



Board of Directors Meeting

March 20, 2024, at 1:30 p.m. CT

Orange Beach Council Chambers

4099 Orange Beach Blvd, Orange Beach, AL 36561

1. Call to Order

2. Roll Call

3. Approval of Board Agenda

Recommend the Board approve the March 20, 2024, meeting agenda.

4. Approval of January 31, 2024, Board Minutes

Recommend the Board approve the January 31, 2024, meeting minutes.

5. Staff Updates

- a. Director's Update
- b. Technical Update
- c. Outreach Update

6. Action Items

a. **Approval of Submitting a Letter of Support to Governor DeSantis Regarding PPBEP's Legislative Appropriations**

Recommend the Board approve submitting a letter of support to Governor DeSantis requesting he maintain funding levels for the Pensacola and Perdido Bays Estuary Program and University of West Florida Water Quality Center as adopted by the Legislature in the FY25 budget.

b. **Approval of Submitting a Letter of Appreciation to Senator Rubio and Senator Scott Regarding National Estuary Program Designation**

Recommend the Board approve submitting a letter of appreciation to Senator Rubio and Senator Scott regarding their leadership in co-sponsoring legislation to designate PPBEP as a National Estuary Program.

c. **Ratifying Approval of Florida State University Subcontract No. R000003338 with the St. Andrew & St. Joseph Bays Estuary Program, in the amount of \$324,321, for the Florida RESTORE Act Centers of Excellence Living Shorelines Effectiveness Monitoring Project**

Recommend the Board ratify approval of the Executive Director's action approving Florida State University Subcontract No. R000003338 with St. Andrew & St. Joseph Bays Estuary Program, in the amount of \$324,321, for the Florida RESTORE Act Centers of Excellence Living Shorelines Effectiveness Monitoring Project. Note: at the November 8, 2023 Board meeting, the Board approved the scope of work, and authorized entering into the subaward agreement.



- d. **Ratifying Approval of a Revised Purchase Order with Step One Automotive Ford Crestview, in the Amount of \$48,248, for a Ford F-150 4X4 Super Crew Cab**
Recommend the Board ratify approval of the Executive Director's action to revise and replace the Purchase Order to Step One Automotive Ford Crestview approved at the November 8, 2023 Board meeting with a corrected Purchase Order, in the amount of \$48,248, for a Ford F-150 4x4 Super Crew Cab.
- e. **Approval of University of West Florida Subaward No. 221276, in the Amount of \$349,999.39, for the Northwest Florida Estuary Water Quality Protection and Restoration Project Sponsored by Senator Broxson**
Recommend the Board approve, and authorize the Executive Director to sign, University of West Florida Subaward No. 221276, in the Amount of \$349,999.39, for the Northwest Florida Estuary Water Quality Protection and Restoration Project Sponsored by Senator Broxson.
- f. **Approval of Entering into an Agreement with Santa Rosa County for GIS Software**
Recommend the Board approve, and authorize the Executive Director to sign, an agreement with Santa Rosa County providing up to \$12,000 per year for an ESRI GIS Software License.
- g. **Approval of Entering into a Memorandum of Understanding with the U.S. Environmental Protection Agency Center for Environmental Measurement and Modeling**
Recommend the Board approve, and authorize the Executive Director to sign, a Memorandum of Understanding with the U.S. Environmental Protection Agency Center for Environmental Measurement and Modeling to foster collaboration and partnership between PPBEP and EPA.
- h. **Approval of Resolution No. 24-01 Florida Municipal Pension Trust Fund Resolution to Participate in Defined Contribution and Deferred Compensation Plans**
Recommend the Board approve, and authorize the Chairman to sign, Resolution No. 24-01 Florida Municipal Pension Trust Fund Resolution to Participate in Defined Contribution and Deferred Compensation Plans; and establish defined contribution rates.
- i. **Approval of Entering Trust Joinder Agreements for Defined Contribution and Deferred Compensation Plans under Florida Municipal Pension Trust Fund Master Trust Agreement**
Recommend the Board approve, and authorize the Chairman to sign, Trust Joinder Agreements for Defined Contribution and Deferred Compensation Plans under Florida Municipal Pension Trust Fund Master Trust Agreement.

7. Committee Updates

8. Board/Agency Updates

9. Public Comment

10. Adjourn



**Board of Directors and
Annual Meeting of Corporation
Meeting Minutes**

January 31, 2024, at 1:30 p.m. CT
Escambia County Commission Chambers
221 Palafox Place, Pensacola, FL 32502

[Meeting Recording](#)

This meeting served as the annual meeting of the Pensacola and Perdido Bays Estuary Program, Inc., as required by Florida Law.

Members Present

Woody Speed, Chair	City of Orange Beach
Colten Wright, Vice Chair	Santa Rosa County
Vernon Compton	City of Milton
Mike Kohler	Escambia County
Jared Moore	City of Pensacola
Mike Norberg	Okaloosa County
Kerry Smith	Santa Rosa County

Members Absent

Cherry Fitch	City of Gulf Breeze
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Interested Parties Present

Matt Posner	PPBEP
Whitney Scheffel	PPBEP
Logan McDonald	PPBEP
Haley Gancel	PPBEP
Bailey Walkinshaw	PPBEP
Mary Jane Bass	Beggs & Lane
Thomas Derbes	Florida Sea Grant
Naisy Dolar	Santa Rosa County
Chips Kirschenfeld	Escambia County
Paul Looney	Water Resource Association (WRA)
Elizabeth Major	League of Women Voters Pensacola Bay Area (LWVPBA)
Brian Wyr	Gulf Coast Minority Chamber of Commerce (GCMCC)

1. Call to Order

2. Roll Call (Matt Posner, Executive Director)

Staff called the roll. Staff congratulated former Escambia County Commissioner Robert Bender for being appointed as the Escambia County Supervisor of Elections and thanked him for his time serving on the Program’s Board of Directors. A quorum was present.

3. Approval of Board Agenda



Commissioner Mike Kohler (Escambia County) made a motion to approve the agenda. Mike Norberg (Okaloosa County) seconded the motion. The motion passed unanimously.

4. Approval of November 8, 2023, Board Minutes

Vernon Compton (City of Milton) made a motion to approve the minutes. Commissioner Mike Kohler (Escambia County) seconded the motion. The motion passed unanimously.

5. Election of 2024 Chairman and Vice Chairman

Councilperson Jared Moore (City of Pensacola) nominated Commissioner Mike Kohler (Escambia County) as Chairman. Commissioner Colten Wright (Santa Rosa County) seconded the motion. The motion passed unanimously.

Councilperson Jared Moore (City of Pensacola) nominated Commissioner Colten Wright (Santa Rosa County) as Vice Chairman. Commissioner Mike Kohler (Escambia County) seconded the motion. The motion passed unanimously.

6. Staff Updates

a. Executive Director's Update (Matt Posner, Executive Director)

i. Hiring Update

- An offer was extended to a candidate for the Assistant Project Coordinator position, staff are expecting to hear back from the candidate by February 1st.
- PPBEP established the Jessica Bibza Panhandle Manatee Internship, which is closing today. Logan McDonald (Community Outreach Coordinator) and Bailey Walkinshaw (Community Outreach Assistant) will begin to review applications and expect to have the position filled in the next month.
- The Operations Manager position has closed, and staff are in the process of reviewing applications and scheduling interviews for February. Staff are hopeful that a candidate will be selected and announced at the next Board meeting.
- The Project Coordinator position is set to close on February 2nd; however, few qualified applications were submitted. Staff will pull and restructure the position if necessary.

ii. 501c3 Application

Mary Jane Bass (Beggs & Lane) and staff are working to complete the Program's 501c3 application and anticipate submitting it in a few weeks.

iii. RESTORE Council Grantee Training

Staff visited Gulf State Park in late 2023 for the RESTORE Council Grantee Training on best practices, policies, and rules surrounding federal grant management.



- iv.** 2nd Annual Staff Planning Workshop
Staff held a two-day annual internal planning workshop to plan and coordinate the upcoming year's activities and priorities.
- v.** First Request for Qualifications (RFQ) Closing
Staff officially closed the Program's first RFQ for the Pensacola Bay Oyster Restoration Initiative. Staff received responses from seven firms and the selection committee will be convening over the next month to shortlist the firms and hold interviews.
- vi.** Jessica Bibza Panhandle Manatee Slow Ride
PPBEP hosted the Panhandle Manatee Slow Ride in partnership with Bike Pensacola and supported by Susan Bastajian, Realtor at Keller Williams, as a memorial ride and fundraiser to keep Jessica Bibza's legacy alive through the Panhandle Manatee Program. The ride had over 100 participants and raised over \$800, which will support the Jessica Bibza Panhandle Manatee Internship Program.
- vii.** Perdido Bay Tour
Woody Speed (City of Orange Beach) and Matt Posner (Director) met with representatives from the South Alabama Land Trust and the Perdido Bay Environmental Association to discuss collaborative opportunities between Alabama and Florida in the Perdido Bay Watershed.
- viii.** Deadman's Island
Logan McDonald (Community Outreach Coordinator) joined staff from the U.S. Army Corps of Engineers Mobile District, City of Gulf Breeze representatives, and local neighborhood representatives for a tour of Deadman's Island. Staff coordinated an opportunity to work with the U.S. Army Corps of Engineers to identify funding opportunities for the City of Gulf Breeze to provide a long-term solution for restoration and stabilization of Deadman's Island. The U.S. Army Corps of Engineers have committed approximately \$100,000 to the initial conceptual study and for additional coastal engineering work.
- ix.** Alabama Department of Environmental Management (ADEM) Nonpoint Source Conference
Matt Posner (Executive Director) and Haley Gancel (Environmental Scientist) attended and tabled at the ADEM Nonpoint Source Conference held in Wetumpka, Alabama. The conference was a good opportunity for staff to build and foster relationships with partners in the northern region of the Program's watersheds. Overall, partners from the state level to local government expressed willingness to work collaboratively on monitoring, prioritized restoration, water quality opportunities, or furthering education and outreach.



- x. NOAA Proposals Update

PPBEP is a part of three NOAA Climate Resilience Regional Challenge proposals with several partners. While there were approximately 800 Letters of Intent (LOI) submitted for the NOAA Climate Resilience Regional Challenge, only 59 LOIs were invited for full submittal, of which the Program is a part of three of those proposals. Full submittals are due by February 13th for funding awards ranging from \$50 million – \$75 million.

 - 1. Northwest Florida and Coastal Alabama Regional Resilience Initiative
Led by PPBEP, this proposal includes resilience projects from participating interlocal government members for a total funding request of approximately \$50.9 million.
 - 2. Bridging Resilience Gaps across Political Boundaries in the Perdido Watershed
This proposal is being led by The Nature Conservancy in Alabama for a total funding request of approximately \$74 million.
 - 3. Pensacola Bay System Oyster Restoration Initiative – Phase 1B
PPBEP would be a sub-awardee to Restore America’s Estuaries, if awarded PPBEP would receive \$4.5 million for 75 acres of oyster habitat restoration.

- xi. Legislative Priorities

State Legislative priorities updates were given during the Director’s Update.

 - 1. PPBEP Appropriation
PPBEP’s appropriation request of \$750,000 is running through Senator Broxson and Representative Andrade. Staff reported that the entire delegation has been supportive of the appropriation request in the past and staff are continuing to push for recurring appropriations in the Florida Department of Environmental Protection’s (DEP) budget.
 - 2. University of West Florida (UWF) Water Quality Center
UWF has developed a \$5 million proposal to establish a Water Quality Center at the university. As part of the request, there would be a recurring appropriation for each Estuary Program in the region. Under the current proposal, PPBEP would receive a \$500,000 recurring appropriation.
 - 3. Northwest Florida Water Restoration and Protection Program
The proposal would fund a new \$15 million grant program administered through the Northwest Florida Water Management District. The primary objective is to fund Surface Water Improvement and Management



(SWIM) Plans and CCMPs actions for each of the estuary programs located in Northwest Florida.

4. RESTORE Component 2 Northwest Florida Program
Staff are working with DEP to try to allocate funds from the next cycle of Component 2 for Northwest Florida. There are now geographic grant programs for most of Florida, except for the Northwest and Big Bend regions. Since the Northwest and Big Bend regions do not have dedicated funding streams and RESTORE funds are intended for the most impacted region, staff are pushing for funds to come to the Northwest Florida region. Staff are continuing to work with all board members to push projects and opportunities for funding with Component 2. Discussion was held on what Component 2 is and background information on the Gulf Coast Ecosystem Restoration Council. The RESTORE Council has a funding cycle every few years and are currently evaluating pre-proposals. During the last funding cycle, the State of Florida received around \$80M-90M for hydrologic restoration, water quality projects, and coastal resilience.
 5. DEP Water Quality Grant Program & Resilient Florida Grant Program
This grant program has been adopted in statute to continue to support DEP and the Resilient Florida Grant Program for local governments.
 6. HB1557
HB1557 is DEP's legislative package that includes the addition of "estuary applicants" as eligible applicants for the Resilient Florida Grant Program.
 7. SB1638
SB1638 is a bill that would establish several different funding streams through DEP and other state departments. Staff highlighted two opportunities, one of which will be a local government grant program to maintain trails, perform land management, and establish a new Water Quality Work Program through DEP. DEP is working to address water quality protection and infrastructure needs across the state from local and state governments. The Water Quality Work Program would focus on developing a revolving loan fund and a prioritized list of water-quality infrastructure related projects.
- b. **Technical Update** (*Whitney Scheffel, Senior Scientist*)
- i. Staff attended the NOAA Facilitation Training for Coastal Managers; Whitney Scheffel (Senior Scientist) attended the in-person training at Weeks Bay NERR and Bailey Walkinshaw (Community Outreach Assistant) attended the virtual training. Estuary Programs throughout the area—St. Andrew and St. Joseph Bays Estuary Program (SASJBEP), Mobile Bay Estuary Program, and the new Mississippi Sound Estuary Program—attended the trainings and allowed staff to



connect with other Estuary Programs.

- ii. Staff visited four of the ten living shoreline site locations that will be studied to evaluate the success of regional living shoreline projects. Zach Schang (DEP) and Liz Farmer (SASJBEP) accompanied staff to learn more about the history of the sites. Staff met with the property owners and already have a strong foundational relationship with the owners thanks to relationships developed by Zach Schang (DEP). The property owners expressed a willingness to allow PPBEP to monitor their living shorelines and excitement over having more monitoring at their property.
 - iii. Staff will be attending the Gulf of Mexico Conference in Tampa, FL and participating in workshops on seagrass monitoring, engaging communities, oyster restoration, in addition to engaging in networking opportunities—staff already have a meeting scheduled with the Tampa Bay Estuary Program.
 - iv. The Comprehensive Monitoring Workshop will be on February 29th to bring together representatives from agencies and organizations that conduct monitoring throughout Alabama and Florida. The goal of the workshop is to develop a framework for comprehensive monitoring across the watershed. There are already 40 people registered, and staff are expecting a turnout of approximately 50 people from non-governmental organizations, community groups, and state and federal agencies that conduct monitoring.
- c. **Outreach Update** (*Logan McDonald, Community Outreach Coordinator*)
- i. 3rd Annual Management Conference Meeting
Staff shared the save the date for the 2024 Management Conference Meeting along with this year's theme - Beyond Boundaries: Watershed Partnerships for Progress. The partnership theme is reflected by a Project Development Mixer breakout session that will encourage attendees from different entities to get together and collaborate on future regional projects and grant proposals.
 - ii. Education Programs
 1. B-WET support will continue through the 2024-2025 academic year. Starting in 2025, the Program will hold an annual Teachers on the Bay workshop where teachers can have immersive field experiences on restoration topics.
 2. During the summer, staff will develop field trip packages to offer to K-12 students. Staff are planning to develop three different field trip options: Seagrass Sleuths (seining), Kayaking, and Snorkeling. Seagrass Sleuths will be offered as a family activity once a month during the summer as well.



3. Homeschool activities will be offered once a semester due to demand.
 4. The Watershed Game will be offered in classrooms after staff are fully trained as facilitators and have trained volunteers as Watershed Game Facilitators. The Watershed Game is a board game developed for participants to learn about complex watershed issues in a fun, low risk environment. Staff are hosting a practice day on March 22nd at the PPBEP Office where volunteers are needed to act as participants while staff practice acting as facilitators.
- iii. Tours
1. Restoration Rambles is a new program offered from November to April to encourage community members to get out and learn about local restoration projects through a guided walking tour. Staff received positive feedback from the first Restoration Ramble which was held on New Year's Day at the Escribano Point Wildlife Management Area, exploring The Nature Conservancy's East Bay Oyster Habitat Restoration Project.
 2. Alternating with Restoration Rambles, staff will lead monthly kayak tours from May to October.
- iv. Outreach Programs
1. Tidal Talks will be a formal evening lecture series that is hosted quarterly at rotating locations.
 2. Staff will be hosting bi-monthly trivia due to the high demand. A total of 15 teams participated in the Program's last trivia night. Staff will also screen The Humble Oyster film at brewery pop ins throughout the watersheds.
 3. To reach a broader audience, staff will be targeting employers in the watersheds to coordinate Corporate Lunch and Learns.
- v. Upcoming Events
1. The next Restoration Ramble will be at Project Greenshores on Friday, February 9th from 11:00 AM to 12:00 PM CT.
 2. Staff will screen The Humble Oyster at St. Michael's Brewing Company as a part of their Oysters & Pints Fest on February 10th.
 3. The 3rd Annual Mardi Gras Bead Tree Clean-Up is on Sunday, February 11th in downtown Pensacola from 8:00 AM to 12:00 PM CT. The sign-up is



at capacity, so staff are anticipating a good turnout.

4. Manatees & Meadows Trivia Night will be held at Beardless Brewhaus in Pace on Tuesday, February 27th from 6:00 PM to 8:00 PM CT.

vi. Events Attended

1. Staff attended the Florida Marine Science Educators Association Fish Identification Workshop hosted at the Navarre Beach Marine Science Station.
2. Staff presented and screened The Humble Oyster film at the Santa Rosa County Tourist Development Office Snowbirds Program.

Staff attended the Southern Association of Marine Educators Annual Meeting at Gulf State Park in late January to network with other Gulf coast marine educators, including partners in Alabama.

3. Staff were invited to speak about the importance of oyster restoration and share the Program's Pensacola Bay Oyster Restoration Initiative at the Atlas Oyster House event "The World is Your Oyster: A Collaboration Dinner" on November 21st. Staff have already been invited back for another collaboration dinner in March.

vii. Volunteer Programs

1. PPBEP has fully taken over the program Panhandle Manatee, staff renamed the volunteer opportunity as "Manatee Ambassadors" for branding consistency.
2. Staff will be focused on continuing to grow the Bay Ambassadors program, along with Critter Catchers and Observation Tank Ambassadors.
3. Watershed Game Facilitators will be an added volunteer program once staff are trained and ready to bring on volunteers.
4. Vertical oyster gardening is expected to launch in the fall.

viii. Program Messaging Priorities for 2024

Program messaging in 2024 will focus on bay friendly yards, living shorelines, partnering with visitor centers to highlight Estuary Explorers, and developing materials for the oyster shell recycling program. The Trash Free Waters video series is expected to roll out this year and resilience mailers were already distributed in the City of Pensacola.

7. Action Items



a. **Approval of the FY23-24 First Quarter Financial Report**

Matt Posner (Executive Director) provided commentary on the FY23-24 First Quarter Financial Report prepared by staff and accounting services provider Carr, Riggs & Ingram, including that the Finance Subcommittee met before the Board of Directors meeting and approved the same FY23-24 First Quarter Financial Report, the Program will be reporting quarterly, and that staff expect to bring forward a re-budget in the March Board of Directors meeting.

Vernon Compton (City of Milton) made a motion to approve the FY23-24 First Quarter Financial Report. Commissioner Colten Wright (Santa Rosa County) seconded the motion. The motion passed unanimously.

b. **Affirm 2024 Bank Signature Authority**

Matt Posner (Executive Director) provided background that this motion is to update the signature authority for the appointments made for the Chairman and Vice Chairman.

Commissioner Mike Kohler (Escambia County) made a motion to affirm calendar year 2024 signature authority for the Chairman, Vice Chairman, and Executive Director for Pensacola and Perdido Bays Estuary Program's Hancock Whitney Bank accounts. Mike Norberg (Okaloosa County) seconded the motion. The motion passed unanimously.

c. **Ratifying Approval of Executive Director's Action Authorizing Brett J. Cyphers of Anfield Consulting Group Inc. to Serve as Pensacola and Perdido Bays Estuary Program's State Lobbyist for FY23-24**

Discussion was held on the many benefits of having a dedicated lobbyist, potential conflicts with obtaining 501(c)(3) status, and whether PPBEP is anticipating paying for a lobbyist after FY23-24. PPBEP currently does not have a budget for lobbying services but could re-evaluate in the next fiscal year. Mary Jane Bass (Beggs & Lane) and Matt Posner (Executive Director) have previously discussed that there is no current issue with Brett J. Cyphers to serve as PPBEP lobbyist since PPBEP is not paying for it, but re-evaluation would be necessary if PPBEP were to pay for lobbying in the future to not jeopardize the 501(c)(3) designation. If PPBEP were to designate funding for lobbying, it would run accordingly with procurement policies.

Commissioner Colten Wright (Santa Rosa County) made a motion to ratify approval of the Executive Director's action authorizing Brett J. Cyphers of Anfield Consulting Group Inc. to serve as Pensacola and Perdido Bays Estuary Program's state lobbyist, at no cost, for FY23-24. Commissioner Mike Kohler (Escambia County) seconded the motion. The motion passed unanimously.

d. **Approval of a Purchase Order with Lensea Films, in the amount of \$20,000, for Video Production Services in Support of the Trash Free Waters Litter Prevention Campaign**

Discussion was held on the purchase agreement hosted through Escambia County.

Commissioner Mike Kohler (Escambia County) made a motion to approve a purchase order



with Lensea Films, in the amount of \$20,000, for video production services in support of the Trash Free Waters Litter Prevention Campaign. Vernon Compton (City of Milton) seconded the motion. The motion passed unanimously.

e. Ratifying Approval of a Minor Revision to Subaward Agreement No. NOAA23-02 to The Nature Conservancy, in the amount of \$351,417, in Support of the Pensacola Bay Oyster Restoration Initiative

Matt Posner (Executive Director) provided context that there was a minor change requested by The Nature Conservancy since the last approval during the November 2023 Board of Directors meeting.

Vernon Compton (City of Milton) made a motion to ratify approval of a minor revision to Subaward Agreement No. NOAA23-02 to The Nature Conservancy, in the amount of \$351,417, in support of the Pensacola Bay Oyster Restoration Initiative. Mike Norberg (Okaloosa County) seconded the motion. The motion passed unanimously.

f. Approval of Subaward Agreement No. NOAA23-06 to The City of Orange Beach, in the amount of \$220,000, in Support of the Perdido Watershed Habitat and Community Resilience Initiative

Commissioner Mike Kohler (Escambia County) made a motion to approve, and authorize the Executive Director to sign, Subaward Agreement No. NOAA23-06 to The City of Orange Beach, in the amount of \$220,000, in support of the Perdido Watershed Habitat and Community Resilience Initiative. Commissioner Colten Wright (Santa Rosa County) seconded the motion. The motion passed unanimously.

8. Discussion Items

a. FY24-25 Florida Legislative Priorities

The FY24-25 Florida Legislative Priorities were covered during the Director's updates.

b. Florida Retirement System Update

Matt Posner (Executive Director) and Mary Jane Bass (Beggs & Lane) have been working through the process of enrolling PPBEP employees back into the Florida Retirement System (FRS) for approximately a year. Mary Jane Bass (Beggs & Lane) provided an update on the informal petition that was filed last year with the Department of Management Services, under which the Florida Division of Retirement falls. While there is nothing in the statute that says nonprofits are precluded from participating in the FRS, a section of a regulation states that membership is not permitted for officers and employees of any nonprofit association or corporation. Staff inquired about a legislative solution with Senator Broxson's staff, but passing a legislative solution seems improbable due to the complexity of opening FRS eligibility opportunities and potentially causing strain on the FRS. Mary Jane Bass (Beggs & Lane) recommended the board to pass a motion to withdraw the informal petition, terminating the proceedings, and authorize staff to look for alternative retirement options in the private sector. Discussion was held on potential structural solutions, such as where staff



are employed by a local government and loaned to an affiliate entity to gain FRS eligibility, however it was expressed that restructuring the Program would not be favorable, especially after working to gain independent status for the Program.

Commissioner Colten Wright (Santa Rosa County) made a motion to withdraw the informal petition, terminate the proceedings, and authorize staff to explore alternative retirement options. Commissioner Mike Kohler (Escambia County) seconded the motion. The motion passed unanimously.

c. Matt Posner (Executive Director) Pay Out

Discussion was held on Escambia County's ability to pay out the approved 80 hours of Paid Time Off (PTO) to Matt Posner (Executive Director). The Natural Resource Department does not have the funding budgeted for this fiscal year to pay out the 80 hours of PTO, so staff suggested reinstating the 80 hours of PTO to be spent within the calendar year.

Commissioner Colten Wright (Santa Rosa County) made a motion for Matt Posner (Executive Director) to be credited back the 80 hours of PTO to be used within this calendar year in lieu of Escambia County not being able to pay out the 80 hours of PTO. Vernon Compton (City of Milton) seconded the motion. The motion passed unanimously.

9. Committee Updates

a. Technical Committee (*Paul Looney, WRA / Technical Committee Chairman*)

The last Technical Advisory Committee was on November 28th and had a turnout of 30 participants—coming from three states (Florida, Alabama, and Mississippi) and a mixture of affiliations from state, county, and university representatives to nonprofit or community organizations. Elections for Chairman and Co-Chairman were held, Paul Looney (WRA) and Casey Fulford (AACD) were appointed respectively.

Dr. Jane Caffrey (UWF) gave a presentation at the meeting on “A Historic Perspective on Seagrass Beds in Western Santa Rosa Sound”, providing a synthesis on historical seagrass coverage in the Santa Rosa Sound and current observations from the citizen science seagrass monitoring project. Overall, the seagrass beds are stable, though there are a couple of areas that experience heavy seasonal microalgal growth and some hydrogen sulfide issues. Barbara Albrecht (BFA/UWF AIMS) also shared by presenting “What Can Oysters Reveal About the Influences of Landscape Changes on Sedimentation in the Carpenter Creek-Bayou Texar Watershed?”. The presentation provided an overview of an oyster project funded by the Bayou Texar Foundation with additional support from the University of Florida and the Satori Foundation. This project will look at the effect of oysters on water quality improvement in Bayou Texar and builds off the Bream Fishermen Association Pensacola Oyster Project conducted in 2018. Students from the Trinitas Christian School have volunteered to help construct oyster cages and stringers for the project.



There was also a discussion around the data dashboard development, raising questions such as how to determine what data are acceptable due to varying methodologies and standards across different organizations, and how to develop a standard for what are considered acceptable data. Example dashboards, such as the Tampa Bay Estuary Program, were looked at and discussed, along with questions surrounding who the intended audience is and the development of visuals.

Two upcoming events were shared; the PPBEP Comprehensive Monitoring Workshop is on February 29th and the Society of Wetlands Scientists Conference will be held in June on Pensacola Beach.

- b. Education and Outreach Committee (*Thomas Derbes, FL Sea Grant / Education and Outreach Committee Co-Chairman*)
During the last Education and Outreach Committee meeting in December, Thomas Derbes (FL Sea Grant) and Rick O'Connor (FL Sea Grant) were elected as Co-Chairmen. The next meeting will be tomorrow, February 1st, and will focus on messaging for the Living Shorelines Cost Share Program.
- c. Oyster Subcommittee (*Thomas Derbes, FL Sea Grant / Oyster Subcommittee Co-Chairman*)
Thomas Derbes (FL Sea Grant) and Chris Verlinde (Santa Rosa County) are the current Co-Chairmen. There has not been a meeting since the last Board of Directors meeting, but the subcommittee will be meeting soon and will focus on holding one-on-ones with people in the oyster aquaculture industry. Discussion was held on where the plants for the Living Shorelines Cost Share Program are being sourced.

10. Board/Agency Updates

- a. Vernon Compton (City of Milton) acknowledged and thanked the following:
 - Santa Rosa County—Commissioner Kerry Smith and Commissioner Colten Wright, including the entire Board of Santa Rosa County Commissioners and staff—on the Naval Air Station Whiting Field Buffer Acquisition, a water quality and conservation project with recreational opportunities. This will be the second project that Santa Rosa County has taken the lead role on and has garnered positive feedback from the community.
 - Okaloosa County—Mike Norberg and the entire Board of Okaloosa County Commissioners and staff—on the Florida National Scenic Trail, a \$2.4M project that has been desired for over 20 years and the largest bridge project along the Florida National Scenic Trail. Okaloosa County with the Tourist Development Council are investing \$1M of the \$2.4M in the project.



- City of Pensacola—Councilperson Jared Moore, Mayor D.C. Reeves, and all the Council Members and staff—on the Bruce Beach Revitalization Project for the native tree selection, diversity of trees, and the huge stormwater and public benefits that this project will have for the community.

- b. Commissioner Colten Wright (Santa Rosa County) shared that he was able to meet with the Assistant Administrator of FEMA during his recent trip to Washington D.C. as part of the Northwest Florida Defense Coalition. Commissioner Wright shared that there are opportunities available for FEMA to fund significant improvements such as shoreline restoration, oyster habitats, and living shorelines by attaching the improvements to infrastructure projects that our municipalities may want to put forward. Commissioner Wright expressed that the staff should do additional research into these potential opportunities and that Board Members should consider FEMA funding improvement opportunities when discussing infrastructure projects as well.

11. Public Comment

No comments.

12. Adjourned



Agenda Item 6.a.

Approval of Submitting a Letter of Support to Governor DeSantis Regarding PPBEP's Legislative Appropriations

Background: On March 8, 2024, the Florida Legislature adopted the fiscal year 2024-2025 budget. Included in the final budget is a \$750,000 direct appropriation to the Estuary Program and a \$5 million appropriation to the University of West Florida Water Quality Center, which includes a minimum recurring appropriation of \$500,000 to the Estuary Program.

As provided in past years, staff is recommending approval of submitting a letter of support to Governor DeSantis requesting he maintain funding levels for the Estuary Program and the UWF Water Quality Center as adopted by the Legislature.

This is the fifth year in a row the Legislature has approved the Estuary Program's full appropriation request. This would not be possible without the support and leadership of the Legislative Delegation.

Recommendation: Recommend the Board approve submitting a letter of support to Governor DeSantis requesting he maintain funding levels for the Pensacola and Perdido Bays Estuary Program and University of West Florida Water Quality Center as adopted by the Legislature in the FY25 budget.

Financial Impact: None.



March 20, 2024

The Honorable Ron DeSantis
Governor
The State of Florida
The Capitol
400 S. Monroe St.
Tallahassee, FL 32399-0001

Dear Governor DeSantis,

On behalf of the Pensacola and Perdido Bays Estuary Program, thank you for your continuous investment in the restoration and preservation of Florida's critically important water resources. These historic investments will truly leave a lasting legacy and will greatly enhance the resiliency of the state of Florida.

As you continue to deliver on your bold initiative to protect Florida's environment, I want to call attention to line item 1732A Pensacola & Perdido Bays Estuary Program Restoration Initiative and Community Grant Program within the 2024-2025 State Budget submitted to you by the Florida Legislature. The \$750,000 appropriation to the Pensacola and Perdido Bays Estuary Program will provide critical funding to implement the Program's Comprehensive Conservation and Management Plan. The appropriation will support implementation of water quality, habitat restoration, resiliency, monitoring, and educational initiatives throughout the Pensacola and Perdido Bay watersheds.

Through these resources, the Pensacola and Perdido Bays Estuary Program and our partner agencies will leverage three National Ocean and Atmospheric Administration (NOAA) Transformational Habitat Restoration and Coastal Resiliency Grants totaling over \$15 million. Specifically, the appropriation will support implementation of the Program's Pensacola Bay Oyster Restoration Initiative, a ten-year goal to restore 600 hectares of oyster habitat in Pensacola Bay. Through the Estuary Program, local governments across Northwest Florida and South Alabama are working together like never before to restore and protect what matters most.

The Pensacola and Perdido Bays Estuary Program Board of Directors fully supports this project and appreciates your consideration in preserving this funding for the benefit of Northwest Florida's estuaries. Should you have any questions related to the appropriation, please contact Pensacola and Perdido Bays Estuary Program Executive Director, Matt Posner, via phone at 850.595.0820 or via email at mjposner@ppbep.org.

Warm Regards,

Michael S. Kohler, Chairman
Pensacola and Perdido Bays Estuary Program

Cc: Secretary Shawn Hamilton, Florida Department of Environmental Protection
Kim Cramer, Office of Policy and Budget, Executive Office of the Governor



March 20, 2024

The Honorable Ron DeSantis
Governor
The State of Florida
The Capitol
400 S. Monroe St.
Tallahassee, FL 32399-0001

Dear Governor DeSantis,

On behalf of the Pensacola and Perdido Bays Estuary Program, thank you for your continuous investment in the restoration and preservation of Florida's critically important water resources. These historic investments will truly leave a lasting legacy and will greatly enhance the resiliency of the state of Florida.

As you continue to deliver on your bold initiative to protect Florida's environment, I want to call attention to line item 147 University of West Florida (UWF) Water Quality Research Center within the 2024-2025 State Budget submitted to you by the Florida Legislature. The \$5 million appropriation to UWF provides a transformational opportunity to bring together university resources with the Pensacola and Perdido Bays Estuary Program, Choctawhatchee Basin Alliance, and St. Andrew and St. Joseph Bays Estuary Program.

Through these resources, UWF will be equipped to work with each Estuary Program to provide data-driven guidance on restoration project investment opportunities, and support watershed-scale monitoring. Specifically, the appropriation will support the Pensacola and Perdido Bays Estuary Program through the implementation of our Comprehensive Conservation and Management Plan.

The Pensacola and Perdido Bays Estuary Program Board of Directors fully supports this project and appreciates your consideration in preserving this funding for the benefit of Northwest Florida's estuaries. Should you have any questions related to the appropriation, please contact Pensacola and Perdido Bays Estuary Program Executive Director, Matt Posner, via phone at 850.595.0820 or via email at mjposner@ppbep.org.

Warm Regards,

Michael S. Kohler, Chairman
Pensacola and Perdido Bays Estuary Program

Cc: Secretary Shawn Hamilton, Florida Department of Environmental Protection
Kim Cramer, Office of Policy and Budget, Executive Office of the Governor



Agenda Item 6.b.

Approval of Submitting a Letter of Appreciation to Senator Rubio and Senator Scott Regarding National Estuary Program Designation

Background: On Tuesday, March 12, 2024, the U.S. Senate unanimously approved Senate Bill 50, the Pensacola and Perdido Bays Estuary of National Significance Act, directing the Administrator of the Environmental Protection Agency to formally enroll the Pensacola and Perdido Bays Estuary Program into the National Estuary Program as an “Estuary of National Significance”. The bill now heads to the U.S. House of Representatives for adoption.

Senator Rubio and Senator Scott initially introduced legislation in 2021 and reintroduced the bill in January 2023. Once adopted by the House and signed into law, it is anticipated PPBEP would be eligible for funding in fiscal year 2025-2026.

Recommendation: Recommend the Board approve submitting a letter of appreciation to Senator Rubio and Senator Scott regarding their leadership in co-sponsoring legislation to designate PPBEP as a National Estuary Program.

Financial Impact: None.



Agenda Item 6.c.

Ratifying Approval of Florida State University Subcontract No. R000003338 with the St. Andrew & St. Joseph Bays Estuary Program, in the amount of \$324,321, for the Florida RESTORE Act Centers of Excellence Living Shorelines Effectiveness Monitoring Project

Background: Per the Unanimous Written Consent to Resolutions, the Chairman and Vice Chairman are authorized to designate officers and agents to sign or countersign checks, drafts or other orders for the payment of money issued in the name of the Corporation against any such account.

Recommendation: Recommend the Board ratify approval of the Executive Director's action approving Florida State University Subcontract No. R000003338 with St. Andrew & St. Joseph Bays Estuary Program, in the amount of \$324,321, for the Florida RESTORE Act Centers of Excellence Living Shorelines Effectiveness Monitoring Project. Note: at the November 8, 2023 Board meeting, the Board approved the scope of work, and authorized entering into the subaward agreement.

Financial Impact: This action will increase the Grant Fund revenue account by \$324,321.

Legal Review: General Counsel has reviewed and approved of the FSU Subcontract.

Research Subcontract

Subcontract No. R000003338 ("Subcontract")



Subcontract is entered into between Contractor and Subcontractor named below for the performance of a portion of the Scope of Work originally awarded to Contractor. The parties agree to the following terms and conditions:

The FLORIDA STATE UNIVERSITY ("Contractor") Sponsored Research Administration 874 Traditions Way, Third Floor Tallahassee, FL 32306-4166	INSTITUTION/ORGANIZATION ("Subcontractor") Name: Pensacola and Perdido Bays Estuary Program, Inc. Address: 226 Palafox Place Pensacola, Florida 32502-5846
Contractor PI: Jessica Graham	Subcontractor PI: Matthew J. Posner
Prime Funding Entity: State of Florida Institute of Oceanography Prime Funding Entity Award No.: SUBAGREEMENT # 4710-1135-00-A	FAIN: N/A This Subcontract is: <input checked="" type="checkbox"/> Research & Development
Subcontract Period of Performance (Budget Period): Start: 11/1/2023 End: 4/30/2026	Amount Funded This Action: \$324,321.00
Estimated Project Period (if incrementally funded): Start: 11/1/2023 End: 4/30/2026	Incrementally Estimated Total: \$324,321.00

Project Title: *Assessing restoration success and ecosystem services across the Panhandle Region to assist in restoration target setting*

Terms and Conditions

1. Contractor hereby awards a cost reimbursable subcontract as described above, to Subcontractor. The statement of work, deliverables and reporting requirements for Subcontract are shown in Attachment 4. The budget information for this Subcontract is shown in Attachment 5.
2. Contractor shall reimburse Subcontractor not more often than monthly for allowable, allocable and reasonable costs for the work performed under this Subcontract. All invoices shall be submitted using Subcontractor's standard invoice, but at a minimum shall include current and cumulative costs, including expenditure documentation in detail sufficient for a proper pre and post audit, subcontract number, and certification as to truth and accuracy of invoice. All invoices shall be submitted at a line-item detail equal to the detailed budget in Attachment 5. *Invoices that do not reference Contractor's subcontract number shall be returned to Subcontractor.* Invoices and questions concerning invoice receipt or payments should be directed to the appropriate party's Financial Contact as shown in Attachment 3A.
3. A final statement of cumulative costs incurred, including cost sharing, marked "FINAL," must be submitted to Contractor's Financial Contact, as shown in Attachment 3A, NOT LATER THAN 30 days after Subcontract end date. The final statement of costs shall constitute Subcontractor's final financial report.
4. All payments shall be considered provisional and subject to adjustment within the total estimated cost in the event such adjustment is necessary as a result of an adverse audit finding against Subcontractor.
5. Matters concerning the technical performance, scientific, and programmatic aspects of Subcontract should be directed to the appropriate party's Principal Investigator as shown in Attachments 3A and 3B. Technical reports are required as described in Attachment 4, "Reporting Requirements." Payments shall be withheld until the required reports have been received and approved by Contractor.
6. Matters concerning the request or negotiation of any changes in the terms, conditions, or amounts cited in this Subaward, and any changes requiring prior approval, shall be directed to each party's Administrative Contact, as shown in Attachments 3A and 3B. Any such change made to this Subaward requires the written approval of each party's Authorized Official, as shown in Attachments 3A and 3B.
7. The PTE may issue non-substantive changes to the Period of Performance and budget UNILATERALLY. The unilateral modification shall be considered valid 14 days after receipt unless otherwise indicated by Subrecipient when sent to Subrecipient's Contact, as shown in Attachment 3B.
8. Each party shall be responsible for its negligent acts or omissions and the negligent acts or omissions of its employees, officers, or directors, to the extent allowed by law.
9. No-cost extensions require the approval of Contractor. Any requests for a no-cost extension should be addressed to and received by the Administrative Contact as shown in Attachment 3A, not less than thirty (30) days prior to the desired effective date of the requested change.
10. By signing this Subcontract, including the attachments hereto which are hereby incorporated by reference, Subcontractor certifies that it will perform the Statement of Work in accordance with the terms and conditions of this Subcontract and the applicable terms of the Prime Award, incorporated as Attachment 6. The parties further agree that they intend this Subcontract to comply with all applicable laws, regulations and requirements.

The Florida State University Board of Trustees, a public Body corporate, Acting for and on behalf of The Florida State University <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;"> <small>DocuSigned by:</small>  <small>04491B81561242E</small> Stacey Patterson Vice President for Research </div> <div style="text-align: center;"> 3/1/2024 1:15 PM EST _____ Date </div> </div>	Signed By an Authorized Official of Subcontractor <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;"> <small>DocuSigned by:</small>  <small>937F4068B0D948A...</small> Matthew J. Posner Executive Director </div> <div style="text-align: center;"> 3/1/2024 12:55 PM EST _____ Date </div> </div>
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Research Subcontract
Attachment 1
Representations/Certifications and Special Terms/Conditions
Subcontract No. R000003338

Special Terms and Conditions:

Carryforward Requests:

Automatic Carryforward: Not allowed The Subcontractor shall submit a carryforward request to the Contractor’s Administrative contact as shown in Attachment 3A not less than sixty (60) days prior to the end of the budget period. The request for carryforward shall include a letter signed by the Subcontractor PI and an official authorized to sign for the Subcontractor. The letter shall include an explanation why the funds were not used, and how they will be spent in the upcoming budget period. A detailed budget identifying the proposed task, year, total expenses and a budget justification are required.

Rebudget:

The Subcontractor shall submit a request for any rebudgeting to the Contractor’s Administrative contact as shown in Attachment 3A. Failure to seek prior approval for rebudgeting may lead to a delay in payment of invoices.

Additional Invoice Requirement:

Florida State University is required to assess risk of non-compliance for each subaward/subcontract, pursuant to 2 CFR 200. Based on Florida State University’s risk assessment, the subcontractor shall furnish the information, as outlined below.

- 1) Expenditure detail (i.e. general ledger) as supporting documentation for all invoices, pursuant to the invoicing schedule within the subcontract terms and conditions
- 2) Expenditure receipts on questioned charges
- 3) Financial statements and/or financial reports, if applicable

The University may exercise the option to audit or consider performing a site visit or desk review. The University may withhold payments to the subcontractor for instances of non-compliance with the above listed requirements, if deemed necessary.

Agency-Specific Certifications/Assurances:

By signing this Research Subaward Agreement, Subcontractor makes the certifications and assurances required by Uniform Guidance: 2 CFR 200 et seq.

Promoting Objectivity in Research Applicable to Subcontractors (Conflicts of Interest):

Subcontractor must designate herein which entity’s Financial Conflicts of Interest policy (COI) will apply.

CONTRACTOR Subcontractor

To the best of its knowledge, Subcontractor covenants that it presently has no interest which would conflict in any manner or degree with the performance of the work authorized hereunder.

If applying its own COI policy, by execution of this Subcontract, Subcontractor certifies that its policy complies with the COI requirements of the PRIME Funding Entity.

Subcontractor shall report any actual or potential conflict of interest (financial or otherwise) to Contractor’s Administrative Representative and COI contact, as shown in Attachment 3A, within 10 business days. Any conflicts of interest identified shall, when applicable, be reported to the Prime Funding Entity. The portion of the project involving the conflict of interest shall cease until the conflict is resolved.

Failure to disclose a conflict of interest or comply with the terms of this provision may result in termination of this agreement.

Publications:

Reserved

**Research Subcontract
Attachment 2
General Terms and Conditions
Subcontract No. R000003338**

Article 1. Lobbying

Subcontractor is prohibited from using this funding for lobbying in accordance with 2 CFR 200.450 and Sections 11.062 and 216.347, Florida Statutes.

Article 2. Public Entity Crime Notice

Reserved

Article 3. Retention of Records

- A. The Subcontractor shall maintain full and complete records which directly pertain to this Subcontract for a period of five (5) years from the date of final payment or until all litigations, claims, or audit findings involving the records have been resolved if such claims or audit is started before the expiration of the said period.
- B. The Subcontractor agrees that the Contractor, or any of its duly authorized representatives, shall have access to any books, documents, papers and records of the Subcontractor which are directly pertinent to this Subcontract for the purpose of making audits, examinations, excerpts and transcriptions.
- C. The Subcontractor agrees that the Contractor has the right to monitor the Subcontractor's activities to provide reasonable assurance that the Subcontractor administers this Subcontract in compliance with the requirements of this Subcontract. At the Contractor's discretion, such monitoring activities may include, but not be limited to, the following:
 - 1) reviewing any and all reports submitted by the Subcontractor;
 - 2) performing site visits to the Subcontractor to review financial and programmatic records and observe operations; and/or
 - 3) arranging for limited-scope audits conducted in accordance with either the AICPA's generally accepted auditing standards or attestation standards, that are paid for and arranged by the Contractor and address only one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; matching, level of effort, earmarking; and, reporting.

Article 4. Chapter 215.97 F.S. "Florida Single Audit Act"

In the event that the recipient expends a total amount of state financial assistance equal to or exceeding \$750,000 in any fiscal year of such recipient, the recipient shall be required to have a state single or program-specific audit for such fiscal year in accordance with the requirements of Section 215.97, F.S. and the applicable rules of the Florida Department of Financial Services and the Florida Auditor General. The recipient shall, as a condition of receiving state financial assistance, allow the state awarding agency, the Department of Financial Services and the Auditor General access to the recipient's records and independent auditor's working papers as necessary for complying with Section 215.97, F.S.

Article 5. Audit and Access to Records

Subcontractor certifies by signing this Subcontract that it complies with the Uniform Guidance, will provide notice of the completion of required audits and any adverse findings which impact this Subcontract as required by 2 CFR 200.501-200.521, and will provide access to records as required by 2 CFR 200.336, 200.337, and 200.201 as applicable. If Subcontractor is not subject to the Single Audit Act, then Subcontractor will still provide notice of the completion of any required audits and provide access to such audits upon request.

Article 6. Section 215.422, F.S.

Provides that agencies have 5 working days to inspect and approve goods and services, unless bid specifications or the subcontract specifies otherwise. With the exception of payments to health care providers for hospital, medical, or other health care services, if payment is not available within 40 days, measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved, a separate interest penalty set by the State Comptroller pursuant to Section 55.03, F.S., will be due and payable in addition to the invoice amount. To obtain the applicable interest rate, please contact the Contractor Accounts Payable Section at 850-644-5021. Payments to health care providers for hospital, medical or other health care services, shall be made not more than 35 days from the date eligibility for payment is determined, and the daily interest rate is .03333%. Invoices returned to a vendor due to preparation errors will result in a payment delay. Invoice payment requirements do not start until a properly completed invoice is provided to the agency. A Vendor Ombudsman, whose duties include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a State agency, may be contacted at 850-488-2984 or by calling the State Comptroller's Hotline, 1-800-848-3792.

Article 7. Insurance

The responsibility for providing adequate liability insurance coverage on a comprehensive basis for all operations undertaken by Subcontractor under Subcontract shall be that of Subcontractor and shall be provided at all times during the existence of Subcontract. Subcontractor shall furnish Contractor with written verification of the existence of such coverage upon the request of Contractor.

Article 8. Subcontractor's Key Personnel

Subcontractor's Principal Investigator/Project Director, identified in Attachment 3B, is essential to the performance of this Subcontract. Any replacement of the Principal Investigator/Project Director shall only be made upon the prior written concurrence of Contractor.

Article 9. Public Records

Subcontractor shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, F.S., and made or received by Subcontractor in conjunction with this Subcontract. Provided, however, that such public access shall not apply to materials that relate to methods of manufacture or production, potential or actual trade secrets, patentable or potentially patentable material, business transactions, or proprietary information received, generated, ascertained, or discovered in conjunction with this Subcontract, which materials shall be treated in accordance with the legal rights of those persons or entities having the proprietary or other legal interest therein. Subcontractor's refusal to permit public access pursuant hereto shall be grounds allowing Contractor to unilaterally cancel this Subcontract.

Article 10. Independent Contractor

Subcontractor herein is an independent contractor, not a partner or joint venturer, and shall not act as an agent for the Contractor. Nor shall it be deemed to be an employee of the Contractor for any purpose whatsoever. Subcontractor shall not have any authority, either express or implied, to enter into any agreement, incur any obligations on the Contractor's behalf, or commit the Contractor in any manner whatsoever without the Contractor's express prior written consent. Each party assumes the risk of all liability arising from its respective activities pursuant to this Subcontract and from the acts or omissions of its respective officers, agents, and employees to the extent allowed by law.

Article 11. Notices

All notices or communications to either party by the other shall be delivered personally, sent by courier, U.S. registered or certified mail, postage prepaid, or transmitted via facsimile or electronic mail addressed to such party at the addresses shown in Attachment 3A and 3B, and shall be deemed given on the date so delivered.

Article 12. Remedies for Noncompliance

Reserved

Article 13. Termination

- A. Termination Because of Lack of Funds. In the event funds to finance this Subcontract become unavailable, the Contractor may terminate the Subcontract upon no less than twenty-four (24) hours' notice in writing to the Subcontractor. Said notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. The Contractor shall be the final authority as to the availability and adequacy of funds. In the event of termination of this Subcontract, the Subcontractor will be compensated for any work satisfactorily completed and any non-cancellable obligations incurred prior to notification of termination.
- B. Termination for Cause. Either party may terminate this Subcontract in the event of failure of the Contractor or Subcontractor to fulfill any of its obligations under this Subcontract. Prior to termination, Contractor or Subcontractor shall provide to the other written notification regarding the reason(s) for termination. If the parties cannot reach an agreement on the corrective measures to be taken and the schedule for corrective action, Contractor or Subcontractor may terminate this Subcontract by providing a minimum of ten (10) calendar days' written notice to the other. Said notice shall specify the effective time and date of termination. In the event of termination, Subcontractor will be reimbursed for all costs incurred and any non-cancelable obligations properly incurred through the date of termination.
- C. Either party may terminate this Subcontract with thirty (30) calendar days' written notice to the appropriate party's Administrative Contact, as shown in Attachment(s) 3A and 3B. Contractor shall pay Subcontractor for termination costs as allowable under Uniform Guidance, 2 CFR 200, or 45 CFR Part 75 Appendix IX, as applicable, and the Prime Award.

Article 14. Assignment or Subcontracting

Subcontractor shall not subcontract for the performance of any of its obligations hereunder without the prior written consent of Contractor, excluding manufacturing, printing and delivery, unless subcontracts are specifically identified in the approved budget or statement of work.

Article 15. Non-waiver

A waiver by either party of any of the terms or conditions, or covenants of this Subcontract in any instance shall not be deemed or construed to be a waiver of any such term, condition, provision, or covenant for the future, or any subsequent breach of same.

Article 16. Severability

If any provision of this Subcontract, as applied to either party or to any circumstance, shall be adjudged by a court to be void or unenforceable, the same shall in no way affect any other provision of this Subcontract or the validity or enforceability of this Subcontract.

Article 17. Force Majeure

Reserved

Article 18. Non-discrimination

Subcontractor agrees that no person will, on the basis of race, color, national origin, creed or religion be excluded from participation in, be refused the benefits of, or be otherwise subjected to discrimination pursuant to the Act governing these funds or any project, program, activity or subcontract supported by the requirements of, (a) Title VI of the Civil Rights Act of 1964 which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended which prohibits discrimination in employment or any program or activity that receives or benefits from federal financial assistance on the basis of handicaps; (d) Age Discrimination Act 1975, as amended which prohibits discrimination on the basis of age, (e) Equal Employment Opportunity Program (EEO) must meet the requirements of 28 CFR 42.301.

Contractor and Subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), (or for construction contractors, 41 CFR § 60-4.3(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

Article 19. Drug-Free Workplace Requirements

Reserved

Article 20. Smoke-Free Workplace Requirements

Public Law 103-227, Part C-Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library projects to children under the age of 18, if the projects are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's projects provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of this law may result in the imposition of a civil monetary penalty of up to \$1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

Article 21. Travel Regulations

Reimbursement of travel expenses shall be in accordance with 112.061 and 1004.22, Florida Statutes.

Article 22. Entire Subcontract

This Subcontract supersedes any previous oral or written agreements made by Contractor and Subcontractor regarding the work to be performed pursuant to the provisions of this Subcontract. Contractor and Subcontractor acknowledge that this Subcontract shall not be amended, modified, or revised except in writing and signed by authorized representatives of both parties.

Article 23. Intellectual Property

Reserved

Article 24. Cost Accounting Standards

Subcontractor represents that all budget items provided to Contractor under this Subcontract meet applicable Cost Accounting Standards and by signing this Subcontract, Subcontractor shall be responsible for any audit exceptions and repayment for any items determined not to be allowable in a Subcontract audit.

Article 25. Debarment/Suspension

Acceptance of this Subcontract serves as certification that Subcontractor or its principals: (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency; (b) have not within a three-year period preceding Subcontract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (c) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and (d) have not within a three-year period preceding this Subcontract had one or more public transactions (Federal, State or local) terminated for cause or default.

Subcontractor must immediately report to the Contractor's Administrative Contact as shown in attachment 3A if at any time during the project period, including periods of no-cost extension, they discover that they (a) failed to disclose information prior to the execution of this Subcontract or (b) due to changed circumstances the Subcontractor or any of its principals for the Contract now meet one or more of the criteria listed in sections (a) – (d) of this article.

Article 26. Program for Enhancement of Contractor Employee Protections (41 U.S.C. 4712)

Subcontractor is hereby notified that they are required to: inform their employees working on any federal award that they are subject to the whistleblower rights and remedies of the pilot program; inform their employees in writing of employee whistleblower protections under 41 U.S.C §4712 in the predominant native language of the workforce; and include such requirements in any agreement made with a subcontractor or subgrantee.

Article 27. Subcontractors

Subcontractor is responsible for ensuring that any low-tier subcontractor(s) complies with the terms and conditions of this Contract. Contractor remains fully responsible for the actions, omissions, and performance of any subcontractors in activities related to this Contract.

Article 28. E-Verify

Per section 448.095 (2)(a), Florida Statutes, Subcontractor agrees that it will enroll and participate in the federal E-Verify Program for Employment Verification for any newly hired employees. Subcontractor further agrees that it will require each lower tier subcontractor that performs work under this Subcontract to enroll and participate in the E-Verify Program for any newly hired employees. The Subcontractor further agrees to maintain records of its participation and compliance with provisions of the E-Verify program (including participation by its lower tier subcontractors), and to make such records available to Contractor, upon request.

Compliance with the terms of this Employment Eligibility Verification provision is made an express condition of this Subcontract, and Contractor may treat a failure to comply as a material breach of the Subcontract.

The rest of this page intentionally left blank

Research Subcontract Attachment 3A Subcontract No. R000003338 Contractor Contacts		
Name: Florida State University		
Address: 874 Traditions Way, Third Floor		
City: Tallahassee	State: FL	Zip Code + 4: 32306-4166
Administrative Contact		
Name: Emily Keough		
Address: 874 Traditions Way, Third Floor		
City: Tallahassee	State: FL	Zip Code + 4: 32306-4166
Email: ekeough@fsu.edu	Telephone: 850-644-3219	
COI Contact email (if different to above):	Mary Sechrist, Director of Research Compliance Email: m.sechrist@fsu.edu	
Principal Investigator		
Name: Jessica Graham		
Address: 4750 Collegiate Drive		
City: Panama City	State: FL	Zip Code + 4: 32405
Email: jgraham6@fsu.edu	Telephone: 850-770-2149	
Financial Contact		
Name: Angelle Gomez, Sponsored Research Accounting Manager II		
Address: 874 Traditions Way, Third Floor		
City: Tallahassee	State: FL	Zip Code + 4: 32306-4166
Email: SRASsubcontracts@fsu.edu	Telephone: (850) 644-8653	
E-Mail Invoices: YES	Invoice email (if different):	
Invoice Address (if different):		
Authorized Official		
Name: Stacey Patterson. Vice President for Research		
Address: 874 Traditions Way, Third Floor		
City: Tallahassee	State: FL	Zip Code + 4: 32306-4166
Email: subcontracts@fsu.edu	Telephone: (850) 644-5260	
Central email: subcontracts@fsu.edu		

**Research Subcontract
Attachment 3B
Subcontract No. R000003338
Subcontractor Contacts**

Subcontract Place of Performance

Name: Pensacola and Perdido Bays Estuary Program, Inc.

Address: 226 Palafox Place, 5th floor

City: Pensacola State: FL Zip Code + 4: 32502-5846

EIN: 93-1499384 Institution Type: Local Government

UEI/DUNS: W4XTAT4CFNP4 Parent UEI/DUNS:	Currently registered in SAM.gov: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Exempt from reporting executive compensation: X <input type="checkbox"/> Yes <input type="checkbox"/> No (if no, complete 3Bpg2)
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Congressional District: FL-01 Zip Code+4: 32502-5846

Administrative Contact

Name: Matthew J. Posner

Address: 226 Palafox Place, 5th floor

City: Pensacola State: FL Zip Code + 4: 32502-5846

Email: mjposner@ppbep.org Telephone: 850.595.0820

Principal Investigator

Name: Matthew J. Posner

Address: 226 Palafox Place, 5th floor

City: Pensacola State: FL Zip Code + 4: 32502-5846

Email: mjposner@ppbep.org Telephone: 850-595-1479

Financial Contact

Name: Matthew J. Posner

Address: 226 Palafox Place, 5th floor

City: Pensacola State: FL Zip Code + 4: 32502-5846

Email: Telephone:

Central Email: info@ppbep.org Is this the remittance address? x Yes No

Remittance Address (if different):

Address:

City: State: Zip Code + 4:

Authorized Official

Name: Matthew J. Posner

Address: 226 Palafox Place, 5th floor

City: Pensacola State: FL Zip Code + 4: 32502-5846

Email: mjposner@ppbep.org Telephone: 850.595.0820

Central email: info@ppbep.org

**Research Subcontract
Attachment 3B, Page 2
Place of Performance & Highest Compensated Officers
Subcontract No. R000003338**

Subcontractor Name: Pensacola and Perdido Bays Estuary Program, Inc.

PI Name: Matthew J. Posner

Highest Compensated Officers

The names and total compensation of the five most highly compensated officers of the entity(ies) must be listed if the entity in the preceding fiscal year received 80 percent or more of its annual gross revenues in Federal awards; and \$25,000,000 or more in annual gross revenues from Federal awards; and the public does not have access to this information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. See FFATA § 2(b)(1) Internal Revenue Code of 1986.

Officer 1 Name:

Officer 1 Compensation:

Officer 2 Name:

Officer 2 Compensation:

Officer 3 Name:

Officer 3 Compensation:

Officer 4 Name:

Officer 4 Compensation:

Officer 5 Name:

Officer 5 Compensation:

Research Subcontract
Attachment 4
Statement of Work, Deliverables, and Reporting Requirements
Subcontract No. R000003338

Statement of Work/Deliverables

PPBEP staff will lead site selection in the Pensacola and Perdido Bay systems in addition to compiling existing monitoring and spatial data from selected restored project sites. Staff will coordinate with agency project leads and program partners to conduct additional supplemental monitoring, when needed. PPBEP developed a Comprehensive Monitoring Strategy for the Pensacola and Perdido Bays watersheds and through that effort, staff compiled a comprehensive list of ongoing monitoring programs covering a suite of parameters across a range of focus areas (e.g., water quality, sediments, habitats, fish and wildlife). PPBEP staff will monitor pre-determined environmental parameters established by the project team quarterly at 10 restoration sites across the Pensacola and/or Perdido Bay systems. PPBEP will conduct monitoring to collect data on the following parameters: oyster density, oyster size distribution, oyster recruitment, ambient water quality (DO, pH, salinity, temperature), nutrient accumulation and removal (sediments), shoreline erosion/accretion, and fish communities. PPBEP will use established and comparable methods across the three estuaries in partnership with SASJBEP staff and project team.

PPBEP will also assist in the development of the monitoring and data management plans based on project goals. Staff scientists will work with the post-doctoral associate to manage the data collected and ensure QA/QC protocols are implemented. PPBEP will work with the project partners to develop innovative end products to communicate the importance of the project findings to end users (e.g., EP Technical Committees, public, County/City staff, decision makers, local leaders). Staff will also assist in the development of a future manuscript and any additional guiding documents or interactive platforms. The Program will host presentations and workshops with project team, when appropriate, at future Education and Outreach, Technical Committee, Oyster Sub-Committee, and Board of Director meetings.

The data collected as part of this project and any final products will be used to communicate the benefits of living shorelines on an estuary scale. This data will also be used in conjunction with recently completed Living Shoreline Suitability Models for Pensacola and Perdido Bay systems to incentivize the implementation of recommendations for the use of nature-based solutions and the development of a future Living Shoreline Cost Share Program. Data produced as a part of the project will allow PPBEP and its partners to leverage other funding sources for future projects to reach restoration goals and establish new targets. The project outputs will support future communications and engagements with local leaders to inform future decision making to ensure our communities are resilient to future environmental changes (e.g., sea-level rise, storms, development). As part of this project, PPBEP hopes to gain knowledge on the effectiveness of living shorelines in the Pensacola and Perdido Bay systems, including a better understanding of fisheries enhancement derived from living shorelines. This will also enable PPBEP to learn from previous restoration efforts, and adapt and improve future restoration designs.

Reporting Requirements

See **Attachment 4A**: Reporting and Deliverables (1 page)

Technical/progress reports on the project may be required by Contractor's Principal Investigator in order for the Contractor to satisfy its reporting obligations to the Prime Funding Entity.

PROPOSED REVISED SCHEDULE	
Due Date	Deliverable
2/15/2024	Report #3/Invoice #1 for November 1, 2023-January 30, 2024 (Y1Q3)
5/15/2024	Report #4/Invoice #2 for February 1-April 30, 2024 (Y1Q4)
8/15/2024	Report #5/Invoice #3 for May 1-July 31, 2024 (Y2Q1)
11/15/2024	Report #6/Invoice #4 for August 1-October 31, 2024 (Y2Q2)
2/15/2025	Report #7/Invoice #5 for November 1, 2024-January 30, 2025 (Y2Q3)
5/15/2025	Report #8/Invoice #6 for February 1-April 30, 2025 (Y2Q4)
8/15/2025	Report #9/Invoice #7 for May 1-July 31, 2025 (Y3Q1)
11/15/2025	Report #10/Invoice #8 for August 1-October 31, 2025 (Y3Q2)
2/15/2026	Report #11/Invoice #9 for November 1, 2025-January 30, 2026 (Y3Q3)
7/15/2026	Report #12/Invoice #10 (Final) for February 1-April 30, 2026 (Y3Q4)
10/15/2026	Final overall Subagreement progress report/financial statement with all supporting documents

Reporting: Reports are due on or before the schedule outlined above and must contain the following sections: 1) project summary, 2) Status of performance in relation to a) existing data collection, b) new data collection, c) data analysis, d) online mapping, and e) presentations, papers, and other materials created, 3) accomplishments, 4) challenges, 5) quarterly expenditures, and monitoring efforts of any sub-recipients, 6) any data management, 7) next quarterly goals

Data :All data old and newly acquired/collected should be transferred to SASJBEP following the data management plan that will be mutually agreed upon by the project team.

Materials: Any materials produced (brochures, presentations, papers, etc.)will be provided to SASJBEP with quarterly reports and must contain FLRACEP, FIO, SASJBEP logos.

Research Subcontract
Attachment 5
Subcontractor Budget Information
Subcontract No.: R000003338

Indirect Information: Indirect Cost Rate (IDC) Applied Cost Sharing Yes No
 Rate Type: Total Direct Costs (restricted by sponsor) If Yes, include Amount:

Budget Totals

Direct Costs
 Indirect Costs
 Total Costs

Budget Details

Budget Category	Year 1	Year 2	Year 3	Total
Personnel	\$ 36,250.00	\$ 72,000.00	\$ 72,000.00	\$ 180,250.00
Senior Scientist	\$ 21,250.00	\$ 42,000.00	\$ 42,000.00	\$ 105,250.00
Environmental Scientist	\$ 15,000.00	\$ 30,000.00	\$ 30,000.00	\$ 75,000.00
Fringe	\$ 12,687.00	\$ 25,200.00	\$ 25,200.00	\$ 63,087
Senior Scientist	\$ 7,437.00	\$ 14,700.00	\$ 14,700.00	\$ 36,837
Environmental Scientist	\$ 5,250.00	\$ 10,500.00	\$ 10,500.00	\$ 26,250.00
Supplies	\$ 3,500.00	\$ 4,500.00	\$ 3,500.00	\$ 11,500.00
Field Sampling Supplies	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 7,500.00
Office Supplies	\$ 1,000.00	\$ 1,000.00	\$ -	\$ 2,000.00
Boat Fuel	\$ -	\$ 1,000.00	\$ 1,000.00	\$ 2,000.00
Subaward	\$ -	\$ 20,000.00	\$ 20,000.00	\$ 40,000.00
Field Data Collection (FDEP)	\$ -	\$ 20,000.00	\$ 20,000.00	\$ 40,000.00
Indirect	\$ 5,244	\$ 12,170.00	\$ 12,070.00	\$ 29,484
Total	\$ 57,681	\$ 133,870.00	\$ 132,770.00	\$ 324,321

Personnel

The Senior Scientist (Whitney Scheffel) will lead field monitoring design and implementation, sample collection, and assist with data compilation and analysis. The Senior Scientist position is budgeted at 0.25 FTE per year for three years for a total of \$105,250.

The Environmental Scientist (Haley Gancel, Ph.D.) will lead field monitoring design and implementation, sample collection, and assist with data compilation and analysis. The Environmental Scientist position is budgeted at 0.25 FTE per year for three years for a total of \$75,000.

Fringe

The Pensacola and Perdido Bays Estuary Program uses a 35% fringe rate for full-time personnel, which includes FICA, Medicare tax, unemployment insurance, health insurance, life insurance, short and long-term disability insurance, and retirement contributions. Fringe for the Senior Scientist is budgeted at \$36,837 over the three-year project period. Fringe for the Environmental Scientist is budgeted at \$26,250 over the three-year project period.

Supplies

\$7,500 is budgeted for field supplies which includes sediment coring devices (e.g., syringe cores, PVC core tubes), sample collection bags, and processing supplies. Expendable supplies will support sample collections and post processing.

\$2,000 is budgeted for office supplies associated with project management, including printing costs, data management, and analysis software.

\$2,000 is budgeted for boat fuel and maintenance costs necessary to access project sites for monitoring during the quarterly sampling events (multiple days per event) throughout the project period.

Subaward

The subaward will cover Florida Department of Environmental Protection's Aquatic Preserve staff time for assisting with data compilation, field monitoring, and sample collection at the living shoreline project sites. This will cover 0.5 OPS positions per year for two years for a total of \$40,000.

Indirect

The Pensacola and Perdido Bays Estuary Program uses the federal de minimus rate of 10% based on total direct costs. \$29,484 is budgeted for indirect costs.



Agenda Item 6.d.

Ratifying Approval of a Revised Purchase Order with Step One Automotive Ford Crestview, in the Amount of \$48,248, for a Ford F-150 4X4 Super Crew Cab

Background: At the November 8, 2023 Board Meeting, the Board approved a Purchase Order to Step One Automotive, in the amount of \$47,026, for a Ford F-150 4x4 Super Cab. Following the January 2024 Board Meeting, upon further correspondence with Step One, staff became aware the wrong model was on order. The model intended to be purchased is a Ford F-150 4x4 Super Crew Cab. The Super Crew Cab is \$1,222 more than the Super Cab.

Staff is requesting ratification of the revised Purchase Order with Step One Automotive Ford Crestview, in the Amount of \$48,248, for a Ford F-150 4X4 Super Crew Cab.

Staff has received approval from the Florida Department of Environmental Protection to purchase a vehicle through the Program's FY23-24 Appropriation. Staff has identified a Ford F-150 4x4 Super Crew Cab as the most ideal long-term need to support Program operations, including monitoring, trailering kayak trailer and vessels, hauling materials for restoration projects, and transporting personnel and supplies for outreach events.

Staff has utilized the Florida Sheriff Association's Cooperative Purchasing Program, Contract #FSA 23-VEL31.0, to obtain quotes from three approved vendors in the western region.

Recommendation: Recommend the Board ratify approval of the Executive Director's action to revise and replace the Purchase Order to Step One Automotive Ford Crestview approved at the November 8, 2023 Board meeting with a corrected Purchase Order, in the amount of \$48,248, for a Ford F-150 4x4 Super Crew Cab.

Financial Impact: This action will encumber \$48,248 from DEP Grant Agreement No. OWP02 for purchase of the vehicle.

Legal Review: Use of the Florida Sheriff's Association Cooperative Purchasing Program has been approved by General Counsel.

STEP ONE AUTOMOTIVE GROUP
 4060 FERDON BLVD
 CRESTVIEW, FL 32536
 ERIC JORE
 GOVERNMENT SALES
 CELL 407-234-5116
 OFFICE 850-292-4580
 E-MAIL
 EJORE@STEPONEAUTO.COM



PROPOSAL

FORD CRESTVIEW

NAME PENSACOLA ESTUARY PROGRAM
EMAIL
ATTN
DATE 2-19-24

2024 FORD F150 SUPER CREW 4DR 4WD 145" WB SPEC 162 FSA	43,392.00
3.5 V-6 ECO BOOST ENGINE WITH 10 SPEED AUTO TRAN	1660.00
POWER WINDOW AND LOCKS	
VINYL 40/20/40 FRONT SEATS	
AM FM RADIO, A/C	
BLUE TOOTH	
RUNNING BOARDS	250.00
BACK UP SENSORS	
TRAILER TOW PKG WITH TRAILER BRAKE CONTROLLER	795.00
FACTORY TONNEAU COVER RETRACT	2200.00
LESS 1%	-49.00
DELIVERY 120-180 DAYS	
UNIT TOTAL	48,297.00

PURCHASER ACKNOWLEDGES:
 STEP ONE AUTOMOTIVE IS UNABLE TO GUARANTEE DELIVERY DATES DUE TO MANY FACTORS, NOT LIMITED TO BUT INCLUDING: PRODUCTION SCHEDULES, WEATHER, AVAILABILITY OF RAIL CARS, ETC.

ALL PAYMENTS ARE DUE ON A NET 30 DAY BASIS UPON RECEIPT OF EACH VEHICLE AS INVOICED REGARDLESS OF THE NUMBER OF VEHICLES ON THE PURCHASE ORDER.

We thank you for the opportunity to make this proposal and will appreciate your acceptance. Acceptance of this proposal will not be binding until this proposal is approved here in writing by an official of Step One Automotive. **Return of one copy of this proposal and your purchase order number constitutes your official acceptance.**

Respectfully submitted,
 Eric Jore
 Government Sales



Agenda Item 6.e.

Approval of University of West Florida Subaward No. 221276, in the Amount of \$349,999.39, for the Northwest Florida Estuary Water Quality Protection and Restoration Project Sponsored by Senator Broxson

Background: During the 2023 Florida Legislative session, the Legislature appropriated \$2 million to the University of West Florida (UWF) for the Northwest Florida Estuary Water Quality Improvement Project. This project was previously administered by the University of Florida. As part of the appropriation to UWF, the Estuary Program received \$350,000 for operational support to implement the Comprehensive Conservation and Management Plan, grant writing and project development, monitoring and technical support, and education and outreach programming.

Recommendation: Recommend the Board approve, and authorize the Executive Director to sign, University of West Florida Subaward No. 221276, in the Amount of \$349,999.39, for the Northwest Florida Estuary Water Quality Protection and Restoration Project Sponsored by Senator Broxson.

Financial Impact: This action will increase the Grant Fund revenue account by \$349,999.39.

Subcontract/Subaward Agreement
Subaward Number: 221276

<p align="center">UNIVERSITY OF WEST FLORIDA Acting for and on behalf of The University of West Florida Board of Trustees, a public body corporate (“UWF” or “PTE”)</p>		<p align="center">Pensacola and Perdido Bay Estuary Program (“PPBEP”) (SUBCONTRACTOR)</p>	
Research Administration and Engagement 11000 University Parkway Pensacola FL 32514-5750		Address: 226 Palafox Place, 5 th floor Pensacola, FL 32502-5846	
TEIN: 59-2976783	DUNS: 053000709	UEI: WHXVFCB1F1E3	TEIN: 93-1499384 UEI: W4XTAT4CFNP4
Does funding originate from a Federal prime source? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If yes, complete following Original Source of Funds: <u>Florida Department of Environmental Protection</u> Project or Funding Reference Number/PRIME AWARD: <u>LPA0594</u> Name of Federal Agency: <u>N/A</u> CFDA Number: <u>N/A</u> Name of Federal Program: <u>N/A</u>			
Contract Period of Performance: FROM: Upon Full Execution TO: 12/31/2025		Amount Funded \$349,999.39	Matching Funds \$0.00
Total \$349,999.39			
Project Title: Northwest Florida Estuary Water Quality Protection and Restoration			
Reporting Requirements: See Attachment 1			

Terms and Conditions

- (1) PTE hereby awards a cost reimbursable firm fixed price firm fixed rate contract for services to Pensacola and Perdido Bay Estuary Program (“PPBEP”), as described above. The statement of work and schedule of compensation are as specified in Subcontractor's proposal dated November 21, 2023 as shown in Attachment 1.
 - (2) PTE shall pay Subcontractor as shown in the payment schedule in Attachment 1. All invoices shall be submitted in form and detail sufficient for proper pre- and post-audit of expenditures using Subcontractor 's standard invoice. Invoices and questions concerning invoice receipt or payments should be directed to the appropriate party's Financial Point of Contact, as shown in Attachment 2. Payment for invoices is due upon receipt and shall be considered past due after 30 days. Past due invoices shall bear interest at the statutory rate applicable to state agencies.
 - (3) A final statement of costs incurred, marked "FINAL", will be submitted to PTE's Financial Point of Contact thirty (30) days after project end date or as shown in Attachment 1. The final statement of costs shall constitute Subcontractor's final financial report.
 - (4) Matters concerning the technical performance of this contract should be directed to the appropriate party's Program/Technical Point of Contact, as shown in Attachment 2.
 - (5) Matters concerning the request or negotiation of any changes in the terms, conditions, or amounts cited in this Contract should be directed to the appropriate party's Administrative Contact, as shown in Attachment 2. Any such changes made to this Contract require the written approval of each party's Authorized Official, as shown in Attachment 2.
 - (6) The Project Budget is set forth in Attachment 1.
 - (7) Either party may terminate this Contract with thirty (30) days written notice to the appropriate party's Administrative Point of Contact, as shown in Attachment 2. In the event of termination, PTE shall pay Subcontractor for work performed to the date of termination and all allowable, non-cancellable obligations.
 - (8) Changes to Period of Performance, including no-cost extensions require the approval of the PTE.
 - (9) This agreement requires Prime Contract Flow Down Provisions/Audit as outlined in Attachment 4 and Appendix A
 - (10) This Contract is comprised of this document and the Attachments 1-4 attached hereto, which are made a part hereof by reference.
- By signing below authorized representatives have executed this Contract to be effective for the Period of Performance shown above.

UNIVERSITY OF WEST FLORIDA

PENSACOLA AND PERDIDO BAY ESTUARY PROGRAM

Kuiyuan Li, Ph.D. Date
Interim Associate Vice President
Research Administration

Name: Matt Posner Date
Title: Executive Director

Jaromy Kuhl Date
Provost

Approved as to Form and Legal Sufficiency:

Office of the General Counsel Date

Attachment 1: STATEMENT OF WORK AND SCHEDULE OF COMPENSATION

This is a cost reimbursable fixed price fixed rate Agreement for services in the amount not to exceed \$349,999.39 to cover costs associated with the project identified on the previous page and as shown on the following Subcontractor's proposal and/or quotation.

The following deliverable items are due pursuant to the timetable identified below. The numbered invoice for each report or deliverable shall be sent concurrent with the period of performance corresponding to the deliverable on the due date shown.

REPORT/DELIVERABLE	DATE DUE	AMOUNT
Tasks 1, 2, 3, and 4		\$349,999.39
Total		\$349,999.39

PPBEP Tasks:

Task 1: CCMP Coordination and Implementation

Task 1 provides operational support to PPBEP to implement the goals, objectives, and actions in the Comprehensive Conservation and Management Plan (CCMP). This includes coordination with local, state, and federal partners to 1) identify priority issues, 2) identify funding opportunities and policy recommendations, and 3) implement actions to resolve the priority issues across the watersheds. CCMP implementation progress will be shared annually at PPBEP's Annual Meeting of the Management Conference (spring 2024).

Deliverables: 1) Annual Workplan and 2) Quarterly progress reports on CCMP implementation.

Task 2: Project Proposal Development

Task 2 will allow PPBEP staff to work with program partners, including local governments, state agencies, academia, non-profit organizations, and neighboring Estuary Programs to develop a suite of project proposals that align with the priorities of the CCMP. Outcome includes one or more regional/watershed-scale proposals to be considered for future grant opportunities, including Component 2 of the RESTORE Act.

Deliverables: 1) Quarterly progress reports on proposal development and 2) one or more finalized regional grant proposals.

Task 3: Monitoring, Research, and Technical Support

Task 3 will advance PPBEP's Comprehensive Monitoring Strategy. Task 3 will allow PPBEP staff to provide technical assistance related to identifying and acquiring bacterial and microbial source tracking data, connecting data analytics outcomes with stakeholder needs, prioritization of water quality improvement projects, to inform future microbial source tracking and remediation efforts. Task 3 will

also allow staff to assist with regional science coordination and communication, and begin preparing for the 2025 State of the Bays Report Card update.

Deliverables: 1) Quarterly progress reports on monitoring, research, and technical support provided.

Task 4: Outreach and Education

Task 4 will advance PPBEP's Education and Outreach Strategic Plan. Education and outreach mission is to increase environmental knowledge and community engagement through innovative environmental education and outreach. The education and outreach vision is an informed, connected, and engaged community that values and invests in the protection and restoration of its natural resources, leading to an improved quality of life for all. Task 4 will allow PPBEP staff to engage stakeholders, facilitate meetings and workshops, support volunteer events, and coordinate outreach and education opportunities.

Task 4 includes implementing PPBEP's Bay Ambassador Program, Critter Catcher Program, Panhandle Manatee Program, guided estuary excursions, classroom lessons and activities, and producing digital outreach content.

Deliverables: 1) Quarterly progress reports on outreach and education activities and 2) list of annual performance metrics (i.e. number of people reached and engaged).

**Attachment 2
CONTACT REPRESENTATIVES**

University of West Florida Contacts		Pensacola and Perdido Bay Estuary Program	
EIN: 59-2976783 / UEI: WHXVFCB1F1E3		EIN: 93-1499384/ UEI: W4XTAT4CFNP4	
Administrative Point of Contact		Administrative Point of Contact	
Name:	Sarah Milligan	Name:	Matt Posner
Title:	Grant Specialist	Title:	Executive Director
Address:	Research Administration and Engagement 11000 University Parkway Pensacola FL 32514-5750	Address:	226 Palafox Place, 5 th floor
City ST Zip	Pensacola FL 32514-5750	City ST Zip	Pensacola, FL 32502-5846
Phone:	(850) 474-2825	Phone:	850-595-0820
E-mail:	smilligan@uwf.edu	E-mail:	mjposner@ppbep.org
Program/Technical Point of Contact		Program/Technical Point of Contact	
Name:	Jane Caffrey, Ph.D.	Name:	Matt Posner
Title:	Distinguished University Professor	Title:	Executive Director
Address:	11000 University Parkway	Address:	226 Palafox Place, 5 th floor
City ST Zip	Pensacola, FL 32514	City ST Zip	Pensacola, FL 32502-5846
Phone:	(850) 857-6089	Phone:	850-595-0820
E-mail:	jcaffrey@uwf.edu	E-mail:	mjposner@ppbep.org
Financial Point of Contact		Financial Point of Contact	
Name:	Rachelle Destine-Farouk	Name:	Matt Posner
Title:	Business Manager	Title:	Executive Director
Address:	Research Administration and Engagement 11000 University Parkway Pensacola FL 32514-5750	Address:	226 Palafox Place, 5 th floor
City ST Zip	Pensacola FL 32514-5750	City ST Zip	Pensacola, FL 32502-5846
Phone:	(850) 474-2825	Phone:	850-595-0820
E-mail:	rdestinefarouk@uwf.edu	E-mail:	mjposner@ppbep.org
Authorized Official		Authorized Official	
Name:	Kuiyuan Li, Ph.D.	Name:	Matt Posner
Title:	Interim Associate Vice President of Research Administration	Title:	Executive Director
Address:	11000 University Parkway Pensacola FL 32514-5750	Address:	226 Palafox Place, 5 th floor
City ST Zip	Pensacola FL 32514-5750	City ST Zip	Pensacola, FL 32502-5846
Phone:	(850) 474-2824	Phone:	850-595-0820
E-mail:	kli@uwf.edu	E-mail:	mjposner@ppbep.org

**Attachment 3-A:
ADDITIONAL TERMS AND CONDITIONS (Non-federal funds)**

THIS AGREEMENT is entered into by and between **The University of West Florida for and on behalf of The University of West Florida Board of Trustees** (hereafter Pass Through Entity or “PTE”) a public body corporate, a Florida public post-secondary educational institution and Pensacola and Perdido Bay Estuary Program (PPBEP) (hereafter “Subcontractor”).

The terms of this Agreement are intended to provide the administrative framework for PTE and the Subcontractor (the “Parties”) to cooperate in the performance of this project. The Subcontractor shall make all reasonable efforts to perform the scope of work as outlined in Attachment 1.

PERIOD OF PERFORMANCE This Agreement shall begin start date or upon execution, whichever is later and shall not extend beyond end date unless the period is extended by modification of this Agreement. Final deliverables will be provided to PTE as specified in Attachment 1. Subcontractor staff will be available for follow up consultation and assistance to the PTE regarding project deliverables through the ending date of this Agreement at no additional cost. Continuing support and assistance for additional periods will be provided only if the amount and scope of work is modified by amendment to this Agreement.

FORCE MAJEURE Neither party shall not be responsible for its failure to perform any terms or conditions herein when failure to perform is due to causes beyond a party’s reasonable control, including, but not limited to: strikes; lockouts; actions or inactions of governmental authorities; epidemics or pandemics; acts of war or terrorism; embargoes; fire; earthquake; hurricane; windstorm; tornados, acts of God or default of common carrier.

SEVERABILITY In the event any provision of this Agreement shall be held invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision hereof.

NONDISCRIMINATION The nondiscrimination clause contained in Section 202, Executive Order 11246, and any subsequent amendments thereto, relative to Equal Employment Opportunity for all persons without regard to race, color, religion, sex, gender identity or national origin, and the Implementing rules and regulations prescribed by the Secretary of Labor, Veteran's Act 38 U.S.C. 4212, Section 503 - Rehabilitation Act of 1973, Title I of the Americans with Disabilities Act of 1990 42 U.S.C. 12101 are incorporated into this Agreement by reference as if fully set forth herein.

TAXES, FEES AND PERMITS UWF is a tax immune sovereign and exempt from the payment of all sales, use or excise taxes.

PUBLIC RECORDS Subcontractor shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received in conjunction with this Agreement, except as exempted by Florida law. Refusal by the Subcontractor to allow such public access shall be grounds for unilateral cancellation of this Agreement by the PTE.

INSURANCE Each Party will maintain, at its own cost and expense, at all times while this Agreement is in effect, general liability insurance to the extent, and in such amounts as, provided under the State of Florida Risk Management Trust Fund. Each Party will also maintain at its own expense or from the quoted fringe/payroll tax rates, workers’ compensation insurance as required by law. Copies of certificates of coverage are available on request from the Research Administration and Engagement office contractual contact representative. The Parties may also be required to provide insurance as required by the Prime agreement for contractors and subcontractors, provided in Attachment I, paragraph 12 under Insurance.

LIMITATION OF LIABILITY In the performance of professional services, the Subcontractor shall use that degree of care and skill ordinarily exercised by other similar professionals in the field under similar conditions in similar localities, having due regard for acceptable standards.

The Prime contractor and PTE's liability for any claim arising from this Agreement is limited to compensatory damages in an amount no greater than the sum of the unpaid balance of compensation due for goods or services rendered pursuant to and in compliance with the terms of the Agreement and the Prime. Such liability is further limited to a cap of \$100,000.

The parties to this Agreement recognize and acknowledge that UWF is a constituent institution of the State University System of Florida (the "State") and an agency or subdivision of the State within the meaning of §768.28, Florida Statutes. Nothing contained herein shall be construed or interpreted as: (1) denying the UWF or other state entity any remedy or defense available under the laws of the State; (2) the consent of the UWF to be sued; or (3) a waiver of sovereign immunity of the University or other state entity beyond the waiver provided in §768.28, Florida Statutes.

GOVERNING LAWS/VENUE This Agreement is governed by the laws of the State of Florida and any provisions contained in this Agreement in conflict therewith shall be void and of no effect. The Parties hereby agree that venue shall lie in the State Courts of Escambia County, Florida.

INTELLECTUAL PROPERTY The PTE reserves the ownership for any intellectual property developed as part of the compensated performance of this Agreement. Subcontractor is granted a royalty-free non-exclusive license to use and distribute reports furnished to PTE hereunder (the "Work Product") without modification. Subcontractor may not grant others the right to use the work product or underlying information and data without written permission from the PTE.

The parties each reserve a right to publish articles, monographs and other scholarly publications based on this work in its chosen form. All work shall acknowledge support as "This project was supported by the Florida Department of Environmental Protection through the University of West Florida."

INDEPENDENT CONTRACTOR STATUS Each of the parties is an independent contractor and nothing contained herein shall constitute or designate any of the employees or agents of one party as employees or agents of the other party.

E-VERIFY Due to contracting with a public employer in Florida as defined by Section 448.095, Florida Statutes, Subcontractor is obligated to utilize the U.S. Department of Homeland Security's E-Verify system. Further, Subcontractor is obliged to abide with the requirements of Section 448.095, Florida Statutes, when contracting with subcontractors for performance of this Agreement. PTE's good faith belief that Contractor is employing unauthorized aliens in the state of Florida in violation of Section 448.09, Florida Statutes, shall be just cause for unilateral termination of this Agreement effective immediately and Subcontractor shall be liable for additional costs incurred by the PTE due to the termination of the Agreement.

If this Agreement includes funding from a State of Florida entity, including, a regional, county, local, or municipal government entity, whether executive, judicial, or legislative, or any public school, community college, or Florida state university, then the Subrecipient must, at the time of providing this signed Agreement to PTE, also provide to an affidavit of compliance with the Florida Statute.

Attachment 4:
PRIME CONTRACT FLOW DOWN PROVISIONS/AUDIT

Florida Department of Environmental Protection, the Prime Contractor, has awarded the prime contract to University of West Florida (UWF). A copy of the prime contract is attached hereto as Appendix A (the "Prime Contract").

All conditions of the Prime Contract applicable to subrecipients shall be applicable to this Subaward and shall be binding on Subrecipient.

Subrecipient assumes sole responsibility for reimbursement to the PTE of any expenditures disallowed should the PTE, the Prime (FDEP), or an authorized agency rule, through audit exception, or by some other appropriate means, that expenditures from funds allocated to Subrecipient for direct and/or indirect costs were not made in compliance with the regulations of the PTE or the provisions of the Prime Contractor or this Subaward.

Subrecipient shall permit UWF and its auditors to have access to Subrecipient's records and financial statements relating to this Subaward as reasonably requested by UWF during the Record Retention Period set forth in the Subaward.

Payments shall be considered provisional and subject to adjustment within the amount funded to Subrecipient in the event such adjustment is necessary as a result of an adverse audit finding against Subrecipient.

Subrecipient shall maintain clear and accurate records of the work conducted so that UWF Principal Investigator may readily evaluate the progress of the Project at any time.

**Appendix A:
PRIME CONTRACT**

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Standard Grant Agreement**

This Agreement is entered into between the Parties named below, pursuant to section 215.971, Florida Statutes:

1. Project Title (Project): Northwest Florida Estuary Water Quality Protection and Restoration	Agreement Number: LPA0594
2. Parties State of Florida Department of Environmental Protection, 3900 Commonwealth Boulevard Tallahassee, Florida 32399-3000 (Department)	
Grantee Name: University of West Florida	Entity Type: University
Grantee Address: 11000 University Pkwy, Bldg 11, Pensacola, FL 32514 U.S.	FEID: 59-2976783 (Grantee)

3. Agreement Begin Date: Upon Execution	Date of Expiration: December 31, 2025
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4. Project Number: <i>(If different from Agreement Number)</i>	Project Location(s): Lat, Long: (30.5450, -87.2120)
Project Description: The Grantee will perform a study to develop and enhance the current data repository to provide regional quality restoration needs.	

5. Total Amount of Funding:	Funding Source?	Award #s or Line-Item Appropriations:	Amount per Source(s):
\$ 2,000,000.00	<input checked="" type="checkbox"/> State <input type="checkbox"/> Federal	LP, GAA LI 1705A, FY 23-24, GR	\$ 2,000,000.00
	<input type="checkbox"/> State <input type="checkbox"/> Federal		\$
	<input type="checkbox"/> Grantee Match		\$
Total Amount of Funding + Grantee Match, if any:			\$ 2,000,000.00

6. Department's Grant Manager Name: Oliver Leclezio or successor	Grantee's Grant Manager Name: Elan Travis or successor
Address: Florida Dept. of Environmental Protection 3900 Commonwealth Blvd Tallahassee, FL, 32399	Address: University of West Florida 11000 University Pkwy, Bldg 11 Pensacola, FL 32514
Phone: 850-245-2840	Phone: 850-474-2825
Email: olivier.leclezio@floridadep.gov	Email: etravis@uwf.edu

7. The Parties agree to comply with the terms and conditions of the following attachments and exhibits which are hereby incorporated by reference:

<input checked="" type="checkbox"/> Attachment 1: Standard Terms and Conditions Applicable to All Grants Agreements
<input checked="" type="checkbox"/> Attachment 2: Special Terms and Conditions
<input checked="" type="checkbox"/> Attachment 3: Grant Work Plan
<input checked="" type="checkbox"/> Attachment 4: Public Records Requirements
<input checked="" type="checkbox"/> Attachment 5: Special Audit Requirements
<input type="checkbox"/> Attachment 6: Program-Specific Requirements
<input type="checkbox"/> Attachment 7: Grant Award Terms (Federal) *Copy available at https://facts.fldfs.com , in accordance with section 215.985, F.S.
<input type="checkbox"/> Attachment 8: Federal Regulations and Terms (Federal)
<input type="checkbox"/> Additional Attachments (if necessary):
<input checked="" type="checkbox"/> Exhibit A: Progress Report Form
<input checked="" type="checkbox"/> Exhibit B: Property Reporting Form
<input checked="" type="checkbox"/> Exhibit C: Payment Request Summary Form
<input checked="" type="checkbox"/> Exhibit D: Quality Assurance Requirements
<input type="checkbox"/> Exhibit E: Advance Payment Terms and Interest Earned Memo
<input type="checkbox"/> Exhibit F: Common Carrier or Contracted Carrier Attestation Form PUR1808 (State)
<input type="checkbox"/> Exhibit H: Non-Profit Organization Compensation Form (State)

<input type="checkbox"/> Additional Exhibits (if necessary):	
8. The following information applies to Federal Grants only and is identified in accordance with 2 CFR 200.331 (a) (1):	
Federal Award Identification Number(s) (FAIN):	
Federal Award Date to Department:	
Total Federal Funds Obligated by this Agreement:	
Federal Awarding Agency:	
Award R&D?	<input type="checkbox"/> Yes <input type="checkbox"/> N/A

IN WITNESS WHEREOF, this Agreement shall be effective on the date indicated by the Agreement Begin Date unless another date is specified in the grant documents.

University of West Florida

GRANTEE

Grantor Name
DocuSigned by:

By  _____
(D3D94AA8483C413; signature)

12/19/2023


Date Signed

Kuiyuan Li, Interim Associate V.P. for Research Administration & Engagement, UWF

Print Name and Title of Person Signing

State of Florida Department of Environmental Protection

DEPARTMENT

By  _____
Secretary or Designee

Digitally signed by Angela Knecht
Date: 2023.12.20 09:55:36 -05'00'

Date Signed

Angela Knecht, Director, Division of Water Restoration Assistance

Print Name and Title of Person Signing

Additional signatures attached on separate page.

DWRA Additional Signatures



Digitally signed by Oliver
Leclezio
Date: 2023.12.20
09:20:23 -05'00'

Oliver Leclezio, DEP Grant Manager

Deinna Dalton

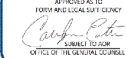
Digitally signed by
Deinna Dalton
Date: 2023.12.20
09:29:50 -05'00'

Deinna Dalton, DEP QC Reviewer

University of West Florida Additional Signatures

Approved as to Form and Legal Sufficiency:

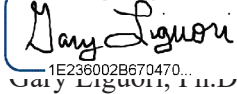
DocuSigned by:



12/19/2023

Office of the General Counsel

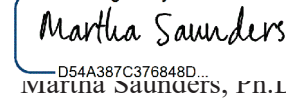
DocuSigned by:



12/19/2023

Provost and Senior Vice President

DocuSigned by:



12/20/2023

President

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STANDARD TERMS AND CONDITIONS
APPLICABLE TO GRANT AGREEMENTS**

ATTACHMENT 1

1. Entire Agreement.

This Grant Agreement, including any Attachments and Exhibits referred to herein and/or attached hereto (Agreement), constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or oral, with respect to such subject matter. Any terms and conditions included on Grantee's forms or invoices shall be null and void.

2. Grant Administration.

- a. Order of Precedence. If there are conflicting provisions among the documents that make up the Agreement, the order of precedence for interpretation of the Agreement is as follows:
 - i. Standard Grant Agreement
 - ii. Attachments other than Attachment 1, in numerical order as designated in the Standard Grant Agreement
 - iii. Attachment 1, Standard Terms and Conditions
 - iv. The Exhibits in the order designated in the Standard Grant Agreement
- b. All approvals, written or verbal, and other written communication among the parties, including all notices, shall be obtained by or sent to the parties' Grant Managers. All written communication shall be by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient. If the notice is delivered in multiple ways, the notice will be considered delivered at the earliest delivery time.
- c. If a different Grant Manager is designated by either party after execution of this Agreement, notice of the name and contact information of the new Grant Manager will be submitted in writing to the other party and maintained in the respective parties' records. A change of Grant Manager does not require a formal amendment or change order to the Agreement.
- d. This Agreement may be amended, through a formal amendment or a change order, only by a written agreement between both parties. A formal amendment to this Agreement is required for changes which cause any of the following:
 - (1) an increase or decrease in the Agreement funding amount;
 - (2) a change in Grantee's match requirements;
 - (3) a change in the expiration date of the Agreement; and/or
 - (4) changes to the cumulative amount of funding transfers between approved budget categories, as defined in Attachment 3, Grant Work Plan, that exceeds or is expected to exceed twenty percent (20%) of the total budget as last approved by Department.A change order to this Agreement may be used when:
 - (1) task timelines within the current authorized Agreement period change;
 - (2) the cumulative transfer of funds between approved budget categories, as defined in Attachment 3, Grant Work Plan, are less than twenty percent (20%) of the total budget as last approved by Department;
 - (3) changing the current funding source as stated in the Standard Grant Agreement; and/or
 - (4) fund transfers between budget categories for the purposes of meeting match requirements.This Agreement may be amended to provide for additional services if additional funding is made available by the Legislature.
- e. All days in this Agreement are calendar days unless otherwise specified.

3. Agreement Duration.

The term of the Agreement shall begin and end on the dates indicated in the Standard Grant Agreement, unless extended or terminated earlier in accordance with the applicable terms and conditions. The Grantee shall be eligible for reimbursement for work performed on or after the date of execution through the expiration date of this Agreement, unless otherwise specified in Attachment 2, Special Terms and Conditions. However, work performed prior to the execution of this Agreement may be reimbursable or used for match purposes if permitted by the Special Terms and Conditions.

4. Deliverables.

The Grantee agrees to render the services or other units of deliverables as set forth in Attachment 3, Grant Work Plan. The services or other units of deliverables shall be delivered in accordance with the schedule and at the pricing outlined in the Grant Work Plan. Deliverables may be comprised of activities that must be completed prior to Department making payment on that deliverable. The Grantee agrees to perform in accordance with the terms and conditions set forth in this Agreement and all attachments and exhibits incorporated by the Standard Grant Agreement.

5. Performance Measures.

The Grantee warrants that: (1) the services will be performed by qualified personnel; (2) the services will be of the kind and quality described in the Grant Work Plan; (3) the services will be performed in a professional and workmanlike manner in accordance with industry standards and practices; (4) the services shall not and do not knowingly infringe upon the intellectual property rights, or any other proprietary rights, of any third party; and (5) its employees, subcontractors, and/or subgrantees shall comply with any security and safety requirements and processes, if provided by Department, for work done at the Project Location(s). The Department reserves the right to investigate or inspect at any time to determine whether the services or qualifications offered by Grantee meet the Agreement requirements. Notwithstanding any provisions herein to the contrary, written acceptance of a particular deliverable does not foreclose Department's remedies in the event deficiencies in the deliverable cannot be readily measured at the time of delivery.

6. Acceptance of Deliverables.

- a. Acceptance Process. All deliverables must be received and accepted in writing by Department's Grant Manager before payment. The Grantee shall work diligently to correct all deficiencies in the deliverable that remain outstanding, within a reasonable time at Grantee's expense. If Department's Grant Manager does not accept the deliverables within 30 days of receipt, they will be deemed rejected.
- b. Rejection of Deliverables. The Department reserves the right to reject deliverables, as outlined in the Grant Work Plan, as incomplete, inadequate, or unacceptable due, in whole or in part, to Grantee's lack of satisfactory performance under the terms of this Agreement. The Grantee's efforts to correct the rejected deliverables will be at Grantee's sole expense. Failure to fulfill the applicable technical requirements or complete all tasks or activities in accordance with the Grant Work Plan will result in rejection of the deliverable and the associated invoice. Payment for the rejected deliverable will not be issued unless the rejected deliverable is made acceptable to Department in accordance with the Agreement requirements. The Department, at its option, may allow additional time within which Grantee may remedy the objections noted by Department. The Grantee's failure to make adequate or acceptable deliverables after a reasonable opportunity to do so shall constitute an event of default.

7. Financial Consequences for Nonperformance.

- a. Withholding Payment. In addition to the specific consequences explained in the Grant Work Plan and/or Special Terms and Conditions, the State of Florida (State) reserves the right to withhold payment when the Grantee has failed to perform/comply with provisions of this Agreement. None of the financial consequences for nonperformance in this Agreement as more fully described in the Grant Work Plan shall be considered penalties.
- b. Invoice reduction
If Grantee does not meet a deadline for any deliverable, the Department will reduce the invoice by 1% for each day the deadline is missed, unless an extension is approved in writing by the Department.
- c. Corrective Action Plan. If Grantee fails to correct all the deficiencies in a rejected deliverable within the specified timeframe, Department may, in its sole discretion, request that a proposed Corrective Action Plan (CAP) be submitted by Grantee to Department. The Department requests that Grantee specify the outstanding deficiencies in the CAP. All CAPs must be able to be implemented and performed in no more than sixty (60) calendar days.
 - i. The Grantee shall submit a CAP within ten (10) days of the date of the written request from Department. The CAP shall be sent to the Department's Grant Manager for review and approval. Within ten (10) days of receipt of a CAP, Department shall notify Grantee in writing whether the CAP proposed has been accepted. If the CAP is not accepted, Grantee shall have ten (10) days from receipt of Department letter rejecting the proposal to submit a revised proposed CAP. Failure to obtain Department approval of a CAP as specified above may result in Department's termination of this Agreement for cause as authorized in this Agreement.
 - ii. Upon Department's notice of acceptance of a proposed CAP, Grantee shall have ten (10) days to commence implementation of the accepted plan. Acceptance of the proposed CAP by Department does not relieve Grantee of any of its obligations under the Agreement. In the event the CAP fails to correct or eliminate performance deficiencies by Grantee, Department shall retain the right to

require additional or further remedial steps, or to terminate this Agreement for failure to perform. No actions approved by Department or steps taken by Grantee shall preclude Department from subsequently asserting any deficiencies in performance. The Grantee shall continue to implement the CAP until all deficiencies are corrected. Reports on the progress of the CAP will be made to Department as requested by Department's Grant Manager.

- iii. Failure to respond to a Department request for a CAP or failure to correct a deficiency in the performance of the Agreement as specified by Department may result in termination of the Agreement.

8. Payment.

- a. Payment Process. Subject to the terms and conditions established by the Agreement, the pricing per deliverable established by the Grant Work Plan, and the billing procedures established by Department, Department agrees to pay Grantee for services rendered in accordance with section 215.422, Florida Statutes (F.S.).
- b. Taxes. The Department is exempted from payment of State sales, use taxes and Federal excise taxes. The Grantee, however, shall not be exempted from paying any taxes that it is subject to, including State sales and use taxes, or for payment by Grantee to suppliers for taxes on materials used to fulfill its contractual obligations with Department. The Grantee shall not use Department's exemption number in securing such materials. The Grantee shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Agreement.
- c. Maximum Amount of Agreement. The maximum amount of compensation under this Agreement, without an amendment, is described in the Standard Grant Agreement. Any additional funds necessary for the completion of this Project are the responsibility of Grantee.
- d. Reimbursement for Costs. The Grantee shall be paid on a cost reimbursement basis for all eligible Project costs upon the completion, submittal, and approval of each deliverable identified in the Grant Work Plan. Reimbursement shall be requested on Exhibit C, Payment Request Summary Form. To be eligible for reimbursement, costs must be in compliance with laws, rules, and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures, which can be accessed at the following web address: <https://www.myfloridacfo.com/docs-sf/accounting-and-auditing-libraries/state-agencies/reference-guide-for-state-expenditures.pdf>.
- e. Rural Communities and Rural Areas of Opportunity. If Grantee is a county or municipality that qualifies as a "rural community" or "rural area of opportunity" (RAO) as defined in subsection 288.0656(2), F.S., such Grantee may request from the Department that all invoice payments (i.e., cost reimbursement) under this Agreement be directed to the relevant county or municipality or to the RAO itself. The Department will agree to Grantee's request if:
 - i. Grantee demonstrates that it is a county or municipality that qualifies as a "rural community" or "rural area of opportunity" under subsection 288.0656(2), F.S.;
 - ii. Grantee demonstrates current financial hardship using one (1) or more of the "economic distress" factors defined in subsection 288.0656(2)(c), F.S.;
 - iii. Grantee's performance has been verified by the Department, which has determined that Grantee is eligible for cost reimbursement and that Grantee's performance has been completed in accordance with this Agreement's terms and conditions; and
 - iv. Applicable federal and state law(s), rule(s) and regulation(s) allow for such payments.This subsection may not be construed to alter or limit any other applicable provisions of federal or state law, rule, or regulation. A current list of Florida's designated RAOs can be accessed at the following web address: <https://floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity>.
- f. Invoice Detail. All charges for services rendered or for reimbursement of expenses authorized by Department pursuant to the Grant Work Plan shall be submitted to Department in sufficient detail for a proper pre-audit and post-audit to be performed. The Grantee shall only invoice Department for deliverables that are completed in accordance with the Grant Work Plan.
- g. State Funds Documentation. Pursuant to section 216.1366, F.S., if Contractor meets the definition of a non-profit organization under section 215.97(2)(m), F.S., Contractor must provide the Department with documentation that indicates the amount of state funds:
 - i. Allocated to be used during the full term of the contract or agreement for remuneration to any member of the board of directors or an officer of Contractor.
 - ii. Allocated under each payment by the public agency to be used for remuneration of any member of the board of directors or an officer of the Contractor.

The documentation must indicate the amounts and recipients of the remuneration. Such information must be posted on the State's the contract tracking system and maintained pursuant to section 215.985, F.S., and must be posted on the Contractor's website, if Contractor maintains a website.

- h. Interim Payments. Interim payments may be made by Department, at its discretion, if the completion of deliverables to date have first been accepted in writing by Department's Grant Manager.
- i. Final Payment Request. A final payment request should be submitted to Department no later than sixty (60) days following the expiration date of the Agreement to ensure the availability of funds for payment. However, all work performed pursuant to the Grant Work Plan must be performed on or before the expiration date of the Agreement.
- j. Annual Appropriation Contingency. The State's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. This Agreement is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of Department if the Legislature reduces or eliminates appropriations.
- k. Interest Rates. All interest rates charged under the Agreement shall be calculated on the prevailing rate used by the State Board of Administration. To obtain the applicable interest rate, please refer to: <https://www.myfloridacfo.com/division/aa/local-governments/judgement-interest-rates>.
- l. Refund of Payments to the Department. Any balance of unobligated funds that have been advanced or paid must be refunded to Department. Any funds paid in excess of the amount to which Grantee or subgrantee is entitled under the terms of the Agreement must be refunded to Department. If this Agreement is funded with federal funds and the Department is required to refund the federal government, the Grantee shall refund the Department its share of those funds.

9. Documentation Required for Cost Reimbursement Grant Agreements and Match.

If Cost Reimbursement or Match is authorized in Attachment 2, Special Terms and Conditions, the following conditions apply. Supporting documentation must be provided to substantiate cost reimbursement or match requirements for the following budget categories:

- a. Salary/Wages. Grantee shall list personnel involved, position classification, direct salary rates, and hours spent on the Project in accordance with Attachment 3, Grant Work Plan in their documentation for reimbursement or match requirements.
- b. Overhead/Indirect/General and Administrative Costs. If Grantee is being reimbursed for or claiming match for multipliers, all multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by Grantee exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate.
- c. Contractual Costs (Subcontractors). Match or reimbursement requests for payments to subcontractors must be substantiated by copies of invoices with backup documentation identical to that required from Grantee. Subcontracts which involve payments for direct salaries shall clearly identify the personnel involved, salary rate per hour, and hours spent on the Project. All eligible multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by any subcontractor exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate. Nonconsumable and/or nonexpendable personal property or equipment costing \$5,000 or more purchased for the Project under a subcontract is subject to the requirements set forth in chapters 273 and/or 274, F.S., and Chapter 69I-72, Florida Administrative Code (F.A.C.) and/or Chapter 69I-73, F.A.C., as applicable. The Grantee shall be responsible for maintaining appropriate property records for any subcontracts that include the purchase of equipment as part of the delivery of services. The Grantee shall comply with this requirement and ensure its subcontracts issued under this Agreement, if any, impose this requirement, in writing, on its subcontractors.
 - i. For fixed-price (vendor) subcontracts, the following provisions shall apply: The Grantee may award, on a competitive basis, fixed-price subcontracts to consultants/contractors in performing the work described in Attachment 3, Grant Work Plan. Invoices submitted to Department for fixed-price subcontracted activities shall be supported with a copy of the subcontractor's invoice and a copy of the tabulation form for the competitive procurement process (e.g., Invitation to Bid, Request for Proposals, or other similar competitive procurement document) resulting in the fixed-price subcontract. The Grantee may request approval from Department to award a fixed-price subcontract resulting from procurement methods other than those identified above. In this instance, Grantee shall request the advance written approval from Department's Grant Manager of the fixed price

Attachment 1

negotiated by Grantee. The letter of request shall be supported by a detailed budget and Scope of Services to be performed by the subcontractor. Upon receipt of Department Grant Manager's approval of the fixed-price amount, Grantee may proceed in finalizing the fixed-price subcontract.

- ii. If the procurement is subject to the Consultant's Competitive Negotiation Act under section 287.055, F.S. or the Brooks Act, Grantee must provide documentation clearly evidencing it has complied with the statutory or federal requirements.
- d. Travel. All requests for match or reimbursement of travel expenses shall be in accordance with section 112.061, F.S.
- e. Direct Purchase Equipment. For the purposes of this Agreement, Equipment is defined as capital outlay costing \$5,000 or more. Match or reimbursement for Grantee's direct purchase of equipment is subject to specific approval of Department, and does not include any equipment purchased under the delivery of services to be completed by a subcontractor. Include copies of invoices or receipts to document purchases, and a properly completed Exhibit B, Property Reporting Form.
- f. Rental/Lease of Equipment. Match or reimbursement requests for rental/lease of equipment must include copies of invoices or receipts to document charges.
- g. Miscellaneous/Other Expenses. If miscellaneous or other expenses, such as materials, supplies, non-excluded phone expenses, reproduction, or mailing, are reimbursable or available for match or reimbursement under the terms of this Agreement, the documentation supporting these expenses must be itemized and include copies of receipts or invoices. Additionally, independent of Grantee's contract obligations to its subcontractor, Department shall not reimburse any of the following types of charges: cell phone usage; attorney's fees or court costs; civil or administrative penalties; or handling fees, such as set percent overages associated with purchasing supplies or equipment.
- h. Land Acquisition. Reimbursement for the costs associated with acquiring interest and/or rights to real property (including access rights through ingress/egress easements, leases, license agreements, or other site access agreements; and/or obtaining record title ownership of real property through purchase) must be supported by the following, as applicable: Copies of Property Appraisals, Environmental Site Assessments, Surveys and Legal Descriptions, Boundary Maps, Acreage Certification, Title Search Reports, Title Insurance, Closing Statements/Documents, Deeds, Leases, Easements, License Agreements, or other legal instrument documenting acquired property interest and/or rights. If land acquisition costs are used to meet match requirements, Grantee agrees that those funds shall not be used as match for any other Agreement supported by State or Federal funds.

10. Status Reports.

The Grantee shall submit status reports quarterly, unless otherwise specified in the Attachments, on Exhibit A, Progress Report Form, to Department's Grant Manager describing the work performed during the reporting period, problems encountered, problem resolutions, scheduled updates, and proposed work for the next reporting period. Quarterly status reports are due no later than twenty (20) days following the completion of the quarterly reporting period. For the purposes of this reporting requirement, the quarterly reporting periods end on March 31, June 30, September 30 and December 31. The Department will review the required reports submitted by Grantee within thirty (30) days.

11. Retainage.

The following provisions apply if Department withholds retainage under this Agreement:

- a. The Department reserves the right to establish the amount and application of retainage on the work performed under this Agreement up to the maximum percentage described in Attachment 2, Special Terms and Conditions. Retainage may be withheld from each payment to Grantee pending satisfactory completion of work and approval of all deliverables.
- b. If Grantee fails to perform the requested work or fails to perform the work in a satisfactory manner, Grantee shall forfeit its right to payment of the retainage associated with the work. Failure to perform includes, but is not limited to, failure to submit the required deliverables or failure to provide adequate documentation that the work was actually performed. The Department shall provide written notification to Grantee of the failure to perform that shall result in retainage forfeiture. If the Grantee does not correct the failure to perform within the timeframe stated in Department's notice, the retainage will be forfeited to Department.
- c. No retainage shall be released or paid for incomplete work while this Agreement is suspended.
- d. Except as otherwise provided above, Grantee shall be paid the retainage associated with the work, provided Grantee has completed the work and submits an invoice for retainage held in accordance with the invoicing procedures under this Agreement.

12. Insurance.

- a. Insurance Requirements for Sub-Grantees and/or Subcontractors. The Grantee shall require its sub-grantees and/or subcontractors, if any, to maintain insurance coverage of such types and with such terms and limits as described in this Agreement. The Grantee shall require all its sub-grantees and/or subcontractors, if any, to make compliance with the insurance requirements of this Agreement a condition of all contracts that are related to this Agreement. Sub-grantees and/or subcontractors must provide proof of insurance upon request.
- b. Deductibles. The Department shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Grantee providing such insurance.
- c. Proof of Insurance. Upon execution of this Agreement, Grantee shall provide Department documentation demonstrating the existence and amount for each type of applicable insurance coverage *prior to* performance of any work under this Agreement. Upon receipt of written request from Department, Grantee shall furnish Department with proof of applicable insurance coverage by standard form certificates of insurance, a self-insured authorization, or other certification of self-insurance.
- d. Duty to Maintain Coverage. In the event that any applicable coverage is cancelled by the insurer for any reason, or if Grantee cannot get adequate coverage, Grantee shall immediately notify Department of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within ten (10) days after the cancellation of coverage.
- e. Insurance Trust. If the Grantee's insurance is provided through an insurance trust, the Grantee shall instead add the Department of Environmental Protection, its employees, and officers as an additional covered party everywhere the Agreement requires them to be added as an additional insured.

13. Termination.

- a. Termination for Convenience. When it is in the State's best interest, Department may, at its sole discretion, terminate the Agreement in whole or in part by giving 30 days' written notice to Grantee. The Department shall notify Grantee of the termination for convenience with instructions as to the effective date of termination or the specific stage of work at which the Agreement is to be terminated. The Grantee must submit all invoices for work to be paid under this Agreement within thirty (30) days of the effective date of termination. The Department shall not pay any invoices received after thirty (30) days of the effective date of termination.
- b. Termination for Cause. The Department may terminate this Agreement if any of the events of default described in the Events of Default provisions below occur or in the event that Grantee fails to fulfill any of its other obligations under this Agreement. If, after termination, it is determined that Grantee was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Department. The rights and remedies of Department in this clause are in addition to any other rights and remedies provided by law or under this Agreement.
- c. Grantee Obligations upon Notice of Termination. After receipt of a notice of termination or partial termination unless as otherwise directed by Department, Grantee shall not furnish any service or deliverable on the date, and to the extent specified, in the notice. However, Grantee shall continue work on any portion of the Agreement not terminated. If the Agreement is terminated before performance is completed, Grantee shall be paid only for that work satisfactorily performed for which costs can be substantiated. The Grantee shall not be entitled to recover any cancellation charges or lost profits.
- d. Continuation of Prepaid Services. If Department has paid for any services prior to the expiration, cancellation, or termination of the Agreement, Grantee shall continue to provide Department with those services for which it has already been paid or, at Department's discretion, Grantee shall provide a refund for services that have been paid for but not rendered.
- e. Transition of Services Upon Termination, Expiration, or Cancellation of the Agreement. If services provided under the Agreement are being transitioned to another provider(s), Grantee shall assist in the smooth transition of Agreement services to the subsequent provider(s). This requirement is at a minimum an affirmative obligation to cooperate with the new provider(s), however additional requirements may be outlined in the Grant Work Plan. The Grantee shall not perform any services after Agreement expiration or termination, except as necessary to complete the transition or continued portion of the Agreement, if any.

14. Notice of Default.

If Grantee defaults in the performance of any covenant or obligation contained in the Agreement, including, any of the events of default, Department shall provide notice to Grantee and an opportunity to cure that is reasonable under the circumstances. This notice shall state the nature of the failure to perform and provide a time certain for correcting the failure. The notice will also provide that, should the Grantee fail to perform within the time provided, Grantee will be found in default, and Department may terminate the Agreement effective as of the date of receipt of the default notice.

15. Events of Default.

Provided such failure is not the fault of Department or outside the reasonable control of Grantee, the following non-exclusive list of events, acts, or omissions, shall constitute events of default:

- a. The commitment of any material breach of this Agreement by Grantee, including failure to timely deliver a material deliverable, failure to perform the minimal level of services required for a deliverable, discontinuance of the performance of the work, failure to resume work that has been discontinued within a reasonable time after notice to do so, or abandonment of the Agreement;
- b. The commitment of any material misrepresentation or omission in any materials, or discovery by the Department of such, made by the Grantee in this Agreement or in its application for funding;
- c. Failure to submit any of the reports required by this Agreement or having submitted any report with incorrect, incomplete, or insufficient information;
- d. Failure to honor any term of the Agreement;
- e. Failure to abide by any statutory, regulatory, or licensing requirement, including an entry of an order revoking the certificate of authority granted to the Grantee by a state or other licensing authority;
- f. Failure to pay any and all entities, individuals, and furnishing labor or materials, or failure to make payment to any other entities as required by this Agreement;
- g. Employment of an unauthorized alien in the performance of the work, in violation of Section 274 (A) of the Immigration and Nationality Act;
- h. Failure to maintain the insurance required by this Agreement;
- i. One or more of the following circumstances, uncorrected for more than thirty (30) days unless, within the specified 30-day period, Grantee (including its receiver or trustee in bankruptcy) provides to Department adequate assurances, reasonably acceptable to Department, of its continuing ability and willingness to fulfill its obligations under the Agreement:
 - i. Entry of an order for relief under Title 11 of the United States Code;
 - ii. The making by Grantee of a general assignment for the benefit of creditors;
 - iii. The appointment of a general receiver or trustee in bankruptcy of Grantee's business or property; and/or
 - iv. An action by Grantee under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation.

16. Suspension of Work.

The Department may, in its sole discretion, suspend any or all activities under the Agreement, at any time, when it is in the best interest of the State to do so. The Department shall provide Grantee written notice outlining the particulars of suspension. Examples of reasons for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, Grantee shall comply with the notice. Within 90 days, or any longer period agreed to by the parties, Department shall either: (1) issue a notice authorizing resumption of work, at which time activity shall resume; or (2) terminate the Agreement. If the Agreement is terminated after 30 days of suspension, the notice of suspension shall be deemed to satisfy the thirty (30) days' notice required for a notice of termination for convenience. Suspension of work shall not entitle Grantee to any additional compensation.

17. Force Majeure.

The Grantee shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of Grantee or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond Grantee's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to Grantee. In case of any delay Grantee believes is excusable, Grantee shall notify Department in writing of the delay or potential delay and describe the cause of the delay either (1) within ten days after the cause that creates or will create the delay first arose, if Grantee could reasonably foresee that a delay could occur as a result; or (2) if delay is not reasonably foreseeable, within five days after the date Grantee first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE GRANTEE'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against Department. The Grantee shall not be entitled to an increase in the Agreement price or payment of any kind from Department for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist Grantee shall perform at no increased cost, unless Department determines, in its sole

discretion, that the delay will significantly impair the value of the Agreement to Department, in which case Department may: (1) accept allocated performance or deliveries from Grantee, provided that Grantee grants preferential treatment to Department with respect to products subjected to allocation; (2) contract with other sources (without recourse to and by Grantee for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity; or (3) terminate Agreement in whole or in part.

18. Indemnification.

- a. The Grantee shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless Department and its officers, agents, and employees, from suits, actions, damages, and costs of every name and description arising from or relating to:
 - i. personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Grantee, its agents, employees, partners, or subcontractors; provided, however, that Grantee shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of Department;
 - ii. the Grantee's breach of this Agreement or the negligent acts or omissions of Grantee.
- b. The Grantee's obligations under the preceding paragraph with respect to any legal action are contingent upon Department giving Grantee: (1) written notice of any action or threatened action; (2) the opportunity to take over and settle or defend any such action at Grantee's sole expense; and (3) assistance in defending the action at Grantee's sole expense. The Grantee shall not be liable for any cost, expense, or compromise incurred or made by Department in any legal action without Grantee's prior written consent, which shall not be unreasonably withheld.
- c. Notwithstanding sections a. and b. above, the following is the sole indemnification provision that applies to Grantees that are governmental entities: Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of section 768.28, F.S. Further, nothing herein shall be construed as consent by a state agency or subdivision of the State to be sued by third parties in any matter arising out of any contract or this Agreement.
- d. No provision in this Agreement shall require Department to hold harmless or indemnify Grantee, insure or assume liability for Grantee's negligence, waive Department's sovereign immunity under the laws of Florida, or otherwise impose liability on Department for which it would not otherwise be responsible. Any provision, implication or suggestion to the contrary is null and void.

19. Limitation of Liability.

The Department's liability for any claim arising from this Agreement is limited to compensatory damages in an amount no greater than the sum of the unpaid balance of compensation due for goods or services rendered pursuant to and in compliance with the terms of the Agreement. Such liability is further limited to a cap of \$100,000.

20. Remedies.

Nothing in this Agreement shall be construed to make Grantee liable for force majeure events. Nothing in this Agreement, including financial consequences for nonperformance, shall limit Department's right to pursue its remedies for other types of damages under the Agreement, at law or in equity. The Department may, in addition to other remedies available to it, at law or in equity and upon notice to Grantee, retain such monies from amounts due Grantee as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against it.

21. Waiver.

The delay or failure by Department to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of Department's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

22. Statutory Notices Relating to Unauthorized Employment and Subcontracts.

- a. The Department shall consider the employment by any Grantee of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If Grantee/subcontractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement. The Grantee shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Agreement.
- b. Pursuant to sections 287.133, 287.134, and 287.137 F.S., the following restrictions apply to persons placed on the convicted vendor list, discriminatory vendor list, or the antitrust violator vendor list:
 - i. Public Entity Crime. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may

not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

- ii. Discriminatory Vendors. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
- iii. Antitrust Violator Vendors. A person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply on any contract to provide any good or services to a public entity; may not submit a bid, proposal, or reply on any contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with a public entity; and may not transact new business with a public entity.
- iv. Notification. The Grantee shall notify Department if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list, the discriminatory vendor list, or antitrust violator vendor list during the life of the Agreement. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and the antitrust violator vendor list and posts the list on its website. Questions regarding the discriminatory vendor list or antitrust violator vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity, at (850) 487-0915.

23. Compliance with Federal, State and Local Laws.

- a. The Grantee and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements. The Grantee shall include this provision in all subcontracts issued as a result of this Agreement.
- b. No person, on the grounds of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement.
- c. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
- d. Any dispute concerning performance of the Agreement shall be processed as described herein. Jurisdiction for any damages arising under the terms of the Agreement will be in the courts of the State, and venue will be in the Second Judicial Circuit, in and for Leon County. Except as otherwise provided by law, the parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this Agreement.

24. Build America, Buy America Act (BABA) - Infrastructure Projects with Federal Funding.

This provision does not apply to Agreements that are wholly funded by Coronavirus State and Local Fiscal Recovery Funds under the American Rescue Plan Act. Also, this provision does not apply where there is a valid waiver in place. However, the provision may apply to funds expended before the waiver or after expiration of the waiver.

If applicable, Recipients or Subrecipients of an award of Federal financial assistance from a program for infrastructure are required to comply with the Build America, Buy America Act (BABA), including the following provisions:

- a. All iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- b. All manufactured products used in the project are produced in the United States--this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

- c. All construction materials are manufactured in the United States-this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

25. Investing in America

Grantees of an award for construction projects in whole or in part by the Bipartisan Infrastructure Law or the Inflation Reduction Act, including the following provision:

a. Signage Requirements

a. Investing in America Emblem: The recipient will ensure that a sign is placed at construction sites supported in whole or in part by this award displaying the official Investing in America emblem and must identify the project as a “project funded by President Biden’s Bipartisan Infrastructure Law” or “project funded by President Biden’s Inflation Reduction Act” as applicable. The sign must be placed at construction sites in an easily visible location that can be directly linked to the work taking place and must be maintained in good condition throughout the construction period.

The recipient will ensure compliance with the guidelines and design specifications provided by EPA for using the official Investing in America emblem available at:

<https://www.epa.gov/invest/investing-america-signage>.

b. Procuring Signs: Consistent with section 6002 of RCRA, 42 U.S.C. 6962, and 2 CFR 200.323, recipients are encouraged to use recycled or recovered materials when procuring signs. Signage costs are considered an allowable cost under this assistance agreement provided that the costs associated with signage are reasonable. Additionally, to increase public awareness of projects serving communities where English is not the predominant language, recipients are encouraged to translate the language on signs (excluding the official Investing in America emblem or EPA logo or seal) into the appropriate non-English language(s). The costs of such translation are allowable, provided the costs are reasonable.

26. Scrutinized Companies.

- a. Grantee certifies that it is not on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel. Pursuant to section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
- b. If this Agreement is for more than one million dollars, the Grantee certifies that it is also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in section 287.135, F.S. Pursuant to section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- c. As provided in subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions, then they shall become inoperative.

27. Lobbying and Integrity.

The Grantee agrees that no funds received by it under this Agreement will be expended for the purpose of lobbying the Legislature or a State agency pursuant to section 216.347, F.S., except that pursuant to the requirements of section 287.058(6), F.S., during the term of any executed agreement between Grantee and the State, Grantee may lobby the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding that agreement. The Grantee shall comply with sections 11.062 and 216.347, F.S.

28. Record Keeping.

The Grantee shall maintain books, records and documents directly pertinent to performance under this Agreement in accordance with United States generally accepted accounting principles (US GAAP) consistently applied. The Department, the State, or their authorized representatives shall have access to such records for audit purposes during

the term of this Agreement and for five (5) years following the completion date or termination of the Agreement. In the event that any work is subcontracted, Grantee shall similarly require each subcontractor to maintain and allow access to such records for audit purposes. Upon request of Department's Inspector General, or other authorized State official, Grantee shall provide any type of information the Inspector General deems relevant to Grantee's integrity or responsibility. Such information may include, but shall not be limited to, Grantee's business or financial records, documents, or files of any type or form that refer to or relate to Agreement. The Grantee shall retain such records for the longer of: (1) three years after the expiration of the Agreement; or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>).

29. Audits.

- a. **Inspector General.** The Grantee understands its duty, pursuant to section 20.055(5), F.S., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing. The Grantee will comply with this duty and ensure that its sub-grantees and/or subcontractors issued under this Agreement, if any, impose this requirement, in writing, on its sub-grantees and/or subcontractors, respectively.
- b. **Physical Access and Inspection.** Department personnel shall be given access to and may observe and inspect work being performed under this Agreement, with reasonable notice and during normal business hours, including by any of the following methods:
 - i. Grantee shall provide access to any location or facility on which Grantee is performing work, or storing or staging equipment, materials or documents;
 - ii. Grantee shall permit inspection of any facility, equipment, practices, or operations required in performance of any work pursuant to this Agreement; and,
 - iii. Grantee shall allow and facilitate sampling and monitoring of any substances, soils, materials or parameters at any location reasonable or necessary to assure compliance with any work or legal requirements pursuant to this Agreement.
- c. **Special Audit Requirements.** The Grantee shall comply with the applicable provisions contained in Attachment 5, Special Audit Requirements. Each amendment that authorizes a funding increase or decrease shall include an updated copy of Exhibit 1, to Attachment 5. If Department fails to provide an updated copy of Exhibit 1 to include in each amendment that authorizes a funding increase or decrease, Grantee shall request one from the Department's Grants Manager. The Grantee shall consider the type of financial assistance (federal and/or state) identified in Attachment 5, Exhibit 1 and determine whether the terms of Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. For federal financial assistance, Grantee shall utilize the guidance provided under 2 CFR §200.331 for determining whether the relationship represents that of a subrecipient or vendor. For State financial assistance, Grantee shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website: <https://apps.fldfs.com/fsaa>.
- d. **Proof of Transactions.** In addition to documentation provided to support cost reimbursement as described herein, Department may periodically request additional proof of a transaction to evaluate the appropriateness of costs to the Agreement pursuant to State guidelines (including cost allocation guidelines) and federal, if applicable. Allowable costs and uniform administrative requirements for federal programs can be found under 2 CFR 200. The Department may also request a cost allocation plan in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits). The Grantee must provide the additional proof within thirty (30) days of such request.
- e. **No Commingling of Funds.** The accounting systems for all Grantees must ensure that these funds are not commingled with funds from other agencies. Funds from each agency must be accounted for separately. Grantees are prohibited from commingling funds on either a program-by-program or a project-by-project basis. Funds specifically budgeted and/or received for one project may not be used to support another project. Where a Grantee's, or subrecipient's, accounting system cannot comply with this requirement, Grantee, or subrecipient, shall establish a system to provide adequate fund accountability for each project it has been awarded.
 - i. If Department finds that these funds have been commingled, Department shall have the right to demand a refund, either in whole or in part, of the funds provided to Grantee under this Agreement for non-compliance with the material terms of this Agreement. The Grantee, upon such written notification from Department shall refund, and shall forthwith pay to Department, the amount of money demanded by Department. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the

original payment(s) are received from Department by Grantee to the date repayment is made by Grantee to Department.

- ii. In the event that the Grantee recovers costs, incurred under this Agreement and reimbursed by Department, from another source(s), Grantee shall reimburse Department for all recovered funds originally provided under this Agreement and interest shall be charged for those recovered costs as calculated on from the date(s) the payment(s) are recovered by Grantee to the date repayment is made to Department.
- iii. Notwithstanding the requirements of this section, the above restrictions on commingling funds do not apply to agreements where payments are made purely on a cost reimbursement basis.

30. Conflict of Interest.

The Grantee covenants that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of services required.

31. Independent Contractor.

The Grantee is an independent contractor and is not an employee or agent of Department.

32. Subcontracting.

- a. Unless otherwise specified in the Special Terms and Conditions, all services contracted for are to be performed solely by Grantee.
- b. The Department may, for cause, require the replacement of any Grantee employee, subcontractor, or agent. For cause, includes, but is not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with an applicable Department policy or other requirement.
- c. The Department may, for cause, deny access to Department's secure information or any facility by any Grantee employee, subcontractor, or agent.
- d. The Department's actions under paragraphs b. or c. shall not relieve Grantee of its obligation to perform all work in compliance with the Agreement. The Grantee shall be responsible for the payment of all monies due under any subcontract. The Department shall not be liable to any subcontractor for any expenses or liabilities incurred under any subcontract and Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under any subcontract.
- e. The Department will not deny Grantee's employees, subcontractors, or agents access to meetings within the Department's facilities, unless the basis of Department's denial is safety or security considerations.
- f. The Department supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State. A list of minority-owned firms that could be offered subcontracting opportunities may be obtained by contacting the Office of Supplier Diversity at (850) 487-0915.
- g. The Grantee shall not be liable for any excess costs for a failure to perform, if the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both Grantee and the subcontractor(s), and without the fault or negligence of either, unless the subcontracted products or services were obtainable from other sources in sufficient time for Grantee to meet the required delivery schedule.

33. Guarantee of Parent Company.

If Grantee is a subsidiary of another corporation or other business entity, Grantee asserts that its parent company will guarantee all of the obligations of Grantee for purposes of fulfilling the obligations of Agreement. In the event Grantee is sold during the period the Agreement is in effect, Grantee agrees that it will be a requirement of sale that the new parent company guarantee all of the obligations of Grantee.

34. Survival.

The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of this Agreement, including without limitation, the obligations regarding confidentiality, proprietary interests, and public records, shall survive termination, cancellation, or expiration of this Agreement.

35. Third Parties.

The Department shall not be deemed to assume any liability for the acts, failures to act or negligence of Grantee, its agents, servants, and employees, nor shall Grantee disclaim its own negligence to Department or any third party. This Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties. If Department consents to a subcontract, Grantee will specifically disclose that this Agreement does not create any third-party rights. Further, no third parties shall rely upon any of the rights and obligations created under this Agreement.

36. Severability.

If a court of competent jurisdiction deems any term or condition herein void or unenforceable, the other provisions are severable to that void provision, and shall remain in full force and effect.

37. Grantee's Employees, Subcontractors and Agents.

All Grantee employees, subcontractors, or agents performing work under the Agreement shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Grantee shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under Agreement must comply with all security and administrative requirements of Department and shall comply with all controlling laws and regulations relevant to the services they are providing under the Agreement.

38. Assignment.

The Grantee shall not sell, assign, or transfer any of its rights, duties, or obligations under the Agreement, or under any purchase order issued pursuant to the Agreement, without the prior written consent of Department. In the event of any assignment, Grantee remains secondarily liable for performance of the Agreement, unless Department expressly waives such secondary liability. The Department may assign the Agreement with prior written notice to Grantee of its intent to do so.

39. Compensation Report.

If this Agreement is a sole-source, public-private agreement or if the Grantee, through this agreement with the State, annually receive 50% or more of their budget from the State or from a combination of State and Federal funds, the Grantee shall provide an annual report, including the most recent IRS Form 990, detailing the total compensation for the entities' executive leadership teams. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. The Grantee must also inform the Department of any changes in total executive compensation between the annual reports. All compensation reports must indicate what percent of compensation comes directly from the State or Federal allocations to the Grantee.

40. Execution in Counterparts and Authority to Sign.

This Agreement, any amendments, and/or change orders related to the Agreement, may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument. In accordance with the Electronic Signature Act of 1996, electronic signatures, including facsimile transmissions, may be used and shall have the same force and effect as a written signature. Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party to the Agreement.

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Special Terms and Conditions
AGREEMENT NO. LPA0594**

ATTACHMENT 2

These Special Terms and Conditions shall be read together with general terms outlined in the Standard Terms and Conditions, Attachment 1. Where in conflict, these more specific terms shall apply.

1. Scope of Work.

The Project funded under this Agreement is Northwest Florida Estuary Water Quality Protection and Restoration. The Project is defined in more detail in Attachment 3, Grant Work Plan.

2. Duration.

- a. Reimbursement Period. The reimbursement period for this Agreement begins on July 1, 2023 and ends at the expiration of the Agreement.
- b. Extensions. There are extensions available for this Project.
- c. Service Periods. Additional service periods are not authorized under this Agreement.

3. Payment Provisions.

- a. Compensation. This is a cost reimbursement Agreement. The Grantee shall be compensated under this Agreement as described in Attachment 3.
- b. Invoicing. Invoicing will occur as indicated in Attachment 3.
- c. Advance Pay. Advance Pay is not authorized under this Agreement.

4. Cost Eligible for Reimbursement or Matching Requirements.

Reimbursement for costs or availability for costs to meet matching requirements shall be limited to the following budget categories, as defined in the Reference Guide for State Expenditures, as indicated:

<u>Reimbursement</u>	<u>Match</u>	<u>Category</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Salaries/Wages
		Overhead/Indirect/General and Administrative Costs:
<input checked="" type="checkbox"/>	<input type="checkbox"/>	a. Fringe Benefits, for actual costs not to exceed the budget amount identified in Attachment 3.
<input type="checkbox"/>	<input type="checkbox"/>	b. Indirect Costs, N/A.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Contractual (Subcontractors)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Travel, in accordance with Section 112, F.S.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Equipment
<input type="checkbox"/>	<input type="checkbox"/>	Rental/Lease of Equipment
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Miscellaneous/Other Expenses
<input type="checkbox"/>	<input type="checkbox"/>	Land Acquisition

5. Equipment Purchase.

The purchase of non-expendable personal property or equipment costing \$5,000 or more purchased for purposes of this Agreement remains the property of the Grantee. Upon satisfactory completion of this Agreement, the Grantee may retain ownership or determine the disposition of the non-expendable personal property or equipment purchased under this Agreement. However, the Grantee is required to account for and report on all nonexpendable and/or nonconsumable personal property or equipment purchased under this Agreement in accordance with the Grantee's financial reporting and inventory control requirements. Based on the report, the Grantee will submit Exhibit B, Property Reporting Form, along with the appropriate invoice(s) to the Department's Grant Manager with any applicable requests for reimbursement. The following terms shall apply:

- a. The Grantee shall have use of the non-expendable personal property or equipment for the authorized purposes of the contractual arrangement as long as the required work is being performed.

Attachment 2

- b. The Grantee is responsible for the implementation of adequate maintenance procedures to keep the non-expendable personal property or equipment in good operating condition.
- c. The Grantee is responsible for any loss, damage, or theft of, and any loss, damage or injury caused by the use of, non-expendable personal property or equipment purchased with state funds and held in Grantee's possession for use in a contractual arrangement with the Department.
- d. The Grantee is responsible for keeping a current and accurate inventory of any nonexpendable and/or nonconsumable personal property or equipment in accordance with its financial reporting and inventory control requirements. The Department may request an annual copy of these inventory records for the life of the Agreement.

6. Land Acquisition.

There will be no Land Acquisitions funded under this Agreement.

7. Match Requirements

There is no match required on the part of the Grantee under this Agreement.

8. Insurance Requirements

Required Coverage. At all times during the Agreement the Grantee, at its sole expense, shall maintain insurance coverage of such types and with such terms and limits described below. The limits of coverage under each policy maintained by the Grantee shall not be interpreted as limiting the Grantee's liability and obligations under the Agreement. All insurance policies shall be through insurers licensed and authorized to issue policies in Florida, or alternatively, Grantee may provide coverage through a self-insurance program established and operating under the laws of Florida. Additional insurance requirements for this Agreement may be required elsewhere in this Agreement, however the minimum insurance requirements applicable to this Agreement are:

a. Commercial General Liability Insurance.

The Grantee shall provide adequate commercial general liability insurance coverage and hold such liability insurance at all times during the Agreement. The Department, its employees, and officers shall be named as an additional insured on any general liability policies. The minimum limits shall be \$250,000 for each occurrence and \$500,000 policy aggregate.

b. Commercial Automobile Insurance.

If the Grantee's duties include the use of a commercial vehicle, the Grantee shall maintain automobile liability, bodily injury, and property damage coverage. Insuring clauses for both bodily injury and property damage shall provide coverage on an occurrence basis. The Department, its employees, and officers shall be named as an additional insured on any automobile insurance policy. The minimum limits shall be as follows:

\$200,000/300,000	Automobile Liability for Company-Owned Vehicles, if applicable
\$200,000/300,000	Hired and Non-owned Automobile Liability Coverage

c. Workers' Compensation and Employer's Liability Coverage.

The Grantee shall provide workers' compensation, in accordance with Chapter 440, F.S. and employer liability coverage with minimum limits of \$100,000 per accident, \$100,000 per person, and \$500,000 policy aggregate. Such policies shall cover all employees engaged in any work under the Grant.

d. Other Insurance. None.

9. Quality Assurance Requirements.

The Grantee shall develop and implement quality assurance practices consisting of policies, procedures, specifications, standards, and documentation sufficient to produce data of quality adequate to meet Project objectives and to minimize loss of data due to out-of-control conditions or malfunctions. All sampling and analyses performed under this Agreement must conform with the requirements set forth in Chapter 62-160, Florida Administrative Code, and the Quality Assurance Requirements for Department Agreements, attached hereto and made part hereof as Exhibit D, Quality Assurance Requirements for Grants.

10. Retainage.

No retainage is required under this Agreement.

11. Subcontracting.

The Grantee may subcontract work under this Agreement without the prior written consent of the Department’s Grant Manager except for certain fixed-price subcontracts pursuant to this Agreement, which require prior approval. The Grantee shall submit a copy of the executed subcontract to the Department prior to submitting any invoices for subcontracted work. Regardless of any subcontract, the Grantee is ultimately responsible for all work to be performed under this Agreement.

12. State-owned Land.

The work will not be performed on State-owned land.

13. Office of Policy and Budget Reporting.

The Grantee will identify the expected return on investment for this project and provide this information to the Governor’s Office of Policy and Budget (OPB) within three months of execution of this Agreement. For each full calendar quarter thereafter, the Grantee will provide quarterly update reports directly to OPB, no later than 20 days after the end of each quarter, documenting the positive return on investment to the state that results from the Grantee’s project and its use of funds provided under this Agreement. Quarterly reports will continue until the Grantee is instructed by OPB that no further reports are needed, or until the end of this Agreement, whichever occurs first. All reports shall be submitted electronically to OPB at env.roi@laspbs.state.fl.us, and a copy shall also be submitted to the Department at legislativeaffairs@floridaDEP.gov.

14. Common Carrier.

- a. Applicable to contracts with a common carrier – firm/person/corporation that as a regular business transports people or commodities from place to place. If applicable, Contractor must also fill out and return PUR 1808 before contract execution] If Contractor is a common carrier pursuant to section 908.111(1)(a), Florida Statutes, the Department will terminate this contract immediately if Contractor is found to be in violation of the law or the attestation in PUR 1808.

- b. Applicable to solicitations for a common carrier – Before contract execution, the winning Contractor(s) must fill out and return PUR 1808, and attest that it is not willfully providing any service in furtherance of transporting a person into this state knowing that the person unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, 8 U.S.C. ss. 1101 et seq. The Department will terminate a contract immediately if Contractor is found to be in violation of the law or the attestation in PUR 1808

15. Additional Terms.

None

ATTACHMENT 3 GRANT WORK PLAN

PROJECT TITLE: Northwest Florida Estuary Water Quality Protection and Restoration.

PROJECT LOCATION: The Project will be located in the City of Pensacola within Escambia County; Lat/Long (30.5450, -87.2120).

PROJECT BACKGROUND: In response to the Deepwater Horizon oil spill, the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act (RESTORE Act), established the Gulf Coast Restoration Trust Fund. Florida is among the five states eligible to receive funding pursuant to this program. Since the Trust Fund's establishment in 2017, Florida Panhandle's coastal counties have lacked a coordinated effort for pursuit, resulting in inadequate local government leveraging of RESTORE Act funds. This Project will continue the efforts for a more regional process of creating data-driven resources for Northwest Florida environmental and restoration grant projects.

PROJECT DESCRIPTION: The University of West Florida (UWF; Grantee) will work with SAS Institute (SAS) and three estuary programs: Pensacola and Perdido Bays, Choctawhatchee Bay, and St. Andrew and St. Joseph Bays (Project Estuary Programs) to improve data analytics and regional coordination to enhance the ability of estuary programs and local governments to apply for RESTORE Act funding. The Grantee will:

- Perform a targeted water quality monitoring study at priority locations within the watershed of each of the Project Estuary Programs, including laboratory analyses of nutrients and microbial source tracking using quantitative polymerase chain reaction (qPCR);
- Purchase of a nutrient autoanalyzer and qPCR machine to identify nutrient levels and sources of fecal indicator bacteria;
- Develop and expand the SAS data repository and the Water Quality Portal (WQP);
- Conduct training of UWF and estuary program users on the SAS data repository;
- Provide stakeholders with recommendations on which water quality restoration strategies will provide the greatest impact;
- Conduct 7 public education and training activities with Estuary Program Technical and Education and Outreach committees and the public; and
- Prepare a Northwest Florida Estuary Water Quality Protection and Restoration final report.

The Grantee does not anticipate that the funding under this agreement will result in a fully completed project, so this agreement will cover a portion of the work.

TASKS: All documentation should be submitted electronically unless otherwise indicated.

Task #1: Project Management

Deliverables: The Grantee will perform project management, to include: Bimonthly meetings with Estuary Programs and SAS to report progress on the project timeline; Coordinate with estuary programs on study activities; Supervise UWF personnel; Oversee procurement and expenditures for the Project.

Documentation: The Grantee will submit interim progress status summaries including meeting minutes, and summary of meetings with Estuary Programs and SAS. Status summaries will include a narrative describing the coordination activities with Estuary Programs on study activities for the prior time period, activities of UWF personnel for prior time period and expenditures for prior time period.

Performance Standard: The Department's Grant Manager will review the documentation to verify that the deliverables have been completed as described above. Upon review and written acceptance by the Department's Grant Manager, the Grantee may proceed with payment request submittal.

Payment Request Schedule: The Grantee may submit a payment request for cost reimbursement no more frequently than monthly.

Task #2: Equipment Purchase

Deliverables: The Grantee will purchase the following equipment: a SEAL Analytical AA500 (Autoanalyzer AA500) for nutrient analysis and an Applied Biosystems QuantStudio 5 Real-Time PCR System for microbial source tracking using qPCR. Installation and start-up by the vendor are included.

Documentation: The Grantee will submit purchase order(s) and/or vendor invoice(s) for delivery, installation and start up (as applicable).

Performance Standard: The Department's Grant Manager will review the documentation to verify that the deliverables have been completed as described above. Upon review and written acceptance by the Department's Grant Manager, the Grantee may proceed with payment request submittal.

Payment Request Schedule: The Grantee may submit a payment request for cost reimbursement no more frequently than monthly.

Task #3: Study

Deliverables: The Grantee will complete a study to improve data analytics, address microbial source tracking and nutrient inputs at impaired locations, and develop regional/watershed-scale proposals for future grant opportunities in Northwest Florida. Activities necessary to complete the study will include:

- Work with Project Estuary Programs and SAS to design and implement the Water Quality Analytics SAS Platform ("SAS Platform") for a more comprehensive view of regional water quality restoration needs. This includes identifying additional datasets, uploading missing datasets to the WQP, identifying critical monitoring gaps for each Estuary Program, and delivering a summary of recommendations on how to fill those gaps. This also includes leveraging prior code as appropriate to incorporate environmental data sets into the environment for analysis by UWF and/or estuary programs. SAS will provide Information Technology (IT) services for the development and hosting of the Analytics platform, SAS software access for data scientists, and support services for centralizing data cleansing and coding, as well as support for visualizations and dashboards. Support will include items such as data cleaning, pre-processing, housing, and final integration. Moreover, SAS will leverage its technical expertise and proficiency in SAS code to develop visual and functional aspects of visualizations and/or dashboards with guidance and direction from UWF and Estuary Program scientists. The output of this deliverable will include the platform and dashboards/visualization, other technology supported by SAS, and support tasks associated with the SAS platform.
- Conduct a targeted water quality and sediment monitoring study for each of the three estuary programs noted in the Project Description to address microbial source tracking and nutrient inputs at impaired locations.
- The Grantee will conduct monitoring in accordance with the Department-approved QAPP for this project.
- Provide stakeholders with recommendations on water quality restoration strategies expected to have the greatest impact. This will include analysis of existing data (WQP & Impaired Water Rule (IWR) with a focus on bacteria & nutrients. Estuary Program staff will coordinate with local, state, and federal partners to 1) identify priority issues, 2) identify funding opportunities and policy recommendations, and 3) implement actions to resolve the priority issues across the watersheds.
- Development of regional/watershed-scale proposals led by PPBEP staff working with program partners, including local governments, state agencies, academia, non-profit organizations, and neighboring Estuary Programs to develop a suite of project proposals that align with the priorities of the Comprehensive Conservation and Management Plan. Outcome includes one or more

regional/watershed-scale proposals to be considered for future grant opportunities, including Component 2 of the RESTORE Act.

Documentation: The Grantee will submit a Northwest Florida Estuary Water Quality Protection and Restoration report containing the information and/or data completed to date as described in the Deliverables.

The report will contain a summary of completed monitoring activities (dates completed, sampling conducted, and any not conducted and why), monitoring results with interpretation of those results (as expected or not as expected), along with the draft laboratory report and sampling logs. The report will also contain: 1) a summary of SAS platform design activities to date, including the percentage of design completion for the period covered in the payment request; and 2) a summary of the SAS platform updates to date, including all data sources used and visualizations/dashboards created. For the final documentation, the Grantee will also submit: 3) a copy of the design completed; 4) the final laboratory report and sampling logs.

Performance Standard: The Department's Grant Manager will review the documentation to verify that the deliverables have been completed as described above. Upon review and written acceptance by the Department's Grant Manager, the Grantee may proceed with payment request submittal.

Additional Financial Consequences: Costs for any monitoring that is not completed as outlined in the Department-approved QAPP will be removed, if included in the payment request.

Payment Request Schedule: The Grantee may submit a payment request for cost reimbursement no more frequently than monthly.

Task #4: Public Education and Training

Deliverables: The Grantee, in coordination with SAS and the Project Estuary Programs will provide information about the Project and how to apply for future grant funding and will train program users on their data repository. These activities will be provided in the following formats: 1) workshop(s); 2) training by SAS; and 3) presentations.

- SAS will provide user adoption services to the Grantee, which may include items such as a series of 3 training sessions, specific SAS training material, and/or user sessions from subject matter experts. The deliverable will include supporting documentation such as a log including a description of activities for user support.
- The Grantee will present results from study activities to the technical committee of each Estuary Program, 3 presentations total. These will be in-person presentations at a regularly scheduled technical meeting: Pensacola Perdido Bays Estuary Program Technical Committee, Choctawhatchee Bay Estuary Program Technical Advisory Committee, and St. Andrew and St Joseph Bays Estuary Program Science and Technical Committee.
- The Grantee will work with Pensacola and Perdido Bays Estuary Program (PPBEP) staff to organize and run a public workshop for local NGOs on how to submit grants to the PPBEP minigrant program.

Documentation: Completed public education activities to date as described in this task, as evidenced by: 1) draft materials for workshop(s) and copy of workshop notice(s), agenda(s), meeting minutes or notes, and sign-in sheet(s)/attendance lists; 2) draft materials for training(s), agenda(s), sign-in sheet(s)/attendance lists; 3) draft materials for presentation(s) and copy of presentation notice(s), agenda(s), meeting minutes or notes, and sign-in sheet(s)/attendance lists/dated screenshots of on-line participants; and 4) a summary of the SAS user adoption activities for the period covered in the payment request. For the final documentation, the Grantee will also submit: a copy of a report including training user adoption and access to user adoption resources.

Performance Standard: The Department's Grant Manager will review the documentation to verify that the deliverables have been completed as described above. Upon review and written acceptance by the Department's Grant Manager, the Grantee may proceed with payment request submittal.

Payment Request Schedule: The Grantee may submit a payment request for cost reimbursement no more frequently than monthly.

Task #5: Grant Administration

Deliverables: The Grantee will provide grant administration services related to Northwest Florida Estuary Water Quality Protection and Restoration, to include review of documents and forms, budget oversight, preparation and submittal of quarterly progress reports, processing of payment requests and related documentation, and overall project coordination and supervision.

Documentation: The Grantee will submit a summary of activities for the current payment period. Upon request by the Department's Grant Manager, the Grantee will provide additional supporting documentation relating to this task.

Performance Standard: The Department's Grant Manager will review the documentation to verify that the deliverables have been completed as described above. Upon review and written acceptance by the Department's Grant Manager, the Grantee may proceed with payment request submittal.

Payment Request Schedule: The Grantee may submit a payment request for cost reimbursement no more frequently than monthly.

Task #6: Quality Assurance Project Plan

Deliverables: The Grantee will prepare a Quality Assurance Project Plan (QAPP). The QAPP must be approved by the Department prior to commencement of any monitoring associated with the project. The QAPP must specify the sampling procedures, locations, instruments, and parameters to be sampled. The Grantee will use the format provided by the Department's Grant Manager, if applicable.

Documentation: The Grantee will submit: 1) a draft QAPP submitted in Word format; and 2) a final Department-approved QAPP in Word or PDF format.

Performance Standard: The Department's Grant Manager will review the documentation to verify that the deliverables have been completed as described above. Upon review and written acceptance by the Department's Grant Manager, the Grantee may proceed with payment request submittal.

Payment Request Schedule: The Grantee may submit a payment request for cost reimbursement following the conclusion of the task.

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PROJECT TIMELINE & BUDGET DETAIL: The tasks must be completed by, and all documentation received by, the corresponding task end date. Cost reimbursable grant funding must not exceed the budget amounts as indicated below.

Task No.	Task Title	Budget Category	Grant Amount	Task Start Date	Task End Date
1	Project Management	Salary	\$69,904	07/01/2023	04/30/2025
		Fringe Benefits	\$18,088	07/01/2023	04/30/2025
2	Equipment Purchase	Equipment	\$110,020	07/01/2023	04/30/2025
3	Study	Contractual Services	\$1,379,687	07/01/2023	04/30/2025
		Salary	\$102,583	07/01/2023	04/30/2025
		Fringe Benefits	\$19,956	07/01/2023	04/30/2025
		Travel	\$13,615	07/01/2023	04/30/2025
		Miscellaneous/ Other Expenses	\$71,304	07/01/2023	04/30/2025
4	Public Education and Training	Contractual Services	\$129,142	07/01/2023	04/30/2025
		Salary	\$7,537	07/01/2023	04/30/2025
		Fringe Benefits	\$2,063	07/01/2023	04/30/2025
		Travel	\$4,000	07/01/2023	04/30/2025
		Miscellaneous/ Other Expenses	\$1,765	07/01/2023	04/30/2025
5	Grant Administration	Salary	\$52,101	07/01/2023	04/30/2025
		Fringe Benefits	\$18,235	07/01/2023	04/30/2025
6	Quality Assurance Project Plan- Draft	No-Cost Deliverable	\$0	07/01/2023	03/31/2024
	Quality Assurance Project Plan- Final				06/30/2024
Total:		\$2,000,000			

SALARY AND FRINGE BENEFITS BY TASK: Cost reimbursable funding or match hourly and fringe rate(s) by position may not exceed those indicated below.

Cost reimbursable funding or match hourly rate(s) by position may not exceed those indicated below. Fringe benefits will be reimbursed based on actual costs, with the total not to exceed the budgeted amounts shown in the Budget Detail by Task table.

Task No.	Position Title	Hourly Rate	Fringe Rate (%)
1	Professor	90.62	28.00
	Post-Doctoral/Research Associate	38.31	33.00
	Assistant Scholar	26.06	33.00
	OPS	25.00	4.65
	Graduate Student	20.00	4.65
	Undergraduate Student	13.00	4.65
	Grant Specialist/Senior Grant Specialist	33.52	35.00
	Business Manager	30.19	35.00
Task No.	Position Title	Hourly Rate	Fringe Rate (%)
3	Professor	90.62	28.00
	Post-Doctoral/Research Associate	38.31	33.00
	Assistant Scholar	26.06	33.00
	OPS	25.00	4.65
	Graduate Student	20.00	4.65
	Undergraduate Student	13.00	4.65
	Grant Specialist/Senior Grant Specialist	33.52	35.00
	Business Manager	30.19	35.00
Task No.	Position Title	Hourly Rate	Fringe Rate (%)
4	Professor	90.62	28.00
	Post-Doctoral/Research Associate	38.31	33.00
	Assistant Scholar	26.06	33.00
	OPS	25.00	4.65
	Graduate Student	20.00	4.65
	Undergraduate Student	13.00	4.65
	Grant Specialist/Senior Grant Specialist	33.52	35.00
	Business Manager	30.19	35.00
Task No.	Position Title	Hourly Rate	Fringe Rate (%)
5	Grant Specialist/Senior Grant Specialist	33.52	35.00
	Business Manager	30.19	35.00

Note: Upon submission of each payment request, the Grantee certifies that the hours and rates submitted are accurate and allowable costs for the grant agreement. Upon request by the Department's grant manager, additional documentation of hours worked will be provided.

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Public Records Requirements**

Attachment 4

1. Public Records.

- a. If the Agreement exceeds \$35,000.00, and if Grantee is acting on behalf of Department in its performance of services under the Agreement, Grantee must allow public access to all documents, papers, letters, or other material, regardless of the physical form, characteristics, or means of transmission, made or received by Grantee in conjunction with the Agreement (Public Records), unless the Public Records are exempt from section 24(a) of Article I of the Florida Constitution or section 119.07(1), F.S.
- b. The Department may unilaterally terminate the Agreement if Grantee refuses to allow public access to Public Records as required by law.

2. Additional Public Records Duties of Section 119.0701, F.S., If Applicable.

For the purposes of this paragraph, the term “contract” means the “Agreement.” If Grantee is a “contractor” as defined in section 119.0701(1)(a), F.S., the following provisions apply and the contractor shall:

- a. Keep and maintain Public Records required by Department to perform the service.
- b. Upon request, provide Department with a copy of requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
- c. A contractor who fails to provide the Public Records to Department within a reasonable time may be subject to penalties under section 119.10, F.S.
- d. Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the Public Records to Department.
- e. Upon completion of the contract, transfer, at no cost, to Department all Public Records in possession of the contractor or keep and maintain Public Records required by Department to perform the service. If the contractor transfers all Public Records to Department upon completion of the contract, the contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If the contractor keeps and maintains Public Records upon completion of the contract, the contractor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to Department, upon request from Department’s custodian of Public Records, in a format specified by Department as compatible with the information technology systems of Department. These formatting requirements are satisfied by using the data formats as authorized in the contract or Microsoft Word, Outlook, Adobe, or Excel, and any software formats the contractor is authorized to access.

f. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE DEPARTMENT’S CUSTODIAN OF PUBLIC RECORDS AT:

Telephone: (850) 245-2118
Email: public.services@floridadep.gov
Mailing Address: Department of Environmental Protection
ATTN: Office of Ombudsman and Public Services
Public Records Request
3900 Commonwealth Boulevard, MS 49
Tallahassee, Florida 32399

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Special Audit Requirements
(State and Federal Financial Assistance)**

Attachment 5

The administration of resources awarded by the Department of Environmental Protection (*which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the agreement*) to the recipient (*which may be referred to as the "Recipient", "Grantee" or other name in the agreement*) may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by DEP Department staff, limited scope audits as defined by 2 CFR 200.425, or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in 2 CFR §200.330

1. A recipient that expends \$750,000 or more in Federal awards in its fiscal year, must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F. EXHIBIT 1 to this Attachment indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department of Environmental Protection. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR 200.502-503. An audit of the recipient conducted by the Auditor General in accordance with the provisions of 2 CFR Part 200.514 will meet the requirements of this part.
2. For the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR 200.508-512.
3. A recipient that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F-Audit Requirements. If the recipient expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F-Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other federal entities).
4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at <https://sam.gov/content/assistance-listings>.

PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2), Florida Statutes.

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such recipient (for fiscal years ending June 30, 2017, and thereafter), the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through the Department of Environmental Protection by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1; the recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal year ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$750,000 in state financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website at <http://www.leg.state.fl.us/Welcome/index.cfm>, State of Florida's website at <http://www.myflorida.com/>, Department of Financial Services' Website at <http://www.fldfs.com/> and the Auditor General's Website at <http://www.myflorida.com/audgen/>.

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), Florida Statutes, State agencies may conduct or arrange for audits of State financial assistance that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and required by PART I of this form shall be submitted, when required by 2 CFR 200.512, by or on behalf of the recipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR 200.36 and 200.512
 - A. The Federal Audit Clearinghouse designated in 2 CFR §200.501(a) (the number of copies required by 2 CFR §200.501(a) should be submitted to the Federal Audit Clearinghouse), at the following address:

By Mail:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Submissions of the Single Audit reporting package for fiscal periods ending on or after January 1, 2008, must be submitted using the Federal Clearinghouse's Internet Data Entry System which can be found at <http://harvester.census.gov/facweb/>

2. Copies of financial reporting packages required by PART II of this Attachment shall be submitted by or on behalf of the recipient directly to each of the following:

A. The Department of Environmental Protection at one of the following addresses:

By Mail:

Audit Director

Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:

FDEPSingleAudit@dep.state.fl.us

B. The Auditor General's Office at the following address:

Auditor General
Local Government Audits/342
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

The Auditor General's website (<http://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

3. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at one of the following addresses:

By Mail:

Audit Director

Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:

FDEPSingleAudit@dep.state.fl.us

4. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this Agreement shall be submitted timely in accordance with 2 CFR 200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

Attachment 5

3 of 6

5. Recipients, when submitting financial reporting packages to the Department of Environmental Protection for audits done in accordance with 2 CFR 200, Subpart F-Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (non and for-profit organizations), Rules of the Auditor General, should indicate the date and the reporting package was delivered to the recipient correspondence accompanying the reporting package.

PART V: RECORD RETENTION

The recipient shall retain sufficient records demonstrating its compliance with the terms of the award and this Agreement for a period of **five (5)** years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of **three (3)** years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

EXHIBIT – 1

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Note: If the resources awarded to the recipient represent more than one federal program, provide the same information shown below for each federal program and show total federal resources awarded

Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following:					
Federal Program	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
Federal Program A				\$	
Federal Program B					
				\$	

Note: Of the resources awarded to the recipient represent more than one federal program, list applicable compliance requirements for each federal program in the same manner as shown below:

Federal Program A	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	
Federal Program B	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	

Note: If the resources awarded to the recipient for matching represent more than one federal program, provide the same information shown below for each federal program and show total state resources awarded for matching.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs:					
Federal Program	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category
Federal Program A	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category
Federal Program B	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category

Note: If the resources awarded to the recipient represent more than one state project, provide the same information shown below for each state project and show total state financial assistance awarded that is subject to section 215.97, F.S.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:						
State Program	State Awarding Agency	State Fiscal Year ¹	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
Original Agreement	Department of Environmental Protection	2023-2024	37.039	Statewide Water Quality Restoration Projects - LI 1705A	\$2,000,000	140047
State Program B	State Awarding Agency	State Fiscal Year ²	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category

Total Award	\$2,000,000
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Note: List applicable compliance requirement in the same manner as illustrated above for federal resources. For matching resources provided by the Department for DEP for federal programs, the requirements might be similar to the requirements for the applicable federal programs. Also, to the extent that different requirements pertain to different amount for the non-federal resources, there may be more than one grouping (i.e. 1, 2, 3, etc.) listed under this category.

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [<https://sam.gov/content/assistance-listings>] and/or the Florida Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/searchCatalog.aspx>], and State Projects Compliance Supplement (Part Four: State Projects Compliance Supplement [https://apps.fldfs.com/fsaa/state_project_compliance.aspx]). The services/purposes for which the funds are to be used are included in the Agreement's Grant Work Plan. Any match required by the Recipient is clearly indicated in the Agreement.

¹ Subject to change by Change Order.

² Subject to change by Change Order.

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Exhibit A
Progress Report Form**

DEP Agreement No.:	LPA0594
Project Title:	Northwest Florida Estuary Water Quality Protection and Restoration
Grantee Name:	University of West Florida
Grantee's Grant Manager:	Elan Travis
Reporting Period:	Select Quarter - Select Year

Provide the following information for all tasks identified in the Grant Work Plan:

Summarize the work completed within each task for the reporting period, provide an update on the estimated completion date for each task, and identify any anticipated delays or problems encountered. Use the format provided below and use as many pages as necessary to cover all tasks. Each quarterly progress report is due no later than twenty (20) days following the completion of the quarterly reporting period.

Task 1: Project Management

- Progress for this reporting period:
- Identify delays or problems encountered:

Task 2: Equipment Purchase

- Progress for this reporting period:
- Identify delays or problems encountered:

Task 3: Study

- Progress for this reporting period:
- Identify delays or problems encountered:

Task 4: Public Education and Training

- Progress for this reporting period:
- Identify delays or problems encountered:

Task 5: Grant Administration

- Progress for this reporting period:
- Identify delays or problems encountered:

Task 6: Quality Assurance Project Plan

- **Progress for this reporting period:**
- **Identify delays or problems encountered:**

Completion Status for Tasks:

Indicate the completion status for the following tasks, if included in the Grant Work Plan. For construction, the estimated completion percentage should represent the work being funded under this Agreement.

Design (Plans/Submittal): 30% , 60% , 90% , 100%

Permitting (Completed): Yes , No

Construction (Estimated): _____ %

This report is submitted in accordance with the reporting requirements of the above DEP Agreement number and accurately reflects the activities associated with the project.

Signature of Grantee's Grant Manager
(Original Ink or Digital Timestamp)

Date



**Exhibit B
Florida Department of Environmental Protection
PROPERTY REPORTING FORM FOR
DEP AGREEMENT NO. LPA0594**

Required Signatures: **Adobe Signature** or Original Ink

CONTRACTOR/GRANTEE: In order to comply with applicable state and/or federal regulations, list non-expendable equipment/personal property costing \$1,000 or more purchased directly or indirectly under the above Agreement. Complete: 1) a description of the property, 2) the serial number or other identification number, 3) the source, 4) who holds title, 5) purchase date, 6) cost, 7) share of that cost, 8) location/address, 9) use and condition, 10) any ultimate disposition data including date of disposal and sale price.

Description	Serial No./ID No.	Source	Owner	Purchase Date	Cost	% Charged to DEP Grant Funds	Location/ Address	Use and Condition	Disposition (if sold, include sale price)
Ex. Rainfall Gauge	12345	Bid	Grantee	MM/DD/YYYY	\$1,000/unit	100%	Project Site- 123 Main Street, Tallahassee, FL	New- Rainfall Measurements	Permanently installed at project site
The Grantee will perform a study to									

CONTRACTOR/GRANTEE:	Contract/Project/Grant Manager:	Date:
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BELOW FOR DEP USE ONLY

DEP MANAGER: Send invoices supporting the cost of the items to Finance and Accounting for the processing of the Grantee's/Contractor's invoice for payment. Maintain a copy of the invoices supporting the cost of each item identified above in your contract file. Refer to DEP Directive 320 for Property Guidelines.

DEP Manager Signature and Date:

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Exhibit C
Payment Request Summary Form**

The **Payment Request Summary Form** for this grant can be found on our website at this link:

<https://floridadep.gov/wra/wra/documents/payment-request-summary-form>

Please use the most current form found on the website, linked above, for each payment request.

Accessing Exhibit D – QA Requirements

The Department's Quality Assurance Requirements are maintained by the Aquatic Ecology and Quality Assurance Section, there are 2 Quality Assurance Requirements Attachments available: Standard Quality Assurance Requirements for Grants; and the Research Quality Assurance Requirements for Grants.

The process and copies of the appropriate Exhibit D can be found here:

http://publicfiles.dep.state.fl.us/dear/DEARweb/QA/QA%20resources/QA_Process_Procured_Lab_Field_Srvcs_Grants_06-12-18.pdf



Agenda Item 6.f.

Approval of Entering into an Agreement with Santa Rosa County for GIS Software

Background: Santa Rosa County has received RESTORE Act Component 3 funds through the Florida Gulf Consortium for their Santa Rosa Sound Water Quality Improvement Program. The County included funding to enhance monitoring and data sharing capabilities of local organizations and partners through the use of GIS. As such, the County has authorized funding to the Estuary Program on a reimbursement basis, up to \$12,000 per year through March 31, 2027, for an organizational GIS software license with ESRI. To date, Escambia County has provided GIS services for the Estuary Program. As ESRI GIS has migrated its platform from a primarily desktop-based software to an online and cloud-based software, an organizational license will greatly expand the Estuary Program's data analysis capabilities.

Recommendation: Recommend the Board approve, and authorize the Executive Director to sign, an agreement with Santa Rosa County providing up to \$12,000 per year for an ESRI GIS Software License.

Financial Impact: Santa Rosa County will reimburse the Estuary Program up to \$12,000 per year through March 31, 2027 for the ESRI GIS Software License.

Legal Review: General Counsel has reviewed and approved the agreement.

*Santa Rosa County
Clerk's Original*

**Agreement By and Between
Santa Rosa County Board of County Commissioners
and
Pensacola and Perdido Bays Estuary Program, Inc.**

WHEREAS, The Santa Rosa County Board of County Commissioners (hereinafter referred to as "the County") received funding as a sub-recipient of the Gulf Consortium, pursuant to the RESTORE Act Spill Component and the State of Florida State Expenditure Plan, to establish Project 2-1: Santa Rosa Sound Water Quality Improvement Program, having Federal Award Identification Number GNSSP22FL0036-01-00 (hereinafter referred to as "the Project") as described in attachment A, in 2022; and

WHEREAS, the Project has supported the goal and objective of restoring water quality and quantity and restoring, improving, and protecting water resources preceding and following the elimination of point source pollution into Santa Rosa Sound; and

WHEREAS, the Project is addressing the restoration and protection of natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region; and

WHEREAS, the Project includes funding to enhance the monitoring and data sharing capabilities of local organizations and partners through the use of Geographic Information Systems (herein after referred to "GIS"); and

WHEREAS, the Pensacola and Perdido Bays Estuary Program's (hereinafter referred to as "the Estuary Program") mission closely aligns with the goals of the Project; and,

WHEREAS, the Project funds can be used to purchase GIS software and user licensing for the duration of the Project period; and,

WHEREAS, the performance period is set to end March 31, 2027; and,

WHEREAS, the County wishes to partner with the Estuary Program to enhance environmental data collection and sharing in Santa Rosa Sound and throughout the region; and,

WHEREAS, the County and the Estuary Program desire to enter into this Memorandum of Agreement to provide funding to purchase and maintain GIS software and licenses for the Project objectives; and

NOW, THEREFORE, in consideration of the mutual terms and conditions contained in this Agreement, the receipt and adequacy acknowledged by them, the Parties agree as follows:

Pensacola and Perdido Bays Estuary Program:

1. Will establish an organizational account with Environmental Systems Research Institute, Inc. (herein after referred to as "ESRI") for access to GIS software.
2. Will be responsible for maintaining all the Estuary Program's own organizational agreements with ESRI.
3. Will provide the County with an invoice for expenses, purchase order, proof of pay, sales receipt, or any other valid documentation for the reimbursement of funds.
4. Will request reimbursement from the Santa Rosa County Grants Department at least once per fiscal year.
5. Will inform Santa Rosa County of data collection and other water quality related efforts within

Santa Rosa Sound.

6. Will make all water quality data available to Santa Rosa County upon request.
7. Will fill out the attached questionnaire bi-annually (Attachment B).

Santa Rosa County:

1. Will collaborate with the Estuary Program to assist in establishing and maintaining the GIS software and licensing.
2. Will work in good faith with the Estuary Program to provide training and guidance when requested.
3. Will reimburse the Estuary Program up to \$12,000 per annum for the purchase of GIS software and licensing.

Successors And Assigns

This Agreement shall be binding upon the successors and assigns of the respective Parties hereto.

Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and the Parties stipulate that venue for any matter, which is a subject of this Agreement, shall be in Santa Rosa County, Florida.

Compliance

The funds are provided through a federal award. Both Parties shall comply with all applicable laws and regulations including 2 Code of Federal Regulations (CFR) 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements, ordinances of local, state, and federal governments, as well as any articles of incorporation, bylaws, rules, regulations, or policies of the Parties that may be applicable to the performance of this agreement. The Parties will obtain and maintain, at their own expense, all licenses, permits, insurance, and governmental authorizations necessary to the performance of their obligations under this Agreement.

Dispute Resolution

In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or the breach thereof, the Parties hereto shall use their best efforts to settle such disputes, claims, questions, or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If they do not reach such a solution within a period of sixty (60) days, then upon notice by either party to the other, disputes, claims, questions, or disagreements shall be finally settled by arbitration.

Entire Agreement

This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended, modified, or terminated only by written instrument executed by both the County and the Estuary Program.

Notice: Contact information of Parties for purposes of providing notice pursuant to the terms of this Agreement will be as set forth below, unless and until updated information is provided. **To Santa Rosa County:**

County Administration:
Santa Rosa County Board of County Commissioners Attention:
DeVann Cook, County Administrator
6495 Caroline Street, Suite M
Milton, FL 32570
850-983-1877
devannc@santarosa.fl.gov

Grants & Special Programs:
Naisy Dolar, Grants and RESTORE Programs Manager
6495 Caroline Street, Suite G
Milton, FL 32570
850-981-2019
naisyd@santarosa.fl.gov

Environmental Department:
Michael Fazio, GIS Specialist
6051 Old Bagdad Hwy, Suite 301
Milton, FL 32583
850-981-7093
michaelf@santarosa.fl.gov

To The Estuary Program:

Pensacola and Perdido Bays Estuary Program, Inc.
Attention: Matthew J. Posner, Executive Director
226 Palafox Place, 5th floor
Pensacola, FL 32502
850-595-0820
mjposner@ppbep.org

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their respective duly authorized officers as set forth below (herein referred to as "Effective Date").

Pensacola and Perdido Bay Estuary Program:

By: _____
Matthew J. Posner, Executive Director
Pensacola and Perdido Bay Estuary Program

Date: _____

Santa Rosa County:

By: Sam Parker
Sam Parker, Chairman
Santa Rosa County Board of County Commissioners

Date: Ball approved 2-22-2024



ATTEST:

[Signature]
Clerk of Court
Date: 2/23/24

**GULF CONSORTIUM SUBRECIPIENT AGREEMENT NO. 220036021.01
PURSUANT TO
THE RESTORE ACT SPILL IMPACT COMPONENT AND THE STATE OF FLORIDA
STATE EXPENDITURE PLAN**

1. Subrecipient name: Santa Rosa County
2. Subrecipient's UEI (Uniform Entity Identifier): GVYSH8U4ABE1
3. Federal Award Identification Number (FAIN): GNSSP22FL0036-01-00
4. Federal Award Date (see 2 C.F.R. § 200.39 "Federal award date"): May 11, 2022
5. Subaward Period of Performance:

Effective Date: 6/30/2022 (Date Executed by both Parties)
Project Completion Date: March 31, 2027

6. Budget Period: May 13, 2022 – March 31, 2027
7. Amount of Federal Funds Subject to Award (to Gulf Consortium): \$856,243.00
8. Total Amount of Federal Funds Obligated to the Subrecipient: \$786,346.00
9. Total Amount of the Federal Award Subject to this Agreement: \$786,346.00
10. Federal award project description:

This project consists of the establishment of a Water Quality Monitoring program that collects, interprets, and makes available data about water quality characteristics from nine stations in and around Santa Rosa Sound, over a period of 5 years.

11. Name of Federal awarding agency, pass-through entity and contact information for awarding official:

Federal Awarding Agency – Gulf Ecosystem Restoration Council
Pass Through Entity – The Gulf Consortium
Contact Information for Awarding Official of Pass-Through Entity-

Gulf Consortium General Manager
The Balmoral Group
165 Lincoln Avenue
Winter Park, FL 32789
(407) 629-2185
Gulf.Consortium@balmoralgroup.us

12. CFDA Number and Name: 87.052 Gulf Coast Ecosystem Restoration Council Oil Spill Impact Program

13. Identification of whether the award is for research and development (R&D): No

14. Indirect cost rate for the Federal award (including whether the de minimis rate is charged per 2 C.F.R. § 200.414 "Indirect (F&A) costs"): N/A

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ATTACHMENTS:

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 TO SUBRECIPIENT
ATTACHMENT D-2 FEDERAL NON-DISCRIMINATION PROVISIONS..... D-2-1
ATTACHMENT D-3 ENVIRONMENTAL COMPLIANCE D-3-1

THIS SUBRECIPIENT AGREEMENT (hereinafter referred to as "Agreement") is entered into by and between the **GULF CONSORTIUM**, a legal entity and public body organized and created pursuant to section 163.01, Florida Statutes, (hereinafter referred to as the "Consortium") and **SANTA ROSA COUNTY**, a political subdivision of the State of Florida, whose address is 6495 Caroline Street, Milton, FL 32570 (hereinafter referred to as "Subrecipient"), to provide for the sub-award of funds to Subrecipient made available through Financial Assistance Award FAIN No. GNSSP22FL0036-01-00 between the Consortium and the Gulf Coast Ecosystem Restoration Council (hereinafter referred to as the "RESTORE Council"). Collectively, the Consortium and the Subrecipient shall be referred to as "Parties" or individually as a "Party."

WHEREAS, in July 2012, the *Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012*, Public Law 112-141, codified at 33 U.S.C. 1321(t) (hereinafter referred to as the "RESTORE Act") established the Gulf Coast Ecosystem Restoration Council (hereinafter referred to as the "RESTORE Council") and made funds available for the restoration and protection of the Gulf Coast Region through a trust fund in the Treasury of the United States known as the Gulf Coast Restoration Trust Fund (hereinafter referred to as the "Trust Fund"); and

WHEREAS, pursuant to the RESTORE Act, thirty percent (30%) of the funds available in the Trust Fund are allocated to the Spill Impact Component, under which such funds are made available to the five Gulf Coast states, including Florida, pursuant to an approved State Expenditure Plan that meets the criteria set out in the RESTORE Act at 33 U.S.C. 1321(t)(3)(B)(i), including consistency with the goals and objectives of the RESTORE Council's Comprehensive Plan; and

WHEREAS, the State of Florida State Expenditure Plan ("FSEP") was approved by the RESTORE Council on October 1, 2018; and

WHEREAS, FSEP Project No. 2-1 provides for the establishment of a Water Quality Monitoring program that collects, interprets, and makes available data about water quality characteristics from nine stations in and around Santa Rosa Sound, over a period of 5 years; and

WHEREAS, on May 11, 2022, the Consortium and the RESTORE Council entered into Financial Assistance Award FAIN No. GNSSP22FL0036-01-00 governing the award of funds from the Trust Fund for the purpose of funding all or a portion of FSEP Project No. 2-1, as further described in such Financial Assistance Award and the attachments thereto (the "Project"); and

WHEREAS, the purpose of this Agreement is to provide for the sub-award of funds awarded to the Consortium pursuant to Financial Assistance Award FAIN No. GNSSP22FL0036-01-00 to Subrecipient such that Subrecipient may complete the Project, subject to the terms and conditions set forth herein; and

WHEREAS, the Subrecipient represents that they possess the requisite skills, knowledge, financial capability and experience to perform the Project and other activities as provided herein.

NOW, THEREFORE, in consideration of the promises and the mutual benefits to be derived therefrom, the Consortium and the Subrecipient do hereby agree as follows:

SECTION 1. RECITALS.

The above recitals are true and correct and are hereby incorporated herein by reference and made a part of this Agreement.

SECTION 2. GENERAL.

The Subrecipient does hereby agree to perform the Project in accordance with the terms and conditions set forth in this Agreement, Financial Assistance Award FAIN No. GNSSP22FL0036-01-00, attached hereto as **Attachment A** (hereinafter the "Financial Assistance Award" or "Award"), including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set out at 2 CFR part 200 and the RESTORE Council's Financial Assistance Standard Terms and Conditions; any Special Award Conditions contained in **Attachment B** hereto (hereinafter "Special Award Conditions"); the Gulf Consortium Subrecipient Policy and Grant Manual (available at <https://www.gulfconsortium.org/>); and all other attachments and exhibits hereto.

SECTION 3. TERM.

A. This Agreement shall begin upon execution by both Parties (the "Effective Date") and shall remain in effect until March 31, 2027 (the "Project Completion Date"), except that the provisions contained within Sections 7, 10, 11, and 12, 26, and 29 shall survive the termination of this Agreement.

B. The Subrecipient shall be eligible for reimbursement for work performed on or after the Effective Date through the Project Completion Date. While certain pre-award costs incurred by Subrecipient may be eligible for reimbursement if so indicated within the Financial Assistance Award and approved by the RESTORE Council, Subrecipient assumes the risk for any costs incurred prior to the Effective Date and acknowledges that such costs may not be eligible for reimbursement under this Agreement.

C. All references to days herein shall refer to calendar days unless otherwise indicated.

SECTION 4. CONSIDERATION, COST REIMBURSEMENT, SUPPORTING DOCUMENTATION.

A. As consideration for the satisfactory completion of services rendered by the Subrecipient and subject to the terms and conditions of this Agreement, the Consortium shall pay the Subrecipient, on a cost reimbursement basis, up to a maximum of \$786,346.00 for completion of the Project. It is understood and agreed that any additional funds necessary for the completion of this Project above and beyond this award amount are the sole responsibility of the Subrecipient.

B. The Subrecipient shall be reimbursed on a cost reimbursement basis for eligible and allowable Project costs as such costs are incurred. Reimbursement shall be requested through the Consortium's Grants Management System Portal located at <https://www.gulfconsortium.org/grant-resources> ("Grant Management Portal"), as further described in Section 5 hereof. To be eligible for reimbursement under this Agreement, Subrecipient shall submit sufficient documentation to the satisfaction of the Consortium demonstrating that Subrecipient is legally obligated to pay the costs for which reimbursement is sought. Additionally, all costs for which reimbursement is sought must be in compliance with laws, rules and regulations applicable to expenditures of Federal grant funds, including, but not limited to, 31 C.F.R. Part 34, 2 C.F.R. Part 200, and the RESTORE Council Financial Assistance Standard Terms and Conditions. Advance payment of funds to the Subrecipient under this Agreement shall not be permitted unless expressly approved through a special award condition.

C. All requests for reimbursement under this Agreement shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. A final payment request should be submitted to the Consortium no later than thirty (30) days following the Project Completion Date, to assure the availability of funds for payment. All work must be performed on or before the Project Completion Date, and the subsequent thirty (30) day period merely allows the Subrecipient to finalize invoices and backup documentation to support the final payment request.

D. The Consortium requires detailed documentation of all costs for which reimbursement is sought under this Agreement ("Supporting Documentation"). The minimum requirements regarding such Supporting Documentation are set forth in **Attachment C, Supporting Documentation Requirements**. Each payment request submitted by the Subrecipient shall be accompanied by sufficient Supporting Documentation substantiating all costs incurred and for which reimbursement is sought, to the satisfaction of the Consortium. In the event the Consortium determines the Supporting Documentation submitted by the Subrecipient is insufficient to enable it to evaluate the allowability and eligibility of costs, the Subrecipient shall furnish additional Supporting Documentation to the satisfaction of the Consortium.

E. Eligible and allowable costs for reimbursement under this Agreement shall be determined in accordance with 31 C.F.R. Part 34, 2 C.F.R. Part 200, the RESTORE Council Financial Assistance Standard Terms and Conditions, and other applicable laws, rules, and regulations.

F. Accounting. Subrecipient's accounting and financial management system shall comply with 2 C.F.R. Part 200, including but not limited to 2 C.F.R. § 200.302 pertaining to financial management. Subrecipient's accounting and financial management system shall be sufficient to permit the preparation of reports required in connection with this Agreement and the tracing of funds to a level of expenditures adequate to establish that such funds have been used pursuant to the terms of this Agreement. Payments to Subrecipient may be contingent upon certification of the Subrecipient's financial management system in accordance with the standards specified in 2 C.F.R. Part 200, including but not limited to 2 C.F.R. § 200.302. Subrecipient must ensure that all sub-subrecipients comply with the provisions of this paragraph.

G. In the event that the Subrecipient recovers costs incurred under this Agreement and reimbursed by the Consortium from another source, the Subrecipient shall reimburse the Consortium for all recovered funds originally provided under this Agreement. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the payment(s) are recovered by the Subrecipient to the date repayment is made to the Consortium by the Subrecipient.

H. Retainage. Five percent (5%) of the total amount of RESTORE Act funds obligated to Subrecipient under the Award shall be retained at the end of the Project until the Grant Administrator verifies that all required work provided for under the Award is complete.

SECTION 5. PROCESSING OF REIMBURSEMENT REQUESTS.

A. No more frequently than on a monthly basis, the Subrecipient may request reimbursement from the Consortium for costs incurred under this Agreement for which the Subrecipient is legally obligated to pay. All payment requests shall be submitted using the Payment Request Form made available through the Grant Management Portal located at <https://www.gulfconsortium.org/grant-resources>, and shall be accompanied with sufficient Supporting Documentation (collectively the Payment Request Form and any Supporting Documentation shall hereinafter be referred to as the "Payment Request"). Additionally, at the time of each Payment Request, Subrecipient shall submit a "Progress Report" utilizing a form for same made available through the Grant Management Portal, which shall describe the work performed for which reimbursement is being requested.

B. Within ten (10) days after receipt of the Payment Request, the Consortium shall, in its sole discretion, determine if the Payment Request, or any portion thereof, is acceptable and in strict compliance with the terms of this Agreement. If it is determined there are any errors in the Payment Request or if additional Supporting Documentation is required, the Consortium shall notify the Subrecipient within fifteen (15) days of receipt of such Payment Request. The Subrecipient shall submit a revised Payment Request within ten (10) days of receipt of notice from the Consortium. The Consortium reserves the right to delay or deny any Payment Request containing errors or lacking sufficient Supporting Documentation until such deficiencies are corrected to the satisfaction of the Consortium.

C. Upon determination by the Consortium that the Payment Request is sufficient, the Consortium shall initiate the reimbursement process through the RESTORE Council in accordance with the RESTORE Council Financial Assistance Standard Terms and Conditions and the Consortium's applicable policies and procedures. Within ten (10) days of the Consortium's receipt of the funds subject to the Payment Request from the RESTORE Council, the Consortium shall remit such funds to the Subrecipient.

D. If applicable, program income must be disbursed before the Subrecipient requests funds from the Consortium.

SECTION 6. PAYMENTS TO SUBRECIPIENT SUBJECT TO AVAILABILITY OF FUNDS.

The Consortium's performance and obligation to pay Subrecipient under this Agreement is expressly contingent upon the Consortium's actual receipt of applicable funding from the RESTORE Council. Authorization for continuation and completion of work and payment associated therewith may be rescinded by the Consortium at its discretion, upon proper notice to Subrecipient, if RESTORE Council funds are reduced or eliminated.

SECTION 7. REPORTING REQUIREMENTS.

A. **Financial and Performance Reports.** Subrecipient shall submit biannual financial and performance reports related to the Project on forms provided by the Consortium and made available through the Grant Management Portal, unless a different reporting period is included as a special award condition. Each such financial and performance report shall be submitted no later than twenty (20) days following the completion of the applicable reporting period. If the work to be performed under this Agreement involves construction, restoration, or otherwise consists of tangible improvements to the physical environment, Subrecipient shall include with each performance report project photographs in jpg format and brief explanations of same depicting the current status of the project, which photographs shall be suitable for posting to a project-related website.

B. **Final Project Report.** Within 45 days of the completion of all required work contemplated under the Award, Subrecipient shall submit a "Final Project Report," on a form made available through the Grant Management Portal, in which the Subrecipient shall affirm that to the best of its knowledge and belief the Project has been satisfactorily completed. The Final Project Report shall further include an accounting of all Project expenses and such other information as the Consortium deems necessary to facilitate close out of the Award and permit the Consortium to meet all of its obligations and requirements under such Award.

C. Every publication of material based on, developed under, or otherwise produced under a RESTORE Council financial assistance award, except scientific articles or papers appearing in scientific, technical or professional journals must contain the following disclaimer:

"This [publication/video/etc.] was prepared by [Subrecipient] using Federal funds under award [Federal Award Identification Number] from the RESTORE Council. The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of the RESTORE Council.

D. The Subrecipient agrees to provide a copy of any draft report or presentation to the Consortium before making, or allowing to be made, a press release, publication, or other public announcement concerning the final outcome of the FSEP Project that is the subject of this Agreement.

E. Any signage produced with funds from the Award or informing the public about the activities funded in whole or in part by the Award, must first be approved in writing by the Grant Administrator.

F. If the direct and/or indirect purchase of equipment is authorized under paragraph 20 of this Agreement, then the Subrecipient shall comply with the property management requirements set forth in 2 C.F.R. § 200.313. An inventory of all personal property/equipment purchased under this Agreement shall be completed at least once every two (2) years and submitted via the Grant Management Portal no later than January 31st for each year this Agreement is in effect. A final inventory report shall be submitted at the end of the Agreement.

G. Reporting on Real Property. In accordance with 2 C.F.R. § 200.329. The Subrecipient shall complete and submit to the Consortium a report on the status of the real property or interest in real property in which the federal government retains an interest, using a SF-429 Real Property Status Report form annually for the first three years of the Award and thereafter at successive five year intervals until the end of the Estimated Useful Life of the property or time of disposition, whichever is less. All reports shall be submitted within 30 days of the end of the year for which the report is made.

H. Funding Accountability and Transparency Act. Because of the federal funds awarded under this Agreement, the Consortium must comply with the Funding Accountability and Transparency Act of 2006 ("FFATA"). FFATA requires that information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, www.USASpending.gov. Grant recipients awarded a new Federal grant greater than or equal to \$25,000 awarded on or after October 1, 2010, are subject to FFATA. The Subrecipient agrees to assist the Consortium in providing the information necessary, over the life of this Agreement, for the Consortium to comply with its reporting obligations under FFATA.

I. Nonconsumable and/or nonexpendable personal property or equipment that costs \$1,000 or more purchased for the Project by Subrecipient is subject to the requirements set forth in Chapter 274, F.S., Chapter 69I-73, F.A.C., and , 2 C.F.R. Part 200 (for equipment in excess of \$5,000), as applicable. The Subrecipient shall be responsible for maintaining appropriate property records for any subcontracts that include the purchase of equipment as part of the delivery of services. The Subrecipient shall comply with this requirement and ensure its subcontracts issued under this Agreement, if any, impose this requirement, in writing, on its subcontractors.

SECTION 8. INDEMNIFICATION.

Each Party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents, within the limits prescribed by law. However, nothing contained herein shall constitute a waiver by either Party of its sovereign immunity or the provisions of section 768.28, F.S.

SECTION 9. DEFAULT; TERMINATION; FORCE MAJEURE.

A. Termination for Cause.

1. By Consortium. The Consortium may terminate this Agreement for cause at any time if any covenant, warranty, or representation made by Subrecipient in this Agreement

or in its application for funding submitted to the Consortium shall at any time be false or misleading in any respect, or in the event of the failure of the Subrecipient to comply with the terms and conditions of this Agreement. Prior to termination, the Consortium shall provide fifteen (15) days written notice of its intent to terminate and shall provide the Subrecipient an opportunity to consult with the Consortium regarding the reason(s) for termination.

2. By Subrecipient. Subrecipient may terminate this Agreement for cause at any time if the Consortium fails to fulfil any of its responsibilities or obligations under this Agreement. Prior to termination, Subrecipient shall provide fifteen (15) days written notice of its intent to terminate setting forth the reasons for such termination, and shall provide the Consortium an opportunity to consult with the Subrecipient regarding the reasons for termination.

B. Termination for Convenience. This Agreement may be terminated for convenience upon mutual agreement of the Parties. In such event, both Parties shall enter into a separate agreement governing the termination conditions, including, but not limited to, the effective date thereof.

C. Force Majeure. If a force majeure event occurs that causes delays or the reasonable likelihood of delay in the fulfillment of the requirements of this Agreement, the Subrecipient shall promptly notify the Grant Administrator in writing of the anticipated length and cause of the delay, the measures taken or to be taken to minimize the delay and the Subrecipient's intended timetable for implementation of such measures. If the Parties agree that the delay or anticipated delay was caused, or will be caused by a force majeure, the Consortium may, at its discretion, extend the time for performance under this Agreement for a period of time equal to the delay resulting from the force majeure upon execution of an amendment to this Agreement. Such agreement shall be evidenced by an Amendment to the Agreement in accordance with Section 27 hereof. For purposes of this Agreement, "force majeure event" shall be defined as shall be an act of God, strike, lockout, or other industrial disturbance, act of the public enemy, war, blockade, public riot, lightning, fire, flood, explosion, failure to receive timely necessary third party approvals through no fault of the Subrecipient, and any other cause, whether of the kind specifically enumerated herein or otherwise, that is not reasonably within the control of the Subrecipient and/or the Consortium. Failure to perform by the Subrecipient's consultant(s) or subcontractor(s) shall not constitute a force majeure event.

D. Effect of Termination. Costs incurred by the Subrecipient after termination of this Agreement shall not be reimbursable unless expressly authorized by the Consortium prior to the effective date of termination, or otherwise allowable pursuant to 2 C.F.R. §200.342.

SECTION 10. REMEDIES; FINANCIAL CONSEQUENCES.

A. In the event that a deliverable or milestone to be performed under this Agreement is deemed unsatisfactory by the Consortium, the Subrecipient shall re-perform the services needed for submittal of a satisfactory deliverable, at no additional cost to the Consortium, within twenty (20) days of being notified of the unsatisfactory deliverable, or within such other timeframe as is specified in writing by the Grant Administrator. If a satisfactory deliverable is not submitted within the specified timeframe, the Consortium may, in its sole discretion, either: 1) terminate this

Agreement for failure to perform, or 2) the Consortium Grant Administrator may, by written notice specifying the failure of performance under this Agreement, request that a proposed Corrective Action Plan (CAP) be submitted by the Subrecipient to the Consortium. All CAPs must be able to be implemented and performed in no more than sixty (60) calendar days from the Consortium's approval of the CAP.

1. A CAP shall be submitted within ten (10) days of the date of the letter request from the Consortium. The CAP shall be sent to the Consortium Grant Administrator for review and approval. Within ten (10) calendar days of receipt of a CAP, the Consortium shall notify the Subrecipient in writing whether the CAP proposed has been accepted. If the CAP is not accepted, the Subrecipient shall have ten (10) days from receipt of the Consortium letter rejecting the proposal to submit a revised proposed CAP. Failure to obtain the Consortium approval of a CAP as specified above may result in the Consortium's termination of this Agreement for cause as authorized in this Agreement.

2. Upon the Consortium's notice of acceptance of a proposed CAP, the Subrecipient shall have ten (10) days to commence implementation of the accepted plan. Acceptance of the proposed CAP by the Consortium does not relieve the Subrecipient of any of its obligations under the Agreement. In the event the CAP fails to correct or eliminate performance deficiencies by Subrecipient, the Consortium shall retain the right to require additional or further remedial steps, or to terminate this Agreement for failure to perform. No actions approved by the Consortium or steps taken by the Subrecipient shall preclude the Consortium from subsequently asserting any deficiencies in performance. The Subrecipient shall continue to implement the CAP until all deficiencies are corrected. Reports on the progress of the CAP will be made to the Consortium as requested by the Consortium Grant Administrator.

3. Failure to respond to a Consortium request for a CAP or failure to correct a deficiency in the performance of the Agreement as specified by the Consortium may result in termination of the Agreement.

The remedies set forth above are not exclusive and the Consortium reserves the right to exercise other remedies in addition to or in lieu of those set forth above, as permitted by this Agreement or as otherwise available at law or in equity.

B. If the Subrecipient materially fails to comply with the terms and conditions of this Agreement, including any federal or state statutes, rules, policies, or regulations, applicable to this Agreement, the Consortium may, in its sole discretion, take one or more of the following actions:

1. Temporarily withhold cash payments to the Subrecipient pending correction of the deficiency by the Subrecipient or more severe enforcement action by the RESTORE Council or the Consortium.

2. Disallow (i.e. deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

3. Wholly or partly suspend or terminate this Agreement.

4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and RESTORE Council regulations (or in the case of the Consortium, recommend such a proceeding be initiated by the RESTORE Council).

5. Withhold future requests for reimbursement to Subrecipient under any other Agreement between the Parties providing for the subaward of funds from the Trust Fund for the implementation of an FSEP project or withhold future FSEP project implementation sub-awards to the Subrecipient.

6. Demand a refund, either in whole or in part, of the funds provided to the Subrecipient under this Agreement for non-compliance with the material terms of this Agreement. The Subrecipient, upon such written notification from the Consortium shall refund, and shall forthwith pay to the Consortium, the amount of money demanded by the Consortium. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the original payment(s) are received from the Consortium by the Subrecipient to the date repayment is made by the Subrecipient to the Consortium.

7. Take other remedies that may be legally available.

8. Costs of the Subrecipient resulting from obligations incurred by the Subrecipient during a suspension or after termination of the Agreement are not allowable unless the Consortium expressly authorizes them in the notice of suspension or termination. Other Subrecipient costs during suspension or after termination which are necessary and not reasonably avoidable are allowable if the following apply:

a. The costs result from obligations which were properly incurred by the Subrecipient before the effective date of suspension or termination, are not in anticipation of it, and in the case of termination, are non-cancellable; and

b. The cost would be allowable if the Agreement were not suspended or expired normally at the end of the funding period in which the termination takes place.

C. RESTORE Act-Specific Remedy for Noncompliance. In addition to the remedies available in the paragraphs above, the Subrecipient is subject to the RESTORE Act-specific remedies for noncompliance outlined in the RESTORE Council Financial Assistance Standard Terms and Conditions, incorporated into the Financial Assistance Award and made a part hereof.

D. Federal Clawbacks. In the event RESTORE Council, Department of the Treasury, or such other Federal entity having jurisdiction demands the return of funds paid to Subrecipient pursuant to this Agreement following a Federal audit or otherwise for any reason, including but not limited to situations where costs paid with such funds were determined to be ineligible or unallowable under the Award, Subrecipient shall be solely liable for any such amounts and shall return the full amount of the funds in question to the Consortium promptly upon demand. If Subrecipient fails to comply with its obligation to return funds pursuant to this paragraph, the

Consortium may pursue any or all of the following remedies: (1) withhold future requests for reimbursement to Subrecipient under this Agreement or any other Agreement between the Parties providing for the subaward of funds from the Trust Fund; (2) deduct funds allocated to the Subrecipient for use on future FSEP implementation projects; (3) pursue any other remedy described in paragraph (B) above or available at law or in equity.

E. The Parties acknowledge and agree that the remedies provided in this Section 10 are separate and apart from the indemnification provisions set forth in Section 8 hereof and that sovereign immunity shall not be a defense to any of the contractual obligations imposed on the Parties in this Section.

SECTION 11. AUDITS.

A. In the event that the Subrecipient expends Seven Hundred Fifty Thousand Dollars (\$750,000.00) or more in Federal awards in its fiscal year, the Subrecipient must have a single or program-specific audit conducted within nine (9) months of the end of the Subrecipient's audit period, in accordance with the provisions of 2 C.F.R. Part 200. In determining the Federal awards expended in its fiscal year, the Subrecipient shall consider all sources of Federal awards, including Federal resources received from the Consortium. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 C.F.R. Part 200. An audit of the Subrecipient conducted by the Auditor General in accordance with the provision of 2 C.F.R. Part 200 will meet the requirements of this part.

B. If the Subrecipient expends less than Seven Hundred Fifty Thousand Dollars (\$750,000.00) in Federal awards in its fiscal year, an audit conducted in accordance with the provisions of 2 C.F.R. Part 200, as revised, is not required for that year, except as noted in 2 C.F.R. § 200.503. In the event that the Subrecipient expends less than Seven Hundred Fifty Thousand Dollars (\$750,000.00) in Federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 C.F.R. Part 200, as revised, the cost of the audit must be paid from non-Federal resources. In accordance with 2 C.F.R. § 200.501(d), records must be available for review or audit by appropriate officials of the RESTORE Council, Consortium, and Government Accountability Office (GAO).

C. The Consortium may issue a decision on any audit findings contained within the Subrecipient's audit report including direction to Subrecipient on any corrective action that must be taken in response to same. Subrecipient's failure to have an audit conducted in accordance with this Section or failure to implement corrective action in response to any audit findings may result in the Consortium's imposition of remedies as provided in Section 10 hereof.

D. In addition to reviews of audits conducted in accordance with 2 C.F.R. Part 200, monitoring procedures under this Agreement may include, but not be limited to, on-site visits by the Consortium; limited-scope audits as defined by 2 C.F.R. Part 200; submittal and review of financial management statements; and/or other procedures. By entering into this Agreement, the Subrecipient agrees to comply and cooperate with any reasonable monitoring procedures/processes deemed appropriate by the Consortium. In the event the Consortium determines that a limited-scope audit of the Subrecipient is appropriate, the Subrecipient agrees to

comply with any additional instructions provided by the Consortium to the Subrecipient regarding such audit. The Subrecipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Consortium.

SECTION 12. SUBCONTRACTS; PROCUREMENT; SUBAWARDS.

A. All procurements of property (as defined in 2 C.F.R. § 200.81) and services, including the procurement of subcontractors, by Subrecipient under this Agreement shall comply with 2 C.F.R. §§ 200.318-326, Appendix II to 2 C.F.R. Part 200 pertaining to contract provisions for non-federal entity contracts under federal awards, the Florida Competitive Consultant Negotiation Act, Section 287.055, Florida Statutes (as applicable), the Gulf Consortium Subrecipient Policy (available at <https://www.gulfconsortium.org/>), and all other applicable provisions of state and federal law.

B. In procuring goods and services under this Agreement, the Subrecipient shall use its own documented procurement procedures, provided that such procurements conform to applicable state and federal law.

C. Consistent with 2 C.F.R. §200.308(c)(6), unless described in the Award, the subcontracting of any work to be performed in connection with the Project requires prior written approval by the Consortium. All proposed procurement and solicitation documents for the subcontracting of any work to be performed in connection with the Project shall be submitted to the Consortium for review. The Subrecipient shall submit a copy of the executed subcontract and documentation of the competitive procurement process pursuant to which the subcontractor was selected (e.g. invitation to bid, request for proposal, etc.) to the Consortium prior to submitting any invoices for subcontracted work. Regardless of any subcontract, the Subrecipient is ultimately responsible for all work performed under this Agreement. The Subrecipient agrees to be responsible for the fulfillment of all work elements included in any subcontract and agrees to be responsible for the payment of all monies due under any subcontract. It is understood and agreed by the Subrecipient that the Consortium shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract and that the Subrecipient shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.

D. Required Notice in Procurements. The Subrecipient shall include the following notice in each request for applications, proposals, or bids for a subaward, contract, or subcontract, as applicable, under this Agreement:

Applicants or bidders for a lower tier covered transaction (except procurement contracts for goods and services under \$25,000 not requiring the consent of a Council official) are subject to 2 C.F.R. Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)." In addition, applicants or bidders for a lower tier covered transaction for a subaward, contract, or subcontract greater than \$100,000 of Federal funds at any tier are subject to relevant statutes, including among others, the provisions of 31 U.S.C. 1352, as well as the common

rule, "New Restrictions on Lobbying," published at 55 FR 6736 (February 26, 1990), including definitions, and the Office of Management and Budget "Governmentwide Guidance for New Restrictions on Lobbying," and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), 57 FR 1772 (January 15, 1992), and 61 FR 1412 (January 19, 1996)

E. Subcontract Monitoring. The Subrecipient shall monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports maintained by the Subrecipient and supported with documented evidence of follow-up actions taken to correct areas of noncompliance, where applicable. Such summaries and documents shall be submitted to the Consortium upon request.

F. Recused Entities. Subrecipient acknowledges and represents that it is aware that certain persons and/or entities (the "Recused Entities") are expressly prohibited by contract and under the express terms of Section III. C., of the FSEP from participating in the implementation of any FSEP project, program, or activity, including the Project that is the subject of this Agreement. Subrecipient acknowledges and agrees that to the extent it contracts, whether directly or indirectly, with any such Recused Entity for the performance of work under this Agreement, the Subrecipient does so solely at its own risk and any costs incurred by the Subrecipient related to work performed by a Recused Entity shall be ineligible for cost reimbursement.

G. The Subrecipient and/or the subcontractor shall not sub-grant or sub-contract any part of the approved Project to any agency or employee of the RESTORE Council and/or any other Federal department, agency, or instrumentality without the Consortium's prior written approval.

H. Affirmative Action. The Consortium supports diversity in its procurement program and requires that all subcontracting opportunities afforded by this Agreement embrace and encourage diversity. The Subrecipient's award of subcontracts should reflect the diversity of the citizens of the State of Florida. In accordance with 2 C.F.R. § 200.321, the Subrecipient and its subcontractors must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. The Subrecipient agrees to use affirmative steps, and to require its subcontractors and sub-subrecipients to utilize affirmative steps, to ensure that minority businesses and women's business enterprises are used when possible. Such affirmative steps shall at a minimum include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises;

4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, or women's business enterprises;

5. Utilizing services and assistance, as appropriate, of such organizations as the Small Business Administration, the Minority Business Development Agency of the Department of the Commerce, the Florida Department of Management Services (Office of Supplier Diversity), the Florida Department of Transportation, Minority Business Development Center, and Local Government M/DBE programs; and

6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above in (1) through (5).

7. As used herein, the term "minority and women business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. Prior to award of any subcontract under this Agreement, Subrecipient shall document its efforts made to comply with the requirements of this paragraph. The Subrecipient shall state that it is an Equal Opportunity or Affirmative-Action employer in all solicitations or advertisements for subcontractors or employees who shall perform work under this Agreement.

I. Equal Opportunity. During the performance of this Agreement, the Subrecipient agrees as follows:

1. The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Subrecipient will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

2. The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

3. The Subrecipient will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation,

proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Subrecipient's legal duty to furnish information.

4. The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Subrecipient's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

5. The Subrecipient will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

6. The Subrecipient will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

7. In the event of the Subrecipient's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the Subrecipient may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

8. The Subrecipient shall include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each sub-subrecipient or vendor. The Subrecipient will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Subrecipient becomes involved in, or is threatened with, litigation with a sub-subrecipient or vendor as a result of such direction, the Subrecipient may request the United States to enter into such litigation to protect the interests of the United States.

J. Sub-Awards. The Subrecipient shall not make sub-awards under this Agreement unless expressly contemplated and approved in the Award (including identification of the sub-awardee) or without the prior express written approval of the Consortium. In making sub-awards under this Agreement, Subrecipients shall comply with all applicable rules, regulations, policies, and requirements applicable to sub-awards made by subrecipients, including but not limited to those contained in 31 C.F.R. Part 34, 2 C.F.R. Part 200, the RESTORE Council's Financial Assistance Standard Terms and Conditions, and the Consortium's Subrecipient Policy.

All sub-awardees under this Agreement shall be subject to the same performance, financial, and reporting requirements as the Subrecipient.

K. Prompt Payment Act. As described in Sections 4 and 5 hereof, Subrecipient agrees and acknowledges that payments made under this Agreement are from federal funds and contingent upon prior approval as to the allowability and eligibility of the costs for which payment is requested by both the Consortium and the RESTORE Council. Where applicable, Subrecipient is encouraged to include appropriate provisions regarding its obligations under chapter 218, Part VII, Florida Statutes, the Local Government Prompt Payment Act, stating that payment to subcontractors is contingent on receipt of federal funds or federal approval.

L. Scrutinized Companies. Subrecipient agrees to observe the requirements of Section 287.135, F.S., for applicable subcontracts and subgrants entered into for the performance of work under this Agreement.

SECTION 13. CLOSEOUT.

A. The Consortium will close out the Award when it determines that all applicable administrative actions and all required work for this Award have been completed. Unless an extension is approved by the Consortium, within 45 days after the end of the Project Completion Date, the Subrecipient must submit any outstanding reports, including the Final Project Report, as well as any required reporting on sub-awards, and must refund to the Consortium any balances of unobligated cash that the Consortium paid in advance or paid and that is not authorized to be retained by the Subrecipient entity for use in other projects. Within 30 days after receipt of all outstanding reports, the Consortium will make upward or downward adjustments to the allowable costs, and then make prompt payments to Subrecipient for remaining allowable reimbursable costs. The closeout of this award does not affect any of the following:

1. The right of the Consortium or RESTORE Council to disallow costs and recover funds on the basis of a later audit or other review;
2. The obligation of the Subrecipient to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments; or
3. The Subrecipient's obligations regarding audits, property management and disposition (if applicable), and records retention.

B. Unless an extension is approved by the Consortium, within 90 days after the end of the Project Completion Date, the Subrecipient must liquidate all obligations incurred under this Award.

SECTION 14. LOBBYING PROHIBITION; CONFLICTS OF INTEREST.

The Subrecipient agrees to comply with, and include in subcontracts and subawards, the following provisions:

A. The Subrecipient certifies that no Federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

B. The Subrecipient certifies that no funds provided under this Agreement have been used or will be used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law.

C. Pursuant to 2 C.F.R. §200.450 and 2 C.F.R. §200.454(e), the Subrecipient is hereby prohibited from using funds provided by this Agreement for membership dues to any entity or organization engaged in lobbying activities.

D. If this Agreement is for more than \$100,000, and if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Subrecipient shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities."

E. Hatch Act. In accordance with the provisions of the Hatch Act (5 U.S.C. 1501-1508 and 7324-7328), no funds provided, nor personnel employed under this Agreement, shall be in any way or any extent engaged in the conduct of political activities.

F. Conflict of Interest.

1. The Subrecipient shall comply with Section III. C., of the FSEP entitled "Conflict of Interest" in its performance of this Agreement.

2. The Subrecipient shall not employ or retain any person or entity with a financial interest in the Project. The Subrecipient shall not employ, retain, or otherwise grant any financial interest in the Project to any person employee, agent, consultant, officer, or elected or appointed official of the Subrecipient who may exercise or have exercised any functions or responsibilities with respect to the Project, or who are in a position to participate in a decision-making process or gain inside knowledge to the Project, either for themselves or anyone with whom they have business or immediate family ties. The Subrecipient must disclose in writing any potential conflict of interest to the Consortium immediately upon becoming aware of same.

SECTION 15. COMPLIANCE WITH LAWS.

The Subrecipient shall comply with all applicable federal, state and local laws, rules, and regulations, and Consortium policies and regulations in performing under this Agreement, including but not limited to the federal laws, regulations rules, policies, and executive orders

described in **Attachments D-1, D-2, and D-3** hereto. The failure of this Agreement to specifically reference a particular federal or state law or regulation, or policy or regulation of the Gulf Consortium, shall not excuse Subrecipient from compliance with same to the extent such law, regulation, or policy is applicable to Subrecipient's performance of the Project. The Subrecipient further agrees to include this provision in all subcontracts entered into under this Agreement.

SECTION 16. NOTICE.

All notices and written communication between the Parties shall be sent by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt (or when receipt is otherwise acknowledged), a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient. Any and all notices required by this Agreement shall be delivered to the Parties at the addresses identified under paragraph 17. This Section shall not preclude routine communication by the Parties by other means.

SECTION 17. CONTACTS.

All notices required or permitted under this Agreement shall be directed to the following contact persons:

Gulf Consortium

Grant Administrator

Gulf Consortium General Manager; The Balmoral Group
165 Lincoln Avenue
Winter Park, FL 32789
(407) 629-2185
Gulf.Consortium@balmoralgroup.us

Subrecipient

Project Manager: **Naisy Dolar, M.A., PMP; Grants and RESTORE Program Manager; Santa Rosa County Board of Commissioners**

6495 Caroline Street, Suite G | Milton, Florida 32570

In the event the Consortium's Grant Administrator or the Subrecipient's Project Manager changes, written notice by electronic mail with acknowledgement by the other Party will be acceptable.

SECTION 18. INSURANCE.

A. Providing and maintaining adequate insurance coverage is a material obligation of the Subrecipient. This insurance must provide coverage for all reasonably foreseeable claims that may arise from the performance of the work specified under this Agreement, whether such work

is performed by the Subrecipient, any sub-subrecipient, or Subrecipient's contractors. The Subrecipient shall be responsible for determining the specific kinds and limits of coverage to be carried by the Subrecipient, subject to the provisions of this Agreement including any special conditions attached hereto, and all applicable state and Federal laws and regulations.

B. Subrecipient shall, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds pursuant to this Agreement as provided to property owned by the non-Federal entity. Federally-owned property need not be insured unless expressly required by the terms and conditions of the Financial Assistance Award.

SECTION 19. REAL PROPERTY; EQUIPMENT.

A. Real property or an interest in real property may not be acquired under this Agreement unless expressly authorized in the Award or otherwise approved in writing by the Consortium and the RESTORE Council.

B. The Subrecipient shall not mortgage or otherwise encumber title to the property of the Project by utilizing it as collateral for any type of lien, note, mortgage, debt obligation, or security agreement without prior written approval by the Consortium. The Subrecipient shall not subject the title to such property to any liens or grants; the making of any federal loan; the entering into of any cooperative agreement; or to the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement without prior written approval from the Consortium.

C. For projects involving acquisition of an interest in real property, Subrecipient acknowledges and shall comply with 2 C.F.R. § 200.311 and the RESTORE Council Financial Assistance Standard Terms and Conditions related to Real Property, including, but not limited to the section entitled "Property Standards." Pursuant to same, except as otherwise expressly authorized by the Consortium, real property acquired under this Agreement must be used for the originally authorized purpose as long as needed for that purpose, during which time the Subrecipient entity must not dispose of or encumber its title or any other interest therein.

D. Subrecipient's acquisition, use, management, and disposition of equipment under this Agreement shall be in compliance with 2 C.F.R. §§ 200.313 and 200.439 and RESTORE Council Financial Assistance Standard Terms and Conditions related to Real Property, including, but not limited to the section entitled "Property Standards."

SECTION 20. UNAUTHORIZED EMPLOYMENT.

The employment of unauthorized aliens by any Subrecipient/subcontractor is considered a violation of Section 274A(e) of the Immigration and Nationality Act. If the Subrecipient/subcontractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement. The Subrecipient shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Agreement.

SECTION 21. NON-DISCRIMINATION.

A. No person, on the grounds of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in, be denied the proceeds or benefits of, or be otherwise subjected to discrimination in performance of this Agreement. Subrecipient and its subcontractors shall comply with the all federal and state laws, rules, regulations, policies and executive orders relating to non-discrimination, including but not limited to those contained in **Attachment D-2, Federal Non-Discrimination Provisions.**

B. An entity or affiliate who has been placed on the State of Florida's discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and posts the list on its website, https://www.dms.myflorida.com/business_operations/state_purchasing/vendor_information/convicted_suspended_discriminatory_complaints_vendor_lists.

SECTION 22. DEBARMENT/SUSPENSION.

In accordance with Presidential Executive Order 12549, Debarment and Suspension (2 C.F.R. Part 180), the Subrecipient agrees and certifies that neither it, nor its principals, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency; and, that the Subrecipient shall not enter into any lower tier contract, or other covered transaction, with a person who is similarly debarred or suspended from participating in this covered transaction, unless authorized in writing by the RESTORE Council to the Consortium. The Subrecipient is responsible for reviewing the status of all proposed subcontractors and sub-awardees in the System for Award Management (SAM) at <https://sam.gov/SAM/> before entering into any subcontract or sub-award under this Agreement. The Subrecipient shall include language incorporating the requirements of this section in all subcontracts or lower tier agreements executed to support the Subrecipient's work under this Agreement.

SECTION 23. COPYRIGHT, PATENT, AND TRADEMARK.

The RESTORE Council and the Consortium reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal and Consortium purposes:

A. The copyright in any work developed under this Award, including pursuant to any sub-award or subcontract.

B. Any right or copyright to which a Subrecipient, sub-subrecipient, or a contractor purchases ownership with funds pursuant to this Award.

C. All patent rights, copyrights and data rights must be in accordance with 2 C.F.R. §200.315 and 37 C.F.R. Part 401, as applicable.

SECTION 24. SPECIAL CONDITIONS.

In accordance with 2 C.F.R. §§ 200.205 and 200.207, the Consortium may impose certain special award conditions on Subrecipient where warranted. Subrecipient shall comply with all special conditions applicable to this Agreement as set forth in **Attachment B, Special Award Conditions**.

SECTION 25. ENVIRONMENTAL COMPLIANCE.

Subrecipient shall comply with the Federal environmental statutes, regulations, and executive orders described in **Attachment D-3, Environmental Compliance**, as applicable, in its performance of this Agreement. Additionally, if the Subrecipient becomes aware of any impact on the environment that was not noted in the Subrecipient's approved application package, Subrecipient must promptly notify the Consortium.

SECTION 26. PHYSICAL ACCESS AND INSPECTION.

As applicable, Consortium agents and personnel shall be given access to and may observe and inspect work being performed under this Agreement, including by any of the following methods:

A. Subrecipient shall provide access to any location or facility on which Subrecipient or any of its subcontractors are performing work, or storing or staging equipment, materials or documents;

B. Subrecipient shall permit inspection of any facility, equipment, practices, or operations required in performance of any work pursuant to this Agreement; and

C. Subrecipient shall allow and facilitate sampling and monitoring of any substances, soils, materials or parameters at any location reasonable or necessary to assure compliance with any work or legal requirements pursuant to this Agreement.

SECTION 27. AMENDMENTS/MODIFICATIONS.

A. Change Orders. A Change Order to this Agreement is required when the cumulative transfer of funds between approved budget categories, as described in the approved Project budget contained within the Financial Assistance Award, is less than ten percent (10%) of the total budget. All Change Orders are subject to the mutual agreement of both Parties as evidenced in writing. The Grant Administrator shall be authorized to approve Change Orders on behalf of the Consortium.

B. Amendment. Amendment of this Agreement is required for changes which cause any of the following: an increase or decrease in the Agreement funding amount; a change in the

Project Completion Date; changes to the cumulative amount of funding transfers between approved budget categories contained within the Financial Assistance Award exceeds or is expected to exceed ten percent (10%) of the total budget; or any other modification to this Agreement not otherwise described in paragraph A. above for which a Change Order would be appropriate. All Amendments are subject to the mutual agreement of both Parties as evidenced in writing. The Parties further acknowledge and agree that Amendments to this Agreement impacting the Award may also require prior written approval of the RESTORE Council.

SECTION 28. PERMITS.

The Subrecipient expressly acknowledges that receipt of this grant does not imply or guarantee that a federal, state or local permit will be issued for a particular activity. Further, the Subrecipient agrees to ensure that all necessary permits are obtained prior to implementation of any grant funded activity that may fall under applicable federal, state or local laws.

SECTION 29. RECORDS; ACCESS TO RECORDS AND PERSONNEL.

A. Subrecipient shall retain all records generated under this Agreement in accordance with 2 C.F.R. § 200.333.

B. Subrecipient shall comply with the Florida Public Records Law, codified at Chapter 119, F.S. Records made or received in conjunction with this Agreement are public records under Florida law. Subrecipient shall keep and maintain public records generated by the Subrecipient in association with its performance of this Agreement.

C. This Agreement may be unilaterally canceled by the Consortium for refusal by the Subrecipient to either provide to the Consortium upon request, or to allow inspection and copying of, all public records made or received by the Subrecipient in conjunction with this Agreement and subject to disclosure under Chapter 119, F.S.

D. IF THE SUBRECIPIENT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUBRECIPIENT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CONSORTIUM'S CUSTODIAN OF PUBLIC RECORDS by telephone at (407) 629-2185, by email at Gulf.Consortium@balmoralgroup.us, or at the mailing address below.

Gulf Consortium Records Custodian
The Balmoral Group
165 Lincoln Avenue
Winter Park, FL 32789

E. The Subrecipient acknowledges and agrees that the Consortium, the RESTORE Council, the U.S. Department of Treasury, the Treasury Office of Inspector General, the Comptroller General of the United States (Government Accountability Office (GAO)), or their

authorized representatives, shall have timely and unrestricted access to any pertinent books, documents, papers, and records, whether written, printed, recorded, produced, or reproduced by any electronic, mechanical, magnetic, or other process or medium, in order to make audits, inspections, investigations, excerpts, transcripts, or other examinations as authorized by law. This also includes timely and reasonable access to the Subrecipient's personnel for the purpose of interview and discussion related to such documents. In the event any work is subgranted or subcontracted, the Subrecipient shall similarly require each sub-subrecipient and subcontractor to maintain and allow access to such records for audit purposes.

F. The Consortium, RESTORE Council, the U.S. Department of Treasury, the Treasury Office of Inspector General, the Comptroller General of the United States (GAO), or their authorized representatives shall have the right during normal business hours to conduct announced and unannounced onsite and offsite physical visits of the Subrecipient and their subcontractors corresponding to the duration of their records retention obligation for this award.

G. The rights of access in this Section are not limited to the required retention period for the applicable records but last as long as the records are retained.

H. The Subrecipient agrees that if any litigation, claim, or audit is started before the expiration of the record retention period established above, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken.

SECTION 30. MISCELLANEOUS.

A. Assignment. No assignment, delegation, transfer, or novation of this Agreement, or any part hereof, may be made unless in writing and signed by both Parties.

B. Execution in Counterparts. This Agreement, and any Amendments or Change Orders thereto, may be executed in multiple counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument. In the event that any signature is delivered by facsimile transmission or by email delivery of a “.pdf” format data file, such signature shall create a valid and binding obligation of the Party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or “.pdf” signature page were an original thereof.

C. Interpretation; Severability. This Agreement shall be construed in accordance with the laws of the State of Florida. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

D. Entire Agreement; Joint Preparation. This Agreement represents the entire agreement of the Parties. Any alterations, variations, changes, modifications or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, duly signed by each of the Parties hereto, and attached to the original of this Agreement, unless

otherwise provided herein. The Parties represent and agree that they have jointly negotiated this Agreement and have had the opportunity to consult with and be represented by their own competent counsel. This Agreement is therefore deemed to have been jointly prepared by the Parties and no part hereof shall be construed more severely against one of the Parties than the other.

E. Venue. Venue for any litigation arising from this Agreement shall be in Leon County, Florida or if an action is brought in Federal Court, the United States District Court for the Northern District of Florida, Tallahassee Division.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed, the day and year last written below.

GULF CONSORTIUM

By: 

CHRISTOPHER CONSTANTINO, MD
Print Name and Title CHAIRMAN

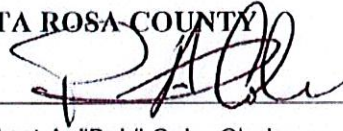
Date: 6/30/22

Attest:

By: 

Valerie Sidel, President
Print Name and Title

SANTA ROSA COUNTY

By: 

Robert A. "Bob" Cole, Chairman

Print Name and Title

Date: 05/26/2022

ATTEST:


Donald C. Spencer, Clerk of Court

By: _____

Jason English, Chief Deputy Clerk
Print Name and Title

ATTACHMENT A
FINANCIAL ASSISTANCE AWARD

[TO COME]

1. DATE ISSUED MM/DD/YYYY
05/11/2022

1a. SUPERSEDES AWARD NOTICE dated
except that any additions or restrictions previously imposed remain in effect unless specifically rescinded

2. CFDA NO.
87.052 - Spill Impact Component Project Grants

3. ASSISTANCE TYPE Project Grant

4. GRANT NO. GNSSP22FL0036-01-00
Formerly

5. TYPE OF AWARD
Other

4a. FAIN GNSSP22FL0036

5a. ACTION TYPE New

6. PROJECT PERIOD MM/DD/YYYY
From 05/13/2022 Through 06/30/2027

7. BUDGET PERIOD MM/DD/YYYY
From 05/13/2022 Through 06/30/2027

8. TITLE OF PROJECT (OR PROGRAM)
2-1 Santa Rosa Sound Water Quality Improvement Program - Monitoring

**The Gulf Coast Ecosystem Restoration Council
RESTORE Council
Gulf Coast Ecosystem Restoration Council**

500 Poydras Street
Suite 1117
New Orleans, LA 70130

NOTICE OF AWARD

AUTHORIZATION (Legislation/Regulations)
RESTORE Act, 33 U.S.C. 1321(i)(3) and 40 CFR Part 1800 - Spill Impact Component

9a. GRANTEE NAME AND ADDRESS
Gulf Consortium
165 Lincoln Ave
Winter Park, FL 32789-3877

9b. GRANTEE PROJECT DIRECTOR
Valerie Seidel
Winter Park, FL 32789-3877
Phone: [NO PHONE RECORD]

10a. GRANTEE AUTHORIZING OFFICIAL
Mr. Christopher Constance
165 Lincoln Avenue
Winter Park, FL 32789-3877
Phone: unknown

10b. FEDERAL PROJECT OFFICER
Barbara Shumar
500 Poydras St
Gulf Coast Ecosystem Restoration Council
New Orleans, LA 70130-3319
Phone: 504-235-4985

ALL AMOUNTS ARE SHOWN IN USD

11. APPROVED BUDGET (Excludes Direct Assistance)		12. AWARD COMPUTATION			
I Financial Assistance from the Federal Awarding Agency Only		a Amount of Federal Financial Assistance (from item 11m)		856,243.00	
II Total project costs including grant funds and all other financial participation		b Less Unobligated Balance From Prior Budget Periods		0.00	
a Salaries and Wages	0.00	c Less Cumulative Prior Award(s) This Budget Period		0.00	
b Fringe Benefits	0.00	d AMOUNT OF FINANCIAL ASSISTANCE THIS ACTION		856,243.00	
c Total Personnel Costs	0.00	13. Total Federal Funds Awarded to Date for Project Period		856,243.00	
d Equipment	0.00	14. RECOMMENDED FUTURE SUPPORT (Subject to the availability of funds and satisfactory progress of the project)			
e Supplies	0.00	YEAR	TOTAL DIRECT COSTS	YEAR	TOTAL DIRECT COSTS
f Travel	0.00	a 2		d 5	
g Construction	0.00	b 3		e 6	
h Other	0.00	c 4		f 7	
i Contractual	866,320.00	15. PROGRAM INCOME SHALL BE USED IN ACCORD WITH ONE OF THE FOLLOWING ALTERNATIVES:			
j TOTAL DIRECT COSTS	866,320.00	a			
k INDIRECT COSTS	0.00	16. THIS AWARD IS BASED ON AN APPLICATION SUBMITTED TO, AND AS APPROVED BY, THE FEDERAL AWARING AGENCY ON THE ABOVE TITLED PROJECT AND IS SUBJECT TO THE TERMS AND CONDITIONS INCORPORATED EITHER DIRECTLY OR BY REFERENCE IN THE FOLLOWING:			
l TOTAL APPROVED BUDGET	866,320.00	a The grant program legislation b The grant program regulations c This award notice including terms and conditions, if any, noted below under REMARKS d Federal administrative requirements, cost principles and audit requirements applicable to this grant			
m Federal Share	856,243.00	In the event there are conflicting or otherwise inconsistent policies applicable to the grant, the above order of precedence shall prevail. Acceptance of the grant terms and conditions is acknowledged by the grantee when funds are drawn or otherwise obtained from the grant payment system.			
n Non-Federal Share	10,077.00				

REMARKS (Other Terms and Conditions Attached - Yes No)

Funding is provided to establish a Water Quality Monitoring Program that collects, interprets, and makes available data about water quality characteristics from nine stations in and around Santa Rosa Sound in Florida over a period of five years

Please see terms and conditions, program and budgetary information attached

AUTHORIZING OFFICIAL:

17. OBJ CLASS	18a. VENDOR CODE	18b. EIN	19a. UEI	19b. DUNS	20. CONG. DIST.
41 0006	079937065	461662290	LJCAH459JQ13	079937065	07
FY-ACCOUNT NO.	DOCUMENT NO.	ADMINISTRATIVE CODE	AMT ACTION FIN ASST	APPROPRIATION	
21 a SEP	b GNSSP22FL0036	c 6013 NONIN	d	\$856,243.00	e
22 a	b.	c	d		e.
23 a	b	c	d		e

AWARD ATTACHMENTS

Gulf Consortium

GNSSP22FL0036-01-00

1. Award Attachments

AWARD NOTES

The following documents are incorporated in this award by reference:

- GULF COAST ECOSYSTEM RESTORATION COUNCIL FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS (AUGUST 2015), available at www.restorethegulf.gov
- 2 CFR PART 200, UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS (2020), AS ADOPTED PURSUANT TO 2 CFR § 5900.101 (2021), AND TECHNICAL CORRECTIONS AT 86 FR 10439 (FEBRUARY 22, 2021)

This award incorporates by reference and gives effect to the most recent data available in the PIPER system for the following items:

- PROJECT NARRATIVE (as of award issue date)
- OBSERVATIONAL DATA PLAN
- PRELIMINARY DATA MANAGEMENT PLAN
- METRICS
- MILESTONES
- OTHER

GCERC Internal Financial Codes:

FY 22 – Cat B 6013 - Cost Pool GCCSTFL000

CAM1 GCCGWATERQUL

CAM2 GCCHOCTAWAT

CAM3 GCCPWATERRES

SPECIAL AWARD CONDITIONS

1. Non-Duplicate use of RESTORE Act funds

The Recipient will not seek any compensation for the approved project from any other funding source, including without limitation the Oil Spill Liability Trust Fund. Should such funding be received, the Recipient will immediately notify the Grants Officer in writing. If the Recipient is authorized to make subawards, the Recipient will not use RESTORE Act funds to make subawards to fund any activities for which claims were filed with the Oil Spill Liability Trust Fund after July 6, 2012.

2. Project Performance and Financial Reporting

The Recipient must submit project performance reports through Program Information Platform for Ecological Restoration (PIPER) or any successor system on an annual basis

during the period of performance. Financial reports must be submitted through GrantSolutions or any successor system also on an annual basis. Performance and financial reports covering the annual reporting period will be due 60 calendar days after the end of the annual reporting period. Final performance and financial reports that summarize the activities and findings of the award are due 120 calendar days after the end of the period of performance. This special award condition (SAC) supersedes section C.01.a. of the RESTORE Council Financial Assistance Standard Terms and Conditions dated August 2015, which states that financial reports are due on a semi-annual basis. Please see the Reporting Schedule located on a following page for the reporting period and due dates of performance and financial reports to be submitted as part of this award.

3. Pre-Award Costs

This award contains pre-award costs, in accordance with 2 CFR 200.458, in the amount of \$10,250 as described in the Budget Narrative below, for expenditures related to the preparation of the grant application during the period 11/2/2020 through the date of issuance of the award.

4. Non-Federal Share Requirement

The budget under this award includes \$10,077 in project-related costs committed by the non-Federal recipient, referred to as the non-Federal share. The non-Federal share is not a statutory requirement of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast Act of 2012 (33 U.S.C. 1321(t) and note) (RESTORE Act), but it is required to complete the project and has been voluntarily committed by the sub-recipient under this award and therefore meets the definition of cost share or matching in 2 CFR §200.1. The sub-recipient non-Federal share funding must meet the criteria of §200.306(b). The components of the non-Federal share funding provided by the sub-recipient are the salary and fringe benefit costs provided by the county to conduct water sampling and data collection. The subrecipient must document this cost share and report it on the SF-425, Federal Financial Report throughout the period of performance. In addition, the Grants Officer approves an exception to the cost share payout rate under Gulf Coast Ecosystem Restoration Council Financial Assistance Standard Terms and Conditions (August 2015), Sec. C.04.b. Accordingly, the Recipient is not required to pay out the non-federal share at the same general rate as the federal share in this award.

5. Reporting on Equipment

- a. The Recipient must complete a physical inventory of equipment purchased under the award at least every two years in accordance to 2 CFR 200.313 and submit a copy of said inventory to the Council Grants Office per the attached reporting schedule.
- b. At the end of the period of performance, the Recipient must complete and submit Form SF-428(c) or any equivalent or successor form to the Grants Officer with the final performance and financial reports for all equipment for which the value exceeds \$5,000.

6. Updates to the Observational Data Plan

The Recipient will update the project's Observational Data Plan to include any plan details listed

as “Not available (N/A)” or “To be determined (TBD)”, or that are in other ways left unspecified in the current version of the Observational Data Plan. Updated plan details will include specific start and end dates that accurately reflect the period of observational data collection, and will address Council staff reviewer comments provided within the most recent version of the Observational Data Plan (available for download in PIPER). For all plan details provided via updated Observational Data Plans, the recipient will make any corresponding updates to metrics details in PIPER. The Recipient will deliver updated plans to the Council at least annually until all comments are addressed and all “N/A”, “TBD”, or unspecified items are provided, and to correct any inaccuracies until all information is final. The first updated plan will include time-frames for providing any missing information. Updated plans provided to the Council will conform to the structure of the template provided on the Council website. Updated plans provided to the Council will conform to the structure of the template provided on the Council website. A completed Observational Data Closeout Report will be submitted and approved prior to closeout of the award.

7. Observational Data Management and Delivery

- a. *Data Sharing*: All data compiled, collected, or created under this federal award must be provided to the Council on a yearly basis and be publicly visible and accessible in a timely manner, free of charge or at minimal cost to the user that is no more than the cost of distribution to the user, except where limited by law, regulation, policy, or national security requirements. Data are to be made available in a form that would permit further analysis or reuse, i.e., data must be encoded in a machine-readable format, using existing open format standards; and data must be sufficiently documented, using open metadata standards, to enable users to independently read and understand the data (for example, a PDF version of observational data is not a valid data delivery format). The public facing, anonymously accessible data location (internet URL address) of the data should support a service-oriented architecture to maximize sharing and reuse of structured data and be included in the Performance Report. Data should undergo quality control (QC) and a description of the QC process and results should be referenced in the metadata. Publicly available ISO-compliant metadata record(s) of the project data must be provided and approved prior to closeout of the award.
- b. *Timeliness*: Data must be provided to the Council on a yearly basis, and the public must be given access to data no later than two years after the data are first collected and verified, or two years after the original end date of the period of performance set out in the award agreement (not including any extensions or follow-on funding), whichever first occurs.
- c. *Author Statement*: Data produced under this award and made available to the public must be accompanied by the following statement: “The [report, presentation, video, etc.] and all associated data and related items of information were prepared by [recipient name] under Award No. [number] from the Gulf Coast Ecosystem Restoration Council (RESTORE Council). The data, statements, findings, conclusions, and recommendations are those of the author[s] and do not necessarily reflect any determinations, views, or policies of the RESTORE

Council."

- d. *Failure to Share Data:* Failing or delaying to make data accessible in accordance with the submitted Data Management Plan and the terms hereof may lead to enforcement actions and be considered by the Council when making future award decisions. Funding recipients are responsible for ensuring that these conditions are also met by subrecipients and subcontractors.
- e. *Data Citation:* Publications based on data, and new products derived from source data, must cite the data used according to the conventions of the Publisher and use Digital Object Identifiers (DOIs), if available. All data and derived products that are used to support the conclusions of a publication must be made available in a form that permits verification and reproducibility of the results.
- f. *Final Project Geographic Information System (GIS) files:* As appropriate to project deliverables, final updated project boundaries, footprints, and features must be provided to the Grants Office no later than the submission of the final Performance Outcome Report. Where more detailed project features are developed (for example, during the engineering and design phase if additional features are identified within the project boundary), or project boundaries change during project planning or implementation, these updated boundaries and the appropriate feature attributes must be provided. These files must be geospatial in nature (acceptable formats are SHP, GDB, or DGN) and contain projection information and complete ISO-compliant metadata.

8. Updates to the Data Management Plan

The recipient will update the Data Management Plan to include any plan details listed as “Not available (N/A)” or “To be determined (TBD)”, or that are in other ways left unspecified in the current version of the Data Management Plan. Updated plan details will include specific start and end dates that accurately reflect the period of observational data collection. The recipient must deliver updated plans to the Council at least annually until all “N/A”, “TBD”, or unspecified items are provided, and to correct any inaccuracies until all information is final. The first updated plan must include time-frames for providing any missing information. Updated plans provided to the Council must conform to the structure of the template provided on the Council website. If the template instructs the recipient to incorporate data management information into an electronic Observational Data Plan (eODP), the eODP will act as both the Observational Data Plan and Data Management Plan for award purposes.

FUNDING AUTHORIZATION				
Amount of Financial Assistance	Amount of Funding Restriction	Amount of Funding Added to Award	Amount Authorized for ASAP Account	Notes
\$856,243.00			\$856,243.00	

REPORTING SCHEDULE

Reporting Task	Reporting Period	Task Due Date
Financial Report	5/13/2022 – 3/31/2023	5/30/2023
Performance Report	4/1/2022 – 3/31/2023	5/30/2023
Financial Report	4/1/2023 – 3/31/2024	5/30/2024
Performance Report	4/1/2023 – 3/31/2024	5/30/2024
Inventory Report	5/1/2022 – 3/31/2024	5/30/2024
Financial Report	4/1/2024 – 3/31/2025	5/30/2025
Performance Report	4/1/2024 – 3/31/2025	5/30/2025
Financial Report	4/1/2025 – 3/31/2026	5/30/2026
Performance Report	4/1/2025 – 3/31/2026	5/30/2026
Inventory Report	4/1/2024 -3/31/2026	5/30/2026
Final Financial Report	4/1/2026 – 6/30/2027	10/28/2027
Final Performance Report	4/1/2026 – 6/30/2027	10/28/2027

SCOPE OF WORK

Santa Rosa County is requesting \$856,243 in Council-Selected Restoration Component funding for the Council approved Santa Rosa Sound Water Quality Improvement Program. This component will establish a Water Quality Monitoring program that collects, interprets, and makes available data about water quality characteristics from nine stations in and around Santa Rosa Sound, Santa Rosa County, FL over a period of 5 years. Santa Rosa County will execute a subrecipient agreement with UWF to conduct components of the planned scope of work. Developing strategies to make data available will provide baseline pre-construction and post-construction data that informs the Observational Data Plan and Reporting for Project 2-1 Santa Rosa Sound Water Quality Improvements included in the RESTORE Spill Component SEP for Santa Rosa County. Consolidated data will be made accessible to city, state and

federal resource managers as well as the public through a web-based Geographic Information System application.

This activity will be vital to tracking the Comprehensive Plan goal and objective of restoring water quality and quantity and restoring, improving, and protecting water resources preceding and following the abandonment of 758 septic systems and elimination of the NBWWTF effluent discharge from the Sound. Additionally, this data is important to addressing the restoration and protection of natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region (Eligible Activity 1). Project duration is expected to be 5 years and will tentatively begin in May, 2022.

BUDGET NARRATIVE

Budget Narrative

2-1: Santa Rosa Sound Water Quality Improvement Program - Monitoring

1.0 SUMMARY AND JUSTIFICATION

- Funding in the amount of \$856,243 is being requested.
- This funding will be used to conduct pre and post construction water quality monitoring in Santa Rosa Sound, develop a comprehensive and coordinated online data portal where water quality information is made accessible to natural resource and community stakeholders, and provide an analysis of data collected over a five-year period. The budget includes a direct subrecipient Santa Rosa County and their subrecipient University of West Florida, equipment, personnel, GIS software (other), and indirect costs.
- The funding also allows Santa Rosa County to build the needed capacity to sustain a Water Quality Monitoring Program beyond the grant life cycle.
- Co-funding in the amount of \$10,077 has been pledged by Santa Rosa County, through its Environmental Department. This amount will fund the personnel to conduct water sampling and data collection from YRS 2.5-5. This program also leverages the research that has previously been accomplished by UWF in Santa Rosa Sound.
- The budget is necessary, allocable, and allowable to carry out the planned scope of work. To date, Santa Rosa County does not have an established Water Quality Monitoring Program necessary to fulfill requirements to monitor the impact of the projects included in the SEP Project 2-1. In addition, the county does not currently make available to the public any relevant water quality data about Santa Rosa Sound through the Santa Rosa County website.

TOTAL PROJECT OR PROGRAM FUNDS REQUESTED	\$856,243
<i>Total Pre-Award Funds Requested</i>	<i>\$10,250</i>
<i>Total Direct Costs Requested</i>	<i>\$856,243</i>
<i>Total Allowable Indirect Costs Requested</i>	<i>\$0.00</i>
<i>Total Program Income Anticipated</i>	<i>\$0.00</i>

2.0 PRE-AWARD COSTS (applicable to grant applications only)

Pre-award costs are requested to allow for some of the estimated contractual costs for preparation of grant applications (The Balmoral Group; contracted by the Gulf Consortium for management services) and for development of draft subrecipient agreements (Nabors Giblin & Nickerson; contracted by the Gulf Consortium for legal services). The estimated time for grant application development and subrecipient agreement efforts are 50 hours for The Balmoral Group (\$8,750) and 6 hours for Nabors Giblin & Nickerson (\$1,500).

TOTAL PRE-AWARD FUNDS REQUESTED	\$10,250
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3.0 Budget Object Classes Applicable to All Projects and Programs – DIRECT COSTS

3.1 PERSONNEL

NA

3.2 FRINGE BENEFITS

NA

3.3 TRAVEL

NA

3.4 CONSTRUCTION and LAND ACQUISITION

NA

3.5 EQUIPMENT

NA

3.6 SUPPLIES

NA

3.7 OTHER DIRECT COSTS

NA

3.8 SUBRECIPIENTS

1. *Name of Subrecipient*—Santa Rosa County
2. *Method of Selection*— The Gulf Consortium established each of Florida’s 23 Gulf Coast counties as SEP project subrecipients; this includes Santa Rosa County, as reflected in the SEP. Santa Rosa County has selected University of West Florida (UWF) as a subrecipient, through a noncompetitive process. UWF has a long history of research in the Pensacola Bay watershed including Santa Rosa Sound. Through its Center for Environmental Diagnostics and

Bioremediation, the university has the organizational capacity, expertise, and the history of community engagement needed to implement the proposed project. The University has a laboratory and equipment to conduct quality-controlled testing and lab analysis. UWF also led the seagrass survey, a component of the planned scope of work, through its Citizen Science program.

3. *Period of Performance*—October 01, 2021 - October 30, 2026
4. *Scope of Work*— Santa Rosa County will establish a Santa Rosa County Water Quality Monitoring program that collects, interprets, and makes available data regarding the water quality characteristics from nine stations in Santa Rosa Sound during the pre and post construction phases of SEP 2-1 projects. A web-based information portal will be developed using GIS software integrating water quality monitoring data in and around Santa Rosa Sound made accessible by natural resource partners. Santa Rosa County will execute a subrecipient agreement with UWF to conduct components of the planned scope of work. Deliverables include quarterly data reports for five years, pre and post construction data analysis report, seagrass surveys and reports, and updating the National Water Quality Portal annually.
5. *Method of Accountability*— The Gulf Consortium management will be responsible for monitoring subrecipient performance to ensure technical and financial accountability. Twice-annual performance and financial reports will be required for subrecipients to deliver to Gulf Consortium management. Santa Rosa County will execute a subrecipient agreement between UWF and Santa Rosa County. Progress and performance of the subrecipient will be monitored by the Santa Rosa County Grants and Special programs RESTORE Program Manager. Quarterly reports will be required to ensure the project is progressing.
6. *Itemized Budget and Justification*—The budget for the Santa Rosa County is below and includes funds for services (subrecipient), provided by the University of West Florida (through a five-year subrecipient agreement), who will be responsible for collecting water samples from nine monitoring stations, conduct lab testing & provide quarterly data reports; and the seagrass summer survey. Santa Rosa will be responsible for collecting water samples, testing, data integration and analysis, web-based information portal development and maintenance. The table below includes a breakdown of subrecipient costs by budget category.

<u>Description</u>	<u>Santa Rosa County Amount</u>	<u>University of West Florida Amount</u>	<u>Pre- Award Costs?</u>
Personnel	\$249,600	\$51,214	<input type="checkbox"/>
Fringe Benefits	\$99,540	\$4,272	
Travel		\$252	
Equipment	\$86,317		
Supplies	\$849	\$47,700	

<i>Other – GIS</i>	\$142,500	
<i>Other – Boat Charges, Tuition</i>		\$11,788
<i>Indirect Charges</i>	\$49,249	\$43,065
Total	\$628,055	\$158,291 □

TOTAL SUBRECIPIENT(S): \$786,346

PERSONNEL – Subrecipient (Santa Rosa County)

- **TOTAL PERSONNEL REQUEST: \$249,600**
- **GIS Analyst/Technician** to develop and maintain a web-based portal using GIS software that integrates data collected from Water Quality monitoring activities in and around Santa Rosa Sound. The **GIS Analyst/Technician** will synthesize Water Quality data sets available from the funded monitoring activities, natural resource partners as well as government databases. Coordination and implementation of the software system will be conducted under the supervision of the GIS Department Director. This position be responsible for updating and maintaining the information in coordination with the Environmental department and community stakeholders throughout the 5-year project period.
- The compensation rate for this position is estimated based on a comparable position within Santa Rosa County’s Information Technology department. Santa Rosa County uses an automated time tracking and attendance system to track personnel time. Project expenditures, including personnel is allocable by project code and account.

Position/Role	Duties and Responsibilities	Unit Cost	Unit	% Time (devoted to project)	Quantity	Total (yearly)
1 GIS Analyst/Technician	<i>Design GIS portal integrating and synthesizing data collected in Santa Rosa Sound for external stakeholder; maintain and update portal; collaborate with other natural resource partners and jurisdictions that collect information relevant to</i>	\$24	per hour	100	40 hours per week/52 weeks	\$49,920 per year

water quality in Santa Rosa Sound.

Additional Santa Rosa County personnel involved in this project include:

- Tanya Gallagher, GIS Director, Information Technology
- Shelley Alexander, Environmental Coordinator
- Michael Schmidt, Environmental Dept Director
- Naisy Dolar, RESTORE Program Manager, Grants and Special Programs

FRINGE BENEFITS - Subrecipient

Santa Rosa County's fringe benefits include FICA, Workman's Compensation, Florida Retirement System, and Health/Life/Dental insurance.

<u>Computation</u>	<u>Cost</u>	
GIS Analyst/Technician Position		
Employer's FICA	49,920 x 7.65% Rate	\$ 3,818.88
Health Insurance	49,920 x 22% Rate	\$ 10,982.40
Workman's Compensation	49,920 x .23% Rate	\$ 114.82
Florida Retirement System	49,920 x 10% Rate	\$ 4,992.00
TOTAL ANNUAL FRINGE BENEFITS:		\$ 19,908.10
TOTAL REQUEST FRINGE BENEFITS (5YRS):		\$ 99,540.48

EQUIPMENT - Subrecipient

<u>Item Name/Description</u>	<u>Unit Cost</u>	<u>Quantity</u>	<u>Total Cost</u>	<u>Pre-Award Costs?</u>
<i>Data Sonde and sensor ports</i>	\$16,049	2	\$32,098	<input type="checkbox"/>
<i>Data Sonde attachments (i.e. Handheld display, adapters)</i>	\$ 4,219	1	\$ 4,219	<input type="checkbox"/>
<i>Boat</i>	\$50,000	1	\$50,000	<input type="checkbox"/>
				<input type="checkbox"/>
		TOTAL EQUIPMENT:	\$86,317.00	

- Equipment planned to be procured are:

- **Data Sondes with sensor parts** – A multiparameter water sensor instrument with the capability to configure a sonde through a variety of sensors is needed for Santa Rosa county staff to collect water quality data in years 2-5. This equipment will be able to measure water quality characteristics including water depth, salinity, turbidity, dissolved oxygen, light levels, and chlorophyll. *Estimated total cost: \$32,098.*
- **Data Sonde attachments** – The data sonde must function with additional attachments and items that are sold separately, items include a handheld display, conductivity calibrator and carrying case. *Estimated costs: \$4,219.*
- **Boat** – A boat is necessary for Santa Rosa county staff to access testing site locations that are in Santa Rosa Sound. *Estimated cost: \$50,000.*
- All cost estimates for equipment were based on preliminary quotes and pricing obtained from various vendors. All equipment will be procured following Santa Rosa County’s Procurement guidelines and 2 CFR 200.318 general procurement standards. Per Santa Rosa County’s guidelines, procurement of equipment under the \$35,000 will be procured through obtaining at least three comparable quotes. Items over the \$35,000 threshold will be procured through a formal bidding process to ensure open and fair competition.

SUPPLIES - Subrecipient

Includes various consumable supplies needed to use the data sondes. Items include turbidity solution, PH buffers and Sonde weights. *Estimated cost: \$849.*

OTHER DIRECT COSTS - Subrecipient

- **GIS ESRI Desktop Software license and user licenses.** Santa Rosa County uses ESRI GIS software to collect, analyze and make accessible dashboards available for both internal and public use. This budget item includes the purchase of seven desktop licenses for use by UWF Center for Environmental Diagnostics and Bioremediation, University of Florida Institute of Food & Agricultural Sciences (UF/IFAS) in Santa Rosa County, UF Watershed Management Soil and Water Sciences, Bream Fishermen Association, Pensacola Perdido Bay Estuary Program, City of Gulf Breeze and the City of Milton. The 7th license will be the for the hired SRC GIS Technician.
- The 7 desktop single use licenses (\$2500 /year) are for ArcPro/ArcMap software that is installed on the partner organization’s computer (to be able to edit and manipulate and analyze the data/make maps).
- The 22 licenses (\$500/ year) are for the users who would log into ArcGIS online and access the data. Those users would be field workers who use the phone apps to collect the data. These users would be given ArcGIS online logins to go in and view/edit data both online and in the field using the apps that are created for coordinated data collection.
- The engagement will be for five years, allowing for collaborative sharing of water quality data collected as RESTORE funded projects are implemented.

Item Name/Description	Unit Cost Annually	Quantity	Total Cost for 5 YRS
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GIS ESRI Desktop Software	\$2500	7	\$87,500
GIS ESRI User licenses	\$500	22	\$55,000

TOTAL OTHER: \$142,500.00

Subrecipient costs to Santa Rosa County – for University of West Florida

Scope: 5Yr subrecipient agreement with Santa Rosa County for collecting water samples from nine monitoring stations, conduct lab testing & provide quarterly data reports; seagrass summer survey

Subrecipient costs to direct subrecipient Santa Rosa County: \$158,291.00

Indirect costs - Subrecipient

- \$49,312 is requested for indirect costs for Santa Rosa County.
- The cost is based the de minimus indirect cost rate of 10% of Modified Total Direct Costs in which Santa Rosa County has elected to use.
- The downline subrecipient identified for this project, UWF, has also requested indirect costs in the amount of \$43,065. The cost is based on a Negotiated Indirect cost rate of 41%. (\$115,226 X 41%)

The County has elected a 10% de minimus modified total indirect administrative cost rate. See attached letter.

INDIRECT, OVERHEAD OR G&A RATE: 10%
BASIS: \$578,806.48 - 86,317 (minus equipment) = \$492,489.48
TOTAL CALCULATED INDIRECT/OVERHEAD COSTS: \$49,248.95

3.9 CONTRACTORS/CONSULTANTS

1. *Name of Contractor*—The Balmoral Group and Nabors Giblin & Nickerson will be the contractors providing management and legal services on this project. Additionally, Leon County is contracted by the Gulf Consortium to provide fiscal agent services.
2. *Method of Selection*—The Balmoral Group and Nabors Giblin & Nickerson were both competitively procured using Requests for Proposals and a selection committee appointed by the Gulf Consortium. An inter-local agreement with Leon County and The Gulf Consortium was developed in order to Leon County to serve as fiscal agent.
3. *Period of Performance*—10/1/2021 to 1/30/2027
4. *Scope of Work*—The scope of work for The Balmoral Group includes: grant application preparation and submission, grant management and subrecipient monitoring, and all post-award reporting. Nabors Giblin & Nickerson will be responsible for providing all legal services related to any contractual arrangements, including establish of subrecipient agreements. The

Fiscal agent (Leon County) will be responsible for an additional level of financial accountability and disbursement of funds to subrecipients and contractual service providers.

5. *Method of Accountability*—The Gulf Consortium board of directors will be responsible for monitoring consultants. At Consortium board meetings, about 5 times per year, the board reviews expenses and accomplishments of Consortium consultants.
6. *Itemized Budget and Justification*—The following table summarizes the estimated costs for grant management services (The Balmoral Group; 36 hour/yr), legal services (Nabors Giblin & Nickerson; 14 hours/yr), and fiscal agent services (Leon County; 3 basis points).

Organization	Description	Unit Cost	Quantity or Rate (total)	Amount	Pre-Award Costs?
<i>The Balmoral Group</i>	<i>Grant management, oversight, reporting</i>	<i>\$170/hr</i>	<i>292 hours</i>	<i>\$49,640</i>	<input checked="" type="checkbox"/>
<i>Nabors Giblin & Nickerson</i>	<i>Subrecipient agreements and legal services</i>	<i>\$250/hr</i>	<i>80 hours</i>	<i>\$20,000</i>	<input checked="" type="checkbox"/>
<i>Leon County Clerk</i>	<i>Fiscal agent services</i>	<i>3 basis points</i>	<i>% of total disbursements</i>	<i>\$257</i>	<input type="checkbox"/>
Total				\$69,897	

4.0 Budget Object Classes Applicable to All Projects and Programs – INDIRECT COSTS

Indirect costs are only incurred by subrecipient Santa Rosa County.

TOTAL OF ALLOWABLE INDIRECT COSTS	\$0
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5.0 PROGRAM INCOME

No program income is anticipated.

ATTACHMENT B

SPECIAL AWARD CONDITIONS

1. Nature of the additional requirements: See below.
2. Reason why the additional requirements are being imposed: N/A
3. Nature of the action needed to remove the additional requirement (if applicable):
N/A
4. Time allowed for completing the actions (if applicable): N/A
5. The method for requesting reconsideration of the additional requirements imposed:
N/A

The only special award conditions under this Agreement are those specifically described in the Award, FAIN GNSSP22FL0036-01-00.

ATTACHMENT C

SUPPORTING DOCUMENTATION REQUIREMENTS

Supporting documentation must be provided for each amount for which reimbursement is being claimed. Each piece of documentation should clearly reflect the dates on which the service and/or goods were provided. Only expenditures for categories in the approved Project budget will be reimbursed. Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.).

Listed below are examples of the types of documentation representing the minimum requirements for various categories of costs:

1. Salaries: A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

2. Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

3. Travel: Reimbursement for travel expenses must be in accordance with Section 112.061, Florida Statutes, and include sufficient documentation as to expenses for which reimbursement is sought and also the purpose of the travel.

4. Other direct costs: Reimbursement will be made based on paid invoices/receipts.

5. Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

6. Contractual Services (Subcontractors): Reimbursement requests for payments to subcontractors must be substantiated by copies of invoices with backup documentation identical to that required from the Subrecipient. Subcontracts which involve payments for direct salaries shall clearly identify the personnel involved, salary rate per hour, and hours/time spent on the Project. All multipliers used (i.e., fringe benefits, overhead, and/or general and administrative rates) shall be supported by audit. If the Consortium determines that multipliers charged by any subcontractor exceeded the rates supported by audit, the Subrecipient shall be required to reimburse such funds to the Consortium within thirty (30) days of written notification. Interest on the excessive charges shall be calculated based on the prevailing rate used by the State Board of Administration.

ATTACHMENT D-1

FEDERAL PROVISIONS APPLICABLE TO SUBRECIPIENT

The Project subject to this Agreement is fully or partially funded by Federal grants and therefore, the Subrecipient will be required to comply with the following provisions:

1. **Drug Free Workplace Requirements:** All Subrecipients and contractors entering into Federal funded contracts over the simplified acquisition threshold (as defined at 41 U.S.C. § 134) must comply with the Drug Free Workplace Act of 1988 (41 U.S.C. 8102), which requires the Subrecipient to take certain actions to provide a drug-free workplace.

2. **Davis-Bacon Act:** If applicable, the Subrecipient agrees to comply with all provisions of the Davis Bacon Act as amended (40 U.S.C. §§ 3141-3144 and 3136-3148), and to require all of its contractors performing work under this Agreement to adhere to same. The Subrecipient and its contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Subrecipient and its contractors are required to pay wages not less than once a week. If the grant award contains Davis Bacon provisions, the Subrecipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in the solicitation documents. The decision to award a contract shall be conditioned upon the acceptance of the wage determination. The Subrecipient shall must report all suspected or reported violations of the Davis-Bacon Act to the Consortium.

3. **Copeland Anti Kick Back Act:** Subrecipient and its contractors shall comply with all the requirements of the Copeland Anti-Kickback Act (18 U.S.C. § 874 and 40 U.S.C. § 3145, as supplemented by Department of Labor regulations at 29 CFR Part 3), which are incorporated by reference to this Agreement. Subrecipient and its contractors are prohibited from inducing by any means any person employed in the construction, completion or repair of public work to give up any part of the compensation to which he or she is otherwise entitled.

4. **Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701–3708):** Where applicable, all contracts awarded in excess of \$100,000 that involve the employment of mechanics or laborers must be in compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. § 3702 of the Act, each contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. **Debarment and Suspension (Executive Orders 12549 and 12689):** A contract award (see 2 CFR 180.220) must not be made under this Agreement to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR part 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), Debarment and Suspension. SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The contractor shall certify compliance. The Subrecipient further agrees to include a provision requiring such compliance in its lower tier covered transactions and subcontracts, which shall read as follows:

Applicants or bidders for a lower tier covered transaction (except procurement contracts for goods and services under \$25,000 not requiring the consent of a Council official) are subject to 2 C.F.R. Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)." In addition, applicants or bidders for a lower tier covered transaction for a subaward, contract, or subcontract greater than \$100,000 of Federal funds at any tier are subject to relevant statutes, including among others, the provisions of 31 U.S.C. 1352, as well as the common rule, "New Restrictions on Lobbying," published at 55 FR 6736 (February 26, 1990), including definitions, and the Office of Management and Budget "Governmentwide Guidance for New Restrictions on Lobbying," and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), 57 FR 1772 (January 15, 1992), and 61 FR 1412 (January 19, 1996)

6. **Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352):** Subrecipients that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. The contractor shall certify compliance.

7. **501(c)(4) Entities.** The Lobbying Disclosure Act of 1995, as amended (2 U.S.C. §1601 *et seq.*), prohibits any organization described in Section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities, from receiving federal funds, including through an award, grant, and/or subgrant. Subrecipient shall ensure that its contractors and sub-awardees comply with this requirement.

8. **Federal Changes:** Subrecipient shall comply with all applicable Federal agency regulations, policies, procedures and directives, including without limitation those listed directly

or by reference, as they may be amended or promulgated from time to time during the term of the contract.

9. **Safeguarding Personal Identifiable Information:** Subrecipient and its contractors and subawardees will take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive by the awarding agency or is considered sensitive consistent with applicable Federal, state and/or local laws regarding privacy and obligations of confidentiality.

10. **Energy Policy and Conservation Act (43 U.S.C. §6201):** Contracts shall comply with mandatory standards and policies relating to energy efficiency, stating in the state energy conservation plan issued in compliance with the Energy Policy and Conservation act. (Pub. L. 94-163, 89 Stat. 871) [53 FR 8078, 8087, Mar. 11, 1988, as amended at 60 FR 19639, 19645, Apr. 19, 1995].

11. **Right to Inventions Under Federal Grants.** If applicable, Subrecipient shall comply with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

ATTACHMENT D-2

FEDERAL NON-DISCRIMINATION PROVISIONS

In performing under this Agreement, Subrecipient shall comply with the following federally mandated non-discrimination requirements, as applicable:

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.)
2. Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681 et seq.)
3. Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. §§ 12101 et seq.)
4. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794)
5. Revised ADA Standards for Accessible Design for Construction Awards
 - a. Title II of the Americans with Disabilities Act (ADA) (28 C.F.R. part 35; 75 FR 56164, as amended by 76 FR 13285)
 - b. Title III of the ADA (28 C.F.R. part 36; 75 FR 56164, as amended by 76 FR 13286)
6. Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.)
7. Parts II and III of EO 11246, "Equal Employment Opportunity." (30 FR 12319, 1965), as amended by EO 11375 (32 FR 14303, 1967)
8. EO 12086 "Consolidation of contract compliance functions for equal employment opportunity" (43 FR 46501, 1978), requiring federally assisted construction contracts to include the non-discrimination provisions of §§ 202 and 203 of EO 11246 "Equal Employment Opportunity" (41 C.F.R. § 60-1.4(b), 1991)
9. EO 13166 (August 11, 2000), "Improving Access to Services for Persons With Limited English Proficiency"
10. Pilot Program for Enhancement of Employee Whistleblower Protections. The National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. No. 112-239, enacted January 2, 2013 and codified at 41 U.S.C. § 4712)

ATTACHMENT D-3

ENVIRONMENTAL COMPLIANCE

In performing under this Agreement, Subrecipient shall comply with all of the federal environmental statutes, regulations, and executive orders listed below, as applicable:

1. The National Environmental Policy Act (42 U.S.C. § 4321 et seq.)
2. The Endangered Species Act (16 U.S.C. § 1531 et seq.)
3. Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 et seq.)
4. Clean Water Act Section 404 (33 U.S.C. § 1344 et seq.)
5. The Migratory Bird Treaty Act (16 U.S.C. §§ 703-712); Bald and Golden Eagle Protection Act (16 U.S.C. § 668 et seq.), and Executive Order No. 13186, Responsibilities of Federal Agencies to Protect Migratory Birds
6. National Historic Preservation Act (54 U.S.C. § 300101 et seq.) and the Advisory Council on Historic Preservation Guidelines (36 CFR part 800)
7. Clean Air Act (42 U.S.C. § 7401 et seq.), Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) (Clean Water Act), and Executive Order 11738 (“Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants or loans”)
8. The Flood Disaster Protection Act (42 U.S.C. § 4002 et seq.)
9. Executive Order 11988 (“Floodplain Management”) and Executive Order 11990 (“Protection of Wetlands”)
10. Executive Order 13112 (“Invasive Species”)
11. The Coastal Zone Management Act (16 U.S.C. § 1451 et seq.)
12. The Coastal Barriers Resources Act (16 U.S.C. § 3501 et seq.)
13. The Wild and Scenic Rivers Act (16 U.S.C. § 1271 et seq.)
14. The Safe Drinking Water Act (42 U.S.C. § 300 et seq.)
15. The Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.)
16. The Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) (42 U.S.C. § 9601 et seq.)

17. Executive Order 12898 ("Environmental Justice in Minority Populations and Low Income Populations")

18. Rivers and Harbors Act (33 U.S.C. § 407)

19. Marine Protection, Research and Sanctuaries Act (Pub. L. 92-532, as amended), National Marine Sanctuaries Act (16 U.S.C. § 1431 et seq.), and Executive Order 13089 ("Coral Reef Protection")

20. Farmland Protection Policy Act (7 U.S.C. 4201 et seq.)

21. Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.)

22. Pursuant to 2 CFR §200.322, Subrecipient and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$1 0,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Attachment B:

Questionnaire

Please fill out and include with any request for reimbursement from the County.

1. Has the Estuary Program collected any data that relates to the Santa Rosa Sound?
2. If so, how has GIS assisted the Estuary Program in the collection and analysis of said data and how is said data being used (i.e. internal, external)?
3. Based on the work your organization has done, please list any data/knowledge gaps that, once solved, could lead to the improvement of Santa Rosa Sounds' water quality.
4. If available, please list any links to ArcGIS Online Feature Services that contain relevant data to Santa Rosa Sound.
5. Please list any data that has been published to external databases that has not already been shared with Santa Rosa County. Include the names of said databases.
6. Please provide any success stories or other additional information that may be relevant to our project's objectives.

Contact Information:

Completed by:

Title:

Email:

Date:



Agenda Item 6.g.

Approval of Entering into a Memorandum of Understanding with the U.S. Environmental Protection Agency Center for Environmental Measurement and Modeling

Background: The purpose of this Memorandum of Understanding (MOU) is to foster collaboration between the U.S. Environmental Protection Agency (EPA) Center for Environmental Measurement and Modeling (CEMM) Gulf Ecosystem Measurement and Modeling Division (GEMMD) and PPBEP to promote the development, advancement, and technical transfer of integrated coastal watershed management tools and approaches.

The EPA and PPBEP share common interests in preserving the ecological integrity, sustaining ecosystem resilience and maintaining benefits derived from our natural coastal resources. The primary objective of this collaboration is to advance the development and integration of tools and approaches to better inform coastal watershed management priorities and decision-making. Through this MOU, the two parties may: share relevant data; collaborate with field studies to the extent that is both reasonable and practical; discuss problems that affect local environmental conditions; and investigate ways to protect and restore the natural resources that are vital to the socio-economic well-being of the communities within the purview of the PPBEP.

Recommendation: Recommend the Board approve, and authorize the Executive Director to sign, a Memorandum of Understanding with the U.S. Environmental Protection Agency Center for Environmental Measurement and Modeling to foster collaboration and partnership between PPBEP and EPA.

Financial Impact: None.

Legal Review: General Counsel has reviewed and approved the agreement.



**PENSACOLA
& PERDIDO BAYS
ESTUARY PROGRAM**

MEMORANDUM OF UNDERSTANDING

Between the

**U.S. ENVIRONMENTAL PROTECTION AGENCY, CENTER FOR ENVIRONMENTAL
MEASUREMENT AND MODELING
AND
PENSACOLA AND PERDIDO BAYS ESTUARY PROGRAM**

I. PURPOSE/OBJECTIVES/GOALS

A. PURPOSE

The purpose of this Memorandum of Understanding (MOU) is to foster collaboration between the U.S. Environmental Protection Agency (EPA) Center for Environmental Measurement and Modeling (CEMM) Gulf Ecosystem Measurement and Modeling Division (GEMMD) and the Pensacola and Perdido Bays Estuary Program (a nonprofit corporation serving as an instrumentality of government hereinafter referred to as “PPBEP”) to promote the development, advancement, and technical transfer of integrated coastal watershed management tools and approaches.

B. OBJECTIVE(S)

The EPA and the PPBEP share common interests in preserving the ecological integrity, sustaining ecosystem resilience and maintaining benefits derived from our natural coastal resources. The primary objective of this collaboration is to advance the development and integration of tools and approaches to better inform coastal watershed management priorities and decision-making. Through this MOU, the two parties may: share relevant data; collaborate with field studies to the extent that is both reasonable and practical; discuss problems that affect local environmental conditions; and investigate ways to protect and restore the natural resources that are vital to the socio-economic well-being of the communities within the purview of the PPBEP.

C. GOAL(S)

The goal of this MOU is for EPA-CEMM and PPBEP is to share information, data, and analysis and to collaborate in publications related to this research.

II. BACKGROUND

Northern Gulf of Mexico (NGOM) estuaries are highly productive systems that are ecologically and economically important. The NGOM region provides extensive habitat to high-value fisheries species and valuable ecosystem goods and services such as oil and gas, shipping ports, and tourism. The resilience of NGOM estuaries is under constant pressure from natural stressors (e.g., hurricanes, drought) and anthropogenic disasters (e.g., oil spills, over-fishing) that are exacerbated by increasing urbanization in the adjacent watersheds. Variation and trends in freshwater discharge

to bay systems are driven by short-term weather events, e.g., tropical storms and hurricanes, seasonal to annual patterns of drought or elevated rainfall, and longer term directional anthropogenic change such as water withdrawal and hydrologic modifications that reduce river discharge. Assessing condition and restoration effectiveness in coastal ecosystems can be challenging as such assessments require the integration of both ecological and societal measures. Socio-ecological assessments can inform adaptive management, support the prioritization of restoration activities, be used in the evaluation of restoration effectiveness, and help to plan management activities based on predicted future scenarios.

Research needed to identify and effectively communicate the cumulative impacts of stressors on both biological condition and their associated benefits to people is far greater than any single organization can do alone. Expertise in freshwater, estuarine, and marine ecology is needed to examine the ecological integrity implications associated with cumulative biotic and abiotic stressors (e.g., eutrophication, toxicity, regime shifts). Similarly, experts in the social sciences are essential for identifying frameworks and measurements that signal when changes in ecological conditions may relate to losses or gains in beneficial community outcomes (e.g., living standards, health). Understanding these socio-ecological relationships is particularly important when addressing issues among populations that may be disproportionately more affected by adverse environmental conditions (e.g., low-income, minority, rural, indigenous peoples). Addressing this gap requires consideration of impacts beyond health, such as well-being (including mental well-being) and quality of life.

Both the EPA and the PPBEP are well poised to advance socio-ecological research in the NGOM. Within EPA's portfolio of research, the Safe and Sustainable Water Research Program (SSWR) provides robust research and scientific analyses to innovatively support access to safe and adequate supplies of water by protecting people's health and livelihood restoring and protecting watersheds and aquatic ecosystems. The Safe and Healthy Communities Research Program (SHC) seeks to gain a better understanding of the many life-sustaining benefits people receive from natural ecosystems and the factors that pose a risk to the long-term resilience of air, land, water resources. The PPBEP serves as a vital resource for elevating and increasing the importance, awareness and understanding of environmental quality in pursuit of sustaining the resilience of the Pensacola and Perdido Bay systems. They provide scientific expertise and in-depth knowledge regarding the issues in the local aquatic resources. The PPBEP is central for engaging public, private, and citizen stakeholders to identify and implement collaborative solutions for preserving and improving the natural habitats and ecosystems of Pensacola and Perdido Bays on which so much of the local economy and culture depend.

Identifying linkages between ecosystem condition, essential ecological function, ecosystem services, and sustainable human well-being is central to on-going GEMMD research. This focal area of research complements the objectives of PPBEP, which seeks to better understand the resilience capacity of the Pensacola and Perdido Bays as a holistic *social-ecological* system. Through collaboration, the parties seek to examine how these two systems change and adapt, either naturally or through intervention, in the face of future changes, including climate change and quantify the shared human and ecological benefits derived from thriving coastal ecosystems.

III. AUTHORITIES

EPA enters into this MOU pursuant to Section 104 of the Clean Water Act, 33 U.S.C. § 1254, which encourages cooperative research investigation, training, and information sharing.

IV. ROLES AND RESPONSIBILITIES

- A. The PPBEP intends to participate in EPA-initiated local field sampling trips, and share relevant socio-ecological and experimental data, methods, approaches, etc.
- B. EPA intends to participate in PPBEP field monitoring activities, and share relevant socio-ecological and experimental data, methods, approaches, etc.
- C. Both parties intend to work collaboratively to improve understanding of factors controlling aquatic ecosystem sustainability, effects of ecosystem condition on socio-economic systems, and jointly prepare scientific journal articles detailing their findings.

V. LIMITATIONS

- A. All commitments made by EPA in this MOU are subject to the availability of appropriated funds and each party's budget priorities. Nothing in this MOU, in and of itself, obligates PPBEP or EPA to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or other financial obligation. PPBEP waives any claim for compensation for services rendered to EPA in connection with any activities it carries out in furtherance of this MOU. This MOU does not exempt PPBEP from EPA policies governing competition for assistance agreements. Any transaction involving reimbursement or contribution of funds between the parties to this MOU will be handled in accordance with applicable laws, regulations, and procedures under separate written agreements.
- B. Nothing in this MOU alters the statutory, regulatory or other authority or responsibilities of the EPA or PPBEP. This MOU does not supersede existing agreements or restrict any future agreements between the PPBEP and the EPA.
- C. Except as provided in Section V. paragraphs (A) and (B) and Section VII. INTELLECTUAL PROPERTY, this MOU is not legally binding and does not create any right or benefit, substantive or procedural, enforceable by law or equity against PPBEP or EPA, their officers or employees or any other persons. This MOU does not direct or apply to any person outside of EPA and the PPBEP.
- D. The Parties agree that use of EPA facilities, and the presence of outside users at the EPA facilities by non-government entities or individuals, will be properly documented and approved in a separate Outside User's Agreement if the use is appropriate and in the public interest. Similarly, the Parties agree that use of the PPBEP facilities will be properly documented and approved in a separate Outside User's Agreement if the use is appropriate and in the public interest.

- E. Pursuant to Federal ethics rules, EPA employees may not, with limited exceptions, endorse or promote the products or services offered by or provided by any non-federal entity. Nothing in this MOU constitutes an endorsement by either party of the other, including any products or services, or any fundraising activity or promotion. PPBEP agrees to not make statements to the public at workshops and meetings, in promotional literature, on its website or through any other media that imply that the EPA or any of its employees endorses PPBEP or any service or product offered by PPBEP. In addition, PPBEP agrees not to make any statements that imply that the EPA supports PPBEP efforts to raise public or private funds. However, the PPBEP may make factual statements to the public which describe its cooperation with EPA.
- F. Any statements or promotional materials prepared by PPBEP that describe this MOU must be approved in advance by the EPA.

VI. PROPRIETARY BUSINESS INFORMATION

To carry out the joint work resulting from this MOU, if PPBEP possesses proprietary business information concerning this joint project, PPBEP may need to disclose proprietary business information to EPA. For the purpose of this MOU, proprietary business information is defined as commercial or financial information that an affected business claims to be confidential, is trade secret or is not otherwise available to the public. PPBEP agrees to clearly identify as such proprietary business information disclosed to EPA in writing; and to clearly memorialize in writing, within a reasonable time, any proprietary business information initially disclosed orally. The EPA agrees not to disclose, copy, reproduce or otherwise make available in any form whatsoever to any other person, firm, corporation, partnership, association or other entity information designated as proprietary business information without consent of PPBEP except as such information may be subject to disclosure under the Freedom of Information Act (5 U.S.C. § 552), and EPA's regulations at 40 C.F.R. Part 2, or as otherwise authorized by law.

VII. INTELLECTUAL PROPERTY

The parties agree that, with the exception of software, any copyrightable works, including but not limited to journal articles, training, educational or informational material, created jointly by the parties from the activities conducted under the MOU shall be placed into the public domain and not subject to copyright protection, provided that PPBEP, prior to the publication or public use of the copyrightable works, has not notified EPA that it intends to file a patent application based on the subject matter of the copyrightable works, where PPBEP is identified as the sole inventor. Under such circumstances as described in this paragraph, when PPBEP notifies EPA that PPBEP intends to file a patent application as a sole inventor, copyrightable works based on the subject matter of the patent application and created jointly by the parties may be copyrighted by PPBEP. With respect solely to such jointly authored copyrighted works for which PPBEP pursues official registration, PPBEP hereby grants to the EPA (once PPBEP has filed its patent application) a royalty-free, nonexclusive, irrevocable right to reproduce, distribute, make derivative works, and publish or perform the work(s) publicly, or to authorize others to do the same on its behalf.

The parties also agree that any copyrightable software created jointly by the parties from the activities conducted under the MOU may be copyrighted by PPBEP. With respect to such jointly developed

software copyrighted by PPBEP and excluding patent applications filed by PPBEP with claims directed to the software, PPBEP shall grant to the EPA a royalty-free, nonexclusive, irrevocable right to reproduce, distribute, make derivative works, and publish or perform the software publicly, or to authorize others to do the same on its behalf.

The parties agree that any patentable invention made pursuant to the terms of this MOU will be owned by the inventing party in accordance with U.S. patent law. The parties further agree that any patentable invention made jointly by both parties will be owned by both parties as co-owners in accordance with U.S. patent law. Any question of inventorship shall be determined in accordance with U.S. patent law. Respective rights in any invention made pursuant to the terms of this MOU may be assigned or licensed under a separate agreement.

VIII. QUALITY ASSURANCE

A. For collaborations that involve scientific research, EPA intends to implement the Agency's Environmental Information Quality Policy (CIO 2105.1). Participants and EPA will collaboratively develop quality planning documentation (e.g., a Quality Assurance Project Plan (QAPP), or equivalent) that satisfactorily meets quality program standards such that the research produces environmental information of known and documented quality.

IX. POINTS OF CONTACT

The following individuals are designated points of contact for the MOU:

A. U.S. Environmental Protection Agency:

Lisa M. Smith
US Environmental Protection Agency
Office of Research and Development
Center for Environmental Measurement and Modeling
Gulf Ecosystem Measurement and Modeling Division,
1 Sabine Island Drive, Gulf Breeze, FL 32561,
Smith.lisam@epa.gov
Phone 850-934-9252

B. Pensacola and Perdido Bays Estuary Program:

Matt Posner
Pensacola and Perdido Bays Estuary Program
226 Palafox Pl, Pensacola, FL 32502
mjposner@ppbep.org
Phone: 850-595-0820

X. EFFECTIVE DATE/MODIFICATION/DURATION/TERMINATION

MOU between
the U.S. EPA and
Pensacola and Perdido Bays Estuary Program

This MOU is to take effect upon the signature of the parties and remain in force for a period of five years. This MOU may be extended or modified at any time by the mutual written consent of the parties. The parties will review this MOU every five years to determine whether it should be revised, renewed, or cancelled. A party may terminate their participation in this MOU at any time by providing written notice to the other party, at least ninety (90) days in advance of the desired termination date. Obligations under the "Intellectual Property" section shall survive termination of this MOU.

XI. PUBLIC RECORDS

The parties acknowledge that this MOU and any related financial records, audits, reports, plans, correspondence, and other documents may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes, as amended. In the event the EPA fails to abide by the provisions referenced in this paragraph, PPBEP may, without prejudice to any right or remedy and after giving seven (7) days written notice, during which period the EPA still fails to allow access to such documents, terminate this MOU.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature:

Pensacola and Perdido Bays Estuary Program

Matthew J. Posner
Executive Director, Pensacola and Perdido Bays Estuary Program

Date

U.S. Environmental Protection Agency

Alice Gilliland
Director, CEMM

Date



Agenda Item 6.h.

Approval of Resolution No. 24-01 Florida Municipal Pension Trust Fund Resolution to Participate in Defined Contribution and Deferred Compensation Plans

Background: At the January 31, 2024 Board Meeting, the Board directed staff to pursue sourcing a retirement plan option following the Florida Division of Retirement's determination the Estuary Program would be ineligible to reenroll its employees in the Florida Retirement System.

The Florida League of Cities established the Florida Municipal Pension Trust Fund (FMPTF) in 1983 to collectively manage employee retirement programs of participating Florida governments. The FMPTF is a tax-exempt, member-owned trust providing professional and cost-effective investment and administrative services for all types of retirement plans.

The League offers a 401(a) Defined Contribution Plan and a 457(b) Deferred Compensation Plan through Vanguard. A 401(a) defined contribution plan may consist of non-elective employer contributions, matching employer contributions, and/or non-elective employee contributions. A 457(b) Deferred Compensation Plan allows employees to defer their salary into a tax-deferred retirement account.

All current employees that began service with the Estuary Program prior to the organizational transition on October 1, 2023 were vested in the FRS Investment Plan. Each employee vested in FRS will be able to roll their retirement fund balance forward into the 401(a) or 457(b) if they so choose. The League's 401(a) Defined Contribution Plan is the most comparable plan to the FRS Investment Plan. Based on a comparison of the funds, plan performance has been on par with the performance of the FRS Investment Plan.

The FY23-24 employer contribution rate for the FRS Investment Plan, as established by the State of Florida, is 8.3%. Additionally, FRS employers pay an additional 5.27% on top of the direct contribution to cover the Health Insurance Subsidy, disability program, line of duty death benefits, administrative and educational expenses, and unfunded actuarial liability. Total employer cost in the FRS Investment Plan, including direct contribution and the fees listed above, is 13.57%. FMPTF fees are structured as a flat \$16/year per employee, 0.40% of assets per year, and 0.15% of investment expenses per year.

Staff is recommending the Board adopt enrollment into the FMPTF for the 401(a) plan and setup an employer contribution rate of 9% for FY23-24 with a mandatory employee contribution of 3%. Staff is also recommending enrollment into the FMPTF for the 457(b) plan as a voluntary benefit to the employees. No employer contribution nor match would be provided.

Further, staff is recommending a vesting schedule of one year and retirement age of 65, to align with FRS. Note, all employees that began service with the Estuary Program prior to the organizational transition on October 1, 2023 are vested. Upon adoption and plan establishment, employer contributions held since October 1, 2023 would be deposited in each employees retirement fund.

Recommendation: Recommend the Board approve, and authorize the Chairman to sign, Resolution No. 24-01 Florida Municipal Pension Trust Fund Resolution to Participate in Defined Contribution and



Deferred Compensation Plans; and establish defined contribution rates.

Financial Impact: Board action will adopt an employer contribution rate of 9% for FY23-24. Based on existing staffing, this will result in a cost of \$31,338.68 for FY23-24, a savings of \$15,913.09 from the FRS plan due to the reduced administrative fees.

Legal Review: General Counsel has reviewed and approved the agreement.

**FLORIDA MUNICIPAL PENSION TRUST FUND RESOLUTION TO PARTICIPATE IN
DEFINED CONTRIBUTION AND DEFERRED COMPENSATION PLANS**

RESOLUTION NO. 24-01

A RESOLUTION TO BE ENTITLED:

A RESOLUTION OF THE PENSACOLA AND PERDIDO BAYS ESTUARY PROGRAM BOARD OF DIRECTORS ESTABLISHING A DEFINED CONTRIBUTION PLAN AND DEFERRED COMPENSATION PLAN; PROVIDING FOR EXECUTION OF TRUST JOINDER AGREEMENT; PROVIDING FOR ADOPTION OF DEFINED CONTRIBUTION PLAN AND A DEFERRED COMPENSATION PLAN; PROVIDING FOR ACKNOWLEDGEMENT OF MASTER TRUSTEES; PROVIDING FOR EXECUTION OF AN ADOPTION AGREEMENT; PROVIDING FOR ABIDING BY TERMS AND ACCEPTANCE OF SERVICES; PROVIDING FOR TERMINATION OF PARTICIPATION; PROVIDING FOR ACKNOWLEDGEMENT REGARDING ASSETS; PROVIDING FOR APPROVAL BY MASTER TRUSTEES; PROVIDING FOR FULL FORCE AND EFFECTIVENESS; PROVIDING FOR REPEAL OF CONFLICTING RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Pensacola and Perdido Bays Estuary Program, Inc., (hereinafter referred to as the "Participating Employer") has determined that it wishes to offer a defined contribution plan and a deferred compensation plan;

WHEREAS, the Participating Employer has also determined that it wishes to encourage employees' saving for retirement by offering matching or non-matching contributions;

WHEREAS, the Participating Employer has reviewed the Florida Municipal Pension Trust Fund ("FMPTF") Defined Contribution Plan ("401(a) Plan") and Deferred Compensation plan ("457(b) plan");

WHEREAS, the Participating Employer wishes to participate in the 401(a) Plan and 457(b) plan to provide certain benefits to its qualified employees, reduce overall administrative costs, and afford attractive investment opportunities;

WHEREAS, the Participating Employer is an Employer as defined in the 401(a) Plan and 457(b) plan;

WHEREAS, the Participating Employer shall execute a Trust Joinder Agreement to become a party to the FMPTF Master Trust Agreement as a condition of participating in the 401(a) Plan and 457(b) Plan;

WHEREAS, the Participating Employer shall execute an Adoption Agreement for the 401(a) Plan; and

WHEREAS, the Participating Employer shall execute an Adoption Agreement for the 457(b) Plan; and

WHEREAS, the Pensacola and Perdido Bays Estuary Program, Inc. is authorized by law to adopt this resolution approving the Trust Joinder Agreement and the Adoption Agreement;

Therefore, the Board of Directors of the Pensacola and Perdido Bays Estuary Program hereby resolves:

Section 1. The Participating Employer authorizes the execution of the Trust Joinder Agreement for the Participating Employer to become a party to the FMPTF Master Trust Agreement. The FMPTF Master Trust Agreement, as may be amended by the Master Trustees of the FMPTF Defined Contribution and Deferred Compensation Plans (“Master Trustees”), shall be attached to and made a part of the Trust Joinder Agreement.

Section 2. The Participating Employer adopts the FMPTF Defined Contribution Plan for its Employees. The 401(a) Plan, as may be amended by the Master Trustees, is attached hereto as Exhibit 1 and is made a part of this Resolution.

Section 3. The Participating Employer adopts the FMPTF Deferred Compensation Plan for its Employees. The 457(b) Plan, as may be amended by the Master Trustees, is attached hereto as Exhibit 2 and is made a part of this Resolution.

Section 4. The Participating Employer acknowledges that the Master Trustees are only responsible for the 401(a) Plan and 457(b) plan and have no responsibility for other employee benefit plans maintained by the Participating Employer.

Section 5. The Participating Employer hereby adopts the terms of the 401(a) plan Adoption Agreement, which is attached hereto as Exhibit 3 and hereby adopts the terms of the 457(b) plan Adoption Agreement, which is attached hereto as Exhibit 4 and is made a part of this Resolution. The Adoption Agreements set forth the Employees to be covered by the Plans, the benefits to be provided by the Participating Employer under the Plans, and any conditions imposed by the Participating Employer with respect to, but not inconsistent with, the Plans. The Participating Employer reserves the right to amend its elections under the Adoption Agreements,

so long as the amendment is not inconsistent with the Plans, the FMPTF Master Trust Agreement or the Internal Revenue Code or other applicable law and is approved by the Master Trustees of the Plan.

Section 6.

(a) The Participating Employer shall abide by the terms of the Plans and the FMPTF Master Trust Agreement, including amendments to the Plans and the FMPTF Master Trust Agreement made by the Master Trustees, all investment, administrative, and other service agreements of the Plans and the FMPTF Master Trust Agreement, and all applicable provisions of the Internal Revenue Code or other applicable law.

(b) The Participating Employer accepts the administrative services to be provided by Florida League of Cities, Inc. and any services provided by a service manager as delegated by the Master Trustees. The Participating Employer acknowledges that fees will be imposed with respect to the services provided and that such fees may be deducted from the Participating Employees' accounts.

Section 7.

(a) The Participating Employer may terminate its participation in the Plan, if it takes the following actions:

- (i) A resolution must be adopted terminating its participation in the Plan.
- (ii) The resolution must specify when the participation will end.

The Master Trustees shall determine whether the resolution complies with the Plans, the FMPTF Master Trust Agreement, and all applicable federal and state laws, shall determine an appropriate effective date, and shall provide appropriate forms to terminate ongoing participation. However, distributions under the Plans of existing accounts to Participating Employees will be made in accordance with the Plans.

(b) The Participating Employer acknowledges that the Plans and the FMPTF Master Trust Agreement contain provisions for involuntary Plan termination.

Section 8. The Participating Employer acknowledges that all assets held in connection with the Plans, including all contributions to the Plans, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights shall be held in trust for the exclusive benefit of Participating Employees and their Beneficiaries under the Plans. No part of the assets and income of the Plans shall be used for, or diverted to, purposes other than for the exclusive benefit of Participating Employees and their Beneficiaries and for defraying reasonable expenses of the Plans. All amounts of compensation deferred pursuant to the Plans, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights held as part of the Plans, shall be transferred to the Master Trustees to be held, managed, invested and distributed as part of the Master Trust Fund in accordance with the provisions of the Plans and the FMPTF Master Trust Agreement. All contributions to the Plans must be transferred by the Participating Employer to

the Master Trust Fund. All benefits under the Plans shall be distributed solely from the Master Trust Fund pursuant to the Plan.

Section 9. This Resolution, the Trust Joinder Agreements and the Adoption Agreements shall be submitted to the Master Trustees for their approval. The Master Trustees shall determine whether the Resolution complies with the Plans and the FMPTF Master Trust Agreement, and, if it does, shall provide appropriate forms to the Participating Employer to implement participation in the Plans. The Master Trustees may refuse to approve an Adoption Agreement by an Employer that does not have proper authority to participate in the Plans. The Board hereby acknowledges that it is responsible to assure that this Resolution, the Trust Joinder Agreements and the Adoption Agreements are adopted and executed in accordance with the requirements of applicable law.

Section 10. This Resolution shall remain in full force and effect until supplemented, amended, repealed or otherwise altered.

Section 11. This Resolution hereby repeals all resolutions in conflict herewith.

Section 12. This Resolution shall become effective immediately upon its adoption.

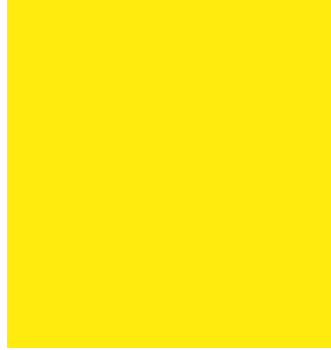
Adopted by the Board of Directors of Pensacola and Perdido Bays Estuary Program, Inc., on March 20, 2024.

By: _____
Michael S. Kohler, Chairman
Pensacola and Perdido Bays Estuary Program, Inc.

Attest: _____

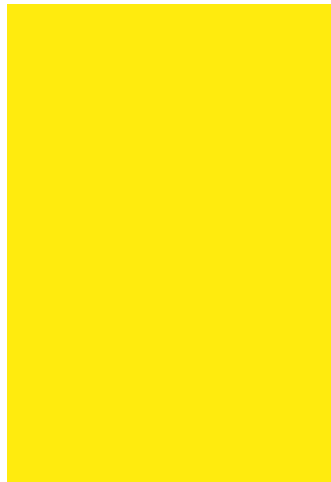
Date: _____

[Governing Body should assure that applicable law is followed in the adoption and execution of this Resolution.]



FLORIDA MUNICIPAL PENSION TRUST FUND

401(a) Defined Contribution and 457(b) Deferred Compensation Retirement Plans



**PROTECTING THE
RETIREMENT OF THOSE
SERVING THE PUBLIC**



THE FLORIDA LEAGUE OF CITIES AND FLORIDA MUNICIPAL PENSION TRUST FUND

The Florida League of Cities, Inc. was created in 1922 to meet and serve the needs of Florida's municipalities. Administered by the Florida League of Cities, the Florida Municipal Pension Trust Fund (FMPTF) was established in 1983 to collectively manage employee retirement programs of participating Florida governments. The FMPTF is a tax-exempt, member-owned trust providing professional and cost-effective investment and administrative services for all types of retirement plans.

A PARTNERSHIP WITH VANGUARD

The FMPTF offers a mutual fund lineup of mainly low-cost Vanguard funds. Vanguard believes clients come first. The focus on their investors drives the decisions and actions of everyone at Vanguard. With 40 years of experience, Vanguard is known and respected throughout the institutional investor community. Its unique structure as a client-owned company gives it a well-deserved reputation for integrity.

The partnership the FMPTF has created with Vanguard allows your employees to invest in Vanguard funds that may otherwise be unavailable to the typical individual investor. Through the power of pooled investing, participants in many Vanguard funds have access to lower-cost Institutional share classes.

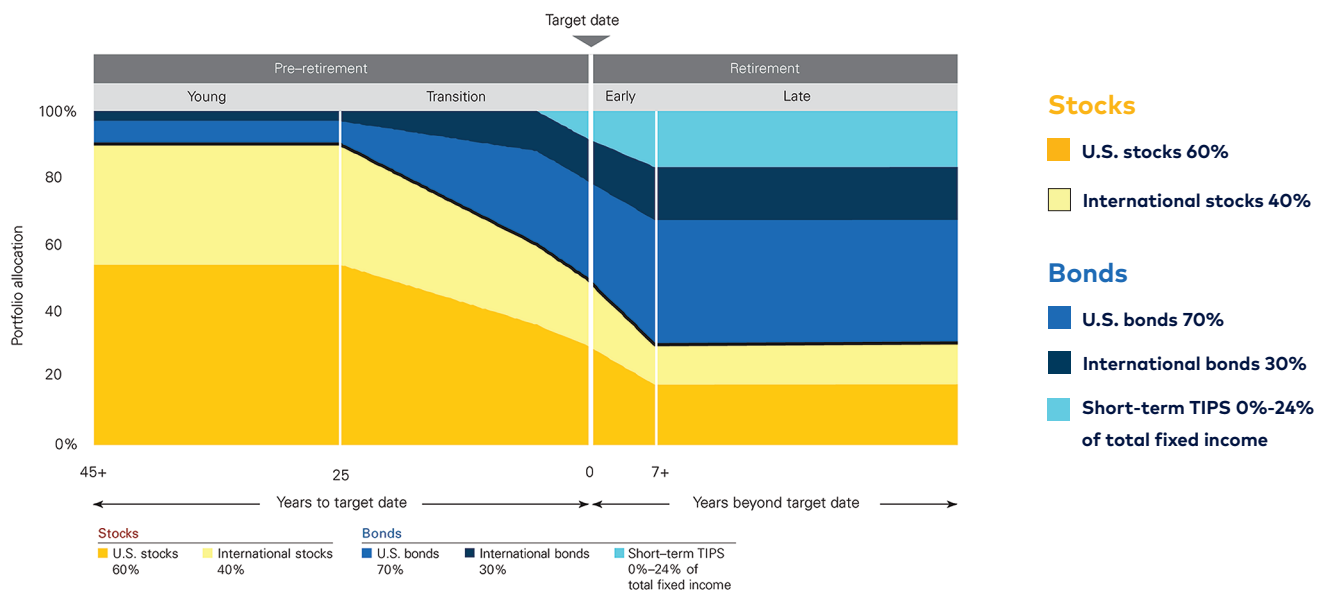
WE MAKE INVESTING EASIER WITH VANGUARD TARGET RETIREMENT FUNDS

Retirement investing doesn't have to be complicated.

Decide how much you want to contribute, and we'll take care of the rest. You can change your investments at any time, but as a default, your contributions are invested in a date-specific fund that's closest to your expected retirement year.

Target Retirement Funds are broadly diversified funds that gradually and automatically shift to more conservative investments as their target dates approach. A single Target Retirement Fund can provide diversification and is designed to keep your assets invested appropriately for someone in your stage of life, up to and including your retirement years.

Investments in Target Retirement Funds are subject to the risks of their underlying funds. The year in the fund name refers to the approximate year (the target date) when the investor in the fund would retire and leave the workforce. The fund will gradually shift its emphasis from more aggressive investments (stocks) to more conservative ones (bonds and short-term reserves) based on its target date. An investment in a Target Retirement Fund is not guaranteed at any time, including on or after the target date.



WHAT IS A 401(a) DEFINED CONTRIBUTION PLAN?

Your 401(a) defined contribution plan (if applicable) may consist of non-elective employer contributions, matching employer contributions and/or non-elective employee contributions. Contribution rates may vary and can be changed by your employer. You may not voluntarily add additional funds to the 401(a) plan. Any elective contributions must be directed to a 457(b) deferred compensation plan or other retirement plan provided by your employer. Unless specifically stated otherwise, these contributions are made on a pre-tax basis and will be taxable upon distribution. Please request an application for distribution of plan benefits that contains a special tax notice to understand taxes and penalties that may apply for distributions. The form is available at FLCretirement.com.

An employer may require an employee to remain employed for a certain number of years before that employee becomes vested in the employer contributions in a 401(a) plan. This is called a vesting schedule. Any employee contributions are immediately 100% vested. Many employers require an employee to complete a probationary period or remain employed for a certain amount of time before employer contributions will begin.

Withdrawing vested funds from your retirement account is easy after you've separated service with your employer or retired. It's more difficult to withdraw funds from your retirement account while you are still employed with the organization where you started the account, though. Different rules apply based on your employer. Request a copy of your Summary Plan Description to determine your plan's contribution rate, eligibility period, vesting schedule and whether a loan or hardship withdrawal is available to you as an employee.

WHAT IS A 457(b) DEFERRED COMPENSATION PLAN?

Your 457(b) deferred compensation plan (if applicable) allows you to defer your salary into a tax-deferred retirement account, up to \$22,500 in 2023 if you're under age 50. If over age 50, you may defer an additional \$7,500 annually. The limit applies to your total contributions among all 457(b) plans that you participate in within the year. Because the 457(b) is a retirement account and not a savings account, it is difficult to withdraw funds while you are working with the employer that sponsors the plan.

Check with your employer to determine if there is a minimum contribution allowable.

WHY PARTICIPATE?

It's automatic. It's easy. It's pre-tax, and some employers allow for Roth after-tax contributions.

Employees can no longer count on the federal government and their employers to provide a secure retirement for them. Investing a little money each month now can grow into a large amount of money when you retire.

HOW TO ENROLL AND CONTACT INFORMATION

To enroll in the program, locate the Participation Agreement form in this brochure or in the "Download Forms" section of our website at FLCretirement.com.

1. Fill out your Participation Agreement, and turn it in to your human resources department
2. Speak with your human resources department about scheduling an on-site visit by an FMPTF representative, or contact the FMPTF.



Email: retirement@flcities.com



Text or Call: 888.945.7401



Website: FLCretirement.com

ACCESSING YOUR ACCOUNT ONLINE

After your account has been created, log into your account at *myFLCretirement.com* for the first time using the following:

- ▶ Your Login ID is your Social Security Number (without dashes)
- ▶ Your password is your date of birth in MMDDYYYY format.

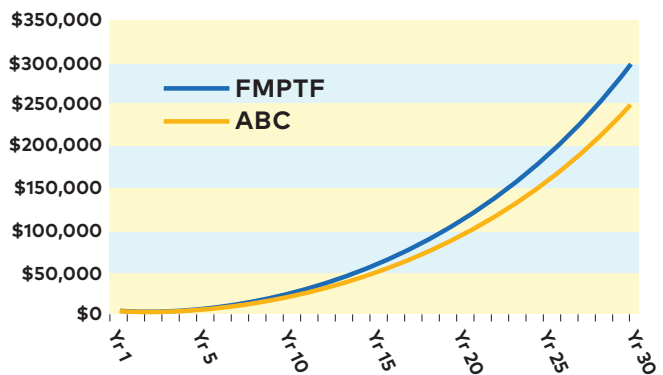
UNDERSTANDING EXPENSES AND FEES

All retirement plans have costs associated with administering the plan. It's important to understand these fees and their impact on your retirement account balance. The FMPTF has selected mutual funds that do not have front-end or back-loaded fees, or 12b-1 reimbursements. The lower the fees, the more money you keep in your retirement account.

The fees you pay go down as your employer's total retirement plan assets increase. Ask for a copy of your Summary Plan Description to determine your employer's Fee Group.

Fee Group	Combined DC/Def Comp Plan Size in Assets	Active Participants	Inactive Participants	% of Assets
Group A	Plans under \$2 million	\$16/year	\$50/year	0.40%/year
Group B	\$2 million - \$5 million	\$0/year	\$50/year	0.40%/year
Group C	\$5 million - \$10 million	\$0/year	\$50/year	0.30%/year
Group D	\$10 million - \$30 million	\$0/year	\$0/year	0.20%/year
Group E	\$30 million+	\$0/year	\$0/year	0.14%/year

Two hypothetical employees begin saving for retirement at the same time. They each saved \$300 the first year, then increased their contributions each year by an additional \$300. One participated in the FMPTF, paying the expenses of Group A described above (0.40% and \$16 annually in administrative expenses, and 0.15% in investment expenses). The other participated in ABC Investing and paid 2% in expenses every year. Both employees earned 7% on their investments before expenses.



As your account continues to grow, the fees you pay make a big difference in your final account balance. After 30 years, the employee with FMPTF had an account balance of \$50,000 or 20% more than the employee with ABC Investing!

Example fees for varying balances of an active participant in Group A with an average investment expense of 0.15%.

Participant Balance	Annual Participant Fee	Administrative Fee (balance x 0.40%)	Investment Expense (balance x 0.15%)	Total All-In Annual Fees
\$1,000	\$16.00	+ \$4.00	+ \$1.50	= \$21.50
\$10,000	\$16.00	+ \$40.00	+ \$15.00	= \$71.00
\$100,000	\$16.00	+ \$400.00	+ \$150.00	= \$566.00



**Florida Municipal
Pension Trust Fund
Participation Agreement**

Applies to only 401(a) Applies to only 457(b) Applies to both 401(a) and 457(b) plans (default if none selected)

IDENTIFYING INFORMATION

Mr./Mrs./Ms. First Name _____ Middle Initial _____ Last Name _____

Home Address _____ City _____

State _____ Zip _____ Phone _____ Date of Birth _____

Email _____ Date of Hire _____

SSN _____ Employer Name _____

PAYROLL INFORMATION – FOR 457(B) PLANS ONLY

Pre-tax Traditional Contributions per pay: _____% or \$ _____ x _____ # of Paydays per year = EE Annual Contributions \$ _____

After-tax Roth Contributions per pay: _____% or \$ _____ x _____ # of Paydays per year = EE Annual Contributions \$ _____

*** Cannot exceed IRS Code Limits (2023 IRS Code limit is \$22,500 and an additional \$7,500 catch-up if over age 50)**

BENEFICIARY DESIGNATION

In accordance with the Plan, I hereby revoke any previous designations of primary beneficiary(ies) and contingent beneficiary(ies) (if any) and designate as primary beneficiary(ies) and contingent beneficiary(ies) (if any) in the event of my death, the following as provided below. Unless you specify otherwise, if you designate more than one beneficiary in any one class, the beneficiaries in the class will share equally.

Primary Beneficiary: *(If more than one primary beneficiary is designated, provide all information for each primary beneficiary and percentage of benefit, which must equal 100% among all primary beneficiaries)*

Name _____ Relationship: _____

*Social Security #: _____ Date of Birth: _____ Benefit Percentage: _____

Address: _____ Phone: _____

Contingent Beneficiary(ies): *(If more than one contingent beneficiary is designated, provide all information for each contingent beneficiary and percentage of benefit, which must equal 100% among all contingent beneficiaries. The designation of a contingent beneficiary is applicable under this plan benefit only if the primary beneficiary designated above is not living at the time of the participant's death. If more than one primary beneficiary is designated, contingent beneficiary/beneficiaries must be identified specifically for each primary beneficiary.)*

Name _____ Relationship: _____

*Social Security #: _____ Date of Birth: _____ Benefit Percentage: _____

Address: _____ Phone: _____

Contingent Beneficiary(ies):

Name _____ Relationship: _____

*Social Security #: _____ Date of Birth: _____ Benefit Percentage: _____

Address: _____ Phone: _____

Beneficiaries under legal age will be granted their appropriate distribution in accordance with this form unless a specific Custodial Trust was established prior to the death of the participant or an estate settlement changes the designation. It is the responsibility of the beneficiary to notify the Trustee (Participant's Employer) of any existing custodial or other arrangement.

** Social security numbers are requested and maintained on behalf of all plan participants, beneficiaries and retirees for data collection, reconciliation, tracking and benefit processing, tax reporting and identity verification purposes. Social security numbers are also used as a unique number identifier and may be used for death record searches.*

The right to revoke this designation by the participant is reserved by signing and filing with the (Employer, Board, Plan, etc.) a new beneficiary designation form. The consent of a participant's beneficiary to any change of beneficiary shall not be required.

PARTICIPATION AGREEMENT – Investment Options as of 12/31/2022

Log into your account online to make selections or contact FMPTF for help at (888) 945-7401

Asset Class	Fund Name	Symbol	Expense
Cash	Vanguard Federal Money Market	VMFXX	0.11%
Stable Value	Vanguard Retirement Savings Trust	n/a	0.43%
Bonds	Vanguard Intermediate-Term Investment Grade	VFIDX	0.10%
	Vanguard Total Bond Market Index	VBTLX	0.05%
	Vanguard Total International Bond Index	VTABX	0.11%
Balanced	Vanguard Wellington Fund	VWENX	0.16%
Large Cap Stock	Vanguard Windsor II	VWNAX	0.26%
	Vanguard Institutional Index	VINIX	0.04%
	Vanguard FTSE Social Index	VFTAX	0.14%
	Vanguard PrimeCap	VPMAX	0.31%
Small Cap Stock	Vanguard Small-cap Index Signal	VSMAX	0.05%
	EV Atlanta Capital SMID-Cap I	ERASX	0.82%
International	Vanguard Total International Stock Index	VTIAX	0.11%
	Vanguard Emerging Markets Stock Index	VEMAX	0.14%
	Vanguard All World ex-US Small Cap	VFSAX	0.16%
Real Estate	Vanguard Real Estate	VGSLX	0.12%
Target Retirement	Vanguard Target Retirement Income	VTINX	0.08%
	Vanguard Target Retirement 2020	VTWNX	0.08%
	Vanguard Target Retirement 2025	VTTVX	0.08%
	Vanguard Target Retirement 2030	VTHRXX	0.08%
	Vanguard Target Retirement 2035	VTTTHX	0.08%
	Vanguard Target Retirement 2040	VFORX	0.08%
	Vanguard Target Retirement 2045	VTIVX	0.08%
	Vanguard Target Retirement 2050	VFIFX	0.08%
	Vanguard Target Retirement 2055	VFFVX	0.08%
	Vanguard Target Retirement 2060	VTTSX	0.08%
	Vanguard Target Retirement 2065	VLXVX	0.08%

I hereby request to participate in the FMPTF Retirement Plan, and I agree to all provisions of the Plan and this agreement. I certify that everything I wrote on this form is true, correct and complete. I certify, under penalties of perjury, that my Social Security Number shown is correct. I am **not** domiciled in or a resident of any place other than the address shown above. I understand that I may be subject to civil and criminal penalties and punishment for any knowingly false statement on this form. If the Plan pays or fails to pay any benefit in reliance on my false statement, I will be liable for the Plan's damages, including (but not limited to) investigation expenses, legal fees and costs.

By signing below, I acknowledge:

1. Representatives of the Florida Municipal Pension Trust Fund (FMPTF) or the Florida League of Cities, Inc. cannot provide me with investment advice, and they have not provided me with any investment advice.
2. I am responsible for my decisions on investing in one or more of the investment options.
3. I have read and agree to the terms of the FMPTF Participation Agreement.
4. The default investment for a participant that does not make an investment selection is an age-appropriate Vanguard Target Retirement Fund.
5. I must elect my investment choices online at FLCretirement.com or by contacting an FMPTF representative.

(Print Name of Participant)

(Print Name of Witness)

(Date Signed)

(Signature of Participant)

(Date Witnessed)

Signature of Witness: Plan
Official or Notary Public

*Please submit completed, signed forms to **Your Human Resources Department***

EMPLOYER'S INSTRUCTION AND APPROVAL

Authorized Signature on behalf of the Employer

Date

Participant Date of Hire

Employer: Please send a copy to: FMPTF c/o DC Program, P.O. Box 1757, Tallahassee, FL 32302 or retirement@flcities.com.

ROLL AN OLD RETIREMENT ACCOUNT OR IRA INTO YOUR FMPTF RETIREMENT ACCOUNT

Rolling an old employer's retirement account into your FMPTF account may help reduce your fees and allows you to consolidate the number of statements you receive.

There are three steps to rolling your account over:

1. Contact your former employer and request a form to roll money out of their plan into a different plan.
2. Make the rollover check out to "**Newport Trust Company FBO (Participant Name)**" and mail it to:

Newport Trust Company
P.O. Box 1757
Tallahassee, FL 32302-1757.

3. Complete our "Rollover/Transfer Acceptance Form" on the next page. Send to us at *retirement@flcities.com*, or fax to 850.222.3806.

The rollover funds will be invested according to your account investment elections. Your rollover will start earning gains and losses in the investment funds you have selected as soon as it is deposited and the check has cleared. Depending on how long your current plan takes to issue the check and send the funds, there may be two weeks or more in which your funds are in transfer and not invested in the stock market. Your funds being out of the stock market will impact your returns, depending on how the stock market performs at that time.

Additional information is available at *FLCretirement.com*.



FMPTF 401(a) Defined Contribution and 457(b) Deferred Compensation
ROLLOVER/TRANSFER ACCEPTANCE FORM

- 1. Rollover or Transfer [] This a transfer from my current employer's other 401(a) or 457(b) provider
[] This a rollover from an IRA or former employer's plan

2. Plan Selection (please select the plan you want your assets rolled into)

- [] 401(a) Defined Contribution Approximate Rollover Amount \$ _____
[] 457(b) Deferred Compensation

3. Participant Data

Participant's Name: _____ Social Security No. _____
Street Address: _____ Phone Number: _____
City, State Zip: _____ Email: _____
Employer: _____ Date of Birth: _____

4. Source of Rollover or Transfer – The Florida Municipal Pension Trust Fund accepts rollovers and transfers from the following sources:

- [] A qualified plan described in section 401(a) of the Code [] A plan described in section 403(b) of the Code
[] Rollover Contribution from an IRA (pre-tax amounts only) [] A plan described in section 403(a) of the Code
[] An eligible plan under section 457(b) of the Code *
* If a 457(b) rollover, does your rollover include Roth 457(b) after-tax contributions?
[] No
[] Yes If yes, what is the date of your first Roth after-tax contribution? _____
If yes, what is the total amount of only Roth after-tax contributions in the account? _____

Please make sure the check is made out to: Newport Trust Company FBO (Participant Name)

5. Former Plan Information and Participant Certification (Please attach a copy of your most recent statement, if possible)

Name of Former Plan or Transferor Plan _____

As a participant in the above referenced plan, I represent that: (1) the transferor plan is the type of plan indicated above; (2) the transferor plan has satisfied such requirements as the transferee plan may have established for the purpose of reasonably concluding the eligibility for acceptance of the transferred amount under the transferee plan; and (3) I understand that these rollover funds, once deposited in the Plan, will be subject to all provisions of the Plan, including all distribution restrictions, unless a protected optional form of benefit within the meaning of IRC Section 411(d)(6).

I understand that my rollover contribution must be made within 60 days after receiving the distribution from the other plan or the IRA, if the check is sent to me at my address. By signing and dating below, I hereby verify that I received this rollover within the last 60 days or had my former retirement plan administrator issue the rollover to the FMPTF within the last 60 days.

Signature _____ Date _____

For FMPTF use only

Authorized Signer _____ Date _____

PARTICIPATION AGREEMENT

The Florida Municipal Pension Trust Fund (FMPTF) collects your social security number for the following purposes: pension administration; identification and verification; data collection, reconciliation and processing; and tax reporting. Social security numbers are also used as a unique numeric identifier and may be used for search purposes.

Please note that the FMPTF or Florida League of Cities, Inc. (FLC) representative can assist employees in reviewing plan benefits and offerings but cannot provide investment advice. Educational materials will be provided to each employee to assist you in your investment decision; the FMPTF or FLC representative cannot give you any advice on which investment options to choose. You alone are responsible for your investment decisions. Your investment direction applies to all your investments.

Fees for participants decrease as their employer's retirement plan assets increase. Please review the Fee Disclosure at FLCretirement.com or your Summary plan Description or see p. 4 for descriptions of each fee group.

In Fee Group A, an annual active participant fee of \$16.00 will apply to your account and will be deducted on a quarterly basis (\$4.00 per quarter). In Fee Group A, B and C, when you separate service with your employer, the annual participant fee increases to \$50.00 annually and will be deducted on a quarterly basis (\$12.50 per quarter).

All Fee Groups pay an annual administrative fee. The annual administrative fee for Fee Groups A and B is 0.40%. Fee Group C is 0.30%. Fee Group D is 0.20%, and Fee Group E is 0.14%. Mutual fund companies charge varying additional investment expenses. Please reach each mutual fund prospectus carefully. Mutual fund prospectuses are available upon request.

Most mutual funds have 60-day frequent-trading policy. For example, if a participant exchanges money out of a fund, he or she cannot exchange money back into the same fund within 60 calendar days. These restrictions may vary and are subject to change. Please read each prospectus carefully. The Vanguard Retirement Savings Trust has a 90-day equity-wash provision, meaning you may not exchange funds out of the Vanguard Retirement Savings Trust into a competing fund (currently only the Vanguard Federal Money Market Fund). The funds exchanged out of the Vanguard Retirement Savings Trust may not enter a competing fund for 90 days after the transfer out. Plan-level redemptions from the Vanguard Retirement Savings Trust may be subject to a 12-month put (or hold) on the request.

When you receive a distribution from the plan (standard or corrective), there is a one-time \$75.00 distribution charge that is taken from your account. Payments made by overnight mail or direct deposit are \$20.00 each. After initial distribution costs, any regular recurring distributions payable by direct deposit or check are free. A hardship or unforeseeable emergency distribution, if available, is \$150.00. A Qualified Domestic Relations Order (QDRO) costs \$300.00, and a loan transaction (if applicable) is a \$125.00 charge. Costs may increase for a QDRO if extensive attorney review is required. A Required Minimum Distribution (RMD) will incur a \$160.00 charge.

Contribution limits: The parties intend that all contributions made under this Agreement be within applicable deferral and contribution limits. If any contribution specified on this form would exceed any applicable limit, you may reduce the salary-reduction contribution to the greatest amount that would cause all contributions to be within all limits. The parties agree that any contribution that does not satisfy all applicable limits should be presumed to have been made under a mistake of fact or contrary to this agreement. If any contribution was made under a mistake of fact or contrary to this agreement, you or the employer (without consent by or notice to the other party) may instruct a corrective disbursement of the mistaken contributions.

You can stop your contributions at any time. At any time, you may stop your 457(b) employee contributions by using a form to give notice to your Employer. See "Effective Date" on page 10.

How to change your contributions: Unless your plan or your employer requires otherwise, you may increase or decrease your employee contributions online or by contacting your human resources department.

Effective date: Your start, stop, increase or decrease of contributions is effective as of the latest of: the Effective Date you asked for, the first pay date that is at least 31 days after your Employer has accepted a form, the date specified by the Plan or the later date required by the tax law that governs your plan or arrangement.

Corrections: If your Employer or your plan administrator mistakenly directs your contributions to a contract, fund or account other than according to your direction, you agree that they may correct the mistake.

Funding choices: Except as otherwise provided by the plan, you choose how to allocate your contributions. You must choose an investment permitted by your employer and plan administrator.

You are responsible for losses. Your Employer, the Florida Municipal Pension Trust Fund and the Florida League of Cities are NOT responsible for any loss you suffer for any reason that arises out of this agreement or your participation in your plan.

Summary Plan Description: You confirm that you received your Plan's Summary Plan Description.

Investment changes: You may make investment changes via the website or Voice Response Unit (VRU) in accordance with the provisions of your plan. Any change will be effective only when accepted by the custodian.

Please check your account statements. Please carefully read each account statement as soon as you receive it. Contact the FMPTF in writing about anything that you think may be incorrect. Send this information to the FMPTF address as specified on your statement. If you do not send your written objection within 60 days of the date of an account statement, the FMPTF assumes that the statement is correct.

Pre-tax vs. After-tax Retirement Savings. Unless otherwise approved by the employer and designation on the Roth Deferral Election Form, contributions will be designated as pre-tax deferrals.

Not FDIC Insured. All investing is subject to risk, including possible loss of the money you invest. Past performance is not a guarantee of future results.

You've agreed to reduce your salary depending on the plan. By signing this form, you authorize your Employer to reduce your salary or wages in amounts equal to the Employee Contributions that you've specified or as required under the plan. Your Employer will use these amounts to make contributions under the plan. This agreement remains in effect until you permanently terminate your employment with your Employer or you elect online to notify your Employer that you want to stop or change your contributions.

Qualified Default Investment Alternative (QDIA). Your plan uses Vanguard Target Retirement Funds as the plan's QDIA. These funds gradually change their asset allocations from more aggressive to more conservative over a defined period of time, based on the target retirement date you select (Income, 2020, 2025, 2030, 2035, 2040, 2045, 2050, 2055, 2060, 2065). The Target Retirement Fund that will be your QDIA will be the fund that most closely corresponds with the year that you turn age 62.

Plan distribution restrictions: Your plan is meant for retirement savings. If your plan is under Internal Revenue Code § 457(b), you will not be permitted to take money out until you sever from your Employer (including death or permanent disability). If you have an unforeseeable emergency, the plan may allow a limited distribution. Your plan might impose additional restrictions. Any requests for a withdrawal while you are employed must go through a rigorous review process to ensure compliance with the Internal Revenue Code and the Plan Document.

OUR MUTUAL FUND LINEUP

Asset Class	Fund Name	Symbol	Investment Expense
Cash	Vanguard Federal Money Market	VMFXX	0.11%
Stable Value	Vanguard Retirement Savings Trust	n/a	0.43%
Bonds	Vanguard Intermediate-Term Investment Grade	VFIDX	0.10%
	Vanguard Total Bond Market Index	VBTLX	0.05%
	Vanguard Total International Bond Index	VTABX	0.11%
Balanced	Vanguard Wellington Fund	VWENX	0.16%
Large Cap Stock	Vanguard Windsor II	VWNAX	0.26%
	Vanguard Institutional Index	VINIX	0.04%
	Vanguard FTSE Social Index	VFTAX	0.14%
	Vanguard PrimeCap	VPMAX	0.31%
Small Cap Stock	Vanguard Small-cap Index Signal	VSMAX	0.05%
	EV Atlanta Capital SMID-Cap I	ERASX	0.82%
International	Vanguard Total International Stock Index	VTIAX	0.11%
	Vanguard Emerging Markets Stock Index	VEMAX	0.14%
	Vanguard All World ex-US Small Cap	VFSAX	0.16%
Real Estate	Vanguard Real Estate Index	VGSLX	0.12%
Target Retirement	Vanguard Target Retirement Income	VTINX	0.08%
	Vanguard Target Retirement 2020	VTWNX	0.08%
	Vanguard Target Retirement 2025	VTTVX	0.08%
	Vanguard Target Retirement 2030	VTHRX	0.08%
	Vanguard Target Retirement 2035	VTTHX	0.08%
	Vanguard Target Retirement 2040	VFORX	0.08%
	Vanguard Target Retirement 2045	VTIVX	0.08%
	Vanguard Target Retirement 2050	VFIFX	0.08%
	Vanguard Target Retirement 2055	VFFVX	0.08%
	Vanguard Target Retirement 2060	VTTSX	0.08%
	Vanguard Target Retirement 2065	VLXVX	0.08%

Average Investment Expense 0.15% • Investment options and expenses are as of 12/31/2022.



FLORIDA LEAGUE OF CITIES, INC.

Post Office Box 1757
Tallahassee, FL 32302-1757
FLCretirement.com
Text or Call: 888.945.7401
retirement@flcities.com



FMPTF 401(a)/457(b) Mutual Fund Lineup

Asset Class	Fund Name	Symbol	Expense	1 year	5 years	10 years
Cash	Vanguard Federal Money Market	VMFXX	0.11%	4.69%	1.43%	0.81%
Stable Value	Vanguard Retirement Savings Trust	n/a	0.45%	1.96%	1.51%	1.50%
Bonds	Vanguard Intermediate-Term Investment Grade	VFIDX	0.10%	8.21%	2.06%	2.34%
	Vanguard Total Bond Market Index	VBTLX	0.05%	5.30%	0.71%	1.39%
	Vanguard Total International Bond Index	VTABX	0.11%	8.43%	0.48%	2.00%
Balanced	Vanguard Wellington Fund	VWENX	0.17%	14.03%	9.26%	7.56%
Large Cap Stock	Vanguard Windsor II	VWNAX	0.26%	20.67%	14.56%	9.74%
	Vanguard FTSE Social Index	VFTAX	0.14%	31.39%	15.55%	12.11%
	Vanguard Institutional Index	VINIX	0.04%	25.84%	15.26%	11.60%
	Vanguard PrimeCap	VPMAX	0.31%	27.78%	14.36%	12.67%
Small Cap Stock	EV Atlanta Capital SMID-Cap I	ERASX	0.82%	13.68%	13.39%	10.85%
	Vanguard Small-cap Index Signal	VSMAX	0.05%	17.80%	11.30%	8.03%
International	Vanguard All World ex-US Small Cap	VFSAX	0.16%	14.74%	6.41%	3.49%
	Vanguard Emerging Markets Stock Index	VEMAX	0.14%	8.81%	4.26%	2.58%
	Vanguard Total International Stock Index	VTIAX	0.11%	15.12%	6.94%	3.69%
Real Estate	Vanguard Real Estate	VGSLX	0.12%	11.41%	6.93%	6.96%
Target Retirement	Vanguard Target Retirement Income	VTINX	0.08%	10.34%	4.43%	3.69%
	Vanguard Target Retirement 2020	VTWNX	0.08%	12.11%	6.21%	5.12%
	Vanguard Target Retirement 2025	VTTVX	0.08%	14.15%	7.16%	5.70%
	Vanguard Target Retirement 2030	VTHRX	0.08%	15.63%	7.97%	6.18%
	Vanguard Target Retirement 2035	VTTHX	0.08%	16.74%	8.77%	6.66%
	Vanguard Target Retirement 2040	VFORX	0.08%	17.94%	9.59%	7.12%
	Vanguard Target Retirement 2045	VTIVX	0.08%	19.08%	10.36%	7.51%
	Vanguard Target Retirement 2050	VFIFX	0.08%	19.77%	10.53%	7.59%
	Vanguard Target Retirement 2055	VFFVX	0.08%	19.76%	10.52%	7.57%
	Vanguard Target Retirement 2060	VTTSX	0.08%	19.78%	10.52%	7.57%
	Vanguard Target Retirement 2065	VLXVX	0.08%	19.75%	10.51%	--

fund with higher comparative returns

fund with lower comparative returns

FRS Funds

	1 year	5 years	10 years
FRS Stable Value	2.70%	2.17%	
FRS Core Plus Bond	7.67%	2.40%	
FRS US Bond Enhanced	5.86%	1.17%	1.89%
FRS US Stock Market Index	26.05%	15.22%	11.55%
FRS US Stock Fund	30.22%	13.74%	
FRS Foreign Stock Index	16.02%	7.46%	4.19%
FRS Retirement	8.56%	5.84%	--
FRS 2020	8.96%	6.36%	--
FRS 2025	10.32%	7.15%	--
FRS 2030	12.49%	8.00%	--
FRS 2035	14.30%	8.70%	--
FRS 2040	15.74%	9.32%	--
FRS 2045	16.93%	9.78%	--
FRS 2050	17.49%	10.14%	--
FRS 2055	17.79%	10.32%	--
FRS 2060	17.78%	10.36%	--
FRS 2065	17.78%	10.36%	--
No appropriate comparison			
FRS Inflation Protection	2.48%	4.63%	
FRS Global Stock Fund	25.01%	13.88%	10.09%

Uniform FRS CONTRIBUTION RATES EFFECTIVE JULY 1, 2023 TO JUNE 30, 2024

	Regular Class (%)	Special Risk Class (%)		Elected Officers' Class (%)			SMSC (%)	DROP (%)¹
		SR Regular	SR Admin Support	State - Judicial	State - L/A/C	Local		
FRS Defined Benefit Program (FRS Pension Plan) Cost - Employer Contribution Rates Before Blending								
Normal Cost Rate Valuation Based used in Blended Rates	5.99	18.58	11.91	14.64	9.52	11.55	7.95	8.49
UAL Cost	6.34	13.93	35.43	33.89	77.03	65.15	33.94	10.64
Total Pension Plan Cost	12.33	32.51	47.34	48.53	86.55	76.70	41.89	19.13
FRS Investment Plan Rates - Employer Contribution Rates Before Blending								
Employer Contribution to Investment Plan Account ²	8.30	16.00	9.95	15.23	11.38	13.34	9.67	N/A
Disability Program Funding to FRS Trust Fund	0.25	1.85	0.45	0.73	0.41	0.41	0.26	N/A
ILOD Death Benefit Funding (all classes) to FRS Trust Fund	0.05	1.26	0.03	0.09	0.15	0.20	0.05	N/A
Total Investment Plan Employer Contribution Rates	8.60	19.11	10.43	16.05	11.94	13.95	9.98	N/A
Blended Employer Contribution Rate Covering FRS Pension Plan and FRS Investment Plan Members								
Blended Rates as proposed	6.73	18.66	11.54	14.90	10.45	12.39	8.56	8.49
Uniform UAL on all payroll bases*	4.78	11.95	26.22	27.93	50.21	44.23	23.90	10.64
Investment Plan Administration and Financial Guidance Assessment	0.06	0.06	0.06	0.06	0.06	0.06	0.06	N/A
HIS Contribution	2.00	2.00	2.00	2.00	2.00	2.00	2.00	2.00
Total Employer Contribution Rate	13.57	32.67	39.82	44.89	62.72	58.68	34.52	21.13
Total Employee Contribution Rate	3.00	3.00	3.00	3.00	3.00	3.00	3.00	0.00
Total Contribution Rate Submitted to the Division of Retirement Effective July 1, 2023	16.57	35.67	42.82	47.89	65.72	61.68	37.52	21.13
*(Payroll base includes SMSOAP, SUSORP, and SCCORP)								
Reemployed Retirees Without Renewed Membership 2023-24								
UAL	4.78	11.95	N/A	27.93	50.21	44.23	23.90	N/A
HIS Contribution	2.00	2.00	N/A	2.00	2.00	2.00	2.00	N/A
Total Employer Contribution Rate Submitted to the Division of Retirement Effective July 1, 2023	6.78	13.95	N/A	29.93	52.21	46.23	25.90	N/A
Non-Integrated Defined Contribution Plans 2023-24								
	SUSORP (%)	SMSOAP (%)	SCCSORP (%)					
Required Employee Contribution Rate to Member Account	3.00	3.00	3.00					
Employer Contribution Rate to Member Account	5.14	6.27	5.15					
Total Contribution to DC Investment Account	8.14	9.27	8.15					
Employer UAL Contribution - to FRS Trust Fund	4.78	23.90	4.78					
Non-Integrated DC Plan Administrative Assessment	0.01	0.00	0.00					
Total Contribution Rate Submitted	18.07	39.44	18.08					

¹ DROP rates are special charges to cover the assumed cost of DROP participants; they are not Normal Cost or UAL Cost in the traditional sense.

² Amount deposited into Investment Plan account by the employer is based upon Investment Plan account rate in law, not the blended rate that is paid by the employer.

³ Member may make voluntary employee contributions up to the rate paid by the employer for deposit to the member's account. SCCSORP is administered by the state college, any administrative assessment deducted from the employer contribution to the member account is set by the state college.



Agenda Item 6.i.

Approval of Entering Trust Joinder Agreements for Defined Contribution and Deferred Compensation Plans under Florida Municipal Pension Trust Fund Master Trust Agreement

Background: At the January 31, 2024 Board Meeting, the Board directed staff to pursue sourcing a retirement plan option following the Florida Division of Retirement's determination the Estuary Program would be ineligible to reenroll its employees in the Florida Retirement System.

The Florida League of Cities established the Florida Municipal Pension Trust Fund (FMPTF) in 1983 to collectively manage employee retirement programs of participating Florida governments. The FMPTF is a tax-exempt, member-owned trust providing professional and cost-effective investment and administrative services for all types of retirement plans.

The League offers a 401(a) Defined Contribution Plan and a 457(b) Deferred Compensation Plan through Vanguard. A 401(a) defined contribution plan may consist of non-elective employer contributions, matching employer contributions, and/or non-elective employee contributions. A 457(b) Deferred Compensation Plan allows employees to defer their salary into a tax-deferred retirement account.

All current employees that began service with the Estuary Program prior to the organizational transition on October 1, 2023 were vested in the FRS Investment Plan. Each employee vested in FRS will be able to roll their retirement fund balance forward into the 401(a) or 457(b) if they so choose. The League's 401(a) Defined Contribution Plan is the most comparable plan to the FRS Investment Plan. Based on a comparison of the funds, plan performance has been on par with the performance of the FRS Investment Plan.

The FY23-24 employer contribution rate for the FRS Investment Plan, as established by the State of Florida, is 8.3%. Additionally, FRS employers pay an additional 5.27% on top of the direct contribution to cover the Health Insurance Subsidy, disability program, line of duty death benefits, administrative and educational expenses, and unfunded actuarial liability. Total employer cost in the FRS Investment Plan, including direct contribution and the fees listed above, is 13.57%. FMPTF fees are structured as a flat \$16/year per employee, 0.40% of assets per year, and 0.15% of investment expenses per year.

Staff is recommending the Board adopt enrollment into the FMPTF for the 401(a) plan and setup an employer contribution rate of 9% for FY23-24 with a mandatory employee contribution of 3%. Staff is also recommending enrollment into the FMPTF for the 457(b) plan as a voluntary benefit to the employees. No employer contribution nor match would be provided.

Further, staff is recommending a vesting schedule of one year and retirement age of 65, to align with FRS. Note, all employees that began service with the Estuary Program prior to the organizational transition on October 1, 2023 are vested. Upon adoption and plan establishment, employer contributions held since October 1, 2023 would be deposited in each employees retirement fund.

Recommendation: Recommend the Board approve, and authorize the Chairman to sign, Trust Joinder Agreements for Defined Contribution and Deferred Compensation Plans under Florida Municipal



Pension Trust Fund Master Trust Agreement.

Financial Impact: Board action will adopt an employer contribution rate of 9% for FY23-24. Based on existing staffing, this will result in a cost of \$31,338.68 for FY23-24, a savings of \$15,913.09 from the FRS plan due to the reduced administrative fees.

Legal Review: General Counsel has reviewed and approved the agreement.

**TRUST JOINDER AGREEMENT
FOR DEFINED CONTRIBUTION PLANS UNDER
FLORIDA MUNICIPAL PENSION TRUST FUND
MASTER TRUST AGREEMENT**

THIS TRUST JOINDER AGREEMENT, between the Pensacola and Perdido Bays Estuary Program, Inc., (herein referred to as the “Participating Employer”) and the Master Trustees of the Florida Municipal Pension Trust Fund (herein referred to as the “Master Trustee”).

WITNESSETH:

WHEREAS, the Participating Employer desires to provide a defined contribution plan for the sole and exclusive benefit of its Participating Employees and their Beneficiaries, and for such purposes adopted Resolution No. 24-01 on the 20th day of March, 2024 providing for the establishment of a defined contribution plan;

WHEREAS, said Resolution authorizes participation in the Florida Municipal Pension Trust Fund (“FMPTF”) and further authorizes the execution of this Trust Joinder Agreement to become a party to the FMPTF Master Trust Agreement; and

WHEREAS, the Participating Employer desires to submit this Trust Joinder Agreement to the Master Trustee to become a party to the FMPTF Master Trust Agreement;

THEREFORE, in consideration of the mutual covenants and agreements flowing to each of the parties hereto, it is agreed as follows:

1. Both parties to this Trust Joinder Agreement agree that the Pensacola and Perdido Bays Estuary Program, Inc. is a Participating Employer as provided in the Florida Municipal Pension Trust Fund Master Trust Agreement (“Master Trust Agreement”).
2. As provided in the plan provisions selected by the Participating Employer, the Participating Employer shall make timely contributions or shall timely forward contributions made by Participating Employees for the defined contribution plan.
3. As provided in the plan provisions selected by the Participating Employer, the Participating Employer shall timely remit or timely approve the remittance of administrative fees as may be due under the defined contribution plan.
4. The Participating Employer agrees to provide all initial and update all relevant Participating Employee information required under the defined contribution plan to the Administrator designated by the Master Trustee. The Participating Employer shall certify said information to be correct to the best of its knowledge and the Master Trustee and the Administrator shall have the right to rely on the accuracy of said information in performing contractual responsibilities.

5. The Participating Employer has the responsibility to provide the Administrator designated by the Master Trustee, in a timely manner, all information concerning Participating Employee termination. The Participating Employer shall certify said information to be correct to the best of its knowledge and the Master Trustee and the Administrator shall have the right to rely on the accuracy of said information in performing contractual responsibilities.
6. The parties to this Trust Joinder Agreement agree to abide by and be bound by the terms, duties, rights and obligations of the parties as set forth in the Florida Municipal Pension Trust Fund Master Trust Agreement, as may be amended by the Master Trustees, which is attached hereto and is made a part of this Trust Joinder Agreement.
7. Either party may terminate this Trust Joinder Agreement by giving at least 60 days notice in writing to the other party. Any termination shall be governed by the provisions of the Florida Municipal Pension Trust Fund Master Trust Agreement and the plan document for the defined contribution plan.

IN WITNESS WHEREOF, the Participating Employer has caused this Trust Joinder Agreement to be executed and the signature of its authorized officer affixed this 20th day of March, 2024.

Pensacola and Perdido Bays Estuary Program, Inc.

BY: _____
Signature

Michael S. Kohler, Chairman

ATTEST:

DATE:

FLORIDA MUNICIPAL PENSION TRUST FUND

BY: _____
Secretary - Treasurer

**TRUST JOINDER AGREEMENT
FOR DEFERRED COMPENSATION PLANS UNDER
FLORIDA MUNICIPAL PENSION TRUST FUND
MASTER TRUST AGREEMENT**

THIS TRUST JOINDER AGREEMENT, between the Pensacola and Perdido Bays Estuary Program, Inc., (herein referred to as the “Participating Employer”) and the Master Trustees of the Florida Municipal Pension Trust Fund (herein referred to as the “Master Trustee”).

WITNESSETH:

WHEREAS, the Participating Employer desires to provide a deferred compensation plan for the sole and exclusive benefit of its Participating Employees and their Beneficiaries, and for such purposes adopted Resolution No. 24-01 on the 20th day of March, 2024 providing for the establishment of a deferred compensation plan;

WHEREAS, said Resolution authorizes participation in the Florida Municipal Pension Trust Fund (“FMPTF”) and further authorizes the execution of this Trust Joinder Agreement to become a party to the FMPTF Master Trust Agreement; and

WHEREAS, the Participating Employer desires to submit this Trust Joinder Agreement to the Master Trustee to become a party to the FMPTF Master Trust Agreement;

THEREFORE, in consideration of the mutual covenants and agreements flowing to each of the parties hereto, it is agreed as follows:

1. Both parties to this Trust Joinder Agreement agree that the Pensacola and Perdido Bays Estuary Program, Inc. is a Participating Employer as provided in the Florida Municipal Pension Trust Fund Master Trust Agreement (“Master Trust Agreement”).
2. As provided in the plan provisions selected by the Participating Employer, the Participating Employer shall make timely contributions or shall timely forward contributions made by Participating Employees for the deferred compensation plan.
3. As provided in the plan provisions selected by the Participating Employer, the Participating Employer shall timely remit or timely approve the remittance of administrative fees as may be due under the deferred compensation plan.
4. The Participating Employer agrees to provide all initial and update all relevant Participating Employee information required under the deferred compensation plan to the Administrator designated by the Master Trustee. The Participating Employer shall certify said information to be correct to the best of its knowledge and the Master Trustee and the Administrator shall have the right to rely on the accuracy of said information in performing contractual responsibilities.

5. The Participating Employer has the responsibility to provide the Administrator designated by the Master Trustee, in a timely manner, all information concerning Participating Employee termination. The Participating Employer shall certify said information to be correct to the best of its knowledge and the Master Trustee and the Administrator shall have the right to rely on the accuracy of said information in performing contractual responsibilities.
6. The parties to this Trust Joinder Agreement agree to abide by and be bound by the terms, duties, rights and obligations of the parties as set forth in the Florida Municipal Pension Trust Fund Master Trust Agreement, as may be amended by the Master Trustees, which is attached hereto and is made a part of this Trust Joinder Agreement.
7. Either party may terminate this Trust Joinder Agreement by giving at least 60 days notice in writing to the other party. Any termination shall be governed by the provisions of the Florida Municipal Pension Trust Fund Master Trust Agreement and the plan document for the deferred compensation plan.

IN WITNESS WHEREOF, the Participating Employer has caused this Trust Joinder Agreement to be executed and the signature of its authorized officer affixed this 20th day of March, 2024.

Pensacola and Perdido Bays Estuary Program, Inc.

BY: _____
Signature

Michael S. Kohler, Chairman

ATTEST:

DATE:

FLORIDA MUNICIPAL PENSION TRUST FUND

BY: _____
Secretary - Treasurer

Florida Municipal Pension Trust Fund
 § 401(a) Defined Contribution Retirement Plan
 Adoption Agreement

Please tell us about the Participating Employer, which unless noted shall also be the Plan Sponsor:

Name of Government Entity	Pensacola and Perdido Bays Estuary Program, Inc.
Address	226 South Palafox Place, 5 th floor
Address	
City, State Zip	Pensacola, FL 32502

Individual to Receive Plan Notices	Matt Posner
Title	Executive Director
Telephone	850.595.0820
Email	mjposner@ppbep.org

Your Plan Administrator is:

Florida League of Cities, Inc.
 301 S. Bronough Street
 P.O. Box 1757
 Tallahassee, Florida 32302

Contacts:

Jeremy Button, Senior Analyst, jbutton@flcities.com
 Rodney Walton, Account Executive, rwalton@flcities.com
 Phone: (850) 222-9684
 Fax: (850) 222-3806

DISCLOSURE OF OTHER 401(a) PLAN(S)

This Participating Employer does or does not have an existing defined contribution plan(s). If the Participating Employer does have one or more defined contribution plans, the Participating Employer must provide the plan name, name of the provider, and such other information requested by the Plan Administrator.

TYPE OF ADOPTION AND EFFECTIVE DATE

NOTE: This Adoption Agreement, with the accompanying Basic Plan Document, is designed to comply with Internal Revenue Code ("Code") Section 401(a), as applicable to a governmental qualified defined contribution plan, and is part of the Florida Municipal Pension Trust Fund ("FMPTF") § 401(a) Defined Contribution Retirement Plan ("Plan"). By adopting this Adoption Agreement, the Participating Employer is adopting a Basic Plan Document intended to comply with Code Sections 401(a) and 414(d).

This Adoption Agreement is for the following purpose (**check one**):

- This is a new 401(a) defined contribution plan adopted by the Participating Employer for its Employees effective October 1, 2023 (insert effective date of this Adoption Agreement, but not earlier than the beginning of the plan year in which the plan is adopted).
- This is an amendment to the current Adoption Agreement previously adopted by Participating Employer, to be effective _____, _____ (insert effective date of this Adoption Agreement, but not earlier than the beginning of the plan year in which the amendment is adopted). This Adoption Agreement is intended to amend and replace the Adoption Agreement previously adopted by the Participating Employer, which was originally effective _____, _____ (insert original effective date of previous Adoption Agreement, as follows (please specify type below):
- This is an amendment to change one or more of the Participating Employer's contribution elections in the existing Adoption Agreement.
- Other (must specify elective provisions in this Adoption Agreement that are being changed):

- This is an amendment and restatement of another defined contribution plan of the Participating Employer, effective _____, _____ (insert effective date of this Adoption Agreement). This Adoption Agreement is intended to replace and serve as an amendment and restatement of the Participating Employer's preexisting plan, which became effective on _____, _____ (insert original effective date of preexisting plan). The Participating Employer understands that it is the Participating Employer's responsibility to ensure that the preexisting plan met all applicable state and federal requirements.

Florida Municipal Pension Trust Fund
§ 401(a) Defined Contribution Retirement Plan
Adoption Agreement

SELECTION OF INVESTMENT OPTIONS

NOTE: All investment selections are subject to the approval of the Master Trustees of the Florida Municipal Pension Trust Fund (“Master Trustee”) and governed by the Basic Plan Document, the Master Trust Agreement, and the FMPTF Investment Policy.

You select the following investment option (**check one**):

- Master Trustee will select Investment option(s) in accordance with provisions of the participating defined contribution plans. The Master Trustee may establish one (1) or more investment options within the Defined Contribution Pension Plan Trust, each option being hereinafter referred to as an “investment option.” The Master Trustee shall manage, acquire or dispose of the assets in an investment option in accordance with valid specific investment directions given by the Participating Employers or Participating Employees. The Master Trustee shall establish at least one (1) default investment option in the absence of valid Participating Employer or Participating Employee investment direction. From time to time, the Master Trustee may eliminate an investment option, and the proceeds thereof shall be reinvested in another investment option in accordance with the directions of the Master Trustee.
- The Participating Employer will select and oversee investment options for the defined contribution plan through Open Architecture Investment. “Open Architecture Investment” means a Participating Employer that has been acknowledged through the Trust Joinder Agreement to select and oversee the investment options under and for the FMPTF 401(a) defined contribution retirement plan, rather than using the investment options selected by the Master Trustee. By selecting Open Architecture Investment, the Participating Employer acknowledges the Master Trustee and Plan Administrator are responsible for only the administrative services provided to the defined contribution plan. By selecting Open Architecture Investment, the Participating Employer accepts the responsibility for selecting and overseeing defined contribution plan investment option(s), including default investment option(s), rather than using the investment options selected by the Master Trustee. The Participating Employer acknowledges by the selection of Open Architecture Investment that neither the Plan Administrator nor the Master Trustee have any responsibility for and shall not have any liability relating to the selection or oversight of defined contribution plan investment options. The Master Trustee shall have no fiduciary duty or any liability for an investment option or any loss sustained by a Participating Employer, Participating Employee, Beneficiary, or Alternate Payee whose Account in whole or in part is invested through Open Architecture Investment. The Participating Employer is responsible for providing the Plan Administrator with all information and updates concerning selected investment option(s), including the default investment option(s), for the defined contribution plan.

PLAN PROVISIONS

The Participating Employer will use the FMPTF's § 401(a) Defined Contribution Retirement Plan Document. For any Plan choice that this Adoption Agreement fails to specify, the Participating Employer is deemed to have specified the first-displayed choice.

Your Plan Year is:

- October 1 – September 30
- January 1 – December 31
- Other (specify): _____

PAYROLL PERIOD

The Payroll Period of the Participating Employer is:

- Weekly
- Bi-weekly
- Semi-monthly
- Monthly
- Other (specify): _____

Florida Municipal Pension Trust Fund
§ 401(a) Defined Contribution Retirement Plan
Adoption Agreement

WHO'S ELIGIBLE

Generally, the following Employee classes are allowed to participate in the Plan:

- General Employees
- Police Officers
- Firefighters

AGE CONDITION

An Employee is eligible if he or she has attained:

- No age requirement
- Age 16
- Age 18
- Age 21

SERVICE CONDITION

An Employee is eligible if he or she has completed:

- No service requirement
- 3 Months of Service as an otherwise Eligible Employee
- 1 Year of Service as an otherwise Eligible Employee
- Other (must specify): _____

EXCLUDED EMPLOYEES

Every Employee shares in Non-elective Contributions and Matching Contributions except an Employee who belongs to a classification specified below:

- No excluded employees
- Part-time Employees (specify definition of part-time if other than an Employee who normally works (or, if a schedule applies, is regularly scheduled to work) less than 20 hours per week):

- Other (must specify):

Florida Municipal Pension Trust Fund
§ 401(a) Defined Contribution Retirement Plan
Adoption Agreement

PARTICIPATING EMPLOYER CONTRIBUTIONS

A Participating Employer may make Non-elective Contributions and/or Matching Contributions as specified below. Non-elective Contributions and Matching Contributions that are tied to Payroll Periods (as defined in this Adoption Agreement) must be remitted to the Plan Administrator no later than 15 business days after the Payroll Period. Annual Contributions must be remitted to the Plan Administrator no later than 15 business days after the end of the Plan Year. A Participating Employer may establish different classes of Employees for contribution purposes in this Adoption Agreement. The Participating Employer hereby elects to make Contributions as follows (choose one or both as applicable):

Non-elective Contributions – Participating Employer Non-elective Contributions will be made on the following basis (must specify):
9% effective October 1, 2023

Matching Contributions

Matching Contributions are Participating Employer Contributions that may be made to match all or a portion of a Participant's contribution to an eligible 457(b) deferred compensation plan (Employee Basic Contributions).

If the Participating Employer provides Matching Contributions, the amount of Matching Contributions made for a Participant each Plan Year will be (choose only one):

100% match, up to ____% of such Participant's Employee Contributions.

____% of the Participant's Employee Basic Contributions, which cannot exceed ____% of the Participant's Compensation.

Other formula (requires approval from the FMPTF) _____

Non-elective Contributions and Matching Contributions in the year of termination

A Participant shall receive the Employer Contribution during the year of termination regardless of time completed, subject to the vesting schedule.

MANDATORY EMPLOYEE CONTRIBUTIONS

If there are no Employee Contributions to **this** Plan, do not complete this Section.

A Participating Employer may require Employee Contributions to the Plan as specified below. A Participating Employer may also elect whether to pick-up the Employee Contributions to the Plan under Code Section 414(h)(2) (generally resulting in the contributions being made to the plan on a pre-tax basis). Employee Contributions must be remitted to the Plan Administrator no later than 15 business days after the Payroll Period. The Participating Employer hereby elects to require Employee Contributions as follows:

Employee Contributions – Participating Employees are required to contribute to the Plan on the following basis (**must specify**):
3.0% effective April 1, 2024

Florida Municipal Pension Trust Fund
§ 401(a) Defined Contribution Retirement Plan
Adoption Agreement

Election for Employer Pick-up of Employee Contributions (Leave blank if Employer does not wish to pick-up Employee Contributions)
– By checking this box, effective as of the date of this Adoption Agreement, the Participating Employer shall pick up the Employee Contributions to the Plan pursuant to Code Section 414(h)(2). The Employee Contributions, although designated as employee contributions, are being paid by the Employer to the Plan in lieu of contributions by the Employee. No contributions prior to the Participating Employer's action shall be picked-up under the terms of this Adoption Agreement. Employees shall not be given the option of choosing to receive the contributed amounts directly instead of having them paid by the Employer to the Plan. The Employer's pick-up of Employee Contributions shall be done under one of the following options:

Salary Reduction Pick-up – The above contributions, even though designated as Employee Contributions, are being paid by the Employer on behalf of the Employee via a reduction in salary.

Such contributions will not be included in the gross income of the Employees for certain tax reporting purposes, that is, for federal, state or local income tax withholding, until distributed from the Plan as a benefit. Such contributions will be included in the gross income of the Employees for FICA taxes when they are made.

New Money Pick-up – The above contributions, even though designated as Employee Contributions, are being paid by the Employer on behalf of the Employee in addition to regular compensation as a supplemental contribution that is separate and distinct from the Employees' current or future contributions, and in lieu of contributions by the Employees.

Such contributions will not be included in the gross income of the Employees for any tax reporting purposes, that is for federal, state, local income tax withholding, or FICA taxes, until distributed from the Plan as a benefit.

Florida Municipal Pension Trust Fund
§ 401(a) Defined Contribution Retirement Plan
Adoption Agreement

BENEFIT COMPENSATION

Benefit Compensation means the Participant's:

- Benefit Compensation as defined in Provision 3.11 in the Basic Plan Document.
- Other **(must specify; requires approval from the FMPTF)**:

Compensation paid after Severance-from-employment.

A Participating Employer may elect to include certain post-severance payments in Benefit Compensation for purposes of computing Contributions under the Plan, but only if these amounts are paid no later than 2½ months after Severance-from-employment or, if later, the end of the calendar year that includes a Participant's Severance-from-employment. The Participating Employer makes the following election with respect to including post-severance payments in Benefit Compensation (**Note: if the following is not completed, no post-severance payments will be included in Benefit Compensation by default**):

- No post-severance payments will be included in Benefit Compensation for purposes of computing contributions under the Plan **(if this box is checked, skip to "Vesting for Participating Employer Contributions" below)**.
- For purposes of calculating contributions under the Plan, the following post-severance payments will be included in Benefit Compensation, as long as they are paid no later than 2½ months after Severance-from-employment or, if later, the end of the calendar year that includes the Participant's Severance-from-employment. **(check all that apply)**:
 - Regular compensation paid after Severance-from-employment for services rendered prior to severance during the Participant's regular work hours, which, absent a Severance-from-employment would have been paid to the Participant while the Participant continued in employment with the Participating Employer.
 - Post-severance payments for unused accrued bona fide sick, vacation or other leave, but only if the Participant would have been able to use the leave if employment had continued.

Florida Municipal Pension Trust Fund
 § 401(a) Defined Contribution Retirement Plan
 Adoption Agreement

VESTING FOR PARTICIPATING EMPLOYER CONTRIBUTIONS

A Participating Employer may establish a vesting schedule for Participating Employer Non-elective Contributions and Matching Contributions. This means that if the Participant leaves the Participating Employer's employment prior to completing a specified minimum period of service, the Participant forfeits the Participating Employer's Non-elective Contributions and Matching Contributions. However, upon Death, Disability, or the Termination of the Plan, the Participant is 100% vested in the Participant's Participating Employer Non-elective Contributions and Matching Contributions, notwithstanding any vesting schedule. If a vesting schedule is established, it is the Participating Employer's responsibility to calculate the Participant's service and report it to the Plan Administrator. The Participating Employer hereby elects the following:

A Participant becomes Vested in his or her Employer Non-elective Contributions Account and Employer Matching Contributions Account according to:

- Immediate vesting
- The schedule marked below:

Years of Vesting Service	1	2	3	4	5	6	7	8	9	10
	100%	***	***	***	***	***	***	***	***	***

Beginning date of vesting period (if blank, default will be the Participant's first day of employment as an Eligible Employee):

Restated Plan – If this is a Restated Plan to an existing deferred compensation plan and the vesting schedule has been amended by the Restated Plan, enter the pre-amended vesting schedule below:

- The schedule has not been amended
- The schedule marked below:

Years of Vesting Service	1	2	3	4	5	6	7	8	9	10
	***	***	***	***	***	***	***	***	***	***

YEARS OF VESTING SERVICE

A year of vesting service shall be measured from the Participant's date of hire. The completion of twelve calendar months from the date of hire shall count as a year of vesting service. Any years of vesting service credited from prior years shall remain credited, regardless of revised provisions, unless specifically indicated otherwise, as follows: _____

Years of vesting from prior years shall remain credited

Also, different periods of service as an eligible Employee will be added together in determining whether the vesting period has been satisfied, unless otherwise provided, as follows: _____

Different periods of service are added together to determine vesting

Florida Municipal Pension Trust Fund
§ 401(a) Defined Contribution Retirement Plan
Adoption Agreement

FORFEITURES

Forfeitures shall be held in a Forfeiture Account and be used to reduce future Participating Employer Contributions. If a Participant experiences a Forfeiture, but subsequently if the Participant returns to service with the Plan Sponsor as an Eligible Employee, the segregated forfeiture:

- Will not be reinstated.
- Will be reinstated if the Participant returned to service within one year.
- Will be reinstated if the Participant returned to service within two years.

NORMAL RETIREMENT AGE

An Employee may separate service at any time, and access the vested portion of their Account balance. The 401(a) Basic Plan Document declares a Normal Retirement Age, but the Plan Sponsor may declare their own Normal Retirement Age if they wish.

- The Plan utilizes the Normal Retirement Age in the Basic Plan Document.
- The Plan utilizes an alternative Normal Retirement Age (no later than 70½). (must specify) 65

HARDSHIP DISTRIBUTIONS

An Employee must present sufficient information to the Plan Sponsor in order to request a Hardship Distribution from the Plan. A Participating Employer may limit Employee Hardship Distributions from the Plan. All Hardship Distributions must meet the standards set forth in the Plan Document. Hardship Distributions are limited to the following:

- An Employee may make a Hardship Distributions as necessary.
- An Employee make a Hardship Distributions 1 time(s) every _____ months.
- Hardship Distributions are disallowed from the Plan for any reason.

INVOLUNTARY DISTRIBUTIONS

On his/her Severance-from-employment, for a Participant (or Beneficiary) with an Account balance that does not exceed \$5,000, then

- Participant Election: The Participant may elect to receive all or any portion of his/her Account.
- Involuntary (Mandatory) Distribution: The Plan Administrator will distribute the Participant's entire Account. If the Involuntary Distribution is more than \$1,000 and it is an Eligible Rollover Distribution, and if the recipient of the distribution does not elect to have the distribution paid directly to an Eligible Retirement Plan specified by the recipient in a direct rollover or does not elect to receive the distribution directly, the Involuntary Distribution will be paid as a direct rollover to an IRA designated by the Plan Sponsor. If the Involuntary Distribution is \$1,000 or less, it will be paid in money as a lump sum.

Florida Municipal Pension Trust Fund
§ 401(a) Defined Contribution Retirement Plan
Adoption Agreement

LOANS

A Participating Employer may choose to offer loans. (**Note: If this section is not completed, no loans will be allowed under the Plan by default:**)

- No Loans. The Plan does not permit Participant loans.
- Loans Permitted. The Plan will permit Participant loans, subject to the provisions in the Basic Plan Document.
 - One outstanding loan at a time.
 - Two outstanding loans at a time.

CHANGING AND TERMINATING THIS ADOPTION AGREEMENT

If a Participating Employer desires to amend any of its elections contained in this Adoption Agreement, the Participating Employer by official action must adopt an amendment to the Adoption Agreement or a new Adoption Agreement must be adopted and forwarded to the FMPTF for approval.

This Adoption Agreement may be terminated only in accordance with the Plan.

ADOPTING THE PLAN

By signing below, the Participating Employer adopts the FMPTF 401(a) Defined Contribution Retirement Plan , including the Basic Plan Document and FMPTF Defined Contribution Pension Plan Trust. The Participating Employer acknowledges that it received a copy of the Plan. The Participating Employer shall receive copies of any Plan amendments made by the FMPTF. The Participating Employer shall abide by the terms of this Adoption Agreement, as completed by the Employer, and shall abide by all terms of the Plan, including all investment, administrative, and services of the Plan, and all applicable provisions of the Code and other applicable law.

The Participating Employer acknowledges that the Master Trustees are only responsible for the Plan and have no responsibility for other employee benefit plans maintained by the Participating Employer.

The Participating Employer's signer represents that he or she is a proper officer of and has authority to enter into this Adoption Agreement as an obligation of the Participating Employer.

Date: _____

By: _____

Michael S. Kohler, Chairman
Pensacola and Perdido Bays Estuary Program, Inc.

Accepted for the:

Florida Municipal Pension Trust Fund
By the Administrator:

Florida League of Cities, Inc.
Date: _____

Florida Municipal Pension Trust Fund
 § 457(b) Deferred Compensation Plan
Adoption Agreement

Please tell us about the Participating Employer, which unless noted shall also be the Plan Sponsor:

Name of Government Entity	Pensacola and Perdido Bays Estuary Program, Inc.
Address	226 South Palafox Place, 5 th floor
Address	
City, State Zip	Pensacola, FL 32502

Individual to Receive Plan Notices	Matt Posner
Title	Executive Director
Telephone	850.595.0820
Email	mjposner@ppbep.org

Your Plan Administrator is:

Florida League of Cities, Inc.
 301 S. Bronough Street
 P.O. Box 1757
 Tallahassee, Florida 32302

Contacts:

Jeremy Button, Senior Analyst, jbutton@flcities.com
 Rodney Walton, Account Executive, rwalton@flcities.com
 Phone: (850) 222-9684
 Fax: (850) 222-3806

TYPE OF ADOPTION AND EFFECTIVE DATE

This Adoption Agreement is for the following purpose (check one):

- This is a new 457(b) deferred compensation plan adopted by the Participating Employer for its Employees effective October 1, 2023 (insert effective date of this Adoption Agreement but not earlier than the beginning of the plan year in which the plan is adopted), with respect to Contributions as approved below.
- This is an amendment to be effective as of _____, _____ (insert effective date of this Adoption Agreement but not earlier than the beginning of the remedial amendment period for such amendment) of the current 457(b) deferred compensation plan previously adopted by the Participating Employer, which was originally effective _____, _____ as follows (please specify type below):
 - This is an amendment to change one or more of the Participating Employer's contribution design elections in the Adoption Agreement.
 - Other (must specify elective provisions in this Adoption Agreement): _____
- This is an amendment and restatement of another 457(b) deferred compensation plan of the Participating Employer, the effective date of which shall be _____, _____ (insert effective date of this Adoption Agreement but not earlier than the beginning of the plan year in which the plan is adopted). This Adoption Agreement is intended to replace and serve as an amendment and restatement of the Employer's preexisting plan, which became effective on _____, _____ (insert original effective date of preexisting plan).

SELECTION OF INVESTMENT OPTIONS

NOTE: All investment selections are subject to the approval of the Master Trustees of the Florida Municipal Pension Trust Fund ("Master Trustee") and governed by the Basic Plan Document, the Master Trust Agreement, and the FMPTF Investment Policy.

You select the following investment option (**check one**):

- Master Trustee will select Investment option(s) in accordance with provisions of the participating deferred compensation plans. The Master Trustee may establish one (1) or more investment options within the Deferred Compensation Plan Trust, each option being hereinafter referred to as an "investment option." The Master Trustee shall manage, acquire or dispose of the assets in an investment option in accordance with valid specific investment directions given by the Participating Employers or Participating Employees. The Master Trustee shall establish at least one (1) default investment option in the absence of valid Participating Employer or Participating Employee investment direction. From time to time, the Master Trustees may eliminate an investment option, and the proceeds thereof shall be reinvested in another investment option in accordance with the directions of the Master Trustee.
- The Participating Employer will select and oversee investment options for the deferred compensation plan through Open Architecture Investment. "Open Architecture Investment" means a Participating Employer that has been acknowledged through the Trust Joinder

Florida Municipal Pension Trust Fund
§ 457(b) Deferred Compensation Plan
Adoption Agreement

Agreement to select and oversee the investment options under and for the FMPTF 457(b) deferred compensation plan, rather than using the investment options selected by the Master Trustee. By selecting Open Architecture Investment, the Participating Employer acknowledges the Master Trustee and Plan Administrator are responsible for only the administrative services provided to the deferred compensation plan. By selecting Open Architecture Investment, the Participating Employer accepts the responsibility for selecting and overseeing deferred compensation plan investment option(s), including default investment option(s), rather than using the investment options selected by the Master Trustee. The Participating Employer acknowledges by the selection of Open Architecture Investment that neither the Plan Administrator nor the Master Trustee have any responsibility for and shall not have any liability relating to the selection or oversight of deferred compensation plan investment options. The Master Trustee shall have no fiduciary duty or any liability for an investment option or any loss sustained by a Participating Employer, Participating Employee, Beneficiary, or Alternate Payee whose Account in whole or in part is invested through Open Architecture Investment. The Participating Employer is responsible for providing the Plan Administrator with all information and updates concerning selected investment option(s), including the default investment option(s), for the deferred compensation plan.

PLAN PROVISIONS

The Participating Employer will use FMPTF's § 457(b) Deferred Compensation Plan. For any Plan choice that this Adoption Agreement fails to specify, the Participating Employer is deemed to have specified the first-displayed choice.

Your Plan Year is:

- October 1 – September 30
- January 1 – December 31
- Other _____

Florida Municipal Pension Trust Fund
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Adoption Agreement

DISCLOSURE OF OTHER 457(B) PLAN(S)

The Participating Employer does or does not have an existing deferred compensation plan(s). If the Participating Employer does have one or more deferred compensation plans, the Participating Employer must provide the plan name and the name of the provider below, and such other relevant information requested by the Plan Administrator.

Plan Name(s) _____

Plan Provider(s) _____

VERY IMPORTANT: All eligible plans of a Participating Employer are considered to be a single plan for purposes of compliance with Code Section 457(b). Thus, if a Participating Employer has more than one eligible plan (or additional investment options under a 457(b) arrangement with more than one vendor), the Participating Employer is responsible for ensuring that all of its arrangements, treated as a single plan, comply with the 457(b) requirements, including but not limited to, the requirements listed below. The Participating Employer must carefully review the Plan provisions listed below to fulfill its responsibility for monitoring coordination of multiple plans.

- Compliance with the limit on Deferred Compensation to an eligible plan (including the basic limit (Plan Provision 3.39.1(a)), the age 50 catch-up (Plan Provision 3.39.1(f)), and the special 457 catch-up limit (Plan Provision 3.39.1(b))).
- Compliance with the requirements for special 457 catch-up deferral limits, including the requirements that a Participant have only one Normal Retirement Age (with respect to the special 457 catch-up limit) under all eligible plans offered by an Employer. (In essence, this means that once a Participant has selected a Normal Retirement Age under any eligible plan offered by an employer, he or she may not select a different one, and the selection will remain that Participant's Normal Retirement Age under all eligible plans offered by the Employer).
- Compliance with the requirement to distribute excess deferrals (an excess deferral means the amount of deferrals for a calendar year that is more than the basic limit, the age 50 catch-up limit, and the special 457 catch-up limit). (This means that the Participating Employer will have to tell the Plan Administrator about any excess deferrals.)

PAYROLL PERIODS

The payroll period of the Participating Employer is:

- weekly
- bi-weekly
- semi-monthly
- monthly
- other [specify]: _____

Deferrals for an eligible Employee with respect to a payroll period in a calendar month shall only be made if the eligible Employee has entered into a Participation Agreement before the beginning of the month.

WHO'S ELIGIBLE

Generally, the following employee classes are allowed to participate in the Plan:

- Full Time Employees Only
- All Employees, including part-time employees
- Other (must specify): _____

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COVERED DEPARTMENTS

A Participating Employer may cover all of its departments in the Plan or only those listed:

- All Departments
 Covered Departments (must specify):

The Participating Employer shall provide the Plan Administrator with the name, address, Social Security Number, and date of birth for each eligible Employee.

ELIGIBILITY CONDITIONS FOR EMPLOYER CONTRIBUTIONS

An Employee is eligible to share in Employer Contributions (to the extent provided under the Plan) if he or she meets all of the following three eligibility conditions:

1. Age condition

An Employee is eligible if he or she has attained:

- No age requirement
 age 16
 age 18
 age 21

2. Service condition

An Employee is eligible if he or she has completed:

- No service requirement
 3 Months of service as an Employee
 1 Year of service as an Employee
 Other:

3. Excluded Employees

Every Employee shares in Employer Contributions except an Employee who belongs to a classification specified below:

- No excluded employees
 Part-time Employees (specify definition of part-time if other than an Employee who normally works (or, if a schedule applies, is regularly scheduled to work) less than 20 hours per week):

- Other (must specify):

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EMPLOYEE CONTRIBUTIONS

The amount and types of Employee Contributions to the Plan for the Plan Year will include (check all that apply):

- None
- Elective deferral contributions: The dollar or percentage amount by which each Participant has elected to reduce his/her Compensation, as provided in the Participant's Participation Agreement.
- Designated Roth contributions: The dollar or percentage amount that each Participant has elected to contribute to the Plan as a Designated Roth contribution as provided in the Participant's Participation Agreement.

A Participant's Employee's Contributions are subject to the following limitation(s) in addition to those imposed by the Code (as set forth in the Plan).

- No limitation
- Maximum deferral amount: _____
- Minimum deferral amount: _____
- Other (specify): _____

PARTICIPATING EMPLOYER CONTRIBUTIONS

A Participating Employer may make Employer Contributions as specified below. All Employer Contributions are subject to the limits imposed by the Code (as set forth in the Plan). Employer Contributions that are tied to Payroll Periods (as defined in this Adoption Agreement) must be remitted to the Plan Administrator no later than 15 business days after the Payroll Period. Annual Contributions must be remitted to the Plan Administrator no later than 15 business days after the end of the Plan Year. A Participating Employer may establish different classes of Employees for contribution purposes in this Adoption Agreement. The Participating Employer hereby elects to make Contributions as follows (choose one or both as applicable) (**Note: if the following is not completed, the Participating Employer shall not make Participating Employer Contributions**):

- Non-Matching Contributions – Participating Employer Non-Matching Contributions will be made on the following basis (must specify):

- Matching Contributions

Matching Contributions are Participating Employer Contributions that may be made to match all or a portion of a Participant's contribution to an eligible 457(b) deferred compensation plan.

If the Participating Employer provides Matching Contributions, the amount of Matching Contributions made for a Participant each Plan Year will be (choose only one):

- 100% match, up to ____% of such Participant's Employee Contributions.
- ____% of the Participant's Employee Contributions, which cannot exceed ____% of the Participant's Compensation.
- other formula (requires approval from the FMPTF) _____

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COMPENSATION

Compensation means the Participant's:

- Compensation as defined in Plan Provision 3.11.
- Other (must specify; requires approval from the FMPTF):

Compensation Paid After Severance From Employment

A Participating Employer may elect to include certain post-Severance payments in Compensation for purposes of computing Employee and Employer Contributions under the Plan, but only if these amounts are paid no later than 2½ months after Severance from employment or, if later, the end of the calendar year that includes a Participant's Severance from employment. The Participating Employer makes the following election with respect to including post-severance payments in Compensation (**Note: if the following is not completed, no post-severance payments will be included in Compensation by default**):

- No post-Severance payments will be included in Compensation for purposes of computing contributions under the Plan (**if this box is checked, skip to "Years of Vesting Service" below**).
- For purposes of calculating contributions under the Plan, the following post-Severance payments will be included in Compensation, as long as they are paid no later than 2½ months after Severance from employment or, if later, the end of the calendar year that includes the Participant's Severance from employment. (**check all that apply**):
 - Regular compensation paid after Severance from employment for services rendered prior to Severance during the Participant's regular work hours, which, absent a Severance from employment would have been paid to the Participant while the Participant continued in employment with the Participating Employer.
 - Post-Severance payments for unused accrued bona fide sick, vacation or other leave, but only if the Participant would have been able to use the leave if employment had continued.

YEARS OF VESTING SERVICE

A year of vesting service shall be measured from the Participant's date of hire. The completion of twelve calendar months from the date of hire shall count as a year of vesting service. Any years of vesting service credited from prior years shall remain credited, regardless of revised provisions, unless specifically indicated otherwise, as follows: _____

n/a

Also, different periods of service as an eligible Employee will be added together in determining whether the vesting period has been satisfied, unless otherwise provided, as follows: _____

n/a

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VESTING FOR PARTICIPATING EMPLOYER CONTRIBUTIONS

A Participating Employer may establish a vesting schedule for Participating Employer Contributions. This means that if the Participant leaves the Participating Employer's employment prior to completing a specified minimum period of service, the Participant forfeits the Participating Employer's Contributions. However, upon Death, Disability, or the Termination of the Plan, the Participant is 100% vested in the Participant's Participating Employer Contributions, notwithstanding any vesting schedule. If a vesting schedule is established, it is the Participating Employer's responsibility to calculate the Participant's service and report it to the Plan Administrator. The Participating Employer hereby elects the following:

A Participant becomes Vested in his or her Employer Contributions according to:

- Immediate vesting
- The schedule marked below:

Years of Vesting Service	1	2	3	4	5	6	7	8	9	10
	***	***	***	***	***	***	***	***	***	***

Beginning date of vesting period (if blank, default will be the Participant's date of hire):

Restated Plan – If this is a Restated Plan to an existing deferred compensation plan and the vesting schedule has been amended by the Restated Plan, enter the pre-amended vesting schedule below:

- The schedule has not been amended
- The schedule marked below:

Years of Vesting Service	1	2	3	4	5	6	7	8	9	10
	***	***	***	***	***	***	***	***	***	***

LOANS

A Participating Employer may choose to offer loans. **(Note: If this section is not completed, no loans will be allowed under the Plan by default):**

- No Loans. The Plan does not permit Participant loans.
- Loans Permitted. The Plan will permit Participant loans, subject to the provisions in the Basic Plan Document and subject to the limitation below
 - One Loan Permitted. A Participant may only have one outstanding loan at a time.
 - Two Loans Permitted. A Participant may not have more than two outstanding loans at a time.

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INVOLUNTARY DISTRIBUTION

On his/her Severance from employment, for a Participant (or Beneficiary) with an Account balance that does not exceed \$5,000, then

- Participant Election: The Participant may elect to receive all or any portion of his/her Account.
- Involuntary (Mandatory) Distribution: The Plan Administrator will distribute the Participant's entire Account. If the Involuntary Distribution is more than \$1,000 and it is an Eligible Rollover Distribution, and if the recipient of the distribution does not elect to have the distribution paid directly to an Eligible Retirement Plan specified by the recipient in a direct rollover or does not elect to receive the distribution directly, the Involuntary Distribution will be paid as a direct rollover to an IRA designated by the Plan Sponsor. If the Involuntary Distribution is \$1,000 or less, it will be paid in money as a lump sum.

DISTRIBUTIONS PRIOR TO SEVERANCE FROM EMPLOYMENT

A Participant prior to severance from employment may elect to receive a distribution of his/her Account under the following distributions options:

- None: A Participant may not receive a distribution prior to severance from employment.
- Unforeseeable emergency: A Participant may elect a distribution from his/her Account in accordance with Plan Provision 11.2.

CHANGING AND TERMINATING THIS ADOPTION AGREEMENT

If a Participating Employer desires to amend any of its elections contained in this Adoption Agreement, the Participating Employer by official action must adopt an amendment to the Adoption Agreement or a new Adoption Agreement must be adopted and forwarded to the FMPTF for approval. This Adoption Agreement may be terminated only in accordance with the Plan.

ADOPTING THE PLAN

By signing below, the Participating Employer adopts the FMPTF 457(b) Deferred Compensation Plan ("Plan"), including the Basic Plan Document and the FMPTF Deferred Compensation Plan Trust. The Participating Employer acknowledges that it received a copy of the Plan. The Participating Employer shall receive copies of any Plan amendments made by the FMPTF. The Participating Employer shall abide by the terms of this Adoption Agreement, as completed by the Employer, and shall abide by all terms of the Plan, including all investment, administrative, and services of the Plan, and all applicable provisions of the Code and other applicable law.

The Participating Employer acknowledges that the Master Trustees are only responsible for the Plan and have no responsibility for other employee benefit plans maintained by the Participating Employer.

The Participating Employer's signer represents that he or she is a proper officer of and has authority to enter into this Adoption Agreement as an obligation of the Participating Employer.

Date: _____
By: _____
Michael S. Kohler, Chairman
Pensacola and Perdido Bays Estuary Program, Inc.

Accepted for the:
Florida Municipal Pension Trust Fund
Date: _____
By the Administrator:

Florida League of Cities, Inc.

Florida Municipal Pension Master Trust
401(a) Defined Contribution Plan

Florida Municipal Pension Trust Fund

**§ 401(a) Defined Contribution
Retirement Plan**

amended and restated as of September 21, 2023

Florida Municipal Pension Master Trust
401(a) Defined Contribution Plan

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1. ESTABLISHMENT OF PLAN

1.1 Establishment of Plan

This Basic Plan Document together with the Participating Employer's Adoption Agreement states the provisions of this retirement Plan established and maintained by the Participating Employer(s).

1.2 Previous plan replaced

To the extent of the Participating Employer's participation in the Florida Municipal Pension Master Trust 401(a) Defined Contribution Retirement Plan, this Plan shall amend and restate any similar plan previously in effect. The restated Plan is effective as of the Restatement Date, except as otherwise specified by the Adoption Agreement. This Provision shall not affect the authority of the Master Trustees to amend and restate this Plan as provided in Part 2.

1.3 Plan type

The Participating Employer intends to maintain the Plan as a plan that qualifies for favorable federal income tax treatment under IRC § 401(a) and as a governmental plan under IRC § 414(d).

1.4 Individual account plan

The Plan is an individual account plan that provides for an individual Account for each Participant and for Benefits based solely upon the amount of Contributions, income and gains and losses, expenses, and Forfeitures allocated to the Participant's Account.

1.5 Plan Provisions

Plan provisions are designed to comply with certain provisions of the Pension Protection Act of 2006 ("PPA"), Heroes Earnings and Assistance and Relief Tax of 2007 ("HEART"), the final Treasury regulations under Code Section 415 published on April 5, 2007, and, based on the model amendment provided under Internal Revenue Service Notice 2009-82 are intended as good faith compliance with the requirements of PPA, HEART, and the Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA") to be construed in accordance with PPA, HEART, and WRERA and guidance issued thereunder effective for Plan Years set forth herein.

1.6 Governmental Plan

The Plan is intended to be a governmental profit sharing plan within the meaning of Code Sections 401(a) and 414(d).

2. PARTICIPATING EMPLOYERS

2.1 Adoption by Participating Employer

An Employer may make the Plan available to its Employees if it takes the following actions:

- a) The Governing Authority of the Employer must pass an ordinance or resolution formally adopting this Plan for its Employees and approving the Adoption Agreement.
- b) The ordinance or resolution must indicate the date of adoption.
- c) The ordinance or resolution must commit to the terms of an Adoption Agreement as completed by the Employer.

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- d) The ordinance or resolution must specify that the Employer shall abide by the terms of the Plan, including all investment, administrative, and service of the Plan, and all applicable provisions of the Code and other applicable law.
- e) The ordinance or resolution must acknowledge that the Master Trustees are only responsible for the Plan and have no responsibility for other employee benefit plans maintained by the Employer.
- f) Employers whose Employees are participating in another defined contribution plan under Code Section 401(a) and 414(d) as of the Effective Date of the Adoption Agreement must inform the Administrator of the name of the plan and the provider of that plan and must provide any other information requested by the Administrator.

The Master Trustees, through the Plan Administrator, shall determine whether the ordinance or resolution complies with this section. If it does, and provided the other requirements of the Plan and the Master Trust are met, the Master Trustees, through the Plan Administrator, shall execute the Adoption Agreement and provide appropriate forms for the Employer to implement its participation in the Plan.

2.2 Participating Employer has same provisions

Except as properly specified by the Adoption Agreement, each Participating Employer adopts the Plan. The Participating Employer's adoption of the Plan is stated by the Adoption Agreement.

2.3 Amendment binding upon all Participating Employers

- a) Subject to the provision of any applicable law, the Master Trustees may at any time amend or modify this Basic Plan Document without the consent of the Participating Employers or of Participants (or any Beneficiaries thereof). Any modification, alteration, or amendment of the Basic Plan Document, made in accordance with this Provision, may be made retroactively, if deemed necessary or appropriate by the Master Trustees. A copy of the action of the Master Trustees making such amendment shall be delivered to the Plan Administrator, and the Basic Plan Document shall be amended in the manner and effective as of the date set forth in such action, and the Participating Employers, Employees, Participants, Beneficiaries, Trustees, and Plan Administrator shall be bound by the amendment. A Participating Employer may not amend the Basic Plan Document in any way.
- b) Subject to the provisions of applicable law, the Master Trustees and the Administrator may at any time amend or modify the form of Adoption Agreement with the consent of the Participating Employers, unless otherwise required under Provision 2.4.
- c) As required by guidance issued by the Internal Revenue Service, the Master Trustees and the Administrator shall ensure that each Participating Employer receives a copy of any modification, alteration, or amendment of the Basic Plan Document and adopts a modified, altered, or amended Adoption Agreement when necessary.

2.4 Amendment for Qualification of Plan

It is the intent of the Master Trustees that the Plan shall be and remain qualified for tax purposes under Code Section 401(a) and other applicable provisions. The Master Trustees are permitted (but not required) to submit the Plan to the Internal Revenue Service for a determination under the Internal Revenue Code and all expenses incident thereto shall be borne by the Master Trustees.

The provisions of this subsection shall supersede other provisions of the Plan to the extent those other provisions are inconsistent. The Master Trustees may make any modifications, alterations, or amendments to the Basic Plan Document or Adoption Agreement necessary to obtain and retain approval of the Secretary of the Treasury or his or her delegate as may be necessary to establish and maintain the status of the Plan as qualified under the provisions of the Internal Revenue Code, as now in effect or hereafter enacted, and the regulations issued thereunder, revenue rulings, other statements published by the Internal Revenue Service, including model, sample, or other required good faith amendments (but only if their adoption will not cause such Plan to be individually designed), and for corrections of prior approved plans. These amendments shall be applied to all Participating Employers. Any modification, alteration, or amendment of the Basic Plan Document or Adoption Agreement, made in accordance with this Provision, may be made retroactively, if necessary or appropriate. A copy of the action of the Master Trustees making such amendment shall be delivered to the Plan Administrator, and the Basic Plan Document or Adoption Agreement shall be amended in the manner and effective as of the date set forth in such action, and the Participating Employers, Employees, Participants, Beneficiaries, Trustees, Plan Administrator, and all others having any interest under the Plan shall be bound thereby.

2.5 Amendment of Adoption Agreement by Participating Employer

The Governing Authority shall have the right at any time to amend, in whole or in part, any or all of its elections under the Adoption Agreement without the consent of the Participants or any Beneficiaries. Provided, however, that no such amendment shall:

- a) Deprive any Participant or Beneficiary of any of the benefits to which the Participant or Beneficiary is entitled under this Plan with respect to amounts credited prior to the effective date of the amendment; or
- b) Authorize or permit any part of the Master Trust to be diverted to purposes other than the exclusive benefit of the Participants or their Beneficiaries; or
- c) If an amendment limits or otherwise restricts the deferral and distribution rights of the Participants, the amendment shall become effective on the first day of the month following the giving of not less than forty-five (45) days prior notice of the amendment to Participants. If the amendment was made by the Master Trustees, notice shall be deemed given when the amendment is sent to each Participating Employer. If the amendment was made by the Participating Employer, notice shall be deemed given when the amendment is sent to the Plan Administrator. No amendment shall deprive any Participant of any of the benefits to which the Participant is entitled under this Plan with respects to amounts credited prior to the effective date of the amendment, and
- d) If the Plan is amended or modified, the Plan Sponsor shall nonetheless be responsible for the supervision and the payment of benefits resulting from amounts contributed prior to the amendment or modifications in accordance with this Provision.

2.6 Contributions by Participating Employer

Contributions made by a Participating Employer shall be determined separately by each Participating Employer and shall be paid to and held by individual Account(s) under the Investment(s) for the exclusive benefit of the Participants (and their Beneficiaries) who are Employees of the Participating Employer.

2.7 Transfer of Participant among Participating Employers

The transfer of any Participant from or to any Participating Employer shall not affect the Participant's Benefit or rights under the Plan other than as provided by the Plan.

3. DEFINITIONS

Whenever used in the Plan, each of the following terms has the meaning stated or provided by this Part.

If a term is not defined by this Provision and is defined by the Internal Revenue Code or the Enabling Statute or relevant Investment Law, the term has the meaning given by the Internal Revenue Code or the Enabling Statute or relevant Investment Law.

3.1 "Account"

means the total of the individual sub-Account(s) maintained on behalf of each Participant under the Investment(s) held pursuant to the Plan.

The Account balance is the total amount or value of the Account (or sub-Account as applicable) reduced by any security interest held by the Plan or by the Issuer(s) for an outstanding loan and reduced by any applicable Investment Fees, charges, expenses, and taxes and any Master Trust charges, Fees, expenses, and taxes.

At any time, the amount or value of any Account or sub-Account is the applicable Account balance (as stated above) as of the last Valuation Date. Upon request, the Plan Administrator shall provide the amount or value of the Vested portion [the Vested Account] of any Account.

"Account" may also refer to each of the sub-Accounts.

To the extent necessary or desirable to administer the Plan, a separate sub-Account shall be kept to receive each kind of Contributions (and attributable interest or investment earnings). However, the Plan Administrator, in its sole discretion, may combine any sub-Accounts if so doing does not impair the Plan Administrator's ability to operate this Plan according to its provisions. Except as otherwise permitted above, sub-Accounts that are fully Vested shall not be combined with sub-Accounts that are not fully Vested.

The sub-Accounts are:

- Employee Contributions Account
- Employer Matching Contributions Account
- Employer Non-elective Contributions Account
- Forfeiture Account
- Rollover Contributions Account
- Transfer Contributions Account

If the Participant designates more than one Beneficiary, upon the written request of any Beneficiary or upon an approved claim payable to any Beneficiary and not all Beneficiaries, the Plan Administrator or the Issuer(s) shall, to the extent permitted by the Investment(s), maintain a

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separate account with respect to the interest of each Beneficiary, beginning as of the next Valuation Date that occurs after the Beneficiary's approved request or claim is received and processed by the Plan Administrator or the Issuer (as applicable).

A Participant's Plan Account shall be reduced to the extent that any portion of the Participant's Plan Account has been paid or set aside for payment to an Alternate Payee or to the extent that the Participating Employer or the Master Trustee or the Plan Administrator or the Agent otherwise is subject to a binding judgment, decree, or order for the attachment, garnishment, or execution of any portion of the Participant's Account or of any distribution therefrom. The Participant shall be deemed to have released the Participating Employer and the Master Trustee and the Plan Administrator and the Agent from any claim with respect to such amounts in any case in which any of them was served with legal process or otherwise joined in a proceeding relating to such amounts, and the Participant was notified of the pendency of such proceeding, and the Participant fails to obtain an order of the court that relieves the Participating Employer and the Master Trustee and the Plan Administrator and the Agent from any obligation to comply with the judgment, decree, or order.

Each Account statement or confirmation furnished by (or on behalf of) the Plan Administrator or by an Issuer or the Agent is intended as a legally significant statement of the Participant's accrued (but not Vested) Benefit under the Plan. As to each Account statement, if, by the date that is 60 days after the date that the statement was mailed or otherwise sent or delivered (or the later date that is required under applicable Investment Law), the Participant has not delivered a written objection as to the accuracy of the statement, the accounting reported is then settled and conclusive and an account stated. If an objection to any Account statement or confirmation is withdrawn or is adjusted to the Participant's satisfaction, the accounting is then settled and conclusive and an account stated. To the extent that an Account statement or confirmation is an account stated, the Plan Administrator and every party acting under the instruction of the Plan Administrator is discharged from any liability that might otherwise arise out of the Account statement as fully as if the Account had been settled by an appropriate court proceeding. Without limiting the comprehensive effect of the above, if an Account statement or confirmation furnished to the Alternate Payee shows the amount segregated to his or her separate sub-Account under a Qualified Domestic Relations Order or other court order if, by the date that is 60 days after the date that the statement or confirmation was mailed or otherwise sent or delivered, the Alternate Payee has not delivered a written objection as to the accuracy of the statement or the objection is withdrawn or is adjusted to the Alternate Payee's satisfaction, the accounting reported is then settled and conclusive and an account stated, and shall constitute a release of any obligation under the court order to segregate or set aside the appropriate amount for the Alternate Payee. If a court finds that the application of this provision is void as against public policy, this provision shall apply to the extent not so found.

3.2 "Adoption Agreement"

means the separate but related written agreement executed by the Participating Employer that states the establishment of the Participating Employer's Plan and its adoption of this Basic Plan Document, The Florida Municipal Pension Trust Fund 401(a) Defined Contribution Plan Trust, and that states those conforming and elective provisions of this Plan specified by the Participating Employer.

3.3 "Agent"

means a person that the Plan Administrator appoints to perform services regarding the Plan.

3.4 "Allocation Date"

means the last day of the Year, unless otherwise specified by the Adoption Agreement.

3.5 "Alternate Payee"

means a person who is an alternate payee (within the meaning of IRC § 414(p)(8)) under an order directed to the Plan that has been determined to be a Qualified Domestic Relations Order.

3.6 "Annuity Payout Option"

means a Payout Option that includes a provision for payments based, in whole or in part, upon the life of a natural person.

3.7 "Basic Plan Document"

means this Plan document.

3.8 "Beneficiary"

means the person(s), whether natural or non-natural, including but not limited to a trustee or other fiduciary, designated by the Participant by a valid Beneficiary Designation in his or her Participation Agreement to receive any undistributed Vested Account balance payable upon or after the Participant's death (the "primary" Beneficiary(s)), or upon or after the primary Beneficiary's death (the "contingent" or "alternate" Beneficiary(s)).

The Participant's right to designate his or her Beneficiary is limited by 3.9 and by all of the following provisions.

Notwithstanding any Beneficiary Designation in the Participation Agreement or otherwise to the contrary, a person shall not be a Beneficiary unless he or she is living or in existence (and, to the extent that the Beneficiary is entitled to receive the Vested Account balance as a trustee or other fiduciary, the person or the entity that the person represents or acts for, is living or in existence) on the Distribution commencement date. Any right of a Beneficiary is strictly personal to that Beneficiary and lapses upon his or her death. Any undistributed Vested Account balance that would have been distributable to a Beneficiary if he or she had lived is not distributable to the Beneficiary's heirs. Upon a Beneficiary's death, any undistributed Vested Account balance with respect to that Beneficiary becomes distributable to the remaining primary Beneficiary(s) if any, or if none, to the remaining contingent Beneficiary(s), in each case to be distributable in equal shares to all living Beneficiaries of the applicable primary or contingent Beneficiary class.

The Participant must designate each Beneficiary by name. A Beneficiary(s) cannot be designated by relationship, and any such attempted beneficiary designation is absolutely void.

As provided by law, including Section 732.703, Florida Statutes, a designation made by or on behalf of the decedent providing for the payment or transfer at death of an interest in an asset to or for the benefit of the decedent's former spouse is void as of the time the decedent's marriage was judicially dissolved or declared invalid by court order prior to the decedent's death, if the designation was made prior to the dissolution or court order. The decedent's interest in the asset

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shall pass as if the decedent's former spouse predeceased the decedent. An individual retirement account described in Section 408 or Section 408A of the Internal Revenue Code of 1986, or an employee benefit plan, may not be treated as a trust for purposes of the law.

Notwithstanding any law to the contrary, a separation, separate maintenance, revocation of a domestic partner registration, termination or revocation of any living together contract, or interruption or termination of any contract not recognized by the State as a marriage, has no effect in any way concerning who is the Beneficiary under the Plan.

If the Participant designates as Beneficiary more than one person, all persons of the same Beneficiary Designation ("primary" or "contingent") have equal shares unless the Participant specifies otherwise.

If a Participant fails to designate a Beneficiary, or if for any reason (including the absence of a surviving designated beneficiary) the Participant's Beneficiary Designation is invalid or ineffective, the person(s) entitled to the residuary estate of the Participant's estate is (are) the Beneficiary(s), to the extent of the failure or invalid or ineffective designation, with the applicable share of the Plan Account divided among those Beneficiaries in the same shares as their shares of the residuary estate. For the purposes of this Provision, the Plan Administrator and Plan Sponsor may rely on an appropriate court order or the Personal Representative's written statement as to the identity (including name, address, and Taxpayer Identifying Number) of and shares allocable to the persons entitled to such residuary estate.

A named beneficiary who feloniously and intentionally kills the Participant or Beneficiary is not a Beneficiary and is not entitled to any Distribution or any other right under the Plan; and any Vested Account balance is payable as though the killer had predeceased the Participant or Beneficiary.

3.9 "Beneficiary Designation"

means the valid and effective Beneficiary Designation made by the Participant, designating the person(s) (which may be a non-natural person) who shall be his or her Beneficiary(s) entitled to receive any undistributed Vested Account balance.

At any time before his or her death, the Participant has the right to designate a Beneficiary(s), including a contingent Beneficiary(s), subject to the provisions of the Plan. The Participant shall have the right to change his or her Beneficiary Designation at any time, subject to the provisions of the Plan.

A Beneficiary Designation must be in writing, on the form(s) prescribed by the Plan Administrator. A Beneficiary Designation (or change) is not effective until the Plan Administrator receives it. Each Beneficiary Designation completely revokes and cancels any and every previous beneficiary designation.

The Participant must designate each Beneficiary by name. A Beneficiary(s) cannot be designated by relationship, and any such attempted beneficiary designation is absolutely void.

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Notwithstanding the rule that a Participant must designate each Beneficiary by name, if the Plan Sponsor, in its sole discretion, finds that a Beneficiary Designation sufficiently describes a trust, that Beneficiary Designation will be construed as naming the duly appointed and currently acting trustee of that trust.

Any beneficiary designation that, in whole or in part, designates the Participant's estate as beneficiary shall be construed as designating as Beneficiary(s), to the extent of the share of Vested Account balance specified or otherwise provided for the estate, the personal representative of the Participant's estate.

Any statement in a Beneficiary Designation referring to the Beneficiary's relationship to the Participant is for convenience or information only and has no effect in the construction or interpretation of the Beneficiary Designation.

Any statement in a Beneficiary Designation attempting to state or create a condition or restriction upon the Beneficiary's receipt or enjoyment of any Vested Account balance is invalid and the Beneficiary is entitled to the Vested Account balance without regard to any attempted condition or restriction.

Notwithstanding anything to the contrary in any Beneficiary Designation in the Participation Agreement or any other document or otherwise (including but not limited to any court order), any designation of a Beneficiary cannot be irrevocable and any such designation shall be construed as a revocable designation of that Beneficiary.

If the Participant designates as Beneficiary more than one person, all persons of the same Beneficiary Designation ("primary" or "contingent") have equal shares, unless the Participant specifies otherwise.

If a Beneficiary Designation divides a Benefit between or among two or more Beneficiaries, the "primary" Beneficiary Designation must allocate the share of each such Beneficiary solely by specifying a percentage of the Participant's Account and the "contingent" Beneficiary Designation must allocate the share of each such Beneficiary solely by specifying a percentage of the Participant's Account. Without limiting the comprehensive effect of the preceding sentence, any division of any Benefit under a Beneficiary Designation shall be ineffective to the extent that it would ask the Plan Sponsor to consider any fact other than the amount of the Participant's Account.

A Beneficiary Designation shall be construed to dispose all the remaining Plan Account or Vested Account balance.

Except as otherwise provided by the Plan, a Beneficiary Designation that uses a term or phrase that would have significance in construing or interpreting a conveyance or a disposition of a decedent's estate shall, except as otherwise specified by the Participant, be construed or interpreted according to the *Uniform Probate Code* (without regard to the Participant's domicile at the time he or she made the Beneficiary Designation or the Participant's domicile at the time of his or her death). Likewise, if a Beneficiary Designation remains ambiguous after applying all provisions and construction rules stated by this Plan and can be resolved by applying the rules of construction

and interpretation of the *Uniform Probate Code* for construing a beneficiary designation or conveyance, such rules shall apply to the Beneficiary Designation, except as otherwise provided by the Plan. Any provision of the *Uniform Probate Code* concerning the effect of divorce or marital separation shall not apply.

After the Participant's death, no person has any right or power or discretion to change any Beneficiary (except to disclaim his or her or its Vested Account balance as permitted by Provision 20.14 ["Disclaimer by Beneficiary"]), and any such purported provision stated in a Beneficiary Designation or otherwise is ineffective.

3.10 "Benefit"

refers to the right under this Plan of the Participant (or Beneficiary or other payee) to receive a Distribution of all or any portion of the Participant's Vested Account.

Any Benefit under the Plan shall not be paid or payable except as a:

Retirement Distribution;
Death Distribution;
Hardship Distribution;
Permitted Distribution;
Required Minimum Distribution;
Corrective Distribution;
Termination Distribution;

or according to the provisions of a Qualified Domestic Relations Order [all as defined and provided below].

All rights and Benefits, including elections, provided by the Plan shall be subject to and limited by the rights awarded to any Alternate Payee pursuant to a Qualified Domestic Relations Order.

Any Distribution may, to the extent that the Distribution is an Eligible Rollover Distribution, be paid as a Rollover Distribution.

3.11 "Benefit Compensation"

means, except to the extent modified by an express statement in the Adoption Agreement, all of the Participant's wages as defined in Code Section 3401(a) for the purposes of income tax withholding at the source (except as modified below) during each Plan Year to the Participant by the Employer for personal services actually rendered in the course of employment with the Employer, excluding compensation payable as bonuses or as overtime, and excluding compensation payable by reason of "call premium" or "shift differential" or "charge time" unless the Participant is permanently assigned to the unfavorable shift or duty, and excluding any compensation received in the form of non-taxable fringe benefits. Benefit Compensation may also include those provisions which are specifically included or specifically excluded in the Adoption Agreement.

Benefit Compensation shall include the amount of the Participant's elective salary reduction under an IRC § 132(f) qualified transportation fringe and any amounts of compensation deferred as

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"elective deferrals" (within the meaning of IRC § 402(g)(3) or similar provisions) under any other vested account balance plan, including but not limited to, plans in accordance with or under IRC §§ 125, 401(k), 403(b), or 457(b).

To the extent that Contributions are required or permitted to be made for a Disabled Participant, Benefit Compensation is determined on the basis of the Benefit Compensation the Participant would have received if he or she were or had been paid at the rate of compensation paid to the Participant immediately before the Participant became Disabled.

In addition to other applicable limits stated by the Plan and notwithstanding any other provision of the Plan to the contrary, for any Plan Year beginning after December 31, 1993 (except as otherwise provided by 3.11.2), the amount of Benefit Compensation determined for the purposes of the Plan shall not exceed the limit prescribed by IRC § 401(a)(17) as adjusted each year according to IRC § 401(a)(17)(B).

If the Plan Year or applicable period for determining Benefit Compensation contains fewer than 12 calendar months, then this Benefit Compensation limit is the amount equal to the annual IRC § 401(a)(17) limit for the applicable calendar Year during which the Benefit Compensation period begins multiplied by the ratio that is obtained by dividing the number of full months in the period by 12. If Benefit Compensation for any prior Year is taken into account in determining Contributions for the current Plan Year, the Benefit Compensation for the prior Year is subject to the applicable annual Benefit Compensation limit in effect for that prior Year (and for this purpose the applicable annual Benefit Compensation limit for all Plan Years beginning before January 1, 1994 is \$150,000).

If so elected in the Adoption Agreement, Benefit Compensation also includes certain additional amounts if paid no later than 2 ½ months after Severance from employment or, if later, the end of the calendar year that includes a Participant's Severance from employment as follows:

- a) Payments otherwise described in this Provision 3.11 that, absent a Severance from employment, would have been paid to the Participant while the Participant continued in employment with the Employer; or
- b) Payments for accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued.

This definition of "Benefit Compensation" is not intended to control the definition of "compensation" for the purposes of applying the IRC § 415(c) annual additions limit or for any purpose other than determining the amount of an Employer Contribution.

3.11.2 Pre-1994 Plan Years

In addition to other applicable limits stated by the Plan and notwithstanding any other provision of the Plan to the contrary, for any Plan Year beginning after December 31, 1988 and before January 1, 1994, the amount of Benefit Compensation determined for the purposes of the Plan shall not exceed the limit prescribed by IRC § 401(a)(17), as adjusted each year, without regard to the amendment of IRC § 401(a)(17) made by § 13212(a)(1) of the Omnibus Budget Reconciliation Act of 1993.

3.11.3 Governmental Plan

Consistent with § 13212(d)(3)(A) of the Omnibus Budget Reconciliation Act of 1993, for an eligible participant (as defined below) in a Governmental Plan, the general IRC § 401(a)(17) limit stated above shall not apply to the extent that the amount of Benefit Compensation that is allowed to be taken into account under the Plan would be reduced below the amount that was allowed to be taken into account under the Plan as in effect on July 1, 1993. For the purpose of the preceding sentence, an eligible participant is a natural person who first becomes or became a Participant in the Plan during a Plan Year that begins or began before the first Plan Year that begins or began after December 31, 1995. For any Plan Year that begins after December 31, 1995, the general IRC § 401(a)(17) limit stated above (without regard to the special rule stated by this paragraph) shall apply to each Participant other than an eligible participant.

3.12 "Business Day"

means any day on which both the New York Stock Exchange [NYSE] is open for regular trading and the person that is required or permitted to act or that is entitled to receive notice is (or was) open for regular business at its principal office.

A Business Day ends at 4 p.m. New York Time, or, if earlier, the time that regular trading closes on the NYSE.

As required or permitted by applicable Investment Law, any Agent may make reasonable rules governing the time of the day after which investment instructions will be treated as received on the next Business Day. Without limiting the comprehensive effect of the preceding sentence, any investment direction that includes an instruction to buy or sell registered investment company shares that is received after the closing of the NYSE shall be treated as received on the next Business Day.

A day that is not a Business Day ends at 4 p.m. New York Time.

3.13 "Contributions"

means Contributions under the provisions of this Plan [as provided in the Adoption Agreement], including Employer Contributions, Employee Contributions, Rollover Contributions and Transfer Contributions.

Contributions under the Plan shall not be reduced because of the Participant's attainment of any age.

To the extent required for this Plan to qualify under IRC § 401(a), the provisions of this Plan shall be construed, consistent with Treasury Reg. § 1.401-1(b)(1)(ii), to provide: a definite pre-determined formula for allocating Contributions, a definite pre-determined formula for allocating investment earnings (and losses) among Accounts, periodic [at least once each year] valuation of Plan assets (including Investments) and Plan-Trust assets, periodic [at least once each year] valuation of Accounts, and distribution of Participant Accounts after a fixed number of years or the attainment of a specified age or upon the occurrence of some event such as death or retirement or Severance-from-employment.

Each Participating Employer shall determine according to the provisions of the Plan the pre-determined formula to be used for allocating the contributions made to the Plan. The Adoption Agreement establishing the amount and method of calculating contributions continues in effect from Plan Year to Plan Year until amended or repealed by the Governing Authority or until the Participating Employer's participation in the Plan is terminated.

3.13.1 "Coronavirus-Affected Participant"

means a Participant who meets one of the following requirements:

- (a) Who is diagnosed with SARS-CoV-2 or coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention.
- (b) Whose spouse or dependent (as defined in Code section 152) is diagnosed with the virus or disease.
- (c) Who experiences adverse financial consequences due to the virus or disease as a result of the Participant or the Participant's spouse or a person residing in the Participant's household being quarantined; being furloughed, laid off, or having work hours reduced; being unable to work due to the lack of childcare; or the closing or reduction in hours of a business that the individual owns or operates.
- (d) Who experiences an adverse financial consequence as a result of the individual having a job offer rescinded or start date for a job delayed due to COVID-19.

For purposes of subsection (c), a person residing in the Participant's household means someone who shares the Participant's principal residence.

3.13.2 "Coronavirus-Related Distribution"

means any distribution made from January 1, 2020 to December 30, 2020, to a Coronavirus-Affected Participant, to the extent that such distribution, when aggregated with all other Coronavirus-Related Distributions to the Coronavirus-Affected Participant (including the aggregate amount of such distributions from all plans maintained by the Plan Sponsor and any member of any controlled group which includes the Plan Sponsor), does not exceed \$100,000. A Coronavirus-Related Distribution must be made in accordance with the distribution provisions of the Plan, except that:

A Coronavirus-Related Distribution shall be deemed to be made after the occurrence of any distributable events otherwise applicable under Code Section 401(k)(2)(B)(i).

Coronavirus-Affected Participants may designate all or a portion of a qualifying distribution as a Coronavirus-Related Distribution.

The requirements of Code Sections 401(a)(31), 402(f), and 3405 shall not apply.

A Participant who received a Coronavirus-Related Distribution may repay the Coronavirus-Related Distribution to the Plan in one or more contributions, provided such Coronavirus-Related Distribution is eligible for tax-free rollover treatment. Any such re-contribution:

- (a) Will be treated as having been made in a direct rollover to the Plan.

- (b) Must be made during the three-year period beginning on the day after the date on which such distribution was received.
- (c) May be made in three payments starting in the year in which the Coronavirus-Related Distribution was received.
- (d) Cannot exceed the amount of such distribution.

3.14 "Corrective Distribution"

means a Distribution required or permitted to remedy a potential violation or correct a violation of Part 9 of this Plan. A Corrective Distribution includes (but is not limited to) a corrective disbursement under Treasury Reg. § 1.415-6(b)(6) or IRS Rev. Proc. 92-93.

3.15 "Custodian"

means any Custodian duly appointed and currently serving regarding the Master Trust Agreement.

At all times, every Custodian shall be a directed trustee and (except as provided by the next sentence) shall be completely subject to the direction of the Plan Administrator, or the Participant or Beneficiary or Alternate Payee. The Custodian's primary duty is to ensure that all Investments, amounts, property, and rights held under the Master Trust and committed to the Custodian's care are held for the exclusive benefit of Participants and their Beneficiaries.

3.16 "Death Distribution"

means any Distribution that does not begin before the death of the Participant.

3.17 "Deemed Distribution"

means a Distribution (of a Vested Account of not more than \$0) that is deemed distributed under Provision 15.2.

This definition is limited and is not intended to include any other Distribution or distribution that is or may be a deemed distribution within the meaning of IRC § 3405 or otherwise for federal income tax reporting purposes.

3.18 "Direct Rollover"

means a payment under the Plan by the Custodian or Issuer to an Eligible Retirement Plan specified by the Distributee.

3.19 "Disability" or "Disabled"

means the inability of the Participant to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment, which condition (according to a physician's written medical opinion acceptable to the Plan Sponsor) can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. The permanence and degree of the impairment shall be supported by medical evidence acceptable to the Plan Sponsor. The Plan Sponsor has sole discretion to determine whether a Participant is Disabled or has a Disability.

3.20 "Disability Distribution"

means a Distribution under Part 14 of this Plan.

3.21 "Distributee"

means an Employee, former Employee, and effective for Years beginning on or after December 31, 2009, a nonspouse designated beneficiary (as defined in IRC section 401(a)(9)(E)) of a deceased Participant. In addition, the Employee's or former Employee's Surviving Spouse and the Employee's or former Employee's Spouse or former Spouse who is the Alternate Payee under a Qualified Domestic Relations Order, as defined in IRC section 414(p), are Distributees with regard to the interest of the Spouse or former Spouse.

3.22 "Distribution"

means, as appropriate in the context, any kind of Distribution or the particular kind of Distribution provided by the Plan, as follows:

Hardship Distribution
Disability Distribution
Retirement Distribution
Death Distribution
Corrective Distribution
Termination Distribution

Any Distribution may be made, in whole or in part, in cash, or by delivery of an Investment(s) (including any annuity contract or life insurance contract), Fund Shares, other securities, or other assets or property of any kind. Any Distribution of property other than cash shall be valued at fair market value as of the date of the Distribution.

If a payee does not as a part of his or her or its written claim specify that a Distribution is to be made in the form of a specified property(s), any Distribution is payable as a cash payment(s).

Any Distribution may, to the extent that the Distribution is an Eligible Rollover Distribution, be paid as a Direct Rollover.

3.23 "Distribution Calendar Year"

means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under Provision 16.3. 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.

3.24 "Effective Date"

means with respect to a Participating Employer's participation the date so specified by its Adoption Agreement. If no date is so specified, the Effective Date shall be the date that the Adoption Agreement is executed.

3.25 "Eligible Employee"

means an Employee who under the Adoption Agreement is eligible to participate in this Plan.

If the Adoption Agreement states any terms for employment classifications, these terms shall have the meaning given by the Participating Employer for other non-pension employment-related purposes.

If the Adoption Agreement specifies that "part-time" Employees are excluded and does not state or refer to a definition of "part-time", a "part-time" Employee means an employee who normally works or, if a schedule applies, is regularly scheduled to work less than 20 hours per week.

An Employee who is a Leased Employee shall not be an Eligible Employee, unless otherwise specified in the Adoption Agreement.

An Employee shall not be excluded from participation in the Plan solely because of his or her attainment of any age, notwithstanding anything in the Adoption Agreement or otherwise to the contrary.

3.26 "Eligible Retirement Plan"

means an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, a qualified trust described in section 401(a) of the Code that accepts the Distributee's Eligible Rollover Distribution or an annuity contract described in Code Section 403(b), an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan, and, effective January 1, 2008, a Roth IRA described in section 408A of the Code, and effective December 18, 2015, a SIMPLE IRA as described in Code Section 408(p), provided that the rollover contribution is made after the two-year period beginning on the date the distributee first participated in any qualified salary reduction arrangement maintained by the distributee's employer under Code Section 408(p)(2), as described in Code Section 72(t)(6). The definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the Alternate Payee under a qualified domestic relations order, as defined in Code Section 414(p). The definition of an Eligible Retirement Plan for a nonspouse designated beneficiary of a deceased participant means an individual retirement annuity account established for the purpose of receiving a distribution from this Plan and treated as an inherited individual retirement account or annuity (within the meaning of Code Section 408(d)(3)(C)).

3.27 "Eligible Rollover Distribution"

means any distribution under Part 17 of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more; (ii) any distribution to the extent such distribution is required under Code Section

401(a)(9); (iii) the portion of any distribution that is not includable in gross income; or (iv) any distribution which is made upon the hardship of the Distributee.

3.28 "Employee"

means, except as provided below, a person who performs services for the Employer on a regular basis as a common-law employee and not as an independent contractor, or as a Leased Employee who is deemed an Employee of an Employer according to the provisions below.

The fact that a natural person is or is determined to be an employee for the purpose of another employee benefit plan (including another pension plan or retirement plan) or any other legal purpose shall not be construed as any inference that the natural person is an Employee under this Plan.

The Plan Sponsor shall decide all questions of eligibility for participation in the Plan, except as otherwise required by the Enabling Statute.

3.29 "Employee Basic Contributions"

means those contributions made under a plan other than this Plan that are required, pursuant to the Adoption Agreement, as a condition for receiving all or any portion of the Employer Matching Contributions that are provided under this Plan.

This Plan's provisions concerning Employee Basic Contributions may be specified by the Adoption Agreement.

3.30 "Employee Contributions"

means those contributions that are required, pursuant to the Adoption Agreement, to be made by the Employee to this Plan. The Employer may elect in the Adoption Agreement to pick-up the Employee Contributions under IRC Section 414(h)(2).

3.31 "Employee Contribution Account"

means the sub-Account in the Participant's Account to which Employee Contributions are credited.

3.32 "Employer"

means the Participating Employer named in the Adoption Agreement, or any Employer that has adopted this Plan.

Unless the context of the Plan clearly indicates otherwise, the term "Employer" shall be deemed to refer only to each Participating Employer as related to its adoption of and participation in the Plan.

By adopting the Plan, each Participating Employer specifically agrees to Provision 2.1 and all Provisions of Part 2 of this Plan.

3.33 "Employer Contributions"

means those Contributions made by the Participating Employer and not under a salary reduction agreement, and which the Participant could not have elected to receive in the form of cash or other taxable benefit.

Employer Contributions includes Matching Contributions and Non-elective Contributions.

This Plan's provisions concerning Employer Contributions may be specified by the Adoption Agreement.

3.34 "Employer Contribution Account"

means the sub-Account in the Participant's Account to which Employer Contributions, including Employer Matching Contributions and Employer Non-elective Contributions, are credited.

3.35 "Enabling Statute"

means the State statute or similar law that grants the Employer legal authority to maintain this Plan.

3.36 "Fees"

means any fees required or permitted to be charged against the Participant's (or Beneficiary's or Alternate Payee's) Plan Account according to (any one or more of the following): the Plan, the Master Trust Agreement, the Participation Agreement, an Investment, an investment advisory agreement, any other writing signed by the Participant (or, after the Participant's death, the Beneficiary), any written notice given by or on behalf of the Plan Administrator or the Custodian that is accepted or deemed accepted by the Participant (or Beneficiary), or any court order.

3.37 "Forfeiture"

means that portion of the Participant's Account that is not Vested and that is added to the Forfeiture Account according to Provision 3.38.

3.38 "Forfeiture Account"

means a special Plan account maintained by the Plan Sponsor for the purposes of holding Forfeiture amounts until reallocated as specified in the Adoption Agreement.

3.39 "Fund"

means a registered investment company or an insurance company separate account or collective investment fund or group trust or any similar pooled investment under which the value of the holder's interest is calculated according to the number of shares or units held for the holder's account.

3.40 "Governing Authority"

means the entity authorized by law to act for the Employer and adopt this Plan and the Adoption Agreement.

3.41 "Hardship Distribution"

means a Distribution under Part 13.

3.42 "Internal Revenue Code" or "IRC" or "Code"

means the Internal Revenue Code of 1986, as amended, and including any Regulations and rulings (or other guidance of general applicability) under the Code.

Any reference to a Section of the Code shall be construed to also refer to any successor provision. Any reference to a Section of Treasury Regulations shall be construed to also refer to any successor provision of such Regulations. Any reference to a Revenue Ruling or Revenue Procedure or IRS Notice or IRS Announcement shall be construed to also refer to any guidance of general applicability that extends, amplifies, or modifies the Revenue Ruling or Revenue Procedure or IRS Notice or IRS Announcement.

3.43 "Internal Revenue Service" or "IRS"

means and refers to the Internal Revenue Service, a division of the Department of the Treasury of the United States, and thereby an agency of the government of the United States of America, and any related departments, divisions, or offices under the supervision of the Secretary of the Treasury of the United States of America.

3.44 "Investment"

means (any of the following): an annuity contract or custodial account that satisfies the requirements of IRC § 401(f); any annuity contract or life insurance contract that may be held by the Master Trust; any Fund Shares that may be held by the Master Trust; an interest under a group trust (as described in Rev. Rul. 81-100, 1981-1 C.B. 326, as amended by Revenue Ruling 2011-1, 2011-2 I.R.B. 251) that may be held by the Master Trust; or any Investment that may be held by the Master Trust.

The Master Trust shall not hold any Investment that has provisions (whether express or incorporated by reference or at law) that would preclude the correct application of the Plan or the Master Trust Agreement.

The Master Trust shall maintain (or cause to be maintained) the indicia of ownership of each Investment within the USA, except as otherwise permitted by 29 C.F.R. § 2550.404b-1(b) applied as if this Plan were a plan subject to 29 U.S.C. § 1104(b).

All Investments to be used under the Plan must be specified by the Master Trustees, except under Open Architecture Investment as provided in the Master Trust Agreement. Under Open Architecture Investment the Participating Employer selects and oversees the investment options (Investments) used under the Plan.

The provisions of each Investment (including any provisions stated by each Investment's and each Fund's prospectus and the statement of additional information) are to the extent not inconsistent with the Plan incorporated in the Plan by reference.

An Investment may also be referred to (in Plan documents, disclosure information, and forms) by other terms that are not misleading in the context.

3.44.1 "Open Architecture Investment"

means a Participating Employer that has been acknowledged through the Trust Joinder Agreement to select and oversee the investment options under and for the FMPTF 401(a) Defined Contribution Retirement plan and/or FMPTF 457(b) Deferred Compensation plan, rather than using the investment options selected by the Master Trustees. Under Open Architecture Investment, the

Master Trustees and Plan Administrator are responsible for only the administrative services to the Plan.

3.45 "Investment Advisor"

has the meaning given by § 202(a)(11) of the Federal *Investment Advisers Act of 1940*, as amended [15 U.S.C. § 80b-2(a)(11)].

An agreement to provide investment advice (or the giving of investment advice) to a Participant or Beneficiary or Alternate Payee does not constitute an Investment Adviser as an investment manager or investment adviser as to the Plan or the Master Trust. An agreement to provide investment advice (or the giving of investment advice) to any Fund or to the Issuer of any Investment does not constitute an Investment Adviser as an investment manager or investment adviser as to the Plan or the Master Trust.

3.46 "Investment Law"

means, as applicable or relevant in the context, any United States law or Florida law relating to banking, insurance, securities, investment companies, investment advice, or commodities trading, including any self-regulatory organization rules. Investment Law includes the Bylaws, Rules of Fair Practice, Code of Arbitration Procedure, and other Rules of the National Association of Securities Dealers, Inc. [NASD] and the rules of each securities exchange or clearing agency.

3.47 "Involuntary Distribution"

refers to a Distribution described in Provision 15.3 or Provision 16.2.

3.48 "IRA"

means any IRC § 408(a) Individual Retirement Account or any IRC § 408(b) Individual Retirement Annuity.

3.49 "Issuer"

means the person who has issued or may issue an Investment held regarding the Plan.

An Issuer may be a bank, or an insurance company, or a registered investment company, or the issuer of any other instrument or indicia of ownership or beneficial ownership that is held as a Plan Investment. When appropriate in the context, the term Issuer also includes the definition of "issuer" provided by 15 U.S.C. § 77b(4).

3.50 "Leased Employee"

has the meaning given by IRC § 414(n).

3.51 "Master Trust"

means the trust created and maintained by the Master Trust Agreement.

3.52 "Master Trust Agreement"

means the Agreement made as of 16th day of December, 1983 as may amended and restated, by and between all parties that are now or may hereafter become Participating Employers of the Florida Municipal Pension Trust Fund and the individuals named as Master Trustees pursuant to provisions of the Agreement.

3.53 "Master Trustee"

means the individuals who serve as trustees pursuant to the Master Trust Agreement.

3.54 "Matching Contributions"

means any Employer Contributions that are made to a Participant's Account on account of the Participant's Employee Basic Contributions.

3.55 "Non-elective Contributions"

means Employer Contributions other than Matching Contributions.

3.55.1 "Normal Retirement Age"

means age 70 ½ unless the Plan Sponsor elects an alternate normal retirement age for the Plan [through the Adoption Agreement or otherwise] that is consistently applied.

3.56 "Notarial Officer"

means a natural person who is authorized to take oaths under the law of the jurisdiction in which the relevant document is signed.

3.57 "Participant"

means an Eligible Employee who participates under this Plan and for whom Contributions under the Plan have been made or accrued and whose Vested Account has not been fully distributed under the Plan.

3.58 "Participating Employer"

means an Employer that has approved the Trust Joinder Agreement to participate in the Florida Municipal Pension Trust Fund, and has approved an Adoption Agreement to participate in this Plan.

3.59 "Participation Agreement"

means the agreement (in the form prescribed by the Plan Administrator), as amended from time to time, entered into by and between the Participant and the Participating Employer under which the Employee provides all necessary information to the Plan Administrator.

3.60 "Payout Option"

means any, except as limited below, of the annuity options or other options for payment that are available under the applicable Plan Investment(s) or that are otherwise provided by the Plan.

As to an unallocated investment, the Payout Options are as specified by the current written agreement between the Plan Administrator and the Agent.

The Plan Sponsor shall not permit the use of any payout option that is based on gender-distinct actuarial tables or that otherwise unlawfully discriminates against any person.

The Plan Sponsor shall not permit the Participant (or Beneficiary) to elect any Payout Option that does not satisfy all applicable provisions of the Plan, including (but not limited to) Provision 15.3 or Provision 16.2.

If an Investment permits a Payout Option to be arranged "as mutually agreed", any such unspecified Payout Option, regardless of whether the Payout Option is the actuarial equivalent of any other Payout Option, shall not be a Payout Option under the Plan unless the Issuer offers this Payout Option on a uniform and non-discriminatory basis to all Participants and Beneficiaries in similar circumstances.

3.61 "Payroll Period"

means the time period specified by the Participating Employer in the Adoption Agreement.

3.62 "Plan"

means the Plan specified by this Basic Plan Document together with the Participating Employer's Adoption Agreement and, to the extent necessary to comply with IRC § 401(a), the Master Trust Agreement, and any executed amendments thereof, which together constitute the Plan of the Participating Employer specified by the Adoption Agreement.

3.63 "Plan Loan"

means a loan to a Participant under Part 25 of this Plan.

3.64 "Plan Administrator" or "Administrator"

means the Florida League of Cities, Inc. or any successor of it.

Except as otherwise indicated, any reference to the Plan Administrator refers also to the Agent to the extent of any service required or permitted to be performed by the Agent.

3.65 "Plan Sponsor"

means the Participating Employer or any successor to it.

3.66 "Qualified Domestic Relations Order"

means a domestic relations order lawfully directed to this Plan that creates or recognizes the existence of the right of an Alternate Payee to receive all or a portion of any Benefit payable to a Participant under the Plan and that is defined as and meets all the requirements for a "qualified domestic relations order" as stated by IRC § 414(p).

An order does not fail to be a Qualified Domestic Relations Order solely because the order directs a distribution or payment to be paid or payable to an Alternate Payee(s) at a time that is earlier than the Participant's earliest retirement age.

An order shall not be a Qualified Domestic Relations Order unless the Plan Sponsor or its agent determines that: the order does not require this Plan to provide any type or form of benefit or any option not otherwise provided under this Plan; the order does not require this Plan to provide increased Benefit; and the order does not require the payment of Benefits to an Alternate Payee that are required to be paid to another Alternate Payee under another order that was previously determined to be a Qualified Domestic Relations Order.

An order shall not be a Qualified Domestic Relations Order unless the Plan Sponsor or agent determines that the order clearly specifies: the name and the last known mailing address (if any) of the Participant, and the name and the mailing address of each Alternate Payee covered by the

order; the amount or percentage, or the manner in which the amount or percentage is to be determined, of the Participant's Vested Account to be paid (or payable) to each Alternate Payee; the form of payment, and the number of payments or period to which the order applies; and each plan to which such order applies. The Plan Sponsor or agent may assume that the Alternate Payee named by the court order is a proper payee and need not inquire into whether the person named is a Spouse or former spouse of the Participant.

3.67 "Registered Investment Adviser"

means an investment adviser that is registered with the SEC pursuant to § 203(c) of the federal *Investment Advisers Act of 1940*, as amended [15 U.S.C. § 80b-3(c)].

An agreement to provide investment advice (or the giving of investment advice) to a Participant or Beneficiary or Alternate Payee does not constitute a Registered Investment Adviser as an investment manager or investment advisor as to the Plan or any Master Trust.

3.68 "Restatement Date"

means the date that the Participating Employer executes the Adoption Agreement, unless otherwise specified in the Adoption Agreement. An amendment or restatement of this Plan by the Master Trustees does not require execution of a new Adoption Agreement by a Participating Employer.

3.69 "Retirement Distribution"

means any Distribution other than a Hardship Distribution or a Disability Distribution or a Corrective Distribution that begins after the Participant's Severance from employment and before the Participant's death.

3.70 "Rollover Contribution"

means an amount or property received into this Plan according to Part 18.

3.71 "Rollover Contribution Account"

means the sub-Account in a Participant's Account to which Rollover Contributions are credited.

3.72 "Rollover Distribution"

means any Eligible Rollover Distribution (within the meaning of IRC § 402(c)(4) that is to be paid, directly or indirectly, into another plan or annuity contract as a rollover under IRC § 402(c).

3.73 "Rules of Construction"

Words used herein in the masculine gender shall be construed to include the feminine gender where appropriate, and words used herein in the singular or plural shall be construed as being in the plural or singular where appropriate.

3.74 "SEC"

means and refers to the Securities and Exchange Commission, an agency of the government of the United States of America, established by § 4(a) of the federal Securities Exchange Act of 1934.

3.75 "Severance-from-employment"

means the later of the last day that the Participant performed service for or was scheduled to perform service for the Employer (including any successor employer) with no obligation for and no particular expectation of future services to be performed by the Participant.

The Plan Administrator is entitled to rely upon the date of Severance-from-employment certified by the Employer.

If a Participant has not been terminated, but the Participant has not performed services for the Participating Employer for a period of six (6) consecutive months and the Participant is not on a paid leave of absence, a Severance-from-employment shall be deemed at the end of the six (6) month period.

Notwithstanding any other information, the Agent shall not be deemed to have any knowledge of any Severance from employment until it receives the Plan Sponsor's certificate of the fact and date of the Participant's Severance from employment.

3.76 "Service"

has the meaning given by Part 4.

3.77 "Service Provider"

means each Agent, each Issuer, any accountant or actuary or lawyer who performs services regarding the Plan in his or her professional capacity and each other person that the Plan Administrator or any Participating Employer hires or retains or appoints or authorizes or permits to perform services regarding the Plan.

Every Service Provider is not a fiduciary.

3.78 "Shares"

means shares or similar units of interest in a Fund.

3.79 "Signature Guarantee"

means a written guarantee of the signature of the person endorsing a writing that is made by a corporation that is an "eligible guarantor institution" (including but not limited to a Transfer Agent or Securities Broker or Securities Dealer or Bank) as defined by Rule 17Ad-15(a)(2) under the federal Securities Exchange Act of 1934, as amended that is not otherwise excluded under the preceding Rule and that is a member of the Securities Transfer Agent Medallion Program ["STAMP"].

3.80 "Spouse" or "Surviving Spouse"

means, solely for the purposes of minimum distribution provisions, the natural person who is the Surviving Spouse of the Participant under Federal law.

For all purposes under the Plan, the Plan Sponsor may rely on any written statement furnished to it, and the Plan Sponsor has no duty to inquire concerning the non-existence or identity of a Participant's Spouse unless the Plan Sponsor has received a court order or legal process or a written

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notice from any office of the IRS concerning the existence or non-existence or identity of the Participant's Spouse.

3.81 "State"

means the State of Florida.

3.82 "Taxpayer Identifying Number"

has the meaning given by IRC § 6109.

3.83 "Transfer Contributions"

means an amount or property transferred into this Plan according to Part 19.

3.84 "Transfer Contribution Account"

means the sub-Account in a Participant's Account to which Transfer Contributions are credited.

3.85 "USA"

means the United States of America.

To the extent that any provision of the Plan is intended to state a provision that meets a requirement of or by reference to IRC § 401(a) or IRC § 501(a), USA shall be construed according to IRC § 7701(a)(9), except as otherwise required or permitted by the Internal Revenue Code for the applicable requirement.

3.86 "Valuation Date"

means each date provided for valuing Plan Accounts as specified by the Plan Administrator under a written procedure(s), and further means -- .

for any "unallocated" Investment

each valuation date or the last day of each Valuation Period as provided by the Investment, or as provided by the Plan Administrator's agreement with the Agent.

for any "allocated" Investment

each regular Business Day on which the Issuer values the accounts under the Investment.

for any Trust account

each valuation date or the last day of each Valuation Period as provided by the Master Trust Agreement, or as provided by the Plan Administrator's agreement with the Custodian or the Agent.

Each Investment or Master Trust account shall provide that the Allocation Date (or, if for any Year the Allocation Date is not a regular Business Day, the regular Business Day that immediately precedes the Allocation Date) is a Valuation Date.

A Valuation Date that is a Business Day ends at the same time that the Business Day ends. A Valuation Date that is not a Business Day ends at 4 p.m. New York Time.

3.87 "Valuation Period"

means the time after the end of a Valuation Date to the end of the next Valuation Date.

3.88 "Vested"

refers to the portion of the Participant's Account that is currently non-forfeitable under the Plan.

3.89 "Vested Account"

means the portion of the Participant's Account that is currently non-forfeitable or Vested under the Plan.

3.90 "Year"

means the Employer's Plan Year, as specified by the Adoption Agreement.

The limitation year is the calendar year.

The Plan Sponsor shall be entitled to rely on the assumption that a Participant's taxable year is the calendar Year, unless the Participant gives written notice specifying his or her taxable year.

4. SERVICE CREDITING

4.1 Service crediting procedure

A year of vesting service shall be measured from the Participant's date of hire. The completion of twelve calendar months from the date of hire shall count as a year of vesting service. Any years of service credited from prior years, shall remain credited, regardless of revised provisions, unless specifically indicated otherwise in the Adoption Agreement.

4.2 Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") service crediting

To the extent required by Part 11, the Plan Sponsor shall count service consistent with Part 11.

5. ELIGIBILITY

5.1 Eligibility requirements

Except as otherwise provided by the Plan, any Eligible Employee is eligible to receive an allocation of any Employer Matching Contributions (if Employee Basic Contributions are made) or receive an allocation of any Employer Non-elective Contributions (or both).

5.2 Immediate eligibility for existing Employees

If the Adoption Agreement specifies that this Plan is an amended and restated plan, any Employee who was a Participant on the day before the Restatement Date shall be an Eligible Employee, notwithstanding any age and service requirements or other eligibility conditions that are specified by the Adoption Agreement, unless otherwise specified by the Adoption Agreement.

5.3 Decision as to eligibility

The Plan Sponsor shall decide all questions of eligibility for participation in the Plan.

5.4 Changes in eligibility

If a Participant shall go from a classification of an Eligible Employee to a non-eligible classification, the Participant shall continue to have his or her interest in the Plan, but no Employer Contributions or Employee Contributions shall be made for the Employee during the time that he

or she is employed in a non-eligible classification. If the Participant is then later employed in an eligible classification, Contributions shall resume immediately for any Employer Non-elective Contributions, or upon the effective time (including any recommencement) of the Eligible Employee's salary reduction agreement to make Employee Basic Contributions if the Employer Contributions are Matching Contributions.

The Participant shall not receive service credited towards vesting while employed in a non-eligible classification.

If an Employee who was not an Eligible Employee becomes an Eligible Employee, the Eligible Employee shall be eligible for the applicable participation in the Plan (as stated by Provision 5.1) immediately upon becoming an Eligible Employee.

6. PARTICIPATION IN THE PLAN

6.1 Enrollment

An Eligible Employee or Employee shall complete and execute and deliver all instruments or forms required by the Plan.

6.2 Employee responsible to enroll

If the Eligible Employee or Employee fails to complete and execute and deliver any enrollment forms required according to Provision 6.1, he or she shall not be entitled to receive an allocation of any Contributions under the Plan.

The Plan Administrator shall not be responsible to notify or advise any Eligible Employee or Employee that he or she has become eligible to participate in the Plan. The Eligible Employee or Employee shall be responsible to know when he or she becomes eligible to participate in the Plan, and shall be responsible to take any action necessary to enroll in the Plan. The Plan Administrator shall not be liable for any missed Contributions.

6.3 Enrollment date

An Eligible Employee who has become eligible to participate in this Plan shall be eligible to enroll as a Participant (or to receive Employer Contributions) as of the date on which the Eligible Employee satisfies this Plan's eligibility requirements; provided the Eligible Employee is still employed as of that date, or, if not employed on that date, as of the date of rehire (if he or she then satisfies this Plan's eligibility requirements).

6.4 Amendment of Participation Agreement

Subject to all of the provisions of the Plan, a Participant may at any time amend his or her Participation Agreement to change: his or her investment direction; his or her designated Beneficiary(s).

Unless the Participation Agreement specifies a later effective date, a change in the investment direction for Contributions shall take effect after investment direction is received according to Provision 7.2. A change in the Beneficiary designation shall take effect when the Participation Agreement is accepted by the Plan Sponsor, Plan Administrator or Agent.

7. INVESTMENT DIRECTION

7.1 Participant's duty of investment direction

Each Participant (and, when applicable, each Beneficiary or Alternate Payee) shall, subject to the requirements of any applicable Investment Law and of any procedures established by the Plan Administrator and the Agent, direct the investment of his or her or its Account(s).

7.2 Procedure for giving investment direction

The Participant, Beneficiary, or Alternate Payee must give his or her or its investment direction according to the provisions of this Plan, including any procedure or form required by the Plan Administrator or the Agent or the Issuer.

7.3 Reasonable frequency

The Plan Administrator, Issuer or each Investment may, but only on a uniform and consistent basis, impose reasonable restrictions on the frequency with which a Participant, Beneficiary, or Alternate Payee may give investment directions. In addition to (and not by limitation upon) such restrictions, the Participant, Beneficiary, or Alternate Payee cannot give more than one investment direction in any Valuation Period and the latest investment direction in a Valuation Period cancels all earlier inconsistent investment directions in that Valuation Period.

7.4 Who directs investment

During the Participant's life, the Participant shall direct the investment of his or her Account. During the Participant's Disability or incompetence, the person who has authority to act for the Participant under a power-of-attorney accepted by the Plan Sponsor or the agent according to Provision 22.16 ["Power-of-attorney"] or, if there is no such agent, the person that is the duly appointed and currently serving conservator or guardian of the estate of the Participant shall direct the investment of the Participant's Account. After the Participant's death, the Beneficiary shall direct the investment of his or her or its Account or each Beneficiary shall direct the investment of his or her or its segregated Account. A Participant, Beneficiary, or Alternate Payee may authorize an agent or attorney-in-fact to direct investment for all of his or her or its Account by giving written notice acceptable to the Plan Sponsor and furnishing a power-of-attorney that is accepted by the Plan Sponsor according to Provision 22.16. A Participant, Beneficiary, or Alternate Payee cannot delegate investment responsibility as provided above for part of his or her or its Account.

7.5 Investment direction must be in writing

Each investment direction shall be in writing and shall not be proper unless the writing is signed by the Participant, Beneficiary, or Alternate Payee. Except as otherwise specified by the Agent's investment direction procedure, "writing" and "signed" as outlined in Provision 22.21, subject to any security procedures required by the Agent or the Issuer. Without limiting the comprehensive effect of the above, a signed writing includes, to the extent permitted by the applicable Investment(s), a proper telephone or Internet-based communication made in the manner prescribed by the Agent and the Issuer.

7.6 Proper person to receive investment direction

The Participant, Beneficiary, or Alternate Payee shall give his or her or its investment direction only to the Plan Administrator or Agent, except as otherwise permitted by a uniform written procedure adopted by the Plan Administrator.

For any Investment, notwithstanding any service or assistance that may be provided by the Agent, only the Issuer(s) has authority to accept an investment direction and any direction is effective only when and as so received. Nothing in this Plan or otherwise shall be construed to enlarge or augment any legal obligation of the Agent.

7.7 Plan Administrator not responsible

Except as provided above or by Provision 7.8, the Plan Administrator must accept every proper investment direction and the Plan Administrator is obligated to comply with such proper investment direction. Without limiting the comprehensive effect of the above, the Plan Administrator is not under any duty to question any investment direction of a Participant, Beneficiary, or Alternate Payee (or his or her or its agent), or to make any investment recommendations, or to provide to any person any investment advice or investment education.

If the Employer or the Plan Administrator or the Custodian or the Master Trust provides any investment education or investment information or investment advice of any kind, the Employer and the Plan Administrator and the Custodian and the Master Trust shall not be liable for any loss or liability arising out of such investment education or investment information or investment advice.

7.8 Investment direction refused

The Plan Sponsor, Plan Administrator, the Agent, or any person may decline to implement any investment direction if:

- the person receiving the investment direction knows (or a court order has determined) that the Participant, Beneficiary, or Alternate Payee is legally incompetent;
- the investment direction would be contrary to this Plan;
- the investment direction would be contrary to a court order, even if the court order is not a Plan-approved Qualified Domestic Relations Order;
- the investment direction would jeopardize the Plan's (or the Master Trust's) tax qualified status;
- the investment direction would generate income that would be taxable to the Master Trust;
- the investment direction would result in a prohibited transaction within the meaning of IRC § 503; or
- the investment direction would cause the Custodian or any person to maintain the indicia of ownership of an Investment or any assets of the Plan outside the jurisdiction of the

district courts of the USA or outside the jurisdiction specified by the Master Trust Agreement.

7.9 Failure to give investment direction

If at any time a Participant, Beneficiary, or Alternate Payee fails to exercise his or her or its duty of investment direction (or an investment direction is refused), the Master Trustee shall, to the extent of the failure of proper investment direction, cause the Account or applicable sub-Account(s) or segregated Account to be invested as specified under a written procedure adopted by the Master Trustee. Except for investment options under Open Architecture Investment that are further provided for herein, if the Master Trustee has appropriately exercised his or her fiduciary duty in selecting a default option(s), he or she has no liability for any loss sustained by a Participant, Beneficiary or Alternate Payee whose Account in whole or part is invested in the default option(s). The Master Trustee shall have no fiduciary duty nor any liability for any loss sustained by a Participating Employer, Participant, Beneficiary, or Alternate Payee whose Account in whole or part is invested under Open Architecture Investment and whose investment options, including any default option(s), have been selected by the Participating Employer.

7.10 Investment direction during domestic relations or bankruptcy matter

Notwithstanding any notice to the Plan Sponsor (or to any other person dealing with or performing services regarding the Plan) that a domestic relations order or bankruptcy demand or court order or similar court order relating to the Plan is or may be presented, the Participant shall continue to exercise his or her duty of investment direction as required by the Plan unless a final court order expressly provides otherwise and the Plan Sponsor or Plan Administrator does not challenge, contest, or appeal the court order.

If such a court order provides for an Alternate Payee (or any person other than the Participant) to have a right of investment direction under the Plan, the Plan Sponsor shall give effect to that court order to the extent permitted by the Plan.

7.11 Expenses of investment direction

The Plan may charge the Participant's or Beneficiary's Account for the expenses of executing his or her or its investment direction. If such expenses are so charged, the Plan Administrator shall maintain reasonable procedures to inform Participant, Beneficiary, or Alternate Payees that such charges are made and to inform each Participant, Beneficiary, or Alternate Payee as to the actual expenses charged to the Participant's or Beneficiary's individual Account.

If the execution of an investment direction would incur an unusual charge or any tax under the Investment or otherwise under applicable law, any person receiving the investment direction may (but is not required to) require the Participant, Beneficiary, or Alternate Payee to acknowledge in writing that he or she or it understands each charge or tax and how the charge or tax is calculated or determined.

7.12 Relief from fiduciary responsibility

To the extent of the Participant's or Beneficiary's investment direction, the Employer and the Plan Administrator and the Custodian and the Master Trustee and the Agent and each Issuer and each person performing services regarding the Plan is relieved of any fiduciary responsibility and every

kind of liability, and is not responsible for or liable for any damage or loss or expense or other claim which may arise from that Participant's or Beneficiary's investment direction or exercise of control (or from that Participant's or Beneficiary's failure to exercise his or her or its duty of investment direction and control).

7.13 Employer and Plan Administrator not responsible for Plan Investment selection

Except as otherwise required by the Enabling Statute, and except as provided herein for Open Architecture Investment, neither the Employer nor the Plan Administrator has or had any responsibility and shall not have any liability relating to the selection of Plan Investments. Without limiting the comprehensive effect of the above, the Employer and Plan Administrator are not liable for losses or damages arising out of: any action in approving or purchasing any Plan Investment(s), any bankruptcy or insolvency or impairment or liquidation or rehabilitation or supervision of any Issuer(s), any other impairment of any Issuer's ability to meet its obligations, or the performance of any Plan Investments. Notwithstanding any provision of this Plan to the contrary, an Employer who has selected the Open Architecture Investment shall select and oversee investment options, including default option(s), for the Plan rather than using the investment options selected by the Master Trustees, and shall be responsible for the selection and oversight of investment options for the Plan. The Plan Administrator and Master Trustees have no responsibility for the selection or oversight of investment options selected by an Employer who has selected investment options for the Plan under Open Architecture Investment, and therefore, neither the Plan Administrator nor the Master Trustees shall have any liability relating to the selection of Plan investment options under Open Architecture Investment. Without limiting the comprehensive effect of the above, the Plan Administrator and Master Trustees are not liable for losses or damages arising out of: any action in approving or purchasing any investment option under Open Architecture Investment, any bankruptcy or insolvency or impairment or liquidation or rehabilitation or supervision of any Issuer(s), any other impairment of any Issuer's ability to meet its obligations, or the performance of any investment option under Open Architecture Investment.

7.14 Selection of Open Architecture Investment

Notwithstanding any provisions of this Plan to the contrary, including but not limited to Provisions 3.44, 7.9, 7.13, and 21.1, a Participating Employer acknowledged through the Trust Joinder Agreement may elect Open Architecture Investment. If a Participating Employer selects Open Architecture Investment, the Participating Employer will be responsible for selecting and overseeing Plan investment option(s) rather than using the investment options selected by the Master Trustees. Notwithstanding any provisions of this Plan to the contrary, a Participating Employer acknowledges by the selection of Open Architecture Investment that neither the Plan Administrator nor the Master Trustee has any responsibility and shall not have any liability relating to the selection or oversight of Plan investment options. The Master Trustee shall have no fiduciary duty or any liability for an investment option or any loss sustained by a Participating Employer, Participant, Beneficiary, or Alternate Payee whose Account, in whole or in part, is invested through Open Architecture Investment.

8. ALLOCATION METHODS

8.1 Employer Contributions are discretionary

Employer Contributions under this Plan shall be allocated as defined in the Adoption Agreement.

8.2 Non-elective Contributions

Each Participating Employer shall allocate Employer Non-elective Contributions among Participants who had Benefit Compensation during the Year, unless otherwise specified by the Adoption Agreement.

8.3 Matching Contributions

Each Participating Employer shall allocate Employer Matching Contributions among Participants who made Employee Basic Contributions during the Year and had Benefit Compensation during the Year, unless otherwise specified by the Adoption Agreement. However, in no event shall a Participant receive any Matching Contributions for any Payroll Period for which the Participant does not have Employee Basic Contributions for that Payroll Period.

8.4 Contributions during Disability

Unless otherwise specified by the Adoption Agreement, each Participating Employer shall continue to make Employer Contributions for a Disabled Participant on the basis of the Benefit Compensation the Participant would have received if he or she were or had been paid at the rate of Benefit Compensation paid to the Participant immediately before the Participant became Disabled. However, the Participating Employer shall continue Matching Contributions only to the extent that the Disabled Participant actually makes Employee Basic Contributions. Any Employer Contributions made under this paragraph are non-forfeitable when made.

8.5 No rights created by allocation

Any allocation of Contributions or investment earnings to any Account shall not cause the Participant to have any right, title, or interest in any assets of the Plan, except as expressly provided by the Plan.

8.6 Delinquent Contributions

It is the Participating Employer's responsibility to correctly calculate and remit the appropriate Employer Contributions. Neither the Plan, Plan Administrator, Master Trustee, nor the Agent shall have any liability for the delinquency of a Participating Employer.

9. CONTRIBUTION LIMIT

9.1 Plan to satisfy annual additions limit

Notwithstanding any other provision of this Plan, the Contributions credited to a Participant's Account for any Limitation Year shall not exceed the limit prescribed by IRC § 415(c), and the Plan shall be administered so as to comply with the limits of IRC § 415(c).

Notwithstanding anything in the Plan to the contrary, the following limitations shall apply:

To the extent required under Code Section 415(c), in no event shall the "annual addition," as defined in this Part 9 for a Participant for any limitation year, exceed the lesser of:

- a) Forty Thousand Dollars (\$40,000), as adjusted under Code Section 415(d); or
- b) One hundred percent (100%) of the Participant's Compensation.

For purposes of applying Code § 415(c), "Compensation" shall be defined as wages within the meaning of Code Section 3401(a) and all other payments of compensation to a Participant by an

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Employer for which the Employer is required to furnish the Participant a written statement under Code Sections 6041(d), 6051(a)(3) and 6052 and shall be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)). For purposes of applying Code Section 415(c) and for no other purpose, the definition of Compensation where applicable shall be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulation Section 1.415(c)-2, or successor regulation; provided, however, that Participant contributions picked up under Code Section 414(h) shall not be treated as compensation.

However, for limitation years beginning after December 31, 1997, Compensation shall also include amounts that would otherwise be included in compensation but for an election under Code Section 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b). For limitation years beginning after December 31, 2000, Compensation shall also include any elective amounts that are not includible in the gross income of the Participant by reason of Code Section 132(f)(4).

For limitation years beginning on and after January 1, 2009, Compensation for the limitation year shall also include compensation paid by the later of 2½ months after a Participant's Severance from employment or the end of the limitation year that includes the date of the Participant's Severance from employment if:

- a) the payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a Severance from employment, the payments would have been paid to the Participant while the Participant continued in employment with the Employer; or
- b) the payment is for unused accrued bona fide sick, vacation or other leave that the Participant would have been able to use if employment had continued.

Any payments not described in (a) or (b) above are not considered Compensation if paid after Severance from employment, even if they are paid within 2½ months following Severance from employment, except for payments to the individual who does not currently perform services for the Employer by reason of qualified military service (within the meaning of Code Section 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

An Employee who is in qualified military service (within the meaning of Code Section 414(u)(1)) shall be treated as receiving compensation from the Employer during such period of qualified military service equal to (i) the compensation the Employee would have received during such period if the Employee were not in qualified military service, determined based on the rate of pay the Employee would have received from the Employer but for the absence during the period of qualified military service, or (ii) if the compensation the Employee would have received during such period was not reasonably certain, the Employee's average compensation from the Employer during the twelve (12) month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

Back pay, within the meaning of Treasury Regulation Section 1.415(c)-2(g)(8), shall be treated as Compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

Compensation of each Participant shall not exceed the applicable limit established by Code Section 401(a)(17) as of the first day of the limitation year, as increased for the Cost of Living Adjustment under Code Section 401(a)(17)(B) (\$270,000 for 2017). The Cost of Living Adjustment in effect for a limitation year applies to compensation for the Plan Year that begins with or within such limitation year.

9.1.2 Multiple plans

For purposes of this Part 9, all defined contribution plans of a Participating Employer are to be treated as a single defined contribution plan. However, each Participating Employer is to be considered as a separate employer.

9.1.3 Corrections

Any corrections required under this Part 9 may be made pursuant to the IRS Employee Plans Compliance Resolution System. For limitation years prior to July 1, 2007, if the annual addition for a Participant under the Plan, determined without regard to the limitation of Provision 9.1, would have been greater than the annual addition for such Participant as limited by Provision 9.1, then the excess, if due to a reasonable error in estimating compensation or such other circumstances, shall be reduced, to the extent necessary to satisfy such limitation by holding the excess unallocated in a suspense account and using it to reduce Participating Employer contributions in subsequent Plan Years.

9.1.4 Annual addition

For purposes of this Part 9, "Annual Addition" means the Annual Addition as defined in Code Section 415(c) and as modified in Code Sections 415(l)(1) and 419A(d)(2). In general, Code Section 415(c) defines the Annual Addition as the sum of the following amounts credited to a Participant's accounts for the limitation year under this Plan and any other defined contribution plan maintained by a Participating Employer:

- a) Employer Contributions;
- b) Employee Contributions; and
- c) Forfeitures.
- d) For purposes of this Part 9, "limitation year" means the calendar year.

9.2 Participating Employer Responsibility for Contribution limits

The Participating Employer must monitor contributions to the Plan on behalf of a Participant to this Plan and any other 401(a) plan maintained by the Participating Employer to determine compliance with this Part 9. The Participating Employer must cease contributions to avoid exceeding the limits of this Part 9 and must notify the Administrator if excess annual additions are made.

10. VESTING

10.1 Vesting in Employer Contributions

The Participant's Vested Employer Contributions Account shall be determined on the basis of the vesting provisions specified by the Adoption Agreement to the extent not inconsistent with this Basic Plan Document. If no vesting provision is so specified, Provision 10.2 applies.

10.2 Immediate vesting

If the Adoption Agreement specifies (or is deemed to specify) immediate vesting, a Participant's interest in his or her Employer Contributions Account shall immediately become and shall at all times remain fully vested and non-forfeitable.

10.3 Vesting rules

Except as otherwise specified, the Plan shall be construed to state provisions consistent with IRC § 401(a)(7) as in effect on September 1, 1974.

10.4 Segregating a forfeiture

Notwithstanding anything in the Plan to the contrary, the Plan Sponsor may, without waiting for a Participant to have any break in service, segregate a forfeiture whenever a Participant, Beneficiary, or Alternate Payee receives a Distribution (including an Involuntary Distribution) from an Account that is less than 100% Vested. Likewise, the Plan Sponsor may segregate a forfeiture whenever a Participant has a Severance-from-Employment. If provided for in the Adoption Agreement, the segregated forfeiture may be reinstated if the Participant returns to service with the Plan Sponsor as an eligible Employee.

10.5 No Change in Vesting for Attainment of Normal Retirement Age

Attaining Normal Retirement Age has no impact on the determination of the Vested portion or percentage of a Participant's Account.

11. REEMPLOYMENT AFTER UNIFORMED SERVICE

11.1 Reemployment after Uniformed Service

To the extent required by 38 U.S.C. § 4318, a person who is a member of, applies to be a member of, has performed, applies to perform, or has an obligation to perform service in a Uniformed Service shall not be denied any Benefit or right under this Plan on the basis of such membership, performance of service, application for service, or obligation.

Consistent with all provisions of USERRA, any provision of this Part and any other right under the Plan arising out of or related to reemployment after Service in the Uniformed Services does not apply unless and until: the person is eligible for reemployment under 38 U.S.C. § 4304 [honorable discharge], the person applied for reemployment in compliance with 38 U.S.C. § 4312, and the Participant or Employee furnishes to the Plan Sponsor satisfactory documentation concerning the Service in the Uniformed Services consistent with 38 U.S.C. § 4312(e)(3)(B).

The provisions of IRC § 414(u) are incorporated by reference and made a part of the Plan as required to be in compliance with the IRC.

11.1.1 Effective dates

Consistent with USERRA § 8, the provisions of United States Code Title 38 Chapter 43, as in effect on the day before the date of enactment of USERRA, apply to reemployments before December 12, 1994. Consistent with USERRA § 8, the provisions stated in this Part apply to reemployments on or after December 12, 1994, except that any obligation under this Part shall not commence until October 13, 1996.

11.2 Definitions

Solely for the purposes of this Part (including any Provision or Definition that refers to this Part), each of the following terms has the meaning stated below.

11.2.1 "Qualified Military Service"

means, consistent with IRC § 414(u)(5), any Service in the Uniformed Services (as defined below) if the individual is entitled to reemployment rights under USERRA with respect to such service.

11.2.2 "Service in the Uniformed Services"

means, consistent with 38 U.S.C. § 4303(13), the performance of duty on a voluntary or involuntary basis in a Uniformed Service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honors duty.

11.2.3 "Uniformed Service"

means, consistent with 38 U.S.C. § 4303(16), any one or more of the Armed Forces, the Army National Guard or the Air National Guard when engaged in active duty for training or inactive duty training or full-time National Guard duty, the commissioned corps of the Public Health Service, or any other category of persons designated by the President of the USA in time of war or national emergency.

11.2.4 "USERRA"

means the *Uniformed Services Employment and Reemployment Rights Act of 1994* (Public Law No. 103-353) [October 13, 1994] codified at 38 U.S.C. § 4301 et seq.

11.3 Service crediting

Consistent with 38 U.S.C. § 4318(a)(2)(A) and IRC § 414(u)(8)(A), a person who timely resumes employment with the Participating Employer under 38 U.S.C. § 4301 et seq. shall be treated as not having incurred a break-in-service by reason of such person's period(s) of Qualified Military Service.

Consistent with 38 U.S.C. § 4318(a)(2)(B) and IRC § 414(u)(8)(B), upon reemployment under 38 U.S.C. § 4301 et seq., each period of Qualified Military Service shall constitute service under this Plan for the purpose of determining the nonforfeitability of the Participant's accrued benefits under this Plan and for the purpose of determining the accrual of benefits under this Plan.

Consistent with the Heroes Earning Assistance and Relief Tax (HEART) Act, a deceased person's period of qualified military service will be credited service under this Plan.

11.4 Compensation

Consistent with 38 U.S.C. § 4318(b)(3) and IRC § 414(u)(7) and IRC § 457(e)(5), for the purposes of computing any Contributions required or permitted under this Part, the reemployed Participant's Benefit Compensation during the period of Qualified Military Service shall be either the Benefit Compensation the Participant would have received during such period if the Participant were not in Qualified Military Service, determined based on the rate of pay the Participant would have received from the Employer but for absence during the period of Qualified Military Service, or, if the Benefit Compensation the Participant would have received during the period of absence for Qualified Military Service was not reasonably certain, the Participant's average Benefit Compensation from the Employer during the 12-month period (or, if shorter, the entire period of employment) immediately preceding the Qualified Military Service.

11.5 Non-elective Employer Contributions

Consistent with 38 U.S.C. § 4318(b)(1) and IRC § 414(u), if a person is reemployed under 38 U.S.C. § 4301 et seq., with respect to the period(s) of Service in the Uniformed Services, the Employer shall pay (if it has not already done so) and direct the Plan Administrator to allocate to the reemployed Participant's Account any Employer Non-elective Contribution for the Participant in the amount (without investment income or earnings of any kind) that would have been allocated to the Participant's Account if the Participant had been actively at work for the Employer. Such contributions must be made no later than ninety (90) days after the date of such reemployment or when contributions are normally due for the year in which the Qualified Military Service was performed, if later.

11.6 Matching Employer Contributions

Consistent with 38 U.S.C. § 4318(b)(2), if a person is reemployed under 38 U.S.C. § 4301 et seq. and makes Employee Contributions as permitted by Provision 11.7, with respect to the period(s) of Service in the Uniformed Services, the Employer shall pay (if it has not already done so) and direct the Plan Administrator to allocate to the reemployed Participant's Account any Employer Matching Contribution for the Participant in the amount (without investment income or earnings of any kind) that would have been allocated to the Participant's Account if the Participant had been actively at work for the Employer to the extent that the reemployed Participant makes payment of the Employee Basic Contributions. Consistent with IRC § 414(u)(2)(A)(ii), the Employer has no obligation to pay the Matching Contribution until, and its obligation is only to the extent that, the reemployed Participant pays his or her Employee Basic Contributions.

11.7 Employee Contributions

Consistent with 38 U.S.C. § 4318(b)(2) and IRC § 414(u)(2), if a person is reemployed under 38 U.S.C. § 4301 et seq., with respect to the period(s) of Service in the Uniformed Services, the Participant may pay (if he or she has not already done so) and the Employer shall direct the Plan Administrator to allocate to the reemployed Participant's Account any Employee Contributions in the amount required or any amount permitted that would have been required or permitted to be made and then allocated to the Participant's Account if the Participant had been actively at work for the Employer. No such payment shall exceed the amount the reemployed person would have

been permitted to contribute had the person remained continuously employed by the Employer throughout his or her Service in the Uniformed Services. Consistent with IRC § 414(u)(2)(A)(i), any such payment to the Plan may be made during the period beginning with the date of reemployment and whose duration is the lesser of five years or three times the period of the reemployed person's Service in the Uniformed Services.

11.8 Plan Loan repayment

To the extent permitted by IRC § 414(u)(4), the Plan may suspend the Participant's Plan Loan repayment obligation for any part of the period during which the Participant performs Service in the Uniformed Services, even if such service is not Qualified Military Service.

11.9 HEART Act

If a Participant dies while engaged in Qualified Military Service, the Participant's beneficiaries shall be entitled to any benefits the Participant would have been entitled to as if the Participant had resumed employment immediately prior to his or her death in accordance with the Heroes Earning Assistance and Relief Tax (HEART) Act and any regulations promulgated thereunder.

11.10 Differential wage payment

Effective January 1, 2009, a Participant receiving a differential wage payment within the meaning of Code Section 414(u)(12)(D) from a Participating Employer, shall be treated as a Participant and the differential wage payment shall be treated as Benefit Compensation and shall also be treated as compensation subject to Code § 415(c). This Provision shall apply to all similarly situated individuals in a reasonably equivalent manner.

12. QUALIFIED DOMESTIC RELATIONS ORDER

12.1 QDRO procedures

In fulfilling the duties set forth in this Part 12, the Plan Sponsor may use the services of its own agent or an Agent of the Plan Administrator to determine whether an order directed to the Plan is a Qualified Domestic Relations Order.

12.2 Determination as to order's status

The Plan Sponsor or agent may make a determination on whether a final court order directed to the Plan is a Qualified Domestic Relations Order. The Plan Sponsor or agent may delay the commencement of its consideration of any order until the later of the date that is 30 days after the date of the order or the date that the Plan Sponsor or agent is satisfied that all rehearing and appeal rights with respect to the order have expired.

12.3 Notice of determination

The Plan Sponsor or agent or Plan Administrator or Agent may notify the Participant and any Alternate Payee, or their attorneys, of its determination on any order.

12.4 Investment direction during domestic relations matter

Notwithstanding any notice to the Plan Sponsor (or to any other person dealing with or performing services regarding the Plan) that a domestic relations order is or may be presented to be determined as a Qualified Domestic Relations Order, the Participant shall continue to exercise his or her duty

of investment direction as required by the Plan unless a court order expressly provides otherwise and the Plan Sponsor or agent determines that the court order is a Qualified Domestic Relations Order. If a Qualified Domestic Relations Order provides for an Alternate Payee (or any person other than the Participant) to have a right of investment direction under the Plan, the Plan Sponsor or agent shall give effect to that court order to the extent permitted by the Plan.

12.5 Giving effect to a Qualified Domestic Relations Order

If the Plan Sponsor determines that an order is a Qualified Domestic Relations Order, the Plan Sponsor or agent may instruct the Plan Administrator to instruct the Custodian or the Issuer(s) to cause the payment of amounts pursuant to (and to prevent any payment or act which might be inconsistent with) the Qualified Domestic Relations Order, notwithstanding any contrary provision of the Plan.

12.6 Inability to locate payee

If any payment under a Qualified Domestic Relations Order cannot be paid because the Alternate Payee cannot be located, the procedures set forth in Provision 20.12 shall be followed.

12.7 QDRO procedures

The procedure for the Plan Sponsor or agent in administering Qualified Domestic Relations Orders shall be as follows:

The Plan Sponsor shall promptly notify the Participant and each Alternate Payee of receipt of such order and the Plan's procedures for determining the qualified status of domestic relations orders.

The Plan Sponsor will then determine if the order meets the requirements of the Plan.

If the Plan Sponsor determines the order to be a Qualified Domestic Relations Order, it will send a written determination to the named Issuer(s) of the Investment(s), and give notice to the Plan Administrator, Plan Participant, the Alternate Payee(s), and their attorneys, so that they may act according to the provisions of the order.

If the Plan Sponsor determines that the order is not a Qualified Domestic Relations Order, it must ensure that the Plan does not make any distribution from the Participant's Account for a period of 18 months, unless the Alternate Payee either releases a claim to the Benefits or the parties obtain an amended order which is determined by the Plan Sponsor to be a QDRO.

12.8 Domestic relations proceeding

Each of the Participating Employer and the Master Trustee and the Plan Administrator and the Agent and each Issuer and any person serving under contract or otherwise with respect to the Plan shall not be obligated to incur any cost to defend against or set aside any judgment, decree, or order relating to the division, attachment, garnishment, or execution of or levy upon the Participant's Plan Account or any Distribution, including (but not limited to) any domestic relations proceeding. Notwithstanding the foregoing, if any such person is joined in any proceeding, the party may take such action as it considers necessary or appropriate to protect any and all of its legal rights, and the Participant (or Beneficiary) shall reimburse all actual fees of lawyers and legal assistants and expenses reasonably incurred by such party.

12.9 Death of Alternate Payee

In the event of an Alternate Payee's death, any remaining benefits shall be payable solely to the Alternate Payee's estate, via the duly appointed and then-currently serving executor of the Alternate Payee's estate.

13. HARDSHIP DISTRIBUTION

13.1 Hardship Distribution

A Participant shall be permitted to make a hardship withdrawal from the Vested amount (as determined by this Plan) credited to his Employer Contribution Account and Employee Contribution Account if the Participant certifies that he has incurred an immediate and heavy financial need for funds and the withdrawal is necessary to satisfy the financial need. For these purposes, an immediate and heavy financial need shall include a need: (1) to pay medical expenses described in Section 213(d) of the Code incurred by the Participant, his Spouse, or his dependents; or (2) to prevent the eviction of the Participant from his principal residence or foreclosure on the mortgage of the Participant's principal residence.

13.2 Hardship

The Amount of any hardship withdrawal by a Participant under Provision 13.1 shall not exceed the amount necessary to satisfy the immediate and heavy financial need and not reasonably available from other resources of the participant. For these purposes, a hardship withdrawal will be treated as necessary to satisfy an immediate and heavy financial need under Provision 13.1 above if the Participant certifies that the need cannot be relieved; (1) through reimbursement or compensation by insurance or otherwise; (2) by liquidation of the Participant's assets to the extent such liquidation would not itself cause an immediate and heavy financial need; or (3) by other currently available distributions from the Plan or by borrowing from commercial sources on reasonable commercial terms. The Participant must provide documentation acceptable to the Plan Sponsor, its agent, or an Agent of the Plan Administrator of the hardship that indicates the reason for the hardship and the dollar amount necessary to satisfy the hardship. The Participant must further certify that the amount of the distribution is not in excess of the amount required to satisfy the financial need, and that the financial need cannot be relieved from other resources that are reasonably available to the employee.

13.3 Manner of Making Hardship Withdrawals

Any withdrawals by a Participant under the Plan shall be made only after the Participant files a written request with the Plan Sponsor specifying the nature of the withdrawal (and reasons therefore, if a hardship withdrawal) and the amount of funds requested to be withdrawn. Upon approving any withdrawal, the Plan Sponsor shall furnish the Plan Administrator with written instructions to make the withdrawal in a lump-sum payment to the Participant.

13.4 Plan Sponsor must determine hardship

The Plan Sponsor or their agent must determine whether the circumstances of the Participant constitute a hardship under Part 13.

Following a uniform procedure, the Plan Sponsor's or agent's determination shall consider any facts or conditions deemed necessary or advisable by the Plan Sponsor or agent, and the Participant

shall be required to submit any evidence of his or her circumstances that the Plan Sponsor or agent requires. The determination as to whether the Participant's circumstances are a case of hardship shall be based on the facts of each case; provided however, that all determinations as to hardship shall be uniformly and consistently made according to the provisions of the Plan for all Participants in similar circumstances.

The Plan Sponsor or agent may require that any statement made as part of a claim for a Hardship Distribution be made under penalties of perjury. The Plan Sponsor or agent may require that any statement made as part of a claim for a Hardship Distribution be signed in the presence of a Notarial Officer.

Effective January 1, 2023, the Plan Sponsor or approver of the Hardship Distribution may rely on the Participant's written self-certification that (i) the circumstances for the hardship exist, (ii) the amount requested is not in excess of the amount required to satisfy the financial need, and (iii) the Participant has no alternative reasonably available means to satisfy such need. Reliance on self-certification is not permitted if the Plan Sponsor or approver of the Hardship Distribution has actual knowledge that is contrary to the Participant's certification.

13.5 Hardship restrictions

The following restrictions apply to a Participant who receives a safe harbor hardship distribution:

- The distribution may not exceed the amount of the Participant's immediate and heavy financial need (including any amounts necessary to pay any federal, state or local income taxes and penalties reasonably anticipated to result from the distribution); and
- The Participant must have obtained all distributions, other than hardship distributions, and all nontaxable loans (unless the loan to the Participant would increase the Participant's hardship need) currently available under the Plan and all other qualified plans maintained by the Employer.

14. DISABILITY DISTRIBUTION

14.1 Disability Distribution

Unless otherwise specified by the Adoption Agreement, in addition to Part 13, a Participant at any time before becoming eligible for a Retirement Distribution is entitled to a Distribution upon the Participant's Disability or as otherwise required by applicable law.

15. RETIREMENT DISTRIBUTION

15.1 Retirement Distribution

Upon Severance-from-employment, the Participant is entitled to apply to receive his or her Benefit payable under any Payout Option that satisfies the provisions of the Plan, including (but not limited to) Provision 15.3.

15.2 Deemed Distribution

Upon Severance-from-employment, if the Participant's Vested Account is \$0 (as of the date of his or her Severance-from-employment), the Participant shall be deemed to have received a Deemed Distribution of his or her Vested Account.

15.3 Involuntary Distribution

On his or her Severance-from-employment, a Participant (or Beneficiary), pursuant to the Adoption Agreement, may receive an Involuntary Distribution if as of a Valuation Day on or after the date of his or her Severance-from-employment his or her Account is no more than \$5,000. If the Involuntary Distribution is an Eligible Rollover Distribution, and if the recipient of the distribution does not elect to have the distribution paid directly to an Eligible Retirement Plan specified by the recipient in a direct rollover or does not elect to receive the distribution directly, the Involuntary Distribution will be paid as a direct rollover to an IRA designated by the Plan Sponsor or Agent.

15.4 Minimum Distribution

For any Distribution that commences on or after the Required Beginning Date or with respect to a Distribution that commences before the Required Beginning Date to the extent of payments to be made after the Required Beginning Date, the Payout Option must meet the requirements of IRC § 401(a)(9), including IRC § 401(a)(9)(G) and the regulations at Section 1.401(a)(9)-2 through 1.401(a)(9)-9.

15.5 Required Beginning Date Distribution

A Retirement Distribution shall commence not later than the Required Beginning Date. "Required Beginning Date" means April 1 of the calendar year following the later of (i) the calendar year in which the Participant reaches the applicable age required by IRC § 401(a)(9), or (ii) the calendar year in which the Participant retires.

[Note: Under SECURE 2.0 Act the applicable age requirements are as follows:

- 70 ½ for Participants born June 30, 1949, or earlier
- 72 for Participants born on July 1, 1949, through and including December 31, 1950
- 73 for Participants born on January 1, 1951, through and including December 31, 1959
- 75 for Participants born January 1, 1960, or later]

15.6 Time and Manner 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 the Provisions in Parts 15 and 16. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury regulations. Annuity payments must commence on or before the Participant's Required Beginning Date. The first payment, which must be made on or before the Participant's Required Beginning Date, must be the payment which is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bimonthly, monthly, semi-annually, or annually. Once

payments have begun over a period certain, the period certain cannot be changed except in the limited circumstances described in Section 1.401(a)(9)-6, Q&A-13, of the Treasury Regulations.

A Participant's Benefit may be distributed in a lump sum to purchase an annuity from an insurance company. All annuity payments (whether paid over a Participant's life, joint lives, or a period certain) must be either nonincreasing or increase only in accordance with Section 1.401(a)(9)-6, Q&A-14, of the Treasury Regulations.

15.7 Required Minimum Distributions During Participant's Lifetime

During the Participant's lifetime, the minimum amount that will be distributed for each Distribution year is the lesser of:

- The quotient obtained by dividing the Participant's Account balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9, Q&A-2, of the Treasury regulations, using the Participant's age as of the Participant's birthday in the Distribution year; or
- If the Participant's sole Beneficiary for the Distribution year is the Participant's Spouse, the quotient obtained by dividing the Participant's Account balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9, Q&A-3, of the Treasury regulations, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the Distribution year.

Required minimum distributions will be determined under this Provision beginning with the first Distribution year and up to and including the Distribution year that includes the Participant's date of death.

15.8 Default Retirement Distribution

If a Retirement Distribution is required to begin according to Provision 15.5 and the Participant has not filed an application for payment by the date that is 90 days before the Participant's Required Beginning Date (or if the Plan Sponsor or Plan Administrator has denied an application and an acceptable re-application has not been filed before the applicable date), the Plan Sponsor or Plan Administrator shall direct payment (or, if provided by the Investment, the Issuer may without instruction make payment) according to the automatic Payout Option provided by the applicable Investment(s), or, to the extent not so provided, as a lump sum distribution.

15.9 Required Minimum Distribution Waiver of 2020

Notwithstanding any other provisions of Part 15 of the Plan, a Participant or Beneficiary who would have been required to receive required minimum distributions in 2020 (or paid in 2021 for the 2020 calendar year for a Participant with a required beginning date of April 1, 2021) but for the enactment of section 401(a)(9)(I) of the Code (2020 RMD), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2020 RMDs, or (2) one or more payments (that include the 2020 RMDs) in a series of substantially equal periodic payments made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancies) of the Participant and the Participant's designated Beneficiary, or for a period of at least 10 years (Extended 2020 RMDs), will receive those 2020 distributions

unless the Participant or Beneficiary elects not to receive such distribution. Notwithstanding the preceding sentence, Participants or Beneficiaries will be given an opportunity to make an election as to whether or not to receive such 2020 RMD distributions.

In addition, notwithstanding any other provisions of the Plan, and solely for purposes of applying the direct rollover provisions of the Plan, 2020 RMDs and Extended 2020 RMDs will be treated as eligible rollover distributions in 2020.

16. DEATH DISTRIBUTION

16.1 Continuing Retirement Distribution after death

If the distribution of the Participant's Benefit has begun under a Retirement Distribution, and the Participant dies before the entire interest has been distributed according to the terms of the Payout Option, the remaining interest shall be distributed according to the terms of the Payout Option. In any such case, to the extent required by IRC § 401(a)(9) the remaining interest shall be distributed at least as rapidly as under the Payout Option or other method of distribution being used as of the date of the Participant's death.

16.2 Involuntary Distribution

On a Participant's death before a Retirement Distribution commenced, a Beneficiary who is the Participant's surviving spouse may receive an Involuntary Distribution if as of a Valuation Day on or after the date of the Participant's death the Beneficiary's Account is no more than \$5,000. If the Involuntary Distribution is more than \$1,000, the Involuntary Distribution will be paid as a direct rollover to an IRA designated by the Plan Sponsor. If the Involuntary Distribution is \$1,000 or less, it will be paid in money as a single sum.

16.3 Death before retirement

If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

- a) If the Participant's Surviving Spouse is the Participant's sole Beneficiary, then distributions to the Surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained the applicable age as required under IRC § 401(a)(9), if later. [See note to Provision 15.5 regarding applicable age requirements]
- b) If the Participant's Surviving Spouse is not the Participant's sole Beneficiary, then distributions to the Beneficiary may be made by lump sum, and distribution must be made no later than December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- c) If there is no Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

- d) If the Participant's Surviving Spouse is the Participant's sole Beneficiary and the Surviving Spouse dies after the Participant but before distributions to the Surviving Spouse are required to begin, this Provision 16.3 will apply as if the surviving spouse were the Participant.

For purposes of this Provision, unless Provision 16.3(d) of this Provision applies, distributions are considered to begin on the Participant's Required Beginning Date. If subsection 16.3(d) of this Provision applies, distributions are considered to begin on the date the distributions are required to begin to the Surviving Spouse under Provision 16.3(a) of this Provision. If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or the Participant's Surviving Spouse before the date of distributions are required to begin to the Surviving Spouse under Provision 16.3(a)), the date distributions are considered to begin is the date distributions actually commence.

16.4 Minimum distribution

For any Distribution that commences on or after the Required Beginning Date or with respect to a Distribution that commences before the Required Beginning Date to the extent of payments to be made after the Required Beginning Date, the Payout Option must meet the requirements of IRC § 401(a)(9), including IRC § 401(a)(9)(G).

16.5 Default Death Distribution

If a Death Distribution is required to begin according to Provision 15.5 and the Beneficiary has not filed an application for payment by the date that is 90 days before the Participant's Required Beginning Date or Normal Retirement Age (or if the Plan Sponsor or Plan Administrator has denied an application and an acceptable re-application has not been filed before the applicable date), the Plan Sponsor or Plan Administrator shall direct payment (or, if provided by the Investment, the Issuer may without instruction make payment) according to the automatic Payout Option provided by the applicable Investment(s), or, to the extent not so provided, as a lump sum distribution.

16.6 Death While Engaged in Qualified Uniform Service

The benefits described in this Part will be payable to the designated beneficiary (or beneficiaries) of a Participant who dies while engaged in Qualified Military Service and will be determined as if the Participant had returned to employment immediately prior to his death in accordance with the Heroes Earnings Assistance and Relief Tax (HEART) Act and any regulations promulgated thereunder.

16.7 Deaths After December 31, 2021

Notwithstanding any contrary provisions, effective for Participant deaths after December 31, 2021, the following distribution provisions in this section 16.7 shall take effect; provided, however, that such provisions shall be subject to any regulations or other guidance issued under the SECURE Act or SECURE 2.0 Act:

16.7.1 Death with a Designated Beneficiary

If the Participant dies before the distribution of his or her entire account (regardless of whether any distributions had begun before the Participant's death) and the Participant has a Designated Beneficiary:

- The entire Account shall be distributed to the Designated Beneficiary by December 31 of the calendar year containing the tenth anniversary of the Participant's death.
- Notwithstanding the paragraph above, if the Designated Beneficiary is an Eligible Designated Beneficiary, then the Eligible Designated Beneficiary may elect for the Participant's Account(s) to be distributed (i) by December 31 of the calendar year containing the tenth (10th) anniversary of the Participant's death, or (ii) beginning no later than December 31 of the calendar year immediately following the calendar year in which the Participant died, over the life of the Eligible Designated Beneficiary or over a period not exceeding the life expectancy of the Eligible Designated Beneficiary. If the Eligible Designated Beneficiary is the surviving spouse, payment under item (ii) is not required until the later of December 31 of the calendar year immediately following the calendar year in which the Participant died or December 31 of the calendar year in which the Participant would have attained the applicable age as required under IRC § 401(a)(9) . [See note to Provision 15.5 regarding applicable age requirements]. Effective for calendar years beginning after December 31, 2023, a surviving spouse who is the Participant's sole Beneficiary may elect to be treated as if the surviving spouse were the Participant as provide under the IRC § 401(a)(9)(B)(iv). If the Eligible Designated Beneficiary does not elect a method of distribution as provided above, the Participant's Account(s) shall be distributed in accordance with item (ii).

16.7.2 Death or Age of Majority of Eligible Designated Beneficiary

Upon either (i) the death of an Eligible Designated Beneficiary before distribution of the Participant's entire account or (ii) the attainment of the age of majority for an Eligible Designated Beneficiary who is a minor child under subsection 16.7.5(2) shall no longer apply, and the remainder of the account shall be distributed under paragraph 1 of subsection 16.7.1.

16.7.3 Death Without a Designated Beneficiary

If the Participant dies before distributions of his or her Account begins and the Participant has no Designated Beneficiary, the Participant's Account under the Plan shall be distributed by December 31 of the calendar year containing the fifth (5th) anniversary of the Participant's death. If the Participant dies after distribution of his or her Account begins and the Participant has no Designated Beneficiary, any remaining portion of the Account shall continue to be distributed at least as rapidly as under the method of distribution in effect at the time of the Participant's death.

16.7.4 Incidental Death Benefit Requirements

Any distribution required under the incidental death benefit requirements of Code Section 401(a) shall be treated as distributions required under this section 16.7.

16.7.5 Definitions

For purposes of this section: "Eligible Designated Beneficiary" means a Designated Beneficiary who, as of the date of the death of the Participant, is: (1) the surviving spouse of the Participant;

(2) a child of the Participant who has not reached the age of majority; (3) disabled within the meaning of Code Section 72(m)(7); (4) chronically ill within the meaning of Code Section 7702B(c)(2) (except that the requirements of subparagraph (A)(i) thereof shall only be treated as met if there is a certification that, as of such date, the period of inability described in such subparagraph with respect to the individual is an indefinite one which is reasonably expected to be lengthy in nature); or (5) any other individual who is not more than ten (10) years younger than the Participant. Notwithstanding the preceding, a child described in (2) above shall cease to be an Eligible Designated Beneficiary as of the date he or she reaches the age of majority. “Designated Beneficiary” means any individual designated as a beneficiary by the Participant.

17. DIRECT ROLLOVER

17.1 Direct Rollover

Consistent with IRC § 401(a)(31), for any Distribution paid after December 31, 1992 that is an Eligible Rollover Distribution, the Distributee may elect, at the time and in the manner prescribed by the Plan Sponsor, to instruct the Plan Sponsor (and the Issuer) to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee.

17.2 Eligible Rollover Distribution payable without delay

Not fewer than 30 nor more than 180 days before a Plan distribution, the Administrator shall provide the recipient with a written tax explanation as required by Code Section 402(f), if applicable, including an explanation of (i) the direct transfer of benefits, if applicable; (ii) the applicability of withholding taxes; (iii) the availability of direct transfers or rollovers; (iv) the availability of the special forward income averaging of Code Section 402(d); and (v) the applicability of such provisions to an alternate payee under Code Section 402(e). Notwithstanding the preceding sentence, a distribution may begin fewer than 30 days after the notice described in the preceding sentence is given, provided that:

- the Administrator clearly informs the Participant that the Participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a participant distribution option), and
- the Participant, after receiving a notice, affirmatively elects a distribution.

18. ELIGIBLE ROLLOVER CONTRIBUTIONS TO THIS PLAN

To the extent permitted by the applicable provisions of the Code and regulations issued thereunder, a Participant may contribute to the Plan in cash as a Rollover Contribution a qualified rollover amount from a qualified plan under Code Section 401(a); an annuity plan under Code Section 403(a); an individual retirement account or annuity under Code Sections 408(a) or (b); or an annuity contract under Code Section 403(b); provided that the Plan Administrator or Agent, in its discretion, determines that the contribution satisfies all applicable requirements of the Code. A Rollover Contribution shall be allocated to the Rollover Contribution Account of the Participant as of the date of the contribution. The Participant's Rollover Contribution Account shall be available for distribution, under the Payout Options set forth in Provision 20.4, at any time at the direction of the Participant, subject to any applicable penalties or other distribution requirements under the Code.

19. TRANSFERS

To the extent permitted by the applicable provisions of the Code and regulations issued thereunder, a Participant may make a plan to plan transfer to this Plan from another qualified plan as provided in this Part. Such a transfer is permitted only if the other plan provides for the direct transfer of the Participant's interest therein to the Plan. The Plan Administrator or Agent may require in its sole discretion that the transfer be in cash or other property acceptable to the Plan Administrator or Agent. The Plan Administrator or Agent may require such documentation from the other plan as it deems necessary to effectuate the transfer and to confirm that the other plan is a qualified plan as defined in Section 401(a) of the Code. The amount so transferred shall be credited to the Participant's Transfer Contribution Account and shall be held, invested, accounted for, administered and otherwise treated in the same manner as a Rollover Contribution in Provision 18, subject to any applicable distribution requirements or limitations under the Code. Upon termination, if the Participating Employer requests a plan-to-plan transfer of Plan assets with respect to the Participating Employer's Employees who are Participants, the Master Trustee may in its discretion make the transfer.

20. ADMINISTRATION OF DISTRIBUTION PROCEDURES

20.1 Claim for Distribution

Any Distribution shall be paid only upon a completed and properly executed written claim made in a form acceptable to the Plan Sponsor that states under penalties of perjury all facts and authorizations necessary or appropriate to the Distribution, including but not limited to:

- if the Distribution is a Retirement Distribution, appropriate evidence that the Participant has a Severance-from-employment;
- if the Distribution is an Eligible Rollover Distribution, the Distributee's instruction as to whether the Distribution (or a portion of the Distribution) is to be paid directly to an Eligible Retirement Plan, and if any amount is to be paid directly to an Eligible Retirement Plan, the name and address of the trustee or issuer of that Eligible Retirement Plan together with any other information that the Plan Sponsor or Issuer reasonably requests pursuant to Treasury Reg. § 1.401(a)(31)-1, Q&A 6.
- if the Distribution is a Death Distribution, appropriate evidence of the Participant's death;
- if the Distribution is a Hardship Distribution, an appropriate certificate or evidence of the facts constituting the Participant's hardship;
- if the Participant has a designated Beneficiary, the date-of-birth of the Designated Beneficiary;
- if the Distribution is in the form of an Annuity Payout Option, the date-of-birth of any annuitant designated under the Annuity Payout Option;

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- whenever required by the Plan Sponsor, the date-of-birth of any person as relevant to the Distribution;
- if the Account consists of more than one Investment, the order in which any Investments are to be charged or liquidated to pay the Distribution;
- if the amount of the Distribution is greater than a uniform amount established by the Plan Sponsor, appropriate assurance (including a Signature Guarantee) that the Participant's or Beneficiary's signature is genuine; and
- any other evidence or information that the Plan Sponsor finds is relevant to administer a provision of the Plan in the particular circumstances.

Absent contrary evidence actually known to the Plan Sponsor, an appropriate death certificate or a court order stating that the Participant is found to be absent and presumed dead shall constitute appropriate evidence of the Participant's death.

If the Participant or Beneficiary fails to submit proper instructions, the Plan Sponsor may, at its discretion, deny the claim; or may determine which Plan Investment(s) and investment options are to be charged.

20.2 Time for Distribution

The Plan Sponsor may require for payment of any Distribution a minimum advance notice, uniformly determined and consistently applied. In addition to the above, no payment can be made before the Distribution commencement date.

20.3 Plan Sponsor to approve

Payments shall not begin until the Plan Sponsor has approved: the Distribution, and the claim for payment, and the Payout Option as satisfying the provisions of the Plan.

20.4 Payout Option

The election of a Payout Option by a Participant or a Beneficiary must be made no later than thirty (30) days before the commencement of such benefits. Subject to restrictions established by the Plan Sponsor, the Plan shall permit Payout Options in the form of lump sums. The Plan may also, but is not required to, provide for periodic payments of a fixed amount or fixed duration, or life contingent annuities.

20.5 Payor may rely on apparent entitlement

The Employer and the Plan Administrator and the Master Trustee and the Issuer and the Agent [a "payor"] are not liable for having made a payment under an unclear Beneficiary designation or Participation Agreement to a person not entitled to the payment, or for having taken or omitted any other action in good faith reliance on a person's apparent entitlement under the Plan, before the payor actually received written notice of a claimed lack of entitlement under this Plan.

Any payor of any Distribution is not liable for having made a payment or having transferred an item of property to a beneficiary designated in a beneficiary designation (or in a similar writing

reasonably believed to constitute a beneficiary designation) who is not entitled to the Distribution, or for having taken any other action in good faith reliance on the beneficiary's apparent entitlement under the terms of the beneficiary designation before the payor received written actual notice alleging that the beneficiary was not entitled to the Distribution.

20.6 Instruction to Issuer

Any Distribution is payable by or on behalf of the Custodian or Issuer only upon the Custodian's or Issuer's receipt in good order of the Plan Sponsor's approval of the Distributee's claim.

Except to the extent otherwise expressly provided by the Investment(s), any payment or Payout Option shall be determined as of the Valuation Date requested by the Participant or Beneficiary, or if later, as of the Valuation Date that next follows the Issuer's or Custodian's receipt in good order (within the meaning of the Investment(s) or applicable law) the approved claim.

20.7 Delay of payment

The Plan Sponsor, in its sole discretion, may delay payment of an approved Distribution:

- to receive any necessary information,
- to permit a valuation of the Account,
- to permit any necessary or appropriate liquidation of assets,
- if a dispute arises as to the proper payee (refer to Provision 20.8 below),
- if the Plan Sponsor has notice of a domestic relations case or petition that may involve the applicable Account,
- if the Plan Sponsor has notice of a bankruptcy case or petition that may involve the applicable Account,
- if the Plan Sponsor has notice of any legal proceeding or petition that may involve the applicable Account, or
- for any reason described elsewhere in this Plan, or
- for any other lawful purpose.

Without limiting the comprehensive effect of the above, to the extent that any Distribution requires a redemption or transfer of Fund shares, the Plan Sponsor shall delay the Distribution during any period: when the NYSE is closed other than for a weekend or a holiday, or when trading on the NYSE is restricted (as determined by the SEC), or when an emergency exists making disposal of a Fund's securities or valuation of a Fund's net assets not reasonably practicable, or when the SEC has required or permitted the suspension of redemptions or transfers by order, or during any period otherwise described by § 22(e)(1)-(3) of the *Investment Company Act of 1940*, as amended [15 U.S.C. § 80a-22(e)(1)-(3)].

If the Participant received an allocation of Employer Contributions for a period that included his or her absence under a federal or state *Family and Medical Leave Act*, the Plan Sponsor shall delay payment of any Distribution until the Plan Sponsor is satisfied that the Participant has returned to work from such absence or that the Participant will not or did not return to work from such absence.

20.8 Dispute as to proper recipient

If a dispute arises as to the proper recipient of any payment(s) under the Plan, the Plan Sponsor, in its sole discretion, may instruct the Issuer(s) to withhold payment until the dispute is determined by a court of competent jurisdiction or is settled by the parties concerned.

20.9 Doubt as to proper payee

If the Plan Sponsor determines that there is doubt as to the proper construction of the Plan with respect to determining the Beneficiary(s) or other proper payee(s) under the Plan, the Plan Sponsor shall construe the Plan to state provisions consistent with the Uniform Probate Code applied as though the interest under the Plan were an interest to a commercial annuity contract, to the extent that any such construction is not inconsistent with any requirement of IRC § 401(a).

20.10 Distribution to minor Beneficiary

If a Distribution is to be made to a minor Beneficiary, any payment(s) may, except to the extent prohibited by applicable law, be paid to a responsible person according to the following order:

- as instructed by an appropriate court,
- to the duly appointed and currently acting guardian or conservator of the Beneficiary,
- to the custodial parent of the Beneficiary,
- to a responsible adult with whom the Beneficiary maintains his or her residence,
- to a responsible adult who is a relative of the Beneficiary,
- to a custodian for the Beneficiary under the *Uniform Transfers to Minors Act* or *Uniform Gifts to Minors Act*,
- to the court having jurisdiction over the estate of the Beneficiary,
- to any person determined by the Plan Sponsor to be a proper recipient for the Beneficiary.

This payment shall be in full satisfaction of all claims. The Plan Sponsor has no duty to supervise or inquire into the application of any amount(s) so paid.

If at the time a Distribution begins the Beneficiary is a minor and the Plan Sponsor begins payments to another person under this Provision, the Plan Sponsor may continue all payments under the Distribution to the other person notwithstanding that the Beneficiary may have attained full age, unless the Beneficiary files a written claim according to all of the requirements of the Plan, including furnishing satisfactory evidence that he or she is of full age.

20.11 Distribution to incompetent Participant or Beneficiary

If a Distribution is to be made to a Participant or Beneficiary that the Plan Sponsor finds to be unable to manage property effectively for any reason including (but not limited to) mental illness, mental deficiency, physical illness, physical disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, or disappearance, any payment may be paid according to the terms of the applicable Investment(s) (if any) or according to applicable Investment Law (if any), or the Plan Sponsor may direct payment(s) according to the following order:

- as instructed by an appropriate court,
- to the duly appointed and currently acting legal guardian of the estate of the Participant or Beneficiary,
- to the duly appointed and currently acting conservator of the Participant or Beneficiary,
- to the duly appointed and currently acting attorney-in-fact under a durable power-of-attorney if the Plan Sponsor finds that the power-of-attorney provides sufficient power to authorize the attorney-in-fact to receive the Vested Account balance,
- to a responsible adult with whom the Participant or Beneficiary maintains his or her residence,
- to a responsible adult who is a relative of the Participant or Beneficiary,
- to any person determined by the Plan Sponsor to be a proper recipient for the Participant or Beneficiary,
- to the court having jurisdiction over the estate of the Participant or Beneficiary.

This payment shall be in full satisfaction of all claims. The Plan Sponsor has no duty to supervise or inquire into the application of any amount(s) so paid.

If at the time a Distribution begins the Participant or Beneficiary is an incompetent or incapacitated (as described above) and the Plan Sponsor begins payments to another person under this Provision, the Plan Sponsor may continue all payments under the Distribution to the other person notwithstanding that the Participant or Beneficiary may have become competent or may have been adjudicated as competent, unless the Participant or Beneficiary files a written claim according to all of the requirements of the Plan, including furnishing a satisfactory court order that he or she is competent to manage his or her Vested Account balance.

20.12 Inability to locate payee

If, at a time when a Distribution other than an Involuntary Distribution is required to be paid, the Distribution cannot be paid because the payee cannot be located upon reasonable efforts, which may include providing notice through certified mail to the last known mailing address, a review of plan and employment records and other publicly available records, attempted contact to a designated plan beneficiary, and a reasonable use of either a commercial locator service, a credit reporting agency, or a proprietary internet search tool for locating individuals, the Plan Sponsor

may (but is not required to) direct the Plan Administrator or the Agent to rollover the Vested Account balance into an eligible individual retirement plan, and such rollover shall discharge the Plan Sponsor's obligation to pay the Vested Account balance.

20.13 Payment to Personal Representative

Any payment (or delivery of property) to the duly appointed personal representative of the Participant shall, to the extent of the payment (or delivery of property), bar recovery by any other person or entity, including every Beneficiary, and shall, to the extent of the payment (or delivery of property), discharge any obligation under the Plan.

20.14 Disclaimer by Beneficiary

Any Beneficiary may renounce or disclaim all or any part of any Vested Account balance by filing a written irrevocable disclaimer not later than 31 days before the Distribution begins or any payment is otherwise to be made and before acceptance of any Vested Account balance. An acceptance may be express or may be inferred from actions or facts and circumstances, including (but not limited to) those actions described in the Uniform Probate Code as establishing an inference of acceptance. In addition to any requirements under State law, the disclaimer is not effective unless the disclaimer describes the Vested Account balance renounced, expressly declares the renunciation and the extent of it, expressly states the Beneficiary's belief upon reasonably diligent examination that no creditor of the Beneficiary (or, if the Beneficiary is an executor or trustee or guardian or other fiduciary, of any current or reasonably anticipated beneficiary of the estate or trustee or guardianship or other fiduciary relationship or entity) would be adversely affected by the disclaimer, expressly states that the disclaimer is irrevocable, is signed by the Beneficiary, meets all requirements of IRC § 2518 such that the disclaimer would be treated as effective for federal gift and estate tax purposes, and otherwise is made in a form that is acceptable to the Plan Sponsor. Notwithstanding any State law that would permit otherwise, if the Beneficiary is a minor or an incapacitated person, any disclaimer cannot have any effect regarding the Plan until the court having jurisdiction of the minor's or incapacitated person's estate authorizes the disclaimer after finding that it is advisable and will not materially prejudice the rights of any interested person. Any Vested Account balance disclaimed shall be payable as if the Beneficiary who submitted the disclaimer died before the Participant.

20.15 Receipt and release

Any Distribution or payment or any agreement to make a payment(s), or any transfer of Vested Account balance to another eligible vested Account balance plan, shall, to the extent of the Distribution or payment(s) or the agreement, be in full satisfaction of all claims. The Plan Sponsor, in its sole discretion, may require any Distributee or payee, as a condition precedent to making or causing to be made any payment(s) or agreement, to execute a receipt and release.

20.16 Coronavirus-Related Distribution

A Coronavirus-Related Distribution should follow the process in Provision 3.13.2.

21. PLAN SPONSOR AND PLAN ADMINISTRATOR

21.1 Plan Sponsor has full authority

The Plan Sponsor has full and complete authority and discretion to control and manage the operation of and shall decide all matters under the Plan. The Plan Sponsor has any and all powers as may be necessary or advisable to discharge its duties under the Plan, and has complete discretionary authority to decide all matters and questions under the Plan.

The Plan Sponsor, except for a Plan Sponsor under Open Architecture Investment, and Plan Administrator do not have any duties concerning the selection of Investments. A Plan Sponsor who has selected Open Architecture Investment shall have exclusive duties concerning the selection and oversight of Investments (investment options). The Plan Administrator and Master Trustees do not have any duties concerning the selection or oversight of Investments (investment options) under Open Architecture Investment.

21.2 Plan Sponsor must decide all matters

The Plan Sponsor must decide all matters under the Plan. The discretionary decisions of the Plan Sponsor are final, binding, and conclusive on all interested persons for all purposes.

Without limiting the comprehensive effect of the above, the Plan Sponsor's discretionary decisions may include, but shall not be limited to, any decision as to: whether a natural person is an Employee, whether an Employee belongs to a particular employment classification, whether an Employee is an Eligible Employee, the amount of a Participant's Benefit Compensation, the amount of Contributions to be made, whether an amount of Contributions exceeds the limits prescribed by the Plan, whether a court order shall be recognized, whether a Participant (or any other person) has established the presence or absence of a Spouse, whether a Payout Option is an Annuity Payout Option, whether a Participant has incurred a hardship, whether a Participant has a Severance-from-employment, whether a Beneficiary Designation is valid or effective, who is the proper Beneficiary, whether a Participant or Beneficiary is a minor or is of full age, whether a Participant or Beneficiary is an incompetent, the person who is a proper recipient for a Participant or Beneficiary who is a minor or an incompetent, whether any power-of-attorney is effective and acceptable to act with respect to the Plan, whether a Signature Guarantee is required, whether a Signature Guarantee is acceptable for any purpose under the Plan.

21.3 Determinations to be uniformly made

To the extent required by the Enabling Statute, any determination or decision required or permitted to be made for the purposes of the Plan by the Plan Sponsor shall be uniformly and consistently made according to reasonable procedures established and maintained by the Plan Sponsor.

21.4 Plan Administrator is responsible

The Plan Administrator is responsible for performing all duties agreed to regarding the operation of the Plan, and is responsible for supervising the performance of every other person that may assist in the performance of the Plan Administrator's responsibilities. The Plan Administrator does not have the authority or discretion to perform activities or decide any matter or question not provided for under the Plan, such as, but not limited to, forfeiture of retirement benefits

determinations under Section 112.3173, Florida Statutes, and any such activities or decisions shall be the sole responsibility of the Plan Sponsor.

21.5 Information from Employer

To enable the Plan Administrator to perform its responsibilities, the Employer(s) shall promptly provide to the Plan Administrator complete and accurate information on any matter under the Plan. The Plan Administrator shall rely upon this information as supplied by the Employer, and shall have no duty or responsibility to verify this information.

21.6 Plan Administrator may delegate or contract

Except as prohibited by the Enabling Statute or other State law, the Plan Administrator may, except when expressly prohibited by this Plan, delegate any of its duties to any Employer, or to any officers, employees, or agents of any kind. Except as prohibited by the Enabling Statute or other State or local law, the Plan Administrator may, except when expressly prohibited by this Plan, contract any of its duties to the Agent, a Service Provider, or otherwise.

21.7 Plan services

The Plan Administrator may contract with any person or entity to provide services to assist in the administration of the Plan. The Plan Administrator must make such contracts in compliance with the Enabling Statute and other applicable State and local law.

Any person other than the Plan Administrator who performs services regarding the Plan (including but not limited to the Agent) is subject to the supervision and direction of the Plan Administrator, and does not have authority to control the operation of the Plan.

Any person other than the Plan Administrator who performs services regarding the Plan (including but not limited to the Agent) is entitled to rely upon any direction, instruction, information, or action (or failure to act) of the Plan Sponsor or Plan Administrator as being proper under this Plan, and is not required to inquire into the propriety or correctness of any such direction, instruction, information, or action.

21.8 Plan Sponsor official may not decide personal benefit

An individual shall recuse himself or herself from and shall take no part in any Plan Sponsor determination or decision specifically relating to his or her own participation or Benefit, unless his or her abstention would render the Plan Sponsor committee or organization incapable of acting on the matter.

22. GENERAL PROVISIONS

22.1 Anti-alienation

In addition to (and not by limitation upon) the provisions of the Plan and any provision of applicable law, any benefit or interest available under the Plan, or any right to receive or instruct payments under the Plan, or any Distribution or payment made under the Plan shall not be subject to assignment, alienation, garnishment, attachment, transfer, anticipation, sale, mortgage, pledge, hypothecation, commutation, execution, or levy, whether by the voluntary or involuntary act of any interested person under the Plan, except for an interest which becomes payable pursuant to a

Qualified Domestic Relations Order (or a domestic relations order that was entered before January 1, 1985). However, the preceding sentence shall not be construed to preclude the payment of any Fees or expenses (including taxes) of the Issuer(s) or the Master Trust.

22.2 Audit

The Plan Sponsor may engage a public accountant to audit or review the financial statements or internal-control procedures with respect to the Plan, and any fees paid or incurred for such audit or review and related accounting and auditing services may be an expense charged to all Participants' Accounts in an equitable manner determined by the Plan Sponsor.

22.3 Claims procedure

By the terms of the Plan, the claimant (or other aggrieved person) shall not be entitled to take any legal action (including but not limited to instituting any arbitration procedure) or otherwise seek to enforce a claim to benefits or rights under the Plan until he or she or it has exhausted all claims and appeals procedures provided by the Plan.

In considering claims under the Plan, the Plan Sponsor has full power and discretionary authority to construe and interpret the provisions of the Plan, and of any law governing or applying to or relating to the Plan.

Notwithstanding any statement to the contrary in any collective bargaining agreement, any determination under or arising out of the Plan is not subject to any arbitration procedure of any kind.

22.4 Exclusive benefit

The Plan is established for the exclusive benefit of the Participants and their Beneficiaries. Except as otherwise provided by the Plan, or otherwise permitted by IRC § 401(a)(2), no amounts held under the Plan shall ever inure to the benefit of the Employer or any successor. All amounts held under the Plan shall be held for the exclusive purpose of providing Benefits to the Plan's Participants and their Beneficiaries and for defraying reasonable expenses to the Plan.

22.5 Expenses

Upon the Plan Sponsor's written instruction, the Plan Sponsor (or any party acting for it) shall be reimbursed from the Plan assets for any reasonable expense (including attorneys' or counsels' fees) incurred in performing services with respect to the Plan. Except as otherwise provided or permitted by the Plan, the reimbursement shall be effected by deducting a charge against all Accounts according to an equitable method determined by the Plan Sponsor.

If the Internal Revenue Service [IRS] determines, and the determination is not contested, or if contested, is finally upheld (or otherwise finally determined), or if a final court order (that is not appealed) decides that any payment of expenses is a violation of IRC § 401(a)(2), the Plan Sponsor shall pay full restoration into the Plan to the extent of the improperly paid expense (including fair interest from the date the expense was improperly paid to the date that restoration is made).

22.6 Custodian responsibility

The Custodian (if any) shall act solely according to the provisions of the Master Trust Agreement, and the Custodian has no duty of any kind to read or have any knowledge of the Plan.

22.7 Governing law

The Plan, and actions under or with respect to the Plan, and the statute of limitations for such actions (refer to Provision 22.23 [statute of limitations]) shall be governed by and enforced by the laws of the State of Florida and shall be construed, to the extent that any construction beyond the written provisions of the Plan (including Part 26 [construction]) is necessary, according to the laws of the State of Florida except to the extent pre-empted by federal law.

22.8 IRS Levy

Notwithstanding any other provision of the Plan, the Plan Sponsor may pay to the IRS from a Participant's (or Beneficiary's) Account the amount(s) that the Plan Sponsor determines is demanded under a levy issued by the IRS with respect to that Participant (or Beneficiary) or is sought to be collected by the United States under a judgment resulting from an unpaid tax assessment against the Participant (or Beneficiary).

22.9 Litigation

If the Participant or a Beneficiary or the Participant's Spouse (or putative spouse) or any other person claiming through the Participant or a Beneficiary brings any kind of legal action or proceeding regarding the Plan against the Plan Sponsor or any Participating Employer or the Plan Administrator or the Master Trustee or any Agent or any Service Provider or any Custodian, or any shareholder or member, any director or trustee, officer, employee, or agent of any of them [each an "indemnified party"] is brought by a Participant or Beneficiary or Spouse or by a person or entity claiming through a Participant or Beneficiary or Spouse, and the legal action or proceeding is resolved in favor of the indemnified party, each party participating in or contributing to the defense of the legal action or proceeding shall be entitled to be reimbursed from the Participant's Account for any and all actual fees of lawyers and legal assistants and other expenses reasonably paid or incurred in the defense of the legal action or proceeding.

If the amount(s) of the litigation expense is greater than the amount of the Participant's Account, the full Account must be paid to the indemnified party(s), and any obligation to that Participant and his or her Beneficiary(s) is then completely discharged.

If there is more than one indemnified party entitled to a reimbursement of litigation expense and the total amounts of litigation expense are greater than the amount of the Participant's Account, each indemnified party shall be paid a pro rata portion of the Participant's total Account, and each portion shall be determined by applying to the Participant's Account the percentage that is the ratio of the indemnified party's litigation expense to the litigation expense of all indemnified parties.

However, nothing in this Provision shall diminish or impair any indemnified party's claim at law or in equity for further indemnification or contribution from the Participant (or Beneficiary).

22.10 Mistaken contributions

If any Contribution (or any portion of a Contribution) is made by the Employer by a good faith mistake of fact, upon receipt in good order (within the meaning of the Investment(s) or applicable law) of a proper request by the Plan Sponsor or by the Participant to the extent required or permitted by the Investment(s), the Custodian or the Issuer(s) shall, to the extent permitted by the Investment(s), return the amount of the mistaken Contribution(s), except as limited below, to the Employer or to the extent required or permitted by the Investment(s) directly to the Participant to the extent of any mistaken Employee Contribution(s). The Participant's exercise of a "free look" or right-to-return or similar cancellation provision under applicable Investment Law is deemed to cause a Contribution to be by a good faith mistake of fact. A return of a mistaken Contribution shall not be demanded or made if the return will not be made within 1 year from the date of the mistaken payment of the Contribution. Upon any return of a mistaken Contribution, earnings attributable to the mistaken Contribution shall not be returned and losses attributable to the mistaken Contribution shall reduce the amount to be returned. If the return of any amount of mistaken Contribution would cause the Participant's Vested Account balance to be reduced to less than the Vested Account balance would be if the mistaken Contribution had not been contributed, then the amount to be returned to the Employer shall be limited to the extent needed so that any such reduction of the Participant's Vested Account balance shall not occur.

22.11 Necessary information

The Participant (or Beneficiary) shall provide upon any request of the Plan Sponsor or of the Agent or of the Custodian or any Issuer any information that may be needed for the proper and lawful operation and administration of the Plan; including but not limited to, his or her or its full legal name, his or her or its Social Security Number [SSN] or other Taxpayer Identification Number [TIN], his or her or its current address and the current address of his or her or its Spouse and of any Beneficiary(s), evidence of his or her age, evidence of his or her marital status. The Participant shall promptly respond to and fully answer any reasonable inquiry related to these purposes. A failure to provide any information described above or which otherwise may be necessary or appropriate for the lawful operation of the Plan may result in a delay of eligibility for participation, in a delay of the payment of Contributions, or in a delay or refusal by the Plan Sponsor, in its discretion, to authorize or permit any payment to be made.

The Plan Sponsor or Plan Administrator (and any party acting for it) shall have the right to rely on any information or representation given by any Participant or Beneficiary or other party interested in the Plan. The Plan Sponsor or Plan Administrator shall have no duty to inquire into the accuracy or adequacy or truth of any such information or representation. Any such representation shall be binding upon any party seeking to claim a Benefit through the Participant.

22.12 No contract of employment

Under no circumstances shall the Plan constitute a contract of employment or modify a contract of employment or in any way obligate the Employer to continue the services of any Employee.

22.13 No right other than provided by Plan

The establishment of the Plan and the purchase of any Investment(s) under the Plan shall not be construed as giving to any Participant or Beneficiary or any other person any legal or equitable

right against the Employer or the Plan Sponsor or the Plan Administrator or the Master Trust or their representatives, except as is expressly provided by the Plan.

22.14 Notices

Each Participant or Beneficiary shall be responsible for furnishing the Plan Sponsor (and the Agent and the applicable Issuer(s)) with his or her or its current address at all times. Any notice required or permitted to be given under the Plan shall be deemed given if directed to the proper person at the current address in any Plan (or Investment) record and mailed or otherwise delivered to that address. This Provision shall be construed and applied consistently. This Provision shall not be construed to require the mailing or delivery of any notice otherwise permitted to be given by posting or by publication.

22.15 Plan is binding

The Plan, and all acts and decisions taken under it, is binding and conclusive, for all purposes, upon all interested persons, and upon the heirs, executors, administrators, successors and assigns of any and all such persons.

The Plan shall not affect contracts or other dealings with a person who is not an interested person, unless a written agreement executed by that person expressly so provides.

22.16 Power-of-attorney

A power-of-attorney cannot be effective for any purpose with respect to the Plan unless the Plan Sponsor determines that the power-of-attorney is acceptable.

The Plan Sponsor shall not accept a power-of-attorney until the Plan Sponsor determines that the power-of-attorney appears on its face to meet all of the following requirements:

- The power-of-attorney was made in a form and manner that is legally enforceable under applicable law.
- The power-of-attorney indemnifies the Plan Sponsor and the Agent and every person who may rely on the power-of-attorney against any liability that may arise out of the Plan Sponsor's acceptance of the power-of-attorney or any person's acts or omissions in reliance upon the power-of-attorney, even if revoked (including revocation by reason of the maker's death).
- The power-of-attorney expressly refers to this Plan with sufficient clarity so that the Plan Sponsor, in its sole discretion, believes that there is no confusion or ambiguity concerning whether an express power to act regarding this Plan was intended.
- The power-of-attorney unambiguously provides one or more powers to act regarding this Plan.
- The power-of-attorney meets any further requirements stated below in this Provision or otherwise under the Plan, and meets any other requirements reasonably requested by the Plan Sponsor.

Without limiting the comprehensive effect of the above, any power-of-attorney, including even a general power-of-attorney, cannot be effective to make or change the Participant's Beneficiary designation under the Plan unless the document, in the Plan Sponsor's sole opinion, expressly grants power to make or change Beneficiary designations under this Plan and refers to this Plan with sufficient clarity so that the Plan Sponsor, in its sole discretion, believes that there is no confusion or ambiguity concerning whether an express power to act regarding Beneficiary designations under this Plan was intended.

Without limiting the comprehensive effect of the above, any power-of-attorney, including even a general power-of-attorney, cannot be effective to exercise any right or privilege of investment direction under the Plan unless the document, in the sole opinion of the person that is requested to give effect to an investment instruction, expressly grants power to act regarding investment direction under this Plan and expresses the principal's (Participant's or Beneficiary's or Alternate Payee's) knowledge as to whether the attorney-in-fact is or is not a Registered Investment Adviser and refers to this Plan with sufficient clarity so that the Issuer determines that there is no confusion or ambiguity concerning whether an express power to act regarding investment direction under this Plan was intended. For the purpose of the preceding sentence, an investment advisory agreement that conforms to the disclosure and investment advisory contract requirements of § 204 and § 205 of the federal *Investment Advisers Act of 1940*, as amended [15 U.S.C. § 80b-4, 15 U.S.C. § 80b-5] is deemed to constitute an acceptable power-of-attorney if it refers to the Plan or to the Investment held for the Participant's Plan Account.

22.17 Protection of Issuers

Any Issuer shall not be liable or imprudent in acting according to any direction, if in writing or otherwise reasonably believed to be genuine, of its contract owner or the Plan Sponsor or any other authorized person, and shall not be required to question (unless otherwise provided by the applicable Investment) any action so directed by any of them. However, the Issuer shall not be required to take or permit any action or allow any benefit or privilege contrary to the provisions of any Investment.

22.18 Release

Any payment or any agreement to make payments under a Payout Option selected by the proper payee, shall, to the extent of the payment(s) or agreement, be in full satisfaction of all claims. The Plan Sponsor may require any person, as a condition precedent to making or causing to be made any payment, or agreement for a Payout Option, to execute a receipt and release. If a dispute arises as to the proper payee of any payment(s), the Plan Sponsor, in its sole discretion, may withhold or cause to be withheld any payment(s) until the dispute shall have been determined by a court of competent jurisdiction or shall have been settled by all the parties concerned.

22.19 Service of legal process

Requests for information, claims or demands, legal process, and court orders are properly delivered when delivered to the Plan Sponsor at the address stated in the Adoption Agreement.

22.20 Severability

If a court finds that any provision of the Plan is invalid, the Plan shall be construed and enforced as if the invalid provision was not a provision of the Plan, unless the court finds that such a

construction of the Plan would be clearly contrary to the intent of the Plan or would be contrary to IRC § 401(a) or would violate the Enabling Statute.

22.21 Signature

If a Participant or Beneficiary (or other person claiming through a Participant or Beneficiary) must submit any writing of any kind required or permitted under the Plan, the maker's signature must be complete and formal. However, if a Participant or Beneficiary has a disability that precludes him or her from making a complete and formal signature, a writing is signed if it bears or includes or incorporates any symbol executed or adopted by the maker with a present intention to authenticate the writing, or it is otherwise demonstrated to the satisfaction of the Plan Sponsor that the maker had (at the relevant time) a present intention to adopt the writing.

22.22 Signature Guarantee

In addition to (and not by limitation of) any other provision of the Plan, for any claim or instruction of any kind the Plan Sponsor may require the person submitting the claim or instruction to include on the written claim or instruction a Signature Guarantee when required under a uniform written procedure of the Plan Sponsor.

22.22.1 Signatures and broad acceptance of writings

An instruction (but not a claim for any kind of Distribution) is considered to be written or in writing and signed according to the following broad provisions, except as otherwise specified by a uniform written procedure adopted by the Plan Sponsor.

"Written" or "writing" or "in writing" includes any intentional reduction to tangible form. Without limiting the comprehensive effect of the first sentence of this paragraph, any of the following is a writing and all of the following rules of construction apply in determining what is a writing and who made the writing. "Written" or "writing" or "in writing" includes handwriting, typewriting, printing. "Writing" includes any copy or reproduction, including (but not limited to) a photocopy, of an original writing. "Writing" includes a telefacsimile transmission. "Writing" includes a videotape or audiotape recording, including a recording of a telephone conversation; and a person's commencement or continuation of a conversation after the person is informed that the conversation is or may be recorded shall be deemed such person's intent to reduce the conversation to writing. Anything that is the subject of a written confirmation is deemed to be in writing. "Writing" or "written" includes anything that is recognized as such by the *Restatement of Contracts* or the *Uniform Commercial Code* as then-currently published or adopted by the American Law Institute or the National Conference of Commissioners on Uniform State Laws. "Writing" or "written" includes anything that is recognized as such under § 2(9) of the federal *Securities Act of 1933*, as amended [15 U.S.C. § 77b(9)] or any rule or regulation thereunder. A writing made by a person who appears to be an agent or attorney-in-fact is the writing of the apparent principal, unless the Plan Sponsor has actual knowledge that no agency exists. The Plan Sponsor in its sole discretion may construe any writing(s), and may combine separate writings, including writings that are not contemporaneous, so as to establish one integrated writing or instruction.

"Signed" or "signature" includes any symbol executed or adopted by a person with present intention to authenticate a writing. Without limiting the comprehensive effect of the first sentence of this paragraph, any of the following is a signature and all of the following rules of construction

apply in determining what is a signature and who signed. Authentication may be handwritten, typed, printed, stamped, or otherwise written. A signature need not consist of the person's legal name. A signature need not consist of the person's entire name. A signature may be on any part of a writing (except as expressly limited below). A person who fills-out a form in his or her own handwriting or typewriting has signed that form or writing. Anything that is the subject of a written confirmation is deemed to be signed if the recipient of the confirmation does not promptly object to the confirmation. For a conversation, a person's use of his or her voice is a signature. For a conversation, a person's compliance with the authentication procedure specified by the Plan Sponsor or its agent is a signature. "Signed" or "signature" includes anything that is recognized as such for any purposes by the *Restatement of Contracts* or the *Uniform Commercial Code* as then-currently published or adopted by the American Law Institute or the National Conference of Commissioners on Uniform State Laws. A signature need not be contemporaneous to the writing that it authenticates. A signature made by a person who appears to be an agent or attorney-in-fact is the signature of the apparent principal, unless the Plan Sponsor has actual knowledge that no agency exists. A writing that includes a forgery at the place where a signature customarily would be made is not signed by any person other than the forger.

Upon receiving anything that appears to be a writing, or anything that appears to be a signature or signed, the Plan Sponsor or Plan Administrator shall not be liable or responsible to anyone to the extent that it acted without actual knowledge that the writing was false or that the signature was a forgery.

22.23 Statute of limitations

As to any action at law or in equity under or with respect to this Plan (other than as described by the other sentence of this paragraph), the action shall be governed by (or precluded by) the relevant statute of limitations or statute of repose for actions upon a written contract according to the internal laws (without regard to the law of conflicts) of the State of Florida. For any dispute that was resolved by arbitration, to the extent that the statute of limitations or statute of repose relating to any arbitration proceeding or arbitration award is not governed by the federal *Arbitration Act*, any arbitration proceeding or arbitration award or any other matter relating to arbitration shall be governed by the internal laws (without regard to the law of conflicts) of the State in which the arbitration was conducted.

22.24 Uniformity

To the extent required by applicable State law, provisions of the Plan shall be construed and applied in a uniform or non-discriminatory manner.

22.25 Venue

If any person, including, without limitation, any Participant or Beneficiary or Alternate Payee or Distributee (or any person claiming through a Participant or Beneficiary or Alternate Payee or Distributee) brings or maintains any suit or action (other than as described by the other sentence of this paragraph) against the Plan Administrator or the Master Trustee or to which the Plan Administrator or the Master Trustee is or becomes a party, each such person hereby submits to exclusive jurisdiction and exclusive venue in the courts sitting in Leon County, Florida or in which the Plan Administrator has its principal place of business. However, any suit or action upon an arbitration award or relating to an arbitration shall be governed by the internal laws (without regard

to the law of conflicts) of the State in which the arbitration was conducted, and each such person who is or was a party to an arbitration hereby submits to exclusive jurisdiction and exclusive venue in the courts sitting in and for the district in which the city or place of the arbitration is located.

22.26 Privacy

The Participating Employer may (but is not required to) take reasonable steps to protect Participants' privacy concerning participation under the Plan.

However, the Participating Employer and the Plan Administrator and any Agent and any Service Provider (and any other person acting for or at the request of any of them) may disclose information concerning the Participant's (or Beneficiary's) Account:

- when requested by the attorney-in-fact who is currently acting under a power-of-attorney that was accepted by the Plan Sponsor under Provision 22.16.
- when required by any court order or legal process.
- without a court order or legal process when reasonably requested by the IRS or the SEC or the NASD.
- when reasonably requested by a public accountant engaged by the Plan Administrator or by the Participating Employer or by the Master Trustee or by an Agent or by an Issuer.
- when, in the course of any proceeding relating to divorce, separation, or child support, an attorney-at-law states in writing that he or she represents the Participant's (or, after the Participant's death, the Beneficiary's) spouse or former spouse or child and that the information is reasonably related to such proceeding.
- when, in the course of the administration of any estate or succession, the Personal Representative (or an attorney-at-law who represents the Personal Representative) states in writing that he or she or it needs the requested information for the purpose of preparing a return of any estate tax, transfer tax, gift tax, inheritance tax, death tax, or similar tax, whether of the United States or any State or any foreign nation.

If a person presents himself or herself as an attorney-at-law and states that he or she has authority to act for a person or entity, the Plan Sponsor, Plan Administrator and the Agent shall be entitled without inquiry to assume, unless it has actual knowledge to the contrary, that the person so presenting himself or herself has the authority stated.

22.27 Translations

This Plan or any part of it may be translated (at the sole discretion of the Plan Sponsor) into or summarized in another language(s) for the convenience of certain Employees. However, the original English language text of the Plan shall control, and the translation of the Plan has no effect in the construction of the Plan.

22.28 Unclaimed property

For the purposes of any unclaimed property statute, if a Distribution has not commenced, any Vested Account balance does not become distributable until such time as a Distribution is mandatory under the terms of the Plan.

23. AMENDMENT

23.1 Master Trustee's right to amend the Plan

The Master Trustee has the right to amend the Plan at any time.

Any Participating Employer has the right to discontinue the Plan at any time, except as otherwise expressly provided by a collective bargaining agreement that is enforceable under 29 U.S.C. § 151 et seq. [the National Labor Relations Act].

Any amendment of the Plan has no effect on the Master Trust Agreement. The Plan Sponsor may not amend the Basic Plan Document in any way.

23.2 Exclusive benefit remains

Any amendment or termination of the Plan shall not be effective to the extent that the amendment has the effect of causing any Plan assets to be diverted to or inure to the benefit of the Plan Sponsor or any Employer, or to be used for any purpose other than providing Benefits to Participants and Beneficiaries and defraying reasonable expenses of administering the Plan.

23.3 Retroactive effect

Any amendment of the Plan may be given immediate or retroactive effect to the extent determined by the Master Trustee; provided that such immediate or retroactive effect is permitted under the Code.

24. TERMINATION

24.1 Plan Termination by Participating Employer

A Participating Employer may terminate its participation in the Plan, including but not limited to, its contribution requirements, if it takes the following actions:

- a) The Governing Authority of the Participating Employer must adopt an ordinance or resolution terminating its participation in the Plan.
- b) The ordinance or resolution must specify when the Plan will be closed to any additional participation by Eligible Employees, which must be a date at least sixty (60) days after the adoption of the ordinance or resolution.
- c) The ordinance or resolution must be submitted to the Master Trustees, or its designee.

The Master Trustees, or its designee, shall determine whether the ordinance or resolution complies with this provision, and all applicable federal and state laws, and shall determine an appropriate effective date for the termination of Employer participation, which shall be no later than twelve (12) months from the Master Trustee's receipt of the ordinance or resolution. The Plan Administrator shall provide appropriate forms to the Participating Employer to terminate ongoing participation. Distributions under the Plan of existing accounts to the Participants and

Beneficiaries affected by the termination are subject to the distribution provisions in this document.

24.2 Discontinuance of Contributions

At the discretion of the Master Trustees, a Participating Employer who fails to make contributions for a period of one (1) year or who fails to make timely contributions over a period of one (1) year shall be considered to have terminated participation in the Plan.

24.3 Effect of Termination by Participating Employer

In the case of the complete or partial termination of the Plan as to one (1) or more Participating Employers, including a termination arising from the discontinuance and/or delinquency of contributions, the affected portion of the Master Trust shall continue to be held pursuant to the direction of the Master Trustees, for the benefit of affected Participants pursuant to the benefit provisions of this Plan. The Plan shall remain in full effect with respect to each Participating Employer that does not terminate its participation in the Plan on behalf of its Employees, or whose participation is not terminated by the Master Trustees.

24.4 Termination of Entire Plan

This Plan in its entirety may be terminated at any time by official action of the Master Trustees, with notice to all Participating Employers and Participants. The last date for contributions and earnings to be credited to Participants Accounts must be specified in the Master Trustees official action and must be no sooner than ninety (90) days after the adoption of the official action. All actions associated with the termination of the Plan, including a final accounting, must be completed within twelve (12) months after the adoption of official action. In the event of a complete Plan termination, the Master Trustees must take all steps reasonable to avoid a distribution to the Participants and Beneficiaries, except pursuant to benefit options under the provisions of this Plan, including identifying successor plan(s). However, if distributions must be made, the Plan Administrator shall be responsible for directing distribution of all assets of the Master Trust to Participants and Beneficiaries.

25. PLAN LOANS

25.1 Loans.

If specifically allowed by the Plan Sponsor in the Adoption Agreement, a Participant who is an Employee may apply for and receive a loan from his or her Vested Account as provided in this Part. Any such loan may not be for an amount less than the minimum amount specified herein. No Participant may have more than two outstanding loans at a time, but may be limited by the Plan Sponsor to one outstanding loan at a time, as specified in the Adoption Agreement. All loans must

be evidenced by a legally enforceable agreement, the terms of which comply with the requirements of this Part 25. The Agent may perform the duties described in this Part 25.

25.2 Maximum Loan Amount.

No loan to a Participant hereunder may exceed the lesser of:

(1) Fifty Thousand Dollars (\$50,000), reduced by the greater of (i) the outstanding balance on any loan from the Plan to the Participant on the date the loan is made or (ii) the highest outstanding balance on loans from the Plan to the Participant during the one-year period ending on the day before the date the loan is approved by the Plan Sponsor (not taking into account any payments made during such one-year period), or

(2) one-half (1/2) or a lesser percentage as determined by the Plan Sponsor of the value of the Participant's Vested Account (as of the valuation date immediately preceding the date on which such loan is approved by the Plan Sponsor).

For purposes of this Provision, any loan from any other qualified retirement plan, as defined by IRC § 72(p)(4)(A) and (B), maintained by the Employer or a related employer shall be treated as if it were a loan made from the Plan, and the Participant's vested interest under any such other plan shall be considered a vested interest under this Plan; provided, however, that the provisions of this paragraph shall not be applied so as to allow the amount of a loan under this Provision to exceed the amount that would otherwise be permitted in the absence of this paragraph.

25.3 Terms of Loan. The terms of the loan shall:

(1) require level amortization with payments not less frequently than quarterly throughout the repayment period, except that alternative arrangements for repayment may apply in the event that the borrower is on an bona fide unpaid leave of absence for a period not to exceed one year for leaves other than a qualified military leave within the meaning of IRC § 414(u) or for the duration of a leave which is due to qualified military service;

(2) require that the loan be repaid within five (5) years; and

(3) provide for a reasonable interest rate established by the Plan Administrator in accordance with the applicable law.

25.4 Security for Loan; Default.

(a) **Security.** Any loan to a Participant under the Plan shall be secured by the pledge of the portion of the Participant's interest in the Plan invested in such loan.

(b) **Default.** In the event that a Participant fails to make a loan payment under this Provision when such payment is due, the Participant will have the opportunity to make missed repayments during a cure period (the end of the calendar quarter following the calendar quarter in which the loan was last current). If the Participant fails to make missed payments by the end of the applicable cure period, the Participant's loan will be in default, and the outstanding balance of

the Participant's loan, including interest, will be treated as a deemed distribution and reported as taxable income as of the end of the cure period. The amount of the deemed distribution will continue to be treated as if it is an outstanding loan, and interest will continue to accrue on the balance. As a result, the deemed distribution will count against the Participant's available number of outstanding loans under the Plan and will reduce any amount available for future loans. After the deemed distribution has been reported as taxable income, the Participant may choose to repay the deemed amount plus applicable interest, on an after-tax basis.

If the Participant has a Severance from employment with an outstanding loan balance, the Participant is required to repay the loan in full. If the Participant fails to repay the loan as of the end of the applicable cure period, the Participant's outstanding loan balance will be treated as a deemed distribution and reported as taxable income as of the end of the cure period. If the Participant takes a distribution from the Plan after Severance from employment and while the Participant still has an outstanding loan balance that has not been reported as a deemed distribution, the Participant's distribution from the Plan will be reduced by the amount of the loan, and this amount will be reported as taxable income.

Notwithstanding anything elsewhere in the Plan to the contrary, in the event a loan is outstanding hereunder on the date of a Participant's death, any outstanding loan balance is due and payable at the end of the cure period. If the loan is not repaid by the end of the cure period, or a distribution is made to the Participant's Beneficiary(ies) before the end of the cure period, the outstanding loan balance will be offset against the Participant's Account, and the Beneficiary will receive the net Account balance as the death benefit.

25.5 Repayment.

Repayment of a loan may be made by payroll deduction, by direct payment to the Plan, or such other means as the Plan Administrator may permit. The Participant may be required, as a condition to receiving a loan, to enter into an irrevocable agreement authorizing the Employer to make payroll deductions from his or her compensation as long as the Participant is an Employee and to transfer such payroll deduction amounts to the Master Trustees in payment of such loan plus interest. Repayments of a loan shall be made in equal installments (comprised of both principal and interest) each due date, with the first such repayment to be made as soon as practicable after the loan funds are disbursed; provided, however, that a Participant may prepay the entire outstanding balance of his or her loan at any time; and provided, further, that if any payroll deductions cannot be made in full because a Participant is on an unpaid leave of absence or the Participant's paycheck is insufficient for any other reason, the Participant shall pay directly to the Plan the full amount that would have been deducted from the Participant's paycheck.

25.6 Special Relief for Loans.

Notwithstanding any other provisions of this Part, the Plan Administrator may observe the terms of any Internal Revenue Service guidance or Act of Congress regarding plan loans, which guidance or Act was issued or enacted in response to a natural disaster.

26. CONSTRUCTION

26.1 Construction

The provisions of this Part govern the construction or interpretation of this Plan. These rules of construction and interpretation shall apply for all provisions, and shall supersede any other construction or interpretation rules.

26.2 Construction as a qualified plan

The Plan is established and maintained with the intent that the Plan always be a qualified governmental plan within the meaning of IRC §§ 401(a) and 414(d) and conform to the Internal Revenue Code's requirements for treatment or recognition as such a plan. Therefore, the provisions of the Plan shall be interpreted whenever possible to state provisions that conform to the applicable requirements of the Internal Revenue Code. When the Internal Revenue Code is amended or interpreted through subsequent legislation or regulations or other guidance of general applicability, the Plan should be construed as stating provisions consistent with such amendment or interpretation of the applicable law.

26.3 Construction with Enabling Statute

The Plan is established and maintained with the intent that the Plan conform to the applicable requirements of the Enabling Statute. The provisions of the Plan shall be interpreted whenever possible to state provisions that conform to the applicable requirements of the Enabling Statute. When the Enabling Statute is amended or interpreted through subsequent legislation or regulations, the Plan should be construed as stating provisions consistent with such amendment or interpretation of the applicable law.

26.4 Construction of statutes and regulations

Any reference to a Section of the Internal Revenue Code shall be construed to also refer to any successor provision. Any reference to a Section of Treasury Regulations shall be construed to also refer to any successor provision of such regulations. Any reference to a Revenue Ruling or Revenue Procedure or IRS Notice or IRS Announcement shall be construed to also refer to any guidance of general applicability that extends, amplifies, or modifies the Revenue Ruling or Revenue Procedure or IRS Notice or IRS Announcement.

The Plan refers to relevant regulations, including (but not limited to) Treasury regulations under the Internal Revenue Code, without regard to whether the regulations are substantive or interpretive and without regard to whether the regulations are proposed or temporary or final; but it is intended that any provision that refers to a regulation shall be construed to refer to the regulation in the sense of the appropriate legal effect (under administrative procedure law and otherwise) that the regulation currently has at the time the construction is made.

To the extent that a provision states a duty owed to any government (rather than a duty to a Participant or Beneficiary or other person or entity having an interest under the Plan), the provision shall be construed as directory and shall be enforced only by the government.

However, a provision that is necessary for the Plan to meet the requirements of a qualified plan within the meaning of IRC § 401(a) includes a duty owed to Participants and Beneficiaries and is not directory.

To the extent that a construction or interpretation of the Plan involves a construction of a statute or regulation, the Plan Sponsor may (but is not required to) construe the statute or regulation according to the *Uniform Statutory Construction Act*.

26.5 Investment Law

Whenever, after applying the specific construction rules of any Definition or Provision or Part and the general construction rules stated in this Part, the Plan may be susceptible to more than one construction or interpretation, a construction or interpretation that is consistent with or that is not inconsistent with applicable Investment Law is preferred over a construction or interpretation that is inconsistent with applicable Investment Law.

26.6 Construction of words and phrases

The headings and numbering of provisions in the Plan and text that is stated within brackets, excluding text in parenthesis are included solely for convenience of reference and are not intended to limit or amplify or control the meaning or interpretation or construction of any provision of this Plan.

The phrase "under the Plan" or "under this Plan" refers to the entire Plan (and any Master Trust Agreement) as a whole and not merely to any part of any document or Provision in which the phrase appears. Any reference to a Part of the Plan refers to the whole Part. Any reference to a Definition or Provision of the Plan refers to the whole Definition or Provision, unless the reference specifies a particular portion or paragraph of the Provision.

The singular shall be construed to include the plural, unless the context clearly indicates otherwise.

The words "as" or "if" shall be construed to mean the phrase, "to the extent that", as appropriate in the context.

Any reference to the Plan Administrator shall be construed to refer also to the Agent and the Issuer(s) and any other party acting for or at the instruction of the Plan Administrator.

Unless the provision states otherwise, any reference to a person or party shall be construed to refer also to any non-natural person or any entity (including but not limited to, any trust or estate).

To the extent that a provision states a duty owed to any government (rather than a duty to a Participant or Beneficiary or other person or entity having an interest under the Plan), the provision shall be construed as directory and shall be enforced only by the government.

Any reference to a corporation or similar organization shall be construed to include any successor to the corporation or similar organization.

All provisions of the Master Trust Agreement that do not conflict with the Plan are incorporated by reference and are a part of the Plan as if fully set forth by this document.

All provisions of a prospectus and statement of additional information or statement of operation of a Fund that do not conflict with the Plan are incorporated by reference and are a part of the Plan as if fully set forth by this document.

If any provision concerning a benefit under the Plan is ambiguous, a construction or interpretation of the provision that would provide that such benefit is available in a non-discriminatory manner shall take precedence over a construction or interpretation that would not so provide.

26.7 Construction by reference to model laws

To the extent that any construction beyond the written provisions of the Plan is necessary, the Plan shall be construed (except as otherwise provided by the Plan) according to any then-current Restatement of law published or promulgated by the American Law Institute or any then-current Uniform Act or Model Act published or recommended by the National Conference of Commissioners on Uniform State Laws. The Plan Sponsor may consider a withdrawn Uniform Act or Model Act if no successor has been promulgated. Among these sources, the Plan Sponsor in its sole discretion may select any order of reference and if more than one source is relevant may decide which source it considers controlling or appropriate.

26.8 USA Constitution and Florida Constitution

When applying any of the preceding construction rules relating to the Internal Revenue Code or the Enabling Statute or Employment Laws or Government Contracts Laws, the Plan Sponsor or Plan Administrator need not consider any statute or regulation or order to the extent that its application is contrary to the Constitution of the USA or is contrary to the Constitution of Florida; however, the Plan Sponsor or Plan Administrator may presume that any statute or regulation or order is not unconstitutional until a published controlling court decision expressly holds that such law is contrary to a Constitution.

The Basic Plan Document is not signed here.

This Plan is not complete without the Participating Employer's Adoption Agreement, by which the Participating Employer must specify the conforming and elective provisions of the Plan.

The Participating Employer will sign the Adoption Agreement to indicate adoption of the Plan.

Florida Municipal Pension Master Trust
457(b) Deferred Compensation Plan

Florida Municipal Pension Trust Fund
457(b) Deferred Compensation Plan
As amended and restated September 21, 2023

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1. Establishment and purpose of the Plan

1.1 Purpose of the Plan

The purpose of the Plan is to provide Employees with a convenient way to save for retirement. Under the Plan, Deferred Compensation is held until paid to the Participant or to his or her Beneficiary(s) according to the provisions of the Plan. With limited exceptions, a Distribution can become available only after the Participant's death or Severance.

1.2 Establishment of the Plan

This document together with the Participating Employer's Adoption Agreement states the provisions of this eligible deferred compensation Plan established and maintained by the Participating Employer(s).

1.3 Previous plan replaced

To the extent of the Participating Employer's participation in the Florida Municipal Pension Trust Fund 457(b) Deferred Compensation Plan, this Plan shall amend and restate any similar plan previously in effect. The restated Plan is effective as of the Restatement Date, except as otherwise specified by this Plan and the Adoption Agreement. This Provision shall not affect the authority of the Master Trustees to amend and restate this Plan as provided in Part 2.

1.4 Eligible Plan

The Participating Employer intends to maintain the Plan as a plan that is an eligible deferred compensation plan within the meaning of IRC § 457(b).

1.5 Individual account plan

The Plan is an individual account plan that provides for an individual Account for each Participant and for Deferred Compensation based solely upon the amount of Contributions, rollovers, transfers, income, dividends, interest, gains (or losses), and Fees and expenses credited to or charged against the Participant's Account.

1.6 Exclusive benefit

The Plan is established for the exclusive benefit of Participants and their Beneficiaries. All assets and income of the Plan shall be held for the exclusive benefit of the Plan's Participants and their Beneficiaries.

2. Participating Employers

2.1 Adoption by Participating Employer

A Participating Employer may make the Plan available to its Employees if it takes the following actions:

- a) The Governing Authority of the Participating Employer must pass an ordinance or resolution formally adopting this Plan for its Employees and approving the Adoption Agreement.
- b) The ordinance or resolution must indicate the date of adoption.
- c) The ordinance or resolution must commit to the terms of an Adoption Agreement as completed by the Participating Employer.

- d) The ordinance or resolution must specify that the Participating Employer shall abide by the terms of the Plan, including all investment, administrative, and service of the Plan, and all applicable provisions of the Code and other applicable law.
- e) The ordinance or resolution must acknowledge that the Master Trustee is only responsible for the Plan and have no responsibility for other employee benefit plans maintained by the Participating Employer.
- f) Participating Employers whose Employees are already participating in a deferred compensation plan under Code Section 457(b) as of the effective date of the Adoption Agreement must inform the Plan Administrator of the name of and the provider of that plan and must provide any other information requested by the Plan Administrator. Upon reasonable request by the Participating Employer, the Plan Administrator shall provide a Participating Employer with information reasonably necessary to comply with the applicable deferral limits under the Plan.

The Master Trustees, through the Plan Administrator, shall determine whether the ordinance or resolution complies with this section. If it does, and provided the other requirements of the Plan and the Master Trust are met, the Master Trustees, through the Plan Administrator, shall execute the Adoption Agreement and provide appropriate forms for the Employer to implement its participation in the Plan.

2.2 Participating Employer has same provisions

Except as properly specified by the Adoption Agreement, each Participating Employer adopts the Plan. The Participating Employer's adoption of the Plan is stated by the Adoption Agreement.

2.3 Amendment binding upon all Participating Employers

- a) Subject to the provision of any applicable law, the Master Trustee may at any time amend or modify this Basic Plan Document without the consent of the Participating Employers or of Participants (or any Beneficiaries thereof). Any modification, alteration, or amendment of the Basic Plan Document, made in accordance with this Provision, may be made retroactively, if deemed necessary or appropriate by the Master Trustee. A copy of the resolution of the Master Trustee making such amendment shall be delivered to the Plan Administrator, and the Basic Plan Document shall be amended in the manner and effective as of the date set forth in such resolution, and the Participating Employers, Employees, Participants, Beneficiaries, Master Trustee, and Plan Administrator shall be bound by the amendment. A Participating Employer may not amend the Basic Plan Document in any way.
- b) Subject to the provisions of applicable law, the Master Trustee and the Administrator may at any time amend or modify the form of Adoption Agreement with the consent of the Participating Employers, unless otherwise required under Provision 2.4.
- c) The Master Trustee and Plan Administrator shall ensure that each Participating Employer receives a copy of any modification, alteration, or amendment of the Basic Plan Document. The Participating Employer shall be bound by all such amendments and shall adopt a modified, altered or amended Adoption Agreement when necessary.

2.4 Amendment of Adoption Agreement by Participating Employer

The Governing Authority shall have the right at any time to amend, in whole or in part, any or all of its elections under the Adoption Agreement without the consent of the Participants or any Beneficiaries. Provided, however, that no such amendment shall:

- a) Deprive any Participant or Beneficiary of any of the benefits to which the Participant or Beneficiary is entitled under this Plan with respect to amounts credited prior to the effective date of the amendment; or
- b) Authorize or permit any part of the Master Trust to be diverted to purposes other than the exclusive benefit of the Participants or their Beneficiaries; or
- c) If an amendment limits or otherwise restricts the deferral and distribution rights of the Participants, the amendment shall become effective on the first day of the month following the giving of not less than forty-five (45) days prior notice of the amendment to Participants. If the amendment was made by the Master Trustee, notice shall be deemed given when the amendment is sent to each Participating Employer. If the amendment was made by the Participating Employer, notice shall be deemed given when the amendment is sent to the Plan Administrator. No amendment shall deprive any Participant of any of the benefits to which the Participant is entitled under this Plan with respects to amounts credited prior to the effective date of the amendment, and
- d) If the Plan is amended or modified, the Plan Administrator shall nonetheless be responsible for the supervision and the payment of benefits resulting from amounts contributed prior to the amendment or modifications in accordance with this Part.

2.5 Contributions by Participating Employer

Contributions made by a Participating Employer shall be determined separately by each Participating Employer and shall be paid to and held by individual Account(s) under the Investment(s) for the exclusive benefit of the Participants (and their Beneficiaries) who are Employees of the Participating Employer.

2.6 Transfer of Participant among Participating Employers

The transfer of any Participant from or to any Participating Employer shall not affect the Participant's Benefit or rights under the Plan other than as provided by the Plan.

3. Definitions

Whenever used in the Plan, each of the following terms has the meaning stated or provided by this Part.

If a term is not defined by this Part and is defined by the Internal Revenue Code or the Enabling Statute or relevant Investment Law, the term has the meaning given by the Internal Revenue Code or the Enabling Statute or relevant Investment Law.

3.1 "Account"

means the bookkeeping Account (including each sub-Account) maintained for each Participant (or Beneficiary or Alternate Payee) which at all times shows: the amount of the Participant's Deferred Compensation (including any income or loss attributable to the investment of the

Participant's Deferred Compensation); any amounts accepted as a transfer under Provision 5.2 ["Acceptance of transfers"]; any Distributions to the Participant, and any Fees or expenses charged against the Participant's Deferred Compensation. "Account" also may refer to each of the sub-Accounts. There shall be separate accounting for the amount of Designated Roth Contributions (and any income or loss attributable to the investment of such contributions).

The Account balance is the total amount or value of the Account (or sub-Account as applicable) reduced by any security interest held by the Issuer(s) or by the Master Trustee for an outstanding loan and reduced by any applicable Investment Fees, charges, expenses, and taxes and any Master Trust charges, Fees, expenses, and taxes.

To the extent that the Participant's Deferred Compensation is held in (and Distributions and Fees or expenses are charged against) an Allocated Investment(s), the value of the Participant's Account is the value of the applicable sub-Account(s) under the Investment(s).

To the extent necessary to administer the Plan, the Plan Administrator shall keep a separate sub-Account to receive each kind of Deferred Compensation (and attributable interest or investment earnings). These subaccounts may include, but are not limited to, the following: pre-tax employee contributions, Designated Roth Contributions, employer contributions, rollovers, and transfers. However, the Plan Administrator, in its sole discretion, may combine any sub-Accounts if so doing does not impair the Plan Administrator's ability to operate this Plan according to its provisions.

The Participant shall receive (until a Retirement Distribution begins) periodic Account reports in the form prescribed by the Plan Administrator.

If the Participant (or Beneficiary) elects more than one Distribution Commencement Date, the Plan Administrator shall maintain a separate account with respect to the portion of the Account to be applied as of each Distribution Commencement Date.

To the extent required by a Plan-approved Domestic Relations Order, the Plan Administrator shall maintain a separate sub-Account for the Alternate Payee.

If the Participant designates more than one Beneficiary, upon the written request of any Beneficiary or upon an approved claim payable to any Beneficiary and not all Beneficiaries, the Plan shall maintain a separate account with respect to the interest of each Beneficiary, beginning as of the next Valuation Date that occurs after the Beneficiary's approved request or claim is received and processed by the Plan Sponsor.

If a Plan-approved Domestic Relations Order applies with respect to a Participant, the Plan shall maintain a separate account for the interest of the Alternate Payee, beginning as of the next Valuation Date available after the court order is determined by the Plan Sponsor to be a Plan-approved Domestic Relations Order.

A Participant's Plan Account shall be reduced to the extent that any portion of the Participant's Plan Account has been paid or set aside for payment to an Alternate Payee or to the extent that

the Participating Employer or the Master Trustee or the Plan Administrator or the Agent otherwise is subject to a binding judgment, decree, or order for the attachment, garnishment, or execution of any portion of the Participant's Account or of any distribution therefrom. The Participant shall be deemed to have released the Participating Employer and the Master Trustee and the Plan Administrator and the Agent from any claim with respect to such amounts in any case in which any of them was served with legal process or otherwise joined in a proceeding relating to such amounts, and the Participant was notified of the pendency of such proceeding, and the Participant fails to obtain an order of the court that relieves the Participating Employer and the Master Trustee and the Plan Administrator and the Agent from any obligation to comply with the judgment, decree, or order.

Each Account statement or confirmation furnished by (or on behalf of) the Plan Administrator or the Master Trustee is intended as a legally significant statement of the Participant's Deferred Compensation. As to each Account statement or confirmation, if, by the date that is 60 days after the date that the statement or confirmation was mailed or otherwise sent or delivered, the Participant (or Beneficiary or Alternate Payee) has not delivered a written objection as to the accuracy of the statement, the accounting reported is then settled and conclusive and an account stated. If an objection to any Account statement or confirmation is withdrawn or is adjusted to the objector's satisfaction, the accounting is then settled and conclusive and an account stated. To the extent that an Account statement or confirmation is an account stated, the Plan Administrator and every party acting under the instruction of the Plan Administrator is discharged from any liability that might otherwise arise out of the Account statement as fully as if the Account had been settled by an appropriate court proceeding. Without limiting the comprehensive effect of the above, if an Account statement or confirmation furnished to the Alternate Payee shows the amount segregated to his or her separate sub-Account under a Plan-approved Domestic Relations Order or other court order if, by the date that is 60 days after the date that the statement or confirmation was mailed or otherwise sent or delivered, the Alternate Payee has not delivered a written objection as to the accuracy of the statement or the objection is withdrawn or is adjusted to the Alternate Payee's satisfaction, the accounting reported is then settled and conclusive and an account stated, and shall constitute a release of any obligation under the court order to segregate or set aside the appropriate amount for the Alternate Payee. If a court finds that the application of this paragraph or any part of it is void as against public policy, this provision shall apply to the extent not so found.

3.2 "Adoption Agreement"

means the separate but related written agreement executed by the Participating Employer that states the establishment of the Participating Employer's Plan and its adoption of this Basic Plan Document, The Florida Municipal Pension Trust Fund 457(b) Deferred Compensation Plan Trust, and that states those conforming and elective provisions of this Plan specified by the Participating Employer.

3.3 "Agent"

means a person that the Plan Administrator appoints to perform services regarding the Plan.

3.4 "Allocated Investment"

means an Investment for which the Issuer under the terms of the Investment (and not as a separately agreed service) records individual accounts with respect to each Participant.

3.5 "Allocation Date"

Means the last day of the Year, unless otherwise specified by the Adoption Agreement.

3.6 "Alternate Payee"

means a person who has a right under a court order that the Plan Sponsor has determined to be a Plan-approved Domestic Relations Order to receive part or all of the Participant's Account.

3.7 "Annuity Payout Option"

means a Payout Option which includes a provision for payments based, in whole or in part, upon the life of a natural person.

3.7.1 "Basic Plan Document"

means this Plan document

3.8 "Beneficiary"

means the person(s), whether natural or non-natural, including but not limited to a trustee or other fiduciary, designated by the Participant by a valid Beneficiary Designation in his or her Participation Agreement to receive any undistributed Deferred Compensation payable upon or after the Participant's death (the "primary" Beneficiary(s)), or upon or after the primary Beneficiary's death (the "contingent" or "alternate" Beneficiary(s)).

The Participant's right to designate his or her Beneficiary is limited by Provision 3.9 and by all of the following provisions.

Notwithstanding any Beneficiary designation in the Participation Agreement or otherwise to the contrary, a person shall not be a Beneficiary unless he or she is living or in existence (and, to the extent that the Beneficiary is entitled to receive Deferred Compensation as a trustee or other fiduciary, the person or the entity that the person represents or acts for, is living or in existence) on the Distribution Commencement Date. Any right of a Beneficiary is strictly personal to that Beneficiary and lapses upon his or her death. Any undistributed Deferred Compensation that would have been distributable to a Beneficiary if he or she had lived is not distributable to the Beneficiary's heirs. Upon a Beneficiary's death, any undistributed Deferred Compensation with respect to that Beneficiary becomes distributable to the remaining primary Beneficiary(s) if any, or if none, to the remaining contingent Beneficiary(s), in each case to be distributable in equal shares to all living Beneficiaries of the applicable primary or contingent Beneficiary class.

The Participant must designate each Beneficiary by name. A Beneficiary(s) cannot be designated by relationship, and any such attempted beneficiary designation is absolutely void.

As provided by law, including section 732.703, Florida Statutes, a designation made by or on behalf of the decedent providing for the payment or transfer at death of an interest in an asset to or for the benefit of the decedent's former spouse is void as of the time the decedent's marriage

was judicially dissolved or declared invalid by court order prior to the decedent's death, if the designation was made prior to the dissolution or court order. The decedent's interest in the asset shall pass as if the decedent's former spouse predeceased the decedent. An individual retirement account described in s. 408 or s. 408A of the Internal Revenue Code of 1986, or an employee benefit plan, may not be treated as a trust for purposes of the law.

Notwithstanding any law to the contrary, a separation, separate maintenance, revocation of a domestic partner registration, termination or revocation of any living together contract, or interruption or termination of any contract not recognized by the State as a marriage, has no effect in any way concerning who is the Beneficiary under the Plan.

If the Participant designates as Beneficiary more than one person, all persons of the same Beneficiary Designation ("primary" or "contingent") have equal shares (per capita and not per stirpes), unless the Participant specifies otherwise.

If a Participant fails to designate a Beneficiary, or if for any reason (including the absence of a surviving designated beneficiary) the Participant's beneficiary designation is invalid or ineffective, the person(s) entitled to the residuary estate of the Participant's estate is(are) the Beneficiary(s), to the extent of the failure or invalid or ineffective designation, with the applicable share of the Plan Account divided among those Beneficiaries in the same shares as their shares of the residuary estate. For the purposes of this Provision, the Plan Sponsor and Plan Administrator may rely on an appropriate court order or the personal representative's written statement as to the identity (including name, address, and Taxpayer Identifying Number) of and shares allocable to the persons entitled to such residuary estate.

A named beneficiary who feloniously and intentionally kills the Participant or Beneficiary is not a Beneficiary and is not entitled to any Distribution or any other right under the Plan; and any Deferred Compensation is payable as though the killer had predeceased the Participant or Beneficiary.

3.9 "Beneficiary Designation"

means the valid and effective Beneficiary Designation made by the Participant, designating the person(s) (which may be a non-natural person) who shall be his or her Beneficiary(s) entitled to receive any undistributed Deferred Compensation.

At any time before his or her death, the Participant has the right to designate a Beneficiary(s), including a contingent Beneficiary(s), subject to the provisions of the Plan. The Participant shall have the right to change his or her Beneficiary Designation at any time, subject to the provisions of the Plan.

A Beneficiary Designation must be in writing, on the form(s) prescribed by the Plan Administrator. A Beneficiary Designation (or change) is not effective until the Plan Administrator receives it. Each Beneficiary Designation completely revokes and cancels any and every previous beneficiary designation.

The Participant must designate each Beneficiary by name. A Beneficiary(s) cannot be designated by relationship, and any such attempted beneficiary designation is absolutely void.

Notwithstanding the rule that a Participant must designate each Beneficiary by name, if the Plan Sponsor, in its sole discretion, finds that a Beneficiary Designation sufficiently describes a trust, that Beneficiary Designation will be construed as naming the duly appointed and currently acting trustee of that trust.

Any beneficiary designation that, in whole or in part, designates the Participant's estate as beneficiary shall be construed as designating as Beneficiary(s), to the extent of the share of Deferred Compensation specified or otherwise provided for the estate, the personal representative of the Participant's estate.

Any statement in a Beneficiary Designation referring to the Beneficiary's relationship to the Participant is for convenience or information only and has no effect in the construction or interpretation of the Beneficiary Designation.

Any statement in a Beneficiary designation attempting to state or create a condition or restriction upon the Beneficiary's receipt or enjoyment of any Deferred Compensation is invalid and the Beneficiary is entitled to the Deferred Compensation without regard to any attempted condition or restriction.

Notwithstanding anything to the contrary in any Beneficiary designation in the Participation Agreement or any other document or otherwise (including but not limited to any court order), any designation of a Beneficiary cannot be irrevocable and any such designation shall be construed as a revocable designation of that Beneficiary.

If the Participant designates as Beneficiary more than one person, all persons of the same Beneficiary Designation ("primary" or "contingent") have equal shares (per capita and not per stirpes), unless the Participant specifies otherwise.

If a Beneficiary Designation divides a Benefit between or among two or more Beneficiaries, the "primary" Beneficiary Designation must allocate the share of each such Beneficiary solely by specifying a percentage of the Participant's Account and the "contingent" Beneficiary Designation must allocate the share of each such Beneficiary solely by specifying a percentage of the Participant's Account. Without limiting the comprehensive effect of the preceding sentence, any division of any Benefit under a Beneficiary Designation shall be ineffective to the extent that it would ask the Plan Sponsor to consider any fact other than the amount of the Participant's Account.

A Beneficiary Designation shall be construed to dispose of all of the remaining Plan Account or Deferred Compensation.

Except as otherwise provided by the Plan, a Beneficiary Designation that uses a term or phrase that would have significance in construing or interpreting a conveyance or a disposition of a decedent's estate shall, except as otherwise specified by the Participant, be construed or

interpreted according to the *Uniform Probate Code* (without regard to the Participant's domicile at the time he or she made the Beneficiary Designation or the Participant's domicile at the time of his or her death). Likewise, if a Beneficiary Designation remains ambiguous after applying all provisions and construction rules stated by this Plan and can be resolved by applying the rules of construction and interpretation of the *Uniform Probate Code* for construing a beneficiary designation or conveyance, such rules shall apply to the Beneficiary Designation, except as otherwise provided by the Plan. Any provision of the *Uniform Probate Code* concerning the effect of divorce or marital separation shall not apply.

After the Participant's death, no person has any right or power or discretion to change any Beneficiary (except to disclaim his or her or its Deferred Compensation as permitted by Provision 15.13 ["Disclaimer by Beneficiary"]), and any such purported provision stated in a Beneficiary Designation or otherwise is ineffective.

3.9.1 "Benefit"

refers to the right under this Plan of the Participant (or Beneficiary or other payee) to receive a Distribution of all or any portion of the Participant's Deferred Compensation.

Any Benefit under the Plan shall not be paid or payable except as a:

Retirement Distribution;
Death Distribution;
Unforeseeable Emergency Distribution;
Required Minimum Distribution;
Permitted Distribution;
Corrective Distribution

or according to the provisions of a Plan-approved Domestic Relations Order [all as defined and provided below].

All rights and Benefits, including elections, provided by the Plan shall be subject to and limited by the rights awarded to any Alternate Payee pursuant to a Plan-approved Domestic Relations Order.

Any Distribution may, to the extent that the Distribution is an eligible rollover distribution, be paid as a rollover distribution.

3.10 "Business Day"

means any day on which both the New York Stock Exchange [NYSE] is open for regular trading and the person that is required or permitted to act or that is entitled to receive notice is (or was) open for regular business at its home office or National Office or principal place of business.

A Business Day ends at 4 p.m. New York Time, or, if earlier, the time that regular trading closes on the NYSE.

As required or permitted by applicable Investment Law, any Agent may make reasonable rules governing the time of the day after which investment instructions will be treated as received on the next Business Day. Without limiting the comprehensive effect of the preceding sentence, any investment direction that includes an instruction to buy or sell registered investment company shares that is received after the closing of the NYSE shall be treated as received on the next Business Day.

A day that is not a Business Day ends at 4 p.m. New York Time.

3.11 "Compensation"

means the total wages, salaries, fees, and other amounts paid (except as modified below) during each Plan Year to the Employee by the Participating Employer for personal services actually rendered in the course of employment with the Participating Employer, including compensation payable as bonuses or as overtime, and excluding any compensation received in the form of non-taxable fringe benefits. Compensation shall include any amounts deferred as Employee Contributions under this Plan, and any amounts of compensation deferred as "elective deferrals" (within the meaning of IRC § 402(g)(3) or similar provisions) under IRC § 125, IRC § 132(f), IRC § 401(k), IRC § 403(b), or IRC § 457(b). Compensation does not include any amount paid as Participating Employer-provided education assistance, notwithstanding that such payment may be taxable wages to the Participant. Compensation may also include those provisions which are specifically included or specifically excluded in the Adoption Agreement, including (if so provided in the Adoption Agreement), certain additional amounts if paid no later than 2½ months after Severance from employment or, if later, the end of the calendar year that includes a Participant's Severance from employment that, absent a Severance from employment, would have been paid to the Participant while the Participant continued in employment with the Participating Employer.

This definition of "Compensation" is not intended to control or affect the construction of the definition of "Includible Compensation". However, for the purposes of computing any Contributions required or permitted under Part 8 ["Reemployment after Uniformed Service"], the reemployed Participant's Compensation shall be as provided by Provision 8.4.

3.12 "Contributions"

means Employee Contributions (both pre-tax deferrals and Designated Roth Contributions) and (if any) Employer Contributions, deferred under the Plan according to the provisions of the Plan.

Contributions under the Plan shall not be reduced because of the Participant's attainment of any age.

Contributions shall be made according to the payroll methods of and at such times as may be determined by the Participating Employer, except as otherwise required by the Enabling Statute.

3.12.1 "Coronavirus-Affected Participant"

means a Participant who meets one of the following requirements:

- (a) Who is diagnosed with SARS-CoV-2 or coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention.
- (b) Whose spouse or dependent (as defined in Code section 152) is diagnosed with the virus or disease.
- (c) Who experiences adverse financial consequences due to the virus or disease as a result of the Participant or the Participant's spouse or a person residing in the Participant's household being quarantined; being furloughed, laid off, or having work hours reduced; being unable to work due to the lack of childcare; or the closing or reduction in hours of a business that the individual owns or operates.
- (d) Who experiences an adverse financial consequence as a result of the individual having a job offer rescinded or start date for a job delayed due to COVID-19.

For purposes of subsection (c), a person residing in the Participant's household means someone who shares the Participant's principal residence.

3.12.2 "Coronavirus-Related Distribution"

means any distribution made from January 1, 2020 to December 30, 2020, to a Coronavirus-Affected Participant, to the extent that such distribution, when aggregated with all other Coronavirus-Related Distributions to the Coronavirus-Affected Participant (including the aggregate amount of such distributions from all plans maintained by the Plan Sponsor and any member of any controlled group which includes the Plan Sponsor), does not exceed \$100,000. A Coronavirus-Related Distribution must be made in accordance with the distribution provisions of the Plan, except that:

A Coronavirus-Related Distribution shall be deemed to be made after the occurrence of any distributable events otherwise applicable under Code Section 401(k)(2)(B)(i).

Coronavirus-Affected Participants may designate all or a portion of a qualifying distribution as a Coronavirus-Related Distribution.

The requirements of Code Sections 401(a)(31), 402(f), and 3405 shall not apply.

A Participant who received a Coronavirus-Related Distribution may repay the Coronavirus-Related Distribution to the Plan in one or more contributions, provided such Coronavirus-Related Distribution is eligible for tax-free rollover treatment. Any such re-contribution:

- (a) Will be treated as having been made in a direct rollover to the Plan.
- (b) Must be made during the three-year period beginning on the day after the date on which such distribution was received.
- (c) May be made in three payments starting in the year in which the Coronavirus-Related Distribution was received.
- (d) Cannot exceed the amount of such distribution.

3.13 "Corrective Distribution"

means a Distribution required or permitted to remedy a potential violation or correct a violation of any provision of Part 5 ["Contribution limit"] or under Provision 17.9 ["Mistaken contributions"].

The amounts corrected by a Corrective Distribution are disregarded for all purposes of the Plan, except as otherwise expressly provided by the Plan.

A Corrective Distribution cannot be counted as a required distribution for the purpose of applying the minimum distribution and incidental benefit requirements of IRC § 401(a)(9).

3.14 "Death Distribution"

means any Distribution that does not begin before the death of the Participant.

3.15 "Deferred Compensation"

means the amount of compensation that the Participant and the Participating Employer agree to defer according to the provisions of the Plan.

The amount or value of the Participant's Deferred Compensation is the amount or value of the Participant's Account (including any rights purchased under the Account).

Deferred Compensation may also refer to the right under this Plan of the Participant or Beneficiary to receive a Distribution of all or any portion of the Account.

Deferred Compensation may include either pre-tax contributions, pre-tax elective deferral contributions or after-tax Designated Roth Contributions as provided in Provision 4.9.

Deferred Compensation further means the amount of Compensation otherwise payable to the Participant that the Participant elects to defer under the Plan (as either pre-tax elective deferral contributions or after-tax designated Roth contributions, if applicable), any amount credited to a Participant's Account by reason of a transfer or a rollover permitted under the Plan, or any other amount that the Employer agrees to credit to a Participant's Account (as an Employer Contribution) and that does not exceed the Maximum Limitation.

3.15.1 "Designated Roth Contributions"

means the amount of a Participant's Compensation that he or she elects to defer under the Plan on an after-tax basis, as provided in IRC § 402A.

Designated Roth Contributions under the Plan are allowable only if elected by the Participating Employer in an Adoption Agreement or as otherwise required by law to comply with the Age-Based Catch-Up limitation in the SECURE 2.0 Act. The Participant may designate that all or part of his or her elective contributions under the Plan be treated as after-tax Designated Roth Contributions. Designated Roth Contributions shall be accounted for separately from all other contributions under the Plan.

3.15.2 "In-Plan Roth Rollover"

means an eligible rollover distribution or transfer from a Participant's Employee Contribution Account, other than the Participant's Roth Contribution Account, that is rolled over or

transferred to the Participant's Roth Contribution Account, in accordance with § 402A(c)(4)(E) of the Code.

3.16 "Distributee"

means any person who receives or but for his or her or its instruction to the Plan Sponsor is entitled to receive a Distribution. Effective January 1, 2010, a "Distributee" includes a nonspouse designated beneficiary (as defined in section 401(a)(9)(E) of the Code). A Distributee includes an Alternate Payee to whom the Plan Sponsor is directed to make a payment under a Plan-approved Domestic Relations Order.

3.17 "Distribution"

means, as appropriate in the context, any kind of Distribution or the particular kind of Distribution provided by the Plan, as follows:

- Permitted Distribution
- Unforeseeable Emergency Distribution
- Retirement Distribution
- Death Distribution
- Corrective Distribution
- Transfer Distribution

Any Distribution may be made, in whole or in part, in cash, or by delivery of an Investment(s) (including any annuity or life insurance contract), Fund Shares, other securities, or other assets or property of any kind. Any Distribution of property other than cash shall be valued at fair market value as of the date of the Distribution.

If a payee does not as a part of his or her or its written claim specify that a Distribution is to be made in the form of a specified property(s), any Distribution is payable as a cash payment(s).

Any Distribution paid after December 31, 2001 may, to the extent that the Distribution is an eligible rollover distribution, be paid as a direct rollover.

3.18 "Distribution Commencement Date"

means the date(s) selected by the Participant under Provision 12.2, or by the Beneficiary under Provision 13.2; or the "default" date that results by operation of Provision 12.2.1 or Provision 13.2.1 from the Distributee's failure to make such an election.

3.19 "Effective Date"

means with respect to a Participating Employer's participation the date so specified by its Adoption Agreement. If no date is so specified, the Effective Date shall be the date that the Adoption Agreement is executed.

3.20 "Eligible Participating Employer"

means any Participating Employer that is a State or a political subdivision of the State or an agency or instrumentality of a state(s) or a political subdivision(s) and that is an "eligible Participating Employer" within the meaning of IRC § 457(e)(1)(A).

3.21 "Eligible Retirement Plan"

means an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, a qualified trust described in section 401(a) of the Code that accepts the Distributee's Eligible Rollover Distribution or an annuity contract described in Code Section 403(b), an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan, ~~and~~, effective January 1, 2008, a Roth IRA described in section 408A of the Code, and effective December 18, 2015, a SIMPLE IRA as described in Code Section 408(p), provided that the rollover contribution is made after the two-year period beginning on the date the distributee first participated in any qualified salary reduction arrangement maintained by the distributee's employer under Code Section 408(p)(2), as described in Code Section 72(t)(6). The definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the Alternate Payee under a qualified domestic relations order, as defined in Code Section 414(p). The definition of an Eligible Retirement Plan for a nonspouse designated beneficiary of a deceased Participant means an individual retirement annuity account established for the purpose of receiving a distribution from this Plan and treated as an inherited individual retirement account or annuity (within the meaning of Code Section 408(d)(3)(C)).

3.22 "Eligible Rollover Distribution"

means any distribution under Provision 14 of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more; (ii) any distribution to the extent such distribution is required under Code Section 401(a)(9); (iii) the portion of any distribution that is not includable in gross income; or (iv) any distribution which is made upon the unforeseeable emergency of the Distributee.

3.23 "Employee"

means the natural person, whether appointed, elected, salaried, or under contract, or otherwise, who performs services for the Participating Employer on a regular basis as a common-law employee and who has Compensation paid by the Participating Employer, unless the individual is precluded from participation under the Plan by the Enabling Statute or other State or local law (including an ordinance or resolution) or the Adoption Agreement. The terms of the Adoption Agreement shall specify the eligibility to participate in the Plan.

The fact that a natural person is or is determined to be an employee for the purpose of another employee benefit plan (including another pension plan or retirement plan) or for any other legal purpose shall not be construed as any inference that the natural person is an eligible Employee under this Plan.

The Plan Sponsor shall decide all questions of eligibility for participation in the Plan, except as otherwise required by the Enabling Statute.

An Employee shall not be excluded from participation in the Plan solely on the basis of age, other than any minimum age participation required in a Participating Employer's Adoption Agreement.

3.24 "Employee Contributions"

means elective deferrals made pursuant to a salary reduction agreement as specified by a Participation Agreement. Employee Contributions may be either pre-tax elective deferral contributions or after-tax Designated Roth Contributions, if a Participating Employer authorizes after-tax Designated Roth Contributions in an Adoption Agreement or otherwise.

3.25 "Employer Contributions"

means those Contributions made by the Participating Employer that are not Employee Contributions, and which the Participant could not have elected to receive as immediate cash compensation or other taxable benefit.

The Plan Administrator shall not permit Employer Contributions unless it has received and reasonably relies upon an acceptable written legal opinion concluding that the Participating Employer has legal power under the Enabling Statute and all applicable State and local law to make such Employer Contributions.

The Plan's provisions concerning Employer Contributions may be specified by the Adoption Agreement.

3.26 "Enabling Statute"

means the State statute or similar law that grants the Participating Employer legal authority to maintain this Plan.

3.27 "Fees"

means any fees required or permitted to be charged against the Participant's (or Beneficiary's or Alternate Payee's) Plan Account according to (any one or more of the following): the Plan, the Master Trust Agreement, the Participation Agreement, an Investment, an investment advisory agreement, any other writing signed by the Participant (or, after the Participant's death, the Beneficiary), any written notice given by or on behalf of the Plan Administrator or the Master Trustee that is accepted or deemed accepted by the Participant (or Beneficiary), or any court order.

3.28 "Fund"

means a registered investment company or an insurance company separate account or collective investment fund or group trust or any similar pooled investment under which the value of the holder's interest is calculated according to the number of shares or units held for the holder's account.

3.28.1 "Governing Authority"

means the entity authorized by law to act for the Employer and adopt this Plan and the Adoption Agreement.

3.29 "Includible Compensation"

means an Employee's actual wages for services performed for the Participating Employer for the year reported in box 1 of Form W-2, increased by any compensation reduction election under Sections 125, 132(f), 401(k), 403(b) or 457(b) of the Code (including an election to defer compensation under this Plan). Includible Compensation is determined without regard to any community property laws.

For the purposes of computing any Contributions required or permitted under Part 8 ["Reemployment after Uniformed Service"], the reemployed Participant's Compensation shall be as provided by Provision 8.4 and Includible Compensation shall be determined consistent with such provision.

3.30 "Internal Revenue Code" or "IRC" or "Code"

means the Internal Revenue Code of 1986, as amended, including any Regulations or rulings (or other guidance of general applicability) under the IRC. Any reference to Regulations is a reference to Treasury department regulations under the Internal Revenue Code, unless otherwise specified. Any reference to a Section of the Internal Revenue Code shall be construed to also refer to any successor provision. Any reference to a Section of Treasury Regulations shall be construed to also refer to any successor provision of such Treasury Regulations. Any reference to a Revenue Ruling or Revenue Procedure or IRS Notice or IRS Announcement shall be construed to also refer to any guidance of general applicability that extends, amplifies, or modifies the Revenue Ruling or Revenue Procedure or IRS Notice or IRS Announcement.

3.31 "Internal Revenue Service" or "IRS"

means and refers to the Internal Revenue Service, a division of the Department of the Treasury of the United States of America, and thereby an agency of the government of the USA, and any related departments, divisions, or offices under the supervision of the Secretary of the Treasury of the USA.

3.32 "Investment"

means (any of the following): an annuity contract or custodial account that satisfies the requirements of IRC § 401(f) and IRC § 457(g)(3); any annuity contract or life insurance contract that may be held by the Master Trust; any Fund shares that may be held by the Master Trust; an interest under a group trust (as described in Rev. Rul. 81-100 1981-1 C.B. 326, as amended by Revenue Ruling 2011-1, 2011-2 I.R.B. 251) that may be held by the Master Trust; or any investment that may be held by the Master Trustee.

The Master Trust shall not hold any Investment that has provisions (whether express or incorporated by reference or at law) that would preclude the correct application of the Plan or the Master Trust Agreement.

The Master Trust shall maintain (or cause to be maintained) the indicia of ownership of each Investment within the USA, except as otherwise permitted by 29 C.F.R. § 2550.404b-1(b) applied as if this Plan were a plan subject to 29 U.S.C. § 1104(b).

All Investments to be used under the Plan must be specified by the Master Trustee, except under Open Architecture Investment as provided in the Master Trust Agreement. Under Open Architecture Investment the Participating Employer selects and oversees the investment options (Investments) used under the Plan.

The provisions of each Investment (including any provisions stated by each Investment's and each Fund's prospectus and the statement of additional information) are to the extent not inconsistent with the Plan incorporated in the Plan by reference.

An Investment may also be referred to (in Plan documents, disclosure information, and forms) by other terms that are not misleading in the context.

3.32.1 "Open Architecture Investment"

means a Participating Employer that has been acknowledged through the Trust Joinder Agreement to select and oversee the investment options under and for the FMPTF 401(a) Defined Contribution Retirement plan and/or FMPTF 457(b) Deferred Compensation plan, rather than using the investment options selected by the Master Trustees. Under Open Architecture Investment, the Master Trustees and Plan Administrator are responsible for only the administrative services to the plan.

3.33 "Investment Adviser"

has the meaning given by § 202(a)(11) of the Federal *Investment Advisers Act of 1940*, as amended [15 U.S.C. § 80b-2(a)(11)].

An agreement to provide investment advice (or the giving of investment advice) to a Participant or Beneficiary or Alternate Payee does not constitute an Investment Adviser as an investment manager or investment adviser as to the Plan or the Master Trust. An agreement to provide investment advice (or the giving of investment advice) to any Fund or to the Issuer of any Investment does not constitute an Investment Adviser as an investment manager or investment adviser as to the Plan or the Master Trust.

3.34 "Investment Law"

means, as applicable or relevant in the context, any United States law or Florida law relating to banking, insurance, securities, investment companies, investment advice, or commodities trading, including any self-regulatory organization rules. Investment Law includes the Bylaws, Rules of Fair Practice, Code of Arbitration Procedure, and other Rules of the National Association of Securities Dealers, Inc. [NASD] and the rules of each securities exchange or clearing agency.

3.35 "Investor"

means, solely for the purposes of Part 6 ["Investment direction"] and solely for convenience of reference, the person that has the duty or holds a power to give investment direction according to Provision 6.2.2.

Any reference using the term or word "Investor" shall not be construed to constitute any person as an investor regarding any Investment or under any Investment Law.

3.36 "Issuer"

means the person who has issued or may issue an Investment held regarding the Plan.

An Issuer may be a bank, or an insurance company, or a registered investment company, or the issuer of any other instrument or indicia of ownership or beneficial ownership that is held as a Plan Investment. When appropriate in the context, the term Issuer also includes the definition of "issuer" provided by 15 U.S.C. § 77b(4).

3.37 "Master Trust"

means the trust created and maintained by the Master Trust Agreement.

3.38 "Master Trust Agreement"

means the Agreement made as of 16th day of December, 1983 as may be amended and restated, by and between all parties that are now or may hereafter become Participating Employers of the Florida Municipal Pension Trust Fund and the individuals named as Master Trustees pursuant to provisions of the Agreement.

3.39 "Master Trustee"

means the individuals collectively who serve as trustees pursuant to the Master Trust Agreement.

3.39.1 "Maximum Limitation"

means the maximum amount that may be deferred under this Plan (other than Transfer Contributions and rollover amounts permitted under this Plan) for the taxable year of a Participant. Such amount shall be either the Normal Limitation or Catch-Up Limitation, whichever is applicable.

- a) Normal Limitation: The maximum amount deferred shall not exceed the lesser of the Applicable Dollar Amount (as described in (c) below) or 100% of the Participant's Includible Compensation, as adjusted by (d) below. Notwithstanding the preceding provisions of this paragraph, for calendar years prior to 2002, the maximum amount deferred shall not exceed such limit or limits in effect for the applicable year pursuant to Code Section 457.
- b) Catch-Up Limitation: For each one of the last three (3) taxable years of a Participant ending before the Participant's attainment of Normal Retirement Age, the maximum amount deferred for each such year shall be the lesser of:
 - (1) twice the Applicable Dollar Amount (as described in (c) below): or
 - (2) the sum of the Normal Limitation, plus that portion of the Normal Limitation not used in each of the prior taxable years of the Participant commencing after 1978 in which (i) the Participant was

eligible to participate in this Plan or another eligible plan of the Employer, and (ii) compensation deferred under this Plan (or such other plan) was subject to the deferral limitations set forth in this section.

A Participant may utilize the Catch-Up Limitation only if the Participant has not previously utilized it with respect to a different Normal Retirement Age under this Plan or any other plan.

For years prior to 2002, the limit under this provision (b) for any year shall not exceed \$15,000.

- c) Applicable Dollar Amount: For contributions in 2006 and subsequent years, the Applicable Dollar Amount shall be \$15,000 as adjusted for cost-of-living increases in accordance with Code Section 457(e)(15). The Applicable Dollar Amount for the 2023 calendar year is \$22,500.
 - d) Coordination with Other Pre-2002 Plans: For contribution years prior to 2002, the amount excludible from a Participant's gross income for any taxable year under this Plan or any other plan under Code Section 457(b) shall not exceed \$7,500 (as adjusted for cost-of-living increases in accordance with Code Section 457(e)(15)) or such greater amount allowed under provision (b) above, less any amount excluded from gross income under Code Section 403(b), 402(e)(3), or 402(h)(1)(B) or (k), 408(p) or any amount with respect to which a deduction is allowable by reason of a contribution to an organization under Code Section 501(c)(18).
 - e) Coordination with Other Post-2002 Plans: For contribution years after 2002, any amounts contributed by the Participant to a tax-sheltered annuity pursuant to Section 403(b) or to a 401(k) plan pursuant to Code Section 402(g)(3) shall not reduce the Maximum Limitation.
 - f) Age-Based Catch-Up Contributions: In addition to any other limit set forth in this section, a Participant who will attain age 50 or greater in the calendar year may contribute an additional \$5,000 as adjusted for cost-of-living increases in accordance with Code Section 414(v)(2)(C). The Age-Based Catch-Up limitation for the 2023 calendar year is \$7,500. Effective for taxable years beginning after December 31, 2024, the Age-Based Catch-Up limitation for Participants who are age 60 to 63 will increase to the greater of (i) \$10,000 or (ii) 150% of the regular Catch-Up contribution limit for 2024 (indexed for inflation after 2025).
- (1) In compliance with the SECURE 2.0 Act of 2022 (SECURE 2.0), § 603, and pursuant to IRS Notice 2023-62 creating a two-year administrative transition period, beginning January 1, 2026, notwithstanding any provisions of this Plan to the contrary, all Participant Age-Based Catch-Up Contributions may be Designated Roth Contributions.
 - (2) In compliance with the SECURE 2.0, § 603, and pursuant to IRS Notice 2023-62 creating a two-year administrative transition period, beginning January 1, 2026, notwithstanding any provisions of this Plan to the contrary, Age-Based Catch-Up Contributions must be made as Designated Roth Contributions for Participants whose prior year Code Section 3121(a) wages from the Plan Sponsor exceeded \$145,000 (as adjusted for cost-of-living increases in accordance with SECURE 2.0).
- g) Coordination of Catch-Up Contributions: A Participant may not utilize both the Catch-Up Limitation and the Age-Based Catch-Up Contribution in the same year. The Age-Based Catch-

Up Contribution shall not apply for any taxable year for which a higher Catch-Up Limitation applies.

- h) Excess Deferrals: Any amount deferred in excess of the Maximum Limitation or Age-Based Catch-Up Contribution shall be distributed to the Participant, with allocable net income, as soon as administratively practicable after the Plan determines that the amount is an excess deferral. An excess deferral as a result of a failure to comply with the individual limitation under Treas. Reg. Section 1.457-5 for a taxable year may be distributed to the Participant, with allocable net income, as soon as administratively practicable after the Plan determines that the amount is an excess deferral.

3.40 "Normal Retirement Age"

means the age elected by the Participant which may not be earlier than the earliest age at which the Participant has the right to retire without the consent of the Participating Employer and to immediately receive unreduced retirement benefits under the Participating Employer's basic retirement plan and which may not be later than the Participant's age 70½, or, if earlier, the date of the Participant's Severance from employment.

If the Participant will not become eligible to receive a benefit under the Participating Employer's basic retirement plan, he or she may elect a Normal Retirement Age that is not earlier than his or her age 65 and not later than his or her age 70½ or, if earlier, the date of his or her Severance from employment.

The Participant's Normal Retirement Age does not control his or her Distribution Commencement Date.

3.41 "Notarial Officer"

means a natural person who is authorized to take oaths under the law of the jurisdiction in which the relevant document is signed.

3.42 "Participant"

means the Employee (or former Employee) who has Deferred Compensation under the Plan who has not yet received all of the payments of Deferred Compensation to which he or she is entitled under the Plan.

3.43 "Participating Employer"

means an Employer that has passed the Trust Joinder Agreement to become a party to the Florida Municipal Pension Trust Fund and has passed an Adoption Agreement to participate in this Plan.

3.44 "Participation Agreement"

means the agreement (in the form prescribed by the Plan Administration), as amended from time to time, entered into by and between the Participant and Participating Employer under which the Employee provides all necessary information to the Plan Administrator.

3.45 "Payout Option"

means any, except as limited below, of the annuity options or other options for payment that are available under the applicable Plan Investment(s).

As to an unallocated investment, the Payout Options are as specified by the current written agreement between the Plan Administrator and the Agent.

The Plan Sponsor shall not permit the use of any payout option that is based on gender-distinct actuarial tables or that otherwise unlawfully discriminates against any person.

The Plan Sponsor shall not permit the Participant (or Beneficiary) to elect any Payout Option that (at the time the Distribution begins or is scheduled to begin) does not satisfy all applicable provisions of the Plan, including all applicable requirements of IRC § 457(d)(2) and IRC § 401(a)(9).

If an Investment permits a Payout Option to be arranged "as mutually agreed", any such unspecified Payout Option, regardless of whether the Payout Option is the actuarial equivalent of any other Payout Option, shall not be a Payout Option under the Plan unless the Issuer offers this Payout Option on a uniform and non-discriminatory basis to all Participants and Beneficiaries in similar circumstances.

3.46 "Plan"

means the Plan specified by this Basic Plan Document together with the Participating Employer's Adoption Agreement and, to the extent necessary to comply with IRC § 457(b), the Master Trust Agreement, and any executed amendments thereof, which together constitute the Plan of the Participating Employer specified by the Adoption Agreement.

3.47 "Plan-approved Domestic Relations Order"

means a court order that is lawfully directed to this Plan and that is served upon the Plan Sponsor before the Participant's Distribution Commencement Date that pursuant to a State domestic relations law creates or recognizes the existence of the right of an Alternate Payee to receive all or a portion of any Deferred Compensation of a Participant and that meets all of the following requirements.

An order shall not be a Plan-approved Domestic Relations Order unless the Plan Sponsor determines that the court order on its face and without reference to any other document states all of the following:

- The court order expressly states that it relates to the provision of support, alimony, or marital property rights to a spouse or former spouse of a Participant and is made pursuant to State domestic relations law.
- The court order clearly and unambiguously specifies that it refers to this Plan.
- The court order clearly and unambiguously specifies the name of the Participant's Participating Employer.
- The court order clearly specifies: the name, mailing address, and Taxpayer Identifying Number of the Participant; and the name, mailing address, and Taxpayer Identifying Number of the Alternate Payee.

- The court order clearly specifies the amount or percentage, or the manner in which the amount or percentage is to be determined, of the Participant's Account to be segregated for the separate sub-Account of the Alternate Payee.
- The court order expressly states that the Alternate Payee's segregated Account shall bear all Fees and expenses as though the Alternate Payee were a Participant.
- The court order if made before January 1, 2002 clearly specifies that any Distribution to the Alternate Payee becomes payable only after the Participant's death or Severance.
- The court order clearly specifies that any Distribution to the Alternate Payee becomes payable only upon the Alternate Payee's written claim made to the Plan Sponsor or the Agent.
- The court order clearly specifies that any Distribution to any Alternate Payee shall be payable only as a lump sum.
- The court order expressly states that it does not require this Plan to provide any type or form of benefit or any option not otherwise provided under this Plan.
- The court order expressly states that the order does not require this Plan to provide increased Deferred Compensation.
- The court order expressly states that any provision of it that would have the effect of requiring any Distribution to an Alternate Payee of Deferred Compensation that is required to be paid to another person under any court order is void.
- The court order expressly states that nothing in the order shall have any effect concerning any party's tax treatment, and that nothing in the order shall direct any person's tax reporting or withholding.

An order shall not be a Plan-approved Domestic Relations Order if it includes any provision that does not relate to this Plan. Without limiting the comprehensive effect of the preceding sentence, an order shall not be a Plan-approved Domestic Relations Order if the order includes any provision relating to any pension plan, retirement plan, deferred compensation plan, health plan, welfare benefit plan, or employee benefit plan other than this Plan.

An order shall not be a Plan-approved Domestic Relations Order unless the order provides for only one Alternate Payee.

An order shall not be a Plan-approved Domestic Relations Order if the order includes any provision that would require the Plan Sponsor to calculate the amount to be segregated to the Alternate Payee's separate sub-Account in a manner not readily calculable by the Agent according to its currently available records and without regard to any records for any accounting period that is an account stated or otherwise settled by the application of the last paragraph of Provision 3.1 ["Account"].

An order shall not be a Plan-approved Domestic Relations Order if the order includes any provision that would permit the Alternate Payee to designate any beneficiary for any purpose. However, an order does not fail to qualify as a Plan-approved Domestic Relations Order because it provides that any rights not paid before the Alternate Payee's death shall be payable to the duly appointed and then-currently serving personal representative of the Alternate Payee's estate.

The Plan Sponsor may assume that the Alternate Payee named by the court order is a proper payee and need not inquire into whether the person named is a spouse or former spouse of the Participant.

3.48 "Plan Administrator" or "Administrator"

means the Florida League of Cities, Inc. or any successor of it.

Except as otherwise indicated, any reference to the Plan Administrator refers also to the Agent to the extent of any service required or permitted to be performed by the Agent.

3.49 "Plan Loan"

Means a loan to a Participant under Part 20 of this Plan.

3.50 "Plan Sponsor"

means the Participating Employer or any successor to it.

3.51 "Registered Investment Adviser"

means an investment adviser that is registered with the SEC pursuant to § 203(c) of the federal *Investment Advisers Act of 1940*, as amended [15 U.S.C. § 80b-3(c)].

An agreement to provide investment advice (or the giving of investment advice) to a Participant or Beneficiary or Alternate Payee does not constitute a Registered Investment Adviser as an investment manager or investment advisor as to the Plan or any Master Trust.

3.52 "Restatement Date"

means the date that the Participating Employer executes the Adoption Agreement, unless otherwise specified in the Adoption Agreement. An amendment or restatement of this Plan by the Master Trustee does not require execution of a new Adoption Agreement by a Participating Employer.

3.53 "Retirement Distribution"

means any Distribution other than an Unforeseeable Emergency Distribution or a Permitted Distribution or a Corrective Distribution that begins after the Participant's Severance and before the Participant's death.

3.54 "SEC"

means and refers to the Securities and Exchange Commission, an agency of the government of the United States of America, established by § 4(a) of the federal Securities Exchange Act of 1934.

3.55 "Severance"

after December 31, 2001

means, consistent with IRC § 457(d)(1)(A)(ii), the time when the Participant has a severance from employment with the Participating Employer.

before January 1, 2002

means the Participant's separation-from-service with the Participating Employer that is consistent with IRC § 457(d)(1)(A)(ii) as in effect before the *Economic Growth and Tax Relief Reconciliation Act of 2001*.

The Plan Administrator is entitled to rely upon the date of Severance certified by the Participating Employer.

Notwithstanding any other information, the Agent shall not be deemed to have any knowledge of any Severance until it receives the Plan Sponsor's certificate of the fact and date of the Participant's Severance.

3.56 "Shares"

means shares or similar units of interest in a Fund.

3.57 "Signature Guarantee"

means a written guarantee of the signature of the person endorsing a writing that is made by a corporation that is an "eligible guarantor institution" as defined by 17 C.F.R. § 240.17Ad-15(a)(2) that is not otherwise excluded under the preceding Rule and that is a member of the Securities Transfer Agent Medallion Program ["STAMP"].

3.58 "Spouse" or "Surviving Spouse"

means, solely for the purposes of minimum distribution provisions, the natural person who is the Surviving Spouse of the Participant under Federal law.

For all purposes under the Plan, the Plan Sponsor may rely on any written statement furnished to it, and the Plan Sponsor has no duty to inquire concerning the non-existence or identity of a Participant's Spouse unless the Plan Sponsor has received a court order or legal process or a written notice from any office of the IRS concerning the existence or non-existence or identity of the Participant's Spouse.

3.59 "State"

means the State of Florida.

3.60 "Taxpayer Identifying Number"

has the meaning given by IRC § 6109.

3.61 "Transfer Contribution"

means each amount deferred under the Plan pursuant to Provision 5.2.

3.62 "Transfer Distribution"

means a Distribution transferred to another eligible deferred compensation plan by or on behalf of the Participant.

3.63 "Unforeseeable Emergency Distribution"

means a Distribution under Part 11.

3.64 "Unallocated Investment"

means any Investment that is not an Allocated Investment.

3.65 "USA"

means the United States of America.

To the extent that any provision of the Plan is intended to state a provision that meets a requirement of or by reference to IRC § 401(a) or IRC § 501(a), USA shall be construed according to IRC § 7701(a)(9), except as otherwise required or permitted by the Internal Revenue Code for the applicable requirement.

3.66 "Valuation Date"

means each date provided for valuing Plan Accounts as specified by the Plan Administrator under a written procedure(s).

Each Investment or Master Trust account shall provide that the Allocation Date (or, if for any Year the Allocation Date is not a regular Business Day, the regular Business Day that immediately precedes the Allocation Date) is a Valuation Date.

A Valuation Date that is a Business Day ends at the same time that the Business Day ends. A Valuation Date that is not a Business Day ends at 4 p.m. New York Time.

3.67 "Valuation Period"

means the time after the end of a Valuation Date to the close of the next Valuation Date.

3.68 "Year"

means the Participating Employer's Plan Year, as specified by the Adoption Agreement.

For all purposes of administering the Plan, the Plan Sponsor shall be entitled to rely on the assumption that a Participant's taxable year is the calendar year, unless the Participant gives written notice specifying his or her taxable year.

4. Participation in the Plan

4.1 Enrollment

An eligible Employee who wishes to become a Participant shall complete and execute and deliver all of the instruments or forms required by the Plan.

4.2 Participation Agreement

If the Employee elects to make Employee Contributions, the Participant shall enroll in the Plan by executing a Participation Agreement (on the form prescribed by the Plan Administrator) to make those Employee Contributions. When entering into or amending his or her Participation Agreement, the Participant must agree to defer the minimum amount that is required under each Plan Investment indicated by the Participant's Participation Agreement, and must agree to defer not more than the maximum amount provided by Part 5 ["Contribution limit"].

4.3 Enrollment Date

An Employee who has become eligible to participate in this Plan shall be eligible to enroll as a Participant as of the date on which the Employee satisfies this Plan's eligibility requirements; provided the Employee is still employed as of that date, or, if not employed on that date, as of the date of rehire (if he or she then satisfies this Plan's eligibility requirements).

4.4 Employee responsible to enroll

If the Employee fails to complete and execute and deliver any enrollment forms required according to Provision 4.1, he or she shall not be entitled to receive an allocation of any Contributions under the Plan.

The Plan Administrator shall not be responsible to notify any Employee that he or she has become eligible to participate in the Plan. The Employee shall be responsible to know when he or she becomes eligible to participate in the Plan, and shall be responsible to take any action necessary to enroll in the Plan. The Plan Administrator shall not be liable for any missed Contributions.

4.5 Time for Contributions to begin

Contributions will be deferred for any calendar month only if a Participation Agreement providing for the deferral has been entered into before the beginning of the month.

4.6 Amendment of Participation Agreement

Subject to all of the provisions of the Plan, a Participant may at any time amend his or her Participation Agreement to change: the amount of his or her Contributions, his or her investment direction; his or her designated Beneficiary(s).

Unless the Participation Agreement specifies a later effective date, a change in the amount of Contributions shall take effect as of the next available pay period in the next calendar month. A change in the investment direction for Contributions shall take effect after investment direction is received according to Provision 6.2. A change in the Beneficiary Designation shall take effect when the Participation Agreement is accepted by the Plan Sponsor, Plan Administrator or Agent.

4.7 Leave of absence

Unless his or her Participation Agreement is otherwise amended, if a Participant is absent from work by a leave of absence, Contributions under the Plan shall continue to the extent that Compensation continues, or the Participation Agreement shall remain in effect and Contributions shall resume when the Participant returns to work.

4.8 Disability

A disabled Participant may make Employee Contributions during any portion of the period of his or her disability to the extent that he or she has actual Compensation (not imputed compensation and not disability benefits) from which to make Employee Contributions.

4.9 Designated Roth Contributions

If elected by the Participating Employer in the Adoption Agreement, as required by law to comply with the Age-Based Catch-Up limitation in the SECURE 2.0 Act, or otherwise in a

manner acceptable to the Plan Administrator, the Participant may designate that all or a portion of his or her elective contributions to the Plan be treated as after-tax Roth contributions (referred to herein as "Designated Roth Contributions"). Such designations must be made before the date upon which the amounts designated would otherwise have been payable to the Participant (but for the election to defer), and such designation must be irrevocable on and after that date. Designated Roth Contributions, and the earnings, losses or expenses thereon, shall be accounted for separately from all other contributions to the Plan (including rollovers of Roth contributions from other plans, if permitted by the Plan Administrator) and the earnings, losses or expenses on those contributions. If a Participant takes a distribution of less than 100% of his or her Account, the Participant may designate whether such distribution shall be made from the Participant's pre-tax elective deferral contributions or after-tax Designated Roth Contributions.

If elected by the Participating Employer in the Adoption Agreement, the Participating Employer may make contributions (that are not part of the Participant's Compensation) to the Plan as additional Deferred Compensation. Participating Employer Contributions may, but need not, be accounted for separately from Participant pre-tax elective deferral contributions, but shall be accounted for separately from Designated Roth Contributions, and rollover contributions (whether from a non-Roth account or a designated Roth account, if permitted by the Plan Administrator).

4.10 In-Plan Roth Rollovers

If the Participating Employer has authorized Designated Roth Contributions, a Participant may make an In-Plan Roth Rollover. All In-Plan Roth Rollovers shall be treated as a qualified rollover contribution to such Account within the meaning of Section 408A(e) of the Code. A Participant may only make an In-Plan Roth Rollover from vested amounts which are eligible for In-Plan Roth Rollovers. The Plan Administrator or Agent will establish reasonable administrative procedures, in accordance with the Code, IRS guidance, and Plan provisions, and maintain such records as are necessary for the proper tax reporting of In-Plan Roth Rollovers. An In-Plan Roth Rollover Contribution Account is a subaccount the Plan Administrator may establish to account for a Participant's Rollover Contributions attributable to the Participant's In-Plan Roth Rollover Contributions. The taxable portion of Participant Accounts rolled over to the Participant's Roth Contribution Account shall be included in the Participant's gross income in the tax year in which the rollover occurs. To the extent required by Code Section 402(f), the Plan Administrator or Agent shall provide written information regarding In-Plan Roth Rollovers under this provision. This provision of the Plan is effective for In-Plan Roth Rollovers made on or after September 21, 2023.

5. Contribution limit and acceptance of transfers and rollovers

5.1 Deferral limit

The maximum amount deferred for any Participant for any taxable year of the Participant shall not exceed the lesser of (i) the Applicable Dollar Amount, or (ii) the Participant's Includible Compensation for the calendar year. The Applicable Dollar Amount is the amount established under Section 457(e)(15) of the Code. For 2023, the Applicable Dollar Amount is \$22,500. To the extent another Maximum Limitation applies, the amount deferred shall not exceed the applicable Maximum Limitation for any Participant. The amount deferred includes all

Contributions (Employee Contributions, Employer Contributions, and Designated Roth Contributions).

5.2 Acceptance of transfers and rollovers

The Participating Employer shall credit to a Participant's Account the amount transferred from another eligible deferred compensation plan (within the meaning of IRC § 457(b)). Any transferred amount is not treated as Contributions subject to the limitation of Provision 5.1, except for the amount of deferred compensation during the Participant's taxable year in which the transfer occurred which is treated as a Contribution subject to the limitation of Provision 5.1.

To the extent permitted by the applicable provisions of the Code and regulations issued thereunder, a Participant may contribute to the Plan in cash as a rollover contribution a qualified rollover amount from a governmental deferred compensation plan under Code Section 457(b). In the event that the Plan Administrator establishes a procedure under which all amounts received from a qualified plan, individual retirement account or annuity, or a tax-sheltered 403(b) plan would be separately accounted for, a Participant may contribute to the Plan in cash as a rollover contribution a qualified rollover amount from a qualified plan, provided that the Administrator, in its discretion, determines that the contribution satisfies all applicable requirements of the Code.

5.3 Qualified governmental excess benefit arrangement

Consistent with IRC § 457(e)(14), Provision 5.1 and IRC § 457(c) shall not apply to any qualified excess benefit arrangement (as defined by IRC § 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether this Plan is an eligible deferred compensation plan.

5.4 Corrective Distribution for excess deferrals

A Corrective Distribution for excess elective deferrals shall be paid if the Participant designates (or the Participant is deemed to have notified the Plan Sponsor of) an amount of excess deferrals. Such excess shall be distributed to the Participant as soon as administratively practicable after the Administrator is notified by the Plan Sponsor that the amount is an excess annual deferral.

5.4.1 Designation of excess deferrals

The Participant shall designate excess deferrals by delivering to the Plan Sponsor a written claim in the form prescribed by the Plan Administrator that certifies and otherwise establishes to the satisfaction of the Plan Sponsor and the Plan Administrator an amount of excess deferrals.

If the Plan Sponsor finds that the Participant has excess deferrals for the calendar year calculated by taking into account only Contributions under this Plan and other plans of the same Participating Employer, the Participant is deemed to have notified the Plan Sponsor of the excess deferrals so determined, unless the Participant certifies that he or she has received a corrective distribution under another plan.

5.4.2 Calculation of allocable income

The income or loss allocable to excess deferrals shall be determined according to a reasonable method of allocating income or loss. For this purpose, the method described in Treasury Reg. § 1.402(g)-1(e)(5) is deemed to be a reasonable method.

5.4.3 Amount to be distributed

The amount to be distributed as a Corrective Distribution shall be the amount designated (or deemed designated) under Provision 5.4.1 together with any allocable income determined under Provision 5.4.2.

5.4.4 Plan Administrator not responsible to determine "excess deferrals"

The Plan Administrator shall not be responsible to determine the amount of any excess deferrals.

6. Investment direction

6.1 Participant's duty of investment direction

Each Participant (and, when applicable, each Beneficiary or Alternate Payee) shall, subject to the requirements of any applicable Investment Law and of any procedures established by the Plan Administrator and the Agent, direct the investment of his or her or its Account(s).

6.2 Procedure for giving investment direction

The Investor must give his or her or its investment direction according to the provisions of this Plan, including any procedure or form required by the Plan Administrator or the Agent or the Issuer.

6.2.1 Reasonable frequency

The Plan Administrator, Issuer or each Investment may, but only on a uniform and consistent basis, impose reasonable restrictions on the frequency with which all Investors may give investment directions. In addition to (and not by limitation upon) such restrictions, the Investor cannot give more than one investment direction in any Valuation Period and the latest investment direction in a Valuation Period cancels all earlier inconsistent investment directions in that Valuation Period.

6.2.2 Who directs investment

During the Participant's life, the Participant shall direct the investment of his or her Account. During the Participant's disability or incompetence, the person who has authority to act for the Participant under a power-of-attorney accepted by the Plan Sponsor or the agent according to Provision 17.15 ["Power-of-attorney"] or, if there is no such agent, the person that is the duly appointed and currently serving conservator or guardian of the estate of the Participant shall direct the investment of the Participant's Account. After the Participant's death, the Beneficiary shall direct the investment of his or her or its Account or each Beneficiary shall direct the investment of his or her or its segregated Account. A Participant or Beneficiary may delegate investment responsibility for all of his or her or its Account to an agent or attorney-in-fact by giving written notice acceptable to the Plan Sponsor and furnishing a power-of-attorney that is accepted by the Plan Sponsor according to Provision 17.15. A Participant or Beneficiary cannot delegate investment responsibility for only part of his or her or its Account. Solely for the

purposes of this Part and solely for convenience of reference, the person that has the duty or holds a power to give investment direction is referred to as the "Investor".

6.2.3 Investment direction must be in writing

Each investment direction shall be in writing and shall not be proper unless the writing is signed by the Investor. Except as otherwise specified by the Agent's investment direction procedure, "writing" and "signed" shall be construed according to Provision 17.23 ["Signatures and broad acceptance of writings"], subject to any security procedures required by the Agent or the Issuer. Without limiting the comprehensive effect of the above, a signed writing includes, to the extent permitted by the applicable Investment(s), a proper telephone or Internet-based communication made in the manner prescribed by the Agent and the Issuer.

6.2.4 Proper person to receive investment direction

The Investor shall give his or her or its investment direction only to the Plan Administrator or Agent, except as otherwise permitted by a uniform written procedure adopted by the Plan Administrator.

For any Investment, notwithstanding any service or assistance that may be provided by the Agent, only the Issuer(s) has authority to accept an investment direction and any direction is effective only when and as so received. Nothing in this Plan or otherwise shall be construed to enlarge or augment any legal obligation of the Agent.

6.2.5 Investment can't avoid Distribution Commencement Date

Notwithstanding any provision or privilege for investment direction, if, consistent with Provision 12.2 ["Election of Distribution Commencement Date"], the Participant or if, consistent with Provision 13.2 ["Election of Distribution Commencement Date"], the Beneficiary has selected more than one Distribution Commencement Date, he or she or it is not permitted to make any investment transfer from any portion or Investment of his or her or its Account to any other portion or Investment of his or her or its Account that has a different Distribution Commencement Date.

6.3 Plan Administrator not responsible

Except as provided by Provision 6.4, the Plan Administrator must accept every proper investment direction and the Plan Administrator is obligated to comply with such proper investment direction. Without limiting the comprehensive effect of the above, the Plan Administrator is not under any duty to question any investment direction of a Participant or Beneficiary (or his or her or its agent), or to make any investment recommendations, or to provide to any person any investment advice or investment education.

If the Participating Employer or the Plan Administrator or the Master Trust provides any investment education or investment information or investment advice of any kind, the Participating Employer and the Plan Administrator and the Master Trust shall not be liable for any loss or liability arising out of such investment education or investment information or investment advice.

6.4 Investment direction refused

The Plan Sponsor, Plan Administrator, the Agent or any person may decline to implement any investment direction if:

- the person receiving the investment direction knows (or a court order has determined) that the Investor is legally incompetent;
- the investment direction would be contrary to this Plan;
- the investment direction would be contrary to a court order, even if the court order is not a Plan-approved Domestic Relations Order;
- the investment direction would jeopardize the Plan's (or the Master Trust's) tax qualified status;
- the investment direction would generate income that would be taxable to the Master Trust;
- the investment direction would result in a prohibited transaction within the meaning of IRC § 503; or
- the investment direction would cause the Master Trust or any person to maintain the indicia of ownership of an Investment or any assets of the Plan outside the jurisdiction of the district courts of the USA or outside the jurisdiction specified by the Master Trust Agreement.

If an investment direction is declined, the Plan Sponsor, Plan Administrator, or Agent shall notify the Investor.

6.5 Failure to give investment direction

If at any time a Participant or Beneficiary fails to exercise his or her or its duty of investment direction (or an investment direction is refused), the Master Trustee shall, to the extent of the failure of proper investment direction, cause the Account or applicable sub-Account(s) or segregated Account to be invested as specified under a written procedure adopted by the Master Trustee. In such event, the Participant or Beneficiary shall be deemed to have directed that option (or options) for investment of their Account. Except for investment options under Open Architecture Investment that are further provided for herein, if the Master Trustee has appropriately exercised its fiduciary duty in selecting a default option(s), there shall be no liability for any loss sustained by a Participant or Beneficiary whose Account is invested in the default option(s). The Master Trustee shall have no fiduciary duty nor any liability for any loss sustained by a Participating Employer, Participant, Beneficiary, or Alternate Payee whose Account in whole or part is invested under Open Architecture Investment and whose investment options, including any default option(s), have been selected by the Participating Employer.

6.6 Expenses of investment direction

The Plan may charge the Participant's or Beneficiary's Account for the expenses of executing his or her or its investment direction. If such expenses are so charged, the Plan Administrator shall maintain reasonable procedures to inform Investors that such charges are made and to inform each Investor as to the actual expenses charged to the Participant's or Beneficiary's individual Account.

If the execution of an investment direction would incur an unusual charge or any tax under the Investment or otherwise under applicable law, any person receiving the investment direction may (but is not required to) require the Investor to acknowledge in writing that he or she or it understands each charge or tax and how the charge or tax is calculated or determined.

6.7 Relief from fiduciary responsibility

To the extent of the Participant's or Beneficiary's investment direction, the Participating Employer and the Plan Administrator and the Master Trust and the Agent and each Issuer and each person performing services regarding the Plan is relieved of any fiduciary responsibility and every kind of liability, and is not responsible for or liable for any damage or loss or expense or other claim which may arise from that Participant's or Beneficiary's investment direction or exercise of control (or from that Participant's or Beneficiary's failure to exercise his or her or its duty of investment direction and control).

6.8 Participating Employer and Plan Administrator not responsible for Plan Investment selection

Except as otherwise required by the Enabling Statute, and except as provided herein for Open Architecture Investment, each Participating Employer and the Plan Administrator does not have any responsibility and shall not have any liability relating to the selection of Plan Investments. Without limiting the comprehensive effect of the above, the Participating Employer and Plan Administrator are not liable for losses or damages arising out of: any action in approving or purchasing any Plan Investment(s), any bankruptcy or insolvency or impairment or liquidation or rehabilitation or supervision of any Issuer(s), any other impairment of any Issuer's ability to meet its obligations, or the performance of any Plan Investments. Notwithstanding any provision of this Plan to the contrary, an Employer who has selected the Open Architecture Investment shall select and oversee investment options, including default option(s), for the Plan rather than using the investment options selected by the Master Trustees, and shall be responsible for the selection and oversight of investment options for the Plan. The Plan Administrator and Master Trustees have no responsibility for the selection or oversight of investment options selected by an Employer who has selected investment options for the Plan under Open Architecture Investment, and therefore, neither the Plan Administrator nor the Master Trustees shall have any liability relating to the selection of Plan investment options under Open Architecture Investment. Without limiting the comprehensive effect of the above, the Plan Administrator and Master Trustees are not liable for losses or damages arising out of: any action in approving or purchasing any investment option under Open Architecture Investment, any bankruptcy or insolvency or impairment or liquidation or rehabilitation or supervision of any Issuer(s), any other impairment of any Issuer's ability to meet its obligations, or the performance of any investment option under Open Architecture Investment.

6.9 Selection of Open Architecture Investment

Notwithstanding any provisions of this Plan to the contrary, including but not limited to Provisions 3.32, 6.5, 6.8, and 16.1, a Participating Employer acknowledged through the Trust Joinder Agreement may elect Open Architecture Investment. If a Participating Employer selects Open Architecture Investment, the Participating Employer will be responsible for selecting and overseeing Plan investment option(s) rather than using the investment options selected by the

Master Trustees. Notwithstanding any provisions of this Plan to the contrary, a Participating Employer acknowledges by the selection of Open Architecture Investment that neither the Plan Administrator nor the Master Trustee has any responsibility and shall not have any liability relating to the selection or oversight of Plan investment options. The Master Trustee shall have no fiduciary duty or any liability for an investment option or any loss sustained by a Participating Employer, Participant, Beneficiary, or Alternate Payee whose Account, in whole or in part, is invested through Open Architecture Investment.

6.10 Obligation is limited

The Master Trustee's or the Participating Employer's obligation to pay Deferred Compensation shall not exceed the actual amount or value of the Participant's Account.

7. Allocation methods

7.1 Employee Contributions

Each Employee may elect to defer a portion of his or her Compensation as Employee Contributions, subject to all limitations of the Plan. An Employee is always 100% vested in Employee Contributions under the Plan.

7.2 Employer Contributions are discretionary

This Provision applies only if Employer Contributions are permitted by the Enabling Statute and the Adoption Agreement. All Employer Contributions under this Plan are discretionary and the Employer Contributions made (if any) for any Year shall be as declared by each Participating Employer. All Employer Contributions shall be allocated as specified by the Participating Employer in the Adoption Agreement. If the Participating Employer sets minimum requirements to be eligible for an Employer Contribution, it is the Participating Employer's responsibility to monitor any such requirements and to report to the Plan Administrator a change in Employee eligibility. Employer contributions will be subject to the vesting schedule established in the Adoption Agreement. In the absence of a completed vesting schedule, the Employee shall be 100% vested in Employer Contributions.

7.3 Plan Accounts

The Plan Administrator shall keep (or cause to be kept) the Account for each Participant (or Beneficiary).

7.4 Allocation of investment return

To the extent that an Account is held under an Allocated Investment, all income, gains, losses, other elements of investment return or contract value, and expenses shall be allocated with respect to each participant.

To the extent that an Account is held under an Unallocated Investment, all income, gains, losses, other elements of investment return or contract value, and expenses shall be allocated as provided by a written procedure adopted by the Plan Administrator, which may be an agreement between the Plan Administrator and the Agent.

7.5 No rights created by allocation

Any allocation of Contributions or investment earnings to any Account shall not cause the Participant to have any right, title, or interest in any assets of the Plan, except as expressly provided by the Plan.

7.6 Delinquent contributions

It is the Participating Employer's responsibility to correctly calculate and remit the appropriate Employee and Employer Contributions. Neither the Plan, Plan Administrator, Master Trustee, nor the Agent shall have any liability for the delinquency of the Employer.

8. Reemployment after Uniformed Service

8.1 Protection of persons who serve in a Uniformed Service

To the extent required by 38 U.S.C. § 4318, a person who is a member of, applies to be a member of, has performed, applies to perform, or has an obligation to perform service in a Uniformed Service shall not be denied any Deferred Compensation or right under this Plan on the basis of such membership, performance of service, application for service, or obligation.

Consistent with all provisions of USERRA, any provision of this Part and any other right under the Plan arising out of or related to reemployment after Service in the Uniformed Services does not apply unless and until: the person is eligible for reemployment under 38 U.S.C. § 4304 [honorable discharge], the person applied for reemployment in compliance with 38 U.S.C. § 4312, and the Participant or Employee furnishes to the Plan Sponsor satisfactory documentation concerning the Service in the Uniformed Services 38 U.S.C. § 4312(e)(3)(B),.

The provisions of IRC § 414(u) are incorporated by reference and made a part of the Plan as required to be in compliance with the IRC.

8.1.1 Effective Dates

Consistent with USERRA § 8, the provisions of United States Code Title 38 Chapter 43, as in effect on the day before the date of enactment of USERRA, apply to reemployments before December 12, 1994. Consistent with USERRA § 8, the provisions stated in this Part apply to reemployments on or after December 12, 1994, except that any obligation under this Part shall not commence until October 13, 1996.

8.2 Definitions

Solely for the purposes of this Part (including any Provision or Definition that refers to this Part), each of the following terms has the meaning stated below.

8.2.1 "Qualified Military Service"

means, consistent with IRC § 414(u)(5), any Service in the Uniformed Services (as defined below) if the individual is entitled to reemployment rights under USERRA with respect to such service.

8.2.2 "Service in the Uniformed Services"

means, consistent with 38 U.S.C. § 4303(13), the performance of duty on a voluntary or involuntary basis in a Uniformed Service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honor duties.

8.2.3 "Uniformed Service"

means, consistent with 38 U.S.C. § 4303(16), any one or more of the Armed Forces, the Army National Guard or the Air National Guard when engaged in active duty for training or inactive duty training or full-time National Guard duty, the commissioned corps of the Public Health Service, or any other category of persons designated by the President of the USA in time of war or national emergency.

8.2.4 "USERRA"

means the *Uniformed Services Employment and Reemployment Rights Act of 1994* (Public Law No. 103-353) [October 13, 1994] codified at 38 U.S.C. § 4301 et seq..

8.3 Service crediting

Consistent with 38 U.S.C. § 4318(a)(2)(A) and IRC § 414(u)(8)(A), a person who timely resumes employment with the Participating Employer under 38 U.S.C. § 4301 et seq. shall be treated as not having incurred a break-in-service by reason of such person's period(s) of Qualified Military Service.

Consistent with 38 U.S.C. § 4318(a)(2)(B) and IRC § 414(u)(8)(B), upon reemployment under 38 U.S.C. § 4301 et seq., each period of Qualified Military Service shall constitute service under this Plan for the purpose of determining the nonforfeitability of the Participant's accrued benefits under this Plan and for the purpose of determining the accrual of benefits under this Plan.

Consistent with the Heroes Earning Assistance and Relief Tax (HEART) Act, a deceased person's period of qualified military service will be credited service under this Plan.

8.4 Compensation

Consistent with 38 U.S.C. § 4318(b)(3) and IRC § 414(u)(7) and IRC § 457(e)(5), for the purposes of computing any Contributions required or permitted under this Part, the reemployed Participant's Compensation during the period of Qualified Military Service shall be either the Compensation the Participant would have received during such period if the Participant were not in Qualified Military Service, determined based on the rate of pay the Participant would have received from the Participating Employer but for absence during the period of Qualified Military Service, or, if the Compensation the Participant would have received during the period of absence for Qualified Military Service was not reasonably certain, the Participant's average Compensation from the Participating Employer during the 12-month period (or, if shorter, the entire period of employment) immediately preceding the Qualified Military Service.

8.5 Non-matching Employer Contributions

Consistent with 38 U.S.C. § 4318(b)(1) and IRC § 414(u), if a person is reemployed under 38 U.S.C. § 4301 et seq., with respect to the period(s) of Service in the Uniformed Services, the Participating Employer shall pay (if it has not already done so) and direct the Plan Administrator to allocate to the reemployed Participant's Account any Participating Employer Non-matching Contribution for the Participant in the amount (without investment income or earnings of any kind) that would have been allocated to the Participant's Account if the Participant had been actively at work for the Participating Employer. Such contributions must be made no later than ninety (90) days after the date of such reemployment or when contributions are normally due for the year in which the Qualified Military Service was performed, if later.

8.6 Matching Employer Contributions

Consistent with 38 U.S.C. § 4318(b)(2), if a person is reemployed under 38 U.S.C. § 4301 et seq. and makes Employee Contributions as permitted by Provision 8.7 with respect to the period(s) of Service in the Uniformed Services, the Participating Employer shall pay (if it has not already done so) and direct the Plan Administrator to allocate to the reemployed Participant's Account any Participating Employer Contribution for the Participant in the amount (without investment income or earnings of any kind) that would have been allocated to the Participant's Account if the Participant had been actively at work for the Participating Employer to the extent that the reemployed Participant makes payment of the Employee Contributions. Consistent with IRC § 414(u)(2)(A)(ii), the Participating Employer has no obligation to pay the matching Employer Contribution until, and its obligation is only to the extent that, the reemployed Participant pays his or her Employee Contribution.

8.7 Employee Contributions

Consistent with 38 U.S.C. § 4318(b)(2) and IRC § 414(u)(2), if a person is reemployed under 38 U.S.C. § 4301 et seq., with respect to the period(s) of Service in the Uniformed Services, the Participant may pay (if he or she has not already done so), and the Participating Employer shall direct the Plan Administrator to allocate to the reemployed Participant's Account, any Employee Contributions in the amount required or any amount permitted that would have been required or permitted to be made and then allocated to the Participant's Account if the Participant had been actively at work for the Participating Employer. No such payment shall exceed the amount the reemployed person would have been permitted to contribute had the person remained continuously employed by the Participating Employer throughout his or her Service in the Uniformed Services. Consistent with IRC § 414(u)(2)(A)(i), any such payment to the Plan may be made during the period beginning with the date of reemployment and whose duration is the lesser of five years or three times the period of the reemployed person's Service in the Uniformed Services.

8.8 Plan Loan repayment

To the extent permitted by IRC § 414(u)(4), the Plan may suspend the Participant's Plan Loan repayment obligation for any part of the period during which the Participant performs Service in the Uniformed Services, even if such service is not Qualified Military Service.

8.9 HEART Act

If a Participant dies while engaged in Qualified Military Service, the Participant's beneficiaries shall be entitled to any benefits the Participant would have been entitled to as if the Participant had resumed employment immediately prior to his or her death in accordance with the Heroes Earning Assistance and Relief Tax (HEART) Act and any regulations promulgated thereunder.

8.10 Differential wage payment

Effective January 1, 2009, a Participant receiving a differential wage payment within the meaning of Code Section 414(u)(12)(D) from a Participating Employer, shall be treated as a Participant and the differential wage payment shall be treated as Compensation and shall also be treated as Compensation subject to Code § 415(c). This provision shall apply to all similarly situated individuals in a reasonably equivalent manner.

9. Plan-approved Domestic Relations Order

9.1 Domestic relations order procedures

In fulfilling the duties set forth in this Part 9, the Plan Sponsor may use the services of its own agent or an Agent of the Plan Administrator to determine whether an order directed to the Plan is a Plan-approved Domestic Relations Order.

9.2 Determination as to order's status

The Plan Sponsor or agent may make a determination on whether a final court order directed to the Plan is a Plan-approved Domestic Relations Order. The Plan Sponsor or agent may delay the commencement of its consideration of any order until the later of the date that is 30 days after the date of the order or the date that the Plan Sponsor or agent is satisfied that all rehearing and appeal rights with respect to the order have expired.

9.3 Investment direction during domestic relations matter

Notwithstanding any notice to the Plan Sponsor (or to any other person dealing with or performing services regarding the Plan) that a domestic relations order is or may be presented to be determined as a Plan-approved Domestic Relations Order, the Participant shall continue to exercise his or her duty of investment direction as required by the Plan unless a court order expressly provides otherwise and the Plan Sponsor determines that the court order is a Plan-approved Domestic Relations Order. If a Plan-approved Domestic Relations Order provides for an Alternate Payee (or any person other than the Participant) to have a right of investment direction under the Plan, the Plan Sponsor shall give effect to that court order to the extent permitted by the Plan.

9.4 Giving effect to a Plan-approved Domestic Relations Order

If the Plan Sponsor determines that an order is a Plan-approved Domestic Relations Order, the Plan Sponsor or agent shall instruct the Plan Administrator to instruct the Issuer to cause the payment of amounts pursuant to or segregate a separate sub-Account as provided by (and to prevent any payment or act which might be inconsistent with) the Plan-approved Domestic Relations Order.

9.5 Domestic relations proceeding

Each -Participating Employer and the Master Trustee and the Plan Administrator and the Agent and each Issuer and any person serving under contract or otherwise with respect to the Plan shall not be obligated to incur any cost to defend against or set aside any judgment, decree, or order relating to the division, attachment, garnishment, or execution of or levy upon the Participant's Plan Account or any Distribution, including (but not limited to) any domestic relations proceeding. Notwithstanding the foregoing, if any such person is joined in any proceeding, the party may take such action as it considers necessary or appropriate to protect any and all of its legal rights, and the Participant (or Beneficiary) shall reimburse all actual fees of lawyers and legal assistants and expenses reasonably incurred by such party.

9.6 Notice of determination

The Plan Sponsor, or agent, Plan Administrator or Agent may notify the Participant and any Alternate Payee, or their attorneys, of its determination on any order.

9.7 Plan-approved Domestic Relations Order procedures

The procedure for the Plan Sponsor or agent in administering Plan-approved Domestic Relations Orders shall be as follows:

The Plan Sponsor or agent shall promptly notify the Participant and each Alternate Payee of receipt of such order and the Plan's procedures for determining the qualified status of domestic relations orders.

The Plan Sponsor or agent will then determine if the order meets the requirements of the Plan.

If the Plan Sponsor or agent determines the order to be a Plan-approved Domestic Relations Order, it will send a written determination to the named Issuer(s) of the Investment(s), and give notice to the Plan Administrator, Plan Participant, the Alternate Payee(s), and their attorneys, so that they may act according to the provisions of the order.

If the Plan Sponsor or agent determines that the order is not a Plan-approved Domestic Relations Order, it must ensure that the Plan does not make any distribution from the Participant's Account for a period of 18 months, unless the Alternate Payee either releases a claim to the Benefits or the parties obtain an amended order which is determined by the Plan Sponsor or agent to be a Plan-approved Domestic Relations Order.

9.8 Death of alternate payee

Unless otherwise provided by the Plan-approved Domestic Relations Order, in the event of an Alternate Payee's death, any remaining benefits shall be payable solely to the Alternate Payee's estate, via the duly appointed and then-currently serving executor of the Alternate Payee's estate.

10. Permitted Distribution

10.1 Permitted Distribution for inactive Participant

Consistent with IRC § 457(e)(9)(A), a Participant (but not a Beneficiary or Alternate Payee) may elect to receive a Permitted Distribution if the Participant's Account does not exceed the amount

described in IRC § 457(e)(9)(A) and the Participant has not made and the Participant's Account has not received any Contributions during the two-year period that ends on the date of the Permitted Distribution and the Participant has not previously received any Permitted Distribution under this Plan.

10.2 Permitted Distribution paid as a lump sum

A Permitted Distribution shall be payable only as a lump sum.

10.3 “Coronavirus-Related Distribution”

11. A Coronavirus-Related Distribution is a form of Permitted Distribution.Unforeseeable Emergency Distribution

11.1 Unforeseeable Emergency Distribution

If, before his or her Severance, or after his or her Severance and after he or she has made an irrevocable election of his or her Distribution Commencement Date but before his or her Distribution Commencement Date, the Participant has an unforeseeable emergency that is approved by the Plan Sponsor as satisfying Provision 11.2, the Participant (but not a Beneficiary or Alternate Payee) is entitled to receive an Unforeseeable Emergency Distribution (as a lump sum) of the amount determined by the Plan Sponsor to be the amount requested which is reasonably needed to satisfy the emergency need (which may include any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution) or, if less, the maximum amount determined under the procedures determined by the Plan Sponsor.

11.2 Definition of unforeseeable emergency

An unforeseeable emergency means a severe financial hardship to the Participant resulting from

- a sudden and unexpected illness or accident of the Participant, or
- a sudden and unexpected illness or accident of a dependent (as defined by IRC § 152 without regard to Code §§ 152(b)(1), (b)(2), and (d)(1)(B)) of the Participant, or
- loss of the Participant's property due to casualty, or
- other similar and extraordinary unforeseeable circumstances arising as a result of events beyond the control of the Participant.

A need to pay college tuition or a desire to purchase a home is not an unforeseeable emergency.

A Participant's (or his or her dependent's) circumstances is not an unforeseeable emergency and an Unforeseeable Emergency Distribution shall not be paid to the extent that the financial hardship is or may be relieved

- through reimbursement or compensation by insurance or otherwise,
- by borrowing from commercial sources on reasonable commercial terms to the extent that this borrowing would not itself cause a severe financial hardship,
- by cessation of deferrals under the Plan, or

- by liquidation of the Participant's other assets (including assets of the Participant's Spouse and minor children that are reasonably available to the Participant) to the extent that this liquidation would not itself cause severe financial hardship.

For the purposes of the preceding sentence, the Participant's resources shall be deemed to include those assets of his or her spouse and minor children that are reasonably available to the Participant; however, property held for the Participant's child under an irrevocable trust or under a *Uniform Gifts to Minors Act* Master Trusteeship or *Uniform Transfers to Minors Act* Master Trusteeship shall not be treated as a resource of the Participant.

The Participant must provide documentation acceptable to the Plan Sponsor or approver of the unforeseeable emergency that indicates the reason for the hardship and the dollar amount necessary to satisfy the unforeseeable emergency.

Effective January 1, 2023, the Plan Sponsor or approver of the unforeseeable emergency may rely on the Participant's written self-certification that (i) the circumstances for the hardship exist, (ii) the amount requested is not in excess of the amount required to satisfy the financial need, and (iii) the Participant has no alternative reasonably available means to satisfy such need. Reliance on self-certification is not permitted if the Plan Sponsor or approver of the unforeseeable emergency has actual knowledge that is contrary to the Participant's certification.

11.3 Plan Sponsor or agent must determine unforeseeable emergency

The Plan Sponsor or an agent must determine whether the circumstances of the Participant constitute an unforeseeable emergency within the meaning of Provision 11.2.

Following a uniform procedure, the Plan Sponsor's or agent's determination shall consider any facts or conditions deemed necessary or advisable by the Plan Sponsor or agent, and the Participant shall be required to submit any evidence of his or her circumstances that the Plan Sponsor or agent requires. The determination as to whether the Participant's circumstances are a case of unforeseeable emergency shall be based on the facts of each case; provided however, that all determinations as to unforeseeable emergency shall be uniformly and consistently made according to the provisions of the Plan for all Participants in similar circumstances.

The Plan Sponsor or agent may require that any statement made as part of a claim for an Unforeseeable Emergency Distribution be made under penalties of perjury. The Plan Sponsor or agent may require that any statement made as part of a claim for an Unforeseeable Emergency Distribution be signed in the presence of a Notarial Officer.

12. Retirement Distribution

12.1 Retirement Distribution

Upon his or her Severance, the Participant is entitled to receive his or her Account (not earlier than the applicable Distribution Commencement Date) under any Payout Option that satisfies the provisions of the Plan.

12.1.1 Transfer of Deferred Compensation to another eligible 457 Plan of an Employer

Consistent with IRC § 457(e)(10), upon his or her Severance, a Participant may elect (in the form prescribed by the Plan Administrator) to transfer his or her Account and his or her rights in and to the Plan to another eligible deferred compensation plan (within the meaning of IRC § 457(b)), provided that the Plan Sponsor and Plan Administrator are satisfied that the other plan will accept the transferred amount and obligation and the participant is now performing services for the transferee plan sponsor.

12.1.2 Deemed Distribution

Upon his or her Severance, if the Participant's Account is not more than \$0 (as of the date of or the Valuation Date next following his or her Severance), the Participant shall be deemed to have received a full Retirement Distribution.

12.2 Election of Distribution Commencement Date

If the Participant's Severance occurred before October 15, 2001, not later than 60 days after the date of his or her Severance (and not earlier than the date of the Severance), the Participant shall irrevocably, except as provided by Provision 12.2.2, elect, with respect to all of his or her Account or to each portion of his or her Account that is attributable to each Investment, to defer payment of his or her Deferred Compensation until a fixed future time [the "Distribution Commencement Date"] that is consistent with the provisions of the elected Payout Option and that is at least 75 days after the date that the election is made and that is consistent with the requirements of Provision 12.4 ["Minimum Distribution "].

12.2.1 Default Distribution Commencement Date

If the Participant's Severance occurred before October 15, 2001 and the Participant does not make an election required by Provision 12.2, the Participant shall receive payment (according to the "default" Payout Option provided by Provision 12.3.1) on the first business day of the calendar month that commences not earlier than 90 days and not later than 120 days after the date of the Participant's Severance, or the earlier date that is necessary to satisfy the requirements of Provision 12.4.

12.2.2 Election to defer Distribution Commencement Date

Consistent with IRC § 457(e)(9)(B), if the Participant has elected (or is deemed to have elected) a Distribution Commencement Date, the Participant may elect a later Distribution Commencement Date if the Participant has not made any previous election under this sentence.

12.3 Election of Payout Option

If the Participant's Severance occurred before October 15, 2001, not later than 60 days before the Distribution Commencement Date, the Participant shall irrevocably elect a Payout Option that satisfies the requirements of Provision 12.4.

12.3.1 Default Payout Option

If the Participant's Severance occurred before October 15, 2001 and the Participant does not make an election required by Provision 12.3, the Distribution shall be paid as a lump sum of the amount or cash value of all Investments held for the Participant's Account.

12.4 Minimum Distribution

Any Retirement Distribution shall be made according to a Payout Option that begins not later than the Required Beginning Date and that meets the requirements of IRC § 401(a)(9) and IRC § 457(d)(2) and corresponding regulations. "Required Beginning Date" means April 1 of the calendar year following the later of (i) the calendar year in which the Participant reaches the applicable age required by IRC § 401(a)(9), or (ii) the calendar year in which the Participant retires.

[Note: Under SECURE 2.0 Act the applicable age requirements are as follows:

- 70 ½ for Participants born June 30, 1949, or earlier
- 72 for Participants born on July 1, 1949, through and including December 31, 1950
- 73 for Participants born on January 1, 1951, through and including December 31, 1959
- 75 for Participants born January 1, 1960, or later]

12.5 Involuntary Distribution

On his or her Severance, a Participant (or Beneficiary), pursuant to the Adoption Agreement, may receive an Involuntary Distribution if as of a Valuation Day on or after the date of his or her Severance from employment his or her Account is no more than \$7,000. If the Involuntary Distribution is an Eligible Rollover Distribution, and if the recipient of the distribution does not elect to have the distribution paid directly to an Eligible Retirement Plan specified by the recipient in a direct rollover or does not elect to receive the distribution directly, the Involuntary Distribution will be paid as a direct rollover to an IRA designated by the Plan Sponsor or Agent.

12.6 Time and Manner of Distribution

The Participant's entire interest will be distributed, or begin to be distributed, to the Participant not later than the Participant's Required Beginning Date.

If the Participant dies before distribution begins, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

- If the Participant's surviving Spouse is the Participant's sole Beneficiary, then distributions to the surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained the applicable age required by IRC § 401(a)(9), if later.
- If the Participant's surviving Spouse is not the Participant's sole Beneficiary, then distributions to the Designated Beneficiary may be made by lump sum, and distribution must be made no later than December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- If there is no 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.

- If the Participant's surviving Spouse is the Participant's sole Beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, these provisions, other than the second bullet above, will apply as if the surviving spouse were the Participant.

If the Participant dies before distributions begin, unless the Participant's surviving Spouse is the sole Beneficiary and the Spouse dies after the Participant but before distributions begin, distributions are considered to begin on the Participant's Required Beginning Date. If the Participant's surviving Spouse is the sole Beneficiary and the Spouse dies after the Participant but before distributions begin, distributions are considered to begin on the date the distributions are required to begin to the surviving Spouse under the first bullet above. If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving Spouse under the first bullet of this Section), the date distributions are considered to begin is the date distributions actually commence.

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 Provision 12.7 or Part 13. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury regulations.

12.7 Required Minimum Distributions During Participant's Lifetime

During the Participant's lifetime, the minimum amount that will be distributed for each Distribution year is the lesser of:

- The quotient obtained by dividing the Participant's Account Balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9, of the Treasury regulations, using the Participant's age as of the Participant's birthday in the Distribution year; or
- If the Participant's sole Beneficiary for the Distribution year is the Participant's Spouse, the quotient obtained by dividing the Participant's Account balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9, of the Treasury regulations, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the Distribution year.

Required minimum distributions will be determined under this Provision beginning with the first Distribution year and up to and including the Distribution year that includes the Participant's date of death.

12.8 Required Minimum Distribution Waiver of 2009

Notwithstanding any other provisions of Part 12 of the Plan, a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the

enactment of section 401(a)(9)(H) of the Code (“2009 RMDs”), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant’s designated Beneficiary, or for a period of at least 10 years (“Extended 2009 RMDs”), will not receive those 2009 distributions unless the Participant or Beneficiary elects to receive such distribution. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the distributions described in the preceding sentence.

12.9 Required Minimum Distribution Waiver of 2020

Notwithstanding any other provisions of Part 12 of the Plan, a Participant or Beneficiary who would have been required to receive required minimum distributions in 2020 (or paid in 2021 for the 2020 calendar year for a Participant with a required beginning date of April 1, 2021) but for the enactment of section 401(a)(9)(I) of the Code (2020 RMD), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2020 RMDs, or (2) one or more payments (that include the 2020 RMDs) in a series of substantially equal periodic payments made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancies) of the Participant and the Participant’s designated Beneficiary, or for a period of at least 10 years (Extended 2020 RMDs), will receive those 2020 distributions unless the Participant or Beneficiary elects not to receive such distribution. Notwithstanding the preceding sentence, Participants or Beneficiaries will be given an opportunity to make an election as to whether or not to receive such 2020 RMD distributions.

In addition, notwithstanding any other provisions of the Plan, and solely for purposes of applying the direct rollover provisions of the Plan, 2020 RMDs and Extended 2020 RMDs will be treated as eligible rollover distributions in 2020.

12.10 Required Minimum Distribution from Designated Roth Accounts

In compliance with the SECURE 2.0 Act, § 325, effective January 1, 2024, notwithstanding any provisions of this Plan to the contrary, during the Participant’s lifetime, a Participant’s Designated Roth Account balances are not subject to required minimum distributions.

13. Death Distribution

13.1 Death Distribution

Upon the Participant's death before a Retirement Distribution has begun, each Beneficiary is entitled (not earlier than the applicable Distribution Commencement Date) to receive his or her or its separate account under the Participant's Account under any Payout Option that satisfies the provisions of the Plan.

13.1.1 Deemed Distribution

Upon the Participant's death, if the Account is not more than \$0 (as of the date of or the Valuation Date next following the Participant's death), each Beneficiary shall be deemed to have received a full Death Distribution.

13.2 Election of Distribution Commencement Date

If the Participant's death occurred before October 15, 2001, not later than 60 days after the date of the death (and not earlier than the date of the death), each Beneficiary may irrevocably elect to defer payment, with respect to all of his or her or its interest or to each portion of his or her or its interest that is attributable to each Investment, until a fixed future time [the "Distribution Commencement Date"] that is consistent with the provisions of the elected Payout Option and that is at least 75 days after the date that the election is made and that is consistent with the requirements of Provision 13.4.

13.2.1 Default Distribution Commencement Date

If the Participant's death occurred before October 15, 2001 and a Beneficiary does not make an election required by Provision 13.2, the Beneficiary shall receive payment (according to the "default" Payout Option provided by Provision 13.3.1) on the first business day of the calendar month that commences not earlier than 90 days and not later than 120 days after the date of the death.

13.3 Election of Payout Option

If the Participant's death occurred before October 15, 2001, not later than 60 days before the Distribution Commencement Date, the Beneficiary shall irrevocably elect a Payout Option that satisfies the requirements of Provision 13.4.

13.3.1 Default Payout Option

If the Participant's death occurred before October 15, 2001 and a Beneficiary does not make an election required by Provision 13.3, the Distribution shall be paid as a lump sum.

13.4 Minimum distribution

Any Death Distribution shall begin no later than the Required Beginning Date, and the Account shall be distributed in compliance with IRC § 401(a)(9).

13.5 Death While Engaged in Qualified Uniform Service

The benefits described in this Part will be payable to the Designated Beneficiary (or beneficiaries) of a Participant who dies while engaged in Qualified Military Service and will be determined as if the Participant had returned to employment immediately prior to his death in accordance with the Heroes Earnings Assistance and Relief Tax (HEART) Act and any regulations promulgated thereunder.

13.6 Deaths After December 31, 2021

Notwithstanding any contrary provisions, effective for Participant deaths after December 31, 2021, the following distribution provisions in this section 13.6 shall take effect; provided, however, that such provisions shall be subject to any regulations or other guidance issued under the SECURE Act or SECURE 2.0 Act:

13.6.1 Death with a Designated Beneficiary If the Participant dies before the distribution of his or her entire account (regardless of whether any distributions had begun before the Participant's death) and the Participant has a Designated Beneficiary:

- The entire Account shall be distributed to the Designated Beneficiary by December 31 of the calendar year containing the tenth anniversary of the Participant's death.
- Notwithstanding the paragraph above, if the Designated Beneficiary is an Eligible Designated Beneficiary, then the Eligible Designated Beneficiary may elect for the Participant's Account(s) to be distributed (i) by December 31 of the calendar year containing the tenth (10th) anniversary of the Participant's death, or (ii) beginning no later than December 31 of the calendar year immediately following the calendar year in which the Participant died, over the life of the Eligible Designated Beneficiary or over a period not exceeding the life expectancy of the Eligible Designated Beneficiary. If the Eligible Designated Beneficiary is the surviving spouse, payment under item (ii) is not required until the later of December 31 of the calendar year immediately following the calendar year in which the Participant died or December 31 of the calendar year in which the Participant would have attained the applicable age as required under IRC § 401(a)(9). [See note to Provision 12.4 regarding applicable age requirements] Effective for calendar years beginning after December 31, 2023, a surviving spouse who is the Participant's sole Designated Beneficiary may elect to be treated as if the surviving spouse were the Participant as provide under the IRC § 401(a)(9)(B)(iv). If the Eligible Designated Beneficiary does not elect a method of distribution as provided above, the Participant's Account(s) shall be distributed in accordance with item (ii).

13.6.2 Death or Age of Majority of Eligible Designated Beneficiary Upon either (i) the death of an Eligible Designated Beneficiary before distribution of the Participant's entire account or (ii) the attainment of the age of majority for an Eligible Designated Beneficiary who is a minor child under subsection 13.6.5(2) shall no longer apply, and the remainder of the account shall be distributed under paragraph 1 of subsection 13.6.1.

13.6.3 Death Without a Designated Beneficiary If the Participant dies before distributions of his or her Account begins and the Participant has no Designated Beneficiary, the Participant's Account under the Plan shall be distributed by December 31 of the calendar year containing the fifth (5th) anniversary of the Participant's death. If the Participant dies after distribution of his or her Account begins and the Participant has no Designated Beneficiary, any remaining portion of the Account shall continue to be distributed at least as rapidly as under the method of distribution in effect at the time of the Participant's death.

13.6.4 Incidental Death Benefit Requirements Any distribution required under the incidental death benefit requirements of Code Section 401(a) shall be treated as distributions required under this section 13.6.

13.6.5 Definitions For purposes of this section: "Eligible Designated Beneficiary" means a Designated Beneficiary who, as of the date of the death of the Participant, is: (1) the surviving spouse of the Participant; (2) a child of the Participant who has not reached the age of majority; (3) disabled within the meaning of Code Section 72(m)(7); (4) chronically ill within the meaning of Code Section 7702B(c)(2) (except that the requirements of subparagraph (A)(i) thereof shall only be treated as met if there is a certification that, as of such date, the period of inability described in such subparagraph with respect to the individual is an indefinite one which is

reasonably expected to be lengthy in nature); or (5) any other individual who is not more than ten (10) years younger than the Participant. Notwithstanding the preceding, a child described in (2) above shall cease to be an Eligible Designated Beneficiary as of the date he or she reaches the age of majority. "Designated Beneficiary" means any individual designated as a beneficiary by the Participant.

14. Direct Rollover

14.1 Direct Rollover

Consistent with IRC § 401(a)(31) and IRC § 457(d)(1)(C), for any Distribution paid after December 31, 2001 that is an Eligible Rollover Distribution, the Distributee may elect, at the time and in the manner prescribed by the Plan Sponsor, to instruct the Plan Sponsor (and the Issuer) to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee.

14.2 Notice Requirements

The Plan Administrator or Agent shall provide written information to Distributees regarding Eligible Rollover Distributions to the extent required by Section 402(f) of the Code.

15. Administration of Distribution provisions

15.1 Claim for Distribution

Any Distribution shall be paid only upon a completed and properly executed written claim made in a form acceptable to the Plan Sponsor that states under penalties of perjury all facts and authorizations necessary or appropriate to the Distribution, including but not limited to:

- if the Distribution is a Retirement Distribution, appropriate evidence that the Participant has a Severance;
- if the Distribution is a Transfer Distribution, the Distributee's instruction as to the name and address of the trustee of the transferee eligible deferred compensation plan together with any other information that the Plan Sponsor, Plan Administrator or Master Trustee or Issuer reasonably requests;
- if the Distribution is a Death Distribution, appropriate evidence of the Participant's death;
- if the Distribution is an Unforeseeable Emergency Distribution, an appropriate certificate or evidence of the facts constituting the Participant's unforeseeable emergency;
- if the Participant has a Designated Beneficiary, the date-of-birth of the Designated Beneficiary;
- if the Distribution is in the form of an Annuity Payout Option, the date-of-birth of any annuitant designated under the Annuity Payout Option;
- whenever required by the Plan Sponsor, the date-of-birth of any person as relevant to the Distribution;
- if the Account consists of more than one Investment, the order in which any Investments are to be charged or liquidated to pay the Distribution;

- if the amount of the Distribution is greater than a uniform amount established by the Plan Sponsor, appropriate assurance (including a Signature Guarantee) that the Participant's or Beneficiary's signature is genuine; and
- any other evidence or information that the Plan Sponsor finds is relevant to administer a provision of the Plan in the particular circumstances.

Absent contrary evidence actually known to the Plan Sponsor, an appropriate death certificate or a court order stating that the Participant is found to be absent and presumed dead shall constitute appropriate evidence of the Participant's death.

If the Participant or Beneficiary fails to submit proper instructions, the Plan Sponsor may, at its discretion, deny the claim.

15.2 Time for Distribution

The Plan Sponsor may require for payment of any Distribution a minimum advance notice, uniformly determined and consistently applied. In addition to the above, no payment can be made before the Distribution Commencement Date.

15.3 Plan Sponsor to approve

Payments shall not begin until the Plan Sponsor has approved: the Distribution, and the claim for payment, and the Payout Option as satisfying the provisions of the Plan.

15.4 Payout Option

The election of a Payout Option by a Participant or a Beneficiary must be made no later than thirty (30) days before the commencement of such benefits. Subject to restrictions established by the Plan Sponsor, the Plan shall permit Payout Options in the form of lump sums. The Plan may also, but is not required to, provide for periodic payments of a fixed amount or fixed duration, or life contingent annuities.

15.5 Payor may rely on apparent entitlement

The Participating Employer and the Plan Administrator and the Master Trustee and the Issuer and the Agent [a "payor"] are not liable for having made a payment under an unclear Beneficiary designation or Participation Agreement to a person not entitled to the payment, or for having taken or omitted any other action in good faith reliance on a person's apparent entitlement under the Plan, before the payor actually received written notice of a claimed lack of entitlement under this Plan.

Any payor of any Distribution is not liable for having made a payment or having transferred an item of property to a beneficiary designated in a Beneficiary Designation (or in a similar writing reasonably believed to constitute a beneficiary designation) who is not entitled to the Distribution, or for having taken any other action in good faith reliance on the beneficiary's apparent entitlement under the terms of the beneficiary designation before the payor received written actual notice alleging that the beneficiary was not entitled to the Distribution.

15.6 Instruction to Issuer

Any Distribution is payable by or on behalf of the Master Trustee or Issuer only upon the Master Trustee's or Issuer's receipt in good order of the Plan Sponsor's approval of the Distributee's claim.

Except to the extent otherwise expressly provided by the Investment(s), any payment or Payout Option shall be determined as of the Valuation Date requested by the Participant or Beneficiary, or if later, as of the Valuation Date that next follows the Issuer's or Master Trustee's receipt in good order (within the meaning of the Investment(s) or applicable law) the approved claim.

15.7 Delay of payment

The Plan Sponsor, in its sole discretion, may delay payment of an approved Distribution:

- to receive any necessary information,
- to permit a valuation of the Account,
- to permit any necessary or appropriate liquidation of assets,
- if a dispute arises as to the proper payee (refer to Provision 15.8 below),
- if the Plan Sponsor has notice of a domestic relations case or petition that may involve the applicable Account,
- if the Plan Sponsor has notice of a bankruptcy case or petition that may involve the applicable Account,
- if the Plan Sponsor has notice of any legal proceeding or petition that may involve the applicable Account, or
- for any reason described elsewhere in this Plan, or
- for any other lawful purpose.

Without limiting the comprehensive effect of the above, to the extent that any Distribution requires a redemption or transfer of Fund shares, the Plan Sponsor shall delay the Distribution during any period: when the NYSE is closed other than for a weekend or a holiday, or when trading on the NYSE is restricted (as determined by the SEC), or when an emergency exists making disposal of a Fund's securities or valuation of a Fund's net assets not reasonably practicable, or when the SEC has required or permitted the suspension of redemptions or transfers by order, or during any period otherwise described by § 22(e)(1)-(3) of the *Investment Company Act of 1940*, as amended [15 U.S.C. § 80a-22(e)(1)-(3)].

If the Participant received an allocation of Employer Contributions for a period that included his or her absence under a federal or state *Family and Medical Leave Act*, the Plan Sponsor shall delay payment of any Distribution until the Plan Sponsor is satisfied that the Participant has returned to work from such absence or that the Participant will not or did not return to work from such absence.

15.8 Dispute as to proper recipient

If a dispute arises as to the proper recipient of any payment(s) under the Plan, the Plan Sponsor, in its sole discretion, may instruct the Issuer(s) to withhold payment until the dispute is determined by a court of competent jurisdiction or is settled by the parties concerned.

15.9 Doubt as to proper payee

If the Plan Sponsor determines that there is doubt as to the proper construction of the Plan with respect to determining the Beneficiary(s) or other proper payee(s) under the Plan, the Plan Sponsor shall construe the Plan to state provisions consistent with the Uniform Probate Code applied as though the interest under the Plan were an interest to a commercial annuity contract, to the extent that any such construction is not inconsistent with any requirement of IRC § 457(b).

15.10 Distribution to minor Beneficiary or incompetent Participant or Beneficiary

Any Participant, terminated Participant or Beneficiary receiving or claiming benefits under the Plan shall be conclusively presumed to be mentally competent and of age until the Plan Sponsor receives written notice, in a form and manner acceptable to it, that such person is incompetent or a minor, and that a guardian or other person legally vested with the care of his estate has been appointed. In the event a guardian of the estate of any person receiving or claiming benefits under the Plan shall be appointed by a court of competent jurisdiction, payments shall be made to such guardian and the guardian may take any and all actions with respect to the person's interest under the Plan in accordance with the terms of the appointment, provided that proper proof of appointment is furnished in a form and manner suitable to the Plan Sponsor. Any payment so made shall be a complete discharge of liability therefore under the Plan. No person may act as an attorney in fact for an Employee, Participant, terminated Participant, or Beneficiary with respect to a matter involving the Plan unless a valid power of attorney document appointing such person and authorizing such action is submitted in a form and manner acceptable to the Plan Sponsor. The Plan Sponsor shall be entitled to rely upon the power of attorney document which it reasonably determines to be valid, without liability for actions taken by the Plan Sponsor at the request of the designated attorney in fact, unless and until the Plan Sponsor receives notice that the power of attorney is no longer effective.

If at the time a Distribution begins the Participant, terminated Participant, or Beneficiary is incompetent or the Beneficiary is a minor and the Plan Sponsor begins payments to another person under this Provision, the Plan Sponsor may continue all payments under the Distribution to the other person notwithstanding that the Participant, terminated Participant, or Beneficiary may have become competent or that the Beneficiary may have attained full age, unless the Participant, terminated Participant, or Beneficiary files a written claim according to all of the requirements of the Plan, including furnishing satisfactory evidence that he or she is competent, if previously deemed incompetent, or of full age, if previously deemed a minor.

15.11 Inability to locate payee

If, at a time when a Distribution other than an Involuntary Distribution is required to be paid, the Distribution cannot be paid because the payee cannot be located upon reasonable efforts, which may include providing notice through certified mail to the last known mailing address, a review of plan and employment records and other publicly available records, attempted contact to a designated plan beneficiary, and a reasonable use of either a commercial locator service, a credit reporting agency, or a proprietary internet search tool for locating individuals, the Plan Sponsor may (but is not required to) direct the Plan Administrator or the Agent to rollover the Deferred Compensation into an eligible individual retirement plan, and such rollover shall discharge the Plan Sponsor's obligation to pay the Deferred Compensation.

15.12 Payment to Personal Representative

Any payment (or delivery of property) to the duly appointed personal representative of the Participant shall, to the extent of the payment (or delivery of property), bar recovery by any other person or entity, including every Beneficiary, and shall, to the extent of the payment (or delivery of property), discharge any obligation under the Plan.

15.13 Disclaimer by Beneficiary

Any Beneficiary may renounce or disclaim all or any part of any Deferred Compensation by filing a written irrevocable disclaimer not later than 31 days before the Distribution begins or any payment is otherwise to be made and before acceptance of any Deferred Compensation. An acceptance may be express or may be inferred from actions or facts and circumstances, including (but not limited to) those actions described in the *Uniform Probate Code* as establishing an inference of acceptance. In addition to any requirements under State law, the disclaimer is not effective unless the disclaimer describes the Deferred Compensation renounced, expressly declares the renunciation and the extent of it, expressly states the Beneficiary's belief upon reasonably diligent examination that no creditor of the Beneficiary (or, if the Beneficiary is an executor or trustee or guardian or other fiduciary, of any current or reasonably anticipated beneficiary of the estate or trustee or guardianship or other fiduciary relationship or entity) would be adversely affected by the disclaimer, expressly states that the disclaimer is irrevocable, is signed by the Beneficiary, meets all requirements of IRC § 2518 such that the disclaimer would be treated as effective for federal gift and estate tax purposes, and otherwise is made in a form that is acceptable to the Plan Sponsor. Notwithstanding any State law that would permit otherwise, if the Beneficiary is a minor or an incapacitated person, any disclaimer cannot have any effect regarding the Plan until the court having jurisdiction of the minor's or incapacitated person's estate authorizes the disclaimer after finding that it is advisable and will not materially prejudice the rights of any interested person. Any Deferred Compensation disclaimed shall be payable as if the Beneficiary who submitted the disclaimer died before the Participant.

15.14 Receipt and release

Any Distribution or payment or any agreement to make a payment(s), or any transfer of Deferred Compensation to another eligible deferred compensation plan, shall, to the extent of the Distribution or payment(s) or the agreement, be in full satisfaction of all claims. The Plan

Sponsor, in its sole discretion, may require any Distributee or payee, as a condition precedent to making or causing to be made any payment(s) or agreement, to execute a receipt and release.

15.15 Direct Rollover of Distribution

Consistent with IRC § 457(d)(1)(C) and IRC § 457(e)(16), a Participant may elect (in the form prescribed by the Plan Administrator) a direct rollover of an eligible rollover distribution.

16. Plan Sponsor and Plan Administrator

16.1 Plan Sponsor has full authority

The Plan Sponsor has full and complete authority and discretion to control and manage the operation of and shall decide all matters under the Plan. The Plan Sponsor has any and all powers as may be necessary or advisable to discharge its duties under the Plan, and has complete discretionary authority to decide all matters and questions under the Plan.

The Plan Sponsor, except for a Plan Sponsor under Open Architecture Investment, and Plan Administrator do not have any duties concerning the selection of Investments. A Plan Sponsor who has selected Open Architecture Investment shall have exclusive duties concerning the selection and oversight of Investments (investment options). The Plan Administrator and Master Trustees do not have any duties concerning the selection or oversight of Investments (investment options) under Open Architecture Investment.

16.2 Plan Sponsor must decide all matters

The Plan Sponsor must decide all matters under the Plan. The discretionary decisions of the Plan Sponsor are final, binding, and conclusive on all interested persons for all purposes.

Without limiting the comprehensive effect of the above, the Plan Sponsor's discretionary decisions may include, but shall not be limited to, any decision as to: whether a natural person is an Employee, whether an Employee belongs to a particular employment classification, whether an Employee is an eligible Employee, the amount of a Participant's Compensation, the amount of Contributions to be made, whether an amount of Contributions exceeds the limits prescribed by the Plan, whether a court order shall be recognized, whether a Participant (or any other person) has established the presence or absence of a Spouse, whether a Payout Option is an Annuity Payout Option, whether a Participant has incurred an unforeseeable emergency, whether a Participant has a Severance, whether a Beneficiary Designation is valid or effective, who is the proper Beneficiary, whether a Participant or Beneficiary is a minor or is of full age, whether a Participant or Beneficiary is an incompetent, the person who is a proper recipient for a Participant or Beneficiary who is a minor or an incompetent, whether any power-of-attorney is effective and acceptable to act with respect to the Plan, whether a Signature Guarantee is required, whether a Signature Guarantee is acceptable for any purpose under the Plan.

16.3 Determinations to be uniformly made

To the extent necessary to avoid discrimination prohibited by any employment law, any determination or decision required or permitted to be made for the purposes of the Plan by the Plan Sponsor shall be uniformly and consistently made according to reasonable procedures established and maintained by the Plan Sponsor.

16.4 Plan Administrator is responsible

The Plan Administrator is responsible for performing all duties agreed to regarding the operation of the Plan, and is responsible for supervising the performance of any other persons who may assist in the performance of the Plan Administrator's responsibilities. The Plan Administrator does not have the authority or discretion to perform activities or decide any matter or question not provided for under the Plan, such as, but not limited to, forfeiture of retirement benefits determinations under Section 112.3173, Florida Statutes, and any such activities or decisions shall be the sole responsibility of the Plan Sponsor.

16.5 Information from Participating Employer

To enable the Plan Administrator to perform its responsibilities, the Participating Employer(s) shall promptly provide to the Plan Administrator complete and accurate information on any matter under the Plan. The Plan Administrator shall rely upon this information as supplied by the Participating Employer, and shall have no duty or responsibility to verify this information.

16.6 Plan Administrator may delegate or contract

Except as prohibited by the Enabling Statute or other State law, the Plan Administrator may, except when expressly prohibited by this Plan, delegate any of its duties to any Participating Employer, or to any officers, employees, or agents of any kind. Except as prohibited by the Enabling Statute or other State law, the Plan Administrator may, except when expressly prohibited by this Plan, contract any of its duties to the Agent or otherwise.

16.7 Plan services

The Plan Administrator may contract with any person or entity to provide services to assist in the administration of the Plan. The Plan Administrator must make such contracts in compliance with the Enabling Statute and other applicable State law.

Any person other than the Plan Administrator who performs services regarding the Plan (including but not limited to the Agent) is subject to the supervision and direction of the Plan Administrator, and does not have authority to control the operation of the Plan.

Any person other than the Plan Administrator who performs services regarding the Plan (including but not limited to the Agent) is entitled to rely upon any direction, instruction, information, or action (or failure to act) of the Plan Sponsor or Plan Administrator as being proper under this Plan, and is not required to inquire into the propriety or correctness of any such direction, instruction, information, or action.

16.8 Plan Sponsor official may not decide personal benefit

An individual shall recuse himself or herself from and shall take no part in any Plan Sponsor determination or decision specifically relating to his or her own participation or Deferred Compensation, unless his or her abstention would render the Plan Sponsor, committee or organization incapable of acting on the matter.

17. General provisions

17.1 Anti-alienation

In addition to (and not by limitation upon) the provisions of the Plan and any provision of applicable law, any benefit or interest available under the Plan, or any right to receive or instruct payments under the Plan, or any Distribution or payment made under the Plan shall not be subject to assignment (except under a disclaimer permitted by Provision 15.13 ["Disclaimer by Beneficiary"]), alienation, garnishment, attachment, transfer, anticipation, sale, mortgage, pledge, hypothecation, commutation, transfer by operation of law, execution, or levy (except according to Provision 17.8 ["IRS levy"]), or other encumbrance of any kind, whether by the voluntary or involuntary act of any interested person, for any reason (including but not limited to, divorce, marital separation, alimony, child support, bankruptcy, insolvency), or any other order of any court at law or equity.

The Participant or Beneficiary has no right to commute, sell, assign, pledge, transfer, or otherwise convey, use, or encumber any right or future interest to receive any payments under the Plan, and each such right or interest is expressly declared to be non-assignable and non-transferable. Any attempted alienation or encumbrance is void.

Any right of the Participant or Beneficiary is personal and, except as provided below, cannot be exercised by any personal representative, attorney, trustee, guardian, conservator, trustee in bankruptcy, court of law or equity, or other person or entity seeking to act in the name of or by the right of the Participant or Beneficiary. However, the Plan Sponsor may accept instructions given by a personal representative if the Participant or Beneficiary is determined to be incompetent or incapacitated by a court of competent jurisdiction or by written expert opinion acceptable to the Plan Sponsor.

This Provision shall not be construed to preclude the payment of any Fees or any expenses (including taxes) of the Master Trustee. Deferred Compensation (and any right or future interest of the Participant or Beneficiary) is not subject to the rights of creditors of the Participant or Beneficiary.

17.2 Litigation

Each of the Participating Employers and the Master Trustee and the Plan Administrator and the Agent and each Issuer and any person serving under contract or otherwise with respect to the Plan shall not be obligated to incur any cost to defend against or set aside any judgment, decree, or order relating to the division, attachment, garnishment, or execution of or levy upon the Participant's Plan Account or any Distribution, including (but not limited to) any order in any bankruptcy proceeding of any kind. Notwithstanding the foregoing, if any such person is joined in any proceeding, the party may take such action as it considers necessary or appropriate to protect any and all of its legal rights, and the Participant (or Beneficiary) shall reimburse all actual fees of lawyers and legal assistants and expenses reasonably incurred by such party.

17.3 Claims procedure

By the terms of the Plan, the claimant (or other aggrieved person) shall not be entitled to take any legal action (including but not limited to instituting any arbitration procedure) or otherwise

seek to enforce a claim to benefits or rights under the Plan until he or she or it has exhausted all claims and appeals procedures provided by the Plan.

In considering claims under the Plan, the Plan Sponsor has full power and discretionary authority to construe and interpret the provisions of the Plan, and of any law governing or applying to or relating to the Plan.

Notwithstanding any statement to the contrary in any collective bargaining agreement, any determination under or arising out of the Plan is not subject to any arbitration procedure of any kind.

17.4 Expenses

Unless the Participating Employer specifically provides otherwise, the Participating Employer shall not incur any expense in the operation and administration of the Plan other than for its obligations to make deferrals of compensation and to pay the Deferred Compensation as provided by the Plan. The Plan shall make reasonable charges against and from the Accounts of Participants for any expenses for the administration of the Plan. Upon the Plan Sponsor's written instruction, the Plan Sponsor (or any party acting for it or under contract to the Plan) shall be reimbursed from the Plan assets, except to the extent inconsistent with the Enabling Statute, for any expense (including actual fees of lawyers and legal assistants) reasonably incurred in performing services with respect to the Plan. Except as otherwise provided or permitted by the Plan, the reimbursement shall be effected by deducting a charge against all Accounts according to an equitable method determined by the Plan Sponsor.

If any kind of legal action or other proceeding regarding the Plan to which the Participating Employer or the Plan Administrator or the Master Trustee or any Issuer or any Agent (or any other person acting for or at the request of any of them) [each an "indemnified party"] may be a party is brought by a Participant or Beneficiary (or by a person or entity claiming through a Participant or Beneficiary), and the legal action is resolved in favor of the indemnified party, each indemnified party participating in or contributing to the defense of the legal action shall be entitled to be reimbursed from the Participant's Account for any and all actual fees of lawyers and legal assistants and other expenses reasonably incurred in the defense of the legal action or proceeding.

If the IRS determines, and the determination is not contested, or if contested, is finally upheld (or otherwise finally determined), or if a final court order (that is not appealed) decides that any payment of expenses is a violation of IRC § 457(g), each person who received a payment that was determined to be a violation of IRC § 457(g) shall pay full restoration into the Plan to the extent of the improperly paid expense (including fair interest from the date the expense was improperly paid to the date that restoration is made).

17.5 Forfeiture

To the extent required by applicable State law and not precluded by Provision 1.6, if the Participant pleads guilty or is convicted of a crime or offense relating to his or her government office or government employment and a court order provides for restitution relating to such crime or offense, the Participant (or, after the Participant's death, each Beneficiary) shall forfeit

his or her or its Deferred Compensation to the extent that the Participant has not timely paid the restitution required by the court order.

17.6 Governing law

This Plan shall be governed by and construed and enforced according to the internal laws (without regard to the law of conflicts) of the State of Florida, except to the extent pre-empted by federal law.

17.7 Insurance

The Plan Sponsor may purchase, with Plan assets or with other amounts, insurance protecting the Plan and the Plan Sponsor and the Plan Administrator and the Master Trustee and any person who is or may be an indemnified party and any other person acting or providing services regarding this Plan (whether or not the Plan has or may have the power to indemnify such persons) from liability or loss occurring by reason of the act or omission of the insured person or entity.

17.8 IRS levy

Notwithstanding any other provision of the Plan, the Plan Sponsor may pay to the IRS from a Participant's (or Beneficiary's) Account the amount that the Plan Sponsor finds is lawfully demanded under a levy issued by the IRS 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).

17.9 Mistaken contributions

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

If a court or agency having jurisdiction determines or if the Participating Employer or the Plan Administrator receives written legal advice (other than under a suit or proceeding initiated by the Participant) that any Participant was not an Employee at the relevant time or otherwise was not eligible to become a Participant, the Plan Administrator shall treat the mistakenly accepted Participant's Contributions and Plan Account, to the extent that the Participant was not eligible to make or receive the Contributions, as mistaken contributions.

17.10 Necessary information

The Participant (or Beneficiary or Alternate Payee) shall provide upon any request of the Plan Sponsor or the Agent any information that may be needed for the proper and lawful operation and administration of the Plan, including (but not limited to) the Participant's legal name, the Participant's Social Security Number [SSN] or other Taxpayer Identifying Number [TIN], the Participant's date of birth, each Beneficiary's legal name, each Beneficiary's Social Security Number [SSN] or other Taxpayer Identifying Number [TIN], each Beneficiary's date of birth. The Participant (or Beneficiary or Alternate Payee) shall promptly respond to and fully answer

any reasonable inquiry related to these purposes. A failure to provide any information described above or which otherwise may be necessary or appropriate for the lawful operation of the Plan may result in a delay of eligibility for participation, in a delay of the payment of Contributions, or in a delay or refusal by the Plan Sponsor, in its discretion, to authorize or permit any Distribution or payment. The Plan Sponsor or Plan Administrator (and any party acting for it) has the right to rely on any information or representation given by any Participant or Beneficiary or other party interested in the Plan. The Plan Sponsor or Plan Administrator has no duty to inquire into the accuracy or adequacy or truth of any such information or representation. Any such representation is binding upon any party seeking to claim through the Participant.

The Plan Sponsor may provide that any statement to be made or any information to be furnished must be made or furnished under penalties of perjury. Any notice to that effect may include a statement of the penalties for a violation of 18 U.S.C. § 1027, IRC § 7206, or other law. The absence of any such provision or notice shall not be construed to create or suggest any inference concerning the application of any law.

17.11 No contract of employment

Under no circumstances shall this Plan constitute a contract of employment or modify a contract of employment or in any way obligate the Participating Employer to continue the services of any Employee.

17.12 No right other than provided by the Plan

The existence of the Plan and the Participating Employer's or Master Trustee's purchase of any Investment(s) for the purposes of the Plan shall not be construed as giving to any Participant or Beneficiary or any other person any legal or equitable right against the Participating Employer or any Issuer or any other person or organization, except as expressly provided by the Plan.

17.13 Notices

Each Participant or Beneficiary shall be responsible for furnishing the Plan Sponsor (and the Agent and the applicable Issuer(s)) with his or her or its current address at all times. Any notice to a Participant or Beneficiary or Alternate Payee required or permitted to be given under this Plan shall be deemed given if directed to the proper person at the current address in any Plan (or Investment) record and mailed or otherwise delivered to that address. This Provision shall not be construed to require the mailing or delivery of any notice otherwise permitted to be given by posting or by publication.

17.14 Plan is binding

This Plan, and all acts and decisions taken under it, is binding and conclusive, for all purposes, upon all interested persons, and upon the heirs, executors, administrators, successors and assigns of any and all such persons.

The Plan shall not affect contracts or other dealings with a person who is not an interested person, unless a written agreement executed by that person expressly so provides.

17.15 Power-of-attorney

A power-of-attorney cannot be effective for any purpose with respect to the Plan unless the Plan Sponsor determines that the power-of-attorney is acceptable

The Plan Sponsor shall not accept a power-of-attorney until the Plan Sponsor determines that the power-of-attorney appears on its face to meet all of the following requirements:

- The power-of-attorney was made in a form and manner that is legally enforceable under applicable law.
- The power-of-attorney indemnifies the Plan Sponsor and the Agent and every person who may rely on the power-of-attorney against any liability that may arise out of the Plan Sponsor's acceptance of the power-of-attorney or any person's acts or omissions in reliance upon the power-of-attorney, even if revoked (including revocation by reason of the maker's death).
- The power-of-attorney expressly refers to this Plan with sufficient clarity so that the Plan Sponsor, in its sole discretion, believes that there is no confusion or ambiguity concerning whether an express power to act regarding this Plan was intended.
- The power-of-attorney unambiguously provides one or more powers to act regarding this Plan.
- The power-of-attorney meets any further requirements stated below in this Provision or otherwise under the Plan, and meets any other requirements reasonably requested by the Plan Sponsor.

Without limiting the comprehensive effect of the above, any power-of-attorney, including even a general power-of-attorney, cannot be effective to make or change the Participant's Beneficiary designation under the Plan unless the document, in the Plan Sponsor's sole opinion, expressly grants power to make or change Beneficiary designations under this Plan and refers to this Plan with sufficient clarity so that the Plan Sponsor, in its sole discretion, believes that there is no confusion or ambiguity concerning whether an express power to act regarding Beneficiary designations under this Plan was intended.

Without limiting the comprehensive effect of the above, any power-of-attorney, including even a general power-of-attorney, cannot be effective to exercise any right or privilege of investment direction under the Plan unless the document, in the sole opinion of the person that is requested to give effect to an investment instruction, expressly grants power to act regarding investment direction under this Plan and expresses the principal's (Participant's or Beneficiary's or Alternate Payee's) knowledge as to whether the attorney-in-fact is or is not a Registered Investment Adviser and refers to this Plan with sufficient clarity so that the Issuer determines that there is no confusion or ambiguity concerning whether an express power to act regarding investment direction under this Plan was intended. For the purpose of the preceding sentence, an investment advisory agreement that conforms to the disclosure and investment advisory contract requirements of § 204 and § 205 of the federal *Investment Advisers Act of 1940*, as amended [15 U.S.C. § 80b-4, 15 U.S.C. § 80b-5] is deemed to constitute an acceptable power-of-attorney if it refers to the Plan or to the Investment held for the Participant's Plan Account.

17.16 Privacy

The Participating Employer may (but is not required to) take reasonable steps to protect Participants' privacy concerning participation under the Plan.

However, the Participating Employer and the Plan Administrator and any Agent and any service provider (and any other person acting for or at the request of any of them) may disclose information concerning the Participant's (or Beneficiary's) Account:

- when requested by the attorney-in-fact who is currently acting under a power-of-attorney that was accepted by the Plan Sponsor under Provision 17.15 ["Power-of-attorney"].
- when required by any court order or legal process.
- without a court order or legal process when reasonably requested by the IRS or the SEC or the NASD.
- when reasonably requested by a public accountant engaged by the Plan Administrator or by the Participating Employer or by the Master Trustee or by an Agent or by an Issuer.
- when, in the course of any proceeding relating to divorce, separation, or child support, an attorney-at-law states in writing that he or she represents the Participant's (or, after the Participant's death, the Beneficiary's) spouse or former spouse or child and that the information is reasonably related to such proceeding.
- when, in the course of the administration of any estate or succession, the personal representative (or an attorney-at-law who represents the personal representative) states in writing that he or she or it needs the requested information for the purpose of preparing a return of any estate tax, transfer tax, gift tax, inheritance tax, death tax, or similar tax, whether of the United States or any State or any foreign nation.

If a person presents himself or herself as an attorney-at-law and states that he or she has authority to act for a person or entity, the Plan Sponsor, Plan Administrator and the Agent shall be entitled without inquiry to assume, unless it has actual knowledge to the contrary, that the person so presenting himself or herself has the authority stated.

17.17 Protection of Issuers

Any Issuer shall not be liable in acting according to any instruction, if in writing or otherwise reasonably believed to be genuine, of its contract owner or other person that has the right to give instructions under the terms of the Investment, and shall not be required to question (unless otherwise provided by the applicable Investment) any action or inaction so instructed. The Issuer shall not be required to take or permit any action or allow any benefit or privilege contrary to the terms of any Investment which it may issue regarding the Plan.

17.18 Relationship to other plans

This Plan is in addition to any other retirement, pension, or benefit plan presently in existence or later established (if any), and participation under the Plan shall not affect benefits or obligations of any person under any other plan, unless the plan is a deferred compensation plan subject to IRC § 457.

17.19 Restitution and restoration

In addition to (and not by limitation upon) any other remedy, including (but not limited to) any legal, equitable, remedial, or other relief, to the extent that any person breaches Provision 1.6 ["Exclusive benefit"], such person shall be personally liable to make good to the Plan (or, in an appropriate case, to the applicable Participant or Beneficiary or Alternate Payee) any losses to the Plan resulting from or arising out of each such breach, and to restore to the Plan any profits of such person which have been made through the breaching person's improper use of Plan assets.

17.20 Service of legal process

Requests for information, claims or demands, legal process, and court orders are properly delivered when delivered to the Plan Sponsor at the principal place of business listed on the Adoption Agreement.

17.21 Severability

If a court finds that any provision of the Plan is invalid, the Plan shall be construed and enforced as if the invalid provision was not a provision of the Plan, unless the court finds that such a construction of the Plan would be clearly contrary to the intent of the Plan or would be contrary to IRC § 457(b) or would violate the Enabling Statute.

17.22 Signature

If a Participant or Beneficiary or Alternate Payee (or other person claiming through a Participant or Beneficiary or Alternate Payee) must submit any writing of any kind required or permitted under the Plan, the maker's signature must be complete and formal, except as expressly provided by Provision 17.23. However, if the maker has a disability that precludes him or her from making a complete and formal signature and the Plan Sponsor finds that an accommodation may be required by the *Americans with Disabilities Act*, a writing is signed if it bears or includes or incorporates any symbol executed or adopted by or on behalf of the maker with a present intention to authenticate the writing, or it is otherwise demonstrated to the satisfaction of the Plan Sponsor that the maker had (at the relevant time) a present intention to adopt the writing.

In addition to and not by limitation upon Provision 17.23, any writing of any kind required or permitted as to an Investment may be signed in any manner provided by the Investment, including, to the extent consistent with the Investment, applicable Investment Law.

17.23 Signatures and broad acceptance of writings

An instruction (but not a claim for any kind of Distribution) is considered to be written or in writing and signed according to the following broad provisions, except as otherwise specified by a uniform written procedure adopted by the Plan Sponsor.

"Written" or "writing" or "in writing" includes any intentional reduction to tangible form. Without limiting the comprehensive effect of the first sentence of this paragraph, any of the following is a writing and all of the following rules of construction apply in determining what is a writing and who made the writing. "Written" or "writing" or "in writing" includes handwriting, typewriting, printing. "Writing" includes any copy or reproduction, including (but not limited to) a photocopy, of an original writing. "Writing" includes a telefacsimile transmission. "Writing"

includes a videotape or audiotape recording, including a recording of a telephone conversation; and a person's commencement or continuation of a conversation after the person is informed that the conversation is or may be recorded shall be deemed such person's intent to reduce the conversation to writing. Anything that is the subject of a written confirmation is deemed to be in writing. "Writing" or "written" includes anything that is recognized as such by the *Restatement of Contracts or the Uniform Commercial Code* as then-currently published or adopted by the American Law Institute or the National Conference of Commissioners on Uniform State Laws. "Writing" or "written" includes anything that is recognized as such under § 2(9) of the federal *Securities Act of 1933*, as amended [15 U.S.C. § 77b(9)] or any rule or regulation thereunder. A writing made by a person who appears to be an agent or attorney-in-fact is the writing of the apparent principal, unless the Plan Sponsor has actual knowledge that no agency exists. The Plan Sponsor in its sole discretion may construe any writing(s), and may combine separate writings, including writings that are not contemporaneous, so as to establish one integrated writing or instruction.

"Signed" or "signature" includes any symbol executed or adopted by a person with present intention to authenticate a writing. Without limiting the comprehensive effect of the first sentence of this paragraph, any of the following is a signature and all of the following rules of construction apply in determining what is a signature and who signed. Authentication may be handwritten, typed, printed, stamped, or otherwise written. A signature need not consist of the person's legal name. A signature need not consist of the person's entire name. A signature may be on any part of a writing (except as expressly limited below). A person who fills-out a form in his or her own handwriting or typewriting has signed that form or writing. Anything that is the subject of a written confirmation is deemed to be signed if the recipient of the confirmation does not promptly object to the confirmation. For a conversation, a person's use of his or her voice is a signature. For a conversation, a person's compliance with the authentication procedure specified by the Plan Sponsor or its agent is a signature. "Signed" or "signature" includes anything that is recognized as such for any purposes by the *Restatement of Contracts* or the *Uniform Commercial Code* as then-currently published or adopted by the American Law Institute or the National Conference of Commissioners on Uniform State Laws. A signature need not be contemporaneous to the writing that it authenticates. A signature made by a person who appears to be an agent or attorney-in-fact is the signature of the apparent principal, unless the Plan Sponsor has actual knowledge that no agency exists. A writing that includes a forgery at the place where a signature customarily would be made is not signed by any person other than the forger.

Upon receiving anything that appears to be a writing, or anything that appears to be a signature or signed, the Plan Sponsor or Plan Administrator shall not be liable or responsible to anyone to the extent that it acted without actual knowledge that the writing was false or that the signature was a forgery.

17.24 Signature Guarantee

In addition to (and not by limitation of) any other provision of the Plan, for any claim or instruction of any kind the Plan Sponsor may require the person submitting the claim or

instruction to include on the written claim or instruction a Signature Guarantee when required under a uniform written procedure of the Plan Sponsor.

17.25 Statute of limitations

As to any action at law or in equity under or with respect to this Plan (other than as described by the other sentence of this paragraph), the action shall be governed by (or precluded by) the relevant statute of limitations or statute of repose for actions upon a written contract according to the internal laws (without regard to the law of conflicts) of the State in which the Participating Employer is incorporated or organized. For any dispute that was resolved by arbitration, to the extent that the statute of limitations or statute of repose relating to any arbitration proceeding or arbitration award is not governed by the federal *Arbitration Act*, any arbitration proceeding or arbitration award or any other matter relating to arbitration shall be governed by the internal laws (without regard to the law of conflicts) of the State in which the arbitration was conducted.

17.26 Translations

This Plan or any part of it may be translated (at the sole discretion of the Plan Sponsor) into or summarized in another language(s) for the convenience of certain Employees. However, the original English language text of the Plan shall control, and the translation of the Plan has no effect in the construction of the Plan.

17.27 Unclaimed property

For the purposes of any unclaimed property statute, if a Distribution has not commenced, any Deferred Compensation does not become distributable until such time as a Distribution is mandatory under the terms of the Plan.

17.28 Uniformity

To the extent required by applicable State law, provisions of the Plan shall be construed and applied in a uniform or non-discriminatory manner.

17.29 Venue

If any person, including, without limitation, any Participant or Beneficiary or Alternate Payee or Distributee (or any person claiming through a Participant or Beneficiary or Alternate Payee or Distributee) brings or maintains any suit or action (other than as described by the other sentence of this paragraph) against the Plan Administrator or the Master Trustee or to which the Plan Administrator or the Master Trustee is or becomes a party, each such person hereby submits to exclusive jurisdiction and exclusive venue in the courts sitting in Leon County, Florida or in which the Plan Administrator has its principal place of business. However, any suit or action upon an arbitration award or relating to an arbitration shall be governed by the internal laws (without regard to the law of conflicts) of the State in which the arbitration was conducted, and each such person who is or was a party to an arbitration hereby submits to exclusive jurisdiction and exclusive venue in the courts sitting in and for the district in which the city or place of the arbitration is located.

18. Amendment

18.1 Master Trustee's right to amend the Plan

The Master Trustee has the right to amend the Plan at any time. The Participating Employer has the right to discontinue the Plan at any time, subject to the limitations set forth in the Trust Joinder Agreement and Master Trust Agreement. Any amendment of the Plan has no effect on the Master Trust Agreement. The Plan Sponsor may not amend the Plan in any way.

18.2 Exclusive Benefit Remains

To the extent required by Provision 1.6 ["Exclusive benefit"], any amendment of the Plan shall not be effective to the extent that the amendment has the effect of causing any Plan assets to be diverted to or inure to the benefit of the Participating Employer, or to be used for any purpose other than providing Deferred Compensation to Participants and Beneficiaries and defraying reasonable expenses of administering the Plan.

18.3 Anti-cutback

Any amendment shall not reduce the amount of Deferred Compensation credited to any Account before the date of the amendment, and shall not impair the rights of any person to the Deferred Compensation so credited.

18.4 Retroactive effect

Any amendment of the Plan may be given immediate or retroactive effect; provided that such immediate or retroactive effect does not cause the Plan to fail to meet the requirements of an eligible deferred compensation plan within the meaning of IRC § 457(b).

18.5 Merger or consolidation

To the extent that Accounts that are funded by a Master Trustee or other exclusive benefit arrangement in compliance with IRC § 457(g), this Plan may be merged or consolidated with, and such assets and liabilities may be transferred to, another eligible deferred compensation plan under IRC § 457(b) but only if the transferee plan meets the requirements of IRC § 457(g) and under the successor plan the Deferred Compensation with respect to each Participant is at least equal to the Deferred Compensation the Participant would have received if he or she had received a lump-sum distribution under the transfer or Plan immediately before the transfer, merger, or consolidation.

19. Termination

19.1 Plan Termination by Participating Employer

A Participating Employer may terminate its participation in the Plan, including but not limited to, its contribution requirements, if it takes the following actions:

- a) The Governing Authority of the Participating Employer must adopt an ordinance or resolution terminating its participation in the Plan.
- b) The ordinance or resolution must specify when the Plan will be closed to any additional participation by eligible Employees, which must be a date at least sixty (60) days after the adoption of the ordinance or resolution.

- c) The ordinance or resolution must be submitted to the Master Trustee, or its designee.

The Master Trustee, or its designee, shall determine whether the ordinance or resolution complies with this provision, and all applicable federal and state laws, and shall determine an appropriate effective date for the termination of Employer participation, which shall be no later than twelve (12) months from the Master Trustee's receipt of the ordinance or resolution. The Plan Administrator shall provide appropriate forms to the Participating Employer to terminate ongoing participation. Distributions under the Plan of existing accounts to the Participants and Beneficiaries affected by the termination are subject to the distribution provisions in this document.

19.2 Effect of Termination by Participating Employer

In the case of the complete or partial termination of the Plan as to one (1) or more Participating Employers, including a termination arising from the discontinuance and/or delinquency of contributions, the affected portion of the Master Trust shall continue to be held pursuant to the direction of the Master Trustee, for the benefit of affected Participants pursuant to the benefit provisions of this Plan. The Plan shall remain in full effect with respect to each Participating Employer that does not terminate its participation in the Plan on behalf of its Employees, or whose participation is not terminated by the Master Trustee.

19.3 Termination of Entire Plan

This Plan in its entirety may be terminated at any time by official action of the Master Trustee, with notice to all Participating Employers and Participants. The last date for contributions and earnings to be credited to Participants Accounts must be specified in the Master Trustee's official action and must be no sooner than ninety (90) days after the adoption of the official action. All actions associated with the termination of the Plan, including a final accounting, must be completed within twelve (12) months after the adoption of official action. In the event of a complete Plan termination, the Master Trustee must take all steps reasonable to avoid a distribution to the Participants and Beneficiaries, except pursuant to benefit options under the provisions of this Plan, including identifying successor plan(s). However, if distributions must be made, the Plan Administrator shall be responsible for directing distribution of all assets of the Master Trust to Participants and Beneficiaries.

20. Plan Loans

20.1 Loans

If specifically allowed by the Plan Sponsor in the Adoption Agreement, a Participant who is an Employee may apply for and receive a loan from his or her Account as provided in this Part. Any such loan may not be for an amount less than the minimum amount specified herein. No Participant may have more than two outstanding loans at a time, but may be limited by the Plan Sponsor to one outstanding loan at a time, as specified in the Adoption Agreement. All loans must be evidenced by a legally enforceable agreement, the terms of which comply with the requirements of this Part 20. The Agent may perform the duties described in this Part 20.

20.2 Maximum Loan Amount.

No loan to a Participant hereunder may exceed the lesser of:

(1) Fifty Thousand Dollars (\$50,000), reduced by the greater of (i) the outstanding balance on any loan from the Plan to the Participant on the date the loan is made or (ii) the highest outstanding balance on loans from the Plan to the Participant during the one-year period ending on the day before the date the loan is approved by the Plan Sponsor (not taking into account any payments made during such one-year period), or

(2) one-half (1/2) or a lesser percentage as determined by the Plan Sponsor of the value of the Participant's Account (as of the valuation date immediately preceding the date on which such loan is approved by the Plan Sponsor).

For purposes of this Provision, any loan from any other qualified retirement plan, as defined by IRC § 72(p)(4)(A) and (B), maintained by the Employer or a related employer shall be treated as if it were a loan made from the Plan, and the Participant's vested interest under any such other plan shall be considered a vested interest under this Plan; provided, however, that the provisions of this paragraph shall not be applied so as to allow the amount of a loan under this Provision to exceed the amount that would otherwise be permitted in the absence of this paragraph.

20.3 Terms of Loan. The terms of the loan shall:

(1) require level amortization with payments not less frequently than quarterly throughout the repayment period, except that alternative arrangements for repayment may apply in the event that the borrower is on a bona fide unpaid leave of absence for a period not to exceed one year for leaves other than a qualified military leave within the meaning of IRC § 414(u) or for the duration of a leave which is due to qualified military service;

(2) require that the loan be repaid within five (5) years; and

(3) provide for a reasonable interest rate established by the Plan Administrator in accordance with the applicable law.

20.4 Security for Loan; Default.

(a) **Security.** Any loan to a Participant under the Plan shall be secured by the pledge of the portion of the Participant's interest in the Plan invested in such loan.

(b) **Default.** In the event that a Participant fails to make a loan payment under this Provision when such payment is due, the Participant will have the opportunity to make missed repayments during a cure period (the end of the calendar quarter following the calendar quarter in which the loan was last current). If the Participant fails to make missed payments by the end of the applicable cure period, the Participant's loan will be in default, and the outstanding balance of the Participant's loan, including interest, will be treated as a deemed distribution and reported as taxable income as of the end of the cure period. The amount of the deemed distribution will continue to be treated as if it is an outstanding loan, and interest will continue to accrue on the balance. As a result, the deemed distribution will count against the Participant's available number of outstanding loans under the Plan and will reduce any amount available for future loans. After the deemed distribution has been reported as taxable income, the Participant may choose to repay the deemed amount plus applicable interest, on an after-tax basis.

If the Participant has a Severance from employment with an outstanding loan balance, the Participant is required to repay the loan in full. If the Participant fails to repay the loan as of the end of the applicable cure period, the Participant's outstanding loan balance will be treated as a deemed distribution and reported as taxable income as of the end of the cure period. If the Participant takes a distribution from the Plan after Severance from employment and while the Participant still has an outstanding loan balance that has not been reported as a deemed distribution, the Participant's distribution from the Plan will be reduced by the amount of the loan, and this amount will be reported as taxable income.

Notwithstanding anything elsewhere in the Plan to the contrary, in the event a loan is outstanding hereunder on the date of a Participant's death, any outstanding loan balance is due and payable at the end of the cure period. If the loan is not repaid by the end of the cure period, or a distribution is made to the Participant's Beneficiary(ies) before the end of the cure period, the outstanding loan balance will be offset against the Participant's Account, and the Beneficiary will receive the net Account balance as the death benefit.

20.5 Repayment.

Repayment of a loan may be made by payroll deduction, by direct payment to the Plan, or such other means as the Plan Administrator may permit. The Participant may be required, as a condition to receiving a loan, to enter into an irrevocable agreement authorizing the Employer to make payroll deductions from his or her compensation as long as the Participant is an Employee and to transfer such payroll deduction amounts to the Master Trustees in payment of such loan plus interest. Repayments of a loan shall be made in equal installments (comprised of both principal and interest) each due date, with the first such repayment to be made as soon as practicable after the loan funds are disbursed; provided, however, that a Participant may prepay the entire outstanding balance of his or her loan at any time; and provided, further, that if any payroll deductions cannot be made in full because a Participant is on an unpaid leave of absence

or the Participant's paycheck is insufficient for any other reason, the Participant shall pay directly to the Plan the full amount that would have been deducted from the Participant's paycheck.

20.6 Special Relief for Loans.

Notwithstanding any other Provisions of this Part, the Plan Administrator may observe the terms of any Internal Revenue Service guidance or Act of Congress regarding plan loans, which guidance or Act was issued or enacted in response to a natural disaster.

21. Construction

21.1 Construction

The provisions of this Part govern the construction or interpretation of this Plan. These rules of construction and interpretation shall apply for all provisions, and shall supersede any other construction or interpretation rules.

21.2 Construction as an eligible deferred compensation plan

The Plan is established and maintained with the intent that the Plan always be an "eligible deferred compensation plan" within the meaning of IRC § 457(b) and conform to the Internal Revenue Code's requirements for treatment or recognition as such a plan. Therefore, the provisions of the Plan shall be interpreted whenever possible to state provisions that conform to the applicable requirements of the Internal Revenue Code. When the Internal Revenue Code is amended or interpreted through subsequent legislation or regulations or other guidance of general applicability, the Plan should be construed as stating provisions consistent with such amendment or interpretation of the applicable law.

21.3 Construction with Enabling Statute

The Plan is established and maintained with the intent that the Plan conform to the applicable requirements of the Enabling Statute. The provisions of the Plan shall be interpreted whenever possible to state provisions that conform to the applicable requirements of the Enabling Statute. When the Enabling Statute is amended or interpreted through subsequent legislation or regulations, the Plan should be construed as stating provisions consistent with such amendment or interpretation of the applicable law.

21.4 Construction of statutes and regulations

Any reference to a Section of the Internal Revenue Code shall be construed to also refer to any successor provision. Any reference to a Section of Treasury Regulations shall be construed to also refer to any successor provision of such regulations. Any reference to a Revenue Ruling or Revenue Procedure or IRS Notice or IRS Announcement shall be construed to also refer to any guidance of general applicability that extends, amplifies, or modifies the Revenue Ruling or Revenue Procedure or IRS Notice or IRS Announcement.

The Plan refers to relevant regulations, including (but not limited to) Treasury regulations under the Internal Revenue Code, without regard to whether the regulations are substantive or interpretive and without regard to whether the regulations are proposed or temporary or final; but it is intended that any provision that refers to a regulation shall be construed to refer to the

regulation in the sense of the appropriate legal effect (under administrative procedure law and otherwise) that the regulation currently has at the time the construction is made.

To the extent that a provision states a duty owed to any government (rather than a duty to a Participant or Beneficiary or other person or entity having an interest under the Plan), the provision shall be construed as directory and shall be enforced only by the government. However, a provision that is necessary for the Plan to meet the requirements of an eligible deferred compensation plan within the meaning of IRC § 457(b) includes a duty owed to Participants and Beneficiaries and is not directory.

To the extent that a construction or interpretation of the Plan involves a construction of a statute or regulation, the Plan Sponsor may (but is not required to) construe the statute or regulation according to the *Uniform Statutory Construction Act*.

21.5 Construction of words and phrases

The headings and numbering of provisions in the Plan and text that is stated within brackets, excluding text in parenthesis, are included solely for convenience of reference and are not intended to limit or amplify or control the meaning or interpretation or construction of any provision of this Plan.

The phrase "under the Plan" or "under this Plan" refers to the entire Plan (and the Master Trust Agreement) as a whole and not merely to any part of any document or Provision in which the phrase appears. Any reference to a Part of the Plan refers to the whole Part. Any reference to a definition or Provision of the Plan refers to the whole definition or Provision, unless the reference specifies a particular portion or paragraph of the Provision.

The singular shall be construed to include the plural, unless the context clearly indicates otherwise.

The words "as" or "if" shall be construed to mean the phrase, "to the extent that", as appropriate in the context.

Any reference to the Plan Administrator shall be construed to refer also to the Agent and the Issuer(s) and any other party acting for or at the instruction of the Plan Administrator.

Unless the provision states otherwise, any reference to a person or party shall be construed to refer also to any non-natural person or any entity (including but not limited to, any trust or estate).

To the extent that a provision states a duty owed to any government (rather than a duty to a Participant or Beneficiary or other person or entity having an interest under the Plan), the provision shall be construed as directory and shall be enforced only by the government.

Any reference to a corporation or similar organization shall be construed to include any successor to the corporation or similar organization.

All provisions of the Master Trust Agreement that do not conflict with the Plan are incorporated by reference and are a part of the Plan as if fully set forth by this document.

All provisions of a prospectus and statement of additional information or statement of operation of a Fund that do not conflict with the Plan are incorporated by reference and are a part of the Plan as if fully set forth by this document.

If any provision concerning a benefit under the Plan is ambiguous, a construction or interpretation of the provision that would provide that such benefit is available in a non-discriminatory manner shall take precedence over a construction or interpretation that would not so provide.

21.6 Construction by reference to model laws

To the extent that any construction beyond the written provisions of the Plan is necessary, the Plan shall be construed (except as otherwise provided by the Plan) according to any then-current Restatement of law published or promulgated by the American Law Institute or any then-current Uniform Act or Model Act published or recommended by the National Conference of Commissioners on Uniform State Laws. For this purpose, the Plan Sponsor may rely on the text of any Uniform Act or Model Act as published in the current edition of Martindale-Hubbell Law Digest. The Plan Sponsor may consider a withdrawn Uniform Act or Model Act if no successor has been promulgated. Among these sources, the Plan Sponsor in its sole discretion may select any order of reference and if more than one source is relevant may decide which source it considers controlling or appropriate.

21.7 Investment Law

Whenever, after applying the specific construction rules of any definition or Provision or Part and the general construction rules stated in this Part, the Plan may be susceptible to more than one construction or interpretation, a construction or interpretation that is consistent with or that is not inconsistent with applicable Investment Law is preferred over a construction or interpretation that is inconsistent with applicable Investment Law.

21.8 USA Constitution and Florida Constitution

When applying any of the preceding construction rules relating to the Internal Revenue Code or the Enabling Statute or Employment Laws or Government Contracts Laws, the Plan Sponsor or Plan Administrator need not consider any statute or regulation or order to the extent that its application is contrary to the Constitution of the USA or is contrary to the Constitution of Florida; however, the Plan Sponsor or Plan Administrator may presume that any statute or regulation or order is not unconstitutional until a published controlling court decision expressly holds that such law is contrary to a Constitution.

The Basic Plan Document is not signed here.

This Plan is not complete without the Participating Employer's Adoption Agreement, by which the Participating Employer must specify the conforming and elective provisions of the Plan.

The Participating Employer will sign the Adoption Agreement to indicate adoption of the Plan.