

**FIRST AMENDMENT
TO
THE CITY OF PHOENIX
DEFERRED COMPENSATION PROGRAM**

The Phoenix Employees' Deferred Compensation Board (the "Board") has adopted the following First Amendment to the City of Phoenix Deferred Compensation Program (the "Plan").

W I T N E S S E T H

WHEREAS, Section 10.02 of the Plan permits the Board to amend the Plan; and

WHEREAS, the Board desires to amend the Plan to revise the rules pertaining to the deferral of accumulated sick and vacation pay and back pay in accordance with Internal Revenue Service regulations; to delete the provision allowing for the distribution of small account balances without participant consent; and to replace the references to "Fringe," "Fringe amounts" or "Fringe contributions" with "Nonelective Employer Contributions."

NOW, THEREFORE, the Plan is amended as follows:

FIRST CHANGE

Effective November 17, 2005, the following provisions shall be amended by substituting "NONELECTIVE EMPLOYER CONTRIBUTIONS" for "FRINGE amounts" wherever the latter term appears: the introductory paragraph before Article I; Section 1.01(g); Section 1.01(t), Section 2.01; Article III; and Section 8.02. Effective November 17, 2005, Section 1.01(n) shall be amended by substituting "NONELECTIVE EMPLOYER CONTRIBUTIONS" for "FRINGE" wherever the latter term appears. Effective November 17, 2005, Article III shall be amended by substituting "NONELECTIVE EMPLOYER CONTRIBUTIONS" for "FRINGE contributions" wherever the latter term appears.

SECOND CHANGE

Effective November 17, 2005, Section 2.08 shall be deleted in its entirety and the following shall be substituted in lieu thereof:

2.08 Sick, Vacation and Back Pay – An eligible PARTICIPANT who has not had a SEVERANCE FROM EMPLOYMENT may elect to defer accumulated sick pay, accumulated vacation pay or back pay to the PLAN provided that the agreement providing for the deferral of such amounts is entered into before the beginning of the month in which the amounts would otherwise be paid or made available and the PARTICIPANT is an EMPLOYEE on the date the amounts would otherwise be paid or made available. For purposes of Section 457 of the Code, COMPENSATION that would otherwise be paid for a payroll period that begins before an eligible PARTICIPANT'S SEVERANCE FROM EMPLOYMENT is treated as an amount that would otherwise be paid or made available before the PARTICIPANT'S SEVERANCE FROM EMPLOYMENT. An eligible PARTICIPANT who has had a SEVERANCE FROM EMPLOYMENT may elect to defer accumulated sick pay, accumulated vacation pay or back pay paid within 2½ months following the PARTICIPANT'S SEVERANCE FROM EMPLOYMENT if (1) the agreement providing for the deferral of such amounts is entered into before the beginning of the month in which the amounts would otherwise be paid or made available, and (2) the PARTICIPANT would have been able to use the leave if employment had continued. A deferral made pursuant to this Section 2.08 may not be made in any amount that would cause the PARTICIPANT to exceed the limits on annual deferrals expressed in Section 457 and this Article.

THIRD CHANGE

Effective November 17, 2005, the introductory paragraph of Section 9.05 shall be amended by deleting the following clause: "(or the PLAN may distribute such amount without the PARTICIPANT'S consent)."

IN ALL OTHER RESPECTS, said Plan is hereby ratified and confirmed.

The foregoing First Amendment to the City of Phoenix Deferred Compensation Program was approved on the 17th day of November, 2005, by vote of The Phoenix Employees' Deferred Compensation Board.

**SECOND AMENDMENT TO THE CITY OF PHOENIX
DEFERRED COMPENSATION PLAN**

The Phoenix Employees' Deferred Compensation Board (the "Board") has adopted the following Second Amendment to The City of Phoenix Deferred Compensation Plan (the "Plan").

W I T N E S S E T H

WHEREAS, Section 10.2 of the Plan permits the Board to amend the Plan;

WHEREAS, Internal Revenue Code ("IRC") Section 402(l) (as added by the Pension Protection Act of 2006) provides that, in the case of an employee who is an eligible retired public safety officer, with respect to any taxable year of such employee, gross income of such employee for such taxable year does not include any distribution from an eligible retirement plan to the extent that the aggregate amount of such distributions does not exceed the amount paid by such employee for qualified health insurance premiums of the employee, his spouse, or dependents for such taxable year;

WHEREAS, the Plan is an eligible retirement plan as defined in IRC Section 402(l);

WHEREAS, certain Participants in the Plan would qualify as eligible retired public safety employees as defined in IRC Section 402(l); and

WHEREAS, the Board desires to amend the Plan to provide for a direct deduction from distributions for certain Participants in order to permit those Participants to qualify for the exclusion from taxable income with respect to premiums for health care insurance and long-term care insurance.

NOW, THEREFORE, the Plan is amended as follows:

FIRST CHANGE

Article IX of the Plan is amended by adding Section 9.07 to read as follows:

9.07. Direct Distributions for Qualified Health Insurance Premiums

(a) Application. This Section of the PLAN only applies to PARTICIPANTS, other than INDEPENDENT CONTRACTORS, who are Eligible Retired Public Safety Officers as defined in this Section.

(b) Definitions. As used in this Section, these terms are defined as follows:

(1) "Eligible Retired Public Safety Officer" means an individual who, by reason of disability or by attainment of NORMAL RETIREMENT AGE, has a SEVERANCE FROM EMPLOYMENT as a public safety officer with the City. For purposes of this definition, the term "public safety officer" shall have the same meaning given such term by section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(9)(A)).

(2) "Qualified Health Insurance Premiums" means premiums for coverage for the Eligible Retired Public Safety Officer, his/her spouse, and dependents, by an accident or health plan or qualified long-term care insurance contract.

(c) Direct Deductions

On and after January 1, 2008, a PARTICIPANT who is an Eligible Retired Public Safety Officer may elect to have a deduction from his/her distribution from the PLAN for Qualified Health Insurance Premiums to be paid directly to the provider of the accident or health plan or qualified long-term care insurance contract. However, this provision applies only to a provider that accepts a direct remittance of the premium from the PLAN.

(d) Implementation. The form and procedure for the election and the direct deduction shall be prescribed by the ADMINISTRATOR.

(e) Intent. This Section shall be administered in compliance with IRC Section 402(l), as amended from time to time, and any related guidance from the Internal Revenue Service.

SECOND CHANGE

All cross references in the Plan shall be corrected as appropriate.

IN ALL OTHER RESPECTS, the Plan is hereby ratified and confirmed.

FIRST CHANGE

(1) "Eligible Retired Public Safety Officer" means an individual who, by reason of disability or by attainment of NORMAL RETIREMENT AGE, has a SEVERANCE PAY OR EMPLOYMENT as a public safety officer with the City. For purposes of this definition, the term "public safety officer" shall have the same meaning given such term by section 13009(A) of the Oregon Crime Control and Safe Streets Act of 1995 (S.C. 13009(A)).

The foregoing Second Amendment to the City of Phoenix Deferred Compensation Program was approved on the 15th day of November 2007, by vote of The Phoenix Employees' Deferred Compensation Board.

IN WITNESS WHEREOF, the Board has caused this Second Amendment to be executed on the 15th day of November, 2007.

WITNESS:

THE CITY OF PHOENIX, ARIZONA

Kathy Walczak

By: Janet Smith
Janet Smith
Personnel Director

THIRD AMENDMENT TO THE CITY OF PHOENIX
DEFERRED COMPENSATION PLAN

The Phoenix Employees' Deferred Compensation Board ("the Board") has adopted the following Third Amendment to The City of Phoenix Deferred Compensation Plan ("the Plan").

WITNESSETH

WHEREAS, Section 10.02 of the Plan permits the Board to amend the Plan;

WHEREAS, the Board desires to amend the Plan to provide accumulated leave/compensated time value contributions that exceed the IRC 415(c) limits under The City of Phoenix Defined Contribution Plan to be automatically contributed to the Plan; and

WHEREAS, the BOARD desires to amend the Plan to provide amounts received by the Plan that are not attributable to an individual participant account are used to pay Plan expenses.

NOW, THEREFORE the Plan is amended as follows:

FIRST CHANGE

Effective January 1, 2008, subsection (bb) shall be added to Article I, definitions as follows:

- (bb) ACCUMULATED LEAVE/COMPENSATORY TIME VALUE means the value of an EMPLOYEE'S accumulated sick leave, vacation and compensatory time leave at termination of employment with the CITY on the part of an EMPLOYEE at a time when such EMPLOYEE is eligible for retirement under the City of Phoenix Employees' Retirement System ("COPERS") or the State of Arizona Public Safety Personnel Retirement System ("PSPRS"). Notwithstanding the preceding sentence, for an Employee who participates in the deferred retirement option plan ("DROP") under the PSPRS, "retirement" shall mean the termination of his or her participation in DROP, determined by multiplying the applicable percentage, based on the collective bargaining agreement or CITY policy to which the EMPLOYEE is subject, by the amount of the City of Phoenix Defined Contribution Plan eligible accumulated sick leave, vacation and compensatory leave time available for conversion under such collective bargaining agreement or CITY policy.

SECOND CHANGE

Effective January 1, 2008, Article III shall be deleted in its entirety and the following shall be substituted in lieu thereof:

ARTICLE III

EMPLOYER Contributions

The EMPLOYER may contribute NONELECTIVE EMPLOYER CONTRIBUTIONS to the PLAN for PARTICIPANTS.

If any portion of an EMPLOYEES' ACCUMULATED LEAVE / COMPENSATED TIME VALUE cannot be contributed to the City of Phoenix Defined Contribution Plan due to the limitations under IRC Section 415(c) such ACCUMULATED LEAVE / COMPENSATORY TIME VALUE shall automatically be paid to PLAN as a NONELECTIVE EMPLOYER CONTRIBUTION.

NONELECTIVE EMPLOYER CONTRIBUTIONS shall vest at the time such contributions are made. For purposes of administering Sections 2.04, 2.05, 2.06, and 2.08, NONELECTIVE EMPLOYER CONTRIBUTIONS shall apply toward the maximum deferral limits in the PLAN YEAR that such contributions are made.

THIRD CHANGE

Effective January 1, 2009, Section 8.04 of Article VIII shall be deleted in its entirety and the following shall be substituted in lieu therefore:

8.04 All interest, dividends, charges for premiums and administrative expenses, and changes in value due to market fluctuations applicable to each PARTICIPANT'S DEFERRED COMPENSATION ACCOUNT shall be credited or debited to the account as they occur. Reasonable expenses of administering the PLAN shall be debited to each PARTICIPANT'S DEFERRED COMPENSATION ACCOUNT.

Amounts received by the Plan that are not tied to a specific PARTICIPANT DEFERRED COMPENSATION ACCOUNT, such as a mutual fund payment reimbursement, an abusive trading settlement, or any other such amount may be used by the CITY to pay PLAN expenses.

IN ALL OTHER RESPECTS, the Plan is hereby ratified and confirmed.

The foregoing Third Amendment to the City of Phoenix Deferred Compensation Program was approved on the 18th day of December, 2008, by vote of The Phoenix Employees' Deferred Compensation Board.

IN WITNESS WHEREOF, the Board has caused this Third Amendment to be executed this 18th day of December, 2008.

WITNESS:

Kathy Adellbrock

THE CITY OF PHOENIX, ARIZONA

By: Janet Smith
Janet Smith
Personnel Director

FOURTH
AMENDMENT TO THE CITY OF PHOENIX
DEFERRED COMPENSATION PLAN

The Phoenix Employees' Deferred Compensation Board ("the Board") has adopted the following Fourth Amendment to The City of Phoenix Deferred Compensation Plan ("the Plan").

WITNESSETH

WHEREAS, Section 10.02 of the Plan permits the Board to amend the Plan;

WHEREAS, the Board desires to amend the Plan to allow direct rollovers to Roth IRAs as required under the Pension Protection Act of 2006;

WHEREAS, the Board desires to amend the Plan to provide nonspouse direct rollovers as required under the Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA");

WHEREAS, the Board desires to amend the Plan to address the WRERA minimum required distribution holiday in accordance with IRS Notice 2009-82; and

WHEREAS the Board desires to amend the Plan to reflect changes to the 401(a) Defined Contribution Plan.

NOW, THEREFORE the Plan is amended as follows:

FIRST CHANGE

Effective January 1, 2010, the definitions in Article I, Sections 1.01(i) and 1.01(k) shall be amended to read as follows:

- "(i) **ELIGIBLE RETIREMENT PLAN** means an **ELIGIBLE RETIREMENT PLAN** as defined in IRC Section 402(c)(8)(B), as of January 1, 2008, including a Roth IRA. An **ELIGIBLE RETIREMENT PLAN** for a nonspouse designated beneficiary (as defined in Code Section 401(a)(9)(E)) of a deceased **PARTICIPANT** means an IRA that is treated as an inherited IRA.
- (k) **ELIGIBLE ROLLOVER DISTRIBUTIONS** means an **ELIGIBLE ROLLOVER DISTRIBUTION** as defined in IRC Section 402(c)(4), including **ELIGIBLE ROLLOVER DISTRIBUTIONS** to an employee, former employee, or a nonspouse designated beneficiary (as defined in Code 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 Code Section 414(p), may make an **ELIGIBLE ROLLOVER DISTRIBUTION** with regard to the interest of the spouse or former spouse. In addition, and solely for purposes of applying the direct rollover provisions in Plan Section 4.02 and 4.03, 2009 RMDs and **EXTENDED 2009 RMDs** will be treated as **ELIGIBLE ROLLOVER DISTRIBUTIONS** in 2009."

SECOND CHANGE

Effective January 1, 2009, the following definitions will be added to Article I, Sections 1.01 (cc) and (dd) to read as follows:

- "(cc) 2009 RMDs means the amount a PARTICIPANT or BENEFICIARY would have been required to receive as a minimum required distribution for 2009 but for the enactment of Code Section 401(a)(9)(H).
- (dd) EXTENDED 2009 RMDs means 2009 RMD distributions that are equal to 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, the joint lives (or joint life expectancy) of the PARTICIPANT and the PARTICIPANT'S designated BENEFICIARY, or for a period of at least 10 years."

THIRD CHANGE

Effective January 1, 2010, Section 2.08 shall be amended to read as follows:

- 2.08 Sick, Vacation, and Back Pay – An eligible PARTICIPANT who has not had a SEVERANCE FROM EMPLOYMENT may elect to defer accumulated sick pay, accumulated vacation pay or back pay to the PLAN provided that the agreement providing for the deferral of such amounts is entered into before the beginning of the month in which the amounts would otherwise be paid or made available and the PARTICIPANT is an EMPLOYEE on the date the amounts would otherwise be paid or made available. For purposes of Section 457 of the Code, COMPENSATION that would otherwise be paid for a payroll period that begins before an eligible PARTICIPANT'S SEVERANCE FROM EMPLOYMENT is treated as an amount that would otherwise be paid or made available before the PARTICIPANT'S SEVERANCE FROM EMPLOYMENT. Except as otherwise provided in the City of Phoenix Defined Contribution plan with respect to ACCUMULATED LEAVE/COMPENSATORY TIME VALUE. An eligible PARTICIPANT who has had a SEVERANCE FROM EMPLOYMENT may elect to defer accumulated sick pay, accumulated vacation pay or back pay paid within the later of 2½ months following the PARTICIPANT'S SEVERANCE FROM EMPLOYMENT or the end of the PLAN YEAR that includes such SEVERANCE FROM EMPLOYMENT if (1) the agreement providing for the deferral of such amounts is entered into before the beginning of the month in which the amounts would otherwise be paid or made available, and (2) the PARTICIPANT would have been able to use the leave if employment had continued. A deferral made pursuant to this Section 2.08 may not be made in any amount that would cause the PARTICIPANT to exceed the limits on annual deferrals expressed in Section 457 and this Article."

FOURTH CHANGE

Effective January 1, 2008, Article III shall be deleted in its entirety and the following shall be substituted in lieu thereof:

ARTICLE III

EMPLOYER Contributions

The EMPLOYER may contribute NONELECTIVE EMPLOYER CONTRIBUTIONS to the PLAN for PARTICIPANTS.

If any portion of an EMPLOYEES' ACCUMULATED LEAVE/COMPENSATORY TIME VALUE cannot be contributed to the City of Phoenix Defined Contribution Plan due to the limitations under IRC Section 415(c) such ACCUMULATED LEAVE/COMPENSATORY TIME VALUE shall automatically be paid to PLAN as a NONELECTIVE EMPLOYER CONTRIBUTION.

NONELECTIVE EMPLOYER CONTRIBUTIONS shall vest at the time such contributions are made. For purposes of administrating Sections 2.04, 2.05, 2.06, and 2.08, NONELECTIVE EMPLOYER CONTRIBUTIONS shall apply toward the maximum deferral limits in the PLAN YEAR that such contributions are made.

FIFTH CHANGE

Effective January 1, 2009, Subsection (c) shall be added to Article IX, Section 9.03 to read as follows:

- "(c) Notwithstanding any other PLAN provision, a PARTICIPANT or BENEFICIARY who would have been required to receive 2009 RMDs, and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) EXTENDED 2009 RMDs will receive those distributions for 2009 unless the PARTICIPANT or BENEFICIARY chooses not to receive such distributions. PARTICIPANTS and BENEFICIARIES described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence."

IN ALL OTHER RESPECTS, the Plan is hereby ratified and confirmed.

The foregoing Fourth Amendment to the City of Phoenix Deferred Compensation Program was approved on the 19th day of November, 2009, by vote of The Phoenix Employees' Deferred Compensation Board.

IN WITNESS WHEREOF, the Board has caused this Fourth Amendment to be executed this 19th day of November, 2009.

WITNESS:

Kathy Schellrock

THE CITY OF PHOENIX, ARIZONA

By: Janet Smith
Janet Smith
Personnel Director

FIFTH AMENDMENT
TO THE CITY OF PHOENIX
DEFERRED COMPENSATION PLAN

The Phoenix Employees' Deferred Compensation Board ("the Board") has adopted the following Fifth Amendment to The City of Phoenix Deferred Compensation Plan ("the Plan").

WITNESSETH

WHEREAS, Section 10.02 of the Plan permits the Board to amend the Plan;

WHEREAS, the Board desires to amend the Plan to address the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART");

WHEREAS, the Board desires to provide for the ability to require the investment service providers and/or Plan Administrator to provide for fee disclosure to Participants, Beneficiaries, and Alternate Payees as provided in rules and procedures implemented by staff at the direction of the Board;

WHEREAS, the Board desires to provide for the ability to require the investment service providers and/or Plan Administrator to provide for fee disclosure to the Plan Sponsor as provided in rules and procedures implemented by staff at the direction of the Board; and

WHEREAS, the Board desires to amend the Plan to reflect changes to the 457 Deferred Compensation Plan.

NOW, THEREFORE the Plan is amended as follows:

FIRST CHANGE

Effective January 1, 2007, Article II, Section 2.07 shall be amended to read as follows:

"2.07. Notwithstanding the preceding provisions of Article II, an EMPLOYEE who is entitled to reemployment pursuant to the terms of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) may defer an additional amount under the PLAN as provided in that act for the years of his or her qualified military service. Any such deferrals will not be subject to the limits set forth above in the year in which deferred, but will be subject to the limits for the year to which such deferrals relate. EMPLOYER contributions, deferrals, benefits, and service credit with respect to qualified military service shall be provided in accordance with USERRA; IRC Section 414(u); and, effective January 1, 2007, IRC Section 401(a)(37), as amended from time to time.

For purposes of this Section, "qualified military service" means any service in the uniformed services as defined in USERRA by any individual if such individual is entitled to reemployment rights under USERRA with respect to such service.

If the EMPLOYEE timely resumes employment in accordance with USERRA after a qualified military leave, the EMPLOYER shall make any EMPLOYER contributions that would have been made if the EMPLOYEE had remained employed during the EMPLOYEE'S qualified military service. EMPLOYER

contributions made under this paragraph must be made no later than ninety (90) days after the date of reemployment or when EMPLOYER contributions are normally due for the year in which the qualified military service was performed, if later. In determining the EMPLOYER contributions, an EMPLOYEE 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 is 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). The EMPLOYEE may make-up DEFERRED COMPENSATION (adjusted for any DEFERRED COMPENSATION contributions made during the qualified military service) upon reemployment during the period which begins on the date of the EMPLOYEE'S reemployment and has the same length as the lesser of 3 times the period of qualified military service and 5 years.

To the extent provided under IRC Section 401(a)(37), in the case of an EMPLOYEE whose employment is interrupted by qualified military service and who dies while performing qualified military service, the survivor of such EMPLOYEE shall be entitled to any additional benefit (other than benefit accruals) provided under the Plan as if the EMPLOYEE timely resumed employment in accordance with USERRA and then, on the next day, terminated employment on account of death.

Effective January 1, 2012, for the purpose of calculating and making deferrals and EMPLOYER contributions, an EMPLOYEE whose employment is interrupted by qualified military service and who dies or becomes disabled while performing qualified military service shall be treated as though the EMPLOYEE had remained in employment with the CITY for the duration of his qualified military service and that his employment with the CITY terminated on the day after the EMPLOYEE'S date of death or disability. For purposes of this paragraph, "disabled" means that the EMPLOYEE has been determined to be disabled by the appropriate military authority; and "date of disability" means the end date of the EMPLOYEE'S qualified military service, or the EMPLOYEE'S return to employment, if later.

Effective January 1, 2009, an EMPLOYEE receiving a differential wage payment within the meaning of IRC Section 414(u)(12)(D) from the Employer, shall be treated as an EMPLOYEE who is eligible to make deferrals and the differential wage payment shall be treated as "COMPENSATION" for purposes of Section 1.01(f) of the PLAN and for purposes of Article II of the PLAN. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner."

SECOND CHANGE

Effective January 1, 2012, Article X, Section 10.02, is amended by adding new paragraphs, 7 and 8, to read as follows:

"The BOARD may direct staff to implement rules and procedures to require an investment service provider and/or the Plan Administrator to provide a PARTICIPANT, BENEFICIARY, or ALTERNATE PAYEE with fee disclosure information in accordance with final regulations of the federal Department of Labor. These rules and procedures may vary from the final regulations in order to take into account the PLAN'S status as a governmental plan.

The BOARD may direct staff to implement rules and procedures to require an investment service provider and/or the Plan Administrator to provide the PLAN SPONSOR with fee disclosure information in accordance with final regulations of the federal Department of Labor. These rules and procedures may vary from the final regulations in order to take into account the PLAN'S status as a governmental plan."

THIRD CHANGE

Effective January 1, 2010, Article II, Section 2.08, shall be amended for clarification purposes to read as follows:

"2.08 Sick, Vacation, and Back Pay – An eligible PARTICIPANT who has not had a SEVERANCE FROM EMPLOYMENT may elect to defer eligible accumulated sick pay, accumulated vacation pay or back pay to the PLAN provided that the agreement providing for the deferral of such amounts is entered into before the beginning of the month in which the amounts would otherwise be paid or made available and the PARTICIPANT is an EMPLOYEE on the date the amounts would otherwise be paid or made available. For purposes of Section 457 of the Code, COMPENSATION that would otherwise be paid for a payroll period that begins before an eligible PARTICIPANT'S SEVERANCE FROM EMPLOYMENT is treated as an amount that would otherwise be paid or made available before the PARTICIPANT'S SEVERANCE FROM EMPLOYMENT. Except as otherwise provided in the City of Phoenix Defined Contribution plan with respect to ACCUMULATED LEAVE/COMPENSATORY TIME VALUE. An eligible PARTICIPANT who has had a SEVERANCE FROM EMPLOYMENT, other than retirement, may elect to defer eligible accumulated sick pay, accumulated vacation pay or back pay paid within the later of 2½ months following the PARTICIPANT'S SEVERANCE FROM EMPLOYMENT, other than retirement, or the end of the PLAN YEAR that includes such SEVERANCE FROM EMPLOYMENT, other than retirement, if (1) the agreement providing for the deferral of such amounts is entered into before the beginning of the month in which the amounts would otherwise be paid or made available, and (2) the PARTICIPANT would have been able to use the leave if employment had continued. A deferral made pursuant to this Section 2.08 may not be made in any amount that would cause the PARTICIPANT to exceed the limits on annual deferrals expressed in Section 457 and this Article."

FOURTH CHANGE

Effective January 1, 2008, Article III, shall be amended for clarification purposes by deleting Article III in its entirety and substituting in lieu thereof the following:

"ARTICLE III

EMPLOYER Contributions

The EMPLOYER may contribute NONELECTIVE EMPLOYER CONTRIBUTIONS to the PLAN for PARTICIPANTS.

If any portion of the eligible ACCUMULATED LEAVE/COMPENSATORY TIME VALUE of a PARTICIPANT who had a SEVERANCE FROM EMPLOYMENT due to retirement cannot be contributed to the City of Phoenix Defined Contribution Plan due to the limitations under IRC Section 415(c) such ACCUMULATED LEAVE/COMPENSATORY TIME VALUE shall automatically be paid to PLAN as a NONELECTIVE EMPLOYER CONTRIBUTION.

NONELECTIVE EMPLOYER CONTRIBUTIONS shall vest at the time such contributions are made. For purposes of administering Sections 2.04, 2.05, 2.06, and 2.08, NONELECTIVE EMPLOYER CONTRIBUTIONS shall apply toward the maximum deferral limits in the PLAN YEAR that such contributions are made."

FIFTH CHANGE

Effective January 1, 2012, a new section 9.07 is added to Article IX to read as follows:

9.07 "The CITY and the PLAN ADMINISTRATOR may mutually agree to use excess reimbursement revenue amounts for additional services under the agreement or additional earnings credited to PARTICIPANT accounts. These service expansions or other credits shall be for the exclusive benefit of PARTICIPANTS. The excess reimbursement revenue represents the assets remaining from the reimbursement fees (revenue sharing fees) paid to the PLAN ADMINISTRATOR after earnings are credited and fees are deducted for PARTICIPANTS' accounts; PLAN ADMINISTRATOR'S quarterly fee is deducted; and the CITY'S quarterly fee for administrative costs is deducted. The excess reimbursement revenue for the PLAN is maintained by the PLAN ADMINISTRATOR in a separate interest-bearing account, as part of PLAN assets, and must be included in the financial reporting to the BOARD by the PLAN ADMINISTRATOR.

Any excess reimbursement revenue shall be allocated by the PLAN ADMINISTRATOR in aggregate amounts of \$25.00 or more to PARTICIPANTS' accounts on a per capita basis; provided, however, that if the amount of excess reimbursement revenue is not sufficient for payments of \$25.00 or more to be made, the PLAN ADMINISTRATOR shall continue to retain the revenue for use in paying future administrative expenses or future earnings credited to PARTICIPANTS. If crediting excess reimbursement revenue to PARTICIPANTS would result in a remaining excess revenue amount that would be less than the minimum amount established by the BOARD, no excess reimbursement revenue will be allocated to PARTICIPANTS."

SIXTH CHANGE

Effective January 1, 2012, a new section 9.08 is added to Article IX to read as follows:

"9.08 Lost PARTICIPANTS or BENEFICIARIES. In the event that any amount that is due to a PARTICIPANT or BENEFICIARY shall remain unpaid solely because of the BOARD'S inability to ascertain the identity or whereabouts of such PARTICIPANT or BENEFICIARY after making reasonable efforts to identify or locate him or her (including sending a letter to the last known address of the PARTICIPANT or BENEFICIARY as shown on the CITY'S records), such payout amount (and all subsequent payouts otherwise due) shall be treated as forfeited and shall be deemed abandoned consistent with Arizona law. If the amount due is outstanding for a period of six months, a letter will be sent to the last known address of the PARTICIPANT or BENEFICIARY. If there is no response, a second letter will be sent to the last known address of the PARTICIPANT or BENEFICIARY no less than sixty days prior to the information being submitted to the Arizona Department of Revenue's unclaimed funds. The account shall be retained in the PLAN and shall be invested in the default investment option as of the date that the information is submitted to the Department. If the PARTICIPANT or BENEFICIARY is subsequently identified or located, the account shall be reinstated, as of the date such PARTICIPANT or BENEFICIARY is subsequently identified or located."

IN ALL OTHER RESPECTS, the Plan is hereby ratified and confirmed.

The foregoing Fifth Amendment to the City of Phoenix Deferred Compensation Program was approved on the 20th day of October, 2011, by vote of The Phoenix Employees' Deferred Compensation Board.

IN WITNESS WHEREOF, the Board has caused this Fifth Amendment to be executed this 20th day of October, 2011.

WITNESS: RD
Kathy Schlenker

THE CITY OF PHOENIX, ARIZONA

By: [Signature]
Janet Smith
Human Resources Director

SIXTH AMENDMENT
TO THE CITY OF PHOENIX
DEFERRED COMPENSATION PLAN

The Phoenix Employees' Deferred Compensation Board ("the Board") has adopted the following Sixth Amendment to The City of Phoenix Deferred Compensation Plan ("the Plan").

WITNESSETH

WHEREAS, Section 10.02 of the Plan permits the Board to amend the Plan;

WHEREAS, the Board desires to amend the Plan to allow Loans; and

WHEREAS, the Board desires to amend the Plan to reflect changes to the 457 Deferred Compensation Plan.

NOW, THEREFORE the Plan is amended as follows:

Effective January 1, 2012, a new Section 9.09 shall be added to Article IX to be and read as follows:

9.09 Loans. A PARTICIPANT who is an EMPLOYEE may apply for and receive a loan from his or her account balance as provided in this Section 9.09.

(a) Minimum Loan Amount. The minimum loan amount shall be \$1,000.

(b) Maximum Loan Amount. No loan to a PARTICIPANT hereunder may exceed the lesser of:

(1) \$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 approved by the ADMINISTRATOR or (ii) the highest outstanding balance on any loan from the PLAN to the PARTICIPANT during the one-year period ending on the day before the date the loan is approved by the ADMINISTRATOR (not taking into account any payments made during such one-year period), or

(2) one half of the value of the PARTICIPANT'S vested account balance on the date on which such loan is approved by the ADMINISTRATOR.

For purposes of this Section 9.09, any loan from any other plan maintained by the CITY 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

Section 9.09 to exceed the amount that would otherwise be permitted in the absence of this paragraph.

(c) Terms of Loan. The terms of the loan shall:

- (1) require level amortization with payments through payroll deduction (but in any event 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 IRS Section 414(u) as long as the loan is repaid by the latest permissible term of the loan; or for the duration of a leave which is due to qualified military service;
- (2) require that the loan be repaid within five years unless the PARTICIPANT certifies in writing to the ADMINISTRATOR that the loan is to be used to acquire any dwelling unit which within a reasonable time is to be used (determined at the time the loan is approved by the ADMINISTRATOR) as a principal residence of the PARTICIPANT; and
- (3) provide for interest at a rate equal to one percentage point above the prime rate as published in the Wall Street Journal two weeks prior to the end of the most recent calendar-year quarter based on the date on which the loan is approved by the ADMINISTRATOR. The ADMINISTRATOR may adjust the loan rate for PARTICIPANTS entering active duty in the military services, as required by law.

(d) Security for Loan and Default.

- (1) 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.
- (2) Default. In the event that a PARTICIPANT fails to make a loan payment under this Section 9.09 within two subsequent sequential payrolls after the date such payment is due, a default on the loan shall occur. In the event of such default, (i) all remaining payments on the loan shall be immediately due and payable, (ii) the interest rate for such loan will continue to accrue until the loan is offset (a distribution occurs) and will remain at the rate being charged at the time the loan was approved by the ADMINISTRATOR, and (iii) the PARTICIPANT shall be ineligible for any future loans from the PLAN until such defaulted loans have been paid off in full.

In the case of any default on a loan to a PARTICIPANT, the ADMINISTRATOR shall apply the portion of the PARTICIPANT'S interest in the PLAN held as security for the loan in satisfaction of the loan on the date of SEVERANCE FROM EMPLOYMENT.

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, his or her estate shall be his or her Beneficiary as to the portion of his or her interest in the PLAN invested in such loan (with the Beneficiary or Beneficiaries as to the remainder of his or her interest in the PLAN to be determined in accordance with otherwise applicable provisions of the PLAN).

- (e) Repayment. The PARTICIPANT shall 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 TRUSTEE in payment of such loan plus interest. Repayments of a loan shall be made by payroll deduction of equal amounts (comprised of both principal and interest) from each paycheck, with the first such deduction 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 loan at any time (but may not make a partial prepayment); and provided, further, that if any payroll deductions cannot be made in full because a PARTICIPANT is on an unpaid leave of absence or is no longer employed by the CITY (which has consented to make payroll deductions for this purpose) 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, with such payment to be made by the last business day of the calendar month in which the amount would have been deducted.
- (f) Loan Fees. Loan fees will be deducted from the PARTICIPANT'S account as set forth in the loan procedures.

IN ALL OTHER RESPECTS, the Plan is hereby ratified and confirmed.

The foregoing Sixth Amendment to the City of Phoenix Deferred Compensation Program was approved on the 17th day of November, 2011, by vote of The Phoenix Employees' Deferred Compensation Board.

IN WITNESS WHEREOF, the Board has caused this Sixth Amendment to be executed this 17th day of November, 2011.

WITNESS:

Kathy Schellnock

THE CITY OF PHOENIX, ARIZONA

By: Janet Smith
Janet Smith
Human Resources Director

**AMENDMENT NO. 7
TO THE CITY OF PHOENIX
DEFERRED COMPENSATION PLAN**

The Phoenix Employees' Deferred Compensation Board (the "Board") has adopted the following Seventh Amendment to The City of Phoenix Deferred Compensation Plan (the "Plan").

Recitals

WHEREAS, Section 10.02 of the Plan and Phoenix City Code section 2-1504 permit the Board to amend the Plan;

WHEREAS, the Board desires to amend the Plan to allow Roth contributions; and

WHEREAS, the Board desires to amend the Plan to allow In-Plan Roth Conversions.

WHEREAS, the Board desires to amend the Plan to reflect changes to the 457 Deferred Compensation Plan.

WHEREAS, the City Manager is authorized to execute all Plan amendments and concurs with the Board recommendations.

NOW, THEREFORE the Plan is amended as follows:

Article I-General Terms, Definitions

- 1.1. Incorporation; Capitalized Terms.** The recitals set forth above are incorporated herein and made a part hereof. Capitalized terms used herein and not otherwise defined herein shall have the meanings given to such terms in the Agreement.
- 1.2. Adoption and effective date of amendment.** The Board adopts this Amendment to reflect Code Section 402A, as amended by the Small Business Jobs Act of 2010 ("SBJA"). This Amendment is intended as good faith compliance with the requirements of Code Section 402A and guidance issued thereunder, and this Amendment shall be interpreted in a manner consistent with such guidance. This Amendment shall be effective January 1, 2019.
- 1.3. Construction.** Except as otherwise provided in this Amendment, any reference to "Section" in this Amendment refers only to sections within this Amendment, and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to any Plan article, section or other numbering designations.
- 1.4. Deferral Contributions.** The Plan's definition of Deferral Contributions shall be as follows: "Deferral Contributions" means Salary Reduction Contributions, Non-elective Contributions, Fringe Contributions and Designated Roth Contributions. The Employer or the Administrative Services Provider (if applicable) in applying the Code § 457(b) limit will take into account Deferral Contributions in the Taxable Year in which contributed. The Employer or Administrative Services Provider (if applicable), in determining the amount of a Participant's Deferral Contributions, disregards the net income, gain and loss attributable to Deferral Contributions.

- 1.5. **Designated Roth Contributions.** - “Designated Roth Contributions” means a Participant’s Deferral Contributions that are includible in the Participant’s gross income at the time deferred and have been irrevocably designated as Designated Roth Contributions by the Participant in his or her deferral election. A Participant’s Designated Roth Contributions will be separately accounted for, as will gains and losses attributable to those Designated Roth Contributions. However, forfeitures may not be allocated to such account. The Plan must also maintain a record of a Participant’s investment in the contract (i.e., designated Roth contributions that have not been distributed) and the year in which the Participant first made a Designated Roth Contribution.
- 1.6. **Direct Rollover.** A Direct Rollover is a trustee-to-trustee transfer of assets from a Qualified Source to an Eligible Retirement Plan.
- 1.7. **In-Plan Roth Rollover.** An In-Plan Roth Rollover means an amount a Participant elects to convert from a Plan Account, other than a designated Roth Account, into an In-Plan Roth Rollover Account, in accordance with Code §402A(c)(4)(A) and §402A(c)(4)(E) and this Amendment. In-Plan Roth Rollover’s may only be made from distributions from a Qualified Source.
- 1.8. **In-Plan Roth Rollover Account.** An In-Plan Roth Rollover Account is a sub-account the Plan Administrator establishes for the purpose of separately accounting for a Participant’s rollovers attributable to the Participant’s In-Plan Roth Rollovers. The Plan Administrator has authority to establish such a sub-account, and to the extent necessary, may establish sub-accounts based on the source of the In-Plan Roth Rollover. The Plan Administrator will administer an In-Plan Roth Rollover Account as provided by IRS guidance and the Plan provisions, including the provisions of this Amendment.
- 1.9. **Participant includes certain alternate payees.** For purposes of eligibility for an In-Plan Roth Rollover, the Plan will treat a Participant’s alternate payee spouse or former spouse who is not an Employee as a Participant.
- 1.10. **Salary Reduction Contributions.** The Plan’s definition of Salary Reduction Contributions shall be as follows: “Salary Reduction Contributions” means a Participant’s Elective Deferrals which are not includible in the Participant’s gross income at the time deferred and have been irrevocably designated as Salary Reduction Contributions by the Participant in his or her deferral election. A Participant’s Salary Reduction Contributions will be separately accounted for, as will net income, gain or loss, attributable to those Salary Reduction Contributions. All Deferral Contributions prior to this amendment are Salary Reduction Contributions.
- 1.11. **Qualified Source.** A Qualified Source means an employer-sponsored retirement plan from which a Participant is permitted to rollover from or make a distribution from according to the terms of that specific plan. A Qualified Source includes, but is not limited to, the following types of retirement plans: a qualified retirement plan, certain defined contribution plans that allow the Participant to make elective deferrals (a “section 401(k) plan”), tax-deferred annuity plans (a “section 403(b) plan”), which may also allow employees to make elective deferrals, and eligible deferred compensation plans of State and local governments (“section 457(b) plans”).

Article II-Designated Roth Contributions

- 2.1 **Designated Roth Contributions are permitted.** The Plan’s definitions and terms shall be amended as follows to allow for Designated Roth Contributions as of the Effective Date. Designated Roth Contributions shall be treated in the same manner as Deferral Contributions for all Plan purposes except as provided for in this Amendment.
- 2.2 **Final Severance Designation Policies and Procedures.** Distributions of final severance will be in

compliance with the employee's designations as set forth in the Final Pay Form. In the event the employee fails to make a designation, distribution of final severance will be made to the traditional pre-tax account as permitted by the Code.

- 2.3** **Distribution Rule.** Withdrawals (including, but not limited to, withdrawals on account of an unforeseeable emergency) from Participant's accounts may be directed by the Participant in compliance with 9.02 of the Plan.
- 2.4** **Corrective distributions attributable to Designated Roth Contributions.** - For any calendar year in which a Participant may make both Designated Roth Contributions and Salary Reduction Contributions, the corrective distribution from the Participant's accounts will be taken pro rata from a Participant's Salary Reduction Contributions and Designated Roth Contributions made during such calendar year. Furthermore, the Participant may elect which type of Deferral Contributions shall be distributed first.
- 2.5** **Loans** - Participant Roth Accounts will be considered for the purposes of loans in accordance with this Section. Roth Accounts include the following: Designated Roth Contribution accounts, all Rollover and Transfer accounts, to the extent those accounts constitute Roth Accounts. For any loans made on or after the Effective Date of this Amendment, the loan policy or program is amended to enable a Participant to use a Participant's Roth Account in the calculation of the loanable amount; however, loans may not be funded from the Participant's Roth Account. For Plans that adopt or amend a loan policy or program on or after the date of this Amendment, the Plan's loan policy or program shall govern in the event of a conflict
- 2.6** **Accounts.** The Plan will treat a Participant's Designated Roth Contribution account and the Participant's other accounts as held under two separate plans for purposes of applying the automatic rollover rules. However, Eligible Rollover Distributions of a Participant's Designated Roth Contributions are taken into account in determining whether the total amount of the Participant's account balances under the Plan exceed the Plan's limits for purposes of mandatory distributions from the Plan.

Article III: Elections

- 3.1** Pursuant to the American Taxpayer Relief Act of 2012 ("ATRA") participants with amounts that are **otherwise Non-distributable** to rollover (i.e., convert) are permitted to rollover all or part of a non-Roth account to a Roth account in the Plan, in accordance with the provisions of this Amendment.
- 3.1.1 In-Plan Roth Rollovers.** Any Participant may elect an In-Plan Roth Rollover.
- 3.1.2 Source of In-Plan Roth Rollover.** The Plan permits an In-Plan Roth Rollover from any Qualified Source.
- 3.2** Participants with amounts that are otherwise distributable are permitted to rollover (i.e., convert) all or part of a non-Roth account to a Roth account in the Plan, in accordance with the provisions of this Amendment.
- 3.2.1 In-Plan Roth Rollovers.** Any Participant may elect a Direct Rollover of all or part of a non-Roth account to a Roth Account in the Plan.

- 3.2.2 Source of In-Plan Roth Rollover.** The Plan permits a Direct Rollover from any Qualified Source.
- 3.3 Right to elect In-Plan Roth Rollover.** A Participant, Spousal Beneficiary, or Spousal Alternate Payee may elect to Rollover amounts to an In-Plan Roth rollover Account in accordance with the provisions of the Plan and this Amendment. In-Plan Roth Rollovers will be subject to the taxation provisions and separate accounting requirements that apply to designated Roth accounts. Furthermore, the Participant shall be fully Vested in the portion of his/her account attributable to the In-Plan Roth Rollover.
- 3.4 Form of rollover.** The Plan Administrator will convert investments to the Participant's In-Plan Roth Rollover Account in accordance with the Plan terms and procedures governing Plan investments. A Participant loan may not be part of an In-Plan Roth Rollover and will remain in the Participant's Account from which the loan was initiated.
- 3.5 Treatment of In-Plan Roth Rollovers.**
- 3.5.1 No distribution treatment.** An In-Plan Roth Rollover is not a Plan distribution. Accordingly, the Plan may not withhold or distribute any amounts for income tax withholding, unless a distribution of other amounts is permitted pursuant to the terms of the Plan.
- 3.5.2 Withdrawal of In-Plan Roth Rollovers.** A Participant may withdraw amounts from the Participant's In-Plan Roth Rollover Account only when the Participant is eligible for a distribution from the Plan Account in which the In-Plan Roth Rollover originated. This Amendment does not expand or eliminate any distribution rights or restrictions on amounts a Participant would elect to treat as an In-Plan Roth Rollover.
- 3.5.3 Loans.** Loans shall be made only from the Pre-Tax Deferral Account, Employer Contribution Accounts and/or, any Rollover Accounts that are not attributable to After-Tax Rollover Accounts (including rollovers of Roth Accounts). Loans will be funded in the following order: (i) Pre-Tax Deferral Account, (ii) Eligible Rollover Accounts, (iii) fully vested Employer Contribution Accounts, and (iv) the vested portion of the partially vested Employer Contribution Accounts. After tax money sources will be included in the calculation of the Participant's account for the sole purpose of calculating the availability for a loan; however, after-tax money sources shall not be available for the funding of any loans.

ARTICLE IV: Miscellaneous

4.1 Operational Compliance.

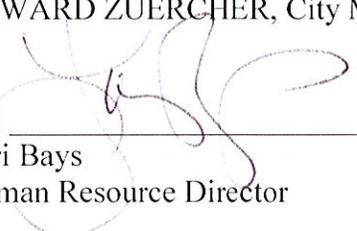
- 4.1.1** The Plan and the Administrative Services Provider will administer Designated Roth Contributions in good faith with applicable regulations or other binding authority not reflected in this amendment.
- 4.1.2** Except as otherwise amended herein, all other terms and conditions of the Plan and any prior amendments not in conflict shall remain in full force and effect.
- 4.1.3** If there is a conflict or ambiguity among amendments and the Agreement, the documents

IN ALL OTHER RESPECTS, the Plan is hereby ratified and confirmed.

The foregoing Amendment No. 7 to the City of Phoenix Deferred Compensation Program was approved on the 15th day of February, 2018, by vote of the City of Phoenix Employees' Deferred Compensation Board.

IN WITNESS WHEREOF, the Board has caused this 7th Amendment to be executed this 1st day of January, 2019.

THE CITY OF PHOENIX, ARIZONA
EDWARD ZUERCHER, City Manager

By: 
Lori Bays
Human Resource Director



ATTEST:


Jenise Archibald
City Clerk

APPROVED AS TO FORM:


Acting City Attorney

MLW

2019 JAN 14 AM 10:58

CITY CLERK DEPT.

in the reverse order prevail and control: (1) the 7th Amendment; (2) the preceding amendments in reverse order of adoption and (3) the original Agreement.

(Remainder of page left blank, signatures to follow)

**EIGHTH AMENDMENT
TO THE CITY OF PHOENIX
DEFERRED COMPENSATION PLAN**

The Phoenix Employees' Deferred Compensation Board ("the Board") has adopted the following Eighth Amendment to The City of Phoenix Deferred Compensation Plan ("the Plan").

RECITALS

- A. WHEREAS, Section 10.02 of the Plan permits the Board to amend the Plan;
- B. WHEREAS, the Board desires to amend the Plan to address the Coronavirus Aid, Relief, & Economic Security Act;
- C. WHEREAS, the Board desires to amend the Plan to reflect changes to the 457 Deferred Compensation Plan.

NOW, THEREFORE the Plan is amended and a new Section 9.10 shall be added to Article IX to be and read as follows:

9.10 CARES ACT LOAN RELIEF.

(a) Effective Date.

This Amendment shall be effective on April 27, 2020 ("Effective Date"). PARTICIPANTS may apply for the relief prescribed in paragraph (b) and (c) (5) through December 31, 2020. Participants may request all other CARES Act Loan Relief on or before September 23, 2020.

(b) Relief for Existing Section 9.09 Loan Holders.

The PARTICIPANT may choose between April 27, 2020 to December 31, 2020 to defer repayment for up to one year of any payment due on an existing loan obtained under Section 9.09 of the Plan. In determining the 5-year period and the term of a loan under subparagraph (B) or (C) of section 72(p)(2) of such Code, such period of deferment shall be disregarded.

(c) CARES Act Loan.

(1) Any PARTICIPANT may apply for and receive a loan from his or her account balance as provided in this Section 9.10 if the PARTICIPANT self-certifies that:

- a. The Participant is diagnosed with the SARS-CoV-2 virus or with coronavirus disease 2019 (COVID-19);
- b. The Participant's spouse or dependent is diagnosed with COVID-19;
- c. The Participant experiences adverse financial consequences as a result of being quarantined, furloughed, laid off, having work hours reduced, being unable to work due to a lack of child care due to COVID-19, closure or reduction in

hours of a business owned or operated by the individual due to COVID-19; or other factors as may be determined by the Treasury Secretary.

(2) Loan Limitations.

- a. Eligibility. CARES Act Loan is restricted to a PARTICIPANT who is an EMPLOYEE at the time of application.
- b. Minimum Loan Amount. The minimum loan amount shall be \$1,000.
- c. Maximum Loan Amount. No loan to a PARTICIPANT hereunder may exceed the lesser of:
 - i. \$100,000, reduced by the greater of (a) the outstanding balance on any loan from the PLAN to the PARTICIPANT on the date the loan is approved by the ADMINISTRATOR or (b) the highest outstanding balance on any loan from the PLAN to the PARTICIPANT during the one-year period ending on the day before the date the loan is approved by the ADMINISTRATOR (not taking into account any payments made during such one-year period), or
 - ii. the value of the PARTICIPANT'S vested account balance on the date on which such loan is approved by the ADMINISTRATOR.
- d. Relationship to other Loan Programs.
 - i. Notwithstanding any other term of this Plan, a PARTICIPANT with an existing loan under Section 9.09 may nonetheless obtain a loan pursuant to 9.10 upon meeting the requirements set forth in paragraph (c)(1) above.
 - ii. The terms of paragraph (c) of Section 9.10 are only applicable to loans obtained pursuant to the CARES Act and are not applicable to any loan obtained pursuant to 9.09

(3) Loan Term. The terms of the loan shall:

- a. require level amortization with payments 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 IRS Section 414(u) as long as the loan is repaid by the latest permissible term of the loan; or for the duration of a leave which is due to qualified military service;
- b. require that the loan be repaid within five years; and
- c. provide for interest at a rate equal to one percentage point above the prime rate as published in the Wall Street Journal two weeks prior to the end of the most recent calendar-year quarter based on the date on which the loan is approved by the ADMINISTRATOR. The ADMINISTRATOR may adjust the loan rate for PARTICIPANTS entering active duty in the military services, as required by law.

(4) Security for Loan.

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.

(5) Repayment.

- a. Such PARTICIPANT shall be required, as a condition to receiving a loan, to enter an irrevocable agreement authorizing the Plan or Trustee to receive monthly payments through ACH from the Participant's financial account(s) with such payment to be made by the last business day of each calendar month as long as the PARTICIPANT maintains a balance due and owing.
- b. If any payment cannot be made in full because a PARTICIPANT is on an unpaid leave of absence for longer than one year, PARTICIPANT may seek deferral of the loan in compliance with paragraph (6). If payment is not made within (30) days after the last date of deferral, the loan shall be deemed in default.
- c. Pre-Payment. A PARTICIPANT may prepay the outstanding balance of his loan at any time.
- d. Loan Fees. Loan fees will be deducted from the PARTICIPANT'S account as set forth in the loan procedures.

(6) Deferment. The PARTICIPANT may choose between April 27,2020 to December 31, 2020 to defer repayment for up to one year of any payment due . In determining the 5-year period and the term of a loan under subparagraph (B) or (C) of section 72(p)(2) of such Code, such period of deferment shall be disregarded.

(7) Default. If a PARTICIPANT fails to make a loan payment under this Section 9.10 within 30 calendar days after the date such payment is due or after the period of deferment permitted by paragraph (6); whichever is later, a default on the loan shall occur. In the event of such default,

- a. The interest rate for such loan will continue to accrue from the beginning of the period of deferment until the loan is offset (a distribution occurs) and will remain at the rate being charged at the time the loan was approved by the ADMINISTRATOR, and
- b. PARTICIPANT shall be ineligible for any future loans from the PLAN until such defaulted loans have been paid off in full.
- c. In the case of any default on a loan to a PARTICIPANT, the ADMINISTRATOR shall apply the portion of the PARTICIPANT'S interest in the PLAN held as security for the loan in satisfaction of the loan If a PARTICIPANT fails to make a loan payment under this Section 9.10 within 30 calendar days after the date such payment is due or after the period of deferment permitted by paragraph (6); whichever is later.
- d. In the event a loan is outstanding hereunder on the date of a PARTICIPANT'S death, his or her estate shall be his or her Beneficiary as to the portion of his or

her interest in the PLAN invested in such loan (with the Beneficiary or Beneficiaries as to the remainder of his or her interest in the PLAN to be determined in accordance with otherwise applicable provisions of the PLAN).

IN ALL OTHER RESPECTS, the Plan is ratified and confirmed.

The foregoing Eighth Amendment to the City of Phoenix Deferred Compensation Program was approved on the 9th day of April, 2020, by vote of the Phoenix Employees' Deferred Compensation Board.

IN WITNESS WHEREOF, the Eighth Amendment is effective on the 26th day of May, 2020.

WITNESS:


Yolanda Briseno (May 27, 2020 07:20 PDT)

Yolanda Briseno
DCP Administrative Assistant II

The City of Phoenix, Arizona
By: 
Lori Bays (May 27, 2020 10:56 PDT)

Lori Bays
Human Resources Director

NINTH AMENDMENT
TO THE CITY OF PHOENIX
DEFERRED COMPENSATION PLAN

The Phoenix Employees' Deferred Compensation board ("the Board") has adopted the following Ninth Amendment to The City of Phoenix Deferred Compensation Plan ("the Plan").

WITNESSETH

WHEREAS, Section 10.02 of the Plan permits the Board to amend the Plan;

WHEREAS, the Board desires to amend the Plan to allow a loan to be initiated and Automated Clearing House (ACH) Loan repayment for TERMINATED EMPLOYEES; and to allow participants to submit unscheduled loan repayments toward the principle of the loan; and

WHEREAS, the Board desires to amend the Plan to reflect changes to the 457 Deferred Compensation Plan.

NOW, THEREFORE Article IX, Section 9.09 of the Plan is amended to be and read as follows:

9.09 Loans. A PARTICIPANT may apply for and receive a loan from his or her account balance as provided in this Section 9.09.

- (a) Minimum Loan Amount. The minimum loan amount shall be \$1,000.
- (b) Maximum Loan Amount. No loan to a PARTICIPANT hereunder may exceed the lesser of:
 - (1) \$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 approved by the ADMINISTRATOR or (ii) the highest outstanding balance on any loan from the PLAN to the PARTICIPANT during the one-year period ending on the day before the date the loan is approved by the ADMINISTRATOR (not taking into account any payments made during such one-year period), or
 - (2) one half of the value of the PARTICIPANT'S vested account balance on the date of which such loan is approved by the ADMINISTRATOR.

For purposes of this Section 9.09, any loan from any other plan maintained by the CITY 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 Section 9.09 to exceed the amount that would otherwise be permitted in the absence of this paragraph.

- (c) Definitions.

ACTIVE EMPLOYEE is a PARTICIPANT in the employment of the City who has not been terminated or made inactive, regardless of whether they receive pay on any particular payroll.

AUTOMATED CLEARING HOUSE or "ACH" means US commercial banks and other institutions.

TERMINATED EMPLOYEE is a PARTICIPANT who has a SEVERANCE FROM EMPLOYMENT.

QUALIFIED MILITARY SERVICE: means any service in the uniformed services (as defined in chapter 43 of title 38, United States Code) by any individual if such individual is entitled to reemployment rights under such chapter with respect to such service within the meaning of IRS Section 414(u).

(d) Terms of Loan. The terms of the loan shall be:

(1) Method of Payment

- a. Payroll Deduction: A PARTICIPANT who is an ACTIVE EMPLOYEE shall repay the loan in level bi-weekly amortized payments through payroll deduction throughout the repayment period, except that alternative arrangements for repayments 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 SERVICE as long as the loan is repaid by the latest permissible term of the loan; or for the duration of a leave which is due to qualified military service.
- b. ACH: A PARTICIPANT who is a TERMINATED EMPLOYEE shall repay the loan in level amortized monthly payments through ACH deductions from a specified account throughout the repayment period.

(2) Maximum Term

The loan shall be repaid within five years unless the PARTICIPANT certifies in writing to the ADMINISTRATOR that the loan is to be used to acquire any dwelling unit which within a reasonable time is to be used as a principal residence of the PARTICIPANT the loan shall be repaid within fifteen years: If an ACTIVE EMPLOYEE is on a QUALIFIED MILITARY SERVICE the loan shall be suspended for the duration of leave due to QUALIFIED MILITARY SERVICE and resume upon termination of such service for an extended repayment period equal thereto or the latest permissible term of the loan, whichever is greater.

(3) Interest Rate

The loan shall be repaid with interest at a rate equal to one percentage point above the prime rate as published in the Wall Street Journal two weeks prior to the end of the most recent calendar-year quarter based on the date on which the loan is approved by the ADMINISTRATOR. The ADMINISTRATOR may adjust the loan rate for PARTICIPANTS entering active duty QUALIFIED MILITARY SERVICE, as required by law.

(4) 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.

(5) Default

- a. In the event that an ACTIVE EMPLOYEE fails to make a loan payment under this Section 9.09 within two subsequent sequential payrolls after the date such payment is due, a default on the loan shall occur.
- b. If an ACTIVE EMPLOYEE is terminated, the ADMINISTRATOR shall apply the portion of the PARTICIPANT'S interest in the PLAN held as security for the loan in satisfaction of the loan on the date of SEVERANCE FROM EMPLOYMENT. Notwithstanding the foregoing, the ADMINISTRATOR may accept ACH payments for the remainder of the loan balance if the TERMINATED EMPLOYEE executes the necessary documents to facilitate continued payments via ACH within 30 days of termination and promptly makes payments in accordance with the loan repayment schedule. If the necessary documents are ACH are executed and payments are made, the loan will not be defaulted.
- c. If a TERMINATED EMPLOYEE fails to make a loan payment under this Section 9.09 within 30 days of the date such payment is due, a default on the loan shall occur.

In the event of such default, (i) all remaining payments on the loan shall be immediately due and payable, (ii) the interest rate for such loan will continue to accrue until the loan is offset (a distribution occurs) and will remain at the rate being charged at the time the loan was approved by the ADMINISTRATOR, and (iii) the PARTICIPANT shall be ineligible for any future loans from the PLAN until such defaulted loans have been paid off in full.

Notwithstanding anything elsewhere in the PLAN to the contrary, in the event a loan is outstanding hereunder on the date of any PARTICIPANT'S death, his or her estate shall be his or her BENEFICIARY as to the portion of his or her interest in the PLAN invested in such loan (with the BENEFICIARY or BENEFICIARIES as to the remainder of his or her interest in the PLAN to be determined in accordance with otherwise applicable provisions of the PLAN).

- d. Notwithstanding anything elsewhere in the PLAN to the contrary, suspension of payments due to an ACTIVE EMPLOYEE'S QUALIFIED MILITARY SERVICE is not an act of default.

(e) Authorization of Repayment.

- (1) The PARTICIPANT who is an ACTIVE EMPLOYEE shall be required, as a condition to receiving a loan, to enter into a non-irrevocable agreement authorizing the EMPLOYER to make payroll deductions from his or her COMPENSATION as long as the PARTICIPANT is an ACTIVE EMPLOYEE and to transfer such payroll deduction amounts to the TRUSTEE in payment of such loan plus interest. Repayments of a loan shall be made by payroll

deduction of equal amounts (comprised of both principal and interest) from each paycheck, with the first such deduction to be made as soon as practicable after the loan funds are disbursed; provided however, that if any payroll deductions cannot be made in full because 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, with such payment to be made by the last business day of the calendar month in which the amount would have been deducted.

(2) The PARTICIPANT who is a TERMINATED EMPLOYEE shall be required, as a condition to receiving a loan, to enter into an irrevocable agreement authorizing the EMPLOYER to make ACH deductions from his or her bank account and to transfer such ACH deduction amounts to the TRUSTEE in payment of such loan plus interest. Repayments of a loan shall be made by ACH deduction of equal amounts (comprised of both principal and interest) from bank account, with the first such deduction due approximately thirty (30) days (or the next business day following 30 days, if due date does not fall on a business day) after the loan funds are disbursed; provided however, that if any ACH deductions cannot be made in full the PARTICIPANT shall pay directly to the PLAN the full amount that would have been deducted from the PARTICIPANT'S bank account, with such payment to be made by the last business day of the calendar month in which the amount would have been deducted.

(f) Additional Unscheduled Principal Payments. A PARTICIPANT may prepay the entire outstanding balance of his loan at any time or make unscheduled payments toward the principle of the loan directly to the PLAN.

(g) Loan Fees. Loan fees will be deducted from the PARTICIPANT'S account as set forth in the loan procedures.

IN ALL OTHER RESPECTS, the Plan is hereby ratified and confirmed.

The foregoing Ninth Amendment to the City of Phoenix Deferred Compensation Program was approved on the 11th day of February 2021, by vote of The Phoenix Employees' Deferred Compensation Board.

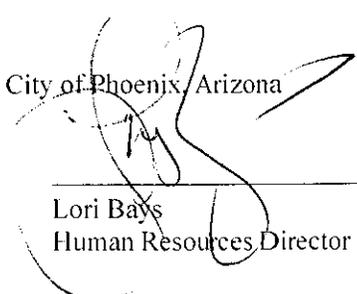
IN WITNESS WHEREOF, the Board has caused this Ninth Amendment to be executed this August day of 1, 2021.

WITNESS:


Yolanda Briseño
DCP Administrative Assistant II

The City of Phoenix, Arizona

By:


Lori Bays
Human Resources Director

