RESOLUTION NO. 002-2023

A RESOLUTION TO PARTICIPATE IN THE COLORADO RETIREMENT ASSOCIATION

WHEREAS, it has been determined to be in the best interest of the employees of the **TOWN OF CRESTONE** to provide for the retirement of employees under certain terms and conditions; and

WHEREAS, the adopted 2023 Budget includes appropriations made for a 4% contribution match by the Town for benefitted regular employees and to be administered by the Town Bookkeeper under the direction of the Town Treasurer; and

WHEREAS, the advantage of participating in the Colorado Retirement Association, with multiple counties, municipalities and special districts in Colorado joining together to adopt a retirement system, it lowers individual costs and thereby saves tax payers' money and employees' money,

NOW THEREFORE, be it resolved by the Board of Trustees of the Town of Crestone, Colorado that:
Effective from January 1, 2023, the **TOWN OF CRESTONE** hereby elects to become a part of the Colorado Retirement Association, providing access to their 401(a) Money Purchase Pension Plan and 457(b) Deferred Compensation plan. (See Appendices 1A and 1B)

DONE AND SIGNED, this 9th day of January 2023.

K. Danforth

Kairina Danforth, Mayor

ATTEST:

Allyson Ransom

Allyson Ransom, Town Clerk

FIRST AMENDMENT
TO THE
COLORADO RETIREMENT ASSOCIATION
RETIREMENT PLAN AND TRUST AGREEMENT
(Amended and Restated Effective as of January 1, 2020)

1. **Plan Sponsor**: Colorado Retirement Association ("CRA").

2. **Recitals**: Pursuant to authority granted in Section 12.1 of the Colorado Retirement Association Retirement Plan and Trust Agreement (Amended and Restated as of January 1, 2020) (the "Plan"), CRA, as Plan sponsor, wishes to amend the Plan to permit discretionary employer matching contributions. Coincidently, CRA wishes to update the Plan's Participation Agreement to permit Participant Employers to adopt discretionary employer matching contributions, and to make other non-substantive modifications.

The following Amendment and revised Participation Agreement has been authorized and filed with the Governing Board and the Trustee in accordance with Section 12.1(c) of the Plan.

3. **Amendment of the Plan**: The following Amendment to the Plan is adopted effective July 1, 2020:

A. Section 1.1 of the Plan is hereby amended to read in full as follows:

1.1 ***Account*** or ***Accounts*** means, for each Participant, the Employer Contributions Account, the Mandatory Participant Contributions Account, the Voluntary Contributions Account, the Discretionary Employer Matching Contributions Account and the Deductible Voluntary Contributions Account. ***Account*** may also include a Rollover Contributions Account. Unless otherwise specified herein, ***Account*** means all such Accounts.

B. New Section 1.14.1 is hereby added to the Plan to read in full as follows:

1.14.1 ***Discretionary Employer Matching Contributions*** means the contributions described in Section 3.8.

C. New Section 1.20.2 is hereby added to the Plan to read in full as follows:

1.14.2 ***Discretionary Employer Matching Contributions Account*** means account described in Section 11.5(a)(7).

D. Section 1.54 of the Plan is hereby amended to read in full as follows:

1.54 ***Years of Service*** means, for purposes of determining Employer Contributions, Discretionary Employer Matching Contributions or vesting of Participant Accounts, the number of twelve (12) continuous Months of Service with the Participating Employer.

E. Section 2.4 of the Plan is hereby amended to read in full as follows:

2.4 <u>TERMINATION OF EMPLOYMENT</u>. Except for Employer Contributions, Discretionary Employer Matching Contributions, Prior Service Benefit Contributions and Mandatory Participant Contributions based upon Compensation earned prior to a Participant's Termination Date but not yet allocated to his or her Accounts, as well as the earnings, losses and net changes in the fair market value of the Participant's Account, contributions to the Plan will cease upon a Participant's Termination Date. Effective January 1, 2009, a Participant on qualified military service (within the meaning of Code Section 414(u)) for more than thirty (30) days will be considered to have terminated employment for purposes of taking a distribution of his or her Account.

F. Subsection 3.5(a) of the Plan is hereby amended to read in full as follows:

(a) ***One Employer Plan***. If the Participant does not participate in, and has never participated in another qualified plan or a welfare benefit fund (within the meaning of Code Section 419(e)), an individual medical account (within the meaning of Code Section 415(1)(2)), or a simplified employee pension (within the meaning of Code Section 408(k)), which is maintained by the Association or a Participating Employer and provides an Annual Addition, the amount of Annual Additions which may be credited to a Participant's Accounts for any Limitation Year will not exceed the Maximum Permissible Amount. If the contributions that would otherwise be contributed or allocated to a Participant's Account would cause the Annual Additions for the Limitation Year to exceed the Maximum Permissible Amount, the amounts contributed or allocated will be reduced (with Voluntary Contributions and Mandatory Participant Contributions being first reduced, followed by Discretionary Employer Matching Contributions and then Employer Contributions) so that the Annual Additions for the Limitation Year will equal the Maximum Permissible Amount.

G. Subsection 3.5(c)(1)(A) of the Plan is hereby amended to read in full as follows:

(1) <u>*Annual Additions*</u>.

(A) *Amounts Included*. "Annual Addition" means the sum of the following amounts credited to a Participant's Accounts for the Limitation Year:

(i) Employer Contributions;

(ii) Discretionary Employer Matching Contributions;

(iii) Prior Service Benefit Contributions;

(iv) Mandatory Participant Contributions;

(v) Voluntary Contributions;

(vi) Forfeitures;

(vii) amounts allocated after March 31, 1984 to an individual medical account (within the meaning of Code Section 415(1)(2)), that is part of a pension or annuity plan maintained by the Association or a Participating Employer and amounts derived from contributions paid or accrued in years beginning on or after January 1, 1986 that are attributable to post-retirement medical benefits allocated to the separate account of a key employee (within the meaning of Code Section 419A(d)(3)), under a welfare benefit fund (within the meaning of Code Section 419(e)), that is maintained by the Association or a Participating Employer; and

(viii) allocations under a simplified employee pension that is maintained by the Association or a Participating Employer.

For this purpose, any Excess Amount applied under Section 3.5(a) or Section 3.5(b) in the Limitation Year to reduce Employer Contributions or Discretionary Employer Matching Contributions will be considered Annual Additions for such Limitation Year.

H. New Section 3.8 is hereby added to the Plan to read in full as follows:

3.8 DISCRETIONARY EMPLOYER MATCHING CONTRIBUTIONS.

(a) ***Amount of Discretionary Employer Matching Contributions.*** If so elected in the applicable Participation Agreement, the Participating Employer may contribute a Discretionary Employer Matching Contribution on behalf of each Participant in an amount, if any, as the Participating Employer may determine in its sole discretion. Such amount (if any) will be made on behalf of each Participant and is on account of each Participant's deferred contributions into the plan identified in the Participating Employer's Participation Agreement, and Compensation for the calendar year during the period that the Participant is eligible to participate as provided in Section 2.1.

(b) ***Eligibility for Discretionary Employer Matching Contributions.*** A Participant is eligible for an allocation of Discretionary Employer Matching Contributions for any period in which he or she is employed in the capacity required by the Participating Employer's standard personnel practices.

I. Section 5.1 of the Plan is hereby amended to read in full as follows:

5.1 VESTING OF PARTICIPANT'S ACCOUNTS.

(a) ***Employee Contributions.*** A Participant is fully vested in his or her Mandatory Participant Contributions Account, Voluntary Contributions Account, Deductible Voluntary Contributions Account and Rollover Contributions Account.

(b) ***Employer Contributions.***

(1) *General*. An Employee-Participant will become vested in his or her Employer Contributions Account, Discretionary Employer Matching Contributions Account and Prior Service Benefits Account at the Participating Employer's percentage elected in the applicable Participation Agreement based upon the Participant's Months of Service or based upon the Participant's Years of Service as specified in the Participation Agreement. The Participant will be credited with a Month of Service for vesting purposes for the calendar month in which the Participant's Termination Date falls, regardless of the number of days worked in such month.

(2) *Officials*. An Official is fully vested in his or her Employer Contributions Account, Discretionary Employer Matching Contributions Account and Prior Service Benefit Contributions Account.

(3) *Normal Retirement Age, Disability and Death or Presumed Death*. Notwithstanding Section 5.1(b)(1) and without regard to the Participating Employer's Participation Agreement election, an Employee-Participant will become fully vested and have a non-forfeitable interest in his or her Employer Contributions Account, Discretionary Employer Matching Contributions Account and Prior Service Benefit Contributions Account upon the Participant's Normal Retirement Age, the date of the Employee-Participant's Disability, or upon the date of the Participant's death or presumed death during active employment. If a Participant dies or is presumed deceased while performing qualified military service (within the meaning of Code Section 414(u)), the Plan will treat the Participant as having died during active employment and will be fully vested in his or her Account.

(4) *Termination of Plan*.

(A) In the event the Plan is terminated, each Participant will become fully vested and have a non-forfeitable interest in his or her Employer Contributions Account, Discretionary Employer Matching Contributions Account and Prior Service Benefit Contributions Account.

(B) In the event the Plan is partially terminated, or if any amendment to this Plan permanently terminates a Participating Employer's obligation to make contributions to the Trust, each affected Participant will become fully vested and have a non-forfeitable interest in his or her Employer Contributions Account, Discretionary Employer Matching Contributions Account and Prior Service Benefit Contributions Account.

(c) ***Reemployment Date More Than Thirty (30) Days After Termination Date***. A Participant who has a Termination Date with an Association Member (including the Participating Employer) more than thirty (30) days before his or her Reemployment Date will be considered a new Employee of the Participating Employer as of his or her Reemployment Date for purposes of determining vesting credit for Employer

Contributions, Discretionary Employer Matching Contributions and Prior Service Benefit Contributions of the Participating Employer for which the Participant has a Reemployment Date.

(1) *Prior Service with Participating Employer or Association Member if Reemployment Date Within One (1) Year From Termination Date.* Notwithstanding the foregoing, the Participating Employer may elect in the applicable Participation Agreement to grant vesting credit for prior periods of employment. The Participating Employer must specify the period in which the Participant must have a Reemployment Date following his or her Termination Date, not to exceed twelve (12) months.

(2) *Reemployment Date More Than One (1) Year From Termination Date.* A Participant having a Reemployment Date more than one (1) year following his or her Termination Date will be considered a new Employee regardless of the Participating Employer's Participation Agreement election and will not be granted vesting credit for prior periods of employment.

(d) ***Reemployment Date Within Thirty (30) Days After Termination Date.*** If a Participant has a Termination Date with an Association Member (including the Participating Employer) and has a Reemployment Date with the Participating Employer within thirty (30) days of his or her Termination Date, such Employee will be deemed to have "transferred" employment from the Association Member (including the Participating Employer) to the Participating Employer, and the Participant will receive vesting credit for service prior to such transfer.

(e) ***No Vesting Credit Following Complete Distribution.*** A Participant who has taken a full distribution of his or her vested Account following a Termination Date, whether by direct distribution or rollover, will be considered a new Employee upon his or her Reemployment Date in all events, regardless of the Participating Employer's Participation Agreement election, and will not be granted vesting credit for eligibility for prior periods of employment.

(f) ***Service with Participating Employer Prior to Adoption of this Plan.*** Unless otherwise elected by the Participating Employer in the applicable Participation Agreement, service of any Employee with the Participating Employer during any period in which such Participating Employer did not maintain this Plan will not be credited for vesting service.

(g) ***Leaves of Absence.*** Any Participant on an Authorized Leave of Absence will continue to receive vesting service while on the Authorized Leave of Absence.

(h) ***Change in Status.*** A Participant who experiences a change in status as described in Section 2.6 will continue to receive vesting service during the change in status period.

J. Section 5.2 of the Plan is hereby amended to read in full as follows:

5.2 VALUATION OF ACCOUNTS. The value of a Participant's interest in the Trust Fund as of his or her Termination Date will be the vested portion of such Participant's Accounts as of the

Valuation Date coinciding with or next preceding his or her Termination Date plus any Employer Contributions, Discretionary Employer Matching Contributions and Prior Service Benefit Contributions based upon Compensation earned prior to his or her Termination Date but not yet allocated to his or her Accounts, and plus the Participant's contributions, if any, described under Section 3.3, from the date of contribution to his or her Termination Date but not yet allocated to his or her Accounts.

K. Section 11.5 of the Plan is hereby amended to read in full as follows:

11.5 PARTICIPANT'S ACCOUNTS. For each Participant, the Governing Board will maintain or cause the Plan's record-keeper to maintain the applicable accounts provided for in this Section 11.5. The accounts provided for by this Section 11.5 are maintained for accounting purposes only and a segregation of the assets of the Trust Fund to each Account is not required.

(h) Each Participant's interest in the Plan may consist of the following Accounts:

(1) *Employer Contributions Account*. The Governing Board will maintain, or cause the Plan's record-keeper to maintain, a separate Employer Contributions Account for each Participant to account for the Employer Contributions of each Participant.

(2) *Mandatory Participant Contributions Account*. The Governing Board will maintain, or cause the Plan's record-keeper to maintain, a separate Mandatory Participant Contributions Account for each Participant to account for the Mandatory Participant Contributions of each Participant.

(3) *Voluntary Contributions Account*. The Governing Board will maintain, or cause the Plan's record-keeper to maintain, a separate Voluntary Contributions Account for each Participant to account for the Voluntary Contributions, if any, of each Participant.

(4) *Deductible Voluntary Contributions Account*. The Governing Board will maintain, or cause the Plan's record-keeper to maintain, a separate Deductible Voluntary Contributions Account for each Participant to account for the Deductible Voluntary Contributions of each Participant.

(5) *Prior Service Benefit Contributions Account*. The Governing Board will maintain, or cause the Plan's record-keeper to maintain, a separate Prior Service Benefit Contributions Account for each Participant to account for the Prior Service Benefit Contributions, if any, of each Participant.

(6) *Rollover Contributions Account*. The Governing Board will maintain, or cause the Plan's record-keeper to maintain, a separate Rollover Contributions Account for each Participant to account for Rollover Contributions, if any, of each Employee or Official.

(7) *Discretionary Employer Matching Contributions Account*. The Governing Board will maintain, or cause the Plan's record-keeper to maintain, a separate

Discretionary Employer Matching Contributions Account for each Participant to account for the Employer Matching Contributions, if any, of each Participant.

(i) ***Termination Date***. Upon a Participant's Termination Date with the Participating Employer, the Participant's vested Account will remain in the Trust Fund. If any non-vested interest of a Participant remains in the Trust Fund after such Participant's Termination Date, such non-vested interest will be forfeited in accordance with Section 5.3. If no vested interest of a Participant remains after the date of such forfeiture, the applicable Accounts of such Participant will be closed.

L. Section 13.5 of the Plan is hereby amended to read in full as follows:

13.5 SUSPENSION OF CONTRIBUTIONS. A Participating Employer, by action of its governing body, may suspend participation in the Plan at any time in accordance with this Section 13.5 (the effective date of such suspension being the "suspension date"). Upon a suspension, the Participating Employer will continue to be a Participating Employer for all purposes of the Plan other than Employer Contributions, Discretionary Employer Matching Contributions, Prior Service Benefit Contributions and Mandatory Participant Contributions.

4. **Terms and Conditions of Plan**. Except for the Amendment in Paragraph 3, all terms and conditions of the Plan are unamended and shall remain in full force and effect.

5. **Participation Agreement**. The Plan's Participation Agreement may be updated to reflect the Amendment in Paragraph 3.

6. **Execution**. Colorado Retirement Association has executed this Amendment as of the date set forth below.

Dated this 19th day of June, 2020.

COLORADO RETIREMENT ASSOCIATION
PLAN SPONSOR

By: Timothy Mullen

Title: CRA Executive Director

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COLORADO RETIREMENT ASSOCIATION
RETIREMENT PLAN AND TRUST AGREEMENT

PARTICIPATION AGREEMENT

Association Member / Participating Employer: Town of Crestone

Association Member Original Participation Date: January 1, 2023

Participation Agreement Effective Date: January 1, 2023

Prior Participation Agreement Date: N/A

Please indicate the effective date of the last Participation Agreement

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PREAMBLE

I. AGREEMENT. By this Agreement, by and between Colorado Retirement Association ("Association") and the Association Member specified in this Participation Agreement ("Agreement"), the Association Member adopts as a Participating Employer the Colorado Retirement Association Retirement Plan and Trust Agreement (the "Plan"), as amended and restated effective January 1, 2020, and as further amended or supplemented from time to time, subject to the modifications set forth in this Agreement. This Agreement amends and supersedes any previous Participation Agreement made by and between the Association Member and the Association.

II. ADOPTION OF THE PLAN. The Association Member adopts the Plan as a Participating Employer pursuant to the terms of the Plan and this Participation Agreement, effective as of the Participation Agreement Effective Date. The Participating Employer's participation in the Plan is conditioned on the timely payment by the Participating Employer of its proportional share of contributions under the Plan, and in the case of contributions deducted from a Participant's Compensation, payment will be transmitted to the Trust as soon as practicable after such amounts would otherwise have been paid to the Participant.

III. REVIEW OF THE PLAN. The Participating Employer has reviewed the Plan, and in particular Article 13 of the Plan, addressing Participating Employers. The Participating Employer has consulted, or had opportunity to consult, with its legal and tax advisors with reference to the Plan and this Participation Agreement.

IV. APPROVAL OF PLAN TRUSTEE AND ADMINISTRATOR. The Participating Employer approves and confirms the Trustee and Administrator designated by the Association in the Plan to serve in each such capacities.

V. ASSOCIATION AS AGENT. The Participating Employer irrevocably designates the Association as its agent as set forth in Article 13 of the Plan addressing Participating Employers for all purposes of the Plan, and authorizes the Association, on behalf of the Participating Employer, to perform the specific act or acts and to exercise the specific powers granted under the Plan. The Association or its designee has authority to make any and all necessary rules or regulations, binding upon the Participating Employer and its Employees and Officials and their Beneficiaries, to effectuate the purpose of the Plan.

VI. **PARTICIPATING EMPLOYER'S CONTRIBUTIONS**. All contributions made by the Participating Employer under the Plan and this Participation Agreement will be determined separately by each Participating Employer and allocated only among the eligible Participants of the Participating Employer making the contribution in accordance with Section 3.1 of the Plan.

Participating Employer Elections

(Section numbers below correspond to sections of the Plan.)

Note: Officials may opt out of Plan participation; however, if Officials do participate in the Plan, they do not have to satisfy any minimum eligibility requirements. Accordingly, Sections 2.2 and 2.5(a) below only pertain to Eligible Employees. Additionally, Officials are always fully vested in Employer Contributions and Prior Service Benefit Contributions. Accordingly, Sections 5.1(b)(1), 5.1(c), 5.1(d), 5.1(e) and 5.1(g) below only pertain to Eligible Employees.

1.16 **Eligible Employee**. "Eligible Employee" means the following:

[Specify one option only.]

☐ ***All Employees.*** Every Employee of the Participating Employer.

☒ ***All Benefitted Positions.*** Every Employee in a benefitted position of the Participating Employer, in accordance with the Participating Employer's standard personnel practices.

☐ Every Employee of the Participating Employer who works at least _______ months per year and at least _______ hours per week.

☐ Every Employee of the Participating Employer who works at least _______ hours per year.

2.2 **Commencement of Participation**. An Eligible Employee will commence participation in the Plan and begin making and receiving contributions:

[Specify one option only with appropriate sub-option, as applicable.]

☐ Immediately as of:

- ☐ The Eligible Employee's Date of Hire.
- ☐ The first day of the Eligible Employee's first full payroll period.

☐ Immediately after _______ Plan Months. (Not to exceed twelve (12) months).

☒ Upon the first day of the payroll period following a 90 day ~~month~~ period. (Not to exceed twelve (12) months).

If an Official has not waived participation in the Plan, such Official will commence participation in the Plan and begin making and receiving contributions as of the first day of the month coincident with or immediately succeeding such Official's commencement of term of office.

2.5(a) <u>**Reemployment Date More Than Thirty (30) Days After Termination Date**</u>.

☐ Immediate commencement of participation, in accordance with the Participating Employer's election per Section 2.2.

If this option is selected, skip the remaining options in this Section 2.5(a) and move on to Section 2.6(a). If this option is not selected, specify one option in each of the below categories.

<u>**Prior Employment with Participating Employer**</u>.

☐ In accordance with the **default** provisions of Section 2.5(a) of the Plan, in the event an Employee terminates employment with the Participating Employer more than thirty (30) days before his or her Reemployment Date with the Participating Employer, the Participating Employer will not grant prior service credit for purposes of **eligibility**.

☒ In the event an Employee terminates employment with the Participating Employer more than thirty (30) days before his or her Reemployment Date with the Participating Employer, the Participating Employer will grant service credit for purposes of **eligibility** provided the Employee has a Reemployment Date within 3 Plan Months (not to exceed twelve (12) Plan Months) of his or her Termination Date.

<u>**Prior Employment with any Association Member (other than Participating Employer)**</u>.

☐ In accordance with the **default** provisions of Section 2.5(a) of the Plan, in the event an Employee terminates employment with an Association Member more than thirty (30) days before his or her Reemployment Date with a different Participating Employer, the Participating Employer will not grant prior service credit for purposes of **eligibility**.

☒ In the event an Employee terminates employment with an Association Member more than thirty (30) days before his or her Reemployment Date with another Participating Employer, the Participating Employer will grant service credit for purposes of **eligibility** provided the Employee has a Reemployment Date within 3 Plan Months (not to exceed twelve (12) Plan Months) of his or her Termination Date.

2.6(a) <u>CHANGE IN STATUS</u>.

[Specify one option only.]

☐ Status of Employee is not applicable. All Employees are ***Eligible Employees***, per Section 1.16.

☒ In accordance with the **default** provisions of Section 2.6(a) of the Plan, a Participant who continues in the employ of the Participating Employer but ceases to be employed as an ***Eligible Employee*** is not eligible to make Mandatory Participant Contributions to the Plan under Section 3.3, is not entitled to Employer Contributions under Plan Section 3.1 and is not entitled to Prior Service Benefit Contributions (if any) under Plan Section 3.2.

[If this option is chosen, select one of the following sub-options, as applicable.]

☒ Upon return to an employment status meeting the eligibility criteria, the Eligible Employee will recommence participation immediately, in accordance with the Participating Employer's election above in Section 2.2.

☐ Upon return to an employment status meeting the eligibility criteria, the Eligible Employee must complete the applicable commencement of participation period elected above in Section 2.2 before recommencing participation in the Plan. Such applicable commencement period will begin as of the date the Employee returns to such employment status.

☐ A Participant who continues in the employ of the Participating Employer but ceases to be employed as an ***Eligible Employee*** will be deemed to satisfy the eligibility provisions and will continue to be eligible to make Mandatory Participant Contributions to the Plan under Section 3.3, will continue to receive Employer Contributions under Plan Section 3.1, and will continue to receive Prior Service Benefit Contributions (if any) under Plan Section 3.2, despite the change in status.

3.1(a) <u>EMPLOYER CONTRIBUTIONS</u>. The Participating Employer will make an Employer Contribution for each Participant **(no less than three percent (3%))** for each Plan Month as specified below.

[Specify one option only.]

☒ The Participating Employer will contribute 4 % of the Compensation of such Participant for the Plan Month.

☐ The Participating Employer's contribution for each Participant will equal an amount directed by each Participant, with a minimum of ____% and a maximum of ____% of the Compensation of such Participant.

☐ The Participating Employer will contribute for each Participant:

- ____% of Compensation based on ____ attained Years of Service
- ____% of Compensation based on ____ attained Years of Service
- ____% of Compensation based on ____ attained Years of Service
- ____% of Compensation based on ____ attained Years of Service
- ____% of Compensation based on ____ attained Years of Service

☐ For Participants hired after March 31, 1986, the Participating Employer will contribute the percentage of Compensation of such Participant for the Plan Month corresponding to the rate required of the employer share portion of Social Security (Old Age, Survivors, and Disability) under the Federal Insurance Contributions Act, as defined in C.R.S. Section 24-53-101 for that Plan Month. Employer Contributions will stop once the Participant's earnings have reached the social security annual maximum taxable earnings limit. For Participants hired on or before March 31, 1986, the Participating Employer will contribute the percentage of Compensation of the Participant for the Plan Month corresponding to the rate required for the employer share of both the Social Security and Medicare components of the Federal Insurance Contributions Act, as defined in C.R.S. Section 24-53-101 for that Plan Month. For Participants hired on or before March 31, 1986, the Social Security component of the Employer Contribution will stop once such Participant's earnings have reached the Social Security annual maximum taxable earnings limit.

Note if this option is selected, it must also be selected below in Section 3.3.

3.2 **PRIOR SERVICE BENEFIT CONTRIBUTIONS**. The Participating Employer may elect to make a Prior Service Benefit Contribution to each Participant. The Participating Employer will contribute to each Participant the percentage (elected below) of such Participant's annual Compensation for the elected ***Prior Service Period***. The Prior Service Benefits will be contributed to the Plan in equal monthly installments during the ***Pay Out Period*** provided the Participant does not have a Termination Date during the Pay Out Period.

[Specify one option only.]

☐ Not Applicable. Employer is an existing Participating Employer.

☒ The Participating Employer elects not to make Prior Service Benefit Contributions.

☐ The Participating Employer will contribute to each Participant ____% *(no less than three percent (3%))* of the annual Compensation of each Participant during the ***Prior Service Period***.

[Complete both A and B.]

A. The ***Prior Service Period*** is _____ *(number from one to five)* twelve (12) month period(s) of continuous employment of such Participant ending on the Effective Date of this Participation Agreement with the Participating Employer.

B. Prior Service Benefit Contributions will be made to the Plan in equal monthly installments over _____ *(number from one (1) to thirty-six (36))* continuous calendar month(s)) (the "***Pay Out Period***"). If the Participant has a Termination Date during the Pay Out Period, he or she forfeits his or her right to additional Prior Service Benefit Contributions.

3.3(a) **<u>MANDATORY PARTICIPANT CONTRIBUTIONS</u>**. Each Participant will make a contribution **(no less than three percent (3%))** for each Plan Month as specified below.

[Specify one option only.]

☒ The Mandatory Participant Contribution will equal 4 % of the Compensation of such Participant for the Plan Month.

☐ The Mandatory Participant Contribution will equal an amount directed by each Participant, with a minimum of ____% and a maximum of ___% of the Compensation of such Participant for the Plan Month. **Once an election is made, it is an irrevocable election.**

☐ The Mandatory Participant Contribution will equal:

- ____% of Compensation based on ____ attained of Service
- ____% of Compensation based on ____ attained Years of Service
- ____% of Compensation based on ____ attained Years of Service
- ____% of Compensation based on ____ attained Years of Service
- ____% of Compensation based on ____ attained Years of Service

☐ For Participants hired after March 31, 1986, the Mandatory Participant Contribution will equal the percentage of Compensation of such Participant for the Plan Month corresponding to the rate required of the employer share portion of Social Security (Old Age, Survivors, and Disability) under the Federal Insurance Contributions Act, as defined in C.R.S. Section 24-53-101 for that Plan Month. Mandatory Participant Contributions for a Participant will stop once such Participant's earnings have reached the social security annual maximum taxable earnings limit. For Participants hired on or before March 31, 1986, the Participating Employer will contribute the percentage of Compensation of the Participant for the Plan Month corresponding to the rate required for the employer share of both the Social Security and Medicare components of the Federal Insurance Contributions Act, as defined in C.R.S. Section 24-53-101 for that Plan Month. For Participants hired on or before March 31, 1986, the Social Security component of the Mandatory Participant Contribution will stop once such Participant's earnings have reached the Social Security annual maximum taxable earnings limit.

Note if this option is selected, it must also be selected below in Section 3.1.

3.3(a) <u>MANDATORY PARTICIPANT CONTRIBUTIONS</u>. Mandatory Participant Contributions will be:

[Specify one option only.]

☒ Pre-tax in accordance with C.R.S. Section 24-54-104(4) and Internal Revenue Code Section 414(h)(2).*

☐ After-tax.

3.8 <u>DISCRETIONARY EMPLOYER MATCHING CONTRIBUTIONS</u>. The Participating Employer will make an Employer Matching Contribution in accordance with its Employer 457 Contribution Policy for each Participant who defers compensation into:

[Specify one option only.]

☒ Not Applicable. The Participating Employer elects <u>not</u> to make Discretionary Employer Matching Contributions to the Plan.

☐ The Colorado Retirement Association Deferred Compensation Plan and Trust Agreement.

☐ ____ [Name of 457(b) plan].

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* *Note if contributions are being picked up and paid by the Employer in lieu of employee contributions, the contributions will be treated as "picked-up" and paid by the Employer on a prospective basis only, from the date this Participation Agreement is formally adopted. Participants may not opt out of the "pick-up" nor may they receive the contributed amounts directly instead of having them paid by the Participating Employer to the Plan.*

5.1(b)(1) <u>VESTING OF PARTICIPANT'S ACCOUNTS</u>. In accordance with Section 5.1 of the Plan, an Employee-Participant becomes vested in Employer Contributions and Prior Service Benefit Contributions as follows.†

[Specify one option only.]

☒ ***Immediate Vesting***. A Participant is 100% vested upon Plan participation.

☐ ***Graded Vesting***. A Participant will vest pro rata monthly at _______% annual rate. (must be more than 10%).

☐ ***Specified Vesting***. A Participant will vest pro rata monthly according to the following schedule (select the vesting percentage at the completion of the Participant's Years of Service):

1st Year of Service: _______%

2nd Year of Service: _______%

3rd Year of Service: _______%

4th Year of Service: _______%

5th Year of Service: _______%

6th Year of Service: _______%

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† *Employee-Participants who reach Normal Retirement Age, Disability, or who die or are presumed deceased will be 100% vested in accordance with the terms of the Plan.*

5.1(c) <u>**Reemployment Date More Than Thirty (30) Days After Termination Date**</u>.

☒ Service credit for vesting is not applicable, Employer elected Immediate Vesting, per Section 5.1(b)(1).

If this option is selected, skip the remaining options in this Section 5.1(c) and move on to Section 5.1(e). If this option is not selected, specify one option in each of the below sub-options.

<u>**Prior Employment with Participating Employer**</u>.

☐ In accordance with the **default** provisions of Section 5.1 (c) of the Plan, in the event an Employee terminates employment with the Participating Employer more than thirty (30) days before his or her Reemployment Date with the Participating Employer, the Participating Employer will not grant prior service credit for purposes of **vesting**.

☐ In the event an Employee terminates employment with the Participating Employer more than thirty (30) days before his or her Reemployment Date with the Participating Employer, the Participating Employer will grant service credit for purposes of **vesting** provided the Employee has a Reemployment Date within _______ Plan Months (not to exceed twelve (12) Plan Months) of his or her Termination Date.

<u>**Prior Employment with any Association Member (other than Participating Employer)**</u>.

☐ In accordance with the **default** provisions of Section 2.5(a) of the Plan, in the event an Employee terminates employment with an Association Member more than thirty (30) days before his or her Reemployment Date with a different Participating Employer, the Participating Employer will not grant prior service credit for purposes of **vesting**.

☐ In the event an Employee terminates employment with an Association Member more than thirty (30) days before his or her Reemployment Date with another Participating Employer, the Participating Employer will grant service credit for purposes of **vesting** provided the Employee has a Reemployment Date within _______ Plan Months (not to exceed twelve (12) Plan Months) of his or her Termination Date.

5.1(e) **<u>SERVICE WITH PARTICIPATING EMPLOYER PRIOR TO ADOPTION OF PLAN</u>.**

[Specify one option only.]

☐ Not Applicable. Employer is an existing Participating Employer.

☒ ***Past Service Credit.*** At the time this Participation Agreement is executed, all Employees presently employed by the Participating Employer will have all periods of employment credited towards the vesting schedule referenced above in Section 5.1(b)(1).

5.3 **<u>FORFEITURES ACCOUNT</u>.**

[Specify one option only.]

☒ Not Applicable. Participants are 100% vested in their Accounts.

☐ In accordance with the **default** provisions of Section 11.6 of the Plan, forfeitures will be utilized to reduce future Employer Contributions.

☐ Forfeitures will be allocated among the Accounts of active Participants in the Plan.

8.1 **<u>LOANS TO ELIGIBLE BORROWERS</u>.**

[Specify one option only.]

☒ Participant loans are <u>*not*</u> allowed.

☐ Participant loans are allowed in accordance with Article 8 of the Plan and loan procedures adopted by the Plan Administrator.

1.9 **<u>DEFINITION OF COMPENSATION</u>.** For purposes of calculating contributions, the Participating Employer **<u>excludes</u>** the following from the definition of Compensation (as defined in Section 1.9 of the Plan):

[Select as many EXCLUSIONS as applicable.]

☒ Bonuses.

☐ Overtime pay.

☒ Premiums for shift differential.

☒ Fringe benefits, expense reimbursements, deferred compensation, and welfare benefits.

☐ Holiday pay.

☐ Vacation pay.

☐ Sick pay.

☐ Paid Time Off (PTO).

☐ All post-severance compensation.

☐ Other *[please specify]*:__________________________.

* * * * * * * *

The Participating Employer and the Colorado Retirement Association have executed this Participation Agreement and have accepted its terms.

Dated this 9th day of January, 2023.

Town of Crestone
Participating Employer

By: [signature]

Title: Mayor Kairina Danforth

Dated this __________ day of ______________, 20_____.

COLORADO RETIREMENT ASSOCIATION
Plan Sponsor

By:____________________________________

Title: CRA Executive Director

13845387_v11

COLORADO RETIREMENT ASSOCIATION
DEFERRED COMPENSATION PLAN

PARTICIPATION AGREEMENT

Association Member / Participating Employer: Town of Crestone

Association Member Original Participation Date: January 1, 2023

Participation Agreement Effective Date: January 1, 2023

Prior Participation Agreement Date: N/A
Please indicate the effective date of the last Participation Agreement

---

PREAMBLE

I. <u>AGREEMENT</u>. By this Agreement, by and between Colorado Retirement Association ("Association") and the Association Member specified in this Participation Agreement ("Agreement"), the Association Member adopts as a Participating Employer the Colorado Retirement Association Deferred Compensation Plan and Trust Agreement (the "Plan"), as amended and restated effective January 1, 2020, and as further amended or supplemented from time to time, subject to the modifications set forth in this Agreement. This Agreement amends and supersedes any previous Participation Agreement made by and between the Association Member and the Association.

II. <u>ADOPTION OF THE PLAN</u>. The Association Member adopts the Plan as a Participating Employer pursuant to the terms of the Plan and this Participation Agreement, effective as of the Participation Agreement Effective Date. The Participating Employer's participation in the Plan is conditioned on the timely payment by the Participating Employer of its proportional share of contributions under the Plan, and in the case of contributions deducted from a Participant's Compensation, payment will be transmitted to the Trust as soon as practicable after such amounts would otherwise have been paid to the Participant.

III. <u>REVIEW OF THE PLAN</u>. The Participating Employer has reviewed the Plan, and in particular <u>Article 12</u> of the Plan. The Participating Employer has consulted, or had opportunity to consult, with its legal and tax advisors with reference to the Plan and this Participation Agreement.

IV. <u>APPROVAL OF PLAN TRUSTEE AND ADMINISTRATOR</u>. The Participating Employer approves and confirms the Trustee and Administrator designated by the Association to serve in each such capacities.

V. <u>ASSOCIATION AS AGENT</u>. The Participating Employer irrevocably designates the Association as its agent as set forth in <u>Article 12</u> of the Plan addressing Participating Employers for all purposes of the Plan, and authorizes the Association, on behalf of the Participating Employer, to perform the specific acts and to exercise the specific powers granted under the Plan. The Association or its designee shall have authority to make any and all necessary rules or regulations, binding upon the Participating Employer and its Employees, to effectuate the purpose of the Plan.

VI. PARTICIPANT AND PARTICIPATING EMPLOYER CONTRIBUTIONS. All contributions made by the Participants and Participating Employer under the Plan and this Participation Agreement shall be determined separately by each Participating Employer and shall be allocated only among the eligible Participants of the Participating Employer making the contribution.

* * * * * * * *

PARTICIPATING EMPLOYER ELECTIONS

(Section numbers below correspond to sections of the Plan.)

2.2(d) DESIGNATED ROTH DEFERRALS.

[Specify one option only.]

☒ Designated Roth Deferrals are permitted.

☐ Designated Roth Deferrals are *not* permitted.

2.11 EMPLOYER CONTRIBUTIONS.

[Specify one option only.]

☒ The Participating Employer elects not to make Employer Contributions.

☐ The Participating Employer elects to make Employer Contributions for Eligible Employees, per the Employer 457 Contribution Policy.

6.1 LOANS TO ELIGIBLE BORROWERS.

[Specify one option only.]

☒ Participant loans are *not* permitted.

☐ Participant loans are permitted in accordance with Article 6 of the Plan and loan procedures adopted by the Association.

* * * * * * * *

The Participating Employer and the Colorado Retirement Association have executed this Participation Agreement and have accepted its terms.

Dated this 9th day of January, 2023.

Town of Crestone
Participating Employer

By: [signature]

Title: Mayor Kairina Danforth

Dated this _________ day of ____________, 20_____.

COLORADO RETIREMENT ASSOCIATION
Plan Sponsor

By: ______________________________

Title: CRA Executive Director

14004943_v2

COLORADO RETIREMENT ASSOCIATION
DEFERRED COMPENSATION PLAN AND TRUST AGREEMENT

(Amended and Restated Effective January 1, 2020)

COLORADO RETIREMENT ASSOCIATION
DEFERRED COMPENSATION PLAN
(AMENDED AND RESTATED EFFECTIVE JANUARY 1, 2020)
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COLORADO RETIREMENT ASSOCIATION
DEFERRED COMPENSATION PLAN AND TRUST AGREEMENT

(AMENDED AND RESTATED EFFECTIVE JANUARY 1, 2020)

This Colorado Retirement Association Deferred Compensation Plan and Trust Agreement ("Plan") is a deferred compensation plan sponsored by the Colorado Retirement Association (previously the Colorado County Employees and Officials Retirement Association) (the "Association") for adoption by certain eligible employers to provide an opportunity to accumulate employee and optional employer tax-deferred retirement savings.

The Plan was originally established January 1, 1979, and was amended and restated effective January 2, 1993, December 4, 1996, August 27, 1997, May 11, 2001, August 16, 2002, July 1, 2004 and June 1, 2014. Effective January 1, 2020, the Association hereby amends and restates the Plan in its entirely to make further necessary and desirable changes.

The Plan is intended to comply with Code Sections 414(d) and 457(b) as a governmental eligible 457 plan. The Plan was established and shall be maintained for the exclusive benefit of the Participating Employers' Employees and their Beneficiaries. Upon the transfer by a Participating Employer of any funds to the Trust Fund in accordance with the provisions hereof, all interest of the Participating Employer therein will cease and terminate, and no part of the Trust Fund will be used or diverted to purposes other than the exclusive benefit of the Participants and their Beneficiaries and the payment of reasonable Plan administration expenses. At no time prior to the satisfaction of all expenses and liabilities under the Plan will any part of the principal or income of the Trust Fund be used for or diverted to any other purpose other than the exclusive benefit of the Participants and their Beneficiaries.

ARTICLE 1.
DEFINITIONS

1.1 ***Account or Accounts*** means the bookkeeping account maintained with respect to a Participant, reflecting the pre-tax and after-tax contributions credited for such Participant, as well as the earnings and losses thereon. Unless otherwise specified herein, ***Account*** means all such contributions as further described herein.

1.2 ***Administrator*** means the Governing Board.

1.3 ***Annual Deferral*** means the amount of Compensation deferred in any year and which the Participant has designated as Pre-Tax Deferrals or Designated Roth Deferrals.

1.4 ***Association*** means the Colorado Retirement Association or ***CRA*** (previously the Colorado County Employees and Officials Retirement Association).

1.5 ***Association Member*** means any County, Municipality or Political Subdivision that is a member of the Colorado Retirement Association.

1.6 ***Authorized Leave of Absence*** means any absence authorized by the Participating Employer in accordance with the Participating Employer's standard personnel practices provided that all persons under similar circumstances must be treated alike and further provided that the Employee on an Authorized Leave of Absence returns or retires within the period of authorized absence. An absence due to service in the Armed Forces of the United States will be considered an Authorized Leave of Absence provided that the Employee complies with all of the requirements of federal law in order to be entitled to re-employment and provided further that the Employee returns to employment with the Participating Employer within the period provided by such law.

1.7 ***Beneficiary or Beneficiaries*** means the person, trustee, or entity who becomes entitled to receive a Participant's Account upon the Participant's death or presumed death.

1.8 ***Catch-Up Deferrals*** means the amount of Compensation deferred in any year in accordance with Section 3.2or Section 3.3, which is intended to qualify as a catch-up contribution under Code Section 414(v) or, which qualifies under the special catch-up limitation described in Code Section 457(b)(3), and which the Participant has designated as Catch-Up Pre-Tax Deferrals or Catch-Up Designated Roth Deferrals.

1.9 ***Catch-Up Designated Roth Deferrals*** means the amount of Compensation deferred in any year in accordance with a Participant's deferral election as a Catch-Up Deferral, and which has been designated as a Designated Roth Deferral.

1.10 ***Catch-Up Pre-Tax Deferrals*** means the amount of Compensation deferred in any year in accordance with a Participant's deferral election as a Catch-Up Deferral, and which has been designated as a Pre-Tax Deferral.

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

1.12 ***Compensation*** means all cash compensation for services to a Participating Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash compensation for services to a Participating Employer includible in the Employee's gross income for the calendar year but for a compensation reduction election under Code Section 125, 132(f), 401(k), 403(b), or Code Section 457(b) (including an election to defer compensation under Article 3). ***Compensation*** also includes cash compensation paid by the later of two-and one-half (2½) months after a Participant's Severance from Service or the end of the calendar year that includes the Participant's Severance from Service, if the payment is: (1) regular compensation for services performed during the Participant's regular working hours, or compensation for services performed outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and (2) absent a Severance from Service, the payments would have been paid to the Participant while the Participant continued in employment with Employer. Notwithstanding the foregoing, if ***Compensation*** is otherwise defined in the Employer 457 Contribution Policy or is otherwise defined and communicated to Employees as including or excluding specified forms of remuneration in the enrollment forms provided by the Participant's Employer to its Employees, such other definition will control. Effective January 1, 2009, ***Compensation*** includes differential pay (the difference between the Participant's pay from a Participating Employer and his or her military pay).

1.13 ***CRA Retirement Plan*** means the Colorado Retirement Association Retirement Plan and Trust Agreement, as amended, which is a plan separate from this Plan and which is intended to be qualified under Code Section 401(a).

1.14 ***C.R.S.*** means the Colorado Revised Statutes, as may be amended.

1.15 ***Date of Employment or Reemployment*** means the first day upon which an Employee begins services during the Employee's initial or most recent period of service with a Participating Employer. The ***Date of Employment or Reemployment*** of a person elected or appointed to a term of office with a Participating Employer will be on the date such person assumes office.

1.16 ***Designated Roth Deferrals*** means Annual Deferrals, which are intended to qualify as after-tax contributions pursuant to Code Section 402A.

1.17 ***Disability or Disabled*** means the Participant is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months. The permanence and degree of such impairment must be provided to the Administrator by the Participating Employer or Participant and supported by medical evidence. A determination of Disability will be made in the sole and absolute discretion of the Administrator.

1.18 ***Eligible Employee*** means an Employee who is eligible to receive Employer Contributions in accordance with the Participating Employer's Employer 457 Contribution Policy.

1.19 ***Employee*** means an individual employed by a Participating Employer, but excludes any individual who is classified as an agent, consultant, independent contractor or self-employed individual who has entered into an agency, consulting, independent contractor or other similar agreement with a Participating Employer, regardless of whether such person has an employer-employee relationship with a Participating Employer and regardless of any classification as a common law employee by the Internal Revenue Service or any other governmental agency, or any court of competent jurisdiction. ***Employee*** includes an individual of the Participating Employer who acquired such position through public election or who has been appointed to fill a vacancy of a publicly elected office.

1.20 ***Employer*** means a Participating Employer.

1.21 ***Employer Contributions*** means the discretionary amount, if any, contributed to the Plan by a Participating Employer. The availability to allow Employer Contributions will be specified in each Participating Employer's Participation Agreement. Eligible Employees and contribution amounts will be detailed in the Participating Employer's Employer 457 Contribution Policy.

1.22 ***Employer 457 Contribution Policy*** means the deferred compensation contribution policy established in the sole and absolute discretion of a Participating Employer, over which the Association has no power or obligation to review, implement or administer. The Participating Employer is solely responsible for adopting, implementing and administering its Employer 457 Contribution Policy, which must conform at all times to the terms of the Plan.

1.23 ***Five-Taxable-Year Period*** means the period of five (5) consecutive taxable years beginning on the earlier of (a) first day of the first taxable year in which the Participant makes a Designated Roth Deferral under the Plan or, (b) if a rollover of Roth Contributions is made to the Plan, the first day of the first taxable year for which the Participant made a Roth Contribution to such other qualified plan.

1.24 ***Governing Board*** has the meaning prescribed to such term in C.R.S. Section 24-54-107.

1.25 ***Includible Compensation*** means the Employee's actual wages in Box 1 of Form W-2 for a year for services to a Participating Employer, but subject to a maximum of $200,000 (or such higher maximum as may apply under Code Section 401(a)(17)) and increased (up to the dollar maximum) by any compensation reduction election under Code Section 125, 132(f), 401(k), 403(b), or 457(b) (including Annual Deferrals). ***Includible Compensation*** does not include contributions picked up within the meaning of Code Section 414(h)(2) to the CRA Retirement Plan.

1.26 ***Normal Retirement Age*** means, on and after January 1, 2020, the earlier of age seventy-two (72) (prior to January 1, 2020, age seventy-and-one-half (70½)) or the date such Participant: (i) is eligible for full retirement and unreduced benefits under the CRA Retirement Plan, and (ii) declares an alternate normal retirement age, no earlier than age fifty-five (55), using a form provided by the Participating Employer or Administrator (by written or other acceptable form, for example, an on-line form). Notwithstanding the previous sentence, effective on and after September 15, 2017, a Participant who is a qualified police officer or firefighter (as defined under Code Section 415(b)(2)(H)(ii)(I)) may designate a ***Normal Retirement Age*** that is earlier than the earliest Normal Retirement Age described above, but in no event may such Normal Retirement Age be earlier than age forty (40). If a Participant declares an alternate normal retirement age using the form provided by the Participating Employer or Administrator, that age will determine the three (3)-year period in which he or she can make Special Section 457 Catch-Up Contributions pursuant to <u>Section 3.3</u>. Once the Special Section 457 Catch-Up Contributions are made to any extent, the Participant's declared

Normal Retirement Age is irrevocable. Any Participant may retire on or after attaining his Normal Retirement Age.

1.27 ***Participant*** means an individual who is currently deferring Compensation, or who has an Account balance under the Plan, including an Eligible Employee who has received an Employer Contribution. A Participant will remain a Participant under the Plan until he or she receives a full distribution of his or her Account. If the context so dictates, ***Participant*** means the Participant's Beneficiary.

1.28 ***Participating Employer*** means the County, Municipality or Political Subdivision that adopts the Plan in accordance with Plan provisions and which has executed, with CRA's approval, a Participation Agreement. Adoption of the Plan is restricted solely to Association Members.

1.29 ***Participation Agreement*** means the separate document through which a Participating Employer adopts this Plan. Upon execution, this Plan document along with the applicable Participation Agreement constitute the Association Member's "Plan".

1.30 ***Plan*** means the Colorado Retirement Association Deferred Compensation Plan and Trust Agreement consisting of this Plan document and Trust Agreement, and any amendments thereto, and accompanying Participation Agreements as executed by each Participating Employer.

1.31 ***Plan Year*** means the twelve (12) consecutive month period commencing each July 1 and ending on June 30.

1.32 ***Pre-Tax Deferrals*** mean Annual Deferrals that are intended to qualify as pre-tax contributions pursuant to Code Section 457(a).

1.33 ***Qualified Distribution*** means a distribution of Designated Roth Deferrals, Catch-Up Designated Roth Deferrals or rollover Roth Contributions that (a) is made on or after the date a Participant attains age fifty-nine and one-half (59½), on or after the Participant's death or presumed death, or on account of the Participant's Disability; and (b) is made after the Five-Taxable-Year Period.

1.34 ***Regulation or Regulations*** means the rules and regulations promulgated by the Department of Treasury.

1.35 ***Required Beginning Date*** means April 1 of the calendar year following the later of the calendar year in which occurs the Participant's Severance from Employment or the calendar year in which the Participant attains age seventy-two (72) (prior to January 1, 2020, age seventy and one-half (70½)).

1.36 ***Rollover Contributions***means contributions described in Section 2.12 that are either designated as pre-tax or Roth Contributions at the time of the rollover.

1.37 ***Roth Contributions***means an after-tax designated contribution made to a separate account in a Code Section 401(k), 403(b) or 457(b) plan other than the Plan, that permits such contribution.).

1.38 ***Severance from Employment*** means the date that the Employee retires, dies or is presumed deceased, is determined to be Disabled, resigns or otherwise terminates service with a Participating Employer for any other reason (and taking into account guidance issued under the Code that may include Regulation Section 1.457-6(b)). A Participant on qualified military service (within the meaning of Code Section 414(u)) for more than thirty (30) days and who is receiving differential pay, will be considered to have had a ***Severance from Employment*** for purposes of taking a distribution of his or her Account.

1.39 ***Special Section 457 Catch-Up Contribution*** means the contribution described in <u>Section 3.3</u>.

1.40 ***Spouse*** means a Participant's legal spouse as recognized under federal law.

1.41 ***Transfer Contributions*** means contributions transferred to the Plan as described in <u>Section 2.13</u>.

1.42 ***Trust*** means the Colorado Retirement Association Deferred Compensation Plan Trust established herein.

1.43 ***Trustee*** means an individual, individuals or entity, appointed to administer the Trust. ***Trustee*** will also include any duly appointed and qualified successor or additional Trustees. If more than one individual acts together as Trustee, ***Trustee*** as used herein will refer to each or all such individuals.

1.44 ***Trust Fund*** means the trust fund created under and subject to the Trust Agreement.

1.45 ***Unforeseeable Emergency*** means a severe financial hardship of a Participant or Beneficiary resulting from (a) illness or accident of the Participant, the Beneficiary, or the Participant's or Beneficiary's Spouse or dependent (as defined in Code Section 152(a)); (b) loss of the Participant's or Beneficiary's property due to casualty; or (c) other similar extraordinary and unforeseeable circumstances arising from events beyond the Participant's or Beneficiary's control. The Administrator will establish a policy for determining whether an Unforeseeable Emergency exists. The need to send a Participant's child to college or the desire to purchase a home will not be considered an ***Unforeseeable Emergency***.

1.46 ***Valuation Date*** means each date on which trading occurs on the New York Stock Exchange and the Plan's record-keeper is open to conduct business.

*** * * * *End of Article 1* * * * ***

ARTICLE 2.
PARTICIPATION AND CONTRIBUTIONS

2.1 **Eligibility**. Each Employee is eligible to participate in the Plan and defer Compensation immediately upon his or her Date of Employment or Reemployment, unless otherwise provided or restricted in accordance with the Participating Employer's standard personnel policy.

2.2 **Election Required for Participation**. Employees may elect to enroll in the Plan by completing the necessary enrollment forms provided by the Participant's Employer (by written election or other acceptable form, for example, an on-line election) within the time period specified therein.

(a) ***Minimum Deferrals***. The Administrator may establish a minimum deferral amount and may change such minimums from time to time without the need for a formal Plan amendment.

(b) ***Investment of Account***. The Employee's election must include designation of investment funds in accordance with Section 4.1. Any such election will remain in effect until a new election is filed.

(c) ***Designation of Beneficiary***. The Employee's election must include designation of Beneficiary in accordance with Section 8.1. Any such election will remain in effect until a new election is filed.

(d) ***Specification of Annual Deferrals***. If a Participating Employer permits Designated Roth Deferrals in the applicable Participation Agreement, the Participant must specify whether the Annual Deferrals made pursuant to this Section 2.2 are Pre-Tax Deferrals, Designated Roth Deferrals or a combination of both. Once the Participant's designation is made, the Participant's designation is irrevocable as to Annual Deferrals that are made pursuant to that designation; however, the Participant may change his or her designation on a prospective basis in accordance with Section 2.6. If the Participant fails to designate whether the Annual Deferrals made pursuant to this Section 2.2 are Pre-Tax Deferrals, Designated Roth Deferrals, or a combination of both, the Administrator will treat the Employee's election as null and void and no Annual Deferrals will be made until the Participant affirmatively makes such designation.

2.3 **Commencement of Participation**. An Employee will become a Participant as soon as administratively practicable following the date the Employee files, and the Administrator accepts, a participation election pursuant to Section 2.2. Such election will become effective no earlier than the calendar month following the month in which the election is made. A new Employee may defer compensation payable in the calendar month during which the Participant first becomes an Employee if an agreement providing for the deferral is entered into on or before the first day on which the Participant performs services for a Participating Employer.

2.4 **Information Provided by the Participant**. Each Employee enrolling in the Plan should provide to the Administrator at the time of initial enrollment, and later if there are any changes, any information necessary or advisable for the Administrator to administer the Plan, including, without limitation, whether the Employee is a participant in any other eligible plan under Code Section 457(b).

2.5 <u>TIMING AND FORM OF CONTRIBUTIONS</u>. Contributions made by the Participating Employer and by Participants will be forwarded to the Trustee as soon as administratively practicable after the end of each payroll period. Contributions must be paid in cash, check, certified funds, ACH transfer or wire. Contributions of property is not permitted.

2.6 <u>AMENDMENT OF ANNUAL DEFERRALS ELECTION</u>. Subject to other provisions of the Plan and the applicable Participation Agreement, a Participant may at any time change his or her participation election on a prospective basis, including a change of the amount of his or her Annual Deferrals, the designation of his or her Annual Deferrals as Pre-Tax Deferrals, Designated Roth Deferrals or a combination of both, his or her investment direction and his or her designated Beneficiary. Unless the election specifies a later effective date, a change in the amount of the Annual Deferrals will take effect as of the first day of the next following month or as soon as administratively practicable if later, for Compensation earned after the new election is submitted and processed.

2.7 <u>LEAVES OF ABSENCE</u>.

(a) ***Authorized Leave of Absence***. A Participant on an Authorized Leave of Absence will remain a Participant during the Authorized Leave of Absence and will continue to make Annual Deferrals subject to <u>Section 2.8</u>, and receive an allocation of investment gains and losses in accordance with <u>Section 4.1(c)</u>. For purposes of eligibility, an Authorized Leave of Absence is considered a period of customary, usual, and continuous employment consistent with the Participant's employment history prior to the Authorized Leave of Absence.

(b) ***Military Leave of Absence***. Notwithstanding any provision of the Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u), provided the Employee returns to active employment following discharge from such service within the period that the Employee's employment rights are protected under such Code Section.

2.8 <u>AUTOMATIC SUSPENSION OF ANNUAL DEFERRALS</u>.

(a) ***Insufficient Funds***. Annual Deferrals will be automatically suspended for any month in which there are insufficient monies available to make the entire deduction elected, and automatically reinstated in the next month that Compensation is sufficient to make the elected Annual Deferrals.

(b) ***Qualified Military Service***. In the event a Participant on qualified military service (within the meaning of Code Section 414(u)) who is receiving differential pay takes a distribution of his or her Account while in USERRA covered service, the individual may not make Annual Deferrals during the six (6)-month period beginning on the date of distribution.

2.9 <u>Disability</u>. A Disabled Participant may elect Annual Deferrals during any portion of the period of his or her Disability to the extent that he or she has Compensation (not imputed Compensation and not disability benefits) from which to make contributions to the Plan and has not had a Severance from Employment.

2.10 <u>Deferrals After Severance from Employment, Including Sick, Vacation and Holiday Pay</u>. To the extent permitted by Regulation Section 1.457-4(d), a Participant who has not had a Severance from Employment may elect to defer accumulated sick pay, accumulated vacation pay, and accumulated holiday pay if and only if a deferred compensation agreement providing for the deferral 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 in that month and on the date the amounts would otherwise be paid or made available. For purposes of the Plan, Compensation that would otherwise be paid for a payroll period that begins before Severance from Employment is treated as an amount that would otherwise be paid or made available before an employee has Severance from Employment.

2.11 <u>Employer Contributions</u>. Notwithstanding an Employee's election or lack of election to make Annual Deferrals, Employer Contributions will be made by a Participating Employer and allocated to the Account of Eligible Employees in accordance with the terms of the applicable Participation Agreement and Employer 457 Contribution Policy.

2.12 <u>Rollover Contributions to the Plan</u>.

(a) ***General***. An Employee (including an Employee who is not a Participant) or a Participant (including a Participant who is no longer an Employee), who is entitled to receive an eligible rollover distribution from another eligible retirement plan may rollover the distribution as a Rollover Contribution to the Plan. The Administrator may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Code Section 402 and to confirm that such plan is an eligible retirement plan within the meaning of Code Section 402(c)(8)(B).

(b) ***Procedure***. For purposes of <u>Section 2.12(a)</u> an ***eligible rollover distribution*** means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include (1) any installment payment for a period of ten (10) years or more, (2) any distribution made as a result of an unforeseeable emergency or other distribution which is made upon hardship of the employee, or (3) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Code Section 401(a)(9). In addition, an ***eligible retirement plan*** means an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), a qualified trust described in Code Section 401(a), an annuity plan described in Code Section 403(a) or 403(b), or an eligible governmental plan described in Code Section 457(b), that accepts the eligible rollover distribution.

(c) ***Rollover to Account***. Upon approval by the Association, the amount rolled over pursuant to this <u>Section 2.12</u> will be credited to the Participant's Account and will be held, accounted for, administered and otherwise treated in the same manner as an Annual Deferral by the Participant under the Plan, except that the rolled over amount will not be considered an Annual Deferral under the Plan in determining the maximum deferral under Article 3. Rollovers that are not Roth Contributions and that do not comply with Section 2.12(d) will be maintained as pre-tax contributions.

(d) ***Special Rules for Rollovers of Roth Contributions***. The Administrator may accept a direct rollover of Roth Contributions. Prior to accepting a direct rollover of Roth Contributions, the Administrator will require the transferring plan to provide a statement indicating the first year of the Five-Taxable-Year Period and the portion of the distribution that is attributable to investment in the contract under Code Section 72, or alternatively, that the distribution is a Qualified Distribution. The Administrator will only accept a direct rollover from the transferring plan with regard to designated Roth Contributions from such other plan.

The amount rolled over to the Plan under this Section 2.12(d) will be held in the Participant's Account.

2.13 **PLAN-TO-PLAN TRANSFERS TO THE PLAN**. At the direction of a Participating Employer, the Administrator may permit Participants who are participants in another eligible governmental plan under Code Section 457(b) to make Transfer Contributions, which is a transfer of assets to the Plan as provided in this Section 2.13. Such transfer is permitted only if the other plan provides for the direct transfer of each Participant's interest therein to the Plan. The Administrator may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with Code Section 457(e)(10) and Code Section 1.457-10(b) and to confirm that the other plan is an eligible governmental plan in accordance with Code Section 1.457-2(f). The amount so transferred will be credited to the Participant's Account and will be held, accounted for, administered and otherwise treated in the same manner as an Annual Deferral by the Participant under the Plan, except that the transferred amount will not be considered an Annual Deferral under the Plan in determining the maximum deferral under Article 3.

2.14 **DESIGNATED ROTH DEFERRALS**. With regard to Designated Roth Deferrals, the Administrator will maintain a record of the Participant's investment in the contract in accordance with Code Section 72 and the date the Participant first made Designated Roth Deferrals for purposes of determining when the Five-Taxable-Year Period begins.

2.15 **OVER-CONTRIBUTIONS**. In the case of an over-contribution by a Participating Employer of a Participant due to a good faith mistake of fact, the contribution may be returned to such Participating Employer or to the Participant, as applicable. The amount which may be returned to the Participating Employer or to the Participant is the excess of (i) the amount contributed by the Participating Employer or the Participant, over (ii) the amount that would have been contributed had there not been a mistake of fact. The Association may determine in its sole and absolute discretion whether to return earnings attributable to such excess contribution to the Participating Employer and may offset losses attributable to the excess contribution to reduce the amount returned to the Participating Employer.

* * * * ***End of Article 2*** * * * *

ARTICLE 3.
LIMITATION ON CONTRIBUTIONS

3.1 ANNUAL DEFERRAL LIMITATION. The maximum amount of the Annual Deferral under the Plan for any calendar year may not exceed the lesser of (i) the Annual Deferral Applicable Dollar Amount or (ii) the Participant's Includible Compensation for the calendar year. The ***Annual Deferral Applicable Dollar Amount*** is the amount established under Code Section 457(e)(15) as set forth below:

Calendar Year	**Annual Deferral Applicable Dollar Amount**
2015	$18,000
2016	$18,000
2017	$18,500
2018	$18,500
2019	$19,000
2020 or thereafter	$19,500, adjusted for cost of living after 2020 to the extent provided under the Code

3.2 ANNUAL CATCH-UP DEFERRAL LIMITATION. A Participant who will attain age fifty (50) or more by the end of the calendar year is permitted to elect a Catch-Up Deferral. The maximum dollar amount of the Catch-Up Deferral under the Plan for any calendar year must first exceed the Annual Deferral Applicable Dollar Amount under Section 3.1 and may not exceed the Annual Catch-Up Deferral Applicable Dollar Amount. The ***Annual Catch-Up Deferral Applicable Dollar Amount*** is the amount established under Code Section 457(e)(18) as set forth below:

Calendar Year	**Annual Catch-Up Deferral Applicable Dollar Amount**
2015	$6,000
2016	$6,000
2017	$6,000
2018	$6,000
2019	$6,000
2020 or thereafter	$6,500, adjusted for cost of living after 2020 to the extent provided under the Code

3.3 SPECIAL SECTION 457 CATCH-UP CONTRIBUTION. If the applicable year is one of a Participant's last three (3) calendar years ending before the year in which the Participant attains Normal Retirement Age and the amount determined under this Section 3.3 exceeds the amount computed under Sections 3.1 and 3.2, then the ***Annual Deferral Applicable Dollar Amount*** under this Article 3 will be the lesser of (a) or (b):

(a) Twice the Annual Deferral Applicable Dollar Amount for such year; or

(b) the sum of (A) the Annual Deferral Applicable Dollar Amount for the calendar year, and (B) that portion of the Annual Deferral Applicable Dollar Amount determined under Section 3.1 not used by the Participant in the calendar years before the Participant's Normal Retirement Age, provided that the Participant was eligible to participate in the Plan during those calendar years.

However, in no event can the deferred amount be more than the Participant's Compensation for the calendar year.

3.4 COORDINATION OF PLANS. If a Participant participates in more than one Code Section 457(b) plan, the maximum deferral under all such plans may not exceed the Annual Deferral Applicable Dollar Amount and Catch-Up Deferral Applicable Dollar Amount (subject to modification by the limitation in Section 3.3).

3.5 CORRECTION OF EXCESS DEFERRALS.

(a) ***In General.*** If the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described above, or the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described above when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under Code Section 457(b) for which the Participant provides information that is accepted by the Administrator, then the Annual Deferral, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), will be distributed to the Participant as soon as administratively practicable after determining the amount that needs to be distributed.

(b) ***Distribution of Pre-Tax Deferrals and Designated Roth Deferrals.*** The Participant may elect, under procedures established by the Administrator, whether distribution of Annual Deferrals will first be made from the Participant's Pre-Tax Deferrals, Designated Roth Deferrals or a combination of both Pre-Tax Deferrals and Designated Roth Deferrals to the extent such contributions were made during the Plan Year in which the Annual Deferral occurred. If no election is made, the Administrator will distribute excess Annual Deferrals pro rata, based on the amount of Pre-Tax Deferrals and Designated Roth Deferrals made during the Plan Year in which the excess Annual Deferral occurred. A distribution of excess Annual Deferrals from the Participant's Designated Roth Deferral Account will not be treated as a Qualified Distribution.

3.6 PROTECTION OF PERSONS WHO SERVE IN A UNIFORMED SERVICE. An Employee whose employment is interrupted by qualified military service under Code Section 414(u) or who is on a leave of absence for qualified military service under Code Section 414(u) may elect to make additional Annual Deferrals upon resumption of employment with a Participating Employer equal to the maximum Annual Deferrals that the Employee could have elected during that period if the Employee's employment with a Participating Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Annual Deferrals, if any, actually made for the Employee during the period of the interruption or leave. This right applies for five (5) years following the resumption of employment (or, if sooner, for a period equal to three (3) times the period of the interruption or leave).

3.7 <u>**EMPLOYER CONTRIBUTIONS INCLUDED**</u>. For purposes of this <u>Article 3</u>, the term "Annual Deferral" includes Employer Contributions, if any, made by a Participating Employer on behalf of an Eligible Employee.

* * * * ***End of Article 3*** * * * *

ARTICLE 4.
INVESTMENT OF TRUST FUND

4.1 DIRECTED INVESTMENTS.

(a) ***Participant Instructions***. Subject to the provisions of this Section 4.1, a Participant will, by providing appropriate instructions to the Participating Employer, Administrator, or its representative, be entitled to direct the Trustee as to the percentage of any Participant and Employer contributions, and any contributions previously allocated to the Participant's Account, in increments of one percent (1%) to be invested in one or more of the types of investments made available for investment by Participants as determined by the Administrator. Participants are required to comply with any applicable procedures set forth by the Administrator.

(b) ***Trustee Investment Pursuant to Instructions***. As soon as administratively practicable, the Trustee will invest the applicable portions of the contributions that have been made on behalf of Participants, and the earnings and losses thereon, in accordance with all proper investment instructions received from Participants. To the extent that a Participant does not direct the investment of the amounts that are credited to the Participant's Account, or the applicable portion thereof, the Participant's Account will be invested by the Trustee in the Target Date Portfolio appropriate for the Participant, which will be deemed to be invested pursuant to the Participant's instructions. A Participant's investment instructions will remain in effect until such time as is administratively practicable following receipt by the Trustee of a Participant's proper request changing or revoking the Participant's instructions then in effect pursuant to this Section 4.1.

(c) ***Allocation of Investment Gains and Losses***. As of each Valuation Date, the allocable portion of the income, expense and all realized and unrealized gains and losses attributable to the portion of each Participant's Account which has been invested at the Participant's direction in a particular investment will be allocated by the Administrator directly for the benefit of the Participant for whom such Account was maintained during the Plan Year. Any allocation of any increase or decrease in the net worth of the Participant's Account will be adjusted to reflect the effect of distributions, transfers, withdrawals, contributions, and all other transactions relating to such Account since the immediately preceding Valuation Date in accordance with generally accepted valuation methods consistently followed and uniformly applied. Any expense incurred in connection with the Participant's investment option will be charged against the Participant's Account.

(d) ***Types of Investments***. The Governing Board may impose reasonable and non-discriminatory limitations on individually directed investments. The Governing Board or Trustee will establish investment funds among which the Participants and Beneficiaries may direct the investment of their Accounts. A Participant or Beneficiary who elects direct investment may only direct that his or her interest in the Plan be invested in any one or more of such funds that are established by the Governing Board and Trustee.

(e) ***Risk of Investments***. Each Participant assumes all risk associated with any decrease in value resulting from Participant investment decisions. None of the Administrator, the Trustee or the Employer will be liable for investments made in compliance with a Participant's directions and they will be under no duty or obligation to review or evaluate such investment directions by any Participant. The Participant must agree (on a form provided by the Trustee) that the Administrator, the Trustee or the Employer are relieved from all liability for any loss resulting from investments made by the Participant or Beneficiary.

4.2 LIABILITY WITH RESPECT TO INVESTMENTS. The Trustee is not liable for the making, retaining or disposing of any investment made by it as herein provided, nor for any loss or diminution of the Trust Fund, except such loss or diminution as results from its own willful misconduct or lack of good faith, and is indemnified and saved harmless by the Trust Fund and against all other liability to which it may be subjected by reason of the making, retaining or disposing of an investment or reinvestment made by it hereunder, including all expenses reasonably incurred in its defense in case the Association fails to provide such defense.

* * * * ***End of Article 4*** * * * *

ARTICLE 5.
VESTING OF ACCOUNTS

5.1 <u>VESTING</u>. A Participant is at all times fully vested in his or her Account.

** * * * End of Article 5 * * * **

ARTICLE 6.
LOANS TO ELIGIBLE BORROWERS

6.1 <u>AUTHORIZATION OF LOANS</u>. If provided by the Participating Employer in the applicable Participation Agreement, the Administrator may direct the Trustee to make a loan to an Eligible Borrower (as defined in <u>Section 6.7</u>) upon receiving a written request (or other manner acceptable to the Administrator, for example, using an on-line form) for such a loan. All loans are subject to the approval of the Participating Employer, and such approval will be granted or withheld in a uniform and nondiscriminatory manner and in accordance with such rules and regulations not in conflict with the provisions of this <u>Article 6</u> as the Administrator may adopt.

6.2 <u>AMOUNT OF LOAN</u>. No loan may be made to an Eligible Borrower to the extent that such loan when added to the outstanding balance of all other loans to the Eligible Borrower would exceed the lesser of:

(a) $50,000, reduced by the excess (if any) of—

(1) the highest outstanding balance of loans from this Plan or any other qualified plan maintained by a Participating Employer during the one-year period ending on the day before the date on which such loan is made, over

(2) the outstanding balance of loans from this Plan and any other qualified plan maintained by a Participating Employer on the date on which such loan was made; or

(b) one-half the present value of the Eligible Borrower's interest in his or her Account.

For purposes of the above limitation, Plan loans include all loans from all plans maintained by a Participating Employer. Any loan that is revised, renegotiated, renewed, or extended is treated as having been made on the date of that occurrence.

6.3 <u>SECURITY FOR LOAN</u>.

(a) ***In General.*** All loans to Eligible Borrowers will be evidenced by a note or notes and secured by adequate collateral in accordance with the Code. To be secured by adequate collateral, a loan must be fully secured by the assignment of not more than fifty percent (50%) of the amount of the Eligible Borrower's Account. The Administrator will always require an assignment of the Eligible Borrower's Account, but such assignment may not exceed fifty percent (50%) of the amount of the Eligible Borrower's Account.

(b) ***Upon Distribution.*** To the extent that there is a distribution that would cause the loan to become unsecured in whole or in part taking into consideration only the security provided by the Eligible Borrower's Account, the balance of the loan will become due and payable immediately before such a distribution occurs, and the Administrator will order the Trustee to retain so much of the distribution as is necessary to offset the balance of the loan. If the amount of a distribution is not sufficient to repay the unpaid balance of the loan, the Eligible Borrower, the Eligible

Borrower's beneficiary, or the Eligible Borrower's personal representative will remain liable for and will make arrangements with the Administrator to repay the balance of the loan remaining after the offset of the distribution.

6.4 **TERM OF LOAN**. Loans must be repayable within five (5) years for a general-purpose loan, and within fifteen (15) years in the case of any loan used to acquire any dwelling unit which is to be used as a principal residence of the Eligible Borrower.

6.5 **RATE OF INTEREST AND AMORTIZATION**. All loans to Eligible Borrowers will bear interest at the lending rate determined in accordance with the loan policy adopted by the Administrator. Interest will be charged on only so much of the loan amount as has been disbursed to the Eligible Borrower in accordance with this Article 6. All loans will be amortized on a substantially level basis, in accordance with the amount of the loan that has been disbursed, taking into consideration both principal and interest over the term of the loan, with payments at such times as the Administrator will determine but not less frequently than quarterly. Failure to make payments of principal and interest when due will be included as an event of default with respect to the loan.

6.6 **SPECIAL ALLOCATION OF LOANS**. All loans to an Eligible Borrower and the income or loss accruing with respect to such loans will be specifically allocated to the account of the Eligible Borrower requesting the loan.

6.7 **ELIGIBLE BORROWER**. For purposes of this Article 6, ***Eligible Borrower*** means a Participant who is an Employee and who is currently employed by the Participating Employer at the time the request for a loan is made.

* * * * ***End of Article 6*** * * * *

ARTICLE 7.
DISTRIBUTIONS

7.1 BENEFIT DISTRIBUTIONS AT RETIREMENT OR OTHER SEVERANCE FROM EMPLOYMENT. Upon retirement or other Severance from Employment, a Participant is entitled to receive a distribution of his or her Account under any form of distribution permitted under Section 7.3 commencing at the date elected under Section 7.2.

7.2 ELECTION OF BENEFIT COMMENCEMENT DATE. A Participant who is entitled to a distribution in accordance with Section 7.1, Section 7.6(a) or Section 7.6(b) may elect to commence distribution of his or her Account at any time by a notice filed at least thirty (30) days before the date on which benefits are to commence (subject to the waiver described in Section 7.3(b)(2)). However, in no event may distribution of benefits commence later than the date described in Section 7.87.3(b).

7.3 FORMS OF DISTRIBUTION.

(a) ***General Rules***. When a Participant's interest becomes distributable, such Participant will elect the manner of distribution of his or her Account. Distribution may be made in one or more of the following methods:

(1) *Single Lump Sum Distribution*. The Participant's Account may be paid to such Participant (or his or her Beneficiary after the Participant's death or presumed death), in a single lump sum payment.

(2) *Partial Nonperiodic Distributions*. A Participant (or his or her Beneficiary after the Participant's death or presumed death) may elect to have a portion of the total Account of a Participant distributed in a nonperiodic payment. The Participant (or his or her Beneficiary after the Participant's death or presumed death), must provide the Administrator written notice (or other acceptable form, for example, an on-line election) prior to the partial nonperiodic distribution.

(3) *Partial Periodic Distributions*. A Participant (or his or her Beneficiary after the Participant's death or presumed death) may elect to have the total Account of a Participant distributed in a periodic payment, such as annuity or installment payments. The Participant (or his or her Beneficiary after the Participant's death or presumed death), must provide the Administrator written notice (other acceptable form, for example, an on-line election) prior to the partial periodic distributions.

(b) ***Eligible Rollover Distribution***. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section 7.3(b), a Distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

(1) *Definitions*. For purposes of this Section 7.3(b), the following definitions apply:

(A) *Eligible Rollover Distribution*. "Eligible Rollover Distribution" means any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: 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; any distribution to the extent such distribution is required under Code Section 401(a)(9); or the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities). A portion of a distribution will not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income; however, such portion may be transferred only to an individual retirement account or annuity described in Code Section 408(a) or (b), or to a qualified defined contribution plan described in Code Section 401(a), 403(a) or 403(b) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(B) *Eligible Retirement Plan*. "Eligible Retirement Plan" means an individual retirement account described in Code Section 408(a) (or, effective January 1, 2008, an account described in Code Section 408(A)(b)), an individual retirement annuity described in Code Section 408(b), or a qualified retirement plan described in Code Section 401(a) or 403(a), that accepts the Distributee's Eligible Rollover Distribution. However, in the case of an Eligible Rollover Distribution to the surviving Spouse or other Beneficiary, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity. An eligible retirement plan will also mean an annuity contract described in Code Section 403(b) and 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. The definition of eligible retirement plan will 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 domestic relations order as described in C.R.S. Section 24-54-111.

(C) *Distributee*. A "Distributee" includes a Participant. The Participant's surviving Spouse and the Participant's Spouse or former Spouse who is the alternate payee pursuant to a domestic relations order, are Distributees with regard to the interest of the Spouse or former

Spouse. In addition, the Participant's Beneficiary is a Distributee for purposes of this Section 7.3(b).

(D) *Direct Rollover*. "Direct Rollover" means a payment by the Plan to the eligible retirement plan specified by the Distributee.

(2) *Waiver of Thirty (30) Day Notice*. At least thirty (30) and not more than one-hundred eighty (180) days (ninety (90) days for Plan Years prior to January 1, 2007) before the date of an Eligible Rollover Distribution, the Participant must be provided with a notice of rights which satisfies Code Section 402(f) as to rollover options and tax effects. Such distribution may commence less than thirty (30) days after the notice is given, provided that (i) the Administrator clearly informs the Distributee that he or she has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution; and (ii) the Distributee, after receiving the notice, affirmatively elects a distribution.

(3) *Manner of Election*. To elect a direct transfer to an Eligible Retirement Plan, the Participant must make an election in writing (or in a manner acceptable to the Trustee, for example, using an on-line form) and must identify thereon the Eligible Retirement Plan that is to receive the transfer prior to the Trustee effecting a transfer under this Section 7.3(b).

(4) *Manner of Transfer*. The Trustee, in its sole discretion, may accomplish a Direct Rollover by any reasonable means including a wire transfer to the trustee of the Eligible Retirement Plan receiving the transfer, mailing a check directly to the trustee of the Eligible Retirement Plan to receive the transfer, or giving a check to the Participant made payable to the trustee of the Eligible Retirement Plan to receive the transfer, along with instructions to the Participant to deliver the check to such trustee.

(5) *Transfer Fees*. The Governing Board may, in its sole discretion, set a reasonable transfer fee for each Direct Rollover, which fee is intended to offset the Plan's direct and indirect expenses incurred as a result of the transfer, and may be allocated to the Account of each Participant making a Direct Rollover prior to the time the Direct Rollover is accomplished.

(c) ***Withholding of Federal Income Tax***. The Trustee is hereby authorized within its sole discretion, to withhold from the distribution to any Participant, or the Participant's Beneficiary or Beneficiaries, or their estates, such sums as the Trustee may reasonably estimate as necessary to cover the Federal or State taxes which are, or may be assessed by reason of their interest in the Trust Fund, and the Trustee may pay such taxes, if any, which it deems proper and charge the amount thereof to the Account of such Participant, or the Participant's Beneficiary or Beneficiaries, or their estates. Upon discharge or settlement of such tax liability, the Trustee will pay any balance of the sum so withheld to the person or persons entitled thereto. The Trustee may also, prior to making any distribution hereunder, require any Participant, Beneficiary or Beneficiaries, or their estates, to provide such indemnity as the Trustee deems proper and/or such release or other document from any taxing authority.

7.4 **<u>Revocation of Prior Election</u>**. Any election made under this <u>Article 7</u> may be revoked at any time prior to commencement of payment.

7.5 **<u>Unforeseeable Emergency Distribution</u>**. In the event of a Participant's Unforeseeable Emergency, the Administrator may make a distribution to a Participant, even if such Participant has not had a Severance from Employment or has not attained his or her Required Beginning Date. In the event of an Unforeseeable Emergency, the Administrator also may accelerate payments to a Participant or to a Beneficiary. The Administrator will not pay the Participant or the Beneficiary more than the amount reasonably necessary to satisfy the emergency need, which may include amounts necessary to pay taxes or penalties on the distribution. The Administrator will not make payment to the extent the Participant or Beneficiary may relieve the financial hardship by cessation of deferrals under the Plan, through insurance or other reimbursement, or by liquidation of the individual's assets to the extent such liquidation would not cause severe financial hardship.

7.6 **<u>In-Service Distributions</u>**.

(a) ***Rollover Contributions***. If a Participant has made Rollover Contributions, the Participant may at any time elect to receive a distribution of all or any portion of the Rollover Contributions under any form of distribution permitted under <u>Section 7.3</u> commencing at the date elected under <u>Section 7.2</u>.

(b) ***Attainment of Age Seventy-Two (72)***. If a Participant has attained age seventy-two (72) (prior to January 1, 2020, age seventy and one-half (70½)), he or she is entitled to receive a distribution of all or any portion of his or her Account under any form of distribution permitted under <u>Section 7.3</u> commencing at the date elected under <u>Section 7.2</u>.

(c) ***Certain Account Balances of $5,000 or Less***. As permitted by Code Section 457(e)(9)(A), at the direction of the Participant, the Administrator may distribute the Participant's total Account in a lump sum as soon as practical following such direction if (a) the total Account excluding Rollover Contributions does not exceed $5,000, (b) the Participant has not previously received a distribution of the total amount payable to the Participant under this <u>Section 7.6(c)</u> and (c) no Annual Deferral has been made with respect to the Participant during the two (2)-year period ending immediately before the date of the distribution.

7.7 **<u>Account Balances of $1,000 or Less</u>**. Notwithstanding any other provision of this <u>Article 7</u>, if upon the Participant's Severance from Service, his or her Account does not exceed $1,000, the Administrator may, in its sole discretion, direct the distribution of his or her Account in a lump sum payment in cash.

7.8 **<u>Distributions No Later Than Required Beginning Date</u>**. Notwithstanding any provision to the contrary, in no event will distribution of benefits commence with respect to the Participant later than the April 1st of the calendar year following the later of the calendar year in which the Participant attains his or her Required Beginning Date, or the calendar year in which the Participant retires or otherwise has a Severance from Employment.

7.9 **<u>Minimum Distribution Requirements</u>**.

(a) ***General Rules.*** All distributions required under this Section 7.9, will be determined and made in accordance with the final Regulations under Code Section 401(a)(9), including the minimum incidental death benefit requirement of Code Section 401(a)(9)(G) and the related regulations (Regulation Section 1.401(a)(9)-2). Notwithstanding the other provisions of this Section 7.9, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to TEFRA Section 242(b)(2).

(b) ***Forms of Distribution.*** Unless the Participant's interest is distributed in a single lump sum distribution on or before the Required Beginning Date, as of the first Distribution Calendar Year, distributions will be made in accordance with Section 7.9(b) and Section 7.9(c)(4).

(c) ***Distributions Beginning During Participant's Lifetime.***

(1) *Commencement of Distributions*. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.

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

(A) the quotient obtained by dividing the Participant's Account Balance by the distribution period in the Uniform Lifetime Table set forth in Treasury Regulations Section 1.401(a)(9)-9, using the Participant's age as of the Participant's birthday in the Distribution Calendar Year; or

(B) if the Participant's sole Beneficiary for the Distribution Calendar Year is the Participant's Spouse, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in Treasury Regulations Section 1.401(a)(9) 9, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the Distribution Calendar Year.

(3) *Amount of Distributions in Year of Participant's Death*. Required minimum distributions will be determined under Section 7.9(c)(2) beginning with the first Distribution Calendar Year and up to and including the Distribution Calendar Year that includes the Participant's date of death or presumed death.

(4) *Amount of Distributions Continuing After Participant's Death or Presumed Death*. The provisions of this Section 7.9(c)(4) apply to a Participant who dies or is presumed deceased prior to January 1, 2022. For a Participant whose death or presumed death is on or after January 1, 2022, Code Section 401(a)(9)(H) will apply. Prior to January 1, 2020, if the Participant dies or is presumed deceased on or after the date distributions begin, the

remaining Account Balance will be distributed at least as rapidly as under the method in use on the date of the Participant's death or presumed death.

(A) *Participant Survived by Designated Beneficiary*. If the Participant dies or is presumed deceased on or after the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death or presumed death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining Life Expectancy of the Participant or the remaining Life Expectancy of the Participant's Beneficiary, determined as follows:

(i) The Participant's remaining Life Expectancy is calculated using the age of the Participant in the year of death or presumed death, reduced by one for each subsequent year.

(ii) If the Participant's Spouse is the Participant's sole Beneficiary, the remaining Life Expectancy of the Spouse is calculated for each Distribution Calendar Year after the year of the Participant's death or presumed death using the Spouse's age as of the Spouse's birthday in that year. For Distribution Calendar Years after the year of the Spouse's death or presumed death, the remaining Life Expectancy of the Spouse is calculated using the age of the Spouse as of the Spouse's birthday in the calendar year of the Spouse's death or presumed death, reduced by one for each subsequent calendar year.

(iii) If the Participant's Spouse is not the Participant's sole Beneficiary, the Beneficiary's remaining Life Expectancy is calculated using the age of the Beneficiary in the year following the year of the Participant's death or presumed death, reduced by one for each subsequent year.

(B) *No Designated Beneficiary*. If the Participant dies or is presumed deceased on or after the date distributions begin and there is no Designated Beneficiary as of September 30 of the year after the year of the Participant's death or presumed death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth (5th) anniversary of the Participant's death

(d) ***Distributions Beginning After Participant's Death or Presumed Death***.

(1) <u>Commencement of Distributions: Death Before Distributions Begin</u>. The provisions of this <u>Section 7.9(d)(1)</u> apply to a Participant who dies or is presumed deceased prior to January 1, 2022. For a Participant whose death or presumed death is on or after January 1, 2022, Code Section 401(a)(9)(H) will apply. Prior to January 1, 2022, if the Participant dies or is presumed

deceased before distributions begin, the Participant's entire Account will be distributed, or begin to be distributed, no later than as follows:

(A) *Spouse is Sole Beneficiary.* If the Participant's Spouse is the Participant's sole Beneficiary, distributions to the Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died or is presumed deceased, or by December 31 of the calendar year in which the Participant would have attained age seventy and one-half (70½), if later. A Participant's Spouse may qualify as the sole Beneficiary if the separate accounting requirements described under Treasury Regulations Section 1.401(a)(9)-8, Q&A-2, and related guidance, are met.

(B) *Spouse is Not Sole Beneficiary.* If the Participant's Spouse is not the Participant's sole Beneficiary, distributions to the non-Spouse Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died or is presumed deceased.

(C) *No Designated Beneficiary.* If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death or presumed death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth (5th) anniversary of the Participant's death

(D) *Spouse's Subsequent Death.* If the Participant's Spouse is the Participant's sole Beneficiary and the surviving Spouse dies or is presumed deceased after the Participant but before distributions to the Spouse begin, this Section 7.9(d) other than Section 7.9(d)(1)(A), will apply as if the surviving Spouse were the Participant.

For purposes of Section 7.9(d)(1) unless Section 7.9(d)(1)(D), applies, distributions are considered to begin on the Participant's Required Beginning Date. If Section 7.9(d)(1)(D) applies, distributions are considered to begin on the date distributions are required to begin to the Spouse under Section 7.9(d)(1)(A).

(2) *Amount of Distributions Beginning On or After Participant's Death or Presumed Death.*

(A) *All Distributions.* If the Participant dies or is presumed deceased before the date distributions begin, distributions will be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 7.9(d)(1), or by September 30 of the calendar year which contains the fifth (5th) anniversary of the Participant's (or, if applicable, Spouse's) death or presumed death, in the minimum amount for each Distribution Calendar Year after the year of the Participant's death or presumed death, determined by dividing the Participant's Account Balance by the remaining Life Expectancy of the Participant's Beneficiary, determined as provided in Section 7.9(c)(4).

(B) *Election by Beneficiary*. Notwithstanding any provision to the contrary, the Beneficiary may elect a distribution of the Participant's entire interest to be completed by December 31 of the calendar year containing the fifth (5th) anniversary of the Participant's death or presumed death.

(C) *Death or Presumed Death of Spouse Before Distributions to Spouse Are Required to Begin*. If the Participant dies or is presumed deceased before the date distributions begin, the Participant's Spouse is the Participant's sole Beneficiary, and the Spouse dies or is presumed deceased before distributions are required to begin to the Spouse under Section 7.9(d)(1)(A), this Section 7.9(d)(2)(C) will apply as if the Spouse were the Participant (except with respect to the making of the election available under Section 7.9(d)(1)(B)).

(e) ***Definitions***. For purposes of this Section 7.9, the following capitalized terms will have the specified meanings:

(1) *Designated Beneficiary*: the individual who is designated as the Beneficiary under Section 8.1 and is the designated beneficiary under Code Section 401(a)(9) and Regulations Section 1.401(a)(9)-1, Q&A 4.

(2) *Distribution Calendar Year*: a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death or presumed death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year that contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death or presumed death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under Section 7.9(d)(1). The required minimum distribution for the Participant's first Distribution Calendar Year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.

(3) *Life Expectancy*: life expectancy as computed by use of the Single Life Table in Regulations Section 1.401(a)(9)-9.

(4) *Participant's Account Balance*: the account balance as of the last Valuation Date in the calendar year immediately preceding the Distribution Calendar Year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Account balance as of dates in the valuation calendar year after the valuation date and decreased by

distributions made in the valuation calendar year after the valuation date. The Account Balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the Distribution Calendar Year if distributed or transferred in the valuation calendar year.

7.10 TAXATION OF DISTRIBUTION OF DESIGNATED ROTH DEFERRALS, CATCH-UP DESIGNATED ROTH DEFERRALS OR ROTH CONTRIBUTIONS. A Qualified Distribution of Designated Roth Deferrals, Catch-Up Designated Roth Deferrals or Roth Contributions is not included in the Participant's gross income when distributed. A distribution of Designated Roth Deferrals, Catch-Up Designated Roth Deferrals or Roth Contributions Roth Deferrals Account that is not a Qualified Distribution is taxable to the Participant under Code Section 402 and the Regulations thereunder.

7.11 PERMISSIVE SERVICE CREDIT TRANSFERS.

(a) If a Participant is also a participant in a tax-qualified defined benefit governmental plan (as defined in Code Section 414(d)) that provides for the acceptance of plan-to-plan transfers with respect to the Participant, then the Participant may elect to have any portion of the Participant's Account as permitted under the Code transferred to the defined benefit governmental plan. A transfer under this Section 7.11 may be made before the Participant has had a Severance from Employment.

(b) A transfer may be made under Section 7.11(a) only if the transfer is either for the purchase of permissive service credit (as defined in Code Section 415(n)(3)(A)) under the receiving defined benefit governmental plan or a repayment to which Code Section 415 does not apply by reason of Code Section 415(k)(3).

7.12 PLAN-TO-PLAN TRANSFERS FROM THE PLAN.

(a) ***Transfer following Severance from Employment.*** A Participant or Beneficiary may elect to have all or any portion of his or her Account transferred to another eligible governmental plan within the meaning of Code Section 457(b) following a Severance from Employment.

(1) A transfer is permitted under this Section 7.12(a) for a Participant if the Participant has had a Severance from Employment with a Participating Employer and is an employee of the entity that maintains the other eligible governmental plan.

(2) A transfer is permitted under this Section 7.12(a) only if the other eligible governmental plan provides for the acceptance of plan-to-plan transfers with respect to a Participant or Beneficiary, and the Participant and Beneficiary whose amounts deferred are being transferred will have an amount deferred immediately after the transfer at least equal to the amount deferred with respect to the Participant or Beneficiary immediately before the transfer.

(b) ***Transfer without Severance from Employment among eligible plans of same Participating Employer.*** A Participant or Beneficiary may elect to have all or any portion of his or her Account transferred to another eligible governmental plan of the same Participating Employer within the meaning of Code Section 457(b).

(1) A transfer is permitted under this Section 7.12(b) if the transfer is to another eligible governmental plan of the Participant's Participating Employer.

(2) A transfer is permitted under this Section 7.12(b) only if the other eligible governmental plan provides for the acceptance of plan-to-plan transfers with respect to a Participant or Beneficiary, and for each Participant and Beneficiary whose amounts deferred are being transferred will have an amount deferred immediately after the transfer at least equal to the amount transferred.

(3) A transfer is permitted under this Section 7.12(b) only if the Participant or Beneficiary whose deferred amounts are being transferred is not eligible for additional annual deferrals in the receiving plan unless the Participant or Beneficiary is performing services for the entity maintaining the receiving plan.

Upon the transfer of assets under this Section 7.12, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred for the Participant or Beneficiary. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 7.12 (for example, to confirm that the receiving plan is an eligible governmental plan, and to assure that the transfer is permitted under the receiving plan).

7.13 NON-ALIENATION OF BENEFITS. Except as provided in Section 7.14 or as otherwise required for income tax withholding or by law, neither the Trust nor any of its assets, nor any interest herein nor benefits payable under this Plan will be subject to any conveyance, transfer, assignment, sequestration, garnishment, attachment, levy, encumbrance, or levy of any kind, either voluntary or involuntary, or other judicial process or order of any kind to satisfy the claims of any creditors (whether bankruptcy creditors or otherwise), and the Trustee will not give any effect to any such order or arrangement. The interests of Participants and their Beneficiaries under the Plan and Trust are not subject to the claims of any creditors and are not liable for their debts, contracts or torts. Participants and their Beneficiaries may not in any way transfer, assign, alienate, pledge, encumber, charge or otherwise dispose of their interests in the Plan in law or in equity, and any such transfer, assignment, alienation, pledge, encumbrance, charge or other disposal will be void.

7.14 DOMESTIC RELATIONS ORDERS. Notwithstanding Section 7.13, if a judgment, decree or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a Spouse or former Spouse, child, or other dependent of a Participant is made pursuant to the domestic relations law of any State ("domestic relations order"), then the amount of the Participant's Account will be paid in the manner and to the person or persons so directed in the domestic relations order. Such payment will be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Administrator will establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order and has full and complete discretion to determine whether a domestic relations order entitles an alternate payee to payment from the Plan. In the event the domestic relations order does not designate whether the payment should be made from the Participant's Pre-Tax Deferrals or Designated Roth Deferrals, the Administrator will distribute amounts from the Participant's Account pro-rata to the extent available.

7.15 PAYMENTS TO MINORS AND OTHERS.

(a) ***Payments to Minors***. In the event a Beneficiary is a minor, the Trustee may pay that amount to (i) either one or both of the natural or adoptive parent or parents of such minor person, or (ii) to the legal guardian of such minor person, provided that such payments are made to such persons under the applicable statue Uniform Gifts to Minors Act or Uniform Transfer to Minors Act, as a custodian. Alternatively, the Trustee may, in its sole discretion, pay the amount to a trust which has been established for the benefit of the minor.

(b) ***Payments to Persons Legally Incompetent***. In the event a Participant or a Participant's Beneficiary is declared incompetent and a conservator, or other person legally charged with the care of the person or his or her or estate is appointed, any benefits to which the Participant or other Beneficiary is entitled will be paid to the conservator or person legally charged with the care of the incompetent person or his or her estate.

(c) ***Trustee Liability***. The Trustee is not required to see the application of any such distributions made under this Section 7.15 to any of the persons listed in this Section 7.15, but such person's receipt thereof will be a full discharge of the Trustee.

7.16 ACCOUNT OF PERSONS WHO CANNOT BE LOCATED.

(a) ***Notice of Current Mailing Address***. Each Participant and Beneficiary must inform the Plan's record-keeper from time to time of his or her post office address and each change of post office address. Any communication, statement, or notice addressed to a Participant or Beneficiary at his or her last post office address on file with the Plan's record-keeper or if no address is filed with the Plan's record-keeper, then at the last post office address as shown on the Participating Employer's records, will be binding on the Participant and his or her or Beneficiary for all purposes.

(b) ***Missing Persons***. An individual for whom benefits are being held by the Trustee will keep the Association notified of his or her current mailing address. The Association, the Trustee and the Employer will be discharged from any liability resulting from the failure to pay benefits as they become due if the Association has notified the individual at his or her last address of record. If benefits are to be paid to an individual who cannot be located, the Association may rely on its third-party record-keeper to take reasonable and appropriate actions to locate the individual, in addition to any other actions the Association may deem reasonable, at its discretion.

* * * * ***End of Article 7*** * * * *

ARTICLE 8.
DESIGNATION OF BENEFICIARIES

8.1 DESIGNATION OF BENEFICIARY BY PARTICIPANT.

(a) ***General***. A Participant may designate a Beneficiary or Beneficiaries and one or more contingent or successive Beneficiaries to receive such Participant's Account upon such Participant's death or presumed death. The designation must be in such form as the Administrator requires and filed with the Administrator.

(b) ***Change of Designated Beneficiary***. The Beneficiary or Beneficiaries (including contingent or successive Beneficiaries) designated by a Participant may be changed at any time and from time to time, at the election of the Participant but only by his or her filing a new designation with the Administrator revoking all prior designations in such form as the Administrator requires, or, in accordance with reasonable procedures established by the Administrator. A change in the Beneficiary designation will take effect when the election is accepted by the Administrator.

(c) ***Distribution to Beneficiaries***. In the event of a Participant's death or presumed death, payment of such deceased Participant's Account will be made directly to the Beneficiary or Beneficiaries named in the most recent designation which has been properly completed and filed with the Administrator by such Participant.

(d) ***Disclaimer***. Any Beneficiary of the Participant may disclaim all or any portion of the interest of that Beneficiary by a written disclaimer (or other manner acceptable to the Plan Administrator, for example, using an on-line form)) filed with the Administrator. In the event of a disclaimer, the Beneficiary of the disclaimed interest will be the next contingent Beneficiary and if there is none, the Beneficiary as determined under Section 8.2.

8.2 DETERMINATION OF BENEFICIARY WHEN NO DESIGNATED BENEFICIARY EXISTS. If a Participant does not properly designate a Beneficiary, or has revoked all such designations, or if his or her designated Beneficiary or Beneficiaries (including contingent Beneficiaries) disclaim any interest in the Participant's Account or predecease the Participant (or are presumed deceased), or, having survived the Participant die or are presumed deceased prior to the final and complete distribution of such deceased or presumed deceased Participant's Account, such Participant's remaining interest will be paid to:

(a) the surviving Spouse of the deceased or presumed deceased Participant if, within a reasonable time (as determined by the Governing Board) after such distribution becomes payable, the Governing Board receives knowledge that the Spouse of the deceased or presumed deceased Participant is then living; or

(b) if no Spouse of such deceased Participant is then living, or the Governing Board receives no knowledge within a reasonable time that the Spouse of the deceased or presumed deceased Participant is then living, such share will be paid, in order of priority, (i) the Participant's issue, by representation; (ii) the Participant's surviving parents, in equal shares; and (iii) the Participant's estate or a trustee of a trust named as the beneficiary of the residue of the Participant's estate as beneficiary. Persons who are legally adopted are treated for all purposes as the children of their adoptive parents. The Governing Board's determination of the persons who qualify as Beneficiaries under this Plan is binding on all interested parties. Any payment made by the Trustee in accordance with this Section 8.2 will fully acquit and discharge the Trustee from all further liability on account thereof.

* * * * ***End of Article 8*** * * * *

ARTICLE 9.
POWERS AND DUTIES OF THE TRUSTEE

9.1 <u>APPOINTMENT AND ACCEPTANCE</u>. The Governing Board will appoint a Trustee, which may be the Governing Board. The Trustee will accept the Trust created under the Plan and agree to perform the obligations imposed by the Trust. All right, title, and interest in and to the Trust Fund is at all times vested exclusively in the Trustee. If more than two Trustees are appointed by the Governing Board, the decision of a majority of the Trustees will control with respect to any decision regarding the administration or investment of the Trust Fund.

9.2 <u>GENERAL</u>. The Trustee will receive, hold, invest, administer, and distribute the Trust Fund as provided in this Plan and as directed by the Governing Board. Furthermore, subject to the provisions of this Plan, the Trustee is authorized and empowered:

(a) to acquire, hold, manage, improve, repair and control all property, real or personal, at any time forming part of the Trust Fund;

(b) to sell, convey, transfer, exchange, partition, lease such property for any term, even extending beyond the duration of this Trust, and otherwise dispose of the same from time to time in such manner, for such consideration and upon such terms and conditions as the Trustee, in its discretion, determines;

(c) to settle, compromise or abandon all claims and demands in favor of or against the Trust Fund, but only after obtaining prior approval of the Governing Board;

(d) to vote any corporate stock either in person or by proxy for any purpose;

(e) to exercise any conversion privilege or subscription right given to the Trustee as the owner of any security forming part of the Trust Fund;

(f) to consent to, take any action in connection with, and receive and retain any securities resulting from any reorganization, consolidation, merger, readjustment of the financial structure or sale of the assets of any corporation or other organization, the securities of which may constitute a portion of the Trust Fund;

(g) to cause any securities or other property which may at any time form a part of the Trust Fund to be issued, held or registered in the individual name of the Trustee, or in the name of a nominee, or in such form that title will pass by delivery, provided the records of the Trustees will indicate the ownership of such securities; and

(h) in addition to the enumerated powers herein, to do all other acts in its judgment necessary or desirable for the proper administration of the Trust Fund.

9.3 <u>OBLIGATION OF TRUSTEE AND RELIANCE ON NOTIFICATION</u>.

(a) ***General***. The Trustee is under no obligation whatsoever to enforce payment of, or collection of, contributions hereunder or to determine whether contributions delivered hereunder comply with the provisions hereof relating to contributions, and is in no way responsible for the adequacy of the Trust Fund to meet and discharge any liabilities, the Trustee being obligated only to receive and administer the same pursuant to the terms hereof. The Trustee is responsible only for such sums as actually received by it as Trustee.

(b) ***Reliance on Notification***. The Trustee is hereby authorized to act solely upon the basis of notifications and directions from the Governing Board or from the Participating Employer and to rely upon any document or signature believed to be genuine and is fully protected in doing so. Without limiting the generality of the forgoing, if at any time the Trustee is in doubt concerning any action which it should take in connection with the administration of the Trust, it may request the Participating Employer or Governing Board to advise it with respect thereto and is protected in relying upon such advice or direction. For purposes of this Section 9.3(b), a letter or other written documents signed in the name of the Participating Employer or official representative thereof, or in the name of the Governing Board by a member of the Governing Board or the Executive Director will constitute a notification or direction therefrom respectively.

9.4 **LEGAL PROCEEDINGS BY OR AGAINST TRUSTEE**. The Trustee may, with the prior approval of the Governing Board, institute and defend any proceeding at law or in equity concerning the Trust Fund or the assets thereof, and may compromise, settle or adjust any claims or liabilities asserted by or against the Trust Fund or the Trustee, provided, however, that the Trustee is under no duty or obligation to take such action unless it is indemnified to its satisfaction against all expenses and liabilities which it may sustain or anticipate by reason thereof. To the extent not otherwise reimbursed, the Trustee will charge any reasonable costs and attorney's fees incident to any such proceeding to the Trust Fund. However, if any Participant or his or her Beneficiary brings legal action against the Trust or the Trustee, the result of which is adverse to the party bringing the action, or if any dispute arises as to the person or persons entitled to distributions hereunder, the cost of participating in such action or dispute, including without limitation attorney's fees, will be charged to such extent as is possible directly to the Account of the Participant or his or her Beneficiary or estate, and only the excess, if any, not otherwise reimbursed will be included in the expenses of the Trust Fund.

9.5 **EXPENSES OF TRUST FUND; COMPENSATION OF TRUSTEE**. The Trustee will, as agreed upon from time to time by the Governing Board and the Trustee, have the power to pay from the Trust Fund all reasonable and necessary expenses, taxes, and charges, including fees for attorneys, accountants, custodians or agents, incurred in connection with the administration or operation of the Trust Fund, including its reasonable compensation.

9.6 **THIRD PERSONS DEALING WITH TRUSTEE**. No person, firm or corporation dealing with the Trustee is obliged to see to the application of any money or property paid or delivered to the Trustee. Any insurance company issuing a contract to the Trustee is under no obligation to inquire into the application or payment of principal and interest of a loan on the security of any such contract, or as to whether such application or payment is in accordance with the terms of this Plan. Any such insurance company will be relieved of all further responsibility or obligation of any nature with respect to any contract upon making payment of the proceeds thereof to the Trustee or to such other person or persons as the Trustee may designate.

9.7 **BINDING EFFECT OF ACTION BY TRUSTEE**. Exercise by the Trustee of any discretion vested in it expressly or by implication pursuant to the Plan will be conclusive and binding upon all parties directly or indirectly affected, without restriction on the right of the Trustee to reconsider and redetermine such action.

9.8 TRUSTEE'S RELIANCE UPON COUNSEL AND ACCOUNTANTS. The Trustee may from time to time consult with counsel and/or accountants (who may be counsel or accountants for the Participating Employer or an Association Member with appropriate notice and if applicable, waivers) in respect of any of its duties or obligations hereunder and the opinion of such counsel with respect to legal matters or of such accountants with respect to accounting matters will be full and complete authorization and protection, if referred to the Governing Board for prior approval, in respect of any action taken or suffered by the Trustee in good faith and in accordance therewith.

9.9 BOND NOT REQUIRED. The Trustee is not required to give bond for the faithful performance of its duties hereunder.

9.10 LIABILITY OF TRUSTEE. The Trustee will not incur any liability of any nature in connection with any act done or omitted to be done in good faith in the administration of the Trust Fund, and the Trustee is indemnified and saved harmless by the Trust Fund from and against any and all liability to which it may be subjected by reason of any such act or conduct done in good faith, including all expenses reasonably incurred in its defense in case the Participating Employer or Association fails to provide such defense.

9.11 FAILURE OF PARTICIPATING EMPLOYER TO ACT. If at any time the Participating Employer fails to carry out in a timely manner any responsibility assigned to it by the Plan, or by law with respect to the Plan, the Trustee in its sole discretion may carry out such responsibility as though it were the Participating Employer or may apply to a court of competent jurisdiction for appropriate instructions, or may otherwise act or refrain from acting as it, in its sole discretion, deems appropriate. The Trustee is not responsible to the Participating Employer, Participants, or Governing Board for any action it takes under this Section 9.11.

9.12 RESIGNATION OF TRUSTEE. The Trustee may resign at any time upon giving thirty (30) days prior written notice to the Governing Board. Upon removal or resignation by the Trustee, the Governing Board will appoint and designate a successor Trustee.

9.13 REMOVAL OF TRUSTEE. The Governing Board may remove the Trustee at any time by giving at least thirty (30) days prior written notice to such Trustee. Participating Employers have no authority to, and are prohibited from, removing the Trustee.

9.14 APPOINTMENT OF SUCCESSOR TRUSTEE. The successor Trustee will execute an instrument in duplicate accepting a trusteeship hereunder and will file one copy with the Governing Board and the other copy with the retiring Trustee. The retiring Trustee, after reserving such reasonable amount or amounts as it may deem necessary to provide for the payment of any of its expenses then or thereafter due or payable and the amount of any compensation due and any sums then or thereafter chargeable against the Trust Fund for which it may be liable, will assign, transfer, and pay over to such successor Trustee the funds and properties then constituting the Trust Fund, together with any balance of the sum so reserved remaining after the payment of expenses, compensation, and charges. The successor Trustee will succeed to the title of the Trust Fund vested in its predecessor, and any resigning or removed Trustee will execute all documents and do all acts necessary to vest title in any successor Trustee of record. The successor Trustee will have and enjoy all of the rights, powers, and authorities, both discretionary and ministerial, herein conferred upon its predecessor. No successor Trustee is obliged to examine the accounts, records, and acts of any previous Trustee, and such successor Trustee in no way or manner is responsible for any action or omission to act on the part of any previous Trustee.

9.15 MERGER, CONSOLIDATION, ETC. Any corporation resulting from any merger or consolidation to which the Trustee may be a party or succeeding to the trust business of the Trustee will be the successor to the Trustee hereunder without any further act or formality with like effect as if such successor Trustee had originally been named Trustee herein.

9.16 CONTINUANCE OF TRUSTEE'S POWERS IN EVENT OF TERMINATION OF THE FUND. In the event of termination of this Trust and Plan as provided herein, the Trustee will dispose of the Trust Fund in accordance with the written directions of the Governing Board accompanied by the Governing Board's certification that such directions are in accordance with the terms hereof. Until the final distribution of the Trust Fund, the Trustee will continue to have all powers provided hereunder as necessary or expedient for the orderly liquidation and distribution of the Trust Fund. No part of the Trust Fund may be used for or diverted to purposes other than payment of expenses properly chargeable to the Trust Fund and payments of benefits to Participants and their Beneficiaries.

* * * * ***End of Article 9*** * * * *

ARTICLE 10.
ACCOUNTING

10.1 <u>ANNUAL WRITTEN ACCOUNT OF TRUSTEE</u>. As soon as practical following the close of each Plan Year, the Trustee will file with the Association a written account setting forth all transactions of the Trust Fund during the Plan Year or during the period from the close of the Plan Year to the date the written accounting. Such accounting will set forth a description of all contributions, distributions, and all receipts, disbursements and other transactions during said year, and list investment funds held in the Trust Fund and their fair market value as of the end of period covered by the account. The Administrator may, in its sole discretion, direct an independent third-party audit of the written account.

10.2 <u>APPROVAL OF TRUSTEE'S ACCOUNT</u>. The Association may approve the Trustee's account by written notice of approval delivered to the Trustee or by failure to express objection in writing delivered to the Trustee within ninety (90) days from the date upon which it was delivered to the Association.

10.3 <u>FINALITY OF APPROVAL; JUDICIAL PROCEEDING</u>. Upon the receipt of a written approval of the Trustee's account, or upon the passage of said period of time within which objections may be filed, without written objections having been delivered to the Trustee, such account will be deemed to be approved, and the Trustee will be released and discharged as to all items, matters and things set forth in such account as if such account had been settled and allowed by a decree of a court of competent jurisdiction in an action or proceeding in which the Trustee, the Association and all persons having or claiming to have any interest in the Trust Fund were parties. The Trustee, nevertheless, will have the right to have its accounts settled by judicial proceeding if it so elects, in which event only the Trustee and the Association will be necessary parties.

10.4 <u>ASSOCIATION ACCOUNTING AND RECORDS</u>. The Association will maintain or cause to be maintained all books and records pertaining to the Accounts of Participants and to the Trust Fund, except those maintained by the Trustee for the purpose of its accounting under <u>Section 10.1</u>, and will make or cause to be made all computations and allocations required hereunder which are not specifically required of the Trustee.

10.5 <u>PARTICIPANT'S ACCOUNT</u>. For each Participant, the Governing Board will maintain or cause the Plan's record-keeper to maintain the Participant's Account, which is maintained for accounting purposes only and a segregation of the assets of the Trust Fund to each Account is not required.

(a) Each Participant's Account may hold the following contributions:

(1) <u>*Employer Contributions;*</u>

(2) <u>*Pre-Tax Deferrals;*</u>

(3) <u>*Designated Roth Deferrals;*</u>

(4) <u>*Catch-Up Pre-Tax Deferrals;*</u>

(5) <u>*Catch-Up Designated Roth Deferrals*</u>;

(6) *Rollover Pre-Tax Deferrals*;

(7) *Roth Contributions*; and

(8) *Transfer Contributions*.

(b) ***Severance from Service.*** Upon a Participant's Severance from Service with the Participating Employer, the Participant's Account will remain in the Trust Fund until distributed in accordance with Article 7.

* * * * ***End of Article 10*** * * * *

ARTICLE 11.
AMENDMENT OR TERMINATION

11.1 AMENDMENTS BY THE ASSOCIATION.

(a) ***Amendments to Conform with Law.*** The Association, by and through the Governing Board, reserves the right to make by amendment, at any time, such changes in, additions to, and substitutions for the provision of the Plan, to take effect retroactively or otherwise as may be necessary or advisable for the purpose of conforming the Trust and Plan to Code Section 457(b), or to any other present or future Federal or State law relating to trusts and plans of this or similar nature, and to the administrative regulations promulgated thereunder.

(b) ***Other Amendments and Termination.*** The Association, by and through the Governing Board, also reserves the right to amend the Plan at any time and from time to time in any manner which it deems desirable including, but not by way of limitation, the right to increase or diminish contributions to be made hereunder, to terminate permanently the agreement and obligation to make contributions hereunder, to change or modify the method of allocation of contributions, to change any provision relating to the administration of the Trust or Plan, and to change any provision relating to the distribution or payment, or both, of any of the assets of the Trust.

(c) ***Form of Amendment.*** Any amendment to the Plan or Trust made by the Association must be made by an instrument in writing, signed by a duly authorized officer or officers of the Association certifying that said amendment has been authorized and filed with the Governing Board and the Trustee.

11.2 AMENDMENTS BY THE PARTICIPATING EMPLOYER.

(a) ***General.*** The Participating Employer may at any time change a choice of an option elected in the applicable Participation Agreement, provided it provides the Governing Board written notice of such amendment thirty (30) days prior to the effective date of such amendment. In accordance with Section 12.2, the Participating Employer is not permitted to amend the Plan for any reason. Notwithstanding the forgoing, the Participating Employer retains the right to withdraw from the Plan upon obtaining the Governing Board's written consent and provided the Participating Employer complies with withdrawal procedures as described in Section 12.4.

(b) ***Adoption of Amendments Made by the Association.*** By entering into a Participation Agreement with the Association, each Participating Employer grants to the Association the right to amend the Plan at any time without the consent of such Participating Employers. Subject to such Participating Employer's right to withdraw from the Plan, the Participating Employer has no power or obligation to amend or consent to any amendment made by the Association, and agrees to be bound by all the provisions, conditions, and limitations of the Plan, as amended from time to time, as fully as if the Participating Employer was an original party to the Plan.

11.3 <u>**LIMITATIONS ON AMENDMENTS**</u>. All amendments made by either the Association pursuant to the provisions of <u>Section 11.1</u> or the Participating Employer pursuant to the provisions of <u>Section 11.2</u> are subject to and limited by the following restrictions and limitations:

(a) No amendment will operate either directly or indirectly to give the Participating Employer, the Association or any Association Member, any interest whatsoever in any funds or property held by the Trustee under the terms hereof, or to permit corpus or income of the Trust to be used for or diverted to purposes other than the exclusive benefit of Employees of the Participating Employer and the Beneficiaries of such persons.

(b) Except to the extent necessary to produce conformity to the laws and regulations described in <u>Section 11.1(a)</u>, no amendment will operate either directly or indirectly to deprive any Participant of his or her beneficial interest in his or her separate Trust Account as it is constituted at the time of the amendment.

(c) No amendment may enlarge the duties or responsibilities of the Trustee without its consent thereto.

11.4 <u>**TERMINATION OF PLAN**</u>. If, after a termination of the Plan, the Governing Board determines it impractical to continue the Trust, the Governing Board may, in its discretion, declare the next succeeding June 30 or December 31 to be the Termination Date for all Participants for the purposes of the Plan and will certify said determination to the Trustee. The Trustee will thereupon, as promptly as will then be reasonable under the circumstances, liquidate the Trust assets and distribute to each Participant his or her Account. For this purpose, the final liquidation date will constitute the Termination Date for Participants and the final distribution date for each Participant whose share is being distributed in installments. Upon completion of liquidation and distribution of the Trust assets, the Trust will finally and completely terminate.

11.5 <u>**MERGER, CONSOLIDATION OR TRANSFER OF TRUST ASSETS**</u>. The Participating Employer is prohibited from merging or consolidating the Plan with any other qualified retirement plan and may not transfer the assets and liabilities of the Plan to another plan without the prior written consent and approval of the Governing Board as described in <u>Section 12.4</u>. Notwithstanding the forgoing, no merger, consolidation or transfer is permitted unless each Participant in the Plan would (if the Plan then terminated) receive a benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he or she would have been entitled to receive immediately before the merger, consolidation or transfer (if the Plan had been terminated), as determined, in its sole discretion.

11.6 <u>**CONTRACTUAL OBLIGATION OF PARTICIPATING EMPLOYER**</u>. It is the expectation of the Association that it will continue this Plan indefinitely, but the continuance of the Plan is not assumed as a contractual obligation of the Association and each Participating Employer and the Association reserves the right to discontinue this Plan at any time. The discontinuance of this Plan by the Association will in no event have the effect of reverting any part of the Trust Fund to the Participating Employer.

*** * * * *End of Article 11* * * * ***

ARTICLE 12.
PARTICIPATING EMPLOYERS

12.1 **Method of Adoption**. Any County, or Municipality, or Political Subdivision may, with the consent of the Association, become an Association Member and adopt this Plan by executing the applicable Participation Agreement. Thereafter such County, Municipality, or Political Subdivision will promptly deliver to the Trustee and the Governing Board a certified copy of the applicable Participation Agreement evidencing its adoption of this Plan. If the Participation Agreement is accepted by Governing Board, it must be executed on behalf of the Association by its duly authorized representative.

12.2 **Rights of Participating Employer**. Any provision in this Plan to the contrary notwithstanding, any entity which adopts this Plan by execution of a Participation Agreement, participates in the Plan as a Participating Employer effective as of the date of such adoption and as modified from time to time, with such participation conditioned on the timely payment by the Participating Employer of its Participant Annual Deferrals and Employer Contributions under the Plan (if any). The Participating Employer has no power or obligation to amend the Plan or consent to any amendment made by the Association, and agrees to be bound by all the provisions, conditions, and limitations of the Plan, as amended from time to time, as fully as if the Participating Employer was an original party to the Plan. For the purpose of this Plan, each Participating Employer, by adopting the Plan, irrevocably designates the Association as its agent.

12.3 **Participating Employer's Contribution**.

(a) All contributions made by a Participating Employer, as provided for in this Plan, will be determined separately by each Participating Employer in accordance with the Participating Employer's Employer 457 Contribution Policy. Employer Contributions will be allocated only among the eligible Participants of the Participating Employer making the contribution. On the basis of the information furnished by the Participating Employer, the Trustee will retain separate books and records concerning each Participating Employer hereunder and as to the Accounts of the Employees of each Participating Employer.

(b) The Employer 457 Contributions Policy must be written to comply with all requirements of the Code, must be administered by the Participating Employer to follow its terms in operation, and should be reviewed by the Participating Employer annually to make sure it is operating according to its terms and the law. The Administration has no obligation whatsoever to review an Employer 457 Contributions Policy or ensure that the Participating Employer is operating such Employer 457 Contributions Policy in accordance its terms or with this Section 12.3.

12.4 **Withdrawal and Removal**. A Participating Employer, by action of its governing body, may withdraw from the Plan at any time by initiating withdrawal by filing with the Administrator a resolution adopted by a Participating Employer no less than ninety (90) days prior to the effective date of the withdrawal, unless a shorter period is approved by the Governing Board (the effective date of such withdrawal being the "withdrawal date"), and will thereupon cease to be a Participating Employer for all purposes of the Plan. The Association may remove a Participating Employer from the Plan at any time upon prior notice in writing to the Participating Employer (the effective date of such withdrawal being the "removal date"), and the Participating Employer will thereupon cease to be a Participating Employer for all purposes of the Plan. A Participating Employer will be deemed automatically to withdraw from the Plan in the event of its complete discontinuance of contributions. If a Participating Employer loses its governmental status, a Participating Employer will be deemed to have withdrawn from participation in the Plan as of the date of loss of status and a Participating Employer will thereafter agree to comply with Regulation Section 1.457-10(a)(2)(i) and (ii).

** * * * End of Article 12 * * * **

ARTICLE 13.
MISCELLANEOUS

13.1 <u>AUTHORITY OF ADMINISTRATOR</u>. The Administrator has all the powers and authority expressly conferred upon it herein and further discretionary and final authority to determine all questions concerning eligibility and contributions under the Plan, to interpret and construe all terms of the Plan, including any uncertain terms, and to determine any disputes arising under and all questions concerning administration of the Plan. Any determination made by the Administrator will be given deference, if it is subject to judicial review, and will be overturned only if it is arbitrary or capricious. In exercising these powers and authority, the Administrator will always exercise good faith, apply standards of uniform application, and refrain from arbitrary action. The Administrator may employ attorneys, agents, and accountants as it finds necessary or advisable to assist it in carrying out its duties. The Administrator may designate a person or persons other than the Administrator to carry out any of its powers, authority, or responsibilities. Any delegation will be set forth in writing.

13.2 <u>INDEMNIFICATION</u>. The Administrator will satisfy any liability actually and reasonably incurred by any person to whom any power, authority or responsibility of the Administrator is properly delegated. These liabilities include expenses, attorney's fees, judgments, fines, and amounts paid in connection with any threatened, pending or completed action, suit or proceeding related to the exercise (or failure to exercise) of this authority.

13.3 <u>STATEMENTS</u>. The Participating Employer will determine the total amount of contributions to be made for each Participant from time to time in accordance with the provisions of <u>Article 2</u>. When each contribution payment is made by a Participating Employer, the Participating Employer will prepare a statement showing the name of each Participant and the contribution that is made for the Participant. The Participating Employer will deliver the statement to the Administrator with the amount of the contributions. Any determination by a Participating Employer, evidenced by a statement delivered to the Administrator, is final and binding on all Participants and their Beneficiaries, or any other person or persons claiming an interest in or derived from the Participant's Account.

13.4 <u>PLAN NON-CONTRACTUAL</u>. Nothing in this Plan will be construed as a commitment or agreement on the part of any person to continue his or her employment with a Participating Employer, and nothing in this Plan will be construed as a commitment on the part of a Participating Employer to continue the employment or the rate of compensation of any person for any period, and all Employees of a Participating Employer will remain subject to discharge to the same extent as if the Plan had never been put into effect.

13.5 <u>CLAIMS OF OTHER PERSONS</u>. The provisions of the Plan will not be construed as giving any Participant or any other person, firm, or corporation, any legal or equitable right against the employer, its officers, employees, or directors, except the rights as specifically provided for in this Plan or created in accordance with the terms and provisions of this Plan.

13.6 <u>CLAIMS PROCEDURE</u>. The Administrator may establish procedures by which a Participant or a Beneficiary may file a request for the grant or enforcement of rights under this Plan to which a Participant or a Beneficiary is entitled, including a request for distribution of benefits.

13.7 <u>**EXHAUSTION OF REMEDIES - LIMITATION OF ACTIONS**</u>. In the event of any dispute over benefits under this Plan, all remedies available to the disputing individual under <u>Section 13.6</u> must be exhausted before legal recourse of any type is sought. No legal action at law or in equity may be filed against the Plan, CRA, the Participating Employer, the Administrator or its delegate relating to any dispute over benefits under this Plan more than one year after the Administrator or its delegate has made a final decision under the claims review process described in <u>Section 13.6</u>.

13.8 <u>**FINALITY OF DETERMINATION**</u>. The decisions of the Administrator made in good faith on any matter within the scope of the Administrator's authority will be final and, to the extent permitted by law, will not give rise to any liability to any person.

13.9 <u>**REPRESENTATIONS**</u>. Neither the Participating Employer nor CRA represent or guarantee that any particular federal or state tax consequences will result from participation in this Plan. A Participant should consult with professional tax advisors to determine the tax consequences of his or her participation. Furthermore, neither the Participating Employer nor CRA represent or guarantee successful investment of Annual Deferrals or rollover or transfer amounts and will not be required to repay any loss which may result from such investment or lack of investment.

13.10 <u>**SEVERABILITY**</u>. If a court of competent jurisdiction holds any provisions of this Plan to be invalid or unenforceable, the remaining provisions of the Plan will continue to be fully effective.

13.11 <u>**APPLICABLE LAW**</u>. To the extent not preempted by federal law, the provisions of the Plan will be construed and administered according to the laws of the State of Colorado.

*** * * * *End of Article 13* * * * ***

COLORADO RETIREMENT ASSOCIATION
DEFERRED COMPENSATION PLAN

PARTICIPATION AGREEMENT

Association Member / Participating Employer: Town of Crestone

Association Member Original Participation Date: January 1, 2023

Participation Agreement Effective Date: January 1, 2023

Prior Participation Agreement Date: N/A
Please indicate the effective date of the last Participation Agreement

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PREAMBLE

I. AGREEMENT. By this Agreement, by and between Colorado Retirement Association ("Association") and the Association Member specified in this Participation Agreement ("Agreement"), the Association Member adopts as a Participating Employer the Colorado Retirement Association Deferred Compensation Plan and Trust Agreement (the "Plan"), as amended and restated effective January 1, 2020, and as further amended or supplemented from time to time, subject to the modifications set forth in this Agreement. This Agreement amends and supersedes any previous Participation Agreement made by and between the Association Member and the Association.

II. ADOPTION OF THE PLAN. The Association Member adopts the Plan as a Participating Employer pursuant to the terms of the Plan and this Participation Agreement, effective as of the Participation Agreement Effective Date. The Participating Employer's participation in the Plan is conditioned on the timely payment by the Participating Employer of its proportional share of contributions under the Plan, and in the case of contributions deducted from a Participant's Compensation, payment will be transmitted to the Trust as soon as practicable after such amounts would otherwise have been paid to the Participant.

III. REVIEW OF THE PLAN. The Participating Employer has reviewed the Plan, and in particular Article 12 of the Plan. The Participating Employer has consulted, or had opportunity to consult, with its legal and tax advisors with reference to the Plan and this Participation Agreement.

IV. APPROVAL OF PLAN TRUSTEE AND ADMINISTRATOR. The Participating Employer approves and confirms the Trustee and Administrator designated by the Association to serve in each such capacities.

V. ASSOCIATION AS AGENT. The Participating Employer irrevocably designates the Association as its agent as set forth in Article 12 of the Plan addressing Participating Employers for all purposes of the Plan, and authorizes the Association, on behalf of the Participating Employer, to perform the specific acts and to exercise the specific powers granted under the Plan. The Association or its designee shall have authority to make any and all necessary rules or regulations, binding upon the Participating Employer and its Employees, to effectuate the purpose of the Plan.

VI. PARTICIPANT AND PARTICIPATING EMPLOYER CONTRIBUTIONS. All contributions made by the Participants and Participating Employer under the Plan and this Participation Agreement shall be determined separately by each Participating Employer and shall be allocated only among the eligible Participants of the Participating Employer making the contribution.

* * * * * * * *

PARTICIPATING EMPLOYER ELECTIONS

(Section numbers below correspond to sections of the Plan.)

2.2(d) DESIGNATED ROTH DEFERRALS.

[Specify one option only.]

☒ Designated Roth Deferrals are permitted.

☐ Designated Roth Deferrals are *not* permitted.

2.11 EMPLOYER CONTRIBUTIONS.

[Specify one option only.]

☒ The Participating Employer elects not to make Employer Contributions.

☐ The Participating Employer elects to make Employer Contributions for Eligible Employees, per the Employer 457 Contribution Policy.

6.1 LOANS TO ELIGIBLE BORROWERS.

[Specify one option only.]

☒ Participant loans are *not* permitted.

☐ Participant loans are permitted in accordance with Article 6 of the Plan and loan procedures adopted by the Association.

* * * * * * * *

The Participating Employer and the Colorado Retirement Association have executed this Participation Agreement and have accepted its terms.

Dated this 9th day of January, 2023.

Town of Crestone
Participating Employer

By: KD

Title: Mayor Kairina Danforth

Dated this 26th day of January, 2023.

COLORADO RETIREMENT ASSOCIATION
Plan Sponsor

By: Timothy Mullen

Title: CRA Executive Director

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COLORADO RETIREMENT ASSOCIATION
RETIREMENT PLAN AND TRUST AGREEMENT

PARTICIPATION AGREEMENT

Association Member / Participating Employer: Town of Crestone

Association Member Original Participation Date: January 1, 2023

Participation Agreement Effective Date: January 1, 2023

Prior Participation Agreement Date: N/A

Please indicate the effective date of the last Participation Agreement

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PREAMBLE

I. AGREEMENT. By this Agreement, by and between Colorado Retirement Association ("Association") and the Association Member specified in this Participation Agreement ("Agreement"), the Association Member adopts as a Participating Employer the Colorado Retirement Association Retirement Plan and Trust Agreement (the "Plan"), as amended and restated effective January 1, 2020, and as further amended or supplemented from time to time, subject to the modifications set forth in this Agreement. This Agreement amends and supersedes any previous Participation Agreement made by and between the Association Member and the Association.

II. ADOPTION OF THE PLAN. The Association Member adopts the Plan as a Participating Employer pursuant to the terms of the Plan and this Participation Agreement, effective as of the Participation Agreement Effective Date. The Participating Employer's participation in the Plan is conditioned on the timely payment by the Participating Employer of its proportional share of contributions under the Plan, and in the case of contributions deducted from a Participant's Compensation, payment will be transmitted to the Trust as soon as practicable after such amounts would otherwise have been paid to the Participant.

III. REVIEW OF THE PLAN. The Participating Employer has reviewed the Plan, and in particular Article 13 of the Plan, addressing Participating Employers. The Participating Employer has consulted, or had opportunity to consult, with its legal and tax advisors with reference to the Plan and this Participation Agreement.

IV. APPROVAL OF PLAN TRUSTEE AND ADMINISTRATOR. The Participating Employer approves and confirms the Trustee and Administrator designated by the Association in the Plan to serve in each such capacities.

V. ASSOCIATION AS AGENT. The Participating Employer irrevocably designates the Association as its agent as set forth in Article 13 of the Plan addressing Participating Employers for all purposes of the Plan, and authorizes the Association, on behalf of the Participating Employer, to perform the specific act or acts and to exercise the specific powers granted under the Plan. The Association or its designee has authority to make any and all necessary rules or regulations, binding upon the Participating Employer and its Employees and Officials and their Beneficiaries, to effectuate the purpose of the Plan.

VI. PARTICIPATING EMPLOYER'S CONTRIBUTIONS. All contributions made by the Participating Employer under the Plan and this Participation Agreement will be determined separately by each Participating Employer and allocated only among the eligible Participants of the Participating Employer making the contribution in accordance with Section 3.1 of the Plan.

Participating Employer Elections

(Section numbers below correspond to sections of the Plan.)

Note: Officials may opt out of Plan participation; however, if Officials do participate in the Plan, they do not have to satisfy any minimum eligibility requirements. Accordingly, Sections 2.2 and 2.5(a) below only pertain to Eligible Employees. Additionally, Officials are always fully vested in Employer Contributions and Prior Service Benefit Contributions. Accordingly, Sections 5.1(b)(1), 5.1(c), 5.1(d), 5.1(e) and 5.1(g) below only pertain to Eligible Employees.

1.16 **ELIGIBLE EMPLOYEE**. "Eligible Employee" means the following:

[Specify one option only.]

☐ ***All Employees.*** Every Employee of the Participating Employer.

☒ ***All Benefitted Positions.*** Every Employee in a benefitted position of the Participating Employer, in accordance with the Participating Employer's standard personnel practices.

☐ Every Employee of the Participating Employer who works at least _______ months per year and at least _______ hours per week.

☐ Every Employee of the Participating Employer who works at least _______ hours per year.

2.2 **COMMENCEMENT OF PARTICIPATION**. An Eligible Employee will commence participation in the Plan and begin making and receiving contributions:

[Specify one option only with appropriate sub-option, as applicable.]

☐ Immediately as of:

- ☐ The Eligible Employee's Date of Hire.
- ☐ The first day of the Eligible Employee's first full payroll period.

☐ Immediately after _______ Plan Months. (Not to exceed twelve (12) months).

☒ Upon the first day of the payroll period following a 90 day ~~month~~ period. (Not to exceed twelve (12) months).

If an Official has not waived participation in the Plan, such Official will commence participation in the Plan and begin making and receiving contributions as of the first day of the month coincident with or immediately succeeding such Official's commencement of term of office.

2.5(a) <u>REEMPLOYMENT DATE MORE THAN THIRTY (30) DAYS AFTER TERMINATION DATE</u>.

☐ Immediate commencement of participation, in accordance with the Participating Employer's election per Section 2.2.

If this option is selected, skip the remaining options in this Section 2.5(a) and move on to Section 2.6(a). If this option is not selected, specify one option in each of the below categories.

<u>Prior Employment with Participating Employer</u>.

☐ In accordance with the **default** provisions of Section 2.5(a) of the Plan, in the event an Employee terminates employment with the Participating Employer more than thirty (30) days before his or her Reemployment Date with the Participating Employer, the Participating Employer will not grant prior service credit for purposes of **eligibility**.

☒ In the event an Employee terminates employment with the Participating Employer more than thirty (30) days before his or her Reemployment Date with the Participating Employer, the Participating Employer will grant service credit for purposes of **eligibility** provided the Employee has a Reemployment Date within __3__ Plan Months (not to exceed twelve (12) Plan Months) of his or her Termination Date.

<u>Prior Employment with any Association Member (other than Participating Employer)</u>.

☐ In accordance with the **default** provisions of Section 2.5(a) of the Plan, in the event an Employee terminates employment with an Association Member more than thirty (30) days before his or her Reemployment Date with a different Participating Employer, the Participating Employer will not grant prior service credit for purposes of **eligibility**.

☒ In the event an Employee terminates employment with an Association Member more than thirty (30) days before his or her Reemployment Date with another Participating Employer, the Participating Employer will grant service credit for purposes of **eligibility** provided the Employee has a Reemployment Date within __3__ Plan Months (not to exceed twelve (12) Plan Months) of his or her Termination Date.

2.6(a) <u>CHANGE IN STATUS</u>.

[Specify one option only.]

☐ Status of Employee is not applicable. All Employees are ***Eligible Employees***, per Section 1.16.

☒ In accordance with the **default** provisions of Section 2.6(a) of the Plan, a Participant who continues in the employ of the Participating Employer but ceases to be employed as an ***Eligible Employee*** is not eligible to make Mandatory Participant Contributions to the Plan under Section 3.3, is not entitled to Employer Contributions under Plan Section 3.1 and is not entitled to Prior Service Benefit Contributions (if any) under Plan Section 3.2.

[If this option is chosen, select one of the following sub-options, as applicable.]

- ☒ Upon return to an employment status meeting the eligibility criteria, the Eligible Employee will recommence participation immediately, in accordance with the Participating Employer's election above in Section 2.2.

- ☐ Upon return to an employment status meeting the eligibility criteria, the Eligible Employee must complete the applicable commencement of participation period elected above in Section 2.2 before recommencing participation in the Plan. Such applicable commencement period will begin as of the date the Employee returns to such employment status.

☐ A Participant who continues in the employ of the Participating Employer but ceases to be employed as an ***Eligible Employee*** will be deemed to satisfy the eligibility provisions and will continue to be eligible to make Mandatory Participant Contributions to the Plan under Section 3.3, will continue to receive Employer Contributions under Plan Section 3.1, and will continue to receive Prior Service Benefit Contributions (if any) under Plan Section 3.2, despite the change in status.

3.1(a) <u>**EMPLOYER CONTRIBUTIONS**</u>. The Participating Employer will make an Employer Contribution for each Participant **(no less than three percent (3%))** for each Plan Month as specified below.

[Specify one option only.]

☒ The Participating Employer will contribute 4 % of the Compensation of such Participant for the Plan Month.

☐ The Participating Employer's contribution for each Participant will equal an amount directed by each Participant, with a minimum of ____% and a maximum of ____% of the Compensation of such Participant.

☐ The Participating Employer will contribute for each Participant:

- ____% of Compensation based on ____ attained Years of Service
- ____% of Compensation based on ____ attained Years of Service
- ____% of Compensation based on ____ attained Years of Service
- ____% of Compensation based on ____ attained Years of Service
- ____% of Compensation based on ____ attained Years of Service

☐ For Participants hired after March 31, 1986, the Participating Employer will contribute the percentage of Compensation of such Participant for the Plan Month corresponding to the rate required of the employer share portion of Social Security (Old Age, Survivors, and Disability) under the Federal Insurance Contributions Act, as defined in C.R.S. Section 24-53-101 for that Plan Month. Employer Contributions will stop once the Participant's earnings have reached the social security annual maximum taxable earnings limit. For Participants hired on or before March 31, 1986, the Participating Employer will contribute the percentage of Compensation of the Participant for the Plan Month corresponding to the rate required for the employer share of both the Social Security and Medicare components of the Federal Insurance Contributions Act, as defined in C.R.S. Section 24-53-101 for that Plan Month. For Participants hired on or before March 31, 1986, the Social Security component of the Employer Contribution will stop once such Participant's earnings have reached the Social Security annual maximum taxable earnings limit.

Note if this option is selected, it must also be selected below in Section 3.3.

3.2 __PRIOR SERVICE BENEFIT CONTRIBUTIONS__. The Participating Employer may elect to make a Prior Service Benefit Contribution to each Participant. The Participating Employer will contribute to each Participant the percentage (elected below) of such Participant's annual Compensation for the elected ***Prior Service Period***. The Prior Service Benefits will be contributed to the Plan in equal monthly installments during the ***Pay Out Period*** provided the Participant does not have a Termination Date during the Pay Out Period.

[Specify one option only.]

☐ Not Applicable. Employer is an existing Participating Employer.

☒ The Participating Employer elects not to make Prior Service Benefit Contributions.

☐ The Participating Employer will contribute to each Participant ____% *(no less than three percent (3%))* of the annual Compensation of each Participant during the ***Prior Service Period.***

[Complete both A and B.]

A. The ***Prior Service Period*** is _____ *(number from one to five)* twelve (12) month period(s) of continuous employment of such Participant ending on the Effective Date of this Participation Agreement with the Participating Employer.

B. Prior Service Benefit Contributions will be made to the Plan in equal monthly installments over _____ *(number from one (1) to thirty-six (36))* continuous calendar month(s)) (the "***Pay Out Period***"). If the Participant has a Termination Date during the Pay Out Period, he or she forfeits his or her right to additional Prior Service Benefit Contributions.

3.3(a) MANDATORY PARTICIPANT CONTRIBUTIONS. Each Participant will make a contribution **(no less than three percent (3%))** for each Plan Month as specified below.

[Specify one option only.]

☒ The Mandatory Participant Contribution will equal 4 % of the Compensation of such Participant for the Plan Month.

☐ The Mandatory Participant Contribution will equal an amount directed by each Participant, with a minimum of ____% and a maximum of ____% of the Compensation of such Participant for the Plan Month. **Once an election is made, it is an irrevocable election.**

☐ The Mandatory Participant Contribution will equal:

- ____% of Compensation based on ____ attained of Service
- ____% of Compensation based on ____ attained Years of Service
- ____% of Compensation based on ____ attained Years of Service
- ____% of Compensation based on ____ attained Years of Service
- ____% of Compensation based on ____ attained Years of Service

☐ For Participants hired after March 31, 1986, the Mandatory Participant Contribution will equal the percentage of Compensation of such Participant for the Plan Month corresponding to the rate required of the employer share portion of Social Security (Old Age, Survivors, and Disability) under the Federal Insurance Contributions Act, as defined in C.R.S. Section 24-53-101 for that Plan Month. Mandatory Participant Contributions for a Participant will stop once such Participant's earnings have reached the social security annual maximum taxable earnings limit. For Participants hired on or before March 31, 1986, the Participating Employer will contribute the percentage of Compensation of the Participant for the Plan Month corresponding to the rate required for the employer share of both the Social Security and Medicare components of the Federal Insurance Contributions Act, as defined in C.R.S. Section 24-53-101 for that Plan Month. For Participants hired on or before March 31, 1986, the Social Security component of the Mandatory Participant Contribution will stop once such Participant's earnings have reached the Social Security annual maximum taxable earnings limit.

Note if this option is selected, it must also be selected below in Section 3.1.

3.3(a) <u>MANDATORY PARTICIPANT CONTRIBUTIONS</u>. Mandatory Participant Contributions will be:

[Specify one option only.]

☒ Pre-tax in accordance with C.R.S. Section 24-54-104(4) and Internal Revenue Code Section 414(h)(2).*

☐ After-tax.

3.8 <u>DISCRETIONARY EMPLOYER MATCHING CONTRIBUTIONS</u>. The Participating Employer will make an Employer Matching Contribution in accordance with its Employer 457 Contribution Policy for each Participant who defers compensation into:

[Specify one option only.]

☒ Not Applicable. The Participating Employer elects <u>not</u> to make Discretionary Employer Matching Contributions to the Plan.

☐ The Colorado Retirement Association Deferred Compensation Plan and Trust Agreement.

☐ ____ [Name of 457(b) plan].

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* *Note if contributions are being picked up and paid by the Employer in lieu of employee contributions, the contributions will be treated as "picked-up" and paid by the Employer on a prospective basis only, from the date this Participation Agreement is formally adopted. Participants may not opt out of the "pick-up" nor may they receive the contributed amounts directly instead of having them paid by the Participating Employer to the Plan.*

5.1(b)(1) <u>VESTING OF PARTICIPANT'S ACCOUNTS</u>. In accordance with Section 5.1 of the Plan, an Employee-Participant becomes vested in Employer Contributions and Prior Service Benefit Contributions as follows.†

[Specify one option only.]

☒ ***Immediate Vesting***. A Participant is 100% vested upon Plan participation.

☐ ***Graded Vesting***. A Participant will vest pro rata monthly at ______% annual rate. (must be more than 10%).

☐ ***Specified Vesting***. A Participant will vest pro rata monthly according to the following schedule (select the vesting percentage at the completion of the Participant's Years of Service):

1st Year of Service: ______%

2nd Year of Service: ______%

3rd Year of Service: ______%

4th Year of Service: ______%

5th Year of Service: ______%

6th Year of Service: ______%

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† *Employee-Participants who reach Normal Retirement Age, Disability, or who die or are presumed deceased will be 100% vested in accordance with the terms of the Plan.*

5.1(c) <u>REEMPLOYMENT DATE MORE THAN THIRTY (30) DAYS AFTER TERMINATION DATE</u>.

☒ Service credit for vesting is not applicable, Employer elected Immediate Vesting, per Section 5.1(b)(1).

If this option is selected, skip the remaining options in this Section 5.1(c) and move on to Section 5.1(e). If this option is not selected, specify one option in each of the below sub-options.

<u>Prior Employment with Participating Employer</u>.

☐ In accordance with the **default** provisions of Section 5.1 (c) of the Plan, in the event an Employee terminates employment with the Participating Employer more than thirty (30) days before his or her Reemployment Date with the Participating Employer, the Participating Employer will not grant prior service credit for purposes of **vesting**.

☐ In the event an Employee terminates employment with the Participating Employer more than thirty (30) days before his or her Reemployment Date with the Participating Employer, the Participating Employer will grant service credit for purposes of **vesting** provided the Employee has a Reemployment Date within _______ Plan Months (not to exceed twelve (12) Plan Months) of his or her Termination Date.

<u>Prior Employment with any Association Member (other than Participating Employer)</u>.

☐ In accordance with the **default** provisions of Section 2.5(a) of the Plan, in the event an Employee terminates employment with an Association Member more than thirty (30) days before his or her Reemployment Date with a different Participating Employer, the Participating Employer will not grant prior service credit for purposes of **vesting**.

☐ In the event an Employee terminates employment with an Association Member more than thirty (30) days before his or her Reemployment Date with another Participating Employer, the Participating Employer will grant service credit for purposes of **vesting** provided the Employee has a Reemployment Date within _______ Plan Months (not to exceed twelve (12) Plan Months) of his or her Termination Date.

5.1(e) <u>SERVICE WITH PARTICIPATING EMPLOYER PRIOR TO ADOPTION OF PLAN</u>.

[Specify one option only.]

☐ Not Applicable. Employer is an existing Participating Employer.

☒ ***Past Service Credit***. At the time this Participation Agreement is executed, all Employees presently employed by the Participating Employer will have all periods of employment credited towards the vesting schedule referenced above in Section 5.1(b)(1).

5.3 <u>FORFEITURES ACCOUNT</u>.

[Specify one option only.]

☒ Not Applicable. Participants are 100% vested in their Accounts.

☐ In accordance with the **default** provisions of Section 11.6 of the Plan, forfeitures will be utilized to reduce future Employer Contributions.

☐ Forfeitures will be allocated among the Accounts of active Participants in the Plan.

8.1 <u>LOANS TO ELIGIBLE BORROWERS</u>.

[Specify one option only.]

☒ Participant loans are *<u>not</u>* allowed.

☐ Participant loans are allowed in accordance with Article 8 of the Plan and loan procedures adopted by the Plan Administrator.

1.9 <u>DEFINITION OF COMPENSATION</u>. For purposes of calculating contributions, the Participating Employer **<u>excludes</u>** the following from the definition of Compensation (as defined in Section 1.9 of the Plan):

[Select as many EXCLUSIONS as applicable.]

☒ Bonuses.

☐ Overtime pay.

☒ Premiums for shift differential.

☒ Fringe benefits, expense reimbursements, deferred compensation, and welfare benefits.

☐ Holiday pay.

☐ Vacation pay.

☐ Sick pay.

☐ Paid Time Off (PTO).

☐ All post-severance compensation.

☐ Other *[please specify]*:___________________________.

* * * * * * * *

The Participating Employer and the Colorado Retirement Association have executed this Participation Agreement and have accepted its terms.

Dated this 9th day of January, 2023.

Town of Crestone
Participating Employer

By: [signature]

Title: Mayor Kairina Danforth

Dated this 26th day of January, 2023.

COLORADO RETIREMENT ASSOCIATION
Plan Sponsor

By: Timothy Mullen

Title: CRA Executive Director

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