non-residential properties. All new developments proposing subdivision shall have shared access for every two parcels created.
(c.) Local streets. Full movement access to a local street shall not be permitted within 200 feet of a signalized intersection. Right-in/right-out access to a local street shall not be permitted closer than 100 feet to another access point or intersecting public street, nor within 200 feet of a signalized intersection, except properties with sole access to a local street are permitted at least one access point, which may be limited to right-in/right-out based upon a traffic safety evaluation.

8. Street Vehicular Access Restrictions: Properties in the BOR zoning district may have vehicular access to any type of street. However, in order to protect residential areas and neighborhoods from non-residential traffic, vehicular access to a local street is prohibited if one of the following zoning districts is located on the other side of the local street: RA, R-1, R-2, R-3, R-4, R-5, MH, MR-1, R, and RP.

9. Landscape Standards: Development within the BOR shall be subject to the landscape requirements of this section in addition to those requirements of the Environmental Management Act (EMA). Where standards conflict, the stricter of the two shall apply. All landscape shall be prepared by a registered landscape architect as per F.S. ch. 481.
(a.) Arterial road landscaping. All properties fronting arterial roads shall provide and maintain a 30-foot-wide landscape area immediately adjoining the arterial road. All vegetation within the 30-foot-wide landscaped area of good condition four inches and larger shall be preserved. This landscape area shall be planted with canopy trees with at least one tree for each 200 square feet of landscape area. Creative design and spacing is encouraged. The landscape area may be crossed by driveways permitted pursuant to subsection 7 of this section, but compensatory area shall be added, equal to the area of the driveway, adjacent to the required landscape area. Sidewalks are not permitted within the landscape area except for interconnections to sidewalks fronting public roadways. Signs in accordance with subsection 13 of this section may be located within the landscape area, but shall not reduce the tree planting requirement. Existing healthy trees in the landscape area may be counted as prescribed in section 10-4.350(b) toward meeting the tree planting requirement. Management of the existing trees within the 30 feet shall include pruning of dead and hazardous tree limbs, pruning of live limbs less than 25 percent of the green mass of the tree, fertilization, post control, and control of invasive vegetation. Mechanical methods which compact the earth or root systems shall not be allowed.
(b.) Collector and local road landscaping. All properties fronting collector and local roads shall provide and maintain a 20-foot-wide landscape area immediately adjoining the collector or local road. All vegetation within the 20-foot-wide landscaped area of good condition four inches and larger shall be preserved (This provision shall not apply where a primary entrance is oriented toward the street and there is no vehicular use area between the building and roadway). This landscape area shall be planted with

canopy trees with at least one tree for each 200 square feet of landscape area. Creative design and spacing is encouraged. The landscape area may be crossed by driveways permitted pursuant to subsection 7 of this section, but compensatory area shall be added equal to the area of the driveway within the required landscape area. Sidewalks are not permitted within the landscaped area except for interconnections to sidewalks fronting public roadways. Signs in accordance with subsection 13 of this section may be located within the landscape area, but shall not reduce the tree planting requirement. Existing healthy trees in the landscape area may be counted as prescribed in section 10-4.350(b) toward meeting the tree planting requirement. Management of the existing trees within the 20 feet shall include pruning of dead and hazardous tree limbs, pruning of live limbs less than 25 percent of the green mass of the tree, fertilization, pest control, and control of invasive vegetation. Mechanical methods which compact the earth or root systems shall not be allowed.

(c.) Street trees. All existing and proposed roadways/access ways shall be planted with canopy trees at a standard of one canopy tree per 200 square feet of landscaped area. Credit shall be given for existing vegetation within the required landscaped areas as identified in subsections a and b of this section. Creative design and spacing is encouraged.

(d.) Parking areas. All vehicular use areas shall be buffered from view from public streets and/or access ways through the use of vegetation and/or topography or other manmade structures so long as such structures are architecturally compatible with the principle structure. All manmade visual buffers greater than 20 feet in unbroken length shall be designed to provide interesting visual effects and reduce apparent mass though the use of vegetation and plane projections, material changes, changes in scale or other architectural features. Canopy tree cover for the parking area shall be provided so as to attain a minimum of 60 percent plan view shading within 10 years of planting date. At grade parking areas shall include interior landscaped areas at a minimum ratio of 400 square feet per 5,000 square feet of vehicular use area located internally to the parking area. Where interior landscaped areas cannot be obtained, the required landscaped area shall be placed between the proposed vehicular use area and the public right-of-way and/or access way. Existing vegetation shall be incorporated into the landscaped areas to the greatest extent possible. Planting areas shall have a minimum area of 400 square feet with a minimum dimension of 10 feet and shall have a depth of 3 feet of good planting soil.

(e.) Trees planted within a sidewalk area shall incorporate tree grates or other surfacing so as to not impale the flow of pedestrian traffic.

(f.) Buffer standards for uncomplimentary land uses shall meet the requirements of section 10-7.522.

(g.) Developments within this district shall preserve a minimum of 25 percent of the total site as natural area. The required natural area may be located off-site if the required area is designated as public open space and is accepted by the public works department. On-site natural area shall encompass significant, naturally occurring vegetation areas or other significant environmental features.

(h.) Stormwater management facilities shall be landscaped in accordance with the Environmental Management Act, however, development is encouraged to provide innovative designs making such facilities an amenity to the site. All stormwater management facilities are encouraged to be constructed with 4:1 side slopes. Chainlink and vinyl clad fencing enclosures are prohibited where stormwater management facilities are visible from public roadways/access ways. Where fencing and/or retaining walls are proposed and visible from a public roadway/access way, such fencing shall be architecturally compatible with the principle structure. Stormwater ponds shall be designed to imitate "natural" pond characteristics, including curved geometries, gently sloping edges, landscaping and paving materials, and should be placed so as to be focal design amenities.

10. Signs: ~~All signs within the BOR district shall be designed in accordance with the current locally adopted building code. Where conflict between standards of this district and other rules or regulations occur, the stricter of the two shall apply. A uniform sign design for the parcels included within the BOR district shall conform to the following minimum guidelines:~~

~~(a.) One wall-mounted sign per tenant per street frontage is permitted. A wall mounted sign shall not exceed 10 percent of the area of the tenant wall area on which it is mounted. Wall signs for multiple tenant~~

~~commercial buildings shall be uniformly designed and placed. Only one wall sign for multiple tenant office land uses shall be allowed.~~
~~(b.) No roof signs, billboard signs, pole signs, flashing signs or signs in motion are permitted.~~
~~(c.) Freestanding signs shall be setback a minimum of 10 feet from the right-of-way line.~~
~~(d.) Temporary signs (not to exceed 30 days of display in a calendar year) are permitted at the discretion of the developer, except signs advertising property for sale or lease are not subject to this restriction.~~
~~(e.) Freestanding signs shall be constructed with a base full width to the sign face that is constructed with materials that are consistent with the principle building. One freestanding sign per driveway access per street frontage is permitted and shall be internally illuminated with an opaque field to control glare.~~
~~Freestanding signs are sized proportional to the type of roadway to which they are adjacent. Allowable size restrictions are as follows:~~
~~1.) Arterial roads: Maximum area: 150 square feet, maximum height: 25 feet.~~
~~2.) Major collector roads: Maximum area: 100 square feet, maximum height: 20 feet.~~
~~3.) Minor collector and local roads: Maximum area: 36 square feet, maximum height: 8 feet.~~

~~11~~10. **Off-Street Parking Requirements:** Off-street parking facilities associated with permitted principal non-residential uses in the BOR zoning districts must comply with the following requirements:
(a.) Parking setbacks: Side-corner: 20 feet; Rear and side-interior: 10 feet.
(b.) Driveway setbacks: Side-corner: 10 feet (none if driveway is shared); Rear and side-interior: 4 feet (none if driveway is shared).
(c.) Off-street parking may not be placed in a front yard between a building and the street.
(d.) The parking or driveway separation from the building is four feet.
(e.) All off-street parking spaces behind a building shall be screened from the required front yard and side corner lot areas by evergreen landscaping at least four feet in height.
(f.) Parking spaces shall be screened from rear and interior side property lines by a combination of a six feet high opaque fence or wall and landscape plant material.
(g.) Driveways connecting to a public street shall be the narrowest possible width to ensure appropriate safety standards, as determined by the County Administrator or designee.

~~12~~11. **Lighting Standards:**
(a.) All exterior lighting shall have recessed bulbs and filters which conceal the source of illumination. No wall or roof-mounted flood or spot lights used as general grounds lighting are permitted. Security lighting is permitted.
(b.) Lighting for off-street walkways shall be spaced no more than 30 feet apart, and shall not exceed 10 feet in height.
(c.) Parking lighting shall be spaced a maximum of 50 feet apart and shall not exceed 20 feet in height.
(d.) Lighting levels adjacent to residential areas shall not exceed 0.5 footcandles at the property line (six feet above ground).

~~13~~12. **Noncompliance:** Existing noncompliance of the standards set forth in this section shall be subject to the provisions of division 3 of this article.

~~14~~13. **Variance Procedure:** Conformance to these design criteria shall be verified by the county during the site and development plan review process required for individual development projects. Deviation from the following subsections of this section may be requested pursuant to article I of the Leon County Land Development Code: subsections 4, 5, 6, 7, 8, 10(a), 10(c), and 11 of this section.

~~15~~14. **Design Standards Applicable to Miniwarehouse Land Uses:**
(a.) Miniwarehouse developments shall be developed in accordance with standards as set forth in section 10-6.675 (BCS district).
(b.) A continuous 100 percent opaque buffer obtained through the use of vegetation and/or fencing shall be required around the perimeter of all areas used for miniwarehouse storage. This standard does not apply to the portion of the development utilized for a sales office.

General notes:

(1) If central sanitary sewer is not available, non-residential development is limited to a minimum of 0.50-acre lots and non-residential development is limited to a maximum of 2,500 square feet of building area. Community service facilities are limited to a maximum of 5,000 square feet of building area or a 500-gallon septic tank. Also, refer to Sanitary Sewer Policy 2.1.12. of the Comprehensive Plan for additional requirements.

(2) Refer to the Environmental Management Act (EMA) for information pertaining to the regulation of environmental features (preservation conservation features), stormwater management requirements, etc.

(3) Refer to the concurrency management ordinance for information pertaining to the availability of capacity for certain public facilities (roads, parks, etc.).

Section 13. Amendments to Section 10-6.680 of the Code of Laws of Leon County, Florida.

Section 10-6.680 of Article VI of Chapter 10, the Land Development Code, of the Code of Laws of Leon County, Florida, entitled "Bradfordville Commercial Center District," is hereby amended to read as follows:

Sec. 10-6.680. Bradfordville Commercial Center District (BCCD).

(a) *Purpose and intent.* The purpose and intent of the Bradfordville commercial center district (BCCD) is to provide development standards that implement the goals, objectives, and policies of the Tallahassee-Leon County Comprehensive Plan recognizing the special character of the Bradfordville Study Area. The BCCD district is provided to ensure that goods and services are provided primarily for the area residents rather than serving a regional market and providing development consistent with the character of the area. The BCCD district is also intended to provide more focused development reviews for projects associated with sensitive historical, cultural or environmental resources. The BCCD district is implemented by the following zoning districts: BC-1 Bradfordville commercial auto-oriented district, BC-2 Bradfordville Commercial Pedestrian-Oriented District, BCS Bradfordville Commercial Services District, BOR Bradfordville Office-Residential District, OS Open Space, and PUD Planned Unit Development. The BCCD boundary is defined in figure A. Expansion of this district shall be prohibited until a new commercial needs assessment has been completed in 2030.

[* * * * *]

(c) *Development standards.* Development standards are established in the underlying zoning district as set forth in this subdivision. Developments affecting land within the BCCD shall be subject to review pursuant to division 4, article VII of this chapter and shall comply with the following development standards:

(1) *Site analysis.* A comprehensive site analysis is required before planning and design begins. The analysis should examine the site's physical properties, amenities, special problems, character, and the neighboring environment of the site.

(2) *Stormwater.* Development or redevelopment of any property located within the BCCD shall be subject to compliance with the Bradfordville Stormwater Standards outlined in article IV of this chapter.

(3) *Roadway access standards.* In order to protect the roadway capacity of Thomasville, Bannerman, and Bradfordville Roads, new direct access is prohibited along the arterial and collector roadways except as permitted in this division.

(4) *Site design.* Building and site design shall comply with the Bradfordville Site and Building Standards Guidelines Manual adopted by the Board of County Commissioners. Low impact design alternatives shall be incorporated into all site and development plans within the BCCD district. Development within the overlay shall provide integration of the proposed use and development with the adjacent

uses and developments including, but not limited to, access/egress, building and parking location/orientation, natural and landscaped areas. Development shall incorporate the existing natural features of the development site into site and development plans avoiding clearing of expansive naturally vegetated areas. Parking areas shall be buffered from all public roadways through placement of vegetation and/or topography or manmade structures.

(5) ~~*Signage*. All signage shall be proportional to the roadway classification along which it is located. Larger signs will be permitted along arterial roadways, smaller signs will be permitted along collector roadways, and the smallest signs will be permitted along local non-residential streets. Freestanding signs are prohibited in the BC-2 district along local streets. Roof signs and pole signs are prohibited within the BCCD. Freestanding signs within the BCCD shall be limited to monument style construction and architecturally compatible with the principle structure to which it is related.~~

~~(6)~~ *Lighting.* All building lighting and parking area lighting shall be downward directional. Lighting in parking areas shall be restricted to low mounted closely spaced fixtures to minimize glare.

[* * * * *]

Section 14. Conflicts.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon County 2030 Comprehensive Plan as amended, which provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.

Section 15. Severability.

If any word, phrase, clause, section, or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

Section 16. Effective Date.

This ordinance shall have effect upon becoming law.

[The remainder of this page intentionally left blank.]

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DONE, ADOPTED AND PASSED by the Board of County Commissioners of Leon County, Florida, this _____ day of _____, 20____.

LEON COUNTY, FLORIDA

By:_____
Bill Proctor, Chair
Board of County Commissioners

ATTESTED BY:
Gwendolyn Marshall Knight, Clerk of
Court & Comptroller, Leon County, Florida

By:_____

APPROVED AS TO FORM:
Chasity H. O'Steen, County Attorney
Leon County Attorney's Office

By:_____

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Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

REED ET AL. *v*. TOWN OF GILBERT, ARIZONA, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 13–502. Argued January 12, 2015—Decided June 18, 2015

Gilbert, Arizona (Town), has a comprehensive code (Sign Code or Code) that prohibits the display of outdoor signs without a permit, but exempts 23 categories of signs, including three relevant here. "Ideological Signs," defined as signs "communicating a message or ideas" that do not fit in any other Sign Code category, may be up to 20 square feet and have no placement or time restrictions. "Political Signs," defined as signs "designed to influence the outcome of an election," may be up to 32 square feet and may only be displayed during an election season. "Temporary Directional Signs," defined as signs directing the public to a church or other "qualifying event," have even greater restrictions: No more than four of the signs, limited to six square feet, may be on a single property at any time, and signs may be displayed no more than 12 hours before the "qualifying event" and 1 hour after.

Petitioners, Good News Community Church (Church) and its pastor, Clyde Reed, whose Sunday church services are held at various temporary locations in and near the Town, posted signs early each Saturday bearing the Church name and the time and location of the next service and did not remove the signs until around midday Sunday. The Church was cited for exceeding the time limits for displaying temporary directional signs and for failing to include an event date on the signs. Unable to reach an accommodation with the Town, petitioners filed suit, claiming that the Code abridged their freedom of speech. The District Court denied their motion for a preliminary injunction, and the Ninth Circuit affirmed, ultimately concluding that the Code's sign categories were content neutral, and that the Code satisfied the intermediate scrutiny accorded to content-neutral regulations of speech.

Held: The Sign Code's provisions are content-based regulations of

speech that do not survive strict scrutiny. Pp. 6–17.

(a) Because content-based laws target speech based on its communicative content, they are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests. *E.g., R. A. V.* v. *St. Paul*, 505 U. S. 377, 395. Speech regulation is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed. *E.g., Sorrell* v. *IMS Health, Inc.*, 564 U. S. ___, ___–___. And courts are required to consider whether a regulation of speech "on its face" draws distinctions based on the message a speaker conveys. *Id.,* at ___. Whether laws define regulated speech by particular subject matter or by its function or purpose, they are subject to strict scrutiny. The same is true for laws that, though facially content neutral, cannot be " 'justified without reference to the content of the regulated speech,' " or were adopted by the government "because of disagreement with the message" conveyed. *Ward* v. *Rock Against Racism*, 491 U. S. 781, 791. Pp. 6–7.

(b) The Sign Code is content based on its face. It defines the categories of temporary, political, and ideological signs on the basis of their messages and then subjects each category to different restrictions. The restrictions applied thus depend entirely on the sign's communicative content. Because the Code, on its face, is a content-based regulation of speech, there is no need to consider the government's justifications or purposes for enacting the Code to determine whether it is subject to strict scrutiny. Pp. 7.

(c) None of the Ninth Circuit's theories for its contrary holding is persuasive. Its conclusion that the Town's regulation was not based on a disagreement with the message conveyed skips the crucial first step in the content-neutrality analysis: determining whether the law is content neutral on its face. A law that is content based on its face is subject to strict scrutiny regardless of the government's benign motive, content-neutral justification, or lack of "animus toward the ideas contained" in the regulated speech. *Cincinnati* v. *Discovery Network, Inc.,* 507 U. S. 410, 429. Thus, an innocuous justification cannot transform a facially content-based law into one that is content neutral. A court must evaluate each question—whether a law is content based on its face and whether the purpose and justification for the law are content based—before concluding that a law is content neutral. *Ward* does not require otherwise, for its framework applies only to a content-neutral statute.

The Ninth Circuit's conclusion that the Sign Code does not single out any idea or viewpoint for discrimination conflates two distinct but related limitations that the First Amendment places on government regulation of speech. Government discrimination among viewpoints

is a "more blatant" and "egregious form of content discrimination," *Rosenberger* v. *Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 829, but "[t]he First Amendment's hostility to content-based regulation [also] extends . . . to prohibition of public discussion of an entire topic," *Consolidated Edison Co. of N. Y.* v. *Public Serv. Comm'n of N. Y.*, 447 U. S. 530, 537. The Sign Code, a paradigmatic example of content-based discrimination, singles out specific subject matter for differential treatment, even if it does not target viewpoints within that subject matter.

The Ninth Circuit also erred in concluding that the Sign Code was not content based because it made only speaker-based and event-based distinctions. The Code's categories are not speaker-based—the restrictions for political, ideological, and temporary event signs apply equally no matter who sponsors them. And even if the sign categories were speaker based, that would not automatically render the law content neutral. Rather, "laws favoring some speakers over others demand strict scrutiny when the legislature's speaker preference reflects a content preference." *Turner Broadcasting System, Inc.* v. *FCC*, 512 U. S. 622, 658. This same analysis applies to event-based distinctions. Pp. 8–14.

(d) The Sign Code's content-based restrictions do not survive strict scrutiny because the Town has not demonstrated that the Code's differentiation between temporary directional signs and other types of signs furthers a compelling governmental interest and is narrowly tailored to that end. See *Arizona Free Enterprise Club's Freedom Club PAC* v. *Bennett*, 564 U. S. ___, ___. Assuming that the Town has a compelling interest in preserving its aesthetic appeal and traffic safety, the Code's distinctions are highly underinclusive. The Town cannot claim that placing strict limits on temporary directional signs is necessary to beautify the Town when other types of signs create the same problem. See *Discovery Network*, *supra,* at 425. Nor has it shown that temporary directional signs pose a greater threat to public safety than ideological or political signs. Pp. 14–15.

(e) This decision will not prevent governments from enacting effective sign laws. The Town has ample content-neutral options available to resolve problems with safety and aesthetics, including regulating size, building materials, lighting, moving parts, and portability. And the Town may be able to forbid postings on public property, so long as it does so in an evenhanded, content-neutral manner. See *Members of City Council of Los Angeles* v. *Taxpayers for Vincent*, 466 U. S. 789, 817. An ordinance narrowly tailored to the challenges of protecting the safety of pedestrians, drivers, and passengers—*e.g.,* warning signs marking hazards on private property or signs directing traffic—might also survive strict scrutiny. Pp. 16–17.

Syllabus

707 F. 3d 1057, reversed and remanded.

THOMAS, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, KENNEDY, ALITO, and SOTOMAYOR, JJ., joined. ALITO, J., filed a concurring opinion, in which KENNEDY and SOTOMAYOR, JJ., joined. BREYER, J., filed an opinion concurring in the judgment. KAGAN, J., filed an opinion concurring in the judgment, in which GINSBURG and BREYER, JJ., joined

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 13–502

CLYDE REED, ET AL., PETITIONERS *v.* TOWN OF GILBERT, ARIZONA, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 18, 2015]

JUSTICE THOMAS delivered the opinion of the Court.

The town of Gilbert, Arizona (or Town), has adopted a comprehensive code governing the manner in which people may display outdoor signs. Gilbert, Ariz., Land Development Code (Sign Code or Code), ch. 1, §4.402 (2005).[1] The Sign Code identifies various categories of signs based on the type of information they convey, then subjects each category to different restrictions. One of the categories is "Temporary Directional Signs Relating to a Qualifying Event," loosely defined as signs directing the public to a meeting of a nonprofit group. §4.402(P). The Code imposes more stringent restrictions on these signs than it does on signs conveying other messages. We hold that these provisions are content-based regulations of speech that cannot survive strict scrutiny.

[1] The Town's Sign Code is available online at http://www.gilbertaz.gov/departments/development-service/planning-development/land-development-code (as visited June 16, 2015, and available in Clerk of Court's case file).

I

A

The Sign Code prohibits the display of outdoor signs anywhere within the Town without a permit, but it then exempts 23 categories of signs from that requirement. These exemptions include everything from bazaar signs to flying banners. Three categories of exempt signs are particularly relevant here.

The first is "Ideological Sign[s]." This category includes any "sign communicating a message or ideas for noncommercial purposes that is not a Construction Sign, Directional Sign, Temporary Directional Sign Relating to a Qualifying Event, Political Sign, Garage Sale Sign, or a sign owned or required by a governmental agency." Sign Code, Glossary of General Terms (Glossary), p. 23 (emphasis deleted). Of the three categories discussed here, the Code treats ideological signs most favorably, allowing them to be up to 20 square feet in area and to be placed in all "zoning districts" without time limits. §4.402(J).

The second category is "Political Sign[s]." This includes any "temporary sign designed to influence the outcome of an election called by a public body." Glossary 23.[2] The Code treats these signs less favorably than ideological signs. The Code allows the placement of political signs up to 16 square feet on residential property and up to 32 square feet on nonresidential property, undeveloped municipal property, and "rights-of-way." §4.402(I).[3] These signs may be displayed up to 60 days before a primary election and up to 15 days following a general election. *Ibid.*

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[2] A "Temporary Sign" is a "sign not permanently attached to the ground, a wall or a building, and not designed or intended for permanent display." Glossary 25.

[3] The Code defines "Right-of-Way" as a "strip of publicly owned land occupied by or planned for a street, utilities, landscaping, sidewalks, trails, and similar facilities." *Id.,* at 18.

The third category is "Temporary Directional Signs Relating to a Qualifying Event." This includes any "Temporary Sign intended to direct pedestrians, motorists, and other passersby to a 'qualifying event.'" Glossary 25 (emphasis deleted). A "qualifying event" is defined as any "assembly, gathering, activity, or meeting sponsored, arranged, or promoted by a religious, charitable, community service, educational, or other similar non-profit organization." *Ibid.* The Code treats temporary directional signs even less favorably than political signs.[4] Temporary directional signs may be no larger than six square feet. §4.402(P). They may be placed on private property or on a public right-of-way, but no more than four signs may be placed on a single property at any time. *Ibid.* And, they may be displayed no more than 12 hours before the "qualifying event" and no more than 1 hour afterward. *Ibid.*

B

Petitioners Good News Community Church (Church) and its pastor, Clyde Reed, wish to advertise the time and location of their Sunday church services. The Church is a small, cash-strapped entity that owns no building, so it holds its services at elementary schools or other locations in or near the Town. In order to inform the public about its services, which are held in a variety of different loca-

[4]The Sign Code has been amended twice during the pendency of this case. When litigation began in 2007, the Code defined the signs at issue as "Religious Assembly Temporary Direction Signs." App. 75. The Code entirely prohibited placement of those signs in the public right-of-way, and it forbade posting them in any location for more than two hours before the religious assembly or more than one hour afterward. *Id.,* at 75–76. In 2008, the Town redefined the category as "Temporary Directional Signs Related to a Qualifying Event," and it expanded the time limit to 12 hours before and 1 hour after the "qualifying event." *Ibid.* In 2011, the Town amended the Code to authorize placement of temporary directional signs in the public right-of-way. *Id.,* at 89.

tions, the Church began placing 15 to 20 temporary signs around the Town, frequently in the public right-of-way abutting the street. The signs typically displayed the Church's name, along with the time and location of the upcoming service. Church members would post the signs early in the day on Saturday and then remove them around midday on Sunday. The display of these signs requires little money and manpower, and thus has proved to be an economical and effective way for the Church to let the community know where its services are being held each week.

This practice caught the attention of the Town's Sign Code compliance manager, who twice cited the Church for violating the Code. The first citation noted that the Church exceeded the time limits for displaying its temporary directional signs. The second citation referred to the same problem, along with the Church's failure to include the date of the event on the signs. Town officials even confiscated one of the Church's signs, which Reed had to retrieve from the municipal offices.

Reed contacted the Sign Code Compliance Department in an attempt to reach an accommodation. His efforts proved unsuccessful. The Town's Code compliance manager informed the Church that there would be "no leniency under the Code" and promised to punish any future violations.

Shortly thereafter, petitioners filed a complaint in the United States District Court for the District of Arizona, arguing that the Sign Code abridged their freedom of speech in violation of the First and Fourteenth Amendments. The District Court denied the petitioners' motion for a preliminary injunction. The Court of Appeals for the Ninth Circuit affirmed, holding that the Sign Code's provision regulating temporary directional signs did not regulate speech on the basis of content. 587 F. 3d 966, 979 (2009). It reasoned that, even though an enforcement

officer would have to read the sign to determine what provisions of the Sign Code applied to it, the "'kind of cursory examination'" that would be necessary for an officer to classify it as a temporary directional sign was "not akin to an officer synthesizing the expressive content of the sign." *Id.*, at 978. It then remanded for the District Court to determine in the first instance whether the Sign Code's distinctions among temporary directional signs, political signs, and ideological signs nevertheless constituted a content-based regulation of speech.

On remand, the District Court granted summary judgment in favor of the Town. The Court of Appeals again affirmed, holding that the Code's sign categories were content neutral. The court concluded that "the distinctions between Temporary Directional Signs, Ideological Signs, and Political Signs . . . are based on objective factors relevant to Gilbert's creation of the specific exemption from the permit requirement and do not otherwise consider the substance of the sign." 707 F. 3d 1057, 1069 (CA9 2013). Relying on this Court's decision in *Hill* v. *Colorado*, 530 U. S. 703 (2000), the Court of Appeals concluded that the Sign Code is content neutral. 707 F. 3d, at 1071–1072. As the court explained, "Gilbert did not adopt its regulation of speech because it disagreed with the message conveyed" and its "interests in regulat[ing] temporary signs are unrelated to the content of the sign." *Ibid.* Accordingly, the court believed that the Code was "content-neutral as that term [has been] defined by the Supreme Court." *Id.,* at 1071. In light of that determination, it applied a lower level of scrutiny to the Sign Code and concluded that the law did not violate the First Amendment. *Id.*, at 1073–1076.

We granted certiorari, 573 U. S. ___ (2014), and now reverse.

II

A

The First Amendment, applicable to the States through the Fourteenth Amendment, prohibits the enactment of laws "abridging the freedom of speech." U. S. Const., Amdt. 1. Under that Clause, a government, including a municipal government vested with state authority, "has no power to restrict expression because of its message, its ideas, its subject matter, or its content." *Police Dept. of Chicago* v. *Mosley*, 408 U. S. 92, 95 (1972). Content-based laws—those that target speech based on its communicative content—are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests. *R. A. V.* v. *St. Paul*, 505 U. S. 377, 395 (1992); *Simon & Schuster, Inc.* v. *Members of N. Y. State Crime Victims Bd.*, 502 U. S. 105, 115, 118 (1991).

Government regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed. *E.g., Sorrell* v. *IMS Health, Inc.*, 564 U. S. ___, ___–___ (2011) (slip op., at 8–9); *Carey* v. *Brown*, 447 U. S. 455, 462 (1980); *Mosley*, *supra,* at 95. This commonsense meaning of the phrase "content based" requires a court to consider whether a regulation of speech "on its face" draws distinctions based on the message a speaker conveys. *Sorrell*, *supra,* at ___ (slip op., at 8). Some facial distinctions based on a message are obvious, defining regulated speech by particular subject matter, and others are more subtle, defining regulated speech by its function or purpose. Both are distinctions drawn based on the message a speaker conveys, and, therefore, are subject to strict scrutiny.

Our precedents have also recognized a separate and additional category of laws that, though facially content neutral, will be considered content-based regulations of speech: laws that cannot be "'justified without reference to

the content of the regulated speech,'" or that were adopted by the government "because of disagreement with the message [the speech] conveys," *Ward* v. *Rock Against Racism*, 491 U. S. 781, 791 (1989). Those laws, like those that are content based on their face, must also satisfy strict scrutiny.

B

The Town's Sign Code is content based on its face. It defines "Temporary Directional Signs" on the basis of whether a sign conveys the message of directing the public to church or some other "qualifying event." Glossary 25. It defines "Political Signs" on the basis of whether a sign's message is "designed to influence the outcome of an election." *Id.,* at 24. And it defines "Ideological Signs" on the basis of whether a sign "communicat[es] a message or ideas" that do not fit within the Code's other categories. *Id.,* at 23. It then subjects each of these categories to different restrictions.

The restrictions in the Sign Code that apply to any given sign thus depend entirely on the communicative content of the sign. If a sign informs its reader of the time and place a book club will discuss John Locke's Two Treatises of Government, that sign will be treated differently from a sign expressing the view that one should vote for one of Locke's followers in an upcoming election, and both signs will be treated differently from a sign expressing an ideological view rooted in Locke's theory of government. More to the point, the Church's signs inviting people to attend its worship services are treated differently from signs conveying other types of ideas. On its face, the Sign Code is a content-based regulation of speech. We thus have no need to consider the government's justifications or purposes for enacting the Code to determine whether it is subject to strict scrutiny.

C

In reaching the contrary conclusion, the Court of Appeals offered several theories to explain why the Town's Sign Code should be deemed content neutral. None is persuasive.

1

The Court of Appeals first determined that the Sign Code was content neutral because the Town "did not adopt its regulation of speech [based on] disagree[ment] with the message conveyed," and its justifications for regulating temporary directional signs were "unrelated to the content of the sign." 707 F. 3d, at 1071–1072. In its brief to this Court, the United States similarly contends that a sign regulation is content neutral—even if it expressly draws distinctions based on the sign's communicative content—if those distinctions can be "'justified without reference to the content of the regulated speech.'" Brief for United States as *Amicus Curiae* 20, 24 (quoting *Ward, supra*, at 791; emphasis deleted).

But this analysis skips the crucial first step in the content-neutrality analysis: determining whether the law is content neutral on its face. A law that is content based on its face is subject to strict scrutiny regardless of the government's benign motive, content-neutral justification, or lack of "animus toward the ideas contained" in the regulated speech. *Cincinnati* v. *Discovery Network, Inc.,* 507 U. S. 410, 429 (1993). We have thus made clear that "'[i]llicit legislative intent is not the *sine qua non* of a violation of the First Amendment,'" and a party opposing the government "need adduce 'no evidence of an improper censorial motive.'" *Simon & Schuster, supra,* at 117. Although "a content-based purpose may be sufficient in certain circumstances to show that a regulation is content based, it is not necessary." *Turner Broadcasting System, Inc.* v. *FCC*, 512 U. S. 622, 642 (1994). In other words, an

innocuous justification cannot transform a facially content-based law into one that is content neutral.

That is why we have repeatedly considered whether a law is content neutral on its face *before* turning to the law's justification or purpose. See, *e.g., Sorrell*, *supra,* at ___–___ (slip op., at 8–9) (statute was content based "on its face," and there was also evidence of an impermissible legislative motive); *United States* v. *Eichman*, 496 U. S. 310, 315 (1990) ("Although the [statute] contains no explicit content-based limitation on the scope of prohibited conduct, it is nevertheless clear that the Government's asserted *interest* is related to the suppression of free expression" (internal quotation marks omitted)); *Members of City Council of Los Angeles* v. *Taxpayers for Vincent*, 466 U. S. 789, 804 (1984) ("The text of the ordinance is neutral," and "there is not even a hint of bias or censorship in the City's enactment or enforcement of this ordinance"); *Clark* v. *Community for Creative Non-Violence*, 468 U. S. 288, 293 (1984) (requiring that a facially content-neutral ban on camping must be "justified without reference to the content of the regulated speech"); *United States* v. *O'Brien*, 391 U. S. 367, 375, 377 (1968) (noting that the statute "on its face deals with conduct having no connection with speech," but examining whether the "the governmental interest is unrelated to the suppression of free expression"). Because strict scrutiny applies either when a law is content based on its face or when the purpose and justification for the law are content based, a court must evaluate each question before it concludes that the law is content neutral and thus subject to a lower level of scrutiny.

The Court of Appeals and the United States misunderstand our decision in *Ward* as suggesting that a government's purpose is relevant even when a law is content based on its face. That is incorrect. *Ward* had nothing to say about facially content-based restrictions because it involved a facially content-*neutral* ban on the use, in a

city-owned music venue, of sound amplification systems not provided by the city. 491 U. S., at 787, and n. 2. In that context, we looked to governmental motive, including whether the government had regulated speech "because of disagreement" with its message, and whether the regulation was "'justified without reference to the content of the speech.'" *Id.,* at 791. But *Ward*'s framework "applies only if a statute is content neutral." *Hill*, 530 U. S., at 766 (KENNEDY, J., dissenting). Its rules thus operate "to protect speech," not "to restrict it." *Id.,* at 765.

The First Amendment requires no less. Innocent motives do not eliminate the danger of censorship presented by a facially content-based statute, as future government officials may one day wield such statutes to suppress disfavored speech. That is why the First Amendment expressly targets the operation of the laws—*i.e.,* the "abridg[ement] of speech"—rather than merely the motives of those who enacted them. U. S. Const., Amdt. 1. "'The vice of content-based legislation . . . is not that it is always used for invidious, thought-control purposes, but that it lends itself to use for those purposes.'" *Hill, supra,* at 743 (SCALIA, J., dissenting).

For instance, in *NAACP* v. *Button*, 371 U. S. 415 (1963), the Court encountered a State's attempt to use a statute prohibiting "'improper solicitation'" by attorneys to outlaw litigation-related speech of the National Association for the Advancement of Colored People. *Id.,* at 438. Although *Button* predated our more recent formulations of strict scrutiny, the Court rightly rejected the State's claim that its interest in the "regulation of professional conduct" rendered the statute consistent with the First Amendment, observing that "it is no answer . . . to say . . . that the purpose of these regulations was merely to insure high professional standards and not to curtail free expression." *Id.,* at 438–439. Likewise, one could easily imagine a Sign Code compliance manager who disliked the Church's

substantive teachings deploying the Sign Code to make it more difficult for the Church to inform the public of the location of its services. Accordingly, we have repeatedly "rejected the argument that 'discriminatory . . . treatment is suspect under the First Amendment only when the legislature intends to suppress certain ideas.'" *Discovery Network,* 507 U. S., at 429. We do so again today.

2

The Court of Appeals next reasoned that the Sign Code was content neutral because it "does not mention any idea or viewpoint, let alone single one out for differential treatment." 587 F. 3d, at 977. It reasoned that, for the purpose of the Code provisions, "[i]t makes no difference which candidate is supported, who sponsors the event, or what ideological perspective is asserted." 707 F. 3d, at 1069.

The Town seizes on this reasoning, insisting that "content based" is a term of art that "should be applied flexibly" with the goal of protecting "viewpoints and ideas from government censorship or favoritism." Brief for Respondents 22. In the Town's view, a sign regulation that "does not censor or favor particular viewpoints or ideas" cannot be content based. *Ibid.* The Sign Code allegedly passes this test because its treatment of temporary directional signs does not raise any concerns that the government is "endorsing or suppressing 'ideas or viewpoints,'" *id.*, at 27, and the provisions for political signs and ideological signs "are neutral as to particular ideas or viewpoints" within those categories. *Id.*, at 37.

This analysis conflates two distinct but related limitations that the First Amendment places on government regulation of speech. Government discrimination among viewpoints—or the regulation of speech based on "the specific motivating ideology or the opinion or perspective of the speaker"—is a "more blatant" and "egregious form of

content discrimination." *Rosenberger* v. *Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 829 (1995). But it is well established that "[t]he First Amendment's hostility to content-based regulation extends not only to restrictions on particular viewpoints, but also to prohibition of public discussion of an entire topic." *Consolidated Edison Co. of N. Y.* v. *Public Serv. Comm'n of N. Y.*, 447 U. S. 530, 537 (1980).

Thus, a speech regulation targeted at specific subject matter is content based even if it does not discriminate among viewpoints within that subject matter. *Ibid.* For example, a law banning the use of sound trucks for political speech—and only political speech—would be a content-based regulation, even if it imposed no limits on the political viewpoints that could be expressed. See *Discovery Network, supra,* at 428. The Town's Sign Code likewise singles out specific subject matter for differential treatment, even if it does not target viewpoints within that subject matter. Ideological messages are given more favorable treatment than messages concerning a political candidate, which are themselves given more favorable treatment than messages announcing an assembly of like-minded individuals. That is a paradigmatic example of content-based discrimination.

3

Finally, the Court of Appeals characterized the Sign Code's distinctions as turning on "'the content-neutral elements of who is speaking through the sign and whether and when an event is occurring.'" 707 F. 3d, at 1069. That analysis is mistaken on both factual and legal grounds.

To start, the Sign Code's distinctions are not speaker based. The restrictions for political, ideological, and temporary event signs apply equally no matter who sponsors them. If a local business, for example, sought to put up

signs advertising the Church's meetings, those signs would be subject to the same limitations as such signs placed by the Church. And if Reed had decided to display signs in support of a particular candidate, he could have made those signs far larger—and kept them up for far longer—than signs inviting people to attend his church services. If the Code's distinctions were truly speaker based, both types of signs would receive the same treatment.

In any case, the fact that a distinction is speaker based does not, as the Court of Appeals seemed to believe, automatically render the distinction content neutral. Because "[s]peech restrictions based on the identity of the speaker are all too often simply a means to control content," *Citizens United* v. *Federal Election Comm'n*, 558 U. S. 310, 340 (2010), we have insisted that "laws favoring some speakers over others demand strict scrutiny when the legislature's speaker preference reflects a content preference," *Turner,* 512 U. S., at 658. Thus, a law limiting the content of newspapers, but only newspapers, could not evade strict scrutiny simply because it could be characterized as speaker based. Likewise, a content-based law that restricted the political speech of all corporations would not become content neutral just because it singled out corporations as a class of speakers. See *Citizens United, supra*, at 340–341. Characterizing a distinction as speaker based is only the beginning—not the end—of the inquiry.

Nor do the Sign Code's distinctions hinge on "whether and when an event is occurring." The Code does not permit citizens to post signs on any topic whatsoever within a set period leading up to an election, for example. Instead, come election time, it requires Town officials to determine whether a sign is "designed to influence the outcome of an election" (and thus "political") or merely "communicating a message or ideas for noncommercial purposes" (and thus "ideological"). Glossary 24. That obvious content-based

inquiry does not evade strict scrutiny review simply because an event (*i.e.,* an election) is involved.

And, just as with speaker-based laws, the fact that a distinction is event based does not render it content neutral. The Court of Appeals cited no precedent from this Court supporting its novel theory of an exception from the content-neutrality requirement for event-based laws. As we have explained, a speech regulation is content based if the law applies to particular speech because of the topic discussed or the idea or message expressed. *Supra,* at 6. A regulation that targets a sign because it conveys an idea about a specific event is no less content based than a regulation that targets a sign because it conveys some other idea. Here, the Code singles out signs bearing a particular message: the time and location of a specific event. This type of ordinance may seem like a perfectly rational way to regulate signs, but a clear and firm rule governing content neutrality is an essential means of protecting the freedom of speech, even if laws that might seem "entirely reasonable" will sometimes be "struck down because of their content-based nature." *City of Ladue* v. *Gilleo*, 512 U. S. 43, 60 (1994) (O'Connor, J., concurring).

III

Because the Town's Sign Code imposes content-based restrictions on speech, those provisions can stand only if they survive strict scrutiny, "'which requires the Government to prove that the restriction furthers a compelling interest and is narrowly tailored to achieve that interest,'" *Arizona Free Enterprise Club's Freedom Club PAC* v. *Bennett*, 564 U. S. ___, ___ (2011) (slip op., at 8) (quoting *Citizens United*, 558 U. S., at 340). Thus, it is the Town's burden to demonstrate that the Code's differentiation between temporary directional signs and other types of signs, such as political signs and ideological signs, furthers a compelling governmental interest and is narrowly tai-

lored to that end. See *ibid.*

The Town cannot do so. It has offered only two governmental interests in support of the distinctions the Sign Code draws: preserving the Town's aesthetic appeal and traffic safety. Assuming for the sake of argument that those are compelling governmental interests, the Code's distinctions fail as hopelessly underinclusive.

Starting with the preservation of aesthetics, temporary directional signs are "no greater an eyesore," *Discovery Network*, 507 U. S., at 425, than ideological or political ones. Yet the Code allows unlimited proliferation of larger ideological signs while strictly limiting the number, size, and duration of smaller directional ones. The Town cannot claim that placing strict limits on temporary directional signs is necessary to beautify the Town while at the same time allowing unlimited numbers of other types of signs that create the same problem.

The Town similarly has not shown that limiting temporary directional signs is necessary to eliminate threats to traffic safety, but that limiting other types of signs is not. The Town has offered no reason to believe that directional signs pose a greater threat to safety than do ideological or political signs. If anything, a sharply worded ideological sign seems more likely to distract a driver than a sign directing the public to a nearby church meeting.

In light of this underinclusiveness, the Town has not met its burden to prove that its Sign Code is narrowly tailored to further a compelling government interest. Because a "'law cannot be regarded as protecting an interest of the highest order, and thus as justifying a restriction on truthful speech, when it leaves appreciable damage to that supposedly vital interest unprohibited,'" *Republican Party of Minn.* v. *White*, 536 U. S. 765, 780 (2002), the Sign Code fails strict scrutiny.

IV

Our decision today will not prevent governments from enacting effective sign laws. The Town asserts that an "'absolutist'" content-neutrality rule would render "virtually all distinctions in sign laws . . . subject to strict scrutiny," Brief for Respondents 34–35, but that is not the case. Not "all distinctions" are subject to strict scrutiny, only *content-based* ones are. Laws that are *content neutral* are instead subject to lesser scrutiny. See *Clark*, 468 U. S., at 295.

The Town has ample content-neutral options available to resolve problems with safety and aesthetics. For example, its current Code regulates many aspects of signs that have nothing to do with a sign's message: size, building materials, lighting, moving parts, and portability. See, *e.g.,* §4.402(R). And on public property, the Town may go a long way toward entirely forbidding the posting of signs, so long as it does so in an evenhanded, content-neutral manner. See *Taxpayers for Vincent*, 466 U. S., at 817 (upholding content-neutral ban against posting signs on public property). Indeed, some lower courts have long held that similar content-based sign laws receive strict scrutiny, but there is no evidence that towns in those jurisdictions have suffered catastrophic effects. See, *e.g., Solantic, LLC* v. *Neptune Beach*, 410 F. 3d 1250, 1264–1269 (CA11 2005) (sign categories similar to the town of Gilbert's were content based and subject to strict scrutiny); *Matthews* v. *Needham*, 764 F. 2d 58, 59–60 (CA1 1985) (law banning political signs but not commercial signs was content based and subject to strict scrutiny).

We acknowledge that a city might reasonably view the general regulation of signs as necessary because signs "take up space and may obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation." *City of Ladue*, 512 U. S., at 48. At the same time, the presence of certain

signs may be essential, both for vehicles and pedestrians, to guide traffic or to identify hazards and ensure safety. A sign ordinance narrowly tailored to the challenges of protecting the safety of pedestrians, drivers, and passengers—such as warning signs marking hazards on private property, signs directing traffic, or street numbers associated with private houses—well might survive strict scrutiny. The signs at issue in this case, including political and ideological signs and signs for events, are far removed from those purposes. As discussed above, they are facially content based and are neither justified by traditional safety concerns nor narrowly tailored.

* * *

We reverse the judgment of the Court of Appeals and remand the case for proceedings consistent with this opinion.

It is so ordered.

SUPREME COURT OF THE UNITED STATES

No. 13–502

CLYDE REED, ET AL., PETITIONERS *v.* TOWN OF GILBERT, ARIZONA, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 18, 2015]

JUSTICE ALITO, with whom JUSTICE KENNEDY and JUSTICE SOTOMAYOR join, concurring.

I join the opinion of the Court but add a few words of further explanation.

As the Court holds, what we have termed "content-based" laws must satisfy strict scrutiny. Content-based laws merit this protection because they present, albeit sometimes in a subtler form, the same dangers as laws that regulate speech based on viewpoint. Limiting speech based on its "topic" or "subject" favors those who do not want to disturb the status quo. Such regulations may interfere with democratic self-government and the search for truth. See *Consolidated Edison Co. of N. Y.* v. *Public Serv. Comm'n of N. Y.*, 447 U. S. 530, 537 (1980).

As the Court shows, the regulations at issue in this case are replete with content-based distinctions, and as a result they must satisfy strict scrutiny. This does not mean, however, that municipalities are powerless to enact and enforce reasonable sign regulations. I will not attempt to provide anything like a comprehensive list, but here are some rules that would not be content based:

Rules regulating the size of signs. These rules may distinguish among signs based on any content-neutral criteria, including any relevant criteria listed below.

Rules regulating the locations in which signs may be

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placed. These rules may distinguish between free-standing signs and those attached to buildings.

Rules distinguishing between lighted and unlighted signs.

Rules distinguishing between signs with fixed messages and electronic signs with messages that change.

Rules that distinguish between the placement of signs on private and public property.

Rules distinguishing between the placement of signs on commercial and residential property.

Rules distinguishing between on-premises and off-premises signs.

Rules restricting the total number of signs allowed per mile of roadway.

Rules imposing time restrictions on signs advertising a one-time event. Rules of this nature do not discriminate based on topic or subject and are akin to rules restricting the times within which oral speech or music is allowed.*

In addition to regulating signs put up by private actors, government entities may also erect their own signs consistent with the principles that allow governmental speech. See *Pleasant Grove City* v. *Summum*, 555 U. S. 460, 467–469 (2009). They may put up all manner of signs to promote safety, as well as directional signs and signs pointing out historic sites and scenic spots.

Properly understood, today's decision will not prevent cities from regulating signs in a way that fully protects public safety and serves legitimate esthetic objectives.

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*Of course, content-neutral restrictions on speech are not necessarily consistent with the First Amendment. Time, place, and manner restrictions "must be narrowly tailored to serve the government's legitimate, content-neutral interests." *Ward* v. *Rock Against Racism*, 491 U. S. 781, 798 (1989). But they need not meet the high standard imposed on viewpoint- and content-based restrictions.

SUPREME COURT OF THE UNITED STATES

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ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 18, 2015]

JUSTICE BREYER, concurring in the judgment.

I join JUSTICE KAGAN's separate opinion. Like JUSTICE KAGAN I believe that categories alone cannot satisfactorily resolve the legal problem before us. The First Amendment requires greater judicial sensitivity both to the Amendment's expressive objectives and to the public's legitimate need for regulation than a simple recitation of categories, such as "content discrimination" and "strict scrutiny," would permit. In my view, the category "content discrimination" is better considered in many contexts, including here, as a rule of thumb, rather than as an automatic "strict scrutiny" trigger, leading to almost certain legal condemnation.

To use content discrimination to trigger strict scrutiny sometimes makes perfect sense. There are cases in which the Court has found content discrimination an unconstitutional method for suppressing a viewpoint. *E.g., Rosenberger* v. *Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 828–829 (1995); see also *Boos* v. *Barry*, 485 U. S. 312, 318–319 (1988) (plurality opinion) (applying strict scrutiny where the line between subject matter and viewpoint was not obvious). And there are cases where the Court has found content discrimination to reveal that rules governing a traditional public forum are, in fact, not a neutral way of fairly managing the forum in the interest of all

speakers. *Police Dept. of Chicago* v. *Mosley*, 408 U. S. 92, 96 (1972) ("Once a forum is opened up to assembly or speaking by some groups, government may not prohibit others from assembling or speaking on the basis of what they intend to say"). In these types of cases, strict scrutiny is often appropriate, and content discrimination has thus served a useful purpose.

But content discrimination, while helping courts to identify unconstitutional suppression of expression, cannot and should not *always* trigger strict scrutiny. To say that it is not an automatic "strict scrutiny" trigger is not to argue against that concept's use. I readily concede, for example, that content discrimination, as a conceptual tool, can sometimes reveal weaknesses in the government's rationale for a rule that limits speech. If, for example, a city looks to litter prevention as the rationale for a prohibition against placing newsracks dispensing free advertisements on public property, why does it exempt other newsracks causing similar litter? Cf. *Cincinnati* v. *Discovery Network, Inc.*, 507 U. S. 410 (1993). I also concede that, whenever government disfavors one kind of speech, it places that speech at a disadvantage, potentially interfering with the free marketplace of ideas and with an individual's ability to express thoughts and ideas that can help that individual determine the kind of society in which he wishes to live, help shape that society, and help define his place within it.

Nonetheless, in these latter instances to use the presence of content discrimination automatically to trigger strict scrutiny and thereby call into play a strong presumption against constitutionality goes too far. That is because virtually all government activities involve speech, many of which involve the regulation of speech. Regulatory programs almost always require content discrimination. And to hold that such content discrimination triggers strict scrutiny is to write a recipe for judicial management

of ordinary government regulatory activity.

Consider a few examples of speech regulated by government that inevitably involve content discrimination, but where a strong presumption against constitutionality has no place. Consider governmental regulation of securities, *e.g.,* 15 U. S. C. §78*l* (requirements for content that must be included in a registration statement); of energy conservation labeling-practices, *e.g.,* 42 U. S. C. §6294 (requirements for content that must be included on labels of certain consumer electronics); of prescription drugs, *e.g.,* 21 U. S. C. §353(b)(4)(A) (requiring a prescription drug label to bear the symbol "Rx only"); of doctor-patient confidentiality, *e.g.,* 38 U. S. C. §7332 (requiring confidentiality of certain medical records, but allowing a physician to disclose that the patient has HIV to the patient's spouse or sexual partner); of income tax statements, *e.g.,* 26 U. S. C. §6039F (requiring taxpayers to furnish information about foreign gifts received if the aggregate amount exceeds $10,000); of commercial airplane briefings, *e.g.,* 14 CFR §136.7 (2015) (requiring pilots to ensure that each passenger has been briefed on flight procedures, such as seatbelt fastening); of signs at petting zoos, *e.g.,* N. Y. Gen. Bus. Law Ann. §399–ff(3) (West Cum. Supp. 2015) (requiring petting zoos to post a sign at every exit "'strongly recommend[ing] that persons wash their hands upon exiting the petting zoo area'"); and so on.

Nor can the majority avoid the application of strict scrutiny to all sorts of justifiable governmental regulations by relying on this Court's many subcategories and exceptions to the rule. The Court has said, for example, that we should apply less strict standards to "commercial speech." *Central Hudson Gas & Elec. Corp.* v. *Public Service Comm'n of N. Y.*, 447 U. S. 557, 562–563 (1980). But I have great concern that many justifiable instances of "content-based" regulation are noncommercial. And, worse than that, the Court has applied the heightened

"strict scrutiny" standard even in cases where the less stringent "commercial speech" standard was appropriate. See *Sorrell* v. *IMS Health Inc.*, 564 U. S. ___, ___ (2011) (BREYER, J., dissenting) (slip op., at ___). The Court has also said that "government speech" escapes First Amendment strictures. See *Rust* v. *Sullivan*, 500 U. S. 173, 193–194 (1991). But regulated speech is typically private speech, not government speech. Further, the Court has said that, "[w]hen the basis for the content discrimination consists entirely of the very reason the entire class of speech at issue is proscribable, no significant danger of idea or viewpoint discrimination exists." *R. A. V.* v. *St. Paul*, 505 U. S. 377, 388 (1992). But this exception accounts for only a few of the instances in which content discrimination is readily justifiable.

I recognize that the Court could escape the problem by watering down the force of the presumption against constitutionality that "strict scrutiny" normally carries with it. But, in my view, doing so will weaken the First Amendment's protection in instances where "strict scrutiny" should apply in full force.

The better approach is to generally treat content discrimination as a strong reason weighing against the constitutionality of a rule where a traditional public forum, or where viewpoint discrimination, is threatened, but elsewhere treat it as a rule of thumb, finding it a helpful, but not determinative legal tool, in an appropriate case, to determine the strength of a justification. I would use content discrimination as a supplement to a more basic analysis, which, tracking most of our First Amendment cases, asks whether the regulation at issue works harm to First Amendment interests that is disproportionate in light of the relevant regulatory objectives. Answering this question requires examining the seriousness of the harm to speech, the importance of the countervailing objectives, the extent to which the law will achieve those objectives,

and whether there are other, less restrictive ways of doing so. See, *e.g., United States* v. *Alvarez*, 567 U. S. ___, ___–___ (2012) (BREYER, J., concurring in judgment) (slip op., at 1–3); *Nixon* v. *Shrink Missouri Government PAC*, 528 U. S. 377, 400–403 (2000) (BREYER, J., concurring). Admittedly, this approach does not have the simplicity of a mechanical use of categories. But it does permit the government to regulate speech in numerous instances where the voters have authorized the government to regulate and where courts should hesitate to substitute judicial judgment for that of administrators.

Here, regulation of signage along the roadside, for purposes of safety and beautification is at issue. There is no traditional public forum nor do I find any general effort to censor a particular viewpoint. Consequently, the specific regulation at issue does not warrant "strict scrutiny." Nonetheless, for the reasons that JUSTICE KAGAN sets forth, I believe that the Town of Gilbert's regulatory rules violate the First Amendment. I consequently concur in the Court's judgment only.

SUPREME COURT OF THE UNITED STATES

No. 13–502

CLYDE REED, ET AL., PETITIONERS *v.* TOWN OF GILBERT, ARIZONA, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

[June 18, 2015]

JUSTICE KAGAN, with whom JUSTICE GINSBURG and JUSTICE BREYER join, concurring in the judgment.

Countless cities and towns across America have adopted ordinances regulating the posting of signs, while exempting certain categories of signs based on their subject matter. For example, some municipalities generally prohibit illuminated signs in residential neighborhoods, but lift that ban for signs that identify the address of a home or the name of its owner or occupant. See, *e.g.*, City of Truth or Consequences, N. M., Code of Ordinances, ch. 16, Art. XIII, §§11–13–2.3, 11–13–2.9(H)(4) (2014). In other municipalities, safety signs such as "Blind Pedestrian Crossing" and "Hidden Driveway" can be posted without a permit, even as other permanent signs require one. See, *e.g.*, Code of Athens-Clarke County, Ga., Pt. III, §7–4–7(1) (1993). Elsewhere, historic site markers—for example, "George Washington Slept Here"—are also exempt from general regulations. See, *e.g.*, Dover, Del., Code of Ordinances, Pt. II, App. B, Art. 5, §4.5(F) (2012). And similarly, the federal Highway Beautification Act limits signs along interstate highways unless, for instance, they direct travelers to "scenic and historical attractions" or advertise free coffee. See 23 U. S. C. §§131(b), (c)(1), (c)(5).

Given the Court's analysis, many sign ordinances of that kind are now in jeopardy. See *ante*, at 14 (acknowledging

that "entirely reasonable" sign laws "will sometimes be struck down" under its approach (internal quotation marks omitted)). Says the majority: When laws "single[] out specific subject matter," they are "facially content based"; and when they are facially content based, they are automatically subject to strict scrutiny. *Ante*, at 12, 16–17. And although the majority holds out hope that some sign laws with subject-matter exemptions "might survive" that stringent review, *ante*, at 17, the likelihood is that most will be struck down. After all, it is the "rare case[] in which a speech restriction withstands strict scrutiny." *Williams-Yulee* v. *Florida Bar*, 575 U. S. ___, ___ (2015) (slip op., at 9). To clear that high bar, the government must show that a content-based distinction "is necessary to serve a compelling state interest and is narrowly drawn to achieve that end." *Arkansas Writers' Project, Inc.* v. *Ragland*, 481 U. S. 221, 231 (1987). So on the majority's view, courts would have to determine that a town has a compelling interest in informing passersby where George Washington slept. And likewise, courts would have to find that a town has no other way to prevent hidden-driveway mishaps than by specially treating hidden-driveway signs. (Well-placed speed bumps? Lower speed limits? Or how about just a ban on hidden driveways?) The consequence—unless courts water down strict scrutiny to something unrecognizable—is that our communities will find themselves in an unenviable bind: They will have to either repeal the exemptions that allow for helpful signs on streets and sidewalks, or else lift their sign restrictions altogether and resign themselves to the resulting clutter.*

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*Even in trying (commendably) to limit today's decision, JUSTICE ALITO's concurrence highlights its far-reaching effects. According to JUSTICE ALITO, the majority does not subject to strict scrutiny regulations of "signs advertising a one-time event." *Ante*, at 2 (ALITO, J., concurring). But of course it does. On the majority's view, a law with an exception for such signs "singles out specific subject matter for

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Although the majority insists that applying strict scrutiny to all such ordinances is "essential" to protecting First Amendment freedoms, *ante*, at 14, I find it challenging to understand why that is so. This Court's decisions articulate two important and related reasons for subjecting content-based speech regulations to the most exacting standard of review. The first is "to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail." *McCullen* v. *Coakley*, 573 U. S. ___, ___–___ (2014) (slip op., at 8–9) (internal quotation marks omitted). The second is to ensure that the government has not regulated speech "based on hostility—or favoritism—towards the underlying message expressed." *R. A. V.* v. *St. Paul*, 505 U. S. 377, 386 (1992). Yet the subject-matter exemptions included in many sign ordinances do not implicate those concerns. Allowing residents, say, to install a light bulb over "name and address" signs but no others does not distort the marketplace of ideas. Nor does that different treatment give rise to an inference of impermissible government motive.

We apply strict scrutiny to facially content-based regulations of speech, in keeping with the rationales just described, when there is any "realistic possibility that official suppression of ideas is afoot." *Davenport* v. *Washington Ed. Assn.*, 551 U. S. 177, 189 (2007) (quoting *R. A. V.*, 505 U. S., at 390). That is always the case when the regulation facially differentiates on the basis of viewpoint. See *Rosenberger* v. *Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 829 (1995). It is also the case (except in nonpublic or limited public forums) when a law restricts "discussion of an entire topic" in public debate. *Consolidated*

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differential treatment" and "defin[es] regulated speech by particular subject matter." *Ante*, at 6, 12 (majority opinion). Indeed, the precise reason the majority applies strict scrutiny here is that "the Code singles out signs bearing a particular message: the time and location of a specific event." *Ante*, at 14.

Edison Co. of N. Y. v. *Public Serv. Comm'n of N. Y.*, 447 U. S. 530, 537, 539–540 (1980) (invalidating a limitation on speech about nuclear power). We have stated that "[i]f the marketplace of ideas is to remain free and open, governments must not be allowed to choose 'which issues are worth discussing or debating.'" *Id.*, at 537–538 (quoting *Police Dept. of Chicago* v. *Mosley*, 408 U. S. 92, 96 (1972)). And we have recognized that such subject-matter restrictions, even though viewpoint-neutral on their face, may "suggest[] an attempt to give one side of a debatable public question an advantage in expressing its views to the people." *First Nat. Bank of Boston* v. *Bellotti*, 435 U. S. 765, 785 (1978); accord, *ante*, at 1 (ALITO, J., concurring) (limiting all speech on one topic "favors those who do not want to disturb the status quo"). Subject-matter regulation, in other words, may have the intent or effect of favoring some ideas over others. When that is realistically possible—when the restriction "raises the specter that the Government may effectively drive certain ideas or viewpoints from the marketplace"—we insist that the law pass the most demanding constitutional test. *R. A. V.*, 505 U. S., at 387 (quoting *Simon & Schuster, Inc.* v. *Members of N. Y. State Crime Victims Bd.*, 502 U. S. 105, 116 (1991)).

But when that is not realistically possible, we may do well to relax our guard so that "entirely reasonable" laws imperiled by strict scrutiny can survive. *Ante*, at 14. This point is by no means new. Our concern with content-based regulation arises from the fear that the government will skew the public's debate of ideas—so when "that risk is inconsequential, . . . strict scrutiny is unwarranted." *Davenport*, 551 U. S., at 188; see *R. A. V.*, 505 U. S., at 388 (approving certain content-based distinctions when there is "no significant danger of idea or viewpoint discrimination"). To do its intended work, of course, the category of content-based regulation triggering strict scrutiny must

sweep more broadly than the actual harm; that category exists to create a buffer zone guaranteeing that the government cannot favor or disfavor certain viewpoints. But that buffer zone need not extend forever. We can administer our content-regulation doctrine with a dose of common sense, so as to leave standing laws that in no way implicate its intended function.

And indeed we have done just that: Our cases have been far less rigid than the majority admits in applying strict scrutiny to facially content-based laws—including in cases just like this one. See *Davenport*, 551 U. S., at 188 (noting that "we have identified numerous situations in which [the] risk" attached to content-based laws is "attenuated"). In *Members of City Council of Los Angeles* v. *Taxpayers for Vincent*, 466 U. S. 789 (1984), the Court declined to apply strict scrutiny to a municipal ordinance that exempted address numbers and markers commemorating "historical, cultural, or artistic event[s]" from a generally applicable limit on sidewalk signs. *Id.*, at 792, n. 1 (listing exemptions); see *id.*, at 804–810 (upholding ordinance under intermediate scrutiny). After all, we explained, the law's enactment and enforcement revealed "not even a hint of bias or censorship." *Id.*, at 804; see also *Renton* v. *Playtime Theatres, Inc.*, 475 U. S. 41, 48 (1986) (applying intermediate scrutiny to a zoning law that facially distinguished among movie theaters based on content because it was "designed to prevent crime, protect the city's retail trade, [and] maintain property values . . . , not to suppress the expression of unpopular views"). And another decision involving a similar law provides an alternative model. In *City of Ladue* v. *Gilleo*, 512 U. S. 43 (1994), the Court assumed *arguendo* that a sign ordinance's exceptions for address signs, safety signs, and for-sale signs in residential areas did not trigger strict scrutiny. See *id.*, at 46–47, and n. 6 (listing exemptions); *id.*, at 53 (noting this assumption). We did not need to, and so did not, decide the

level-of-scrutiny question because the law's breadth made it unconstitutional under any standard.

The majority could easily have taken *Ladue*'s tack here. The Town of Gilbert's defense of its sign ordinance—most notably, the law's distinctions between directional signs and others—does not pass strict scrutiny, or intermediate scrutiny, or even the laugh test. See *ante*, at 14–15 (discussing those distinctions). The Town, for example, provides no reason at all for prohibiting more than four directional signs on a property while placing no limits on the number of other types of signs. See Gilbert, Ariz., Land Development Code, ch. I, §§4.402(J), (P)(2) (2014). Similarly, the Town offers no coherent justification for restricting the size of directional signs to 6 square feet while allowing other signs to reach 20 square feet. See §§4.402(J), (P)(1). The best the Town could come up with at oral argument was that directional signs "need to be smaller because they need to guide travelers along a route." Tr. of Oral Arg. 40. Why exactly a smaller sign better helps travelers get to where they are going is left a mystery. The absence of any sensible basis for these and other distinctions dooms the Town's ordinance under even the intermediate scrutiny that the Court typically applies to "time, place, or manner" speech regulations. Accordingly, there is no need to decide in this case whether strict scrutiny applies to every sign ordinance in every town across this country containing a subject-matter exemption.

I suspect this Court and others will regret the majority's insistence today on answering that question in the affirmative. As the years go by, courts will discover that thousands of towns have such ordinances, many of them "entirely reasonable." *Ante*, at 14. And as the challenges to them mount, courts will have to invalidate one after the other. (This Court may soon find itself a veritable Supreme Board of Sign Review.) And courts will strike down those democratically enacted local laws even though no

one—certainly not the majority—has ever explained why the vindication of First Amendment values requires that result. Because I see no reason why such an easy case calls for us to cast a constitutional pall on reasonable regulations quite unlike the law before us, I concur only in the judgment.

EXISTING SIGN CODE									PROPOSED SIGN CODE								
Zoning Districts	Heights (FT)			Max Sign Area (SF)			Type	Setback	Zoning Districts	Heights (FT)			Max Sign Area (SF)			Type	Setback
	Arterial	Collector	Local	Arterial	Collector	Local				Arterial	Collector	Local	Arterial	Collector	Local		
Bradfordville Districts: BC-1, BC-2, BCS, BOR	25	20	8	100	100	36	Monument	10	Bradfordville Districts: BC-1, BC-2, BCS, BOR	25	Minor = 10 Major = 15	8	100	100	40	Monument	10
Interchange Commercial	50			400 SF/side			Pole, Pylon or Monument	0	Interchange Commercial* *Only one small parcel of IC in County which is directly adjacent to an Interstate Hwy Interchange that is part of Summit East development. Not sure if it is a developable parcel or required open space for the development.*	25	Minor = 10 Major = 15	8	100	100	40	Pole/Pylon allowed on Arterial and Interstate Hwy Interchange only	5
Lake Protection Node (LPN)	6: single tenant; 15: multi-tenant			80 SF/side			Monument	0	Lake Protection Node (LPN)	8			40 SF/side			Monument	5
Mahan Corridor Node (MCN)	6: single tenant; 15: multi-tenant			80 SF/side			Monument	0	Mahan Corridor Node (MCN)	8			40 SF/side			Monument	5
Mahan Corridor Ring (MCR)	6			35 SF/side			Monument	0	Mahan Corridor Ring (MCR)	8			40 SF/side			Monument	5
Neighborhood Boundary Office (NBO)	10			36			Monument	10	Neighborhood Boundary Office (NBO)	8			40 SF/side			Monument	5
Rural (non-residential and community services)	10			32			Monument	0	Rural (non-residential and community services)	8			40 SF/side			Monument	5
Sign Code (All Other Districts)	35	20	20	200 SF/roadway frontage* *Applies to both ground and wall signs based on a formula*			Pole, Pylon or Monument	0	Sign Code (All Other Districts)	25	Minor = 10 Major = 15	8	100	100	40	Pole, Pylon or Monument depending on Roadway type	5

	City of Tallahassee (existing)		Leon County (existing)		Leon County (proposed)	
Location	Ground Signs (Max Height)	Pylon/Pole Allowed?	Ground Signs (Max Height)	Pylon/Pole Allowed?	Ground Signs (Max Height)	Pylon/Pole Allowed?
Interstate Hwy	100	Y	135	Y	100	Y
Arterial Road	25	Y except for MMTD	35	Y	25	Y when not adjacent to residential
Major Collector Road	18	Y except for MMTD	20	Y	15	N
Minor Collector Road					10	N
Gateway Road	N/A	N/A	N/A	N/A	10	N
Local Roads	6	N	20	Y	8	N
Special Districts	10	N	6 to 10	N	8	N

Sign Code Update

Stakeholder Group

Joe Battles – Quality Sign and Maintenance Co., LLC.
Rip Caleen – Citizen Stakeholder
Lealand McCharren – Citizen Stakeholder (member of North Monroe Corridor Task Force)
Doug McCloud – Signs by Design of North Florida
Matt Shrode – Apogee Signs
Scott Thornton – Apogee Signs

DSEM – Development Support & Environmental Mgt.
435 N. Macomb St., 2nd Floor
(850) 606-1300
www.leonpermits.org

PLANNING DEPARTMENT
a division of PLACE

MEMORANDUM

TO: Anastasia Richmond, Development Services Administrator
Leon County Department of Developmental Support and Environmental Management

FROM: Susan Denny, Senior Planner
Tallahassee-Leon County Planning Department

THROUGH: Russell Snyder, Administrator, Land Use Division
Tallahassee-Leon County Planning Department

DATE: March 18, 2022

SUBJECT: Consistency Review—Sign Ordinance Update
Planning Commission Meeting: April 7, 2022

Summary of Proposed Ordinance

The proposed ordinance amends several sections of Chapter 10 of the Leon County Code of Laws, known as the Leon County Land Development Code ("Code") to update sign code regulations. The following is a list of the major proposed changes to the Sign Code:

- Modify the Sign Code to be consistent with Supreme Court *Reed* decision (Reed v. Town of Gilbert) that prohibited sign regulations based on the content of the sign.\
- Adds the Monroe St. Corridor as a Gateway and increase Gateway Road signage standards by limiting the height and square footage of signs along designated Gateway Roads.
- Move zoning district-specific sign requirements from the development standards of individual zoning district development standards to the Sign Code.
- Limit the size of lighted, activated signs (Electronic Message Centers) to 5ft x 10.ft.
- Establish procedures for Master Sign Plans in special districts in lieu of a variance.
- Exempt temporary signs from permitting requirements.
- Reduce the height of ground signs to be more in line with City of Tallahassee regulations.

Findings:

The proposed ordinance is consistent with *the Tallahassee-Leon County Plan* in three ways:

1. Adoption of a Sign Code and Electronic Signs: Policy 1.2.12[M] of the Comprehensive Plan requires Leon County to "adopt a local sign ordinance to control sign and billboard placement and limited lighted and motion activated sign usage". The proposed ordinance enhances the existing Side Code as well as specifically limiting the size of electronic signs.

2. Enhanced Regulations on Gateway Roads Policy 1.37[M] of the Comprehensive Plan requires on enhanced signage regulation on Gateway Roads. Gateway Roads are the most prominent entry roadway into the Tallahassee-Leon County community. The proposed ordinance adds the Monroe Street corridor as a Gateway Road and provides increased limitations of the size of signs along Gateway Roads.

3. Signage Requirements in Specific FLUMs: The Comprehensive Plan includes a Future Land Use Map (FLUM) that depicts FLUM categories that promote a variety of types and patterns to promote the needs of the community. Several FLUM categories have specific signage requirements to insure compatible and non-intrusive signage. These FLUM categories include the Rural FLUM (Policy 2.2.1[M]), the Bradford mixed-use FLUM (Policy 2.3.1[M] and The Mahan Gateway FLUM [Policy 2.2.22[M] and Woodville Rural Community FLUM (Policy 3.4.2[L]).

The signage requirements of the specific FLUM categories are presently implemented through the design standards of various zoning districts. The proposed ordinances transfers the required signage requirements from the individual zoning districts regulations to the Sign Code. The purpose of moving the zoning district signage requirements to the Sign Code is to have all the signage regulations in one section of the Land Development Code. The movement of the zoning district sign regulations to the sign code does not change the substance of the sign regulations. Therefore, it is consistent with the FLUM signage requirements in the Comprehensive Plan.

Finding of Consistency with the *Tallahassee-Leon County Comprehensive Plan*

Based on the finding above the proposed Leon County Sign Ordinance is consistent with the Tallahassee-Leon County Comprehensive Plan.

NOTICE OF ESTABLISHMENT OR CHANGE OF A LAND USE REGULATION

Notice is hereby given that the Board of County Commissioners of Leon County, Florida will conduct a public hearing on Tuesday, May 10, 2022, at 6:00 p.m., or as soon thereafter as such matter may be heard, at the County Commission Chambers, 5th Floor, Leon County Courthouse, 301 South Monroe Street, Tallahassee, Florida, to consider adoption of an ordinance entitled to wit:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING CHAPTER 10 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA; REPEALING AND REPLACING ARTICLE IX, ENTITLED "SIGNS;" AMENDING SECTION 10-1.101, ENTITLED "DEFINITIONS;" AND AMENDING SECTIONS 10-6.612, 10-6.653, 10-6.654, 10-6.654.2, 10-6.655, 10-6.660, 10-6.673, 10-6.674, 10-6.675, 10-6.676, AND 10-6.680 TO ELIMINATE DUPLICATIVE SIGN REGULATIONS IN INDIVIDUAL ZONING DISTRICTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Leon County will also be broadcasting the public hearing on Comcast channel 16, the Leon County Florida channel on Roku, and the County's Facebook page (https://www.facebook.com/LeonCountyFL/), YouTube channel (https://www.youtube.com/user/LeonCountyFL), and web site (www.LeonCountyFL.gov).

All interested parties are invited to present their comments at the public hearing at the time and place set out above.

Interested parties may also provide virtual real-time public comments during the public hearing. Interested parties wishing to provide virtual real-time public comments must complete and submit the registration form provided at https://www2.leoncountyfl.gov/coadmin/agenda/ by 8:00 p.m. on Monday, May 9, 2022. Following submittal of the registration form, further instructions for participating in the meeting will be provided. Persons needing assistance with registering or providing real-time comments may contact County Administration via telephone at (850) 606-5300. Please note that Board of County Commissioners Policy 01-05, Article IX., Section E., entitled "Addressing the Commission", and Article IX., Section F., entitled "Decorum", shall remain in full force and effect.

Anyone wishing to appeal the action of the Board with regard to this matter will need a record of the proceedings and should ensure that a verbatim record is made. Such record should include the testimony and evidence upon which the appeal is to be based, pursuant to Section 286.0105, Florida Statutes.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing a special accommodation to participate in this proceeding should contact Mathieu Cavell or Facilities Management, Leon County Courthouse, 301 South Monroe Street, Tallahassee, Florida 32301, by written request at least 48 hours prior to the proceeding. Telephone: 850-606-5300 or 850-606-5000; 1-800-955-8771 (TTY), 1-800-955-8770 (Voice), or 711 via Florida Relay Service.

Copies of the Ordinance may be inspected as part of the agenda package on the County's web site (https://www2.leoncountyfl.gov/coadmin/agenda/). To receive copies of the Ordinance by other means, such as email, mail, or facsimile transmittal, contact County Administration at 850-606-5300 or the Department of Development Support and Environmental Management at 850-606-1300.

Advertise: May 2, 2022