

Administrative Committee



Regular Meeting
~Agenda~

Laurie M. Hopkins
City Clerk

www.ci.moscow.id.us

208-883-7015

Tuesday, May 27, 2025

4:00 PM

Council Chambers
206 E. Third St.

The Moscow Mayor, City Council and Staff welcome you to today's meeting. We appreciate and encourage public participation. For regular agenda items, an opportunity for public comment is sometimes provided after the staff report. However, the formality of procedures varies with the purpose and subject of the agenda item and limitations may be placed on the time allowed for comments. If you plan to address the Committee, you will find a list of "Tips for Addressing the Council" in the door pocket outside the City Council Chambers. Please note that council committee meetings are televised, videotaped and/or recorded. Links to view the City Council meeting live can be found on the City website and the City's YouTube channel. Thank you for your interest in City government.

REGULAR AGENDA

1. Approval of Administrative Committee April 28, 2025 Minutes (ACTION ITEM) - Laurie M. Hopkins

2. Amendment to Moscow Rugby Block Party Alcohol Use Request in Entertainment District (ACTION ITEM) - Amanda Argona

Moscow Rugby is hosting an End-of-Season block party for its club on Saturday, May 31st, from 5 pm to 8 pm on Second Street between the alley and Washington Street. Moscow Rugby is working with one licensed alcohol provider for the block party. The event has been reviewed and approved by staff as of April 8, 2025. Following standard operating procedures for events with alcohol that are within the Entertainment District boundaries, Moscow Rugby is requesting a temporary suspension of the open container law by resolution. Per Moscow City Code, Section 10-1-12, a draft resolution was prepared for the Council's consideration. This was reviewed by the Public Works/Finance Committee on Monday, May 12, 2025 and approved by City Council on Monday, May 19, 2025. The applicant is seeking an amendment regarding the location of their licensed alcohol vendor to serve off-premise within the event footprint, rather than on-premise. An updated site map has been prepared to reflect this minor change for Council's consideration.

PROPOSED ACTIONS: Recommend approval of the amendment allowing for the licensed alcohol vendor to serve off-premise within the event footprint of Moscow Rugby End-of-Season block party for the duration of the event pursuant to a City catering permit; or provide staff with further direction.

3. Task Order NO. 09 Palouse Basin Alternate Water Supply Project (ACTION ITEM) - Tyler Palmer

The City of Moscow, in cooperation with the Palouse Basin Aquifer Committee (PBAC), has identified a surface water diversion from the Clearwater River as a high-potential future water supply option. This is based on previous planning efforts conducted by PBAC that explored multiple long-range future supply alternatives, and a preliminary examination of a Clearwater River option in 2019. The City is building upon those prior efforts and conducting a more in-depth evaluation of this option's feasibility. The City has selected HDR Engineering, INC to

provide engineering and consulting services in support of this effort. In February 2025, the City entered an agreement with the Idaho Water Resource Board for \$182,500 in funding toward this project. On May 15, 2025, PBAC voted to authorize up to \$187,000 to complete the project (\$153,341 plus a 10% contingency). This project is anticipated to take 12 months to complete.

PROPOSED ACTIONS: Recommend approval of Task Order NO. 09 Palouse Basin Alternate Water Supply Project; or provide staff with further direction.

4. Adoption of the State of Idaho Deferred Compensation Plan (ACTION ITEM) - Bonnie Dennler

The City of Moscow currently partners with Mission Square, previously ICMA-RC, to offer eligible employees the ability to participate in a 457 Deferred Compensation Plan. This retirement solution allows employees to make tax-deferred contributions through payroll deductions. The State of Idaho, in accordance with Idaho Code Section 59-513 permits the State of Idaho and any county, city or political subdivision of the state, working through its governing body, to contract with an employee to defer income to a 457 Deferred compensation plan through the State Deferred Compensation Plan, administered through Nationwide. The State of Idaho Deferred Compensation Plan offers employees lower administration fees as well as a one-time bonus for new enrollments, which is more financially beneficial to our employees. If adopted, the City would allow those currently enrolled in Mission Square's Deferred Compensation Plan to phase out contributions through payroll deduction over the next 12 months. New enrollments would only be offered through the State of Idaho Deferred Comp Plan. The resolution to adopt the State of Idaho deferred compensation plan is now before the Council for review and approval.

PROPOSED ACTIONS: Recommend approval of the resolution to adopt the State of Idaho Deferred Compensation Plan, or provide staff further direction.

ADJOURN

NOTICE: It is the policy of the City of Moscow that all City-sponsored public meetings and events are accessible to all people. If you need assistance in participating in this meeting or event due to a disability under the ADA, please contact the City's ADA Coordinator by phone at (208) 883-7600, TDD (208) 883-7019, or by email at adacoordinator@ci.moscow.id.us at least 48 hours prior to the scheduled meeting or event to request an accommodation. The City of Moscow is committed to ensuring that all reasonable accommodation requests are fulfilled.

Administrative Committee



Regular Meeting
~Minutes~

Laurie M. Hopkins
City Clerk

www.ci.moscow.id.us

208.883.7015

Monday, April 28, 2025

4:00 PM

Council Chambers
206 E. Third St.

The meeting was called to order at 4:00 p.m.

PRESENT: Bryce Blankenship, Drew Davis, Gina Taruscio

OTHERS: Mayor Art Bettge

STAFF: Bill Belknap, Mia Bautista, Laurie M. Hopkins, Bob Buvel, Scott Bontrager, Mike Ray, Alisa Anderson

REGULAR AGENDA

1. Approval of Administrative Committee March 24, 2025 Minutes (ACTION ITEM) - Laurie M. Hopkins

The minutes were approved as presented.

2. Request for Waiver for On-Premises Consumption Within 300 Feet of a School or Church per Idaho Code (ACTION ITEM) - Laurie M. Hopkins

The owners of Karma Indian Cuisine are in the process of obtaining an alcohol license. Idaho Code § 23-913, 23-1011B, and 23-1307A, prohibits any business from selling liquor, beer and/or wine for on-premise consumption within three hundred feet (300') of any church, school or any other place or worship, unless the City Council approves waiver of the requirement. Karma Indian Cuisine is located at 1420 S Blaine Street, which is within 300 feet of Real Life. The state license has been issued. The county license has been applied for and is pending approval. Letters of support from The Jubilee School and Real Life have been submitted. A letter from Suriya Mohan, the owner of Karma Indian Cuisine, requesting a waiver has been submitted for your review and consideration.

PROPOSED ACTIONS: Consider applicant's request for City Council to waive the prohibition from selling alcohol for on-premises consumption within three hundred feet (300') of any church, school or any other place or worship and recommend approval contingent on issuance of the county license; or provide staff further direction.

Hopkins introduced the item as written above. Having no questions, the Committee recommended approval and that it be placed on the Council consent agenda.

3. Deakin Ave Pavement Rehabilitation and City Utility Improvements - Memorandum of Agreement (ACTION ITEM) - Scott Bontrager

This University of Idaho initiated project's scope is to completely reconstruct the Deakin Avenue corridor from University Avenue to Sweet Avenue. During the review process of the University's project, the City recognized the need to also replace the aging underground utilities (domestic water, sanitary sewer, and storm sewer) along Deakin Avenue while the University is replacing the road, curb, gutter, and sidewalks. The University of Idaho, through the Idaho State Division of Public Works, has contracted with McKinstry as the Construction Manager/General Contractor to construct the project. On April 4, 2025, the City received a copy of the proposal from McKinstry to construct the entire

project for a total of \$961,031, of which the City's utility upgrade portion of the project would total \$355,637. Included in the packet is a Memorandum of Agreement between the City of Moscow and the University of Idaho for the City to provide a lump sum payment to the University in the amount of \$355,637 for the City's portion of the project.

PROPOSED ACTIONS: Recommend approval of the Memorandum of Agreement between City of Moscow and University of Idaho and provide a Lump Sum payment in the amount of \$355,637.00; or provide staff with further direction.

Bontrager introduced the item as written above, adding some of the existing utilities are over 100 years old and smaller than current regulations within the comprehensive plan. While this was not in the capital improvement plan, when there is road replacement and the utilities need replacement, if at all possible, the City wants to take advantage while the roadway is deconstructed. The UI received deferred maintenance funding and chose this segment of roadway. The MOU is a unique situation where the State is bidding and administering the project. The City is providing funding to the University, who will pass it on to the State who will complete the work on behalf of the City and University. With the MOU, the City is not obligated to any contingency amounts. If during the course of the project something remarkably unusual is discovered, Staff will talk with the University. The MOU is a one-time payment. The project begins today with completion prior to fall semester. The infrastructure will meet all ADA standards and other requirements. The Committee recommended approval and that it be placed on the Council consent agenda.

4. South Moscow Business Park (SOMO) Development and Monumentation Agreements (ACTION ITEM) - Bob Buvel

Jeff Motley, on behalf of Two-GM, LLC., has submitted to the City a final plat for the development of a property east of the intersection of Old Highway 95 and US 95 and just south of the South Fork of the Palouse River. On October 07, 2024, the City Council approved the preliminary plat for this property. The final plat is titled South Moscow Business Park and will be presented for City Council approval on May 5th. If Council approves the final plat, development and monumentation agreements will be required. The development agreement is necessary to address project phasing, construction of public improvements, parkland dedication, as-constructed drawings, City participation in up-sizing proposed utilities, and a proportionate share fee for the future installation of a traffic control signal. Staff have prepared both agreements for approval.

PROPOSED ACTIONS: Recommend approval of the Development and Monumentation Agreements for the South Moscow Business Park; or provide staff further direction.

Buvel introduced the item as written above. This development agreement includes city participation in the highway intersection signal based on \$4,285 per lot for a total of \$64,284. The developer is required to build the watermain but in order to upside the main for future development, the city will participate at the cost of \$43,884. To meet the requirement of the parkland dedication, the developer will be adding \$4,050 in addition to the 1.83 acres located on the north side of the development. The Committee recommended approval and that it be placed on the Council consent agenda.

5. SOMO Addition Final Plat (ACTION ITEM) - Mike Ray

On October 7, 2024, Moscow City Council approved the annexation, Comprehensive Plan land use designation, and zoning designation of a 51.33-acre area. Also included in the proposal was a preliminary subdivision plat of a 29.46-acre area to create 15 lots ranging from 0.82 to 4.18 acres in size, referred to as the SOMO Addition, which was approved by the Council with two conditions. On January 21, 2025 the applicant submitted the final subdivision plat to be reviewed by the Planning and Zoning Commission and City Council. The Planning and Zoning Commission reviewed the final plat at their regular meeting on March 28, 2025 and recommended approval to City Council. Since one of

the preliminary plat conditions pertaining to access approval from Idaho Transportation Department is still not complete, staff is recommending that this condition be carried over to the final plat.

PROPOSED ACTIONS: Recommend approval of the SOMO Addition Final Plat with the condition recommended by staff; or provide staff further direction.

Ray introduced the item as written above. The parkland is on the north side of the plat located on the south fork of the Palouse River, almost entirely in the floodplain. Two pathways are planned. One providing access to land south of the development. Another provides access to the stormwater detention pond and a possible future pathway along the parkland dedication. ITD requires the development agreement prior to access approval, thus Staff suggests continuing the condition of ITD approval for the connection to the highway to the final plat. The intersection will be a future signalized intersection but stop controlled for now. The Committee recommended approval and that it be placed on the Council consent agenda.

6. Moscow Chamber of Commerce Visitor and Tourism Services Agreement Renewal (ACTION ITEM) - Bill Belknap

The City of Moscow has financially supported the visitor and tourism activities of the Moscow Chamber of Commerce and Visitor Center for many years. In review of this arrangement, in 2022, Staff identified the need to have a services agreement to document the specific services that the Chamber provides in exchange for the funding provided by the City. The agreement was approved in November 2022 and will expire in November of this year. Staff have prepared an updated agreement that is similar to the prior agreement, with the addition of the Chamber assuming responsibility for quarterly ArtWalk events. Staff will present the agreement for the Council's consideration.

PROPOSED ACTIONS: Recommend approval of the Visitor and Tourism Services Agreement; or provide staff with further direction.

Belknap introduced the item as written above. The previous agreement obligated the Chamber to organize and hold three downtown events per year. One of those events will now be the June Artwalk event. They are also required to have no less than one quarterly Artwalk event. The Arts Division is being downsized to only the manager. This transfer of Artwalk will help alleviate some pressure and ensure the program continues. Artwalk will be branded as a Chamber event. Blankenship inquired about the potential of increasing the three percent step with the addition of programs. Belknap explained the Chamber uses this funding to match funds for state tourism grants. Enhanced programming could be reviewed but 3% should cover any inflationary cost increases. The Committee recommended approval and that it be placed on the Council consent agenda.

7. Renewal of Intermodal Transit Center Lease with SMART Transit - Bill Belknap

The City currently leases space in the Intermodal Transit Center to Regional Public Transportation (RPT) dba SMART Transit. The existing lease will expire on September 30, 2025. SMART approached the City regarding the ability to amend the existing lease agreement to include an adjacent office that was last occupied by the Partnership for Economic Prosperity Executive Director. Staff have prepared an updated lease agreement that includes the use of the additional office space and a five-year term to expire on September 30 of 2030, for the Council's consideration.

ACTION: Approve the Lease Agreement Between Regional Public Transportation (dba SMART Transit) and the City of Moscow.

Belknap provided a brief history of the building and provided the above information. It is the same square feet cost as the previous agreement and includes a 3% inflationary step. The City has not identified use for the office. Having no questions, the Committee recommended approval and that it be placed on the Council consent agenda.

8. Proposed Repeal of Moscow City Code Title 9, Chapter 10, Moscow Day Care Ordinance (ACTION ITEM) - Bill Belknap

The Idaho Legislature passed House Bill No. 243 and House Bill No. 312, with Governor Little having signed them into law on March 27, 2025, with an effective date of July 1, 2025. The Bill's amend the day care licensing regulations, which include repeal of Idaho Code Section 39-1108, relating to the local option for day care licensing. The City has utilized the local option over the last thirty years and regulated day care licensing within the City of Moscow with standards that met the minimum state standards with some standards that were more stringent than the State. Based on the repeal of Idaho Code Section 39-1108 removing the local option for day care regulations, the City is required to repeal Moscow City Code Title 9, Chapter 10, Moscow Day Care Ordinance with an effective date of July 1, 2025.

PROPOSED ACTIONS: Recommend approval of the proposed Ordinance repealing Title 9, Chapter 10, Moscow Day Care Ordinance of the Moscow City Code with an effective date of July 1, 2025; or provide staff further direction.

Belknap introduced the item as written above. There were above 9 cities in Idaho that regulated daycares. All daycare facilities have been licensed for the 2025 year. The state will accept the City facility license and when expiration comes up, the daycare will go through the state renewal process. Provider license will be issued through May and then in June Staff will send applicants to the State as there is a 2–3-week processing time.

Differences between the City and State regulations include the ratios of staff to child was slightly more restrictive; frequency of licensing was more often, and more extensive disqualifying offences.

Davis felt this is legislation is government overreach. Blankenship said some may be grateful for this deregulation, but he had knots in his stomach looking at it. This legislation could potentially harm children. He asked Staff what happens if the Council were to vote no on repealing this ordinance. Belknap said there would be no legal authority to enforce it. Taruscio agreed with Davis and Blankenship. The Committee asked that the item be placed on the regular agenda for discussion with no recommendation.

9. Proposed Repeal of Moscow City Code Title 10, Chapter 1, Section 1-16 (ACTION ITEM) - Bill Belknap

The Idaho Legislature passed House Bill 270, with an effective date of March 26, 2025, which amends Idaho Code Section 18-4116, the Indecent Exposure statute. House Bill 270 expands what acts are included in the crime of Indecent Exposure. Moscow City Code 10-1-16 is narrower in scope than House Bill 270; thereby creating a conflict between the two laws, which necessitates the City repealing Moscow City Code 10-1-16.

PROPOSED ACTIONS: Recommend approval of the proposed Ordinance repealing Title 10, Chapter 1, Section 1-16; or provide staff further direction.

Belknap said this item is in response to legislation passed by the legislature this session. It is more broadly defined indecent exposure, and the City cannot be less restrictive than State law. The origin of the city's public nudity section of code was related to the topless carwash years ago. At this point, repealing is the best course of action. The Committee asked that it be placed on the regular agenda with no recommendation.

ADJOURN

The meeting concluded at 4:38 p.m.

COMMITTEE / CITY COUNCIL STAFF REPORT



DATE: Tuesday, May 27, 2025

AGENDA ITEM TITLE

Amendment to Moscow Rugby Block Party Alcohol Use Request in Entertainment District (ACTION ITEM) - Amanda Argona

RESPONSIBLE STAFF

Amanda Argona, Community Events Manager

ADDITIONAL PRESENTER(S)

DESCRIPTION

Moscow Rugby is hosting an End-of-Season block party for its club on Saturday, May 31st, from 5 pm to 8 pm on Second Street between the alley and Washington Street. Moscow Rugby is working with one licensed alcohol provider for the block party. The event has been reviewed and approved by staff as of April 8, 2025. Following standard operating procedures for events with alcohol that are within the Entertainment District boundaries, Moscow Rugby is requesting a temporary suspension of the open container law by resolution. Per Moscow City Code, Section 10-1-12, a draft resolution was prepared for the Council's consideration. This was reviewed by the Public Works/Finance Committee on Monday, May 12, 2025 and approved by City Council on Monday, May 19, 2025. The applicant is seeking an amendment regarding the location of their licensed alcohol vendor to serve off-premise within the event footprint, rather than on-premise. An updated site map has been prepared to reflect this minor change for Council's consideration.

REVIEWED BY

PROPOSED ACTIONS

PROPOSED ACTIONS: Recommend approval of the amendment allowing for the licensed alcohol vendor to serve off-premise within the event footprint of Moscow Rugby End-of-Season block party for the duration of the event pursuant to a City catering permit; or provide staff with further direction.

STAFF RECOMMENDATION

Recommend approval of the amendment allowing for the licensed alcohol vendor to serve off-premise within the event footprint of Moscow Rugby End-of-Season block party for the duration of the event pursuant to a City catering permit.

OTHER RESOURCES

FISCAL IMPACT

PERSONNEL IMPACT

ATTACHMENTS

1. 20250531_Moscow Rugby End of Season party application_updated



CITY OF MOSCOW

206 E. THIRD
MOSCOW, ID 83843
208-883-7000

PERMIT NUMBER: CE2025-14

EVENT DATE: Saturday May 31, 2025

EVENT TIME: 5:00 pm – 8: 00 pm

THIS IS TO CERTIFY THAT
Moscow Rugby End of Season Party
Curtis Spencer
612 Britton Ln.
Moscow, ID 83843

IS HEREBY GRANTED A CITY OF MOSCOW COMMUNITY EVENT PERMIT FOR THE LOCATION NAMED BELOW WITHIN THE CORPORATE LIMITS OF THE CITY OF MOSCOW, IN CONFORMITY WITH THE PROVISIONS OF CHAPTER 17, TITLE 10 OF THE MOSCOW CITY CODE.

PERMIT TYPE: Community Event with Alcohol

PERMIT LOCATION: 2nd Street from alley to Washington Street, allowing access to the Kenworthy Plaza parking lot.

I, _____, CERTIFY UNDER PENALTY OF PERJURY PURSUANT TO THE LAWS OF THE STATE OF IDAHO, THAT THE FOREGOING IS TRUE AND CORRECT. I AGREE TO ALL THE TERMS AND CONDITIONS OF MOSCOW CITY CODE TITLE 10, CHAPTER 17 PARADE; PUBLIC ASSEMBLY AND RESOLUTION 2015-05 POLICY AND PROCEDURES FOR RIGHT-OF-WAY PERMITS. DAMAGE TO ANY PUBLIC IMPROVEMENTS ARE THE RESPONSIBILITY OF THE PERMIT HOLDER.

ISSUED THIS _____ DAY OF _____, 2025

(SIGNATURE OF LICENSEE)

DATE

(SIGNATURE OF STAFF)

DATE

City of Moscow Community Events Division
EVENT APPLICATION



*Thank you for your interest in organizing/sponsoring an Event in the City of Moscow!
Events by local citizens add to the cultural wealth of our town and may range from fun runs to political marches,
neighborhood block parties to street fairs.*

Submit completed forms electronically or physically to the Community Events office:
communityevents@ci.moscow.id.us or 221 East 2nd Street, Moscow. All applications must be legible.

The City reserves the right to request additional information reasonably necessary to make a fair determination as to issuance of a permit. Permits are issued on a first-come, first-served basis. According to Moscow City Code Title 10, Chapter 17, Section 17-4, event applications for regular or recurring events must be submitted at least sixty (60) days and not more than one hundred eighty (180) days before the proposed date of the event. Event applications for single, non-recurring events must be submitted at least ten (10) days and not more than one hundred eighty (180) days before the proposed date of the event.

Events with alcohol are to be submitted at least two (2) months prior to the event date to allow for adequate review and presentation to Administrative/Public Works and Finance Committee and City Council. Administrative/Public Works and Finance Committee meets on the 2nd and 4th Monday of each month and City Council meets on the 1st and 3rd Monday of each month pending no holiday delays or rescheduling of meetings. Please note this form and the information provided by you on this form is a public record pursuant to the Idaho Public Records Act under Title 74, Chapter 1 of the Idaho Code.

- 1. Name of Event: _____
- 2. Event Date(s): _____
- 3. Event Location: _____
- 4. Are you requesting a street closure for Event? Yes No

If yes, provide street closure location(s). List cross streets, intersections, building addresses, etc. Include these details on your site map (see item 27.)

- 5. Do you require parking restrictions for the Event? Yes No

If yes, list parking restrictions (i.e. no parking on day of event, parking restricted to a particular area, etc.).

- 6. Street Closure set-up/Load-in time: _____ Event(s) Start time: _____

- 7. Event(s) End time: _____ Street Closure take-down/Load-out time: _____

- 8. Is this a recurring Event (i.e. every 1st Thurs. or every Sat. May thru Oct.)? Yes No

- 9. Is this an annual Event? Yes No

- 10. Are you planning on having refreshments and/or food? Yes No

City of Moscow Community Events Division
EVENT APPLICATION



If yes, describe your waste and recycling plan. Applicants are responsible for removing all waste from their event footprint and disposing of properly, including emptying permanent trash receptacles in the downtown area. Dumpsters located downtown are for private use.

11. Are you planning on serving alcohol/having alcohol available for purchase at the Event?

Yes (continue to Q.12)

No (skip to Q.14)

**All events with alcohol are required to have a Catering Permit.
This process is to be handled by your licensed alcohol Vendor.**

Catering Permit applications are to be submitted to the City Clerk/Deputy City Clerk for approval.

12. Is the Event taking place in the public right-of-way (i.e. sidewalks, streets, etc.) within the City of Moscow Entertainment District? The Entertainment District allows for a temporary suspension of the Open Container law by Resolution of the City Council. See page 6 for a map of the Entertainment District.

Yes (continue to Q.13)

No (skip to item B.)

13. Are the Event organizers interested in pursuing a temporary suspension of the Open Container law by City Council Resolution?

Yes (see item A.)

No (skip to item B.)

A. Event organizers pursuing a temporary suspension by City Council Resolution of the Open Container law for their Event within the public right-of-way of the Entertainment District boundaries must satisfy the following conditions with their Event listed below, in addition to any requirements detailed in the Moscow City Code, as set forth by City Council Resolution, and/or Catering Permit:

- Include an identification checking station and its general location on Event Site Map. Identification checking station shall include a minimum of two (2) persons to check proper identification. These persons shall be clearly identified and be responsible for the issuance of wristbands denoting attendees are of legal drinking age.
- Submit the Alcohol Use Application and \$100 non-refundable fee upon approval of Event.
- Be present at City of Moscow Administrative Committee and City Council meetings regarding authorization of alcohol at Event by Resolution.
- Post signage and waste receptacles at Event entry and exit points. Signage to clearly state "No Alcohol Permitted Beyond this Area". Additional requirements may be mandated by City Council Resolution.

City of Moscow Community Events Division
EVENT APPLICATION



B. Event organizers requesting for alcohol use for their Event that takes place in the public right-of-way **NOT within the Entertainment District boundaries must satisfy the following conditions with their Event, in addition to following any requirements set forth by Resolution and/or Catering Permit. This option is also available to Event organizers who are **NOT** pursuing a temporary suspension by City Council Resolution of the Open Container law:**

- Include the location and estimated size of the beer garden on Event Site Map. Please note: barricades required for beer gardens are 8' in length.
- Complete and submit a Barrier Use Contract with this application.
- Submit the Alcohol Use Application and \$100 non-refundable fee upon approval of Event.
- Be present at City of Moscow Administrative/Public Works and Finance Committee and City Council meetings regarding authorization of alcohol at Event by Resolution.

Upon approval from Council, remaining Event fees will be due, and applicant's vendor(s) are required to submit a Catering Permit application to the City Clerk/Deputy City Clerk. Any additional required paperwork outlined by the City Council Resolution and/or this process will also be due upon approval.

14. Are you planning on having a band or music? Yes No

If yes, describe below any recording equipment, sound amplification equipment, etc. Submit a completed **Noise Exemption Permit Request** with this Event application.

15. Approximate number of persons, animals, and/or vehicles comprising the Event, the type(s) of animals and description of vehicles, and approximate number of participants and spectators in viewing attendance:

16. Do you plan on having banners, signs, or other attention-getting devices in the Event? Yes No

17. Do you plan on using any designated public facilities or infrastructure for the Event? Yes No
If yes, list public facilities or infrastructure (i.e. public restrooms, picnic shelters, stages, etc.).

City of Moscow Community Events Division
EVENT APPLICATION



18. Are you requesting additional City Police services for escort services, traffic, and/or crowd control?
Yes No

If yes, contact City of Moscow Police Department at 208-883-7059 to discuss and see attached Fee Schedule.

19. Please use this area to include more detail or attach additional pages for additional information about Event that is pertinent for us to know.

20. Organization Sponsoring Event: _____

21. Organization Address: _____

22. Organization Officers/Authorized Representatives: _____

23. Individual Responsible for Event Organization: _____

24. Individual's Address: _____

25. Individual's Day, Message, or Cell Phone Number: _____

26. Individual's E-mail: _____

27. City reserves the right to alter your route if the City determines the proposed route will require significant City services and/or severely limit transit opportunities in high traffic areas. Applicant understands and agrees that the City is reserving that right? If answers no, application may be denied. Yes No

28. **Submit a Site Map with this application.** Event Applications without a Site Map will not be processed. Details on a Site Map may include but are not limited to locations of desired street closures, walking routes, assembly points, start and finish points, locations of food and beverage vendors, stages, service areas, etc. A blank map of downtown Moscow is available on page 7.

29. **Residential Neighborhood Block Parties:** Provide Proof of Insurance (Requirement may be waived at Discretion of City).

30. **All other Event Types (except Public Assembly):** Provide Proof of Insurance (Required – Certificate of Insurance must include the City of Moscow as an Additional Insured and list \$500,000 as the minimum amount of general liability or \$1,000,000 if alcohol is included.)

City of Moscow Community Events Division
EVENT APPLICATION



HOLD HARMLESS AGREEMENT:

The applicant/group/organization (hereinafter “SPONSOR”), through its duly and specifically authorized agents, hereby releases City of Moscow, Idaho (hereinafter “CITY”) and agrees, contracts and covenants not to bring suit and agrees to defend, hold harmless, and indemnify CITY, its officers, employees, agents and representatives from any and all claims, costs, judgments, awards, or liability to any person, including claims by SPONSOR’s own agents, officers, employees and representatives, to which SPONSOR might otherwise be immune, arising from the Community Event, Block Party, Public Assembly, Parade or Sidewalk Walking Parade scheduled to occur as indicated on this application (hereinafter “Event”), including any Street Closure permitted under the terms of CITY’s Policy on Street Closure. No SPONSOR shall be required to indemnify or hold harmless CITY for claims, actions and demands that arise out of CITY’s sole negligence. Inspection, review and/or acceptance by CITY of any activity performed by or during the Event, or any activity or non-activity by CITY Police Officers or other officers, employees, agents or representatives of CITY, shall not be grounds for avoidance of any of the covenants of defense, indemnification or hold harmless by SPONSOR on behalf of CITY.

SPONSOR acknowledges it will abide by any and all Federal, State, or City of Moscow Public Health Directives and/or Regulations in effect at the time of the Event. SPONSOR agrees to comply with any and all Federal, State, or City of Moscow Public Health Directives and/or Regulations in effect at the time of the Event and ensure that all participants comply with said Directives and/or Regulations in effect at the time of the Event. SPONSOR agrees that if CITY determines she/he/they and/or any participant is not in compliance with said Directives and/or Regulations in effect at the time of the Event, CITY reserves the right to revoke the Event permit.

I, SPONSOR, certify under penalty of perjury pursuant to the law of the State of Idaho, that (1) I have read the foregoing Hold Harmless Agreement, understand it and agree with its contents and conditions; (2) I either have had an opportunity to speak with legal counsel or opted not to seek legal counsel prior to either signing this Agreement or electronically signing this Agreement by selecting the box below; and (3) understand that the terms of this Agreement are contractually and legally binding and that no verbal statement to the contrary, by any person, can void or alter the terms of this Agreement. I, SPONSOR, certify under penalty of perjury pursuant the law of the State of Idaho that the foregoing is true and correct and that I have the authority to bind the group or organization, if applicable, to this Agreement.

NAME: Curtis Spencer

DATE: _____

EVENT SPONSOR ELECTRONIC SIGNATURE:

By checking this box as an electronic signature, **I agree, declare, and certify under penalty of perjury pursuant to the law of the State of Idaho, that the foregoing is true and correct. I agree to all the terms and conditions** that apply to the Community Event /Residential Neighborhood Block Party/Public Assembly/Street Parade/Sidewalk/Pathway Event, Permitting Process, and Hold Harmless Agreement. **I certify under penalty of perjury pursuant to the law of the State of Idaho that I have authority to bind the group or organization, if applicable, to this Agreement.** I am signing this document utilizing an alternative manner of providing an electric signature through agreeing to and checking the above box and understand this electronic signature is valid and binding upon me to the same force and effect as a handwritten signature.

EVENT SPONSOR NON-ELECTRONIC SIGNATURE:

_____ (Required only if printing and submitting in person)

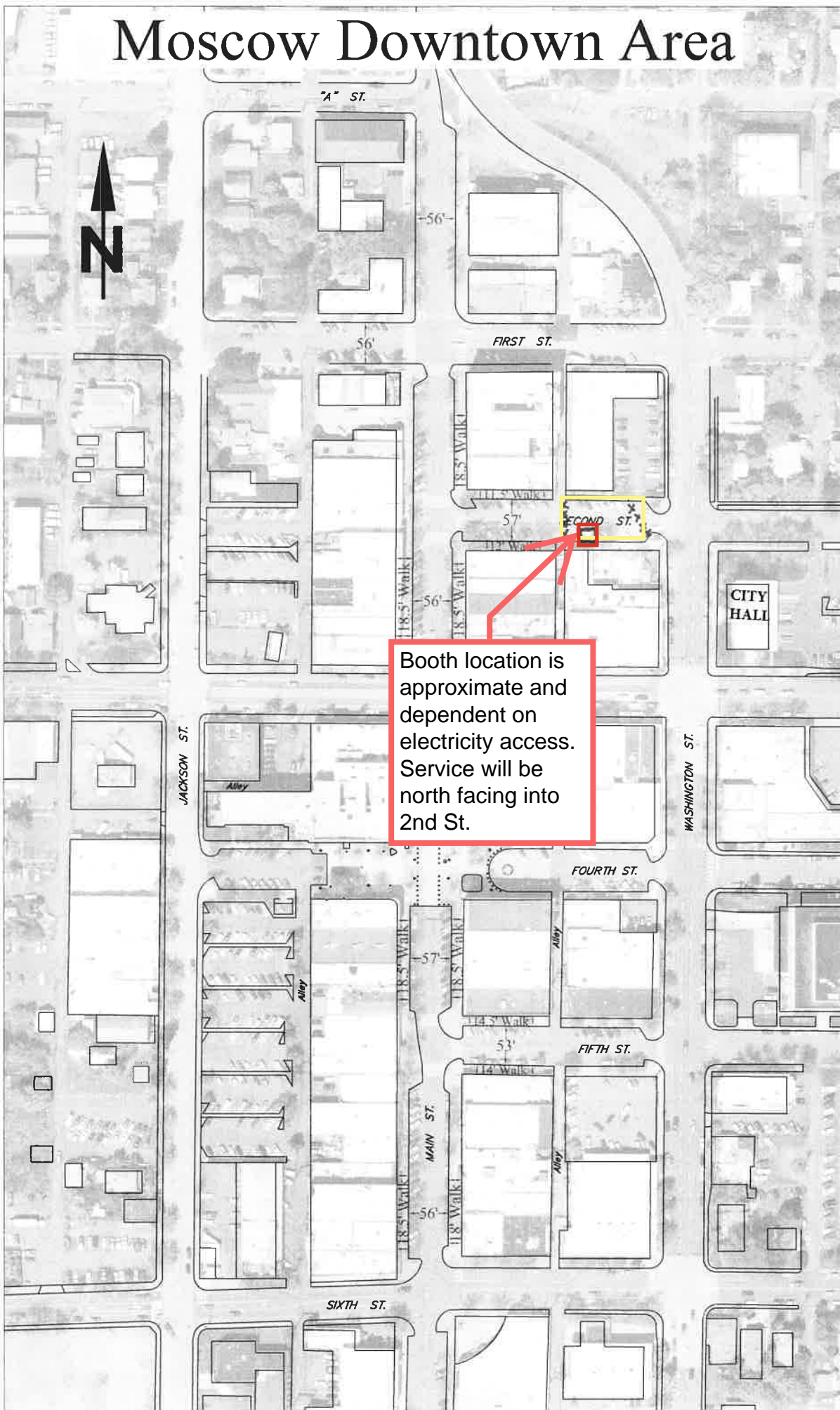
The information on this form is Public Record and may be posted to a public website.

Moscow City Code Title 10, Chapter 17 is available from the City Clerk at PO Box 9203, Moscow, ID, 83843, or on the City’s web page at <https://www.ci.moscow.id.us/393/City-Code>.

FOR OFFICE USE ONLY

<input type="checkbox"/> Community Event without alcohol	<input type="checkbox"/> Community Event with alcohol	<input type="checkbox"/> Street Parade Event
<input type="checkbox"/> Sidewalk/Pathway Event (fun runs, trail runs, walk-a-thons)	<input type="checkbox"/> Public Assembly – no fee (march, picket, rally, demonstration, etc.)	<input type="checkbox"/> Residential Neighborhood Block Party Event
Date App Rec'd: _____	Fees Due: _____	Fees Paid: _____

Moscow Downtown Area



Booth location is approximate and dependent on electricity access. Service will be north facing into 2nd St.

NOISE EXEMPTION PERMIT REQUEST

Moscow City Code 10-11-2

(Please allow at least three business days in which to process this request)

Requested Event Date(s): May 31, 2025 Begin time: 5pm End time: 8pm

Event Location: Slice Taphouse

Amplified Music (DJ, party, etc.) No Yes
Alcoholic Beverages Available No Yes - Purchaser: Slice Taphouse
(Marking this box does not mean your request will be denied) (If hosted or catered, name of serving organization)
Live Band Performing No Yes - Group: TBD

Describe the event: Moscow Rugby End of Season Party

(use back of this form if more space is needed)

Name of requesting person/Group/Organization: Moscow Rugby

Person responsible for Group or Organization: Curtis Spencer

Requesting Person's Address: 612 Britton Ln., Moscow, ID 83843

Phone Number: 505-379-7128 Email Address: curtis@moscowrugby.com

Daytime phone number is required

Permits will be returned by email unless otherwise requested

Responsible person available **AT AND DURING** this event: Curtis Spencer

Cell- or contact-phone during event. 505-379-7128

Your signature is unconditional acceptance of all terms and conditions. This permit may be modified or revoked by City at any time if permit conditions are violated. Please note that this form and the information you provide on this form is a public record pursuant to the Idaho Public Records Act under Title 74, Chapter 1 of the Idaho Code. Read the following carefully:

The applicant/group/organization hereby agrees to indemnify and hold harmless City of Moscow, Idaho from all claims, actions and demands of any kind whatsoever related to and/or arising out of the activity(ies) specified in this application and does hereby accept all risk and responsibility for any damage(s) stemming from such activity. Every Applicant requesting a noise Exemption Permit shall cooperate with law enforcement by adjusting the noise level in the event of any citizen complaint(s). In the event of non-compliance, law enforcement may revoke this permit. No applicant/group/organization shall be required to indemnify or hold harmless City of Moscow, Idaho for claims, actions and demands that arise out of City's sole negligence.

Requesting Person's Signature: Curtis Spencer Date: Apr 1, 2025

APPROVED DENIED

Date permit valid: 5/31/25 Hours permit valid: 5PM - 8PM

Noise level (dba) shall not exceed 85dba at source at property line

Other Conditions: _____

Anthony Dabf

Police Chief or Designee (208) 883-7054

CERTIFICATE OF LIABILITY INSURANCE ISSUE DATE : 04/21/2025

PRODUCER MSI EVENT PO Box 13008 Milwaukee, WI 53216	800-236-4252	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.
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INSURED Moscow Rugby Curtis Spencer 612 Britton Ln Moscow, ID 83843	Event Date: 05/31/2025	INSURERS AFFORDING COVERAGE INSURER A: MARKEL AMERICAN INSURANCE COMPANY HONOREE(S)
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COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE ABOVE NAMED INSURED FOR THE POLICY PERIOD INDICATED. NOT WITH STANDING ANY REQUIREMENT, TERM OF CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS														
A	GENERAL LIABILITY <input checked="" type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> HOST LIQUOR INCL. <input checked="" type="checkbox"/> TPPD GENERAL AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	MEL00000891905	05/31/2025	05/31/2025	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>EACH OCCURRENCE</td><td>\$1,000,000</td></tr> <tr><td>FIRE DAMAGE (Any one fire)</td><td>\$1,000,000</td></tr> <tr><td>MED EXP (Any one person)</td><td>Excluded</td></tr> <tr><td>PERSONAL INJURY</td><td>\$1,000,000</td></tr> <tr><td>GENERAL AGGREGATE</td><td>\$1,000,000</td></tr> <tr><td>DAMAGE TO RNTD PROP</td><td>\$1,000,000</td></tr> <tr><td> </td><td> </td></tr> </table>	EACH OCCURRENCE	\$1,000,000	FIRE DAMAGE (Any one fire)	\$1,000,000	MED EXP (Any one person)	Excluded	PERSONAL INJURY	\$1,000,000	GENERAL AGGREGATE	\$1,000,000	DAMAGE TO RNTD PROP	\$1,000,000		
EACH OCCURRENCE	\$1,000,000																		
FIRE DAMAGE (Any one fire)	\$1,000,000																		
MED EXP (Any one person)	Excluded																		
PERSONAL INJURY	\$1,000,000																		
GENERAL AGGREGATE	\$1,000,000																		
DAMAGE TO RNTD PROP	\$1,000,000																		
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> _____				<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>COMBINED SINGLE LIMIT (Each Accident)</td><td></td></tr> <tr><td>BODILY INJURY (Per Person)</td><td></td></tr> <tr><td>BODILY INJURY (Per Accident)</td><td></td></tr> <tr><td>PROPERTY DAMAGE (Per Accident)</td><td></td></tr> <tr><td>AUTO ONLY-EA ACCIDENT</td><td></td></tr> <tr><td>OTHER THAN AUTO EA ACC ONLY: AGG</td><td></td></tr> </table>	COMBINED SINGLE LIMIT (Each Accident)		BODILY INJURY (Per Person)		BODILY INJURY (Per Accident)		PROPERTY DAMAGE (Per Accident)		AUTO ONLY-EA ACCIDENT		OTHER THAN AUTO EA ACC ONLY: AGG			
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OTHER THAN AUTO EA ACC ONLY: AGG																			
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> _____				<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>EACH OCCURRENCE</td><td></td></tr> <tr><td>AGGREGATE</td><td></td></tr> </table>	EACH OCCURRENCE		AGGREGATE											
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	EXCESS LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$																		
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>WC STATU</td><td>OTHER</td></tr> <tr><td>E.L. EACH ACCIDENT</td><td></td></tr> <tr><td>E.L. DISEASE-EA EMPLOYEE</td><td></td></tr> <tr><td>E.L. DISEASE-POLICY LIMIT</td><td></td></tr> </table>	WC STATU	OTHER	E.L. EACH ACCIDENT		E.L. DISEASE-EA EMPLOYEE		E.L. DISEASE-POLICY LIMIT							
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E.L. DISEASE-POLICY LIMIT																			
	OTHER																		

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

The Certificate Holder is included as an insured under the Hosting Facility Liability Coverage, but only in respects to claims arising out of the negligence of the Named Insured. If the event continues past 12:00 a.m., at the location named on Declarations Page, such continuation shall be considered as the event date. Event includes set up and break down and the scheduled rehearsal or rehearsal dinner scheduled within 48 hours of the event if the event is a wedding. Set up and break down means decoration and removal of decoration at the event location that occurs no more than 24 hours prior to the event and 24 hours after the event.

CERTIFICATE HOLDER CITY OF MOSCOW 206 E THIRD ST MOSCOW ID 83843 Slice Taphouse 125 Second St. Moscow, ID 83843	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
--	---



Community Events Division Event Application Review

Moscow Rugby End of Season Block Party

05/31/2025

5:00 pm - 8:00 pm

Event Name

Date(s)/Time(s)

DEPARTMENT/DIVISION DESIGNEE

EVENT(S) APPROVED/DENIED

Anthony Dabfi

Moscow Police Department

Approve Deny

Officer presence required? Yes No N/A

Officers available? Yes No N/A

Dan Ellinwood

Dan Ellinwood (Apr 1, 2025 13:58 PDT)

Moscow Volunteer Fire Department

Approve Deny

David R. Schott

David R. Schott (Apr 1, 2025 10:21 PDT)

Parks and Recreation Department

Approve Deny

Kyle Rainer

Kyle Rainer (Apr 8, 2025 07:34 PDT)

Community Development-Engineering Division

Approve Deny

[Signature]

Public Works-Environmental Services Division

Approve Deny

Steven Schulte

Steven Schulte (Apr 7, 2025 07:16 PDT)

Public Works-Streets Department

Approve Deny

Street closure required? Yes No N/A

ITD permit required? Yes* No N/A

*Application will remain pending until ITD grants applicant a permit

Time of street closure? 4 pm to 9 pm

Fees? \$95.00

Start End

Daytime Nighttime

[Signature]

Laura Perrigo (Apr 8, 2025 09:09 PDT)

City Clerk/Deputy City Clerk

City of Moscow Community Events Division
ALCOHOL USE APPLICATION



Required for Events requesting Alcohol Use in the Moscow Downtown Central Business Zoning District or a Moscow Parks Facility.

City Council has the right to deny this application, but applicants may still move forward with their approved Event without alcohol.

Timeline for requesting Alcohol Use:

1. At least two months prior to Event, applicant submits Event Application or Parks Reservation for review.
2. Upon approval of Application or Reservation, applicant submits:
 - a. Alcohol Use application
 - b. Pays \$100 non-refundable Alcohol Use fee
 - c. Name(s) of licensed alcohol provider(s)
 - d. Events in a Moscow Park Facility also include:
 - i. Location of the beer/wine garden during the event with size dimensions, entry and exit points, and serving location. Provide as much detail as possible.
3. Staff drafts a Resolution according to the Event and communicates with applicant on security and insurance requirements.
4. Applicant must be present at Administrative Committee meeting (meetings are held on the 2nd and 4th Mondays of each month pending no holiday delays).
5. Applicant must be present at City Council meeting (meetings are held on the 1st and 3rd of each month pending no holiday delays).
6. Upon approval, applicant pays any remaining fees.

Event Name: Moscow Rugby End of Season Party Event Date(s): 5/31/25

Event Location: Slice Taphouse 2nd St from alley to Kenworthy entrance

Event Start time: 5pm Event End time: 8pm

Individual responsible per Event Application/Parks Reservation: Curtis Spencer

By signing this Alcohol Use application, applicant understands that their Event may not have alcohol unless approved by City Council, and that City Council has the right to deny Alcohol Use applications. Applicant also understands that the \$100 fee is non-refundable regardless of the decision issued by City Council.

Curtis Spencer
Signature of Individual responsible for Event

5/15/25
Date

Date Received: 4/15/25

Date non-refundable fee paid: 4/15/25

COMMITTEE / CITY COUNCIL STAFF REPORT

DATE: Tuesday, May 27, 2025



AGENDA ITEM TITLE

Task Order NO. 09 Palouse Basin Alternate Water Supply Project (ACTION ITEM) - Tyler Palmer

RESPONSIBLE STAFF

Tyler Palmer, Deputy City Supervisor

ADDITIONAL PRESENTER(S)

DESCRIPTION

The City of Moscow, in cooperation with the Palouse Basin Aquifer Committee (PBAC), has identified a surface water diversion from the Clearwater River as a high-potential future water supply option. This is based on previous planning efforts conducted by PBAC that explored multiple long-range future supply alternatives, and a preliminary examination of a Clearwater River option in 2019. The City is building upon those prior efforts and conducting a more in-depth evaluation of this option's feasibility. The City has selected HDR Engineering, INC to provide engineering and consulting services in support of this effort. In February 2025, the City entered an agreement with the Idaho Water Resource Board for \$182,500 in funding toward this project. On May 15, 2025, PBAC voted to authorize up to \$187,000 to complete the project (\$153,341 plus a 10% contingency). This project is anticipated to take 12 months to complete.

REVIEWED BY

PROPOSED ACTIONS

PROPOSED ACTIONS: Recommend approval of Task Order NO. 09 Palouse Basin Alternate Water Supply Project; or provide staff with further direction.

STAFF RECOMMENDATION

Recommend approval of Task Order NO. 09 Palouse Basin Alternate Water Supply Project

OTHER RESOURCES

FISCAL IMPACT

The total project cost is \$335,841.00. The Idaho Water Resource Board is under contract with the City for \$182,500. PBAC committed the remaining \$153,341 plus a 10% contingency up to a total of \$187,000.

PERSONNEL IMPACT

ATTACHMENTS

1. Task Order 09_HDR_Palouse Basin Alternate Water Supply Project_final with attachment

TASK ORDER NO. 09

Pursuant to the

MASTER AGREEMENT FOR PROFESSIONAL SERVICES
(Categories 1a, 2a)
BETWEEN CITY OF MOSCOW, IDAHO AND
HDR ENGINEERING, INC.

This Task Order No. 09 is made this ____ day of _____, 2025, and entered into by and between the City of Moscow, a municipal corporation of the State of Idaho (hereinafter “CITY”), and HDR Engineering, Inc. (hereinafter “ENGINEER”), pursuant to the mutual promises, covenants, terms and conditions contained in the Master Agreement (Categories 1a, 2a) between City of Moscow, Idaho and HDR Engineering, Inc. dated February 28, 2024. The Project Name for this Supplemental Task Order No. 09 is as follows:

CITY OF MOSCOW
Palouse Basin Alternate Water Supply Project

PROJECT UNDERSTANDING

CITY, in cooperation with the Palouse Basin Aquifer Committee (hereinafter “PBAC”), has identified a surface water diversion from the Clearwater River as a high-potential future water supply option. This is based on previous planning efforts conducted by PBAC that explored multiple long-range future supply alternatives, and a preliminary examination of a Clearwater River option in 2019. CITY is building upon those prior efforts and conducting a more in-depth evaluation of this option’s feasibility. CITY has selected ENGINEER to provide engineering and consulting services in support of this effort. Subconsultants Anchor QEA (hereinafter “Anchor”) and GeoEngineers, Inc. (hereinafter “GeoEngineers”) are providing assistance on specific tasks, as noted throughout the Scope of Work. ENGINEER will make efforts to contain project-related costs limited within the available budget and will notify CITY of outstanding issues or changes in scope that may influence the actual project costs or require an amendment to ENGINEER’s approved budget.

SCOPE OF WORK

The scope of work is detailed in ENGINEER’s City of Moscow Palouse Basin Alternate Water Supply Project Scopes of Services, dated April 24, 2025, attached hereto as Exhibit “A” and incorporated herein by this reference. Any other items necessary to plan and implement the Project, including but not limited to those specifically listed in “CITY Provided Work and Additional Services”, are the responsibility of CITY. All references to “client” within Exhibit “A” are referring to CITY. All references to “committee” within Exhibit “A” are referring to PBAC. Furthermore, the services being provided by subconsultants retained by ENGINEER as detailed in Exhibit “A”, shall

be paid by ENGINEER and the cost for the subconsultant’s services are included within the Not-To-Exceed Task Order amount included herein.

CITY PROVIDED WORK AND ADDITIONAL SERVICES

- A. CITY-Provided Work:** CITY is responsible for completing, or authorizing others to complete, all tasks not specifically included above in “*Scope of Work*” that may be required for the Project including, but not limited to:
 1. Provide necessary information to complete the task; and
 2. Attend Project meetings.

- B. Additional Services:** CITY reserves the right to add future tasks for subsequent phases or related work to the scope of services upon mutual agreement of scope, additional fees, and schedule.

TIME OF COMPLETION AND COMPENSATION SCHEDULE

- A.** CITY shall pay ENGINEER for the identified Services in “Scope of Work” as follows:
 1. For Lump Sum fees: The portion of the Lump Sum amount billed for ENGINEER’s services will be based upon ENGINEERS’s estimate of the percentage of the total services actually completed during the billing period.
 2. ENGINEER may alter the distribution of compensation between individual tasks to be consistent with services actually rendered while not exceeding the total project amount.

- B.** Period of Service: If the period of service for the task identified above is extended beyond 12 months past the Notice to Proceed, the compensation amount for ENGINEER's services may be appropriately adjusted to account for salary adjustments and extended duration of project management and administrative services.

- C.** CITY acknowledges that ENGINEER will not be responsible for impacts to the schedule by actions of others over which ENGINEER has no control.

- D.** The following table summarizes the fees and anticipated schedule for the services identified in “Scope of Work”.

COMPENSATION AND COMPLETION SCHEDULE				
Task	Task Name	Fee Type	Amount	Anticipated Completion Schedule
1	Task 100- Water Supply Assessment	Time and Materials	\$14,744	September 2025
2	Task 200- Conceptual Design Development	Time and Materials	\$120,273	February 2026
3	Task 300- Regulatory Permitting Assistance	Time and Materials	\$55,881	February 2026

4	Task 400- Stakeholder Engagement	Time and Materials	\$86,626	Throughout
5	Task 500- Reporting	Time and Materials	\$16,700	April 2026
6	Task 600- Project Management and PBAC Meetings	Time and Materials	\$41,617	Throughout
TASK ORDER TOTAL: \$335,841				

The Not-To-Exceed amount to complete all services listed above for this Task Order No. 09 is Three Hundred Thirty-Five Thousand, Eight Hundred Forty-One Dollars (**\$335,841.00**). No compensation will be paid nor will work be performed over the Not-To-Exceed amount without prior written approval by CITY in the form of a Change Order. Monthly invoices shall be billed as a percentage of work completed. Any and all travel will only be reimbursed if pre-approved by the Project Manager, and only per CITY Travel Policy. Reimbursable expenses will be paid at cost and only if pre-approved by the Project Manager and accompanied by an itemized receipt. Any travel and/or reimbursables paid will be paid as part of the Not-To-Exceed Task Order Total per the Compensation and Completion Schedule above.

Except as expressly set forth in this Task Order No. 09, the Master Agreement otherwise is unmodified and remains in full force and effect following this Task Order No. 09.

APPROVALS, ACCEPTANCE, AND SEVERABILITY

Approval and Acceptance of this Scope of Work shall incorporate this Task Order No. 09 as part of the Master Agreement. ENGINEER is authorized to begin performance upon ENGINEER’s receipt of a copy of this Task Order signed by CITY. The terms and conditions of this Task Order No. 09 shall be deemed severable. If any part of this Task Order No. 09 is held invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Task Order No. 09 shall remain in full force and effect so long as the remainder of this Task Order No. 09 is reasonably capable of completion.

IN WITNESS WHEREOF, the Parties have executed this Task Order No. 09 as of the date last signed below.

I, Jon Osier, certify under the penalty of perjury pursuant to the law of the State of Idaho, that the foregoing is true and correct and that I am an authorized agent to bind HDR Engineering, Inc into this Task Order No. 09. If signing this document utilizing a digital signature, I understand that my digital signature is valid and binding upon me to the same force and effect as a handwritten signature.

ENGINEER

HDR Engineering, Inc.

CITY

City of Moscow, Idaho

Jon Osier, Vice President

Arthur D. Bettge, Mayor

Date

Date

PM's Approval

ATTEST:

Laurie M. Hopkins, City Clerk

ACKNOWLEDGMENT

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2025, before me, a Notary Public in and for said State, appeared Jon Osier, known to me to be the person named above and acknowledged that they executed the foregoing document as the duly authorized representative of HDR Engineering, Inc.

Notary Public for the State of _____
Residing at _____
My commission expires _____

Exhibit “A”

City of Moscow

Palouse Basin Alternate Water Supply Project

Scope of Services

April 24, 2025



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DRAFT

EXHIBIT A

SCOPE OF SERVICES

Background

The City of Moscow (City), in cooperation with the Palouse Basin Aquifer Committee (PBAC), has identified a surface water diversion from the Clearwater River as a high-potential future water supply option. This is based on previous planning efforts conducted by PBAC that explored multiple long-range future supply alternatives, and a preliminary examination of a Clearwater River option in 2019. The City is building upon those prior efforts and conducting a more in-depth evaluation of this option's feasibility.

The City has selected HDR Engineering, Inc. (HDR) to provide engineering and consulting services in support of this effort. This document defines the scope of services to be provided by HDR. Subconsultants Anchor QEA (Anchor) and GeoEngineers, Inc. (GeoEngineers) are providing assistance on specific tasks, as noted throughout this scope of services.

HDR will make efforts to contain project-related costs limited within the available budget and will notify the City of outstanding issues or changes in scope that may influence the actual project costs or require an amendment to HDR's approved budget.

The project is organized into tasks that include Objectives, HDR Services, City Responsibilities, Assumptions and Deliverables as outlined in the following task descriptions.

Scope of Services

Task 100 Water Supply Assessment

Objective

Assess timing and quantity of water demands, assess water availability in the Clearwater River, evaluate water rights related constraints/requirements, and identify viable points of diversion for consideration in subsequent tasks.

HDR Services

1. Characterize Clearwater River minimum streamflow water rights held by the Idaho Water Resource Board (IWRB). Describe conditions associated with the water rights that may impose challenges or offer opportunities for developing new Clearwater River water rights for Moscow/PBAC.
2. Consult with IDWR and IWRB to investigate opportunities, challenges and interest in modifying instream flow water right 86-7345 to allow a diversion within or above the minimum streamflow reach for Moscow/PBAC's use.
3. Consult with IDWR and IWRB to investigate opportunities and challenges to providing direct water delivery outside of Idaho.
4. Consult with City of Lewiston to explore coordination with their plans and needs, including potential opportunities for sharing diversion facilities or coordinating on diversion works.

5. Analyze streamflow data available from USGS Clearwater River gaging stations with an emphasis on the Spalding Gage (site 13342500). Identify short and long-term trends in mean flows and minimum flows.
6. Assess potential impacts of climate change on future Clearwater River flow and potential removal of the Lower Granite Dam in regards to how such impacts could affect the proposed diversion.
7. Project future flow availability in the Clearwater River based on analysis of streamflow trends and potential impacts to streamflow due to climate change.
8. Assess volume and timing of water demands and compare how these align with water availability.
9. Identify viable point(s) of diversion based on streamflow analysis and input from IDWR and IWRB on opportunities for locating diversions within or upstream of minimum streamflow reaches.
10. Prepare draft Technical Memorandum (TM) on streamflow analysis, trends, and anticipated potential impacts from climate change. Describe findings from meetings with IDWR and IWRB on opportunities and constraints for locating a diversion within or upstream of the minimum streamflow reach and delivering water outside of Idaho.
11. Review meeting with PBAC to discuss draft Technical Memorandum.
12. Prepare final TM incorporating input from PBAC.

Client Responsibilities

1. Participate as needed in discussions with IDWR and IWRB on locating diversion facilities within or upstream of the minimum streamflow reach.
2. Participate in discussions with City of Lewiston.
3. Review draft TM, providing consolidated comments within two weeks of submittal.

Assumptions

1. One initial meeting between HDR and IDWR and IWRB staff investigating options for a diversion within or upstream of the minimum streamflow reach and a second meeting with PBAC members and IDWR and IWRB staff. These meetings are assumed to be virtual.
2. No new modeling to be performed. Climate change analysis will be performed using existing modeling data and literature review.

Deliverables

1. Technical Memorandum (Water Supply Assessment), Draft and Final; in Word; inclusive of supporting technical analysis and documentation.

Task 200 Conceptual Design Development

Objective

Develop conceptual design alternatives for diversion/intake, conveyance (pumping, piping, storage), treatment, and use.

HDR Services

1. Identify preferred diversion/intake locations. Informed by Task 100 work, and for the purpose of this scope, up to three (3) intake locations will be considered. Factors to be considered regarding intake locations include power availability, accessibility, security, and general facility protection from river or roadway traffic. These locations will be reviewed using GIS data and aerial mapping imagery. Intake pump stations to be considered would include vertical turbine pumps over a pier extending over the river's edge, intake suction line that extends from the river to a common wet well with vertical turbine pumps, and submersible pumps that extend on a slant into the river. Assessments of these locations will be further reviewed and confirmed during the site visit described further below.
2. Define treatment requirements/approaches for possible end uses (e.g., blending with groundwater for direct use in water systems, compatibility for aquifer recharge). Conceptual-level analysis of surface water treatment plant requirements will be conducted, to determine likely types and sizing of key unit processes, relying upon existing water quality data associated with the Clearwater River and PBAC member groundwater quality.
3. Identify preferred points of delivery (e.g., treatment plant locations in/near Moscow/Pullman, potential aquifer recharge locations). Considerations will include proximity to existing water utility infrastructure, availability of land, and (in the case of aquifer recharge) previous evaluations of recharge capability.
4. Identify up to 5 main conveyance route alternatives. Similar to the diversion/intake locations, GIS mapping and aerial imagery will be utilized to map alignments. Ideally, the alignments will be drawn to avoid streams (environmental considerations) and rock formations (geology/constructability issues), while trying to maintain the alignment within a dedicated right-of-way (also to avoid environmental issues and potential utility conflicts). Elevation differentials among the conveyance routes will also be considered to minimize the amount of booster pumps required per alignment. Considerations for booster pumps along the alignment will be similar to the preferred diversion/intake examples where power, access, security, and hydraulics are considered. A conceptual level analysis of how pumped storage could be integrated into the project alternatives will be included.
5. Field investigation and ranking matrix. Two (2) days are budgeted to walk the site with select members of the committee. The primary areas of the site visit will focus on the alternatives for the intake/diversion location(s), a drive along alignments (where right-of-way is available), and review of turnouts and discharge locations. The purpose of the site walk is to observe important aspects that may be lacking from a GIS/aerial map review. These aspects could include locating other utilities that may pose a conflict with the alignment, potential ideas of re-routing portions of the alignment, and overall assessment to confirm the surroundings are true to the imagery data. A discussion of ranking constraints will be presented to the committee members for discussion and input. General constraints include environmental concerns, right-of-way or easement acquisition, hydraulics, possible pumped storage sizing, operational/maintenance concerns, costs, and potential delays based on public feedback. Additional constraints can be added after the site walk as other constraints may become more apparent during the observation. The site walk will be attended by 3 HDR staff.
6. Define up to 5 project alternatives, based on various combinations of diversion/intake locations, conveyance options, and points of delivery using the ranking constraints developed in the previous task.

7. Develop Class 5 cost estimates for project alternatives. These estimates will include construction and life-cycle operational costs, as well as additional costs related to planning, design, permitting, and easement acquisition. For the purposes of this scope, it is assumed that a useful life cycle for pipelines and pump stations is 50 and 25 years, respectively. In providing opinions of probable construction cost, HDR has no control over cost or price of labor and materials, unknown or latent conditions of existing equipment or structures that might affect operation or maintenance costs, competitive bidding procedures and market conditions, time or quality of performance by operating personnel or third parties, and other economic and operational factors that might materially affect the ultimate project construction cost or schedule. HDR, therefore, will not warranty that project costs will not vary from their opinions, analyses, projections, or estimates.
8. Alternatives analysis. The constraint matrix will quantitatively provide a preferred solution based upon rankings and engineering analyses. A general list of constraints and a proposed ranking will be presented to PBAC for discussion and fine-tuning. Findings from Tasks 300 and 400 as well as observations from site visits will factor into the overall assessment. The recommended approach will consider known facets of the project in making a final decision with the Committee.
9. Prepare Draft Technical Memorandum (TM). A draft report will be provided to the committee one week for review prior to a workshop. The TM will include assumptions, design criteria, selection ranking, and discussion of the recommended alternative to further the design.
10. Alternatives ranking workshop. The purpose of this workshop will be to identify the preferred project alternative from the narrowed focus of a selected 3.
11. Prepare Final TM. Comments obtained from the Committee will be incorporated into a Final TM and presented in a PDF format report two weeks following the ranking workshop.

GeoEngineers Services

1. Identify general locations with potential favorability for aquifer recharge, based on previous studies.
2. Identify potential treatment requirements associated with aquifer recharge.

Client Responsibilities

1. Select committee personnel to be available for site walk/field visit of specific facility locations.
2. Select committee personnel to be available for discussion/input on select constraints to be considered for ranking matrix.
3. Review draft TM, providing consolidated comments within two weeks of submittal.

Assumptions

1. Aside from the 2-day field site walk, meetings and coordination can be performed via emails and virtual meetings.
2. Conceptual design includes exhibit-level layouts for alternatives. The level of detail to be shown at this conceptual stage includes pipeline alignments and pump station locations over aerial imagery. General sizing and layouts of pipelines, pump stations, and treatment/turnout areas will be shown with respect to known markers shown in the imagery photo. This level of design will be more of a "layout" for discussion purposes and general

planning to support higher level field efforts such as survey and mapping. The facilities will show approximate dimensions and lengths in order to develop cost estimates and initial design parameters. Survey/mapping and 10% design plans are not included in this scope of work. Plan and profile, and mechanical design plans are not included at this stage of analysis.

Deliverables

1. Technical Memorandum (Conceptual Design Development), Draft and Final; in PDF format); inclusive of supporting technical analysis and documentation.

Task 300 Regulatory Permitting Assistance

Objective

Identify regulatory and permitting requirements associated with the project alternatives identified in Task 200. Develop a regulatory/permitting “roadmap” to guide project implementation.

Anchor Services

1. Identify regulatory requirements and tribal considerations associated with each project alternative. This will include assessing how the proposed project could affect regulated resources and identifying agency personnel and tribal representatives who will be responsible for reviewing the project. Key regulatory triggers may include funding, siting, and resource use decisions. This task assumes evaluation of up to 5 alternatives, including combinations of two intake and two discharge locations with two to three potential pipeline alignments.
2. Conduct reconnaissance-level environmental review to gather information about existing conditions. Our team will begin by collecting and reviewing pertinent, publicly available background information, including critical area codes, mapping of critical aquatic and terrestrial habitat, and information on cultural and environmental resources in the study area. This effort will include a reconnaissance-level field review by one Anchor staff to characterize and evaluate the quality of critical aquatic and terrestrial habitat, natural resources, or cultural resources affected by the potential alternatives during a 1- to 2-day site visit. It is assumed that this site visit would take place in conjunction with site visits completed by HDR staff. This task will also include review of relevant database sources in preparation for and photo documentation during the site visit. This task assumes that detailed assessments, surveys, or studies needed to support permitting and implementation of the project will be completed after the project has progressed beyond the feasibility stage.
3. Conduct agency and tribal coordination. Anchor will engage with agency and tribal representatives to understand perspectives that might influence the complexity of the permitting approach. We will work with the City to determine the appropriate timing for formal engagement. Anchor will only provide information to other regulatory agencies that supports their project understanding and the development of an efficient permitting strategy.
4. Prepare Draft Regulatory Permitting Assessment TM. The Regulatory Permitting Assessment TM will provide input for the Alternatives Analysis workshop in Task 200 and will include a summary of anticipated permits and approvals; a basic description of existing conditions, focusing on existing land use classification, vegetation, water resources, fish and wildlife habitat, and the potential for encountering cultural resources; a comparison of how siting the alternatives may differ with respect to permitting complexity; a summary of

additional analysis/information that would be required to support subsequent permitting efforts; a recommended permitting approach, including steps, strategies, and practices that can be followed to efficiently obtain the necessary permits and approvals; and an anticipated timeline for obtaining the identified permits and approvals. The TM will also incorporate input from HDR on the approach to obtaining water rights for the project.

5. Prepare Final TM. Following review by the City of Moscow, Anchor will incorporate review comments provided and finalize the Regulatory Permitting Assessment TM.

HDR Services

1. Coordinate with Anchor and review deliverables.
2. Identify the preferred water rights application pathway. Identify water rights in the Clearwater River basin that may provide opportunities for transfer or mitigation. Provide input for inclusion in Anchor's regulatory/permitting roadmap.

Client Responsibilities

1. Review draft TM, providing consolidated comments within two weeks of submittal.

Assumptions

1. The findings of this task will be discussed in conjunction with the Task 200 work at the Alternatives Analysis workshop described in Task 200. It is assumed that relevant permitting information would be provided in the TM and that Anchor attendance at the workshop is not needed.
2. The TM will address five alternatives, assumed to include combinations of two intake and two discharge locations with two to three potential pipeline alignments.
3. Site reconnaissance will be organized and lead by HDR. It is assumed one staff person will prepare a reconnaissance-level environmental review over one to two days, involving photo documentation, but no mapping or collection of geospatial data will be completed.
4. No surveys or environmental field studies will be completed as part of this task. If detailed surveys or studies are needed to support permitting and implementation of the project, those will be completed after the project has progressed beyond the feasibility stage.
5. It is assumed up to two Anchor staff will attend up to four virtual coordination meetings for coordination with agencies, tribes, and/or the client facilitated by HDR. Anchor will prepare the environmental portion of agendas as requested.
6. It is assumed necessary mapping or graphics for the TM will be prepared by HDR or provided by the Client. Information pertaining to water rights permitting will be provided by HDR.
7. Anchor will prepare a Final TM, which assumes that no further site evaluations or analysis would be required to address one round of combined comments from HDR and the client.
8. It is assumed task efforts related to this task would be completed in approximately six months.

Deliverables

1. Technical Memorandum (Regulatory Permitting Assistance), Draft and Final; in Word; inclusive of supporting technical analysis and documentation.

Task 400 Stakeholder Engagement

Objective

Provide support to the City and PBAC in designing and implementing a stakeholder and public engagement plan.

HDR Services

1. Problem solving/ analysis. What did not work well the first two times and what do we need to do differently this time? In conjunction with the client, the HDR stakeholder engagement team will hold a series of conversations with PBAC members and other key stakeholders to determine the perceived shortcomings of past stakeholder engagement efforts. We will analyze these findings, corroborate with PBAC, and then integrate them into the stakeholder engagement plan. HDR will also work with PBAC to better understand what does work in the local context, and where they are currently succeeding (i.e., conservation outreach with residents, etc.)
2. Engagement plan. HDR will develop a robust and equitable stakeholder engagement plan that considers past shortcomings, as well as the chosen methods to engage with a wide variety of stakeholders. This plan will pull from successful HDR practices, the City's and PBAC's long history of engaging with local communities, and HDR's individual practitioner expertise and experience. Our intent is to communicate with local and regional stakeholders early in the process so that their ideas and expertise are included in the City's plans.
3. Meetings. Based on the stakeholder engagement plan, the HDR team will work closely with the city and PBAC to design a series of stakeholder meetings, webinars, focus groups, interviews, etc. with targeted groups and individuals (landowners, nonprofit and community leaders, Nez Perce, and others) who have been identified by us and the client as key stakeholders. These conversations will help us better understand the concerns, barriers, and other roadblocks that could befall a future communications campaign once an alternative has been established. We can collectively decide which meetings or interviews should be prioritized as in-person.
4. Design and advisory services regarding engagement materials/content development support. This includes social media strategy and content support, identifying audiences and platforms for best disseminating project messages.

Client Responsibilities

1. Over the course of the above-listed "problem-solving and analysis" phase, the City and PBAC will provide HDR with all necessary background information on previous outreach attempts. City and PBAC will provide local insight on stakeholder history, culture, relationships, and any pertinent historical information that may affect the engagement process.
2. City, and/or other PBAC partners, will collaborate with HDR on the design and development of outreach content and materials (e.g., written documents, website content, etc.). City/PBAC will execute and produce the materials. HDR will provide support up to the budget allocated.
3. Review draft TM, providing consolidated comments within two weeks of submittal.

Assumptions

1. City and PBAC partners have in-house capacity to produce content for social media and graphic materials, brochures, flyers, surveys, and other materials as needed.
2. Trips to Moscow. We will coordinate with the City to prioritize in-person meetings as needed with targeted individuals or groups. The budget assumes 8 in-person meetings, with 2 HDR staff present at 4 of the meetings, and 3 HDR staff present at the other 4 meetings; and includes travel costs.

Deliverables

1. Stakeholder Engagement Plan, Draft and Final; in Word.

Task 500 Reporting

Objective

Document this effort in a comprehensive report, providing recommendations for next steps PBAC can take related to this water supply alternative.

HDR Services

1. Prepare Draft Report. This will take the form of an executive summary, to which the final technical memoranda prepared in earlier tasks will be appended. The executive summary will document the methodology utilized throughout the course of this work, compile/summarize the findings, and provide recommendations.
2. Review meeting. This is assumed to be a virtual meeting, lasting up to two hours.
3. Prepare Final Report. Finalize report, based upon feedback from the City and PBAC.

Client Responsibilities

1. Review Draft Report, providing consolidated comments within two weeks of submittal.

Assumptions

1. The executive summary will be less than 20 pages in length, intended for a wide range of readers. Technical detail will reside in the technical memoranda, produced under previous tasks, which will be appended to the executive summary.

Deliverables

1. Project Report, Draft in Word and Final in PDF.

Task 600 Project Management and PBAC Meetings

Objective

The purpose of this task is to monitor, control and adjust scope, schedule, and budget as well as provide monthly status reporting, accounting, and invoicing.

HDR Services

1. Prepare a Project Management Plan (Project Guide) outlining the project scope, team organization, schedule, and communications information.
2. Coordinate and manage the project team.
3. Prepare monthly status reports describing the following:
 - o Services completed during the month
 - o Services planned for the next month
 - o Needs for additional information
 - o Scope/schedule/budget issues
 - o Schedule update and financial status summary
4. Prepare monthly invoices formatted in accordance with contract terms.
5. Facilitate a kickoff meeting with key City, HDR, and Anchor staff to review the scope and schedule of the project and discuss data needs.
6. Project Manager will attend project management meetings via conference call with the client Project Manager to review project scope, schedule, and budget issues. Provide written minutes notes (email) of key issues discussed at meetings.
7. Participation in PBAC meetings, to provide project briefings.
8. HDR internal quality assurance/quality control activities.
9. Establish a platform for electronic file sharing (e.g., Sharepoint site or similar).

Anchor Services

1. Internal project management activities, including monthly invoice preparation.
2. Participation in kickoff meeting and select PBAC briefing meetings (up to 3).

Client Responsibilities

1. Attend project management meetings via conference call to provide input, feedback, and direction.
2. Provide meeting notes for PBAC briefings.
3. Review and provide conflict resolved consolidated comments to meeting notes.
4. Prompt processing and payment of compliant invoices. The City will make one progress payment each month provided they are complete and accurate from the consultant and in the format requested by the City.

Assumptions

1. The project duration will be 12 consecutive months after notice to proceed (assuming Notice to proceed (NTP) to occur by end of April 2025 and work continuing through April 2026).
2. Kickoff meeting will be virtual, with a duration up to two hours. Up to four HDR team members and two Anchor team members will attend.
3. Invoices will be HDR standard invoice format.

4. Project management meetings will be attended by two HDR staff members (assumed 12 meetings each requiring approximately 0.5 hour for attendance and meeting notes). These will be scheduled as necessary to discuss general project work and will be held virtually.
5. PBAC briefing meetings will be attended by up to four HDR staff members and two Anchor staff members. Up to 6 PBAC briefings will be provided. Each is assumed to be virtual and up to 2 hours in length.
6. Monthly invoices will only be submitted for the months where work has taken place. It is assumed that 12 invoices will be required.
7. Expense backup will not be provided with invoices but will be available for review if requested by the City.

Deliverables

1. Monthly reports and invoices (one copy with invoice, emailed PDF file).
2. Project Management Meeting notes (email).

Schedule

The anticipated schedule is summarized in the table below.

Milestone	Anticipated Completion
Notice to Proceed (NTP)	May 15, 2025
Task 100 – Water Supply Assessment	September 2025
Task 200 – Conceptual Design Development	February 2026
Task 300 – Regulatory Permitting Assistance	February 2026
Task 400 – Stakeholder Engagement	Throughout
Task 500 – Reporting	April 2026
Task 600 – Project Management and PBAC Meetings	Throughout

Fee

The estimated fee to complete the professional services identified in this Scope of Services is offered on a time-and-materials basis. Professional services rendered in connection with this scope of services will be billed on a time and materials basis for actual hours rendered by Consultant employees up to the estimated total contract amount in accordance with the terms and conditions outlined in the signed Agreement.

The estimated fee is summarized below.

Task	HDR Labor Fee	HDR Expenses	Subconsultant Fee	Total Fee
Task 100 – Water Supply Assessment	\$14,634	\$110	\$0	\$14,744
Task 200 – Conceptual Design Development	\$104,797	\$4,476	\$11,000	\$120,273
Task 300 – Regulatory Permitting Assistance	\$5,743	\$43	\$50,095	\$55,881
Task 400 – Stakeholder Engagement	\$71,329	\$15,297	\$0	\$86,626
Task 500 – Reporting	\$16,576	\$124	\$0	\$16,700
Task 600 – Project Management and PBAC Meetings	\$41,307	\$310	\$0	\$41,617
Total	\$254,386	\$20,360	\$61,095	\$335,841

COMMITTEE / CITY COUNCIL STAFF REPORT

DATE: Tuesday, May 27, 2025



AGENDA ITEM TITLE

Adoption of the State of Idaho Deferred Compensation Plan (ACTION ITEM) - Bonnie Dennler

RESPONSIBLE STAFF

Bonnie Dennler

ADDITIONAL PRESENTER(S)

DESCRIPTION

The City of Moscow currently partners with Mission Square, previously ICMA-RC, to offer eligible employees the ability to participate in a 457 Deferred Compensation Plan. This additional retirement solution allows employees to make tax-deferred contributions through payroll deductions. The State of Idaho, in accordance with Idaho Code Section 59-513 permits the State of Idaho and any county, city or political subdivision of the state, working through its governing body, to contract with an employee to defer income to a 457 Deferred compensation plan through the State Deferred Compensation Plan, administered through Nationwide. The State of Idaho Deferred Compensation Plan offers employees lower administration fees as well as a one-time bonus for new enrollments, which is more financially beneficial to our employees. If adopted, the City would allow those currently enrolled in Mission Square's Deferred Compensation Plan to phase out contributions through payroll deduction over the next 12 months. New enrollments would only be offered through the State of Idaho Deferred Comp Plan. The resolution to adopt the State of Idaho deferred compensation plan is now before the Council for review and approval.

REVIEWED BY

PROPOSED ACTIONS

PROPOSED ACTIONS: Recommend approval of the resolution to adopt the State of Idaho Deferred Compensation Plan, or provide staff further direction.

STAFF RECOMMENDATION

Recommend approval of the resolution to adopt the State of Idaho Deferred Compensation Plan

OTHER RESOURCES

FISCAL IMPACT

PERSONNEL IMPACT

ATTACHMENTS

1. Resolution 2025- Adoption of The State Plan for Deferred Compensation_final with attachment
2. State of Idaho Data Sheet for plan adoption_City of Moscow

RESOLUTION 2025-__

A RESOLUTION OF THE CITY OF MOSCOW, IDAHO, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AUTHORIZING THE CITY OF MOSCOW TO PARTICIPATE IN THE STATE OF IDAHO 457 DEFERRED COMPENSATION PROGRAM; AND PROVIDING THIS RESOLUTION SHALL BE EFFECTIVE UPON ITS PASSAGE AND APPROVAL.

WHEREAS, Idaho Code Section 59-513 permits the State of Idaho and any county, city or political subdivision of the state, acting through its governing body, to contract with an employee to defer said employee's income to a 457 deferred compensation plan; and

WHEREAS, Idaho Code Section 59-513 authorizes the State Board of Examiners to establish and adopt rules to regulate such a program; and

WHEREAS, the State Board of Examiners has established and maintains the Deferred Compensation Plan (hereinafter "State Plan"); and

WHEREAS, Idaho Code Section 59-513 mandates that the governing body of any city of the state shall supervise and regulate the deferred compensation program for its employees; and

WHEREAS, City of Moscow, Idaho (hereinafter "City") desires to adopt the State Plan for participation by its employees to encourage employees' savings for retirement by offering salary reduction contributions; and

WHEREAS, by adopting the State Plan, the City adopts the investments and services selected by the State of Idaho Board of Examiners;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Moscow, Idaho that all matters stated above are true and correct and are incorporated herein by reference as if copied in their entirety and shall be adopted with the following:

1. That the City of Moscow shall abide by the terms of the State Plan, detailed in Attachment "A" incorporated herein by this reference, including any and all amendments to the State Plan made by the State of Idaho Board of Examiners, all investment, administrative, and other service agreements of the State Plan, and all applicable provisions of the Internal Revenue Code and other applicable law.
2. That the City of Moscow may terminate its participation in the State Plan upon passage of a resolution declaring that the City of Moscow no longer wishes to participate in the State Plan.
3. That the Mayor, City Treasurer, and City Clerk be granted authority to execute any and all documents required for the City of Moscow's participation in the State Plan.
4. That provisions of this Resolution shall be deemed severable and the invalidity of any provisions of this Resolution shall not affect the validity of the remaining provisions.

5. That this Resolution shall become effective upon its passage and approval.

PASSED on Motion by the Following Vote:

	Aye	Nay	Abstain	Absent
Hailey Lewis	_____	_____	_____	_____
Gina Taruscio	_____	_____	_____	_____
Drew Davis	_____	_____	_____	_____
Julia Parker	_____	_____	_____	_____
Sandra Kelly	_____	_____	_____	_____
Bryce Blankenship	_____	_____	_____	_____

ADOPTED by the City Council of the City of Moscow, Idaho and **APPROVED** by the Mayor of the City of Moscow, this ____ day of _____, 2025.

Arthur D. Bettge, Mayor

CERTIFICATION and ATTESTATION. I hereby certify that the above is a true copy of the Resolution passed at a regular meeting of the City Council, City of Moscow, Idaho held on _____, 2025 and attest to the Mayor's signature.

Laurie M. Hopkins, City Clerk

Attachment "A"

STATE OF IDAHO DEFERRED COMPENSATION PROGRAM

DRAFT

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ARTICLE I DEFINITIONS

1.01 "**Account**" means the separate Account(s) which the Plan Administrator or the Trustee maintains under the Plan for a Participant's Deferred Compensation. The Plan Administrator or Trustee may establish separate Accounts for multiple Beneficiaries of a Participant to facilitate required minimum distributions under Section 4.03 based on each Beneficiary's life expectancy.

1.02 "**Accounting Date**" means the last day of the Plan Year. The Plan Administrator will allocate Employer contributions and forfeitures for a particular Plan Year as of the Accounting Date of that Plan Year, and on such other dates, if any, as the Plan Administrator determines, consistent with the Plan's allocation conditions and other provisions.

1.03 "**Beneficiary**" means a person who the Plan or a Participant designates and who is or may become entitled to a Participant's Account upon the Participant's death. A Beneficiary who becomes entitled to a benefit under the Plan remains a Beneficiary under the Plan until the Plan Administrator or Trustee has fully distributed to the Beneficiary his or her Plan benefit. A Beneficiary's right to (and the Plan Administrator's or a Trustee's duty to provide to the Beneficiary) information or data concerning the Plan does not arise until the Beneficiary first becomes entitled to receive a benefit under the Plan.

1.04 "**Code**" means the Internal Revenue Code of 1986, as amended.

1.05 "**Compensation**"

(A) Uses and Context. Any reference in the Plan to Compensation is a reference to the definition in this Section 1.05, unless the Plan reference, or the Employer in the Adoption Agreement, modifies this definition. Except as the Plan otherwise specifically provides, the Plan Administrator will take into account only Compensation actually paid during (or as permitted under the Code, paid for) the relevant period. A Compensation payment includes Compensation paid by the Employer through another person under the common paymaster provisions in Code §§3121 and 3306. In the case of an Independent Contractor, Compensation means the amounts the Employer pays to the Independent Contractor for services, except as the Employer otherwise specifies in the Adoption Agreement. The Employer in the Adoption Agreement may elect to allocate contributions based on a Compensation within specified 12 month period which ends within a Plan Year.

(B) Base Definitions and Modifications. The Employer in the Adoption Agreement must elect one of the following base definitions of Compensation: W-2 Wages, Code §3401(a) Wages, or 415 Compensation. The Employer may elect a different base definition as to different Contribution Types. The Employer in the Adoption Agreement may specify any modifications thereto, for purposes of contribution allocations under Article III. If the Employer fails to elect one of the above-referenced definitions, the Employer is deemed to have elected the W-2 Wages definition.

(1) W-2 Wages. W-2 Wages means wages for federal income tax withholding purposes, as defined under Code §3401(a), plus all other payments to an Employee in the course of the Employer's trade or business, for which the Employer must furnish the Employee a written statement under Code §§6041, 6051, and 6052, but determined without regard to any

rules that limit the remuneration included in wages based on the nature or location of the employment or services performed (such as the exception for agricultural labor in Code §3401(a)(2)).

(2) Code §3401(a) Wages (income tax wage withholding). Code §3401(a) Wages means 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 the location of the employment or the services performed (such as the exception for agricultural labor in Code §3401(a)(2)).

(3) Code §415 Compensation (current income definition/simplified compensation under Treas. Reg. §1.415(c)-2(d)(2)). Code §415 Compensation means the Employee's wages, salaries, fees for professional service 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 Treas. Reg. §1.62-2(c)).

Code §415 Compensation does not include:

(a) Deferred compensation/SEP/SIMPLE. Employer contributions (other than Elective Deferrals) to a plan of deferred compensation (including a simplified employee pension plan under Code §408(k) or to a simple retirement account under Code §408(p)) to the extent the contributions are not included in the gross income of the Employee for the Taxable Year in which contributed, and any distributions from a plan of deferred compensation (whether or not qualified), regardless of whether such amounts are includible in the gross income of the Employee when distributed.

(b) Option exercise. Amounts realized from the exercise of a non-qualified stock option (an option other than a statutory option under Treas. Reg. §1.421-1(b)), or when restricted stock or other property held by an Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture under Code §83.

(c) Sale of option stock. Amounts realized from the sale, exchange or other disposition of stock acquired under a statutory stock option as defined under Treas. Reg. §1.421-1(b).

(d) Other amounts that receive special tax benefits. 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 Employee and are not salary reduction amounts under Code §125).

(e) **Other similar items.** Other items of remuneration which are similar to any of the items in Sections 1.11(B)(3)(a) through (d).

(4) **Alternative (general) 415 Compensation.** Under this definition, Compensation means as defined in Section 1.05(B)(3) but with the addition of: (a) amounts described in Code §§104(a)(3), 105(a), or 105(h) but only to the extent that these amounts are includible in Employee's gross income; (b) amounts paid or reimbursed by the Employer for moving expenses incurred by the Employee, but only to the extent that at the time of payment it is reasonable to believe these amounts are not deductible by the Employee under Code §217; (c) the value of a nonstatutory option (an option other than a statutory option under Treas. Reg. §1.421-1(b)) granted by the Employer to the an Employee, but only to the extent that the value of the option is includible in the Employee's gross income for the Taxable Year of the grant; (d) the amount includible in the Employee's gross income upon the Employee's making of an election under Code §83(b); and (e) amounts that are includible in the Employee's gross income under Code §409A or Code §457(f)(1)(A) or because the amounts are constructively received by the Participant. [Note if the Plan's definition of Compensation is W-2 Wages or Code §3401(a) Wages, then Compensation already includes the amounts described in clause (e).]

(C) **Deemed 125 Compensation.** Deemed 125 Compensation means, in the case of any definition of Compensation which includes a reference to Code §125, amounts under a Code §125 plan of the Employer that are not available to a Participant in cash in lieu of group health coverage, because the Participant is unable to certify that he/she has other health coverage.

(D) **Modification to Compensation.** The Employer must specify in the Adoption Agreement the Compensation the Plan Administrator is to take into account in allocating Deferral Contributions to a Participant's Account. For all Plan Years other than the Plan Year in which the Employee first becomes a Participant, the Plan Administrator will take into account only the Compensation determined for the portion of the Plan Year in which the Employee actually is a Participant.

(E) **Elective Contributions.** Compensation under Section 1.05 includes Elective Contributions unless the Employer in the Adoption Agreement elects to exclude Elective Contributions. "Elective Contributions" are amounts excludible from the Employee's gross income under Code §§125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 403(b), 408(p) or 457, and contributed by the Employer, at the Employee's election, to a cafeteria plan, a qualified transportation fringe benefit plan, a 401(k) arrangement, a SARSEP, a tax-sheltered annuity, a SIMPLE plan or a Code §457 plan.

(F) **Post-Severance Compensation.** Compensation includes Post-Severance Compensation to the extent the Employer elects in the Adoption Agreement or as the Plan otherwise provides. Post-Severance Compensation is Compensation paid after a Participant's Severance from Employment from the Employer, as further described in this Section 1.05(F). As the Employer elects, Post-Severance Compensation may include any or all of regular pay, leave cash-outs, or deferred compensation paid within the time period described in Section 1.05(F)(1), and may also include salary continuation for disabled Participants, all as defined below. Any other payment paid after Severance from Employment that is not described in this Section 1.05(F) is not Compensation even if payment is made within the time period described below. Post-Severance Compensation does not

include severance pay, parachute payments under Code §280G(b)(2) or payments under a nonqualified unfunded deferred compensation plan unless the payments would have been paid at that time without regard to Severance from Employment.

(1) **Timing.** Post-Severance Compensation includes regular pay, leave cashouts, or deferred compensation only to the extent the Employer pays such amounts by the later of 2 1/2 months after Severance from Employment or by the end of the Limitation Year that includes the date of such Severance from Employment.

(a) **Regular pay.** Regular pay means the payment of 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, but only if 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.

(b) **Leave cash-outs.** Leave cash-outs means payments 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 if Compensation would have included those amounts if they were paid prior to the Participant's Severance from Employment.

(c) **Deferred compensation.** As used in this Section 1.05(F), deferred compensation means the payment of deferred compensation pursuant to an unfunded deferred compensation plan, if Compensation would have included the Deferred Compensation if it had been paid prior to the Participant's Severance from Employment, 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 that the payment is includible in the Participant's gross income.

(2) **Salary continuation for disabled Participants.** Salary continuation for disabled Participants means Compensation paid to a Participant who is permanently and totally disabled (as defined in Code §22(e)(3)).

(G) **Differential Wage Payments.** An individual receiving a Differential Wage Payment, as defined by Code §3401(h)(2), shall be treated as an employee of the employer making the payment and the Differential Wage Payment shall be treated as compensation for purposes of Code §457(b) and any other Internal Revenue Code section that references the definition of compensation under Code §415, including the definition of Includible Compensation as provided in Section 1.15.

1.06 **"Deferral Contributions"** means as the Employer elects on the Adoption Agreement, Salary Reduction Contributions, Nonelective Contributions and Matching Contributions. The Plan Administrator in applying the Code §457(b) limit will take into account Deferral Contributions in the Taxable Year in which deferred, or if later, in the Taxable Year in which the Deferral Contributions are no longer subject to a Substantial Risk of Forfeiture. The Plan Administrator in determining the amount of a Participant's Deferral Contributions disregards the net income, gain and loss attributable to Deferral Contributions unless the Deferral Contributions are subject to a Substantial Risk of Forfeiture. If a Deferral Contribution is subject to a Substantial Risk of Forfeiture, the Plan Administrator takes into the Deferral Contribution as adjusted

for allocable net income, gain or loss in the Taxable Year in which the Substantial Risk of Forfeiture lapses.

1.07 "**Deferred Compensation**" means as to a Participant the amount of Deferral Contributions, Rollover Contributions and Transfers adjusted for allocable net income, gain or loss, in the Participant's Account.

1.08 "**Effective Date**" of this Plan is the date the Employer specifies in the Adoption Agreement. The Employer in the Adoption Agreement may elect special effective dates for Plan provisions the Employer specifies provided any such date(s) are permitted by the Code, by Treasury regulations, or by other applicable guidance.

1.09 "**Elective Deferrals**" means a contribution the Employer makes to the Plan pursuant to a Participant's Salary Reduction Agreement, as described in Section 3.02. The term "Elective Deferrals" includes Pre-Tax Elective Deferrals and Roth Elective Deferrals.

1.10 "**Employee**" means an individual who provides services for the Employer, as a common law employee of the Employer. The Employer in the Adoption Agreement must elect or specify any Employee, or class of Employees, not eligible to participate in the Plan (an "Excluded Employee"). See Section 1.16 regarding potential treatment of an Independent Contractor as an Employee.

1.11 "**Employer**" means the entity specified in the Adoption Agreement, any successor which shall maintain this Plan; and any predecessor which has maintained this Plan. In addition, where appropriate, the term Employer shall include any Participating Employer.

1.12 "**Employer Contribution**" means Nonelective Contributions or Matching Contributions.

1.13 "**ERISA**" means the Employee Retirement Income Security Act of 1974, as amended.

1.14 "**Excess Deferrals**" means Deferral Contributions to a Governmental Eligible 457 Plan or to a Tax-Exempt Organization Eligible 457 Plan for a Participant that exceed the Taxable Year maximum limitation of Code §§457(b) and (e)(18).

1.15 "**Includible Compensation**" means, for the Employee's Taxable Year, the Employee's total Compensation within the meaning of Code §415(c)(3) paid to an Employee for services rendered to the Employer. Includible Compensation includes Deferral Contributions under the Plan, compensation deferred under any other plan described in Code §457, and any amount excludible from the Employee's gross income under Code §§401(k), 403(b), 125 or 132(f)(4) or any other amount excludible from the Employee's gross income for Federal income tax purposes. The Employer will determine Includible Compensation without regard to community property laws.

1.16 "**Independent Contractor**" means any individual who performs service for the Employer and who the Employer does not treat as an Employee or a Leased Employee. The Employer in the Adoption Agreement may elect to permit Independent Contractors to participate in the Plan. To the extent that the Employer permits Independent Contractor participation, references to Employee in the Plan include Independent Contractors and Compensation means the amounts the Employer pays to the Independent Contractor for services, except as the Employer otherwise specifies in the Adoption Agreement.

1.17 "**Leased Employee**" means an Employee within the meaning of Code §414(n).

1.18 "**Matching Contribution**" means an Employer fixed or discretionary contribution made or forfeiture allocated on account of Salary Reduction Contributions.

1.19 "**Nonelective Contribution**" means an Employer fixed or discretionary contribution not made as a result of a Salary Reduction Agreement and which is not a Matching Contribution.

1.20 "**Normal Retirement Age**" means the age the Employer specifies in the Adoption Agreement consistent with Section 3.05(B).

1.21 "**Participant**" is an Employee other than an Excluded Employee who becomes a Participant in accordance with the provisions of Section 2.01.

1.22 "**Plan**" means the 457 plan established or continued by the Employer in the form of this basic Plan and (if applicable) Trust Agreement, including the Adoption Agreement. The Employer in the Adoption Agreement must designate the name of the Plan. All section references within the Plan are Plan section references unless the context clearly indicates otherwise.

1.23 "**Plan Administrator**" is the Employer unless the Employer designates another person to hold the position of Plan Administrator. The Plan Administrator may be a Participant.

1.24 "**Plan Entry Date**" means the dates the Employer elects in Adoption Agreement.

1.25 "**Plan Year**" means the consecutive 12-month period the Employer elects in the Adoption Agreement.

1.26 "**Pre-Tax Elective Deferrals**" means a Participant's Salary Reduction Contributions which are not includible in the Participant's gross income at the time deferred and have been irrevocably designated as Pre-Tax Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Pre-Tax Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Pre-Tax Elective Deferrals.

1.27 "**Rollover Contribution**" means the amount of cash or property which an eligible retirement plan described in Code §402(c)(8)(B) distributes to an eligible Employee or to a Participant in an eligible rollover distribution under Code §402(c)(4) and which the eligible Employee or Participant transfers directly or indirectly to a Governmental Eligible 457 Plan. A Rollover Contribution includes net income, gain or loss attributable to the Rollover Contribution. A Rollover Contribution excludes after-tax Employee contributions, as adjusted for net income, gain or loss.

1.28 "**Roth Elective Deferrals**" means a Participant's Salary Reduction Contributions that are includible in the Participant's gross income at the time deferred and have been irrevocably designated as Roth Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Roth Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Roth Elective Deferrals. However, forfeitures may not be allocated to such account. The Plan must also maintain a record of a Participant's investment in the contract (i.e., designated Roth contributions that have not been distributed) and the year in which the Participant first made a Roth Elective Deferral.

1.29 "**Salary Reduction Agreement**" means a written agreement between a Participant and the Employer, by which the Employer reduces the Participant's Compensation for Compensation not available as of the date of the election and contributes the amount as a Salary Reduction Contribution to the Participant's Account.

1.30 "**Salary Reduction Contribution**" means a contribution the Employer makes to the Plan pursuant to a Participant's Salary Reduction Agreement.

1.31 "**Service**" means any period of time the Employee is in the employ of the Employer. In the case of an Independent Contractor, Service means any period of time the Independent Contractor performs services for the Employer on an independent contractor basis. An Employee or Independent Contractor terminates Service upon incurring a Severance from Employment.

(A) **Qualified Military Service.** Service includes any qualified military service the Plan must credit for contributions and benefits in order to satisfy the crediting of Service requirements of Code §414(u). A Participant whose employment is interrupted by qualified military service under Code §414(u) or who is on a leave of absence for qualified military service under Code §414(u) may elect to make additional Salary Reduction Contributions upon resumption of employment with the Employer equal to the maximum Deferral Contributions that the Participant could have elected during that period if the Participant's employment with the Employer had continued (at the same level of Compensation) without the interruption of leave, reduced by the Deferral Contributions, if any, actually made for the Participant during the period of the interruption or leave. This right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave). The Employer shall make appropriate make-up Nonelective Contributions and Matching Contributions for such a Participant as required under Code §414(u). The Plan shall apply limitations of Article III to all Deferral Contributions under this paragraph with respect to the year to which the Deferral Contribution relates.

(B) "**Continuous Service**" as the Adoption Agreement describes means Service with the Employer during which the Employee does not incur a Severance from Employment.

(C) "**Severance from Employment.**"

(1) **Employee.** An Employee has a Severance from Employment when the Employee ceases to be an Employee of the Employer. A Participant does not incur a Severance from Employment if, in connection with a change in employment, the Participant's new employer continues or assumes sponsorship of the Plan or accepts a Transfer of Plan assets as to the Participant.

(2) **Independent Contractor.** An Independent Contractor has a Severance from Employment when the contract(s) under which the Independent Contractor performs services for the Employer expires (or otherwise terminates), unless the Employer anticipates a renewal of the contractual relationship or the Independent Contractor becoming an Employee. The Employer anticipates renewal if it intends to contract for the services provided under the expired contract and neither the Employer nor the Independent Contractor has eliminated the Independent Contractor as a potential provider of such services under the new contract. Further, the Employer intends to contract for services conditioned only upon the Employer's need for the services provided under the expired contract or the Employer's availability of funds. Notwithstanding the preceding provisions of this Section 1.31, the Plan Administrator will

consider an Independent Contractor to have incurred a Severance from Employment: (a) if the Plan Administrator or Trustee will not pay any Deferred Compensation to an Independent Contractor who is a Participant before a date which is at least twelve months after the expiration of the Independent Contractor's contract (or the last to expire of such contracts) to render Services to the Employer; and (b) if before the applicable twelve-month payment date, the Independent Contractor performs Service as an Independent Contractor or as an Employee, the Plan Administrator or Trustee will not pay to the Independent Contractor his or her Deferred Compensation on the applicable date.

(3) **Deemed Severance.** Notwithstanding Section 1.05(F), if the Employer elects in the Adoption Agreement, then if a Participant performs service in the uniformed services (as defined in Code §414(u)(12)(B)) on active duty for a period of more than 30 days, the Participant will be deemed to have a severance from employment solely for purposes of eligibility for distribution of amounts not subject to Code §412. However, the Plan will not distribute such a Participant's Account on account of this deemed severance unless the Participant specifically elects to receive a benefit distribution hereunder. If a Participant elects to receive a distribution on account of this deemed severance, then no Deferral Contributions may be made for the Participant during the 6-month period beginning on the date of the distribution. If a Participant would be entitled to a distribution on account of a deemed severance, and a distribution on account of another Plan provision, then the other Plan provision will control and the 6-month suspension will not apply.

1.32 "**State**" means (a) one of the 50 states of the United States or the District of Columbia, or (b) a political subdivision of a State, or any agency or instrumentality of a State or its political subdivision. A State does not include the federal government or any agency or instrumentality thereof.

1.33 "**Substantial Risk of Forfeiture**" exists if the Plan expressly conditions a Participant's right to Deferred Compensation upon the Participant's future performance of substantial Service for the Employer.

1.34 "**Tax-Exempt Organization**" means any tax-exempt organization other than a governmental unit or a church or qualified church-controlled organization within the meaning of Code §3121(w)(3).

1.35 "**Taxable Year**" means the calendar year or other taxable year of a Participant.

1.36 "**Transfer**" means a transfer of Eligible 457 Plan assets to another Eligible 457 Plan which is not a Rollover Contribution and which is made in accordance with Section 9.03.

1.37 "**Trust**" means the Trust created under the adopting Employer's Plan. A Trust required under a Governmental Eligible 457 Plan is subject to Article VIII. Any Trust under a Tax-Exempt Organization Eligible 457 Plan is subject to Section 5.09.

1.38 "**Trustee**" means the person or persons who as Trustee execute the Employer's Adoption Agreement, or any successor in office who in writing accepts the position of Trustee.

1.39 **Type of 457 Plan.** This Plan is an Eligible 457 Plan, which is a plan which satisfies the requirements of Code §457(b) and Treas. Reg. §§1.457-3 through -10. The Employer in the Adoption Agreement must specify whether the plan is either a

Governmental Eligible 457 Plan or a Tax-Exempt Organization Eligible 457 Plan, as defined below:

(A) "Governmental Eligible 457 Plan" means an Eligible 457 Plan established by a State.

(B) "Tax-Exempt Organization Eligible 457 Plan" means an Eligible 457 Plan established by a Tax-Exempt Organization.

1.40 **"Vested"** means a Participant's Deferral Contributions that are not subject to a Substantial Risk of Forfeiture, including a vesting schedule.

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ARTICLE II
ELIGIBILITY AND PARTICIPATION

2.01 ELIGIBILITY. Each Employee who is not an Excluded Employee becomes a Participant in the Plan in accordance with the eligibility conditions and as of the Plan Entry Date the Employer elects in the Adoption Agreement. If this Plan is a restated Plan, each Employee who was a Participant in the Plan on the day before the Effective Date continues as a Participant in the Plan, irrespective of whether he/she satisfies the eligibility conditions in the restated Plan, unless the Employer indicates otherwise in the Adoption Agreement.

2.02 PARTICIPATION UPON RE-EMPLOYMENT. A Participant who incurs a Severance from Employment will re-enter the Plan as a Participant on the date of his or her re-employment. An Employee who satisfies the Plan's eligibility conditions but who incurs a Severance from Employment prior to becoming a Participant will become a Participant on the later of the Plan Entry Date on which he/she would have entered the Plan had he/she not incurred a Severance from Employment or the date of his or her re-employment. Any Employee who incurs a Severance from Employment prior to satisfying the Plan's eligibility conditions becomes a Participant in accordance with the Adoption Agreement.

2.03 CHANGE IN EMPLOYMENT STATUS. If a Participant has not incurred a Severance from Employment but ceases to be eligible to participate in the Plan, by reason of becoming an Excluded Employee, the Plan Administrator must treat the Participant as an Excluded Employee during the period such a Participant is subject to the Adoption Agreement exclusion. The Plan Administrator determines a Participant's sharing in the allocation of Employer Contributions by disregarding his or her Compensation paid by the Employer for services rendered in his or her capacity as an Excluded Employee. However, during such period of exclusion, the Participant, without regard to employment classification, continues to share fully in Plan income allocations under Section 5.07 and to accrue vesting service if applicable.

ARTICLE III
DEFERRAL CONTRIBUTIONS/LIMITATIONS

3.01 AMOUNT.

(A) Contribution Formula. For each Plan Year, or other period the Employer specifies in the Adoption Agreement, the Employer will contribute to the Plan the type and amount of Deferral Contributions the Employer elects in the Adoption Agreement.

(B) Return of Contributions. The Employer contributes to this Plan on the condition its contribution is not due to a mistake of fact. If the Plan has a Trust, the Trustee, upon written request from the Employer, must return to the Employer the amount of the Employer's contribution (adjusted for net income, gain or loss) made by the Employer on account of a mistake of fact. The Trustee will not return any portion of the Employer's contribution under the provisions of this paragraph more than one year after the Employer made the contribution on account of a mistake of fact. In addition, if any Participant Salary Reduction Contribution is due to a mistake of fact, the Employer or the Trustee upon written request from the Employer shall return the Participant's contribution (adjusted for net income, gain or loss), within one year after payment of the contribution.

The Trustee will not increase the amount of the Employer contribution returnable under this Section 3.01 for any earnings attributable to the contribution, but the Trustee will decrease the Employer contribution returnable for any losses attributable to it. The Trustee may require the Employer to furnish it whatever evidence the Trustee deems necessary to enable the Trustee to confirm the amount the Employer has requested be returned is properly returnable.

(C) Time of Payment of Contribution. If the Plan has a Trust, the Employer may pay its contributions for each Plan Year to the Trust in one or more installments and at such time(s) as the Employer determines, without interest. A Governmental Employer shall deposit Salary Reduction Contributions to the Trust within a period that is not longer than is reasonable for the administration of Participant Accounts.

3.02 SALARY REDUCTION CONTRIBUTIONS. The Employer in the Adoption Agreement must elect whether the Plan permits Salary Reduction Contributions, and also the Plan limitations, if any, which apply to Salary Reduction Contributions. Unless the Employer elects otherwise in the Adoption Agreement, all such limitations apply on a payroll basis.

(A) Deferral from Sick, Vacation and Back Pay. The Employer in the Adoption Agreement must elect whether to permit Participants to make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay.

(B) Automatic Enrollment. The Employer in the Adoption Agreement may provide for automatic Salary Reduction Contributions of a specified amount, subject to giving notice to affected Participants of the automatic election and of their right to make a contrary election.

A Governmental Employer under an Eligible 457 Plan may elect to provide an Eligible Automatic Contribution Arrangement ("EACA"). If the Employer elects to provide an EACA, the Employer will amend the Plan to add necessary language.

(C) Application to Leave of Absence and Disability. Unless a Participant in his or her Salary Reduction Agreement elects otherwise, the Participant's Salary Reduction Agreement shall

continue to apply during the Participant's leave of absence or the Participant's disability (as the Plan Administrator shall establish), if the Participant has Compensation other than imputed compensation or disability benefits.

(D) Post-severance deferrals limited to Post-Severance Compensation. Deferrals are permitted from an amount received following Severance from Employment only if the amount is Post-Severance Compensation.

3.03 MATCHING CONTRIBUTIONS. The Employer in the Adoption Agreement must elect whether the Plan permits Matching Contributions and, if so, the type(s) of Matching Contributions, the time period applicable to any Matching Contribution formula, and as applicable, the amount of Matching Contributions and the Plan limitations, if any, which apply to Matching Contributions. Any Matching Contributions apply to age 50 catch-up contributions, if any, and to any Normal Retirement Age catch-up contributions unless the Employer elects otherwise in the Adoption Agreement.

3.04 NORMAL LIMITATION. Except as provided in Sections 3.05 and 3.06, a Participant's maximum Deferral Contributions (excluding Rollover Contributions and Transfers) under this Plan for a Taxable Year may not exceed the lesser of:

(a) The applicable dollar amount as specified under Code §457(e)(15) (or such larger amount as the Commissioner of the Internal Revenue may prescribe), or

(b) 100% of the Participant's Includible Compensation for the Taxable Year.

3.05 NORMAL RETIREMENT AGE CATCH-UP CONTRIBUTION. If selected in the Adoption Agreement, a Participant may elect to make this catch-up election. For one or more of the Participant's last three Taxable Years ending before the Taxable Year in which the Participant attains Normal Retirement Age, the Participant's maximum Deferral Contributions may not exceed the lesser of:

(a) Twice the dollar amount under Section 3.04(a) Normal Limitation, or (b) the underutilized limitation.

(A) Underutilized Limitation. A Participant's underutilized limitation is equal to the sum of: (i) the normal limitation for the Taxable Year, and (ii) the normal limitation for each of the prior Taxable Years of the Participant commencing after 1978 during which the Participant was eligible to participate in the Plan and the Participant's Deferral Contributions were subject to the Normal Limitation or any other Code §457(b) limit, less the amount of Deferral Contributions for each such prior Taxable Year, excluding age 50 catch-up contributions.

(B) Normal Retirement Age. Normal Retirement Age is the age the Employer specifies in the Adoption Agreement provided that the age may not be: (i) earlier than the earliest of age 65 or the age at which Participants have the right to retire and receive under the Employer's defined benefit plan (or money purchase plan if the Participant is not eligible to participate in a defined benefit plan) immediate retirement benefits without actuarial or other reduction because of retirement before a later specified age; or (ii) later than age 70 1/2.

(1) Participant Designation. The Employer in the Adoption Agreement may permit a Participant to designate his or her Normal Retirement Age as any age including or between the foregoing ages.

(2) **Multiple 457 Plans.** If the Employer maintains more than one Eligible 457 Plan, the Plans may not permit any Participant to have more than one Normal Retirement Age under the Plans.

(3) **Police and Firefighters.** In a Governmental Eligible 457 Plan with qualified police or firefighter Participants within the meaning of Code §415(b)(2)(H)(ii)(I), the Employer in the Adoption Agreement may elect (or permit the qualified Participants to elect) a Normal Retirement Age as early as age 40 and as late as age 70 1/2.

(C) **Pre-2002 Coordination.** In determining a Participant's underutilized limitation, the Plan Administrator, in accordance with Treas. Reg. §1.457-4(c)(3)(iv), must apply the coordination rule in effect under now repealed Code §457(c)(2). The Plan Administrator also must determine the Normal Limitation for pre-2002 Taxable Years in accordance with Code §457(b)(2) as then in effect.

3.06 **AGE 50 CATCH-UP CONTRIBUTION.** An Employer sponsoring a Governmental Eligible 457 Plan must specify in the Adoption Agreement whether the Participants are eligible to make age 50 catch-up contributions.

If an Employer elects to permit age 50 catch-up contributions, all Employees who are eligible to make Salary Reduction Contributions under this Plan and who have attained age 50 before the close of the Taxable Year are eligible to make age 50 catch-up contributions for that Taxable Year in accordance with, and subject to the limitations of, Code §414(v). Such catch-up contributions are not taken into account for purposes of the provisions of the Plan implementing the required limitations of Code §457. If, for a Taxable Year, an Employee makes a catch-up contribution under Section 3.05, the Employee is not eligible to make age 50 catch-up contributions under this Section 3.06. A catch-up eligible Participant in each Taxable Year is entitled to the greater of the amount determined under Section 3.05 or Section 3.06 Catch-Up Amount plus the Section 3.04 Normal Limitation.

3.07 **CONTRIBUTION ALLOCATION.** The Plan Administrator will allocate to each Participant's Account his or her Deferral Contributions. The Employer will allocate Employer Nonelective and Matching Contributions to the Account of each Participant who satisfies the allocation conditions in the Adoption Agreement in the following manner:

(a) **Fixed match.** To the extent the Employer makes Matching Contributions under a fixed Adoption Agreement formula, the Plan Administrator will allocate the Matching Contribution to the Account of the Participant on whose behalf the Employer makes that contribution. A fixed Matching Contribution formula is a formula under which the Employer contributes a specified percentage or dollar amount on behalf of a Participant based on that Participant's Salary Reduction Contributions.

(b) **Discretionary match.** To the extent the Employer makes Matching Contributions under a discretionary Adoption Agreement formula, the Plan Administrator will allocate the Matching Contributions to a Participant's Account in the same proportion that each Participant's Salary Reduction Contributions taken into account under the formula bear to the total Salary Reduction Contributions of all Participants.

(c) **Tiered match.** If the Matching Contribution formula is a tiered formula, the Plan Administrator will allocate separately the Matching Contributions with respect to each tier

of Salary Reduction Contributions, in accordance with the tiered formula.

(d) **Discretionary nonelective.** The Plan Administrator will allocate discretionary Nonelective Contributions for a Plan Year in the same ratio that each Participant's Compensation for the Plan Year bears to the total Compensation of all Participants for the Plan Year, unless the Employer elects otherwise in the Adoption Agreement.

(e) **Fixed nonelective.** The Plan Administrator will allocate fixed Nonelective Contributions for a Plan Year in the same ratio that each Participant's Compensation for the Plan Year bears to the total Compensation of all Participants for the Plan Year, unless the Employer elects otherwise in the Adoption Agreement.

(f) **Other nonelective.** The Plan Administrator will allocate Nonelective Contributions for a Plan Year as specified in the Adoption Agreement.

3.08 **ALLOCATION CONDITIONS.** The Plan Administrator will determine the allocation conditions applicable to Nonelective Contributions or to Matching Contributions (or to both) in accordance with the Employer's elections in the Adoption Agreement. The Plan Administrator will not allocate to a Participant any portion of an Employer Contribution (or forfeiture if applicable) for a Plan Year or applicable portion thereof in which the Participant does not satisfy the applicable allocation condition(s).

3.09 **ROLLOVER CONTRIBUTIONS.** If elected in the Adoption Agreement, an Employer sponsoring a Governmental Eligible 457 Plan may permit Rollover Contributions.

(A) **Operational Administration.** The Employer, operationally and on a nondiscriminatory basis, may elect to limit an eligible Employee's right or a Participant's right to make a Rollover Contribution. Any Participant (or as applicable, any eligible Employee), with the Employer's written consent and after filing with the Trustee the form prescribed by the Plan Administrator, may make a Rollover Contribution to the Trust. Before accepting a Rollover Contribution, the Trustee may require a Participant (or eligible Employee) to furnish satisfactory evidence the proposed transfer is in fact a "Rollover Contribution" which the Code permits an employee to make to an eligible retirement plan. The Trustee, in its sole discretion, may decline to accept a Rollover Contribution of property which could: (1) generate unrelated business taxable income; (2) create difficulty or undue expense in storage, safekeeping or valuation; or (3) create other practical problems for the Trust.

(B) **Pre-Participation Rollover.** If an eligible Employee makes a Rollover Contribution to the Trust prior to satisfying the Plan's eligibility conditions, the Plan Administrator and Trustee must treat the Employee as a limited Participant (as described in Rev. Rul. 96-48 or in any successor ruling). A limited Participant does not share in the Plan's allocation of any Employer Contributions and may not make Salary Reduction Contributions until he/she actually becomes a Participant in the Plan. If a limited Participant has a Severance from Employment prior to becoming a Participant in the Plan, the Trustee will distribute his or her Rollover Contributions Account to the limited Participant in accordance with Article IV.

(C) **Separate Accounting.** If an Employer permits Rollover Contributions, the Plan Administrator must account separately for: (1) amounts rolled into this Plan from an eligible retirement plan (other than from another Governmental Eligible 457 plan); and (2) amounts rolled into this Plan from another

Governmental Eligible 457 Plan The Plan Administrator for purposes of ordering any subsequent distribution from this Plan, may designate a distribution from a Participant's Rollover Contributions as coming first from either of (1) or (2) above if the Participant has both types of Rollover Contribution Accounts.

(D) May Include Roth Deferrals. If this Plan is an eligible governmental 457(b) plan which accepts Roth Elective Deferrals, then a Rollover Contribution may include Roth Deferrals made to another plan, as adjusted for Earnings. Such amounts must be directly rolled over into this Plan from another plan which is qualified under Code §401(a), from a 403(b) plan, or from an eligible governmental 457 plan. The Plan must account separately for the Rollover Contribution, including the Roth Deferrals and the Earnings thereon.

(E) In-Plan Roth Rollover Contributions. A Governmental Employer under an Eligible 457 Plan may elect to permit In-Plan Roth Rollover Contribution. If the Employer decides to permit In-Plan Roth Rollover Contributions, the Employer will amend the Plan to add necessary language.

3.10 DISTRIBUTION OF EXCESS DEFERRALS. In the event that a Participant has Excess Deferrals, the Plan will distribute to the Participant the Excess Deferrals and allocable net income, gain or loss, in accordance with this Section 3.10.

(A) Governmental Eligible 457 Plan. The Plan Administrator will distribute Excess Deferrals from a Governmental Eligible 457 Plan as soon as is reasonably practicable following the Plan Administrator's determination of the amount of the Excess Deferral.

(B) Tax-Exempt Organization Eligible 457 Plan. The Plan Administrator will distribute Excess Deferrals from a Tax-Exempt Organization Eligible 457 Plan no later than April 15 following the Taxable Year in which the Excess Deferral occurs.

(C) Plan Aggregation. If the Employer maintains more than one Eligible 457 Plan, the Employer must aggregate all such Plans in determining whether any Participant has Excess Deferrals.

(D) Individual Limitation. If a Participant participates in another Eligible 457 Plan maintained by a different employer, and the Participant has Excess Deferrals, the Plan Administrator may, but is not required, to correct the Excess Deferrals by making a corrective distribution from this Plan.

3.11 DEEMED IRA CONTRIBUTIONS. A Governmental Employer under an Eligible 457 Plan may elect to permit Participants to make IRA contributions to this Plan in accordance with the Code §408(q) deemed IRA rules. If the Employer elects to permit deemed IRA contributions to the Plan, the Employer will amend the Plan to add necessary IRA language and either the Rev. Proc. 2003-13 sample deemed IRA language or an appropriate substitute.

3.12 ROTH ELECTIVE DEFERRALS. The Employer may elect in the Adoption Agreement to permit Roth Elective Deferrals. Unless elected otherwise, Roth Elective Deferrals shall be treated in the same manner as Elective Deferrals. The Employer may, in operation, implement deferral election procedures provided such procedures are communicated to Participants and permit Participants to modify their elections at least once each Plan Year.

(A) Elective Deferrals. "Elective Deferral" means a contribution the Employer makes to the Plan pursuant to a Participant's Salary Reduction Agreement, as described in Section 3.02. The term "Elective Deferrals" includes Pre-tax Elective Deferrals and Roth Elective Deferrals.

(B) Pre-Tax Elective Deferrals. "Pre-Tax Elective Deferrals" means a Participant's Salary Reduction Contributions which are not includable in the Participant's gross income at the time deferred and have been irrevocably designated as Pre-Tax Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Pre-Tax Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Pre-Tax Elective Deferrals.

(C) Roth Elective Deferrals. "Roth Elective Deferrals" means a Participant's Salary Reduction Contributions that are includable in the Participant's gross income at the time deferred and have been irrevocably designated as Roth Elective Deferrals by the Participant in his or her Salary Reduction Agreement. A Participant's Roth Elective Deferrals will be separately accounted for, as will gains and losses attributable to those Roth Elective Deferrals. However, forfeitures may not be allocated to such account. The Plan must also maintain a record of a Participant's investment in the contract (i.e., designated Roth contributions that have not been distributed) and the year in which the Participant first made a Roth Elective Deferral.

(D) Ordering Rules for Distributions. The Administrator operationally may implement an ordering rule procedure for withdrawals (including, but not limited to, withdrawals on account of an unforeseeable emergency) from a Participant's accounts attributable to Pre-Tax Elective Deferrals or Roth Elective Deferrals. Such ordering rules may specify whether the Pre-Tax Elective Deferrals or Roth Elective Deferrals are distributed first. Furthermore, such procedure may permit the Participant to elect which type of Elective Deferrals shall be distributed first.

(E) Corrective distributions attributable to Roth Elective Deferrals. For any Plan Year in which a Participant may make both Roth Elective Deferrals and Pre-Tax Elective Deferrals, the Administrator operationally may implement an ordering rule procedure for the distribution of Excess Deferrals (Treas. Reg. §1.457-4(e)). Such an ordering rule may specify whether the Pre-Tax Elective Deferrals or Roth Elective Deferrals are distributed first, to the extent such type of Elective Deferrals was made for the year. Furthermore, such procedure may permit the Participant to elect which type of Elective Deferrals shall be distributed first.

(F) Loans. If Participant loans are permitted under the Plan, then the Administrator may modify the loan policy or program to provide limitations on the ability to borrow from, or use as security, a Participant's Roth Elective Deferral account. Similarly, the loan policy or program may be modified to provide for an ordering rule with respect to the default of a loan that is made from the Participant's Roth Elective Deferral account and other accounts under the Plan.

(G) Rollovers. A direct rollover of a distribution from Roth Elective Deferrals shall only be made to a Plan which includes Roth Elective Deferrals as described in Code §402A(e)(1) or to a Roth IRA as described in Code §408A, and only to the extent the rollover is permitted under the rules of Code §402(c).

The Plan shall accept a rollover contribution of Roth Elective Deferrals only if it is a direct rollover from another Plan which permits Roth Elective Deferrals as described in Code §402A(e)(1) and only to the extent the rollover is permitted under the rules of Code §402(c). The Employer, operationally and on a uniform and nondiscriminatory basis, may decide whether to accept any such rollovers.

The Plan shall not provide for a direct rollover (including an automatic rollover) for distributions from a Participant's Roth Elective Deferral account if the amount of the distributions that are eligible rollover distributions are reasonably expected to total less than \$200 during a year. In addition, any distribution from a Participant's Roth Elective Deferrals are not taken into account in determining whether distributions from a Participant's other accounts are reasonably expected to total less than \$200 during a year. Furthermore, the Plan will treat a Participant's Roth Elective Deferral account and the Participant's other accounts as held under two separate plans for purposes of applying the automatic rollover rules. However, eligible rollover distributions of a Participant's Roth Elective Deferrals are taken into account in determining whether the total amount of the Participant's account balances under the Plan exceed the Plan's limits for purposes of mandatory distributions from the Plan.

The provisions of the Plan 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 a Participant's Roth Elective 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.

(H) Automatic Enrollment. If the Plan utilizes an automatic enrollment feature as described in Section 3.02(B), then any such automatic contribution shall be a Pre-Tax Elective Deferral.

(I) Operational Compliance. The Plan Administrator will administer Roth Elective Deferrals in accordance with applicable regulations or other binding authority.

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

(A) Determination of benefits. The amount of Matching Contributions to be made pursuant to this Section 3.13 shall be determined as though the amount of Salary Reduction Contributions of an individual treated as reemployed under this Section on the basis of the individual's average actual Salary Reduction Contributions for the lesser of: (i) the 12-month period of service with the Employer immediately prior to qualified military service; or (ii) the actual length of continuous service with the Employer.

3.14 ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGEMENT (EACA). As elected in the Adoption Agreement, the Employer maintains a Plan with automatic enrollment provisions as an Eligible Automatic Contribution Arrangement ("EACA"). Accordingly, the Plan will satisfy the (1) uniformity requirements, and (2) notice requirements under this Section.

(A) Uniformity. The Automatic Deferral Percentage must be a uniform percentage of Compensation. All Participants in the EACA, are subject to Automatic Deferrals, except to the extent otherwise provided in this Plan. If a Participant's Affirmative Election expires or otherwise ceases to be in effect, the Participant will immediately thereafter be subject to Automatic Deferrals, except to the extent otherwise provided in this Plan. However, the Plan does not violate the uniform Automatic Deferral Percentage merely because the Plan applies any of the following provisions:

(a) Years of participation. The Automatic Deferral Percentage varies based on the number of plan years the Participant has participated in the Plan while the Plan has applied EACA provisions;

(b) No reduction from prior default percentage. The Plan does not reduce an Automatic Deferral Percentage that, immediately prior to the EACA's effective date was higher (for any Participant) than the Automatic Deferral Percentage;

(c) Applying statutory limits. The Plan limits the Automatic Deferral amount so as not to exceed the limits of Code Section 457(b)(2) (determined without regard to Age 50 Catch-Up Deferrals).

(B) EACA notice. The Plan Administrator annually will provide a notice to each Participant a reasonable period prior to each plan year the Employer maintains the Plan as an EACA ("EACA Plan Year").

(a) Deemed reasonable notice/new Participant. The Plan Administrator is deemed to provide timely notice if the Plan Administrator provides the EACA notice at least 30 days and not more than 90 days prior to the beginning of the EACA Plan Year.

(b) Mid-year notice/new Participant or Plan. If: (a) an Employee becomes eligible to make Salary Reduction Contributions in the Plan during an EACA Plan Year but after the Plan Administrator has provided the annual EACA notice for that plan year; or (b) the Employer adopts mid-year a new Plan as an EACA, the Plan Administrator must provide the EACA notice no later than the date the Employee becomes eligible to make Salary Reduction Contributions. However, if it is not practicable for the notice to be provided on or before the date an Employee becomes a Participant, then the notice will nonetheless be treated as provided timely if it is provided as soon as practicable after that date and the Employee is permitted to elect to defer from all types of Compensation that may be deferred under the Plan earned beginning on that date.

(c) Content. The EACA notice must provide comprehensive information regarding the Participants' rights and obligations under the Plan and must be written in a manner calculated to be understood by the average Participant in accordance with applicable guidance.

(C) EACA permissible withdrawal. If elected in in the Adoption Agreement, a Participant who has Automatic Deferrals under the EACA may elect to withdraw all the Automatic

Deferrals (and allocable earnings) under the provisions of this Section 3.14. Any distribution made pursuant to this Section will be processed in accordance with normal distribution provisions of the Plan.

(a) Amount. If a Participant elects a permissible withdrawal under this Section, then the Plan must make a distribution equal to the amount (and only the amount) of the Automatic Deferrals made under the EACA (adjusted for allocable gains and losses to the date of the distribution). The Plan may separately account for Automatic Deferrals, in which case the entire account will be distributed. If the Plan does not separately account for the Automatic Deferrals, then the Plan must determine earnings or losses in a manner similar to the rules of Treas. Reg. §1.401(k)-2(b)(2)(iv) for distributions of excess contributions.

(b) Fees. Notwithstanding the above, the Plan Administrator may reduce the permissible distribution amount by any generally applicable fees. However, the Plan may not charge a greater fee for distribution under this Section than applies to other distributions. The Plan Administrator may adopt a policy regarding charging such fees consistent with this paragraph.

(c) Timing. The Participant may make an election to withdraw the Automatic Deferrals under the EACA no later than 90 days, or such shorter period as specified in the Adoption Agreement, after the date of the first Automatic Deferral under the EACA. For this purpose, the date of the first Automatic Deferral is the date that the Compensation subject to the Automatic Deferral otherwise would have been includible in the Participant's gross income. Furthermore, a Participant's withdrawal right is not restricted due to the Participant making an Affirmative Election during the 90 day period (or shorter period as specified in Adoption Agreement).

(d) Rehired Employees. For purposes of this Section, an Employee who for an entire Plan Year did not have contributions made pursuant to a default election under the EACA will be treated as having not had such contributions for any prior Plan Year as well.

(e) Effective date of the actual withdrawal election: The effective date of the permissible withdrawal will be as soon as practicable, but in no event later than the earlier of (1) the pay date of the second payroll period beginning after the election is made, or (2) the first pay date that occurs at least 30 days after the election is made. The election will also be deemed to be an Affirmative Election to have no Salary Reduction Contributions made to the Plan.

(f) Related matching contributions. The Plan Administrator will not take any deferrals withdrawn pursuant to this section into account in computing the contribution and allocation of matching contributions, if any. If the Employer has already allocated matching contributions to the Participant's account with respect to deferrals being withdrawn pursuant to this Section, then the matching contributions, as adjusted for gains and losses, must be forfeited. Except as otherwise provided, the Plan will use the forfeited contributions to reduce future contributions or to reduce plan expenses.

(D) Compensation. Compensation for purposes of determining the amount of Automatic Deferrals has the same meaning as Compensation with regard to Salary Reduction Contributions in general.

(E) Definitions.

(a) Definition of Automatic Deferral. An Automatic Deferral is a Salary Reduction Contribution that results from the operation of this Article III. Under the Automatic Deferral, the Employer automatically will reduce by the Automatic Deferral Percentage as elected the Compensation of each Participant subject to the EACA. The Plan Administrator will cease to apply the Automatic Deferral to a Participant who makes an Affirmative Election as defined in this Section.

(b) Definition of Automatic Deferral Percentage/Increases. The Automatic Deferral Percentage is the percentage of Automatic Deferral (including any scheduled increase to the Automatic Deferral Percentage the Employer may elect).

(c) Effective date of EACA Automatic Deferral. The effective date of an Employee's Automatic Deferral will be as soon as practicable after the Employee is subject to Automatic Deferrals under the EACA, consistent with (a) applicable law, and (b) the objective of affording the Employee a reasonable period of time after receipt of the notice to make an Affirmative Election (and, if applicable, an investment election).

(d) Definition of Affirmative Election. An Affirmative Election is a Participant's election made after the EACA's Effective Date not to defer any Compensation or to defer more or less than the Automatic Deferral Percentage.

(e) Effective Date of Affirmative Election. A Participant's Affirmative Election generally is effective as of the first payroll period which follows the payroll period in which the Participant made the Affirmative Election. However, a Participant may make an Affirmative Election which is effective: (a) for the first payroll period in which he or she becomes a Participant if the Participant makes an Affirmative Election within a reasonable period following the Participant's entry date and before the Compensation to which the Election applies becomes currently available; or (b) for the first payroll period following the EACA's effective date, if the Participant makes an Affirmative Election not later than the EACA's effective date.

3.15 IN-PLAN ROTH ROLLOVER CONTRIBUTION

(a) Employer Election. The Employer in its Adoption Agreement in which the Employer has elected to permit Roth Deferrals also will elect whether to permit an In-Plan Roth Rollover Contribution in accordance with this Section with regard to otherwise distributable amounts and/or otherwise nondistributable amounts. If the Employer elects to permit such contributions, the Employer in its Adoption Agreement will specify the Effective Date thereof which may not be earlier than distributions made after September 27, 2010, and may not be earlier than January 1, 2013 in the case of rollovers of otherwise nondistributable amounts. An In-Plan Roth Rollover Contribution means a Rollover Contribution to the Plan that consists of a distribution or transfer from a Participant's Plan Account, other than a Roth Deferral Account, that the Participant transfers to the Participant's In-Plan Roth Rollover Contribution Account in the Plan, in accordance with Code §402(c)(4). In-Plan Roth Rollover Contributions will be subject to the Plan rules related to Roth Deferral Accounts, subject to preservation of protected benefits.

(b) Eligibility for Distribution and Rollover. A Participant may not make an In-Plan Roth Rollover Contribution with regard to an otherwise distributable amount which is not an Eligible Rollover Distribution.

(1) Parties eligible to elect. For purposes of eligibility for an In-Plan Roth Rollover, the Plan will treat a Participant's surviving spouse Beneficiary or alternate payee spouse or alternate payee former spouse as a Participant. A non-spouse Beneficiary may not make an In-Plan Roth Rollover.

(2) Distribution from partially Vested account. In-Plan Roth Rollovers are permitted only from Vested amounts allocated to a qualifying source but may be made from partially Vested Accounts. If a distribution is made to a Participant who has not incurred a Severance from Employment and who is not fully Vested in the Participant's Account from which the In-Plan Roth Rollover Contribution is to be made, and the Participant may increase the Vested percentage in such Account.

(c) Form and Source of Rollover.

(1) Direct Rollover. An In-Plan Roth Rollover Contribution may be made only by a Direct Rollover.

(2) Account source. A Participant may make an In-Plan Roth Rollover from any account (other than a Roth account).

(3) Cash or in-kind. The Plan Administrator will effect an In-Plan Roth Rollover Contribution by rolling over the Participant's current investments to the In-Plan Roth Rollover Account. A Plan loan so rolled over without changing the repayment schedule is not treated as a new loan. However the

Employer may provide that loans cannot be rolled over in an In-Plan Roth Rollover.

(4) No Rollover or Distribution Treatment. Notwithstanding any other Plan provision, an In-Plan Roth Rollover Contribution is not a Rollover Contribution for purposes of the Plan. Accordingly: (a) if the Employer in its Adoption Agreement has elected \$5,000 as the Plan limit on Mandatory Distributions, the Plan Administrator will take into account amounts attributable to an In-Plan Roth Rollover Contribution, in determining if the \$5,000 limit is exceeded, regardless of the Employer's election as to whether to count Rollover Contributions for this purpose; (b) no spousal consent is required for a Participant to elect to make an In-Plan Roth Rollover Contribution; (c) protected benefits with respect to the amounts subject to the In-Plan Roth Rollover are preserved; and (d) mandatory 20% federal income tax withholding does not apply to the In-Plan Roth Rollover Contribution.

(5) In-Plan Roth Rollover Contribution Account. An In-Plan Roth Rollover Contribution Account is a sub-account the Plan Administrator may establish to account for a Participant's Rollover Contributions attributable to the Participant's In-Plan Roth Rollover Contributions. The Plan Administrator has authority to establish such a sub-account, and to the extent necessary, may establish sub-accounts based on the source of the In-Plan Roth Rollover Contribution. The Plan Administrator will administer an In-Plan Roth Rollover Contribution Account in accordance with Code and the Plan provisions.

ARTICLE IV TIME AND METHOD OF PAYMENT OF BENEFITS

4.01 **DISTRIBUTION RESTRICTIONS.** Except as the Plan provides otherwise, the Plan Administrator or Trustee may not distribute to a Participant the amounts in his or her Account prior to one of the following events:

- (a) The Participant's attaining age 70 1/2;
- (b) The Participant's Severance from Employment; or
- (c) The Participant's death.

4.02 **TIME AND METHOD OF PAYMENT OF ACCOUNT.** The Plan Administrator, or Trustee at the direction of the Plan Administrator, will distribute to a Participant who has incurred a Severance from Employment the Participant's Vested Account under one or any combination of payment methods and at the time(s) the Adoption Agreement specifies. If the Adoption Agreement permits more than one time or method, the Plan Administrator, in the absence of a Participant election described below, will determine the time and method applicable to a particular Participant. In no event will the Plan Administrator direct (or direct the Trustee to commence) distribution, nor will the Participant elect to have distribution commence, later than the Participant's required beginning date, or under a method that does not satisfy Section 4.03.

(A) Participant Election of Time and Method. The Employer in the Adoption Agreement must elect whether to permit Participants to elect the timing and method of distribution of their Account in accordance with this Section 4.02. The Plan Administrator must consent to the specific terms of any such Participant election and the Plan Administrator in its sole discretion may withhold consent. Subject to the foregoing conditions, a Participant: (1) may elect to postpone distribution of his or her Account beyond the time the Employer has elected in the Adoption Agreement, to any fixed or determinable date

including, but not beyond, the Participant's required beginning date; and (2) may elect the method of payment. A Participant in a Tax Exempt Organization Eligible 457 Plan may elect the timing and method of payment of his or her Account no later than 30 days before the date the Plan Administrator or Trustee first would commence payment of the Participant's Account in accordance with the Adoption Agreement. The Plan Administrator must furnish to the Participant a form for the Participant to elect the time and a method of payment. A Participant in a Governmental Eligible 457 Plan is not subject to any such requirement in election the timing or method of payment.

(B) Number of Initial Elections/Subsequent Elections. A Participant in a Tax-Exempt Organization Eligible 457 Plan may make any number of elections or revoke any prior election under Section 4.02(A) within the election period. Once the initial election period expires, a Participant, before payment would commence under the Participant's initial election, may make one additional election to defer (but not to accelerate) the timing of payment of his or her Account and also as to the method of payment.

(C) No Election/Default. If the Participant does not make a timely election regarding the time and method of payment, the Plan Administrator will pay or direct the Trustee to pay the Participant's Account in accordance with the Adoption Agreement.

(D) Mandatory Distribution. The Employer in the Adoption Agreement will elect whether the Plan will make Mandatory Distributions. If the Employer elects Mandatory Distributions, the Employer may determine operationally whether to include Rollover Contributions in determining whether the Participant is subject to Mandatory Distributions.

4.03 **REQUIRED MINIMUM DISTRIBUTIONS.** The Plan Administrator may not distribute nor direct the Trustee to distribute the Participant's Account, nor may the Participant elect any distribution his or her Account, under a method of payment which, as of the required beginning date, does not satisfy the minimum distribution requirements of Code §401(a)(9) or which is not consistent with applicable Treasury regulations.

(A) General Rules.

(1) Precedence. The requirements of this Section 4.03 will take precedence over any inconsistent provisions of the Plan.

(2) Requirements of Treasury Regulations Incorporated. All distributions required under this Section 4.03 will be determined and made in accordance with the Treasury regulations under 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 Distribution Begins. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(a) Spouse Designated Beneficiary. If the Participant's surviving spouse is the Participant's sole designated Beneficiary, then, except as the Employer may elect in the Adoption Agreement, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant dies, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later.

(b) Non-Spouse Designated Beneficiary. If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then, except as the Employer may elect in the Adoption Agreement, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(c) No Designated Beneficiary. If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(d) 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 4.03(B)(2) other than Section 4.03(B)(2)(a), will apply as if the surviving spouse were the Participant.

For purposes of this Section 4.03(B) and Section 4.03(D), unless Section 4.03(B)(2)(d) applies, distributions are considered to begin on the Participant's required beginning date. If Section 4.03(B)(2)(d) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 4.03(B)(2)(a). 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 4.03(B)(2)(a), 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 4.03(C) and 4.03(D). 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 Treasury regulations.

(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:

(a) ULT. The quotient obtained by dividing the Participant's account balance by the number in the Uniform Life Table set forth in Treas. Reg. §1.401(a)(9)-9, using the Participant's attained age as of the Participant's birthday in the distribution calendar year; or

(b) Younger Spouse. 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, 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 4.03(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 Distributions Begin.

(a) Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account 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) Participant's Life Expectancy. The Participant's remaining life expectancy is calculated using the attained age of the Participant as of the Participant's birthday in the calendar year of death, reduced by one for each subsequent calendar year.

(ii) Spouse's Life Expectancy. 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 attained 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) Non-Spouse's Life Expectancy. 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 attained age of the Beneficiary as of the Beneficiary's birthday in the calendar year following the calendar year of the Participant's death, reduced by one for each subsequent calendar year.

(b) 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 calendar year after the calendar year of the Participant's death, the minimum amount that will be distributed for each distribution calendar year after the calendar 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 attained age of the Participant as of the Participant's birthday in the calendar year of death, reduced by one for each subsequent calendar year.

(2) Death before Date Distributions Begin.

(a) Participant Survived by Designated Beneficiary. Except as the Employer may elect in the Adoption Agreement, 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 4.03(D)(1).

(b) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(c) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 4.03(B)(2)(a), this Section 4.03(D)(2) will apply as if the surviving spouse were the Participant.

(d) 5-year or Life Expectancy rule; possible election. The Employer in its Adoption Agreement will elect whether distribution of the Participant's Account will be made in accordance with the life expectancy rule under Section 4.03(D)(2)(a) or the 5-year rule under Section 4.03(D)(2)(b). The Employer's election may permit a Designated Beneficiary to elect which of these rules will apply or may specify which rule applies. However, the life expectancy rule (whether subject to election or not) applies only in the case of a Designated Beneficiary. The 5-year rule applies as to any Beneficiary who is not a Designated Beneficiary. A permitted election under this Section 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 4.03(D)(2)(a), or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death.

(E) Definitions.

(1) Designated Beneficiary. The individual who is designated as the Beneficiary under the Plan and is the designated beneficiary under Code §401(a)(9) and Treas. Reg. §1.401(a)(9)-1, Q&A-4.

(2) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which the distributions are required to begin under Section 4.03(B)(2). 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. Life expectancy as computed by use of the Single Life Table in Treas. Reg. §1.401(a)(9)-9.

(4) Participant's account balance. The 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 dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any Rollover Contributions or Transfers to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(5) Required beginning date. A Participant's required beginning date is the April 1 of the calendar year following the later of: (1) the calendar year in which the Participant attains age 70 1/2, or (2) the calendar year in which the Participant retires or such other date under Code §401(a)(9) by which required minimum distributions must commence.

4.04 DEATH BENEFITS. Upon the death of the Participant, the Plan Administrator must pay or direct the Trustee to pay the Participant's Account in accordance with Section 4.03. Subject to Section 4.03, a Beneficiary may elect the timing and method of payment in the same manner as a Participant may elect under Section 4.02, if such elections apply.

If a Participant 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 if the Participant had resumed and then terminated employment on account of death.

4.05 DISTRIBUTIONS PRIOR TO SEVERANCE FROM EMPLOYMENT. The Employer must elect in the Adoption Agreement whether to permit in-service distributions of a Participant's Vested Account under this Section 4.05, notwithstanding the Section 4.01 distribution restrictions.

(A) Unforeseeable Emergency. In the event of a Participant's or the Participant's spouse, dependents or beneficiaries' unforeseeable emergency, the Plan Administrator may make a

distribution to a Participant who has not incurred a Severance from Employment (or who has incurred a Severance but will not begin to receive payments until some future date). In the event of an unforeseeable emergency, the Plan Administrator also may accelerate payments to a Participant or to a Beneficiary. The Plan Administrator will establish a policy for determining whether an unforeseeable emergency exists. An unforeseeable emergency is a severe financial hardship of a Participant or Beneficiary resulting from: (1) illness or accident of the Participant, the Beneficiary, or the Participant's or Beneficiary's spouse or dependent (as defined in Code §152(a)); (2) loss of the Participant's or Beneficiary's property due to casualty; (3) the need to pay for the funeral expenses of the Participant's or Beneficiary's spouse or dependent (as defined in Code §152(a)); or (4) other similar extraordinary and unforeseeable circumstances arising from events beyond the Participant's or Beneficiary's control, or which applicable law may define as an unforeseeable emergency. The Plan Administrator will not pay the Participant or the Beneficiary more than the amount reasonably necessary to satisfy the emergency need, which may include amounts necessary to pay taxes or penalties on the distribution. The Plan Administrator will not make payment to the extent the Participant or Beneficiary may relieve the financial hardship by cessation of deferrals under the Plan, through insurance or other reimbursement, or by liquidation of the individual's assets to the extent such liquidation would not cause severe financial hardship.

The Participant's Beneficiary is a person who a Participant designates and who is or may become entitled to a Participant's Plan Account upon the Participant's death.

(B) De minimis distribution. In accordance with the Employer's Adoption Agreement elections, the Plan Administrator may allow a Participant to elect to receive a distribution or the Plan Administrator will distribute (without a Participant election) any amount of the Participant's Account where: (1) the Participant's Account (disregarding Rollover Contributions) does not exceed \$5,000 (or such other amount as does not exceed the Code §411(a)(11)(A) dollar amount); (2) the Participant has not made or received an allocation of any Deferral Contributions under the Plan during the two-year period ending on the date of distribution; and (3) the Participant has not received a prior distribution under this Section 4.05(B).

(C) Distribution of Rollover Contributions. The Employer in the Adoption Agreement may elect to permit a Participant to request and to receive distribution of the Participant's Account attributable to Rollover Contributions (but not to Transfers) before the Participant has a distributable event under Section 4.01.

4.06 DISTRIBUTIONS UNDER QUALIFIED DOMESTIC RELATIONS ORDERS (QDROs).

Notwithstanding any other provision of this Plan, the Employer in the Adoption Agreement may elect to apply the QDRO provisions of this Section 4.06. If Section 4.06 applies, the Plan Administrator (and any Trustee) must comply with the terms of a QDRO, as defined in Code §414(p), which is issued with respect to the Plan.

(A) Time and Method of Payment. This Plan specifically permits distribution to an alternate payee under a QDRO at any time, notwithstanding any contrary Plan provision and irrespective of whether the Participant has attained his or her earliest retirement age (as defined under Code §414(p)) under the Plan. A distribution to an alternate payee prior to the Participant's attainment of earliest retirement age is available only if the QDRO specifies distribution at that time or permits an agreement between the Plan and the alternate payee to authorize an earlier distribution. Nothing in this Section 4.06

gives a Participant a right to receive distribution at a time the Plan otherwise does not permit nor authorizes the alternate payee to receive a form of payment the Plan does not permit.

(B) QDRO Procedures. The Plan Administrator must establish reasonable procedures to determine the qualified status of a domestic relations order. Upon receiving a domestic relations order, the Plan Administrator promptly will notify the Participant and any alternate payee named in the order, in writing, of the receipt of the order and the Plan's procedures for determining the qualified status of the order. Within a reasonable period of time after receiving the domestic relations order, the Plan Administrator must determine the qualified status of the order and must notify the Participant and each alternate payee, in writing, of the Plan Administrator's determination. The Plan Administrator must provide notice under this paragraph by mailing to the individual's address specified in the domestic relations order.

(C) Accounting. If any portion of the Participant's Account Balance is payable under the domestic relations order during the period the Plan Administrator is making its determination of the qualified status of the domestic relations order, the Plan Administrator must maintain a separate accounting of the amounts payable. If the Plan Administrator determines the order is a QDRO within 18 months of the date amounts first are payable following receipt of the domestic relations order, the Plan Administrator will distribute or will direct the Trustee to distribute the payable amounts in accordance with the QDRO. If the Plan Administrator does not make its determination of the qualified status of the order within the 18-month determination period, the Plan Administrator will distribute or will direct the Trustee to distribute the payable amounts in the manner the Plan would distribute if the order did not exist and will apply the order prospectively if the Plan Administrator later determines the order is a QDRO.

To the extent it is not inconsistent with the provisions of the QDRO, the Plan Administrator may segregate or may direct the Trustee to segregate the QDRO amount in a segregated investment account. The Plan Administrator or Trustee will make any payments or distributions required under this Section 4.06 by separate benefit checks or other separate distribution to the alternate payee(s).

(D) Permissible QDROs. A domestic relations order that otherwise satisfies the requirements for a qualified domestic relations order ("QDRO") will not fail to be a QDRO: (i) solely because the order is issued after, or revises, another domestic relations order or QDRO; 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.

4.07 DIRECT ROLLOVER OF ELIGIBLE ROLLOVER DISTRIBUTIONS – GOVERNMENTAL PLAN.

(A) Participant Election. A Participant (including for this purpose, a former Employee) in a Governmental Eligible 457 Plan may elect, at the time and in the manner the Plan Administrator prescribes, to have any portion of his or her eligible rollover distribution from the Plan paid directly to an eligible retirement plan specified by the Participant in a direct rollover election. For purposes of this election, a "Participant" includes as to their respective interests, a Participant's surviving spouse and the Participant's spouse or former spouse who is an alternate payee under a QDRO.

(B) Rollover and Withholding Notice. At least 30 days and not more than 180 days prior to the Trustee's distribution of an

eligible rollover distribution, the Plan Administrator must provide a written notice (including a summary notice as permitted under applicable Treasury regulations) explaining to the distributee the rollover option, the applicability of mandatory 20% federal withholding to any amount not directly rolled over, and the recipient's right to roll over within 60 days after the date of receipt of the distribution ("rollover notice").

(C) Default distribution or rollover. Except as provided in Paragraph (D), in the case of a Participant who does not elect timely to roll over or to receive distribution of his or her Account, the Plan Administrator or the Trustee, at the Plan Administrator's direction, may distribute to the Participant or may directly roll over the Participant's Account in accordance with the Plan's rollover notice.

(D) Mandatory default rollover. If (1) the Plan is a Governmental Eligible 457 Plan, (2) the Plan makes a mandatory distribution after the Code §401(a)(31)(B) Effective Date, greater than \$1,000, and (3) the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Plan Administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the Plan Administrator.

(E) Non-spouse beneficiary rollover right. A non-spouse beneficiary who is a "designated beneficiary" under Section 4.03(E)(1), by a direct trustee-to-trustee transfer ("direct rollover"), may roll over all or any portion of his or her distribution to an individual retirement account the beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of an eligible rollover distribution.

(1) Certain requirements not applicable. Although a non-spouse beneficiary may roll over directly a distribution as provided in Section 4.07(E), the distribution is not subject to the direct rollover requirements of Code §401(a)(31) (including the automatic rollover provisions of Code §401(a)(31)(B)), the notice requirements of Code §402(f) or the mandatory withholding requirements of Code §3405(c). If a non-spouse beneficiary receives a distribution from the Plan, the distribution is not eligible for a "60-day" rollover.

(2) Trust beneficiary. If the Participant's named beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Code §401(a)(9)(E).

(3) Required minimum distributions not eligible for rollover. A non-spouse beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Treasury regulations and other Revenue Service guidance. If the Participant dies before his or her required beginning date and the non-spouse beneficiary rolls over to an IRA the maximum amount eligible for rollover, the beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to Treas. Reg. §1.401(a)(9)-3, A-4(c), in determining the required minimum distributions from the IRA that receives the non-spouse beneficiary's distribution.

(F) Definitions. The following definitions apply to this Section:

(1) Eligible rollover distribution. An eligible rollover distribution is any distribution of all or any portion of a Participant's Account, except an eligible rollover distribution does not include: (a) any distribution which 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 designated Beneficiary, or for a specified period of ten years or more; (b) any Code §401(a)(9) required minimum distribution; (c) any unforeseeable emergency distribution; and (d) any distribution which otherwise would be an eligible rollover distribution, but where the total distributions to the Participant during that calendar year are reasonably expected to be less than \$200.

(2) Eligible retirement plan. An eligible retirement plan is an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b), an annuity plan described in Code §403(a), a qualified plan described in Code §401(a), an annuity contract (or custodial agreement) described in Code §403(b), or an eligible deferred compensation plan described in Code §457(b) and maintained by an Employer described in Code §457(e)(1)(A), which accepts the Participant's, the Participant's spouse or alternate payee's eligible rollover distribution.

A Participant or beneficiary may elect to roll over directly an eligible rollover distribution to a Roth IRA described in Code §408A(b). For this purpose, the term "eligible rollover distribution" includes a rollover distribution described in this Section.

(3) Direct rollover. A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

(4) Mandatory distribution. A mandatory distribution is an eligible rollover distribution without the Participant's consent before the Participant attains the later of age 62 or Normal Retirement Age (see paragraph 3.05 (B)). A distribution to a beneficiary is not a mandatory distribution.

(5) 401(a)(31)(B) Effective Date. The 401(a)(31)(B) Effective Date is the date of the close of the first regular legislative session of the legislative body with the authority to amend the Plan that begins on or after January 1, 2006.

4.08 ELECTION TO DEDUCT FROM DISTRIBUTION. 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.

(A) Direct payment. The Plan will pay directly to the provider of the accident or health insurance plan or qualified long-term care insurance contract the amounts the Eligible Retired Public Safety Officer has elected to have deducted from the distribution. Such amounts may not exceed the lesser of \$3,000 or the amount the Participant paid for such taxable year for qualified health insurance premiums, and which otherwise complies with Code §402(l).

(B) Definitions.

(1) Eligible retired public safety officer. An "Eligible Retired Public Safety Officer" is 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.

(2) Public safety officer. A "Public Safety Officer" has the same meaning as in Section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(9)(A)).

(3) Qualified health insurance premiums. The term "qualified health insurance premiums" means premiums for coverage for the Eligible Retired Public Safety Officer, his or

her spouse, and dependents, by an accident or health insurance plan or qualified long-term care insurance contract (as defined in Code §7702B(b)).

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ARTICLE V
PLAN ADMINISTRATOR - DUTIES WITH RESPECT TO PARTICIPANTS' ACCOUNTS

5.01 TERM/VACANCY. The Plan Administrator will serve until his or her successor is appointed. In case of a vacancy in the position of the Plan Administrator, the Employer will exercise any and all of the powers, authority, duties and discretion conferred upon the Plan Administrator pending the filling of the vacancy.

5.02 POWERS AND DUTIES. The Plan Administrator will have the following powers and duties:

- (a) To select a committee to assist the Plan Administrator;
- (b) To select a secretary for the committee, who need not be a member of the committee;
- (c) To determine the rights of eligibility of an Employee to participate in the Plan and the value of a Participant's Account;
- (d) To adopt rules and procedures and to create administrative forms necessary for the proper and efficient administration of the Plan provided the rules, procedures and forms are not inconsistent with the terms of the Plan;
- (e) To construe and enforce the terms of the Plan and the rules and regulations the Plan Administrator adopts, including interpretation of the Plan documents and documents related to the Plan's operation;
- (f) To direct the distribution of a Participant's Account;
- (g) To review and render decisions respecting a claim for (or denial of a claim for) a benefit under the Plan;
- (h) To furnish the Employer with information which the Employer may require for tax or other purposes;
- (i) To establish a policy in making distributions for unforeseeable emergencies;
- (j) To establish under a Governmental Eligible 457 Plan, policies regarding the receipt of Rollover Contributions and default rollover distributions;
- (k) To establish a policy regarding the making and the receipt of Transfers;
- (l) To establish a policy regarding Participant or Beneficiary direction of investment;
- (m) To engage the services of any person to invest any Account under this Plan and to direct such person to make payment to a Participant of his or her Vested Account;
- (n) To establish under a Governmental Eligible 457 Plan, a policy (see Section 5.02(A)) which the Trustee must observe in making loans, if any, to Participants and Beneficiaries;
- (o) To undertake correction of any Plan failures as necessary to preserve eligible Plan status; and
- (p) To undertake any other action the Plan Administrator deems reasonable or necessary to administer the Plan.

The Plan Administrator shall have 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 Plan Administrator makes under the Plan is final and binding upon any affected person.

(A) Loan Policy. In a Governmental Eligible 457 Plan, the Plan Administrator, in its sole discretion, may establish, amend or terminate from time to time, a nondiscriminatory policy which the Trustee must observe in making Plan loans, if any, to Participants and to Beneficiaries. If the Plan Administrator adopts a loan policy, the loan policy must be a written document and must include: (1) the identity of the person or positions authorized to administer the participant loan program; (2) the procedure for applying for a loan; (3) the criteria for approving or denying a loan; (4) the limitations, if any, on the types and amounts of loans available; (5) the procedure for determining a reasonable rate of interest; (6) the types of collateral which may secure the loan; and (7) the events constituting default and the steps the Plan will take to preserve Plan assets in the event of default. A loan policy the Plan Administrator adopts under this Section 5.02(A) is part of the Plan, except that the Plan Administrator may amend or terminate the policy without regard to Section 9.01.

(B) QDRO Policy. If the QDRO provisions of Section 4.06 apply, the Plan Administrator will establish QDRO procedures.

5.03 COMPENSATION. The Plan Administrator and the members of the Committee will serve without compensation for services, but the Employer will pay all expenses of the Plan Administrator and Committee.

5.04 AUTHORIZED REPRESENTATIVE. The Plan Administrator may authorize any one of the members of the Committee, if any, or the Committee's Secretary, to sign on the Plan Administrator's behalf any Plan notices, directions, applications, certificates, consents, approvals, waivers, letters or other documents.

5.05 INDIVIDUAL ACCOUNTS/RECORDS. The Plan Administrator will maintain a separate Account in the name of each Participant to reflect the value of the Participant's Deferred Compensation under the Plan. The Plan Administrator will maintain records of its activities.

5.06 VALUE OF PARTICIPANT'S ACCOUNT. The value of each Participant's Account consists of his or her accumulated Deferred Compensation, as of the most recent Accounting Date or any later date as the Plan Administrator may determine.

5.07 ACCOUNT ADMINISTRATION, VALUATION AND EXPENSES.

(A) Individual Accounts. The Plan Administrator, as necessary for the proper administration of the Plan, will maintain, or direct the Trustee to maintain, a separate Account, or multiple Accounts, in the name of each Participant to reflect the Participant's Account Balance under the Plan. The Plan Administrator will make its allocations of Employer Contributions and of Earnings, or will request the Trustee to make such allocations, to the Accounts of the Participants as necessary to maintain proper Plan records and in accordance with the applicable: (i) Contribution Types; (ii) allocation conditions; (iii) investment account types; and (iv) Earnings allocation methods. The Plan Administrator may also maintain, or direct the Trustee to maintain, a separate temporary Account for Participant forfeitures which occur during a Plan Year,

pending their accrual and allocation in accordance with the Plan terms, or for other special items as the Plan Administrator determines is necessary and appropriate for proper plan administration.

(1) By Contribution Type. The Plan Administrator, will establish Plan Accounts for each Participant as necessary to reflect his or her Accounts attributable to the following Contribution Types and the Earnings attributable thereto: Pre-Tax Deferrals, Roth Deferrals, Matching Contributions, Nonelective Contributions, Rollover Contributions (including Roth versus pre-tax amounts), and Transfers.

(2) By investment account type. The Plan Administrator will establish separate Accounts for each Participant as necessary to reflect his or her investment account types as described below:

(a) Pooled Accounts. A Pooled Account is an Account which for investment purposes is not a Segregated Account or a Participant-Directed Account. If any or all Plan investment Accounts are Pooled Accounts, each Participant's Account has an undivided interest in the assets comprising the Pooled Account. In a Pooled Account, the value of each Participant's Account Balance consists of that proportion of the net worth (at fair market value) of the Trust Fund which the net credit balance in his or her Account (exclusive of the cash value of incidental benefit insurance contracts) bears to the total net credit balance in the Accounts of all Participants plus the cash surrender value of any insurance contracts held by the Trustee on the Participant's life. As of each Valuation Date, the Plan Administrator must reduce a Participant-Directed Account for any forfeiture arising from Section 5.07 after the Plan Administrator has made all other allocations, changes or adjustments to the Account (excluding Earnings) for the valuation period.

(b) Participant-Directed Accounts. A Participant-Directed Account is an Account that the Plan Administrator establishes and maintains or directs the Trustee to establish and maintain for a Participant to invest in one or more assets that are not pooled assets held by the Trust, such as assets in a brokerage account or other property in which other Participants do not have any interest. As the Plan Administrator determines, a Participant-Directed Account may provide for a limited number and type of investment options or funds, or may be open-ended and subject only to any limitations imposed by applicable law. A Participant may have one or more Participant-Directed Accounts in addition to Pooled or Segregated Accounts. A Participant-Directed Account is credited and charged with the Earnings. As of each Valuation Date, the Plan Administrator must reduce a Participant-Directed Account for any forfeiture arising from Section 5.07 after the Plan Administrator has made all other allocations, changes or adjustments to the Account (excluding Earnings) for the valuation period.

(c) Segregated Accounts. A Segregated Account is an Account the Plan Administrator establishes and maintains or directs the Trustee to establish and maintain for a Participant: (i) to facilitate installment payments; (ii) to hold a QDRO amount; (iii) to prevent a distortion of Plan Earnings allocations; or (iv) for such other purposes as the Plan Administrator may direct. A Segregated Account receives all income it earns and bears all expense or loss it incurs. The Trustee will invest the assets of a Segregated Account consistent with the purpose for which the Plan Administrator or Trustee established the Account. As of

each Valuation Date, the Plan Administrator must reduce a Segregated Account for any forfeiture arising after the Plan Administrator has made all other allocations, changes or adjustments to the Account (excluding Earnings) for the Valuation Period. 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 and such combination does not result in the impermissible elimination of any Code §411(d)(6) protected benefits.

(3) Amount of Account/distributions. The amount of a Participant's Account, as determined by the Plan Administrator, is equal to the sum of all contributions, Earnings and other additions credited to the Account, less all distributions (including distributions to Beneficiaries and to alternate payees and also including disbursement of Plan loan proceeds), expenses and other charges against the Account as of a Valuation Date or other relevant date. For purposes of a distribution under the Plan, the amount of a Participant's Account Balance is determined based upon its value on the Valuation Date immediately preceding or coinciding with the date of the distribution. If any or all Plan investment Accounts are Participant-Directed Accounts, the directing Participant's Account Balance consists of the assets held within the Participant-Directed Account and the value of the Account is determined based upon the fair market value of such assets.

(4) Account statements. As soon as practicable after the Accounting Date of each Plan Year, the Plan Administrator will deliver to each Participant (and to each Beneficiary) a statement reflecting the amount of his or her Account Balance in the Trust as of the statement date or most recent Valuation Date. No Participant, except the Plan Administrator/Participant or Trustee/Participant, has the right to inspect the records reflecting the Account of any other Participant.

(B) Allocation of Earnings. This Section 5.07(B) applies solely to the allocation of Earnings of the Trust Fund. The Plan Administrator will allocate Employer Contributions and Participant forfeitures, if any, in accordance with Article III. Earnings means the net income, gain or loss earned by a particular Account, by the Trust, or with respect to a contribution or to a distribution, as the context requires.

(1) Allocate as of Valuation Date. As of each Valuation Date, the Plan Administrator must adjust Accounts to reflect Earnings for the Valuation Period since the last Valuation Date.

(2) Definition of Valuation Date. A Valuation Date under this Plan is each: (a) Accounting Date; (b) Valuation Date the Employer elects in the Adoption Agreement; or (c) Valuation Date the Plan Administrator establishes. The Employer in the Adoption Agreement or the Plan Administrator may elect alternative Valuation Dates for the different Contribution Types which the Plan Administrator maintains under the Plan.

(3) Definition of Valuation Period. The Valuation Period is the period beginning on the day after the last Valuation Date and ending on the current Valuation Date.

(4) Allocation methods. The Plan Administrator will allocate Earnings to the Participant Accounts in accordance with the daily valuation method, balance forward method, balance forward with adjustment method, weighted average method, Participant-Directed Account method, or other method the Employer elects under the Adoption Agreement. The Employer in the Adoption Agreement may elect alternative methods under which the Plan Administrator will allocate the Earnings to the Accounts reflecting different Contribution Types or investment Account types which the Plan Administrator maintains under the Plan. The Plan Administrator first will adjust the Participant Accounts, as those Accounts stood at the beginning of the current Valuation Period, by reducing the Accounts for any forfeitures, distributions, and loan disbursement payments arising under the Plan, for expenses charged during the Valuation Period to the Accounts (expenses directly related to a Participant's Account). The Plan Administrator then, subject to the restoration allocation requirements of the Plan, will allocate Earnings under the applicable valuation method.

(a) Daily valuation method. If the Employer in the Adoption Agreement elects to apply the daily valuation method, the Plan Administrator will allocate Earnings on each day of the Plan Year for which Plan assets are valued on an established market and the Trustee is conducting business. Under the daily valuation method, all assets subject to such method are subject to daily valuation. The assets may be held in Participant-Directed Accounts or in Accounts which are subject to Trustee or other fiduciary investment direction.

(b) Balance forward method. If the Employer in the Adoption Agreement elects to apply the balance forward method, the Plan Administrator will allocate Earnings pro rata to the adjusted Participant Accounts, since the last Valuation Date.

(c) Balance forward with adjustment method. If the Employer in the Adoption Agreement elects to apply the balance forward with adjustment method, the Plan Administrator will allocate pursuant to the balance forward method, except it will treat as part of the relevant Account at the beginning of the Valuation Period the percentage of the contributions made as the Employer elects in the Adoption Agreement, during the Valuation Period the Employer elects in the Adoption Agreement.

(d) Weighted average method. If the Employer in the Adoption Agreement elects to apply a weighted average allocation method, the Plan Administrator will allocate pursuant to the balance forward method, except it will treat a weighted portion of the applicable contributions as if includible in the Participant's Account as of the beginning of the Valuation Period. The weighted portion is a fraction, the numerator of which is the number of months in the Valuation Period, excluding each month in the Valuation Period which begins prior to the contribution date of the applicable contributions, and the denominator of which is the number of months in the Valuation Period. The Employer in the Adoption Agreement may elect to substitute a weighting period other than months for purposes of this weighted average allocation.

(e) Participant-Directed Account method. The Employer in the Adoption Agreement must elect to apply the Participant-Directed Account method to any Participant-Directed Account under the Plan. Under the Participant-Directed Account method: (i) each Participant-Directed Account is credited and charged with the Earnings such Account generates;

(ii) the Employer's election, if any, in the Adoption Agreement of another method for the allocation of Earnings will not apply to any Participant-Directed Account; and (iii) the Participant-Directed Account may be valued as often as daily, but will be valued at least annually, and all assets in the Account are not necessarily valued on the same frequency. An Account which is subject to the Participant-Directed Account method includes an individual brokerage account or similar account in title to the Trustee for the benefit of the Participant.

(C) Allocation of Net Income, Gain or Loss (No Trust). In a Tax-Exempt Eligible 457 Plan that does not maintain a trust the Plan Administrator will allocate net income, gain or loss in accordance with this provision. As of each Accounting Date (and each other valuation date determined under the Adoption Agreement), the Plan Administrator will adjust Accounts to reflect net income, gain or loss, if any, since the last Accounting Date or Account valuation. The Employer in the Adoption Agreement will elect the method for allocating net income gain or loss. The Plan Administrator will continue to allocate net income, gain and loss to a Participant's Account subject to an installment distribution, until the Account is fully distributed.

5.08 ACCOUNT CHARGED. The Plan Administrator will charge all distributions made to a Participant or to his or her Beneficiary, or transferred under Section 9.03 from his or her Account, against the Account of the Participant when made.

5.09 OWNERSHIP OF FUND/TAX-EXEMPT ORGANIZATION. If the Employer is a Tax-Exempt Organization, the Plan is an unfunded plan and all Deferred Compensation, property and rights to property purchased by Deferred Compensation and all income attributable thereto remain, until paid or made available under the Plan, the sole property and rights of the Employer, subject only to the claims of the Employer's general creditors. No Participant or Beneficiary will have any vested interest or secured or preferred position with respect to an Account or have any claim against the Employer except as a general creditor. No Participant or Beneficiary shall have any right to sell, assign, transfer or otherwise convey his or her Account or any interest in his or her Deferred Compensation. The Employer or the Plan Administrator, acting as the Employer's agent, may enter into a trust agreement solely for the purpose of investing all or part of the Accounts, which will be subject to the claims of the Employer's general creditors, and in which the Participants or Beneficiaries will not have a vested interest nor a secured or preferred position or have any claim except as the Employer's general creditor. The Employer may not purchase life insurance contracts under this Plan unless the Employer retains all incidents of ownership in such contracts, the Employer is the sole beneficiary of such contracts and the Employer is not under any obligation to transfer the contracts or pass through the proceeds to any Participant or to his or her Beneficiary. The Employer may adopt and attach to the Plan as "Appendix A," the Internal Revenue Service Model Rabbi Trust under Rev. Proc. 92-64 (as amended) to hold the assets of a Tax-Exempt Organization Eligible 457 Plan. If the Employer adopts the Model Rabbi Trust, the Plan incorporates by reference the provisions of the Model Rabbi Trust as if fully set forth herein.

5.10 PARTICIPANT DIRECTION OF INVESTMENT. Subject to the terms of the Plan Administrator's adopted policy, if any, and also to written consent of the Trustee, if the Plan has a Trust, a Participant will have the right to direct the investment or re-investment of the assets comprising the Participant's Account. The Plan Administrator will account separately for the Participant-Directed Accounts. The Participant's right to direct investment does not give the Participant any vested interest or secured or preferred position with respect to assets over which he/she has investment responsibility.

5.11 VESTING/SUBSTANTIAL RISK OF FORFEITURE. The Employer in the Adoption Agreement may elect to apply a vesting schedule or to specify any other Substantial Risk of Forfeiture applicable to any or all Deferral Contributions.

(A) Forfeiture Allocation. The Employer in the Adoption Agreement must elect the method the Plan Administrator will use to allocate any Participant forfeitures, including those related to lost Participants under Section 5.14. The Plan Administrator will allocate a forfeiture in the Plan Year in which the forfeiture occurs or in the next following Plan Year.

5.12 PRESERVATION OF ELIGIBLE PLAN STATUS. The Plan Administrator may elect to sever from this Plan and to treat as a separate 457 plan, the Accounts of any Participants who have Excess Deferrals that the Plan Administrator has not corrected in accordance with Section 3.10 or in the case of any other Code §457(b) failure that the Employer may not otherwise correct, and which failure would result in the Plan ceasing to be an Eligible 457 Plan. In such event, the Plan Administrator will take any necessary or appropriate action consistent with the Employer's maintenance of separate 457 plans and with preservation of Eligible 457 Plan status of this Plan.

5.13 LIMITED LIABILITY. The Employer will not be liable to pay plan benefits to a Participant in excess of the value of the Participant's Account as the Plan Administrator determines in accordance with the Plan terms. Neither the Employer nor the Plan Administrator will be liable for losses arising from depreciation or shrinkage in the value of any investments acquired under this Plan.

5.14 LOST PARTICIPANTS. If the Plan Administrator is unable to locate any Participant or Beneficiary whose Account becomes distributable (a "lost Participant"), the Plan Administrator will apply the provisions of this Section 5.14.

(A) Attempt to Locate. The Plan Administrator will attempt to locate a lost Participant and may use one or more of the following methods: (1) provide a distribution notice to the lost Participant at his or her last known address by certified or registered mail; (2) use a commercial locator service, the internet or other general search method; (3) use the Social Security Administration or PBGC search program; or (4) use such other methods as the Plan Administrator believes prudent.

(B) Failure to Locate. If a lost Participant remains unlocated for 6 months following the date the Plan Administrator first attempts to locate the lost Participant using one or more of the methods described in Section 5.14(A), the Plan Administrator may forfeit the lost Participant's Account. If the Plan Administrator forfeits the lost Participant's Account, the forfeiture occurs at the end of the above-described 6-month period and the Plan Administrator will allocate the forfeiture in accordance with Section 5.11. The Plan Administrator under this Section 5.14(B) will forfeit the entire Account of the lost Participant, including Salary Reduction Contributions.

If a lost Participant whose Account was forfeited thereafter at any time but before the Plan has been terminated makes a claim for his or her forfeited Account, the Plan Administrator will restore the forfeited Account to the same dollar amount as the amount forfeited, unadjusted for net income, gains or losses occurring subsequent to the forfeiture. The Plan Administrator will make the restoration in the Plan Year in which the lost Participant makes the claim, first from the amount, if any, of Participant forfeitures the Plan Administrator otherwise would allocate for the Plan Year, then from the amount, if any, of Trust net income or gain for the Plan Year and last from the amount or

additional amount the Employer contributes to the Plan for the Plan Year. The Plan Administrator will distribute the restored Account to the lost Participant not later than 60 days after the close of the Plan Year in which the Plan Administrator restores the forfeited Account.

(C) Nonexclusivity and Uniformity. The provisions of this Section 5.14 are intended to provide permissible but not exclusive means for the Plan Administrator to administer the Accounts of lost Participants. The Plan Administrator may utilize any other reasonable method to locate lost Participants and to administer the Accounts of lost Participants, including the default rollover under Section 4.07(C) and such other methods as the Revenue Service or the U.S. Department of Labor ("DOL") may in the future specify. The Plan Administrator will apply Section 5.14 in a reasonable manner, but may in determining a specific course of action as to a particular Account, reasonably take into account differing circumstances such as the amount of a lost Participant's Account, the expense in attempting to locate a lost Participant, the Plan Administrator's ability to establish and the expense of establishing a rollover IRA, and other factors. The Plan Administrator may charge to the Account of a lost Participant the reasonable expenses incurred under this Section 5.14 and which are associated with the lost Participant's Account.

5.15 PLAN CORRECTION. The Plan Administrator, in conjunction with the Employer and Trustee as appropriate, may undertake such correction of Plan errors as the Plan Administrator deems necessary, including but not limited to correction to maintain the Plan's status as an Eligible 457 Plan. The Plan Administrator under this Section 5.15 also may undertake Plan correction in accordance with any correction program that the Internal Revenue Service makes applicable to 457 plans.

ARTICLE VI
PARTICIPANT ADMINISTRATIVE PROVISIONS

6.01 BENEFICIARY DESIGNATION. A Participant from time to time may designate, in writing, any person(s) (including a trust or other entity), contingently or successively, to whom the Plan Administrator or Trustee will pay the Participant's Account (including any life insurance proceeds payable to the Participant's Account) in the event of death. A Participant also may designate the method of payment of his or her Account. The Plan Administrator will prescribe the form for the Participant's written designation of Beneficiary and, upon the Participant's filing the form with the Plan Administrator, the form revokes all designations filed prior to that date by the same Participant. A divorce decree, or a decree of legal separation, revokes the Participant's designation, if any, of his or her spouse as his or her Beneficiary under the Plan unless the decree or a QDRO provides otherwise. The foregoing revocation provision (if applicable) applies only with respect to a Participant whose divorce or legal separation becomes effective on or following the date the Employer executes the Adoption Agreement, unless the Employer in the Adoption Agreement specifies a different effective date.

6.02 NO BENEFICIARY DESIGNATION. If a Participant fails to name a Beneficiary in accordance with Section 6.01, or if the Beneficiary named by a Participant predeceases the Participant, then the Plan Administrator will pay the Participant's remaining Account in accordance with Article IV in the following order of priority, to:

- (a) The Participant's surviving spouse; or
- (b) The Participant's children (including adopted children), in equal shares by right of representation (one share for each surviving child and one share for each child who predeceases the Participant with living descendants); and if none to
- (c) The Participant's estate.

If the Beneficiary survives the Participant, but dies prior to distribution of the Participant's entire Account, the Trustee will pay the remaining Account to the Beneficiary's estate unless: (1) the Participant's Beneficiary designation provides otherwise; or (2) the Beneficiary has properly designated a beneficiary. A Beneficiary only may designate a beneficiary for the Participant's Account Balance remaining at the Beneficiary's death, if the Participant has not previously designated a successive contingent beneficiary and the Beneficiary's designation otherwise complies with the Plan terms. The Plan Administrator will direct a Trustee if applicable as to the method and to whom the Trustee will make payment under this Section 6.02.

6.03 SALARY REDUCTION AGREEMENT.

(A) General. A Participant must elect to make Salary Reduction Contributions on a Salary Reduction Agreement form the Plan Administrator provides for this purpose. The Salary Reduction Agreement must be consistent with the Employer's Adoption Agreement elections and the Plan Administrator in a Salary Reduction Agreement may impose such other terms and limitations as the Plan Administrator may determine.

(B) Election Timing. A Participant's Salary Reduction Agreement may not take effect earlier than the first day of the calendar month following the date the Participant executes the Salary Reduction Agreement and as to Compensation paid or made available in such calendar month. However, if an

Employee is eligible to become a Participant during the Employee's calendar month of hire, the Employee may execute a Salary Reduction Agreement on or before the date he/she becomes an Employee, effective for the month in which he/she becomes an Employee.

(C) Sick, Vacation and Back Pay. If the Employer in the Adoption Agreement permits Participants to make Salary Reduction Contributions from accumulated sick pay, from accumulated vacation pay or from back pay, a Participant who will incur a Severance from Employment may execute a Salary Reduction Agreement before such amounts are paid or made available provided: (i) such amounts are paid or made available before the Participant incurs the Severance; and (ii) the Participant is an Employee in that month.

(D) Modification of Salary Reduction Agreement. A Participant's Salary Reduction Agreement remains in effect until a Participant modifies it or ceases to be eligible to participate in the Plan. A Participant may modify his or her Salary Reduction Agreement by executing a new Salary Reduction Agreement. Any modification will become effective no earlier than the beginning of the calendar month commencing after the date the Participant executes the new Salary Reduction Agreement. Filing a new Salary Reduction Agreement will revoke all Salary Reduction Agreements filed prior to that date. The Employer or Plan Administrator may restrict the Participant's right to modify his or her Salary Reduction Agreement in any Taxable Year.

6.04 PERSONAL DATA TO PLAN ADMINISTRATOR.

Each Participant and each Beneficiary of a deceased Participant must furnish to the Plan Administrator such evidence, data or information as the Plan Administrator considers necessary or desirable for the purpose of administering the Plan. The provisions of this Plan are effective for the benefit of each Participant upon the condition precedent that each Participant will furnish promptly full, true and complete evidence, data and information when requested by the Plan Administrator, provided the Plan Administrator advises each Participant of the effect of his or her failure to comply with its request.

6.05 ADDRESS FOR NOTIFICATION. Each Participant and each Beneficiary of a deceased Participant must file with the Plan Administrator from time to time, in writing, his or her address and any change of address. Any communication, statement or notice addressed to a Participant, or Beneficiary, at his or her last address filed with the Plan Administrator, or as shown on the records of the Employer, binds the Participant, or Beneficiary, for all purposes of this Plan.

6.06 PARTICIPANT OR BENEFICIARY INCAPACITATED. If, in the opinion of the Plan Administrator or of the Trustee, a Participant or Beneficiary entitled to a Plan distribution is not able to care for his or her affairs because of a mental condition, a physical condition, or by reason of age, the Plan Administrator or at the direction of the Plan Administrator, the Trustee, may make the distribution to the Participant's or Beneficiary's guardian, conservator, trustee, custodian (including under a Uniform Transfers or Gifts to Minors Act) or to his or her attorney-in-fact or to other legal representative upon furnishing evidence of such status satisfactory to the Plan Administrator and to the Trustee. The Plan Administrator and the Trustee do not have any liability with respect to payments so made and neither the Plan Administrator nor the Trustee has any duty to make inquiry as to the competence of any person entitled to receive payments under the Plan.

**ARTICLE VII
MISCELLANEOUS**

7.01 NO ASSIGNMENT OR ALIENATION. A Participant or Beneficiary does not have the right to commute, sell, assign, pledge, transfer or otherwise convey or encumber the right to receive any payments under the Plan or Trust and the Plan Administrator and the Trustee will not recognize any such anticipation, assignment, or alienation. The payments and the rights under this Plan are nonassignable and nontransferable. Furthermore, a Participant's or Beneficiary's interest in the Trust is not subject to attachment, garnishment, levy, execution or other legal or equitable process.

7.02 EFFECT ON OTHER PLANS. This Plan does not affect benefits under any other retirement, pension, or benefit plan or system established for the benefit of the Employer's Employees, and participation under this Plan does not affect benefits receivable under any such plan or system, except to the extent provided in such plan or system.

7.03 WORD USAGE. Words used in the masculine will apply to the feminine where applicable, and wherever the context of the Plan dictates, the plural will be read as the singular and the singular as the plural.

7.04 STATE LAW. The laws of the state of the Employer's principal place of business will determine all questions arising with respect to the provisions of this Plan, except to the extent Federal law supersedes State law.

7.05 EMPLOYMENT NOT GUARANTEED. Nothing contained in this Plan, or any modification or amendment to the Plan, or in the creation of any Account, or the payment of any benefit, gives any Employee, Participant or Beneficiary any right to continue employment, any legal or equitable right against the Employer, the Plan Administrator, the Trustee, any other Employee of the Employer, or any agents thereof except as expressly provided by the Plan.

7.06 NOTICE, DESIGNATION, ELECTION, CONSENT AND WAIVER. All notices under the Plan and all Participant or Beneficiary designations, elections, consents or waivers must be in writing and made in a form the Plan Administrator specifies or otherwise approves. To the extent permitted by Treasury regulations or other applicable guidance, any Plan notice, election, consent or waiver may be transmitted electronically. Any person entitled to notice under the Plan may waive the notice or shorten the notice period except as otherwise required by the Code.

ARTICLE VIII
TRUST PROVISIONS—GOVERNMENTAL ELIGIBLE 457 PLAN

8.01 GOVERNMENTAL ELIGIBLE 457 PLAN. The provisions of this Article VIII apply to a Governmental Eligible 457 Plan and do not apply to a Tax-Exempt Organization Eligible 457 Plan. The Employer in the Adoption Agreement may elect to substitute another trust (attached to this Plan as "Appendix A") or to modify any provision of Article VIII, consistent with Code §457(g) and applicable Treasury regulations.

8.02 ACCEPTANCE/HOLDING. The Trustee accepts the Trust created under the Plan and agrees to perform the duties and obligations imposed. The Trustee must hold in trust under this Article VIII, all Deferred Compensation until paid in accordance with the Plan terms.

8.03 RECEIPT OF CONTRIBUTIONS. The Trustee is accountable to the Employer for the funds contributed to it by the Employer or the Plan Administrator, but the Trustee does not have any duty to see that the contributions received comply with the provisions of the Plan.

8.04 FULL INVESTMENT POWERS. The Trustee has full discretion and authority with regard to the investment of the Trust, except with respect to a Trust asset under Participant direction of investment, in accordance with Section 8.12. The Trustee is authorized and empowered, but not by way of limitation, to exercise and perform the following powers, rights and duties:

(a) To invest any part or all of the Trust in any common or preferred stocks, open-end or closed-end mutual 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, and to buy or sell options on common stock on a nationally recognized options exchange with or without holding the underlying common stock, as a prudent person would do under like circumstances. Any investment made or retained by the Trustee in good faith will be proper but must be of a kind constituting a diversification considered by law suitable for trust investments;

(b) To retain in cash so much of the Trust as it may deem advisable to satisfy liquidity needs of the Plan and to deposit any cash held in the Trust in a bank account at reasonable interest;

(c) To invest, if the Trustee is a bank or similar financial institution supervised by the United States or by a State, in any type of deposit of the Trustee (or 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, the provisions of which the Trust 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 its affiliate) in its capacity as Trustee and which conforms to the rules of the Comptroller of the Currency;

(d) 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) To credit and distribute the Trust as directed by the Plan Administrator of the Plan. The Trustee will not be 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 will be accountable only to the Plan Administrator for any payment or distribution made by it in good faith on the order or direction of the Plan Administrator;

(f) To borrow money, to assume indebtedness, extend mortgages and encumber by mortgage or pledge;

(g) To compromise, contest, arbitrate or abandon claims and demands, in the Trustee's discretion;

(h) 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, to give proxies, to participate in any voting trusts, mergers, consolidations or liquidations, to tender shares and to exercise or sell stock subscriptions or conversion rights;

(i) To lease for oil, gas and other mineral purposes and to create mineral severances by grant or reservation; to pool or unitize interest in oil, gas and other minerals; and to enter into operating agreements and to execute division and transfer orders;

(j) 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;

(k) To perform any and all other acts in its judgment necessary or appropriate for the proper and advantageous management, investment and distribution of the Trust;

(l) 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 a final adjudication;

(m) To file all tax returns required of the Trustee;

(n) To furnish to the Employer and the Plan Administrator an annual statement of account showing the condition of the Trust and all investments, receipts, disbursements and other transactions effected by the Trustee during the Plan Year covered by the statement and also stating the assets of the Trust held at the end of the Plan Year, which accounts will be 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 90 days after the receipt of the accounts; and

(o) To begin, maintain or defend any litigation necessary in connection with the administration of the Trust, except that the Trustee will not be obliged or required to do so unless indemnified to its satisfaction.

(A) Nondiscretionary Trustee. The Employer in the Adoption Agreement may elect to appoint a Nondiscretionary Trustee, subject to this Section 8.04(A). The Nondiscretionary Trustee does not have any discretion or authority with regard to the

investment of the Trust, but must act solely as a directed Trustee hereunder. The Nondiscretionary Trustee is authorized and empowered to exercise and perform the above Section 8.04 powers, rights and duties provided that the Trustee shall act solely as a directed Trustee and only in accordance with the written direction of the Employer, the Plan Administrator or of a Participant as applicable. The Nondiscretionary Trustee is not liable for making, retaining or disposing of any investment or for taking or failing to take any other action, in accordance with proper Employer, Plan Administrator or Participant direction.

8.05 RECORDS AND STATEMENTS. The records of the Trustee pertaining to the Trust will be open to the inspection of the Plan Administrator and the Employer at all reasonable times and may be audited from time to time by any person or persons as the Employer or Plan Administrator may specify in writing. The Trustee will furnish the Plan Administrator whatever information relating to the Trust the Plan Administrator considers necessary.

8.06 FEES AND EXPENSES FROM FUND. The Trustee will receive reasonable annual compensation in accordance with its fee schedule as published from time to time. The Trustee will pay from the Trust all fees and expenses the Trustee reasonably incurs in its administration of the Trust, unless the Employer pays the fees and expenses.

8.07 PROFESSIONAL AGENTS. The Trustee may employ and pay from the Trust reasonable compensation to agents, attorneys, accountants and other persons to advise the Trustee as in its opinion may be necessary. The Trustee may delegate to any agent, attorney, accountant or other person selected by it any non-Trustee power or duty vested in it by the Trust, and the Trustee may act or refrain from acting on the advice or opinion of any agent, attorney, accountant or other person so selected.

8.08 DISTRIBUTION OF CASH OR PROPERTY. The Trustee may make distribution under the Plan in cash or property, or partly in each, at its fair market value as determined by the Trustee.

8.09 RESIGNATION AND REMOVAL. The Trustee or the Custodian may resign its position by giving written notice to the Employer 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 Employer consents in writing to shorter notice.

The Employer may remove a Trustee or a Custodian 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.

8.10 SUCCESSOR TRUSTEE.

(A) Appointment. In the event of the resignation or the removal of a Trustee, where no other Trustee continues to service, 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 will act as the Trustee. 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.

(B) Automatic Successor. Any corporation which succeeds to the trust business of the Trustee, or results from any merger or consolidation to which the Trustee is a party, or is the transferee of substantially all the Trustee's assets, will be the successor to the Trustee under this Trust. The successor Trustee will possess all rights, duties and powers under this Trust as if the successor Trustee were the original Trustee. Neither the Trustee nor the successor Trustee need provide notice to any interested person of any transaction resulting in a successor Trustee. The successor Trustee need not file or execute any additional instrument or perform any additional act to become successor Trustee.

8.11 VALUATION OF TRUST. The Trustee will value the Trust as of each Accounting Date to determine the fair market value of the Trust assets. The Trustee will value the Trust on such other date(s) the Plan Administrator may direct.

8.12 PARTICIPANT DIRECTION OF INVESTMENT. Consistent with the Plan Administrator's policy adopted under Section 5.02(1), the Trustee may consent in writing to permit Participants in the Plan to direct the investment to the Trust assets. The Plan Administrator will advise the Trustee of the portion of the Trust credited to each Participant's Account under the Plan, and subject to such Participant direction. As a condition of Participant direction, the Trustee may impose such conditions, limitations and other provisions as the Trustee may deem appropriate and as are consistent with the Plan Administrator's policy. The Trustee will report to the Plan Administrator the net income, gain or losses incurred by each Participant-Directed Account separately from the net income, gain or losses incurred by the general Trust during the Trust Year.

8.13 THIRD PARTY RELIANCE. No person dealing with the Trustee will be obliged 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 Trust. 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 will not be liable to any person whomsoever in so doing. The certificate of the Trustee that it is acting in accordance with the Trust will be conclusive in favor of any person relying on the certificate.

8.14 INVALIDITY OF ANY TRUST PROVISION. If any clause or provision of this Article VIII proves to be or is adjudged to be invalid or void for any reason, such void or invalid clause or provision will not affect any of the other provisions of this Article VIII and the balance of the Trust provisions will remain operative.

8.15 EXCLUSIVE BENEFIT. The Trustee will hold all the assets of the Trust for the exclusive benefit of the Participants and their Beneficiaries and neither the Employer nor the Trustee will use or divert any part of the corpus or income of the Trust for purposes other than the exclusive benefit of the Participants and Beneficiaries of the Plan. The Employer will not have any right to the assets held by the Trustee and the Trust assets will not be subject to the claims of the Employer's creditors or, except as provided in Section 4.06, of the creditors of any Participant or Beneficiary. No Participant or Beneficiary shall have any right to sell, assign, transfer or otherwise convey his or her Account or any interest in his or her Deferred Compensation. Notwithstanding the foregoing, the Plan Administrator may pay from a Participant's or Beneficiary's Account the amount the Plan Administrator finds is lawfully

demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary. The Trust created under the Employer's Plan is irrevocable and its assets will not inure to the benefit of the Employer.

8.16 SUBSTITUTION OF CUSTODIAL ACCOUNT OR ANNUITY CONTRACT. The Employer in the Adoption Agreement may elect to use one or more custodial accounts or annuity contracts in lieu of or in addition to the Trust established in this Article VIII. Any such custodial account or annuity contract must satisfy the requirements of Code §457(g)(3) and applicable Treasury regulations.

8.17 GROUP TRUST AUTHORITY. Notwithstanding any contrary provision in this Plan, the Trustee may, unless restricted in writing by the Plan Administrator, transfer assets of the Plan to a group trust that is operated or maintained exclusively for the commingling and collective investment of monies provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under Code §401(a), individual retirement accounts that are exempt under Code §408(e), and eligible governmental plans that meets the requirements of Code §457(b). For this purpose, a trust includes a custodial account that is treated as a trust under Code §401(f) or under Code §457(g)(3). For purposes of valuation, the value of the interest maintained by the Plan in such group trust shall be the fair market value of the portion of the group trust held for Plan, determined in accordance with generally recognized valuation procedures.

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**ARTICLE IX
AMENDMENT, TERMINATION, TRANSFERS**

9.01 AMENDMENT BY EMPLOYER/SPONSOR. The Employer has the right at any time and from time to time:

(a) To amend this Plan and Trust Agreement and the Adoption Agreement in any manner it deems necessary or advisable in order to continue the status of this Plan as an Eligible 457 Plan; and

(b) To amend this Plan and Trust Agreement and the Adoption Agreement in any other manner, including deletion, substitution or modification of any Plan, Trust or Adoption Agreement provision.

The Employer must make all amendments in writing. The Employer may amend the Plan by an Adoption Agreement election, by addenda, by separate amendment, or by restatement of the Adoption Agreement or Plan. Each amendment must state the date to which it is either retroactively or prospectively effective. The Employer also may not make any amendment that affects the rights, duties or responsibilities of the Trustee or the Plan Administrator without the written consent of the affected Trustee or the Plan Administrator.

9.02 TERMINATION/FREEZING OF PLAN. The Employer has the right, at any time, to terminate this Plan or to cease (freeze) further Deferral Contributions to the Plan. Upon termination or freezing of the Plan, the provisions of the Plan (other than provisions permitting continued Deferral Contributions) remain operative until distribution of all Accounts. Upon Plan termination, the Plan Administrator or Trustee shall distribute to Participants and Beneficiaries all Deferred Compensation as soon as is reasonably practicable following termination.

9.03 TRANSFERS. The Employer may enter into a Transfer agreement with another employer under which this Plan: (a) may accept a Transfer of a Participant's Account in the other employer's Eligible 457 Plan; or (b) may Transfer a Participant's (or Beneficiary's) Account in this Plan to the other employer's Eligible 457 Plan. The plan sponsors of the plans involved in the Transfer both must be States or both must be Tax-Exempt Organizations and the plans must provide for Transfers. The Participant or Beneficiary, after the Transfer will have Deferred Compensation in the recipient plan at least equal to his or her Deferred Compensation in the transferring plan immediately before the Transfer. Any Transfer also must comply with applicable Treasury regulations, and in particular Treas. Reg. §§1.457-10(b)(2) as to post-severance transfers between Governmental Eligible 457 Plans; 1.457-10(b)(3) as to transfers of all assets between Governmental Eligible 457 Plans; 1.457-10(b)(4) as to transfers between Governmental Eligible 457 Plans of the same Employer; and 1.457-10(b)(5) as to post-severance transfers between Tax-Exempt Organization Eligible 457 Plans. The Plan Administrator will credit any Transfer accepted under this Section 9.03 to the Participant's Account and will treat the transferred amount as a Deferral Contribution for all purposes of this Plan except the Plan Administrator, will not treat such Transfer as a Deferral Contribution subject to the limitations of Article III. In addition, in the case of a Transfer between Tax-Exempt Organization Eligible Plans, the recipient plans shall apply a Participant's distribution elections made under the transferor plan in accordance with Treas. Reg. §1.457-10(b)(6)(ii). The Plan's Transfer of any Participant's or Beneficiary's Account under this Section 9.03 completely discharges the Employer, the Plan Administrator, the Trustee and the Plan from any liability to the Participant or Beneficiary for any Plan benefits.

9.04 PURCHASE OF PERMISSIVE SERVICE CREDIT.

A Participant in a Governmental Eligible 457 Plan, prior to otherwise incurring a distributable event under Article IV, may direct the Trustee to transfer all or a portion of his or her Account to a governmental defined benefit plan (under Code §414(d)) for: (a) the purchase of permissive service credit (under Code §415(n)(3)(A)) under such plan, or (b) the repayment of contributions and earnings previously refunded with respect to a forfeiture of service credited under the plan (or under another governmental plan within the same State) to which Code §415 does not apply by reason of Code §415(k)(3).

FIRST AMENDMENT TO THE ADMINISTRATIVE SERVICES AGREEMENT FOR THE GOVERNMENTAL 457(b) DEFERRED COMPENSATION PLAN OF STATE OF IDAHO

This first Amendment to the Administrative Services Agreement (“Amendment”) is effective on the date written below by and between Nationwide Retirement Solutions, Inc., a Delaware corporation (hereinafter “Nationwide”), and State of Idaho, the Plan Sponsor (hereinafter “Plan Sponsor”)

WHEREAS, Plan Sponsor and Nationwide executed the Administrative Services Agreement for the State of Idaho Public Employees Deferred Compensation Plan (“Agreement”) between Nationwide and Plan Sponsor on the 17 day of August 2021, under which Nationwide agreed to provide administrative services to the Plan Sponsor’s Deferred Compensation Plan (hereinafter “Plan”); and

WHEREAS, Plan Sponsor desires to continue to contract with Nationwide in connection with the administration of the Plan; and

WHEREAS, Nationwide desires to continue to provide such administrative services to the Plan subject to the terms and conditions set forth in the Agreement.; and

NOW, THEREFORE, Plan Sponsor and Nationwide hereby mutually agree to amend the Agreement by agreeing to the following:

Section 14 (“COMPENSATION”) of the Agreement is hereby deleted and replaced in its entirety with the following:

14. COMPENSATION

- a. As compensation for the performance of the Administrative Services provided by Nationwide pursuant to this Agreement, the Plan Sponsor and Nationwide agree that Nationwide shall be entitled to receive an annualized compensation requirement of 0.11% (11 basis points) of the Plan’s account value held by Nationwide (“Compensation Requirement”) to be calculated and collected according to Nationwide’s standard business practices. Nationwide’s Compensation Requirement will be taken in the form of an explicit asset management charge applied against all Plan assets under management, excluding Plan balances held in the Self-Directed Brokerage Account (“SDBA”) and outstanding participant loan balances. In addition to the foregoing, the parties acknowledge and agree that Nationwide may receive revenue associated with annuity contracts, revenue from mutual fund providers, as well as fees associated with specific services or products.
- b. The Plan Sponsor directs Nationwide to assess and collect an additional explicit asset management charge of 0.03% (3 basis points), to be applied against all Plan assets under management, excluding Plan balances held in the Self-Directed Brokerage Account and participant loan balances, to be remitted to and used by the Plan Sponsor for reasonable and necessary Plan related expenses. This additional asset management charge will be calculated and collected from participant accounts according to Nationwide’s standard business practices. This Plan expense charge will be in addition to Nationwide’s Compensation Requirement described in Section 14.a. above.
- c. The Plan Sponsor acknowledges that Nationwide and its affiliates receive payments in connection with the sale and servicing of investments allocated to participant Plan accounts (“Investment Option Payments”). The Investment Option Payments include mutual fund

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service fee payments as described in detail at www.idahodc.com, and other payments received from investment option providers. The Plan Sponsor directs Nationwide to credit all Investment Option Payments to the Plan Expense Account, to be used for reasonable Plan Expenses.

- d. The Plan Sponsor directs Nationwide to establish and maintain a separate account (the "Plan Expense Account") to which the explicit asset management charge of 3 basis points referred to in Section 14.b as well as the Investment Option Payments referred to in 14.c be credited. The Plan Expense Account will be funded on a quarterly basis. The Plan Sponsor will select a single investment vehicle to be used for the Plan Expense Account, which cannot be an investment vehicle included in the participant investment option line-up. The Plan Sponsor will direct Nationwide, in writing, to pay reasonable and necessary Plan expenses directly to the Plan Sponsor or to a Plan service provider.
- i. When each invoice is submitted to Nationwide for payment, the Plan Sponsor shall certify in writing that the expenses represented by the invoice are reasonable and necessary Plan expenses. As the fiduciary of the Plan, the Plan Sponsor is solely responsible for making determinations with respect to the appropriateness of all expenses of the Plan and how the Plan Expense Account is managed. Nationwide does not accept this responsibility.
 - ii. The account balance, account transactions and investment experience of the Plan Expense Account will be reported to the Plan Sponsor no later than thirty (30) Business Days after the end of each calendar quarter.
 - iii. The Plan Sponsor will maintain the cumulative balance held in the Plan Expense Account at a reasonable level given the size of the Plan and the Plan's total annual expenses. Should the cumulative balance of the Plan Expense Account exceed a reasonable level, Plan Sponsor will direct Nationwide to allocate any excess accumulation to participant accounts on a pro-rata basis based on their total account balance.
 - iv. Notwithstanding Section 14.d.iii. above, at the direction of Plan Sponsor, any balance in the Plan Expense Account that has not been applied to pay for reasonable and necessary Plan expenses can be allocated to participant accounts on a pro-rata basis based on their total account balance on an annual basis to be mutually determined and agreed to by the parties.
- g. The Plan Sponsor acknowledges that it has received all information about compensation paid to Nationwide as the Plan Sponsor has reasonably requested and has determined that the total amount of compensation paid to Nationwide as described in this Section 14 is reasonable and appropriate for the services provided.
- h. To the extent offered under the Plan, in addition to the above described fees, Nationwide will also receive fees with respect to a participant's use of participant loan administration, the SDBA, and Nationwide's managed account service ("ProAccount") as follows:
- i. Loans- If requested by the Plan Sponsor and permitted under the terms of the Plan,

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Nationwide will assist the Plan Sponsor in processing participant loan requests pursuant to participant loan administrative procedures approved by the Plan Sponsor and Nationwide. All participant loan fees are governed by Nationwide’s Plan Loan Procedures document, a copy of which has been provided to the Plan Sponsor.

- ii. Self-Directed Brokerage Account (SDBA) – The Plan offers an SDBA investment option for qualifying participants in the Plan. Initial and annual administrative fees may be charged as outlined in the separate fee agreement for the SDBA that will be provided to each participant by the SDBA provider.
- iii. Managed account services (Nationwide ProAccount) - Managed account services are offered by Nationwide Investment Advisors (“NIA”), an affiliate of Nationwide, and the Plan Sponsor must execute a separate agreement with NIA if the Plan Sponsor wants to add ProAccount to the Plan. Only participants who choose to utilize Nationwide’s ProAccount managed account service are assessed fees. Such fees are authorized in a separate ProAccount agreement between the participant and NIA and are assessed pursuant to the terms and conditions of such agreement.

Fees related to participant loans, the SDBA and Nationwide ProAccount are in addition to the Fees, if any, in Sections 14. b. and c.

- i. Employer may request Nationwide and/or its affiliates to provide additional services not described in this Agreement by making such a request in writing, which Nationwide may decide to perform for compensation to be negotiated by the parties prior to the commencement of the additional services.

Except as otherwise amended herein, all other terms and conditions of the Agreement not in conflict shall remain in full force and effect. If there is a conflict or ambiguity among the amendment and the Agreement, the documents in the following order shall prevail and control: (1) this first Amendment and (2) the original Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment effective on the date first written above.

APPROVED BY

Nationwide Retirement Solutions, Inc.:

DocuSigned by:
 By: Catherine M (Katie) Moore,
4DBE30C54E04471
 Printed Name: Catherine Moore
 Title: AVP Operations
 Date: 8/26/2021 | 2:29:56 PM EDT

APPROVED BY

State of Idaho Public Employees Deferred Compensation Plan:

Plan Sponsor
 By: Brandon D Woolf
 Printed Name: Brandon D Woolf
 Title: State Controller
 Date: 8/25/2021



Employer Data Sheet

State of Idaho 457 Plan

Employer Information

*The Employer Identification # (EIN) is the number used on the employee's form

Employer Name City of Moscow		Employee Number# (Assigned by Nationwide Retirement Solutions)	
Employee Address 206 E. Third Street			
Mailing Address (for priority and/or overnight mail) 206 E. Third Street			
City Moscow	State Idaho	Zip Code 83843	
Employer Contact Name & Title Sarah Decker, Director – Finance and Employee Services		Employer Contact Phone Number 208-883-7016	
Number of Eligible Employees 160		Employer Identification # (EIN*) 82-6000227	
Email Address: sdecker@ci.moscow.id.us		Other humanresources@ci.moscow.id.us	

If more than one payroll center exists & separate payroll confirmations are desired for each payroll center, please photocopy this form & complete this section for each additional payroll center.

Payroll Center Information

*Note: Deferrals must be remitted to Nationwide Retirement Solutions as frequently as deductions are made.

OBRA Payroll Data must be segregated from the payroll data for your voluntary 457 deferred compensation plan.

Payroll Center Contact Name Tara Lowe		Payroll Center Contact Title Payroll Specialist	
Payroll Center Address 206 E. Third Street		Contact Phone number 208-883-7037	
Mailing Address (for priority and/or overnight mail) 206 E. Third Street			
City Moscow	State ID	Zip Code 83843	Contact Fax Number
Email Address tlowe@ci.moscow.id.us		*Deferral Type (check one): Percentage <input checked="" type="checkbox"/> Dollar Amount <input checked="" type="checkbox"/>	
Payroll Frequency (number of times deductions made from participant's paycheck) Weekly <input type="checkbox"/> Bi-Weekly <input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Semi-Monthly <input type="checkbox"/> Other <input type="checkbox"/>			
Payroll Center will furnish detail on: Web Base Application? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		Number of Payroll Centers 1	

Authorization: I certify, based on the information collected & verified, that I have been able to form a reasonable belief as to the identity of the customer (i.e., Entity/Employer).

Financial Service Representative (FSR) Signature & Title

Agent Number (if applicable)

Plan Administration Reviewer

Date