

**AGENDA
TOWN OF JUPITER ISLAND
TOWN COMMISSION MEETING
WEDNESDAY, DECEMBER 17, 2025, 9:00 AM
ISLAND ROOM – TOWN HALL – 2 BRIDGE ROAD**

PLEDGE OF ALLEGIANCE

CALL TO ORDER AND ROLL CALL

AGENDA APPROVAL AND COMMENTS*

A. Mayor/Commissioner Comments

- a. Town Coffee Update
- b. Commissioner Comments
- c. Agenda Approval

B. Public Comment (Non-Agenda Related)

Public Comment is an opportunity for the Mayor and Town Commissioners to listen to any issue(s) of importance to you. Public Comment is offered at the beginning of our meetings, in the event attendees cannot stay in chamber for the agenda item or meeting duration. If you elect to address an item on today's agenda during opening Public Comment, we ask that you please refrain from re-addressing the item during Public Comment at the agenda item. Residents also may submit comments, at any time, to the Mayor and Commissioners into the public record: THMail@tji.martin.fl.us. (Please email Public Comment at least one business day prior to the meeting to ensure timely distribution to the Mayor and Commissioners.)

CONSENT ITEMS

1. Consent Agenda

Category A- To be reviewed and approved (as is or as edited) by the Town Commission

- a. Minutes of the November 20, 2025, Town Commission Meeting
- b. Minutes of November 24, 2025, Town Commission Special Meeting

Category B- Other Informational Materials (No Action Required)

- a. Minutes of September 11, 2025, Pension Plan Committee Meeting
- b. Minutes of September 11, 2025, Defined Contribution Plan Committee Meeting
- c. Building Department and Code Enforcement Reports
- d. Public Safety Activity Report

PRIORITY MATTERS AND PRESENTATIONS

- 2. Guest Speaker- Robert Sanchez, Florida Department of Transportation (FDOT) - Hobe Sound Bridge Feasibility Presentation*

COMMISSION ACTION ITEMS

3. Ordinance No. 414 - Electric Bicycles - 2nd Reading
4. Ordinance No. 415 - Authority of Town Commission regarding Development Review Board - 1st Reading
5. Ordinance No. 416 - Amending Town Code regarding Criteria for Variances - Fill- 1st reading
6. Ordinance No. 417 - Amending Town Code regarding Criteria for Variances - IMP - 1st reading
7. Resolution No. 949 - Approving the Town of Jupiter Island 401 (a) for Special Risk Employees
8. Acceptance of Group Retirement Plan Actuarial Valuation Report
9. RFP 2026-02 Legal Services - Bid Award
10. Comprehensive Plan Agreement Amendment - Kimley Horn
11. Spending Authorizations
 - a. Inspections and Permit Review Services, Diversified Building Department Management
 - b. Government Affairs Consulting - The P5 Group

OTHER ITEMS

12. Meeting Dates

December 12, 2025 – Town Commission Special Meeting – 9am (Ranking of RFP Bid Submittals)
December 16, 2025 – Town Coffee with Commissioner Field – 9am
December 16, 2025 – Town Commission Special Meeting – 10am (RFP Interviews)
December 16, 2025 – Beach Protection – 2:30pm
December 17, 2025 – Town Commission Meeting – 9am
December 17, 2025 – Annual Town Staff and Board/Committee Member Appreciation Luncheon – 12pm
January 20, 2026 – Town Coffee with Commissioner Taddeo – 9am
January 20, 2026 – SMRU and Beach District Meeting – 10am
January 21, 2026 – Town Commission Meeting – 9am
February 24, 2026 – Town Coffee with Commissioner Warner – 9am
February 24, 2026 – Beach Protection – 10am
February 25, 2026 – Town Commission Meeting – 9am
March 24, 2026 – Town Coffee with Mayor Townsend – 9am
March 24, 2026 – SMRU and Beach District Meeting – 10am
March 25, 2026 – Town Commission Meeting – 9am
13. Other Items*

** No advanced materials provided*

TOWN COMMISSION

Penny Townsend, Mayor

Anne Scott, Vice Mayor

Marshall Field VI, Commissioner

Patricia Warner, Commissioner

Joseph Taddeo, Commissioner

ADMINISTRATIVE STAFF

Town Manager, Robert Garlo

Town Attorney Brett Lashley

Town Clerk, Kimberly Kogos

TOWN VISION

The Town of Jupiter Island is a barrier island community, between the Indian River Lagoon and the Atlantic Ocean, where the beauty of nature will always dominate the presence of man. Our vision for the future is illustrated by the traditions of the past, formed by a community of caring individuals who, with imagination and heart, have combined the island's beautiful gifts of nature with those of tradition and family. Inherent in the character of the Town are tranquility, seclusion and safety. The residents of Jupiter Island will faithfully endeavor to preserve and nurture their unique community for all future generations

STATE MANDATED STATEMENT

If a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he will need a record of the proceedings, and that, for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact the Town prior to the meeting. Please contact the Town Hall, 2 Bridge Road, Hobe Sound, FL 33455, telephone (772) 545-0103.

**TOWN OF JUPITER ISLAND
TOWN COMMISSION MEETING
THURSDAY, NOVEMBER 20, 2025**

TIME: Thursday, November 20, 2025 – 9:00 AM
PLACE: Town Hall Island Room – 2 Bridge Rd., Hobe Sound, FL
PRESENT: Present were Mayor Penny Townsend, Vice Mayor Anne Scott, and Commissioners Marshall Field VI (remotely, beginning approximately 11:30am), Patricia Warner (remotely) and Joseph Taddeo. Also present were Town Manager Robert Garlo, Town Clerk Kimberly Kogos, Town Attorney Brett Lashley and IT Director Bill Sutton.

PLEDGE OF ALLEGIANCE

CALL TO ORDER

Mayor Townsend called the meeting to order at 9:00 AM and read the Town Vision statement. She provided brief comments on the first meeting of the new Development Review Board (DRB), noting high in-person attendance, including two alternates.

Mayor Townsend also noted this was the first meeting using the chat box for public comment, reminded everyone there would be a delay, and asked participants to type in the box as soon as they wished to speak so staff could notify the Mayor.

AGENDA APPROVAL AND COMMENTS*

A. Mayor/Commissioner Comments

a. Town Coffee Update

Mayor Townsend provided an update on the Town Coffee where she was the host this month. She noted topics of discussion including Toys for Tots, Development Review Board, Special Meeting Agenda, when to do public comment, Tax Reform and legislative bills, erosion of Home Rule, service of Public Safety, and newly proposed Ordinances.

b. Commissioner Comments

Vice Mayor Scott provided thoughtful comments expressing disappointment and discouragement in the decisions made during the first meeting of the Development Review Board.

She also provided additional comments regarding the voting regulations of the Town Commission and the ability for a majority of the quorum present with one opposing vote to proceed.

c. Agenda Approval

Mayor Townsend suggested amending the agenda by pulling multiple agenda items and provided an explanation. She noted that Ordinances 408 and 413 will be heard at the November 24, 2025 Special Town Commission meeting beginning at 9:00 AM located at Town Hall at 2 Bridge Road, Hobe Sound, FL 33455 due to notification requirements. She also suggested removing agenda items 12 and 14, Short Term Rentals and Private Road Construction, from the agenda as more information is needed for thoughtful discussion.

MOTION: *Commissioner Taddeo/Vice Mayor Scott moved to amend the agenda as discussed,* Page 4 of 302

ACTION: *Motion Passed 4-0.*

B. Public Comment

No public comment at this time.

CONSENT ITEMS

1. Consent Agenda

MOTION: *Commissioner Taddeo/Vice Mayor Scott moved to approve the consent agenda as presented.*

ACTION: *Motion Passed 4-0.*

Category A- To be reviewed and approved (as is or as edited) by the Town Commission

- a. Minutes of the October 29, 2025, Town Commission Meeting

Category B- Other Informational Materials (No Action Required)

- a. Minutes of September 11, 2025, Impact Review Committee Meeting
- b. Minutes of June 26, 2025, Board of Adjustment Meeting

PRIORITY MATTERS AND PRESENTATIONS

2. Staff Introductions

New Utility Director, Matthew Hammond, was introduced to the Town Commission by Town Manager Garlo. Mr. Hammond greeted the Town Commission and expressed appreciation for the opportunity.

3. Comprehensive Plan Review — Kimley-Horn

Mayor Townsend introduced Ali Palmer of Kimley-Horn and noted that the draft presented today is a much-improved Comprehensive Plan from what was presented last month.

Ms. Palmer explained the draft Comprehensive Plan, noting it as a work in progress. She stated that they returned to the 2018 version of the Comprehensive Plan, provided reference to state requirements or statutes, reorganized sections for ease of interpretation, confirmed connection to the Town Vision in each element, and ensured land use and zoning/code consistency. She stated that they considered stronger conservation and environmental protections, removed policies that are inconsistent or no longer accurate and provided for optional policies to consider.

Before starting the detailed review, Mayor Townsend highlighted several overarching issues and general observations she wanted noted in the revised draft. She emphasized the importance of strengthening sea turtle lighting protections, further reducing light pollution, and considering future approaches related to septic-to-sewer conversions without committing the Town to any specific timeline. She also suggested that dunes and the engineered beach should be treated as infrastructure rather than recreation, reflecting their role in storm protection and coastal resiliency. Commissioner Taddeo agreed with these general points, and both Commissioners Warner and Taddeo stated they had reviewed the draft and would have additional comments as the review progressed.

The Town Commission reviewed the document with the recommended changes as follows:

Page 1

- Remove the phrase “making a long-term blueprint for sustainable community and intergovernmental coordination.”
- Update all years and numbers on this page to current.

Page 2

- “Objectives and policies not applicable” seems inaccurate because the Town does have infill.
- Revise text to acknowledge infill parcels exist and zoning regulates development accordingly.
- Confirm addition regarding wellfields within town boundaries.

Page 3

- Retain “no more than two” in the final paragraph.
- Update horizons on this page.

Page 4

- Increase horizons and update timeframe accordingly.

Page 5

- Delete item 7(e) regarding 15% lot-width reduction.
- Add a new #8 addressing massing and proportions for privacy and tranquility.
- Coordinate with Catherine and consider input historically raised by the Board of Adjustment (BOA), Impact Review Committee (IRC), and Development Review Board (DRB).
- Remove references to greenhouse gas reduction and clustering concepts.
- From objectives 113/113.2, delete two and keep the middle policy protecting single-family character.

Page 6

- Continue deletion of policy 7(e).
- Consider keeping massing and proportion language as ongoing concerns from the Board of Adjustment, Impact Review Committee, and Development Review Board.
- Note the Development Review Board did not formally comment; board wants clarity.

Page 7

- Add reference to dune vegetation east of the waterfront setback line.
- Note interest in optimizing sea turtle lighting protections.

Page 8

- Maintain Level of Service A for transportation.
- Remove clause allowing the Florida Department of Transportation (FDOT) to adjust the level of service.
- Request FDOT analysis specific to Jupiter Island.

Page 9

- Remove mention of any new north bridge.
- Replace “coordinate” with “cooperate” in Objective 214.
- Adjust wording in 214.2 regarding partnership with Martin County.

Page 10

- Strengthen protections regarding beach traffic during turtle nesting season.
- Consider increasing nest perimeters.

- Consider closing beaches at night for safety and wildlife.
- Clarify lighting discussion relates to turtle protection.
- Change housing phrase to “meet housing needs within the town.”
- Delete sentence referencing government and private-sector roles.
- Fix typo at bottom.
- Review policy 3.1.

Page 11

- Ensure infrastructure capacity is evaluated before adding housing.
- Clarify highlighted text.
- Strengthen level-of-service requirements.
- Ensure infrastructure precedes density increases.

Page 12

- Avoid commitments or deadlines for septic-to-sewer conversion.
- Add broad intent statement about exploring septic-to-sewer options.
- Note Town has made no decision to convert to sewer.
- Note residents may not support conversion.
- North Beach Road discussed only as a concept; no consensus.
- Update the South Martin Regional Utility (SMRU) map.
- Avoid language committing the Town to major conversion projects.

Page 13

- Delete “promote orderly compact urban growth.”
- Strengthen level-of-service requirements.
- Include dune height and maintaining the Erosion Control Line (ECL) as possible standards.
- Update vision language (tranquility, serene, undisturbed, private setting, strong sense of safety).
- Consider using the 1952 descriptive text.

Page 14

- Replace “meet the needs” with “use best efforts.”
- Avoid commitments exceeding future capacity.

Page 15

- Update years and numbers in policies 4154 and 4155.
- Remove reference to a 4 million gallons-per-day reverse osmosis (RO) system.
- Avoid firm population numbers; refer instead to the South Martin Regional Utility Water Supply Plan.
- Ensure PFAS compliance is acknowledged.
- Reconsider ultra-low volume fixtures requirement.

Page 16

- Revise policy 4172 to avoid listing specific reclaimed-water recipients.

Page 17

- Expand wildlife protection beyond turtles.
- Clarify “impact future plans” language.
- Replace “damage or destroy” with positive phrasing.
- Consider including the soil map.
- Add goal emphasizing a healthy beach and dune system protecting life and property.

Page 18

- Add “near the beach” to beach-lighting language.
- Note the Town cannot set Intracoastal Waterway (ICW) speed limits but can enforce posted ones.
- Remove “unreasonable” from disturbance language.

Page 19

- Retain reference to resident-acceptable costs.
- Add policy preventing the waterfront setback line from moving east of its 2024 position.
- Encourage additional dune vegetation rather than removing non-native plants.
- Approve moving relevant items to the conservation element.

Page 20–21

- Confirm evacuation routes with the Public Safety Department (PSD) Chief.
- Highlighted yellow changes on Page 21 are improvements.
- Add limits on expenditures east of the frontal dune.

Page 22

- Approve moving policies to the Intergovernmental Element.

Page 23

- New coastal policies introduced as best practices.
- Second from bottom requires revision due to existing homes east of the Coastal Construction Control Line (CCCL).
- Bottom policy requires Catherine’s comment.
- Final policy requires John’s comment.

Page 24

- First policy requires Director Duchock’s comment.
- Chief to explore Florida Fish and Wildlife Conservation Commission (FWC) lobbying options for ICW speed limits.

Page 25

- Add “dunes and beaches” to relevant policy text.

Page 26

- Ensure correct terminology for soil, sand, minerals.
- Obtain updated information from South Martin Regional Utility.

Page 27

- Minor comments; coordinate wording with Kimley-Horn.

Page 28

- Replace “pursue elimination” of onsite sewage with softened language.
- Remove landscaping and rain-garden requirements (ABCD) that significantly alter island appearance.
- Bottom policies are too specific for a comprehensive plan.

Page 29

- No changes.

Pages 30-31

- No changes.

Page 32

- Redrafted language is acceptable.

Page 33

- Ask Chief why policy 8010301 was removed.
- Modify policy 8010304 to add “where appropriate” and avoid obligating the Town.

Page 34

- No comments.

Page 35

- Remove reference to the Treasure Coast Regional Planning Council for dispute resolution.

Page 36–37

- Consolidate two sets of capital improvement criteria.
- Consider generalizing level-of-service numbers in policy 9010203.
- Maintain stringent level-of-service expectations.

Page 38

- Verify relocated text (to policy 9114) is complete.

Page 39–40

- Yellow text is state-required; acceptable.

Page 41

- Retain public-participation language within the implementation section.

Page 42

- No comments.

Public Comment:

None at this time.

Ms. Palmer reviewed the projected timeline, noting the tasks completed to date and tasks in progress as well as future tasks. She noted the ability to extend the deadline of transmittal to the state. Commissioner Taddeo opined on December tasks including an online survey, focus group and Town Commission interviews. Mayor Townsend provided additional comments and suggestions. Discussion ensued.

The Town Commission reviewed the proposed timeline for the Comprehensive Plan update and agreed revisions were needed to give residents adequate time to review the next draft. The Town Commission decided to remove individual Commissioner interviews and the focus group, preferring to rely on a public workshop and an online survey for community input.

The revised sequence discussed was to complete Draft Three in December, hold a Local Planning Agency workshop in January, then have the Town Commission review the updated draft before releasing the public survey. Public hearings before the Local Planning Agency and the Town Commission would follow in March and April, when most residents are still in town. The Town Commission acknowledged the timeline could be extended if legislative changes or other factors require additional time.

Town Manager Garlo referred to the density study and increased development potential. He asked if the engagement includes review of LDR to address the density study. Ms. Palmer stated they are happy to include this work.

The Town Commission recessed 10:44 AM.

The Town Commission reconvened at 10:50 AM.

4. Public Safety Drone Demonstration*

Chief Ewing explained the new Public Safety Drone and provided a real-time demonstration for the Commission. He introduced Corporal Hinson, Certified and Licensed Drone Operator. He explained the benefit of the drone equipment. Vice Mayor Scott asked if the drone could be beneficial for code enforcement. Chief Ewing stated that code enforcement may not benefit from the drone, although traffic enforcement could benefit. He noted that there are regulations that restrict specific drone usage and emphasized maintenance of residential privacy.

Chief Ewing reviewed training and community safeguards, noting the commitment to maintaining transparency, accountability and responsible use of this technology. He explained the operational capabilities of the drone.

COMMISSION ACTION ITEMS

5. Winter Waiver Requests

The Town Commission recessed 11:11 AM.

The Town Commission reconvened at 11:14 AM.

a. 214 SB Road

Director Harding introduced the agenda item.

Attorney Jared Gaylord, property representative, provided details of the project and the waiver request. He noted the home was built in 1902 and is on the historical registry although did not receive any grant funds that would restrict development or demolition of the structure. Attorney Gaylord explained that the property owners wanted to keep the existing residence, but it was not conducive to modern needs nor structurally sound. They plan to keep some structures on the property and propose to maintain the character of the existing structure. The request is for demolition of the existing structure, using heavy equipment lasting two (2) days. He displayed an example of noise mitigation, utilizing hay bales surrounding the heavy equipment.

Town Manager Garlo read two letters of objection from neighbors into the record. He noted that the property owner is present and is requesting the waiver due to project delays that were no fault of his own.

Attorney Gaylord continued his explanation and justification of the waiver request. He added that the neighbor across the street provided a letter of support.

Mr. Williams, property owner, provided comment, noting that the October meeting of the Development Review Board was scheduled and canceled. He explained that if the October Development Review Board meeting had not been canceled, he may not have needed to request a waiver. He stated that he is anxious to begin the project, beginning with demolition and continuing with the construction of the project.

The Town Commission provided comment in response. Mr. Williams stated he would consider posting a bond for the work. Discussion ensued.

Town Attorney Lashley requested ex-parte communication from the Town Commission. Commissioner Warner stated she spoke with Mr. Williams on the golf course. Mr. Williams disclosed that he spoke with Commissioner Warner before the October DRB meeting.

MOTION: *Vice Mayor Scott moved to deny the request.
The motion died to lack of second.*

MOTION: *Commissioner Warner/Commissioner Taddeo moved to approve the request for winter waiver for demolition.*

ACTION: *Motion Failed 2-2, with Vice Mayor Scott and Mayor Townsend dissenting.*

b. 310 SB Road

Commissioner Field joined the meeting remotely.

Mr. Paul Segedin of Onshore Construction greeted the Town Commission and explained his waiver request of crane use for 3-4 hours on a specific day to move a piece of art onto the property. He proposed Thursday, December 18, 2025, for 3-4 hours. He noted agreement from the neighbor. Public Safety would need to escort the crane on and off the Island. Discussion ensued.

The date was moved to January 8, 2026.

MOTION: *Vice Mayor Scott/Commissioner Taddeo moved to approve the winter waiver as requested.*

ACTION: *Motion Passed 5-0.*

6. Ordinance No. 408 - Amending Town Code regarding Criteria for Variances - 2nd Reading

This item was pulled from the agenda and deferred to the Special Meeting on November 24, 2025.

7. Ordinance No. 413 — Designating Administrative Official to Approve Plats and Replats —2nd Reading

This item was pulled from the agenda and deferred to the Special Meeting on November 24, 2025.

8. Ordinance No. 414 - Electric Bicycles - 1st Reading

Chief Ewing introduced the proposed Ordinance No. 414 for first reading. Town Attorney Lashley read the Ordinance by title only.

MOTION: *Commissioner Taddeo/Vice Mayor Scott moved to approve Ordinance No. 414 on first reading.*

ACTION: *Motion Passed 5-0.*

9. Ordinance No. 415 - Amending Ordinance No. 118 re Lethal Yellowing - 1st Reading

Town Manager Garlo introduced the topic and explained the proposed Ordinance. He explained the plan to identify the disease vector with Dr. Bahder. Mayor Townsend supported advancing the ordinance to

eliminate unnecessary inoculation mandates, while Commissioner Taddeo preferred waiting for study results. Director Duchock noted two additional lethal-yellowing ordinances also needed review. The Town Commission agreed to place rescission of Ordinance 118 and related ordinances on the December agenda.

- a. Lethal Yellowing/Bronzing Update
- b. Ordinance No. 415

10. Lethal Yellowing Treatment Spending Authorization

Director Duchock noted that the Town Commission is not ready to act on this today. The Town Commission agreed to defer to the December meeting.

11. FDLE Grant Agreement

Chief Ewing explained the topic and request of accepting the FDLE grant.

MOTION: *Vice Mayor Scott/Commissioner Taddeo moved to accept the FDLE grant as presented.*

ACTION: *Motion Passed 5-0.*

ADDITIONAL COMMISSION MATTERS

12. Short-Term Rental - Ordinance and Application Review

This agenda item was removed from the agenda.

13. Beautification Committee Appointments*

Mayor Townsend noted two vacancies in the Beautification Committee and explained two residents had indicated interest in serving on this committee. She proposed Hugh O’Kane and Jody Bush.

MOTION: *Vice Mayor Scott/Commissioner Taddeo moved to approve the appointments as presented.*

ACTION: *Motion Passed 5-0.*

14. Private Road Construction and Maintenance Standards Discussion

This agenda item was removed from the agenda.

All other items were moved to Monday, November 24, 2025, Special Town Commission Meeting.

STANDING REPORTS

15. Town Manager’s Report

- a. RFP 2026-02 Legal Services Update
- b. Legislative Update*
- c. Other Items*

16. Town Attorney Report*
17. Financial Department Report
18. Building Department Report
 - a. Development Review Board Meeting Update
 - b. Building Department and Code Enforcement Reports
19. Public Works Department Report*
 - a. Isle Ridge Update*
 - b. 200-Block Water Main Break Update*
 - c. Ficus Alée Update*
20. Public Safety
 - a. Activity Report

OTHER ITEMS

21. Meeting Dates

November 19, 2025 – Town Coffee with Mayor Townsend – 9am
November 19, 2025 – SMRU and Beach District Meetings – 10am
November 20, 2025 – Town Commission Meeting – 9am
November 24, 2025 – Town Commission Special Meeting – 9am (Attorney Client Meeting)
December 12, 2025 – Town Commission Special Meeting – 9am (Ranking of RFP Bid Submittals)
December 16, 2025 – Town Coffee with Commissioner Field – 9am
December 16, 2025 – Beach Protection – 10am
December 16, 2025 – Town Commission Special Meeting – 11am (RFP Interviews)
December 17, 2025 – Town Commission Meeting – 9am
December 17, 2025 – Annual Town Staff and Board/Committee Member Appreciation Luncheon – 12pm
January 20, 2026 – Town Coffee with Commissioner Taddeo – 9am
January 20, 2026 – SMRU and Beach District Meeting – 10am
January 21, 2026 – Town Commission Meeting – 9am
22. Other Items*

No other items were discussed.

Mayor Townsend adjourned the meeting at 12:10 PM.

Respectfully submitted,

Kimberly Kogos, Town Clerk

**MINUTES
TOWN OF JUPITER ISLAND TOWN
COMMISSION SPECIAL MEETING
MONDAY, NOVEMBER 24, 2025**

TIME: Monday, November 24, 2025 – 9:00 AM
PLACE: Town Hall Island Room – 2 Bridge Rd., Hobe Sound, FL
PRESENT: Present were Mayor Penny Townsend, Vice Mayor Anne Scott, and Commissioners Marshall Field VI, and Patricia Warner (remotely). Also present were Town Manager Robert Garlo, Assistant Town Clerk Trenton Warren, Town Attorney Brett Lashley and IT Director Bill Sutton.

PLEDGE OF ALLEGIANCE

CALL TO ORDER

Mayor Townsend called the meeting to order at 9:01 AM and established a quorum, with Commissioner Warner attending remotely. She also read the Town Vision Statement.

AGENDA APPROVAL AND COMMENTS*

1. Mayor/Commissioner Comments

Mayor Townsend referred to an article of interest and encouraged everyone to reflect and commit to family and neighborly values.

Commission comments and discussion ensued pertaining to Town Charter protocols related to meeting quorums and voting procedures, the newly established Development Review Board (DRB), requirements for variances, and suggested time allocations for agenda items.

2. Public Comment

Resident Bob Rowden provided comments regarding ongoing litigation pertaining to public roads and right-of-ways. He suggested a compromise to ensure a ten-foot path on the right-of-way that will continue after the sale of a property.

The Town Commission recessed for a private Attorney-Client session in the Town Manager's Conference Room and reconvened shortly thereafter.

COMMISSION ACTION ITEMS

3. Ordinance No. 408 - Amending Town Code regarding Criteria for Variances - 2nd Reading

Mayor Townsend summarized the contents and procedural history of Ordinance 408. Town Attorney Brett Lashley read the title of Ordinance 408. Vice Mayor Scott expressed disapproval of the substance and language found in the Ordinance. Discussion ensued regarding the purpose of the Ordinance and potential changes.

***MOTION: Commissioner Field moved to approve Ordinance 408 as presented.
The motion died due to lack of a second.***

Commissioner Warner suggested dividing the Ordinance into individual sections. Town Manager Garlo mentioned prior Commission consensus to include multiple subjects in one Ordinance for better efficiency. Discussion ensued regarding the definition of a hardship and enforcement of requirements necessary to meet the hardship standard.

The Town Commission discussed Ordinance 408 and reached consensus to split each category into ten different Ordinances and deferring to the December Commission meeting. Director Harding inquired about each category. Mayor Townsend listed them as: signs, tennis courts, antenna and wireless communication towers, bulkheads and seawalls, dunes and crossovers, nonconforming structures, nonconforming uses, fill and Initial Measuring Point (IMP), the Town Commission appeal process over Development Review Board decisions, and making the requirements for variances more stringent.

Mayor Townsend asked for consensus to return in December with nine ordinances and a tenth addressing variances. Discussion continued and Town Manager Garlo confirmed the item would return in December.

4. Ordinance No. 413 - Designating Administrative Official to Approve Plats and Replats - 2nd Reading

Mayor Townsend summarized the contents of Ordinance 413. Town Attorney Lashley read the title of Ordinance 413.

MOTION: Vice Mayor Scott/Commissioner Field moved to approve Ordinance 413 as presented.

ACTION: Motion Passed 4-0.

5. King Tree Contract Extension

Director Duchock reviewed the request for the King Tree Contract Extension for one year for arborist consultant services. Vice Mayor Scott inquired whether the initial contract with King Tree Services was the result of a Request for Proposal (RFP). Director Duchock confirmed it was.

MOTION: Vice Mayor Scott/Commissioner Field moved to approve the King Tree Contract extension for one year without authorizing any payments for chemicals for Lethal Yellowing.

ACTION: Motion Passed 4-0.

Town Attorney Lashley requested clarification from the Commission on repealing the current Town's Ordinances on Lethal Yellowing. Consensus was reached to repeal all existing Ordinances related to Lethal Yellowing, and to draft a new Ordinance.

DISCUSSION ITEMS

6. Comprehensive Plan Survey

Town Manager Garlo addressed a previous Town Commission request to engage a third-party marketing company to consult with Kimley-Horn to create survey questions. The Town Commissioners expressed

dissatisfaction with the current survey questions.

Vice Mayor Scott referred to the recent density study and suggested questions regarding increased or limited residential development, interest in septic to sewer conversion, and resident level of satisfaction with coastal management efforts in relation to tax impacts.

Commissioner Warner suggested polling residents to determine how many regularly follow the Town's actions and to explore strategies for encouraging greater involvement in civic matters.

Mayor Townsend reviewed a proposed Comprehensive Plan schedule that includes a January LPA Workshop.

Town Manager Garlo confirmed the desire not to pursue a third-party marketing company.

STANDING REPORTS

7. Town Manager's Report

a. RFP 2026-02 Legal Services Update

Town Manager Garlo gave an update on the current progress of RFP 2026-02 for Municipal Legal Services and provided the upcoming meeting schedule.

b. Other Items*

Mayor Townsend referred to the Legislative Update from Town Consultant Kelly Layman that was provided on the dais. She encouraged them each to read the update, particularly regarding continued Home Rule erosion efforts.

Town Manager Garlo announced that resident Marshal Field V will receive the 2026 Macintosh Award for significant contributions to the community. The Town Manager suggested a Proclamation in February to acknowledge Mr. Field's accomplishments.

Town Manager Garlo noted potential perception issues regarding construction activities during the "Winter Season". Discussion ensued. The Commission directed Town Manager Garlo to bring back potential solutions in December.

8. Town Attorney Report*

Town Attorney Lashley requested an Attorney-Client session during the December 16, 2025, meeting at 10:15 AM to discuss pending litigation.

9. Finance Department Report

Director Pazanski reviewed the September 2025 General Fund Interim Financial Report with the Town Commission. There were no questions.

10. Building Department Report

Director Harding reviewed the Building Department report for October 2025. There were 3 building permits issued, and Code Compliance responded to 23 formal complaints.

Director Harding informed the Committee of a new Code Compliance Form to be completed by staff for each complaint received. Chief Ewing announced the intention for Public Safety to work with the Building Department to share information and better track repeat violations. Town Manager Garlo was directed to bring a simple, understandable report on what occurs when repeat violations are discovered by the Town and the penalties involved.

Director Harding announced a requirement for a “gatekeeper” for any major construction project to maintain order on the construction site. She noted the new Short Term/Vacation Ordinance is in effect and there are no violations thus far. She also reported the first Development Review Board convened on November 6, 2025.

11. Public Works Department Report

a. Isle Ridge Update

Director Duchock gave an update on the Isle Ridge Road Resurfacing project. The project started on November 12, 2025, and is expected to be finished by November 26, 2025.

b. 200-Block Water Main Break Update

Director Duchock stated that on November 6th a utility subcontractor conducted an illegal bore underneath South Beach Road. This resulted in a water main break near 230 South Beach Road. A temporary repair was conducted quickly by the County's contractor (Sunshine Land Design) and was completed within the same day. A permanent repair with new asphalt resurfacing was completed on November 14th. He stated at no point during these repairs was there a significant drop in water pressure, nor was there a need to issue a boil water alert. He estimated a cost to the Town, and stated that staff will coordinate with the County to make a claim for damages.

c. Ficus Allée Update

Director Duchock provided a brief update on the Ficus Allée project. He stated he met with the Beautification Committee on November 10th to begin development of a management plan for the Ficus trees on Bridge Road. He stated three Ficus trees have been identified as having hypoxylon canker, and King Tree Services has recommended heavy limb removal of two trees and removal of one.

Town Manager Garlo alerted the Commission to rumors regarding the Town's intention to completely remove the tree canopy on Bridge Road. He confirmed the rumors are false and stated the Town has every intention of maintaining the existing tree canopy. Mayor Townsend stated she will address the subject in her next Mayor's Message.

12. Public Safety

Chief Ewing reviewed the Public Safety report for October 2025 noting no major reported crimes. Mayor Townsend noted an increase in traffic stops resulting in drivers being ticketed or arrested for having a suspended license or no license. Commissioner Warner inquired about unlabeled vehicles from workers on construction projects on the Island. Chief Ewing informed the Commission of the new “code cards” provided to each officer. These cards clearly outline the requirement for every worksite to ensure all vehicles are properly identified.

OTHER ITEMS

13. Meeting Dates

The Town Commission discussed meeting dates and set the following dates:

February 24, 2026 – Town Coffee with Commissioner Warner and Beach Protection District

February 25, 2026 – Town Commission Meeting

March 24, 2026 – Town Coffee with Mayor Townsend, SMRU, and Beach Protection District

March 25, 2026 – Town Commission Meeting

14. Other Items*

Mayor Townsend read a letter addressed to Ms. Kathy Spurgeon congratulating the Apollo School of Hobe Sound on celebrating their 100th anniversary. The Commission agreed to send the letter on behalf of the Town.

Mayor Townsend adjourned the meeting at 12:20 PM.

Respectfully submitted,

Kimberly Kogos, Town Clerk

**MINUTES
TOWN OF JUPITER ISLAND
PENSION PLAN COMMITTEE MEETING
THURSDAY, SEPTEMBER 11, 2025**

TIME: Thursday, September 11, 2025 – 9:00 a.m.
PLACE: Town Hall – Conference Room
PRESENT: Chair J. Geddes (Ged) Parsons (remotely), Finance Director Matthew Pazanski, Assistant Town Manager/Beach Protection District Director John Duchock, and Town Manager Robert Garlo. Also in attendance were P. J. Gardner and Jimmy Robbins of AGW Capital Advisors.

Chair Geddes Parsons called the meeting to order at 9:01 a.m.

1. APPROVAL OF MINUTES OF THE MAY 8, 2025 PENSION BOARD MEETING

- a. Approval of Minutes of the May 8, 2025 Pension Board Meeting

MOTION: *Pazanski/Garlo moved to approve the Minutes of the May 8, 2025 Pension Board meeting as presented.*

ACTION: *Motion passed 4-0.*

2. AGW CAPITAL ADVISORS, INC. – PERFORMANCE REVIEW AND CAPITAL MARKETS UPDATE

Mr. Gardner reviewed the Capital Market indices for the first and second quarter. He noted continued concerns for inflation and increased Parabolic and Gold values raising 25%. He continued by providing an overview of the portfolio performance, noting improving trends during Q2. He explained that the portfolio shows strong resilience.

Mr. Gardner explained the rebalance recommendations and provided supporting detail beginning with a review of individual managers. He noted concerns that the full effect of tariffs have not yet hit the markets, making trend growth difficult to determine. He reiterated overall performance is good.

Mr. Gardner explained that OakMark International had a tough year last year noting key personnel changes made this year that will likely affect performance. He recommended replacing OakMark International with Brandes International Small Cap, citing a long-tenured team with small-asset based strategies. OakMark currently represents 20% of the

portfolio. He also suggested conditional rebalancing into the Artisan High Income Fund at a later date.

Chair Parsons inquired about the future trends for the yield curve. Mr. Gardner suggested issues with short-term financing over long-term financing on the federal level will raise inflation.

MOTION: *Duchock/Pazanski moved to approve the rebalancing recommendations to replace OakMark International with Brandes International Small Cap.*

ACTION: *Motion passed 4-0.*

MOTION: *Pazanski/Garlo moved to approve the conditional rebalancing recommendations into the Artisan High Income Fund as needed.*

ACTION: *Motion passed 4-0.*

Mr. Gardner led a discussion regarding the market overview. He explained the federal finances noting that despite tariff uncertainties, Gross Domestic Product (GDP) growth has been trending higher. He added that the household debt-to-asset ratio is in a good spot. He showed median sale prices for homes continue to rise while first-time home sales continue to fall. He explained the Consumer Sentiment index is sitting at 60.7, which he noted a low index can be a “tell tale sign” of impending recession. He reviewed the current tariff trends and their effects on the markets. He indicated European stocks and currency have outperformed American equivalents in large amounts so far this year. He stated market volatility has returned and recommended keeping active management going through the year.

3. OTHER ITEMS

No other items were brought under consideration following the discussions.

4. NEXT MEETING

The Committee discussed meeting dates and tentatively agreed on December 4, 2025 at 9am.

5. ADJOURNMENT

The meeting was adjourned at 10:05 a.m.

Respectfully submitted,

Trenton Warren, Assistant Town Clerk

**MINUTES
TOWN OF JUPITER ISLAND AND JOINT MEETINGS OF
THE TOWN 401A DEFINED CONTRIBUTION PLAN (DC) COMMITTEE
AND THE SOUTH MARTIN REGIONAL UTILITY (SMRU) 401A DEFINED
CONTRIBUTION PLAN (DC) COMMITTEE**

THURSDAY, SEPTEMBER 11, 2025

TIME: Thursday, September 11, 2025 – 10:30 a.m.

PLACE: Town Hall – Conference Room

PRESENT: Assistant Town Manager/Beach Protection District Director John Duchock, Member/Finance Director Matthew Pazanski, Member/Public Services Director Stuart Trent, Member/Control Systems Specialist Dustin Lindholm, and Member/IT Director Bill Sutton. Also present were Mr. P. J. Gardner and Mr. Jimmy Robbins of AGW Capital Advisors.

ABSENT: Town Manager/Committee Member Robert Garlo,

The meeting was called to order at 10:27 a.m.

1. APPROVAL OF MINUTES OF THE MAY 8, 2025 MEETING

MOTION: *Trent/Pazanski moved to approve the minutes of the May 8, 2025 meeting as presented.*

ACTION: *Motion passed 5-0.*

3. AGW CAPITAL ADVISORS – PERFORMANCE REVIEW AND CAPITAL MARKETS UPDATE

Mr. P. J. Gardner began the review by summarizing the Fiduciary Investment Review Report. He noted that the combined value of the plans were approximately \$17.7 million as of June 30, 2025; and has increased to approximately \$18.6 million as of September 10, 2025.

Director Pazanski and Director Duchock briefly spoke of a potential new fourth plan being added in October with a reduction in the retirement age from 65 to 55.

Mr. Gardner reviewed the Asset Allocation Strategies for Large, Medium, and Small Caps. He then reviewed the Scorecards for each active asset. He provided a Total Cost and Return Analysis, highlighting successful trends in the assets.

Director Trent inquired how often the model portfolios adjust their allocations. Mr. Gardner informed him it was a quarterly rebalancing adjustment.

Mr. Gardner reviewed the Portfolio Recommendations Report, noting no new recommendations for investment policies. He provided a brief Market Overview, noting positive Gross Domestic Product (GDP) growth trends. He noted that employment rates remain relatively low this year.

4. WITHDRAWAL REQUESTS

No withdrawal requests were taken into consideration.

5. OTHER ITEMS

Mr. Gardner noted there are approximately ten 1-on-1 appointments today.

6. NEXT MEETING

The Committee agreed to tentatively scheduling the next meeting for December 4, 2025.

7. ADJOURNMENT

The meeting was adjourned at 11:05 a.m.

Respectfully submitted,

Trenton Warren, Assistant Town Clerk



TOWN OF JUPITER ISLAND

MEMORANDUM

To: Mayor & Town Commission
Through: Robert Garlo, Town Manager
CC: Kimberly Kogos, Town Clerk
From: Catherine Harding, Building Director
RE: Building Department Report, November 11, 2025, through December 3, 2025
Date: 12/04/2025

There were 9 Building Permits issued with a construction value of \$1,114,192, and \$60,768 in permit fees collected. Our Building Inspectors made 105 inspections, of which 2 were issued a C.O.

Year to date, there were 230 permits issued with a total construction value of \$69,248,568. and total fees collected of \$1,170,109.

Code Compliance responded to 24 formal complaints. They consisted of 1 construction site maintenance issue, 4 illegal equipment, 1 landscape maintenance, 7 vehicles in the right of way, 1 illegal sign, 6 noise complaints, 2 starting work too early, and 2 violations of the LDR's.

We track code violations with a Code Compliance Form. It is available to our residents to fill out online or our staff will receive and record a complaint that is called in. John investigates the complaints and responds in writing.

The second draft of the Comprehensive Plan was submitted to the Commission for review. The goal of the Plan is to maintain the vision and character of the Town while updating the mandated regulations.

The Development Review Board has no meeting scheduled for December; there were no complete applications. We are reviewing four applications for January; two are complete, and two are in review.



**Jupiter Island Public Safety Department
November 2025
Activity Report**



Monthly Activity

	November 2024	November 2025	YTD - 2024	YTD - 2025
<i>Calls for Service</i>	131	195	1,526	1,651
<i>Arrests</i>	2	1	18	28

Traffic & Marine Activity

	November 2024	November 2025	YTD - 2024	YTD - 2025
<i>Traffic Stops</i>	105	120	745	1,139
<i>Vehicle Citations</i>	17	11	122	137
<i>Parking Citations</i>	1	4	68	89
<i>Vehicle Crashes</i>	0	1	16	24
<i>Marine Unit Activity</i>	40	20	418	361

Major Crimes

<i>Crime Type</i>	November 2024	November 2025	YTD - 2024	YTD - 2025
<i>Robbery</i>	0	0	1	0
<i>Burglary</i>	0	0	1	0
<i>Theft</i>	0	0	4	1
<i>Auto Theft</i>	0	0	0	0
<i>Assault</i>	0	0	0	0
Total	0	0	6	1

Other Crimes

<i>Type</i>	November 2024	November 2025	YTD - 2024	YTD - 2025
<i>Fraud</i>	0	0	1	3
<i>Drug Violations</i>	0	0	1	4
<i>Trespassing</i>	1	0	1	1
<i>Vandalism</i>	0	0	1	0
<i>Disorderly Conduct</i>	0	0	1	0
<i>Lewd & Lascivious</i>	0	0	0	0
Total	1	0	5	8



Jupiter Island Public Safety Department
November 2025
Activity Report



ALS Fire Rescue Responses

Medical calls this month	9	Avg. response time	3.6 minutes
Fire calls this month	13	Avg. response time	3.7 minutes

Criminal Activity

Traffic Arrest / November 4, 2025; while conducting a lawful traffic stop, the operator of the vehicle was arrested and transported to the MC Jail for Driving with No Driver's License/Never Issued. The vehicle was turned over to a licensed driver.

Involuntary Commitment; Baker Act / November 17, 2025; Officers received a Physician initiated Involuntary Commitment order. Contact was made with the subject and they were transported to the closest Baker Act receiving facility without incident.

Traffic Arrest / November 17, 2025; while conducting a lawful traffic stop, the operator of the vehicle was issued a criminal traffic citation with a mandatory court date for No Valid Driver's License/Never Issued. The vehicle was turned over to a licensed driver.

Traffic Arrest / November 28, 2025; while conducting a lawful traffic stop, the operator of the vehicle was issued a criminal traffic citation with a mandatory court date for Driving with a Suspended Driver's License W/Knowledge. The vehicle was turned over to a licensed driver.

Hobe Sound Beach Statistics

	Current Month	YTD - 2025
Calls for Service- Day	2	56
Calls for Service- Night	0	24
Patrols	93	981
Traffic Stops	4	90

Hobe Sound Beach Activity

Medical Calls

November 0 Year to Date 8



***Jupiter Island Public Safety Department
November 2025
Activity Report***



DAYTIME 7am-7pm

Traffic Crash / November 9, 2025, 9:36 am; Officers responded to a report of a traffic crash in the parking lot of the public beach.

Parking Problem / November 25, 2025, 7:53 am; Officers responded to a report of an improperly parked vehicle at public beach.

NIGHTTIME 7pm-7am

No calls for service



Jupiter Island Public Safety Department

November 2025

Activity Report



Code Compliance- TOV Activity By Month

<i>Violation Type</i>	Jan 2025	Feb 2025	Mar 2025	Apr 2025	May 2025	Jun 2025	Jul 2025	Aug 2025	Sep 2025	Oct 2025	Nov 2025	Dec 2025	YTD - 2025
<i>Parking in Right of Way</i>	12	23	18	18	25	18	28	11	29	79	27		288
<i>No Flag Persons Present</i>	5	0	0	1	1	3	9	4	18	22	3		66
<i>Working Outside Hours</i>	1	0	2	1	3	0	1	5	6	3	10		32
<i>Work with No Permit</i>	0	0	0	0	0	0	1	0	1	0	0		2
<i>All Other Violations</i>	0	1	2	2	2	6	3	4	3	1	8		32
<i>Total Violations</i>	18	24	22	22	31	27	42	24	56	105	48		420
<i>Officer patrols</i>	750	848	887	732	864	888	926	711	684	1,007	1,234		9,531

ORDINANCE NO. 414

AN ORDINANCE OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA AMENDING CHAPTER 14, SECTION 14.3 “BICYCLES”; CREATING SECTION 14-7 “REGULATION OF MICROMOBILITY DEVICES” OF THE TOWN CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Jupiter Island, Martin County Florida (“Town”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town has the authority, pursuant to Article VIII, Section 2(b) of the Florida Constitution, and Chapter 166, Florida Statutes, to adopt such regulations as it deems appropriate to further the health, safety, and welfare of its residents; and

WHEREAS, the Town, pursuant to Florida Senate Bill 462 (2025), has the authority to adopt ordinances governing the operation of micromobility devices, regulate rider age and ID requirements, and implement other regulations for the safe and lawful operation of micromobility devices within the Town; and

WHEREAS, pursuant to §316.2128, Florida Statutes, municipalities are authorized to regulate the safe operation of micromobility devices and motorized scooters within their jurisdictions; and

WHEREAS, to protect the health, safety, and welfare of the public, the Town deems it necessary to regulate the use of micromobility devices.

NOW, THEREFORE BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MATIN COUNTY, AS FOLLOWS:

Section 1. The Whereas clauses are incorporated herein as the finding of fact and conclusion of law of the Town Commission.

Section 2. The Code of Ordinances of the Town is hereby amended at Chapter 14, “Traffic and Motor Vehicles” as follows:

Sec. 14-3. - Bicycles.

(a) Every bicycle while in use on any street in the town shall be provided with a suitable bell or horn.

(b) No person shall ride a bicycle upon any sidewalk or parkway or park lawn in the town.

(c) Bicycle riders shall observe all directional vehicular traffic regulations.

~~(d) No person shall operate or use a bicycle upon any street, road or bicycle path in the town unless such bicycle is equipped with one rear reflector and one fluorescent flag and mast.~~

(d) Every bicycle in use between sunset and sunrise shall be equipped with a functioning lamp on the front of the bicycle where it can exhibit a white light visible from a distance of no less than 500 feet from the front and a lamp and reflector on the rear of each exhibiting a red light visible from a distance of 600 feet to the rear. The person operating the bicycle shall deploy the lamp with the white light at all times between sunset and sunrise.

Sec. 14-7. – Regulation of Micromobility Devices.

The Town finds that the operation of micromobility devices, to include but not limited to, motorized scooters and e-bikes, on public streets and sidewalks presents potential safety risks to operators, pedestrians, bicyclists, and motorists. It is the intent of this section to regulate the operation of such devices within the Town in a manner consistent with state law, while ensuring the health, safety, and welfare of the public. This section is not intended to conflict with state law but to supplement it with reasonable local regulations permitted by §316.2128, Florida Statutes

(a) **Definitions.** *Electronic bicycle or E-Bike* shall have the same definition as provided under §316.003(23), Fla. Stat.

Electronic personal assistive mobility devices or micromobility device means any small, motorized transportation device designed for personal use, including but not limited to scooters, hoverboards, or similar devices, excluding E-Bikes and ADA-compliant mobility devices or as otherwise provided under §316.003, Fla. Stat.

(b) **Minimum Age Requirement.** It shall be unlawful for any person under the age of sixteen (16) years to operate an electronic bicycle on any public street, sidewalk, park, path, or other right-of way within the Town.

(c) **Identification Requirement.** All operators of electronic bicycles must carry a valid government-issued identification card while operating such

devices and must present the same upon request by any law enforcement officer.

(d) **Equipment Modification.** Every electronic bicycle in use between sunset and sunrise shall be equipped with a functioning lamp on the front of the bicycle which can exhibit a white light visible from a distance of no less than 500 feet from the front and a lamp and reflector on the rear of each exhibiting a red light visible from a distance of 600 feet to the rear. The person operating the electric bicycle shall deploy the lamp with the white light at all times between sunset and sunrise.

(e) **Prohibited Devices.** The operation of all other electronic personal assistive mobility devices or micro-mobility devices is prohibited within the Town's limits, with the sole exception of ADA-compliant mobility devices used by individuals with disabilities. No person shall modify or cause to be modified the factory settings or specifications of an electronic bike for the purposes of increasing its maximum speed or power output beyond manufacturer or statutory limits.

Section 3. Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end, the provisions of this Ordinance are hereby declared severable.

Section 4. Repeal of Ordinances in Conflict. All other ordinances of the Town of Jupiter Island, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

Section 5. Codification. This Ordinance shall be codified and made part of the official Code of Ordinances of the Town of Jupiter Island.

Section 6. Effective Date. This Ordinance shall take effect immediately upon its passage and approval, as provided by law.

(Continued on next page)

PASSED AND ADOPTED at a public meeting of the Town Commission of the Town of Jupiter Island on this__ day of _____, 2025.

TOWN OF JUPITER ISLAND

MAYOR

VICE MAYOR

COMMISSIONER

COMMISSIONER

COMMISSIONER

ATTEST:

TOWN CLERK

#7450280 v1 18270-00002



TOWN OF JUPITER ISLAND

CONTRACT MEMORANDUM

To: Mayor & Town Commission

From: Robert Garlo, Town Manager

CC: Kimberly Kogos, Town Clerk

RE: Agenda Item No. 4 – Ordinance No. 415

Date: 12/15/2025

Background:

During the October and November Town Commission meetings, the Commission heard and adopted Ordinance No. 413 which brought the Town's Code of Ordinances into compliance with Section 177.071, State Statute, by designating an administrative official as the party responsible for the administrative approval of plats and replats.

With the administrative official now designated through Ordinance 413, it is necessary to amend Article 1, Division 3, Section 3.03 of the Town Code to repeal the Town Commission's authority to approve subdivision applications, thereby aligning the Code with the statutory requirements.

Recommendation

Ordinance No. 415 amends the Town Code to comply with Florida Statute Section 177.071. Ordinance No. 415 is presented for 1st reading.

ORDINANCE NO. 415

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AMENDING APPENDIX A OF THE TOWN'S CODE OF ORDINANCES WHICH CONTAINS THE TOWN'S LAND DEVELOPMENT REGULATIONS; PROVIDING FOR THE AMENDMENT OF ARTICLE I, DIVISION 3, SECTION 3.03 REGARDING THE AUTHORITY OF THE TOWN COMMISSION; PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission of the Town of Jupiter Island, Martin County, Florida ("Town") has such powers and authority as conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Florida Legislature has amended Section 177.071, Florida Statutes, to require that plats and replats be subject only to an administrative review and approval by a designated local government official; and

WHEREAS, the recently adopted legislation provides that a plat shall be approved provided it complies with the statutory requirements for plats in the statute; and

WHEREAS, the amended statute requires that each local government designate, by ordinance or resolution, the administrative official responsible for the administrative approval of plats and replats; and

WHEREAS, the Town has complied with the amendments to Section 177.071, Florida Statutes and has designated an administrative official responsible for the administrative approval of plats and replats; and

WHEREAS, in order to conform to the amendment of Section 177.071, Florida Statutes, the Town Commission finds it necessary to amend Article 1, Division 3, Section 3.03 of the Town's Code repealing the Town Commission's authority to approve applications for subdivisions.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AS FOLLOWS:

Section 1: The whereas clauses are incorporated herein as the legislative findings of the Town Commission.

Section 2. Article 1, Division 3, Section 3.03, Town Commission is hereby amended to read as follows:

Sec. 3.03. Town Commission.

The Town Commission's powers and duties under these land development regulations shall be as follows:

- A. Authority. The Town Commission has the authority to:
 - 1. Review and decide:
 - ~~a. Applications for subdivision approval;~~
 - ~~a~~b. Applications for district boundary changes;
 - b. Applications for certificates of appropriateness for alterations to historic buildings and landmarks;
 - c. Applications for text amendments to these land development regulations; ~~and~~
 - d. Applications for comprehensive plan amendments; and
 - e. Development orders approved by the development review board in accordance with the procedure established in subsection 9., below.
 - 2. Hear appeals from decisions of the development review board, and administrative official.
 - 3. Amend the comprehensive plan.

4. Amend or repeal any or all of these land development regulations, including the official zoning map.

5. Determine whether a proposed use is of the same general character as a permitted use.

6. Exercise all other powers and carry out all other duties provided by Florida Law and these land development regulations.

7. The Mayor, or in his or her absence the Vice Mayor, may administer oaths and compel the attendance of witnesses.

8. The Town Commission shall have the authority to review any application or proposal for development or improvements in the PLD or CPD zoning districts. The Town Commission may apply standards set forth in division 2, section 2.02 for impact review and any goals, objectives, or policies of the town's Comprehensive Plan it determines to be appropriate. The Town Commission shall have the authority to apply conditions to [mitigate the impact] of any application or proposal for development or improvements within the PLD or CPD zoning districts.

9. The Town Commission shall have the authority to review a development order of the development review board upon a request made by a member of the Town Commission in accordance with the following:

a. The member of the Town Commission requesting review must submit a written request to the Town Manager within ten days of the date of the development order approved and rendered. Upon the Town Manager's receipt of the request, the time for the appeal of the development order rendered shall be tolled. The request shall be placed on the agenda of the next commission meeting.

b. If three members of the Town Commission vote to consider the request, the Town Manager shall then schedule the request for consideration by the Town Commission at its next meeting. The hearing to review the request shall be conducted as a de novo, quasi-judicial public hearing of the Town Commission.

c. Following the Town Commission's hearing, then by a vote of a supermajority of the Town Commission, the development order rendered by development review board may be denied, or affirmed with amendments to the development order. If the development order rendered by the development review board is denied, or affirmed with amendments, the town attorney shall prepare a final order reflecting the Town Commission's decision.

d. The final order of the Town Commission may be appealed within 30 days of its rendition by a person or entity with standing to the circuit court in and for the 19th Judicial Circuit of Florida.

Section 3. Repeal of ordinances in conflict.

All other ordinances of the Town of Jupiter Island, Florida, or parts thereof which conflict with this or any part of this ordinance are hereby repealed.

Section 4. Severability. If any court of competent jurisdiction holds any word, part, section, paragraph or provision hereof to be unlawful or unconstitutional, such ruling or finding shall not affect the remaining portions of this ordinance, which shall remain in full force and effect.

Section 5. Codification. This ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Jupiter Island.

Section 6. Effective Date. This ordinance shall become effective immediately upon execution.

(Continued on next page)

ORDINANCE NO. 415 PASSED UPON FIRST READING THE ____ DAY OF _____, 2025.

PASSED AND ADOPTED UPON THE SECOND READING FOLLOWING PUBLIC HEARING THE ____ DAY OF _____, 2026.

(SEAL)

TOWN OF JUPITER ISLAND, FLORIDA

Mayor

Vice Mayor

Commissioner

Commissioner

Commissioner

ATTEST:

TOWN CLERK

#7515337 v1 18270-00002

MOTION: *Scott/Field moved to approve the spending authorization as presented.*

ACTION: *Motion passed 5-0.*

ADDITIONAL COMMISSION MATTERS

13. Ordinance No. 408 Section Discussion - Initial Measuring Point (IMP) and Fill

Director Harding explained that when Ordinance 401 was adopted, the Alternate Development Standards were merged with the LDRs. At that time, staff recommended which standards should require further approval through a hardship variance, rather than an administrative variance. "Fill" and the "Initial Measuring Point" (IMP) were among those identified. Director Harding added that if the Department of Environmental Protection (DEP) requires a higher elevation for coastal construction, the Town may need to approve it to meet that standard, as it would satisfy the criteria for a more restrictive variance.

Mayor Townsend expressed a preference toward keeping IMP and Fill as hardship variances and increasing the allowable fill amount to 4 feet from 3 feet.

Vice Mayor Scott opined that when a parcel is purchased on a barrier island, you do so at your own peril, not to create something other than what it is. Discussion ensued.

The Town Commission agreed to keep the IMP and Fill as a hardship variance.

MOTION: *Taddeo/Scott moved to keep Initial Measuring Point and Fill as hardship variances.*

ACTION: *Motion passed 5-0.*

The Town Commission agreed to increase the fill threshold to 4 feet from 3 feet.

MOTION: *Field/Taddeo moved to increase the fill threshold from 3 feet to 4 feet.*

ACTION: *Motion passed 4-1; Vice Mayor Scott dissented.*

Director Harding suggested that all three nonconformities, outlined in Article III, should require variances. She proposed that the Town Commission hold a discussion on all three items at the September meeting.

14. Devonshire Lane*

Director Duchock explained the topic, noticing that Devonshire Lane is a Town road. He stated that it services two abutting properties with no through traffic or public use; is less than 10' wide paved surface; Right of Way (ROW) width is 25'; is approximately 578' in length from Gomez Road ROW to the Intracoastal Waterway; and has an aging seawall. The seawall is beginning to fail and would cost approximately \$30,000 to repair. Staff requests direction to repair the road and seawall or abandon.

Vice Mayor Scott asked about the risk and liability to the Town. She expressed approval of abandoning. Director Duchock stated both neighbors would be amenable to accepting the abandoned road and maintenance thereof.

Town Manager Garlo explained that staff would need to bring a resolution announcing the abandonment followed by two readings of an ordinance

MOTION: *Taddeo/Scott moved to approve the abandonment of Devonshire Lane as discussed.*

ACTION: *Motion Passed 4-1; Commissioner Warner dissented.*

ORDINANCE NO. 416

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AMENDING APPENDIX A OF THE TOWN'S CODE OF ORDINANCES WHICH CONTAINS THE TOWN'S LAND DEVELOPMENT REGULATIONS; PROVIDING FOR THE AMENDMENT OF ARTICLE IV, DIVISION 3, SECTION 3.01 "FILL;" PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission of the Town of Jupiter Island, Martin County, Florida ("Town") has such powers and authority as conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town Commission has previously created Land Development Regulations ("LDR") codified in Appendix A of the Code of Ordinances of Jupiter Island, Florida ("Code"); and

WHEREAS, this ordinance is necessary and appropriate to amend the LDR to eliminate reference to the Board of Adjustment ("BOA"), and to replace reference to the BOA with the Development Review Board; and

WHEREAS, the Town Commission has concluded that it is necessary and appropriate to clarify certain Articles of the LDR previously adopted to confirm its policy direction requiring variance applicants establish the standards set forth in Article X, Division 5, Section 5.00, to establish a legal hardship entitling the applicant to the variance relief requested; and

WHEREAS, the Town Commission has reviewed the revisions to the Town's LDR as set forth herein and finds that the adoption of this ordinance will further the public health, safety and general welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AS FOLLOWS:

Section 1: The whereas clauses are incorporated herein as the legislative findings of the Town Commission.

Section 2. Article IV, Division 3, Development Standards, Sections 3.01 is hereby amended to read as follows:

Sec. 3.01. Fill.

If authorized as part of an approved site plan, up to ~~three~~ four feet of fill may be placed on a lot. The ~~board of adjustment~~ development review board may approve a variance for a greater amount of fill provided it finds that the applicant has met the standards contained in Art. IX, Division 5, Section 5.00 and if the applicant demonstrates that:

- A. The additional fill will not result in a building which is taller than the maximum height permitted on an adjacent lot; and
- B. Fill shall be placed in a manner that will not create ~~an~~ additional stormwater runoff onto an adjacent property or public right-of-way; and
- C. Fill shall be placed in a manner that will not create significant soil erosion; and
- D. The portion of the lot for where the fill is proposed to be added has not been previously filled pursuant to the approval of a special exception or the use of alternative development standards; or the elevation of said portion of the lot has decreased by more than three feet since the fill was placed; and
- E.
 - 1. The fill shall not result in a building which is more visible from adjacent property or a public right-of-way; and
 - 2. The fill is necessary to build the finished floor of the building at an elevation of 6.5 NAVD.

Section 3. Repeal of ordinances in conflict.

All other ordinances of the Town of Jupiter Island, Florida, or parts thereof which conflict with this or any part of this ordinance are hereby repealed.

Section 4. Severability.

If any court of competent jurisdiction holds any word, part, section, paragraph or provision hereof to be unlawful or unconstitutional, such ruling or finding shall not affect the remaining portions of this ordinance, which shall remain in full force and effect.

Section 5. Codification.

This ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Jupiter Island.

Section 6 Effective Date. This ordinance shall become effective immediately upon execution.

(Continued on Next Page)

ORDINANCE NO. 408 PASSED UPON FIRST READING THE ____ DAY OF _____, 2025.

PASSED AND ADOPTED UPON THE SECOND READING FOLLOWING PUBLIC HEARING THE ____ DAY OF _____, 2026.

(SEAL)

TOWN OF JUPITER ISLAND, FLORIDA

Mayor

Vice Mayor

Commissioner

Commissioner

Commissioner

ATTEST:

TOWN CLERK

#7487329 v1 18270-00002

MOTION: *Scott/Field moved to approve the spending authorization as presented.*

ACTION: *Motion passed 5-0.*

ADDITIONAL COMMISSION MATTERS

13. Ordinance No. 408 Section Discussion - Initial Measuring Point (IMP) and Fill

Director Harding explained that when Ordinance 401 was adopted, the Alternate Development Standards were merged with the LDRs. At that time, staff recommended which standards should require further approval through a hardship variance, rather than an administrative variance. "Fill" and the "Initial Measuring Point" (IMP) were among those identified. Director Harding added that if the Department of Environmental Protection (DEP) requires a higher elevation for coastal construction, the Town may need to approve it to meet that standard, as it would satisfy the criteria for a more restrictive variance.

Mayor Townsend expressed a preference toward keeping IMP and Fill as hardship variances and increasing the allowable fill amount to 4 feet from 3 feet.

Vice Mayor Scott opined that when a parcel is purchased on a barrier island, you do so at your own peril, not to create something other than what it is. Discussion ensued.

The Town Commission agreed to keep the IMP and Fill as a hardship variance.

MOTION: *Taddeo/Scott moved to keep Initial Measuring Point and Fill as hardship variances.*

ACTION: *Motion passed 5-0.*

The Town Commission agreed to increase the fill threshold to 4 feet from 3 feet.

MOTION: *Field/Taddeo moved to increase the fill threshold from 3 feet to 4 feet.*

ACTION: *Motion passed 4-1; Vice Mayor Scott dissented.*

Director Harding suggested that all three nonconformities, outlined in Article III, should require variances. She proposed that the Town Commission hold a discussion on all three items at the September meeting.

14. Devonshire Lane*

Director Duchock explained the topic, noticing that Devonshire Lane is a Town road. He stated that it services two abutting properties with no through traffic or public use; is less than 10' wide paved surface; Right of Way (ROW) width is 25'; is approximately 578' in length from Gomez Road ROW to the Intracoastal Waterway; and has an aging seawall. The seawall is beginning to fail and would cost approximately \$30,000 to repair. Staff requests direction to repair the road and seawall or abandon.

Vice Mayor Scott asked about the risk and liability to the Town. She expressed approval of abandoning. Director Duchock stated both neighbors would be amenable to accepting the abandoned road and maintenance thereof.

Town Manager Garlo explained that staff would need to bring a resolution announcing the abandonment followed by two readings of an ordinance

MOTION: *Taddeo/Scott moved to approve the abandonment of Devonshire Lane as discussed.*

ACTION: *Motion Passed 4-1; Commissioner Warner dissented.*

ORDINANCE NO. 417

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AMENDING APPENDIX A OF THE TOWN'S CODE OF ORDINANCES WHICH CONTAINS THE TOWN'S LAND DEVELOPMENT REGULATIONS; PROVIDING FOR THE AMENDMENT OF ARTICLE IV, DIVISION 2, SECTION 2.00 "BUILDING HEIGHT;" PROVIDING FOR THE REPEAL OF ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission of the Town of Jupiter Island, Martin County, Florida ("Town") has such powers and authority as conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town Commission has previously created Land Development Regulations ("LDR") codified in Appendix A of the Code of Ordinances of Jupiter Island, Florida ("Code");

WHEREAS, this ordinance is necessary and appropriate to amend the LDR to eliminate reference to the Board of Adjustment ("BOA"), and to replace reference to the BOA with the Development Review Board; and

WHEREAS, the Town Commission has concluded that it is necessary and appropriate to clarify certain Articles of the LDR previously adopted to confirm its policy direction requiring variance applicants establish the standards set forth in Article X, Division 5, Section 5.00, to establish a legal hardship entitling the applicant to the variance relief requested; and

WHEREAS, the Town Commission has reviewed the revisions to the Town's LDR as set forth herein and finds that the adoption of this ordinance will further the public health, safety and general welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, MARTIN COUNTY, FLORIDA, AS FOLLOWS:

Section 1: The whereas clauses are incorporated herein as the legislative findings of the Town Commission.

Section 2. Article IV. Supplemental Regulations, Division 2.00, Measurements, Sec. 2.00, Building Height is hereby amended to read as follows:

Sec. 2.00. Building height.

Building height is measured as follows:

- A. The initial measuring point is the highest elevation of the following:
 - 1. The lower of:
 - a. The average elevation of the finished grade across the front building line prior to the placement of fill; or
 - b. The finished floor elevation; or
 - 2. 6.5 feet NAVD
- B. The height of exterior walls is measured from the initial measuring point to the point at which the outside wall meets the horizontal eave of the roof or the bottom of a parapet wall.
- C. The height of the building is measured from the initial measuring point to the highest point on the building, excluding chimneys, ventilators, skylights, spires, belfries, cupolas, and similar architectural features that are usually carried above the roof level and not used for human occupancy, provided that each such feature shall be erected only to such height and size as is necessary to accomplish the purpose it is to serve.
- D. ~~The board of adjustment~~ development review board may approve a variance to Article IV, section 2.00, regarding the initial measuring point for building height, provided it finds that the applicant has met the standards contained in Art. X, Division 5, Section 5.00 and where if the applicant demonstrates:

1. The new initial measuring point will not result in a building which is taller in elevation (NAVD) than the tallest building which could be constructed on a contiguous lot.
2. Will not result in a building which is more visible from adjacent properties or the public right-of-way than the existing surrounding structures.

Section 3. Repeal of ordinances in conflict.

All other ordinances of the Town of Jupiter Island, Florida, or parts thereof which conflict with this or any part of this ordinance are hereby repealed.

Section 4. Severability.

If any court of competent jurisdiction holds any word, part, section, paragraph or provision hereof to be unlawful or unconstitutional, such ruling or finding shall not affect the remaining portions of this ordinance, which shall remain in full force and effect.

Section 5. Codification.

This ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Jupiter Island.

Section 6. Effective Date.

This ordinance shall become effective immediately upon execution.

(Continued on Next Page)

ORDINANCE NO. ____ PASSED UPON FIRST READING THE ____ DAY OF _____, 2025.

PASSED AND ADOPTED UPON THE SECOND READING FOLLOWING PUBLIC HEARING THE ____ DAY OF _____, 2026.

(SEAL)

TOWN OF JUPITER ISLAND, FLORIDA

Mayor

Vice Mayor

Commissioner

Commissioner

Commissioner

ATTEST:

TOWN CLERK

#7487294 v1 18270-00002



MEMORANDUM

TO: The Mayor and Town Commissioners
THRU: Robert Garlo, Town Manager *RG*
FROM: Matthew Pazanski, Finance/HR Director *MP*
DATE: December 5, 2025
SUBJECT: Resolution No. 949 – Approving and Ratifying the Adoption of the Town of Jupiter Island 401(a) Plan for Special Risk Employees

Background

The Town maintains retirement plans for its employees. During recent collective bargaining negotiations with the Police Officers, Corporals and Sergeants, the Town Commission agreed to create a new retirement plan; Town of Jupiter Island 401(a) Plan for Special Risk Employees.

The Town Commission determined that a new plan should be created to provide for discretionary plan design options that better align with the inherent risks associated with the Town's special risk employees.

Attached is Resolution No. 949 for consideration. The primary changes from the previous retirement plan are outlined as follows:

1. Employer discretionary contribution will increase from 10% to 15%,
2. Overtime Pay is included in the definition of Compensation,
3. Normal Retirement Age (NRA) will change from age 65 to age 50, or 25 years of service.

Additional documents that will be attached to Resolution No. 949 include the related Adoption Agreement, Non-Standardized Governmental 401(a) Pre-Approved Plan Document, and the Qualified Domestic Relations Order Procedure, all required items of the plan. In addition, the Loan Policy Document, which is authorized within our other plans and is proposed here to be consistent with those offerings.

As of this date, 12/5/2025, the Adoption Agreement has not been received from Ascensus. Staff has been working with them on the plan design and other plan requirements, see attached plan design report. Ascensus understands our desire to implement the plan as of 1/1/2026 and their working timeline and milestones are scheduled to make that happen. We do anticipate delivery of the Adoption Agreement document prior to the 12/17/2025 meeting date. The other documents are attached.

With this in mind, staff has prepared two Recommendations for the Town Commissions consideration based on whether we receive all the final documents prior to the Town Commission meeting.

Recommendation

Staff recommends the Town Commission consider a motion to approve Resolution No. 949 Approving and Ratifying the Adoption of the Town of Jupiter Island 401(a) Plan for Special Risk Employees and authorize the Town Manager to execute the required documents or agreements as may be necessary to effectuate and implement the new plan effective January 1, 2026.

Alternate Recommendation

Staff recommends the Town Commission consider a motion to authorize the Town Manager to execute the required documents or agreements as may be necessary to effectuate and implement the Town of Jupiter Island 401(a) Plan for Special Risk Employees with an effective date of January 1, 2026.

If the alternate recommendation is necessary, Resolution No. 949 and its required documents and agreements will be presented to the Town Commission in January.

RESOLUTION NO. 949

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF JUPITER ISLAND, FLORIDA, APPROVING AND RATIFYING THE ADOPTION OF THE TOWN OF JUPITER ISLAND 401(a) PLAN FOR SPECIAL RISK EMPLOYEES; AND PROVIDING AN EFFECTIVE DATE FOR THE PLAN.

WHEREAS, the Town Commission of the Town of Jupiter Island ("Town") has previously approved negotiated changes to the collective bargaining agreements and memorandum of understanding as it pertains to the Special Risk Employees and has determined that the Town can best provide for the retirement of its Special Risk Employees while maintaining necessary budgetary control over its costs by adopting a defined contribution program for such employees; and

WHEREAS, the Town Commission has previously approved a defined contribution program in the form of the Town of Jupiter Island 401(a) Plan and the Town of Jupiter Island Retirement Plan for SMRU Employees and its related trust as presented to the Town Commission at its meeting on October 29, 2025 ("Amended Retirement Plans"); and

WHEREAS, the Town Commission has determined that a new Town of Jupiter Island 401(a) Plan for Special Risk Employees should be created to provide for discretionary plan design options that better align with the inherent risks associated with such employees; and

WHEREAS, The Town Commission hereby authorizes the execution of the new plan and authorizes the Town Manager to execute such documents or agreements as may be necessary to effectuate and implement the new plan.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION:

Section 1. The Town adopts and approves, the Town of Jupiter Island 401(a) Plan for Special Risk Employees and its related trust (collectively referred to as the "Plan"), for the exclusive benefit of its employees who become participants in the Plan and their beneficiaries, incorporating the

substantive provisions embodied in the Non-Standardized Governmental 401(a) Pre-Approved Plan Document, the related Adoption Agreement, the Loan Policy Document and the Qualified Domestic Relations Order Procedure attached hereto as Exhibit "A."

Section 2. The Town appoints Ascensus Trust Company as trustee of the Plan with an effective date of January 1, 2026.

Section 3. The Town shall be the Plan Administrator prescribed by the terms of the Plan, and a Plan Committee (the "Plan Committee") is hereby designated in accordance with the terms of the Plan to carry out the duties of the Plan Administrator and the Plan Committee shall administer the Plan according to its provisions.

Section 4. The Town Commission shall set a target amount for the annual Non-elective Employer Contribution of the Plan to be determined by the Town Commission prior to each Plan Year. However, the set target amount for any given year shall be subject to a final funding vote occurring in the last month of the Town's fiscal year, and that in the absence of exigent circumstances, such Non-elective Employer Contribution shall be at least 15% of the aggregate Compensation (as defined in the Plan) of all Participants eligible to share in the Non-elective Employer Contribution for the Plan Year; for the initial plan year, the target contribution percentage shall not exceed 15% of aggregate Compensation of the eligible Participants; and

Section 5. The Mayor or the Town Manager are hereby authorized to execute on behalf of the Town, an Adoption Agreement for the Plan, substantially in the form attached hereto in Exhibit "A," subject to such changes as the Mayor or the Town Manager, in their discretion, may deem advisable, without further approval of the Town Commission, except as to any change deemed to constitute a substantive or material change to the provisions of the Plan. The Mayor or the Town Manager should either determine whether it to be necessary or desirable, may submit such documents and related documents to the appropriate federal agency to ensure compliance with the Internal Revenue Code.

Section 6. The Mayor and the Town Manager be, and each individually, authorized and directed from time to time to take or cause to be taken such actions and to execute or cause to be executed such documents, agreements or other instruments as shall be necessary or desirable to carry out the intent and purpose of this resolution with respect to the Plan.

DULY PASSED AND ADOPTED THIS _____ day of December, 2025.

Mayor

Vice Mayor

Town Commissioner

Town Commissioner

Town Commissioner

ATTEST:

Town Clerk

#7496735 v1 18270-00002

Ascensus Full Service
401(k) Plan Recordkeeping Services
Plan Design Report

Because delivering a
quality plan shouldn't
be a second job.



Ascensus® and the Ascensus logo are trademarks of Ascensus, LLC.

Trustee(s)

Trustee(s): Ascensus Trust Company
Address: 1655 43rd Street South
City/State/Zip: Fargo, ND 58103
Role: Trustee
Phone: 701-234-0207
Email: agreements@ascensustrust.com

Limited Trustee(s)

Trustee(s): Robert Garlo
Address: 2 SE Bridge Road
City/State/Zip: Jupiter Island, FL 33455
Phone: 772-545-0103
Email: rgarlo@tji.martin.fl.us

Plan Information

- The employer's business tax year end is 09/30.
- The plan year end is 09/30.
- The plan's recordkeeping effective date is 01/01/2026.
- The plan's original effective date is 10/01/2009.
- The employer's business is a Municipality or municipal agency.
- The employer's payroll frequency is bi-weekly.
- The plan's IRS sequence number is 001.
- The employer is not part of a controlled group of businesses or an affiliated service group.
- The employer is not including any employer who is not part of the controlled group/affiliated service group in the plan.

Employee Contributions

Elective Deferrals

- The plan will allow elective deferrals.
 - The plan will allow pretax deferrals.
 - Pretax deferrals will commence on 01/01/2026.
 - The plan will allow Roth deferrals.
 - Roth deferrals will commence on 01/01/2026.

Automatic Enrollment

- The employer has indicated they are exempt from the EACA/QACA requirement under SECURE.
- Automatic enrollment will not be a feature of the plan.

Vesting and Forfeitures

- Vesting service will be calculated using actual hours worked.

Distribution and Loans

General Distributions

- The plan's cashout level for terminated participants that did not elect a form of distribution is \$5000 with rollovers included to determine the value of a participant's balance. Distributions of \$1000 or less that are eligible rollover distributions will be paid out in a lump sum distribution. Starting for plan years beginning after 12/31/2023, the limit will increase to \$7,000 due to the SECURE 2.0 Act.
- The employer has elected the Automated Force Out service which includes identifying participants who are eligible to be forced out, mailing termination packages to participants who will be forced out of the plan at the participants expense, monitoring participant force out status along the way, and initiating the automated force out process annually. Please review the service agreement for fees.
- Rollover contributions are distributable at any time.

In-Service Withdrawals

- Hardship distributions will be allowed from the following accounts:
 - Employer contributions
- The plan will allow inservice distributions as follows:
 - Age 59½ - employer contributions

Loans

- Loans are allowed from the plan with 1 loan(s) outstanding at any time using an interest rate of Prime + 1%.

System and Document Assumptions for Plan #286926, *Special Risk Employees 401(a)*

Participant Eligibility

- No predecessor service will be credited in determining an employee's eligibility for the plan.
- If an employee does not meet the plan's eligibility criteria in the initial eligibility period, the subsequent eligibility period will be the plan year.
- The plan will not apply the rehire hold-out rule to determine eligibility in the plan.

Employee Contributions

Elective Deferrals

- The term elective deferral and all elections regarding elective deferrals will apply to both pretax and Roth deferrals.
- Highly compensated employees and non-highly compensated employees who are eligible to participate in the plan will be allowed to defer any dollar amount or percentage of compensation up to the limits imposed by laws and regulations.
- Age 50 catch-up contributions will be permitted. In addition, a higher catch-up contribution, known as super catch-up, will be allowed for individuals age 60, 61, 62, and 63. Starting for plan years after 12/31/2025, the SECURE 2.0 Act requires age 50 catch-up contributions be made as Roth if an employee's compensation for the prior calendar year exceeds \$145,000.
- You will define an administrative policy regarding the frequency and timing for employees to change their deferral elections (e.g., cease deferrals, modify the rate of deferrals, or resume deferrals) and apply this policy in a uniform and nondiscriminatory manner.
- The participant's deferral election will apply to bonuses unless bonuses are excluded from the definition of compensation. Participants may not make a separate deferral election solely for bonuses.
- Participants who wish to receive a distribution of excess elective deferrals made in the prior year must submit their claims to you by March 1.

Employer Contributions

Match Contributions

- Matching contributions will be made on deferrals and catch-up contributions. The employer will not make supplemental matching contributions to this plan.
- Any hours/months of service and/or last day requirements will be waived if a participant dies, becomes disabled or reaches the normal retirement age.

Employer Contributions

- A non-highly compensated employee participant, who incurs a disability and no longer receives earned income, will not be entitled to plan contributions on imputed compensation.
- Any hours/months of service and/or last day requirements will be waived if a participant dies, becomes disabled or reaches the normal retirement age.

Distribution and Loans

General Distributions

- Elective deferrals, matching contributions and employer contribution amounts will be available for distribution when a participant terminates employment, incurs a disability, or upon attaining normal retirement age (NRA) unless the plan permits in-service distributions at an age earlier than NRA. Participants will not be limited to the number of in-service withdrawals that may be taken while the participant is employed by the employer. Qualified reservists can also take a distribution of elective deferrals.
- Participants may take a distribution in a lump sum, partial payment, or installment payment, once they are eligible to receive a distribution from the plan. Annuity payments are not allowed.
- If the participant dies before the date required minimum distributions begin and there is a designated beneficiary, the minimum amount that will be distributed will be based upon the type of designated beneficiary and whether the designated beneficiary is an eligible designated beneficiary or not.
- Distributions will be processed as soon as administratively feasible following the date the employee requests a distribution.
- The Retirement Equity Act (REA) safe harbor provisions apply to this plan. Therefore, a married participant is not required to obtain spousal consent to receive a distribution or loan from the plan. You are responsible for providing all necessary notices to participants and obtaining all necessary consents required by REA (e.g., spousal consent to name someone other than the spouse as a beneficiary).
- For purposes of determining when required minimum distributions must begin under the plan, the required beginning date is the later of April 1 of the calendar year following the calendar year in which a participant reaches age 73 (from age 72 if born from July 1, 1949 to December 31, 1950, and age 70 1/2 if born before July 1, 1949) or retires, except that distributions to a five-percent owner must begin by April 1 of the calendar year following the calendar year in which the participant reaches RMD age.
- Participants who have a severance from employment, and participants who have not incurred a severance of employment but who are performing qualified military service and are deemed to have severance, may request a distribution of their elective deferrals, and if applicable, QNECs, and QMACs.
- The plan will allow distributions of elective transfer contributions only upon attainment of a distribution event or severance of employment.
- Qualified birth or adoption distributions will not be allowed from the plan.
- Qualified birth or adoption distributions that were taken from another plan are not allowed to be repaid to this plan.
- Coronavirus-related distributions that were taken from another plan are not allowed to be repaid to this plan.

Plan Elections

- For purposes of deferrals and other plan contributions, compensation will be defined as W-2 compensation. Compensation will include deferrals under cafeteria plans, qualified transportation fringe benefit plan, 401(k) plans, salary deferral SEP plans, 457 deferred compensation plans, and 403(b) tax-sheltered annuity plans. The compensation measuring period will be the plan year and will include only compensation from the time the employee became a plan participant. Compensation will not include any deemed Code Section 125 compensation.
- Compensation will include a participant's regular compensation received within 2½ months after severing employment or after the end of the limitation year, if later and will exclude leave payments and deferred compensation received after severing employment.
- An employee is a highly compensated employee (HCE) if they meet one of the following criteria: (1) They were employed by your company and owned more than five percent of the company at any time during the current or prior plan year (stock attribution rules apply); or (2) They earned gross compensation of more than \$130,000 (as indexed for 2020) during the 12 month period preceding the current plan year.
- The top paid group election and calendar year data election do not apply to this plan.
- Participants will be permitted to select investments for their entire account on a daily basis. Life insurance will not be permitted as an investment option.
- Disability is defined as the inability to engage in any substantial, gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.
- The limitation year will follow the plan year.

TOWN OF JUPITER ISLAND 401(A) PLAN
PARTICIPANT LOAN PROGRAM

Town of Jupiter Island 401(a) Plan permits loans to be made to Plan Participants. However, the Plan requires that a written loan program be established which shall set forth the rules and guidelines for issuing loans to Participants. For purposes of this loan program, "Participants" shall mean Plan Participants who are "parties in interest." This Participant Loan Program ("Program") contains rules for providing loans to Participants under the Plan.

The Plan Administrator has determined that the prime rate of interest (as published in the Wall Street Journal) plus 0% for the second business day of the month the inception of the loan occurs is a reasonable interest rate under Section 4. Section 7 has been customized for Town of Jupiter Island 401(a) Plan.

- Loans will be made in the case of financial hardship only. Hardship will be recognized in the following circumstances: (i) purchasing a principal residence of the applicant; (ii) paying tuition, related educational fees, and room and board expenses for the next twelve months of post-secondary education for an applicant, his spouse, children, or dependents as long as the availability of such a loan would not be taken into account in determining a student's eligibility for other sources of financial assistance; (iii) paying expenses incurred or necessary to obtain medical care for an applicant, his spouse or dependents; (iv) preventing foreclosure on or eviction from the principal residence of the applicant, (v) paying for burial or funeral expenses for the applicant's deceased parent, spouse, children or dependents, (vi) paying to repair casualty losses to the applicant's principal residence or (vii) refinancing a mortgage (from a commercial lender) on a primary residence of the Participant or the Participant's spouse. Applicants must submit proof of the financial need to the Plan Administrator.

1. Loan Policy. Loans are available only if such loans:

- (a) are available to Participants on a reasonably equivalent basis (see Section 3);
- (b) are not available to Highly Compensated Employees in an amount greater than the amount that is available to other Participants;
- (c) bear a reasonable rate of interest (as determined under Section 4) and are adequately secured (as determined under Section 5);
- (d) provide for periodic repayment within a specified period of time (as determined under Section 6); and
- (e) do not exceed, for any Participant, the amount designated under Section 7.

2. Administration of Loan Program. A Participant loan is available only if the Participant makes a request for such a loan in accordance with the provisions of this Program. To receive a Participant loan, a Participant must acknowledge such Participant's obligation to repay the loan to the Plan as required by the Plan Administrator (which may include, but is not limited to, electronic acknowledgment of the repayment terms or signature on a promissory note and/or a pledge or assignment of the portion of the Account Balance used for security on the loan).

In the case of a restated Plan, if any provision of this Program is more restrictive than the terms of the Plan (or a separate written loan policy) in effect prior to the adoption of this Plan, such provision shall apply only to loans finalized after the adoption of this Plan, even if the restated Effective Date indicated in the Plan document predates the adoption of the Plan.

3. Availability of Participant Loans. Participant loans must be made available to Participants in a reasonably equivalent manner. The Plan Administrator may refuse to make a loan to any Participant who is determined to be not creditworthy. For this purpose, a Participant is not creditworthy if, based on the facts and circumstances, it is reasonable to believe that the Participant will not repay the loan. A Participant who has defaulted on a previous loan from the Plan and has not repaid such loan (with accrued interest) at the time

of any subsequent loan will not be treated as creditworthy until such time as the Participant repays the defaulted loan (with accrued interest).

4. **Reasonable Interest Rate.** A Participant must be charged a reasonable rate of interest for any loan he/she receives. For this purpose, the interest rate charged on a Participant loan must be commensurate with the interest rates charged by persons in the business of lending money for loans under similar circumstances.
5. **Adequate Security.** All Participant loans must be adequately secured. The Participant's vested Account Balance shall be used as security for a Participant loan provided the outstanding balance of all Participant loans made to such Participant does not exceed 50% of the Participant's vested Account Balance, determined immediately after the origination of each loan, and if applicable, the spousal consent requirements have been satisfied.
6. **Periodic Repayment.** A Participant loan must provide for level amortization with payments to be made not less frequently than quarterly. A Participant loan must be payable within a period not exceeding five (5) years from the date the Participant receives the loan from the Plan, unless the loan is for the purchase of the Participant's principal residence, in which case the loan must be payable within 15 years from the date the Participant receives the loan from the Plan. Loan repayments must be made through payroll withholding, except to the extent the Plan Administrator determines payroll withholding is not practical given the level of a Participant's wages, the frequency with which the Participant is paid, or other circumstances.
 - (a) **Unpaid leave of absence.** A Participant with an outstanding Participant loan may suspend loan payments to the Plan for up to 12 months for any period during which the Participant is on an unpaid leave of absence. Upon the Participant's return to employment (or after the end of the 12-month period, if earlier), the Participant's outstanding loan will be reamortized over the remaining period of such loan to make up for the missed payments. The reamortized loan may extend beyond the original loan term so long as the loan is paid in full by whichever of the following dates comes first: (1) the date which is five (5) years from the original date of the loan (or the end of the suspension, if sooner), or (2) the original loan repayment deadline (or the end of the suspension period, if later) plus the length of the suspension period.
 - (b) **Military leave.** A Participant with an outstanding Participant loan also may suspend loan payments for any period such Participant is on military leave, in accordance with Code §414(u)(4). Upon the Participant's return from military leave (or the expiration of five years from the date the Participant began his/her military leave, if earlier), loan payments will recommence under the amortization schedule in effect prior to the Participant's military leave, without regard to the five-year maximum loan repayment period. Alternatively, the loan may be reamortized to require a different level of loan payment, as long as the amount and frequency of such payments are not less than the amount and frequency under the amortization schedule in effect prior to the Participant's military leave.
7. **Loan Limitations.** A Participant loan may not be made to the extent such loan (when added to the outstanding balance of all other loans made to the Participant) exceeds the lesser of:
 - (a) \$50,000 (reduced by the excess, if any, of the Participant's highest outstanding balance of loans from the Plan during the one-year period ending on the day before the date on which such loan is made, over the Participant's outstanding balance of loans from the Plan as of the date such loan is made) or
 - (b) one-half (½) of the Participant's vested Account Balance, determined as of the Valuation Date coinciding with or immediately preceding such loan, adjusted for any contributions or distributions made since such Valuation Date.

A Participant may not receive a Participant loan of less than \$5,000. A Participant may have no more than one Participant loan outstanding at any time. Loan refinancing is not permitted.

In applying the limitations under this Section, all plans maintained by the Employer are aggregated and treated as a single plan. In addition, any assignment or pledge of any portion of the Participant's interest in

the Plan and any loan, pledge, or assignment with respect to any insurance contract purchased under the Plan will be treated as loan under this Section.

8. **Segregated Investment.** A Participant loan is treated as a segregated investment on behalf of the individual Participant for whom the loan is made. The Plan Administrator may adopt separate administrative procedures for determining which type or types of contributions (and the amount of each type of contribution) may be used to provide the Participant loan. The Plan Administrator will establish procedures designating the type of contributions from which the Participant loan will be made.

Unless requested otherwise on the Participant's loan application, a Participant loan will be made equally from all investment funds in which the applicable contributions are held. A Participant or Beneficiary may direct the Trustee, on his/her loan application, to withdraw the Participant loan amounts from a specific investment fund or funds. A Participant loan will not violate the requirements of this default loan policy merely because the Plan Administrator does not permit the Participant to designate the contributions or funds from which the Participant loan will be made. Each payment of principal and interest paid by a Participant on his/her Participant loan shall be credited proportionately to such Participant's Account(s) and to the investment funds within such Account(s).

9. **Spousal Consent.** If this Plan is subject to the Joint and Survivor Annuity requirements, a Participant may not use his/her Account Balance as security for a Participant loan unless the Participant's spouse, if any, consents to the use of such Account Balance as security for the loan. The spousal consent must be made within the 180-day period ending on the date the Participant's Account Balance is to be used as security for the loan. Spousal consent is not required, however, if the value of the Participant's total vested Account Balance does not exceed \$5,000. If the Plan is not subject to the Joint and Survivor Annuity requirements, a spouse's consent is not required to use a Participant's Account Balance as security for a Participant loan, regardless of the value of the Participant's Account Balance.

Any spousal consent required under this Section must be in writing, must acknowledge the effect of the loan, and must be witnessed by a plan representative or notary public. Any such consent to use the Participant's Account Balance as security for a Participant loan is binding with respect to the consenting spouse and with respect to any subsequent spouse as it applies to such loan. A new spousal consent will be required if the Account Balance is subsequently used as security for a renegotiation, extension, renewal, or other revision of the loan. A new spousal consent also will be required only if any portion of the Participant's Account Balance will be used as security for a subsequent Participant loan.

10. **Procedures for Loan Default.** A Participant will be considered to be in default with respect to a loan if any scheduled repayment with respect to such loan is not made by the end of the calendar quarter following the calendar quarter in which the missed payment was due.

If a Participant defaults on a Participant loan, the Plan may not offset the Participant's Account Balance until the Participant is otherwise entitled to an immediate distribution of the portion of the Account Balance that will be offset and such amount being offset is available as security on the loan. For this purpose, a loan default is treated as an immediate distribution event to the extent the law does not prohibit an actual distribution of the type of contributions which would be offset as a result of the loan default (determined without regard to the consent requirements so long as spousal consent was properly obtained at the time of the loan, if required under Section 9). The Participant may repay the outstanding balance of a defaulted loan (including accrued interest through the date of repayment) at any time.

Pending the offset of a Participant's Account Balance following a defaulted loan, the following rules apply to the amount in default.

- (a) Interest continues to accrue on the amount in default until the time of the loan offset or, if earlier, the date the loan repayments are made current or the amount is satisfied with other collateral.
- (b) A subsequent offset of the amount in default is not reported as a taxable distribution, except to the extent the taxable portion of the default amount was not previously reported by the Plan as a taxable distribution.

- (c) The post-default accrued interest included in the loan offset is not reported as a taxable distribution at the time of the offset.

Accepted by: Whitney D. Pick

Date: 7/12/22

Town of Jupiter Island 401(a) Plan

NEWPORT GROUP, INC.
NON-STANDARDIZED GOVERNMENTAL 401(A) PRE-APPROVED PLAN

TABLE OF CONTENTS

ARTICLE I DEFINITIONS

ARTICLE II ADMINISTRATION

2.1	POWERS AND RESPONSIBILITIES OF THE EMPLOYER	10
2.2	DESIGNATION OF ADMINISTRATIVE AUTHORITY	11
2.3	ALLOCATION AND DELEGATION OF RESPONSIBILITIES	11
2.4	POWERS AND DUTIES OF THE ADMINISTRATOR	11
2.5	RECORDS AND REPORTS	12
2.6	APPOINTMENT OF ADVISERS	12
2.7	INFORMATION FROM EMPLOYER	12
2.8	PAYMENT OF EXPENSES.....	12
2.9	MAJORITY ACTIONS	12
2.10	CLAIMS PROCEDURES.....	12

ARTICLE III ELIGIBILITY

3.1	CONDITIONS OF ELIGIBILITY	14
3.2	EFFECTIVE DATE OF PARTICIPATION	14
3.3	DETERMINATION OF ELIGIBILITY	14
3.4	TERMINATION OF ELIGIBILITY	14
3.5	REHIRED EMPLOYEES AND 1-YEAR BREAKS IN SERVICE	14
3.6	ELECTION NOT TO PARTICIPATE	15
3.7	OMISSION OF ELIGIBLE EMPLOYEE; INCLUSION OF INELIGIBLE EMPLOYEE	15

ARTICLE IV CONTRIBUTION AND ALLOCATION

4.1	FORMULA FOR DETERMINING EMPLOYER'S CONTRIBUTION	16
4.2	TIME OF PAYMENT OF EMPLOYER'S CONTRIBUTION.....	16
4.3	ALLOCATION OF CONTRIBUTION, FORFEITURES AND EARNINGS.....	16
4.4	MAXIMUM ANNUAL ADDITIONS.....	18
4.5	ADJUSTMENT FOR EXCESS ANNUAL ADDITIONS	21
4.6	ROLLOVERS	21
4.7	PLAN-TO-PLAN TRANSFERS FROM QUALIFIED PLANS.....	22
4.8	MANDATORY EMPLOYEE CONTRIBUTIONS.....	22
4.9	AFTER-TAX VOLUNTARY EMPLOYEE CONTRIBUTIONS	22
4.10	PARTICIPANT DIRECTED INVESTMENTS.....	23
4.11	QUALIFIED MILITARY SERVICE	24
4.12	INSTRUCTIONS TO ADMINISTRATOR AND NOTIFICATION TO PARTICIPANTS	24

ARTICLE V VALUATIONS

5.1	VALUATION OF THE TRUST FUND	25
-----	-----------------------------------	----

5.2	METHOD OF VALUATION	25
-----	---------------------------	----

ARTICLE VI DETERMINATION AND DISTRIBUTION OF BENEFITS

6.1	DETERMINATION OF BENEFITS UPON RETIREMENT	25
6.2	DETERMINATION OF BENEFITS UPON DEATH	25
6.3	DETERMINATION OF BENEFITS IN EVENT OF DISABILITY	26
6.4	DETERMINATION OF BENEFITS UPON TERMINATION	26
6.5	DISTRIBUTION OF BENEFITS	27
6.6	DISTRIBUTION OF BENEFITS UPON DEATH	29
6.7	TIME OF DISTRIBUTION	31
6.8	REQUIRED MINIMUM DISTRIBUTIONS	31
6.9	DISTRIBUTION FOR MINOR OR INCOMPETENT INDIVIDUAL	35
6.10	LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN	35
6.11	IN-SERVICE DISTRIBUTION	36
6.12	DISTRIBUTION FOR HARDSHIP	36
6.13	QUALIFIED DOMESTIC RELATIONS ORDER DISTRIBUTION	37
6.14	DIRECT ROLLOVERS	37
6.15	RESTRICTIONS ON DISTRIBUTION OF ASSETS TRANSFERRED FROM A MONEY PURCHASE PLAN	38
6.16	CORRECTIVE DISTRIBUTIONS	38
6.17	SERVICE CREDIT PURCHASES	38
6.18	UNCASHED CHECKS	39
6.19	39	

ARTICLE VII TRUST, TRUSTEE AND CUSTODIAN

7.1	CONFLICT WITH PLAN	39
7.2	POWERS AND DUTIES OF CUSTODIAN	39
7.3	LIFE INSURANCE	39
7.4	LOANS TO PARTICIPANTS	40
7.5	PLAN-TO-PLAN TRANSFERS	40

ARTICLE VIII AMENDMENT, TERMINATION AND MERGERS

8.1	AMENDMENT	41
8.2	TERMINATION	41
8.3	MERGER, CONSOLIDATION OR TRANSFER OF ASSETS	41

ARTICLE IX MISCELLANEOUS

9.1	EMPLOYER ADOPTIONS	42
9.2	PARTICIPANT'S RIGHTS	42
9.3	ALIENATION	42
9.4	PLAN COMMUNICATIONS, INTERPRETATION AND CONSTRUCTION	42
9.5	GENDER, NUMBER AND TENSE	43

9.6	LEGAL ACTION	43
9.7	PROHIBITION AGAINST DIVERSION OF FUNDS	43
9.8	EMPLOYER'S AND TRUSTEE'S PROTECTIVE CLAUSE	43
9.9	INSURER'S PROTECTIVE CLAUSE	43
9.10	RECEIPT AND RELEASE FOR PAYMENTS	44
9.11	ACTION BY THE EMPLOYER	44
9.12	APPROVAL BY INTERNAL REVENUE SERVICE	44
9.13	PAYMENT OF BENEFITS	44
9.14	ELECTRONIC MEDIA	44
9.15	PLAN CORRECTION	44
9.16	NONTRUSTEED PLANS	44

ARTICLE X PARTICIPATING EMPLOYERS

10.1	ELECTION TO BECOME A PARTICIPATING EMPLOYER	45
10.2	REQUIREMENTS OF PARTICIPATING EMPLOYERS	45
10.3	DESIGNATION OF AGENT	45
10.4	EMPLOYEE TRANSFERS	45
10.5	PARTICIPATING EMPLOYER'S CONTRIBUTION AND FORFEITURES	45
10.6	AMENDMENT	45
10.7	DISCONTINUANCE OF PARTICIPATION	46
10.8	ADMINISTRATOR'S AUTHORITY	46

ARTICLE XI MULTIPLE EMPLOYER PROVISIONS

11.1	ELECTION AND OVERRIDING EFFECT	46
11.2	DEFINITIONS	46
11.3	PARTICIPATING EMPLOYER ELECTIONS	46
11.4	TESTING	46
11.5	COMPENSATION	46
11.6	SERVICE	47
11.7	COOPERATION AND INDEMNIFICATION	47
11.8	INVOLUNTARY TERMINATION	47
11.9	VOLUNTARY TERMINATION	48
11.10	DESIGNATION OF AGENT	48

**ARTICLE I
DEFINITIONS**

As used in this Plan, the following words and phrases shall have the meanings set forth herein unless a different meaning is clearly required by the context:

1.1 "Account" means any separate notational account established and maintained by the Administrator for each Participant under the Plan. To the extent applicable, a Participant may have any (or all) of the following notational Accounts:

(a) "Combined Account" means the account representing the Participant's total interest under the Plan resulting from Employer contributions. In addition, Forfeitures are part of the Combined Account to the extent they are reallocated.

(b) "Mandatory Contribution Account" means the account established hereunder to which mandatory Employee contributions made pursuant to Section 4.8 are allocated, to the extent such contributions are not picked-up by the Employer pursuant to Code §414(h). A Participant's Mandatory Contribution Account shall be fully Vested at all times.

(c) "Rollover Account" means the account established hereunder to which amounts transferred from a qualified plan or individual retirement account in accordance with Section 4.6 are allocated.

(d) "Transfer Account" means the account established hereunder to which amounts transferred to this Plan from a direct plan-to-plan transfer in accordance with Section 4.7 are allocated.

(e) "Voluntary Contribution Account" means the account established hereunder to which after-tax voluntary Employee contributions made pursuant to Section 4.9 are allocated.

1.2 "Administrator" means the Employer unless another person, entity or committee has been designated by the Employer pursuant to Section 2.2 to administer the Plan on behalf of the Employer.

1.3 "Adoption Agreement" means the separate agreement which is executed by the Employer and sets forth the elective provisions of this Plan as specified by the Employer.

1.4 "Affiliated Employer" means any entity required to be aggregated with the Employer pursuant to Code §414.

1.5 "Alternate Payee" means an alternate payee pursuant to a qualified domestic relations order that meets the requirements of Code §414(p).

1.6 "Anniversary Date" means the last day of the Plan Year.

1.7 "Annuity Starting Date" means, with respect to any Participant, the first day of the first period for which an amount is paid as an annuity, or, in the case of a benefit not payable in the form of an annuity, the first day on which all events have occurred which entitles the Participant to such benefit.

1.8 "Beneficiary" means the person (or entity) to whom all or a portion of a deceased Participant's interest in the Plan is, or may become, payable upon the Participant's death as identified in records maintained by the Plan, subject to the restrictions of Sections 6.2 and 6.6.

1.9 "Code" means the Internal Revenue Code of 1986, as it may be amended from time to time and includes applicable Internal Revenue Service (IRS) guidance.

1.10 "Compensation" means, with respect to any Participant, the amount determined in accordance with the following provisions, except as otherwise provided in the Adoption Agreement.

(a) **Base definition.** One of the following, as elected in the Adoption Agreement:

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

Non-Standardized Governmental 401(a) Pre-Approved Plan

(2) Code §3401(a) Wages. Compensation means an Employee's wages within the meaning of Code §3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code §3401(a)(2)).

(3) 415 safe harbor compensation. Compensation means wages, salaries, Military Differential Pay, and fees for professional services and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the Employer maintaining the Plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salespersons, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements, or other expense allowances under a nonaccountable plan (as described in Regulation §1.62-2(c))), and excluding the following:

- (i) Employer contributions to a plan of deferred compensation which are not includible in the Employee's gross income for the taxable year in which contributed, or Employer contributions under a simplified employee pension plan to the extent such contributions are excludable from the Employee's gross income, or any distributions from a plan of deferred compensation;
- (ii) Amounts realized from the exercise of a nonqualified stock option, or when restricted stock (or property) held by the Employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;
- (iii) Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and
- (iv) Other amounts which receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includible in the gross income of the Employee and are not salary reduction amounts under Code §125), whether or not the contributions are actually excludable from the gross income of the Employee.

(b) **Paid during "determination period."** Compensation shall include only that Compensation which is actually paid to the Participant during the "determination period." Except as otherwise provided in this Plan, the "determination period" is the period elected by the Employer in the Adoption Agreement. If the Employer makes no election, the "determination period" shall be the Plan Year.

(c) **Inclusion of deferrals.** Notwithstanding the above, unless otherwise elected in the Adoption Agreement, Compensation shall include all of the following types of elective contributions and all of the following types of deferred compensation:

(1) Elective contributions that are made by the Employer on behalf of a Participant that are not includible in gross income under Code §§125, 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k) and 403(b). If specified in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), amounts under Code §125 shall be deemed to include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he or she has other health coverage. An amount will be treated as an amount under Code §125 pursuant to the preceding sentence only if the Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

(2) Compensation deferred under an eligible deferred compensation plan within the meaning of Code §457(b).

(3) Employee contributions described in Code §414(h)(2) that are picked up by the employing unit and thus are treated as Employer contributions.

(d) **Post-severance compensation – Code §415 Regulations.** The Administrator shall adjust Compensation for amounts that would otherwise be included in the definition of Compensation but are paid by the later of 2 1/2 months after a Participant's severance from employment with the Employer or the end of the Plan Year that includes the date of the Participant's severance from employment with the Employer, in accordance with the following, as elected in the Compensation Section of the Adoption Agreement. The preceding time period, however, does not apply with respect to payments described in Subsections (4) and (5) below. Any other payment of compensation paid after severance of employment that is not described in the following types of compensation is not considered Compensation, even if payment is made within the time period specified above.

(1) **Regular pay.** Compensation shall include regular pay after severance of employment (to the extent otherwise included in the definition of Compensation) if:

- (i) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and
- (ii) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer.

Non-Standardized Governmental 401(a) Pre-Approved Plan

(2) **Leave cash-outs.** Compensation shall include leave cash-outs if those amounts would have been included in the definition of Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued.

(3) **Deferred compensation.** Compensation shall include deferred compensation if those amounts would have been included in the definition of Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid at the same time if the Participant had continued in employment with the Employer and only to the extent the payment is includible in the Participant's gross income.

(4) **Military Differential pay.** Compensation shall include payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code §414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

(5) **Disability pay.** Compensation shall include compensation paid to a Participant who is permanently and totally disabled, as defined in Code §22(e)(3), provided, as elected by the Employer in the Compensation Section of the Adoption Agreement, salary continuation applies to all Participants who are permanently and totally disabled.

(e) **Compensation Dollar limitation.** For any Plan Year (or other applicable determination period) Compensation in excess of \$275,000 shall be disregarded for all purposes. The dollar amount shall be adjusted by the Commissioner for increases in the cost-of-living in accordance with Code §401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any "determination period" beginning with or within such calendar year. If a "determination period" consists of fewer than twelve (12) months, the \$275,000 annual Compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the "determination period," and the denominator of which is twelve (12). In applying any Plan limitation on the amount of matching contributions, where such limits are expressed as a percentage of Compensation, the Administrator may apply the Compensation limit under this Section annually, even if the matching contribution formula is applied on any time interval which is less than the full Plan Year or the Administrator may pro rate the Compensation limit.

In the case of an "eligible Participant," the dollar limitation under Code §401(a)(17) shall not apply to the extent the amount under the Plan would be reduced below the amount which was allowed to be taken into account under the Plan as in effect on July 1, 1993. For purposes of this provision, an "eligible Participant" is an individual who first became a Participant before the first Plan Year beginning after the earlier of (i) the Plan Year in which the Plan was amended to reflect Code §401(a)(17), or (ii) December 31, 1995.

(f) **Non-eligible Employee.** If, in the Adoption Agreement, the Employer elects to exclude a class of Employees from the Plan, then Compensation for any Employee who becomes eligible or ceases to be eligible to participate during a "determination period" shall only include Compensation while the Employee is an Eligible Employee.

(g) **Amendment.** If, in connection with the adoption of any amendment, the definition of Compensation has been modified, then, except as otherwise provided herein, for Plan Years prior to the Plan Year which includes the adoption date of such amendment, Compensation means compensation determined pursuant to the terms of the Plan then in effect.

(h) **Affiliated Employers.** Affiliated Employers are treated as one Employer for purposes of Compensation. If, however, one or more Affiliated Employers are Participating Employers and the Plan (including the Adoption Agreement or a participation agreement) allocate Employer Contributions separately among the Employees directly employed by a Participating Employer, then, in computing such allocations, Compensation paid by other Participating Employers is excluded Compensation.

1.11 "Contract" or "Policy" means any life insurance policy, retirement income policy, or annuity contract (group or individual) issued by the Insurer. In the event of any conflict between the terms of this Plan and the terms of any contract purchased hereunder, the Plan provisions shall control.

1.12 "Custodian" means a person or entity that has custody of all or any portion of the Plan assets.

1.13 "Directed Trustee" means a Trustee who, with respect to the investment of Plan assets, is subject to the direction of the Administrator, the Employer, a properly appointed Investment Manager, or Plan Participant.

1.14 "Discretionary Trustee" means a Trustee who has the authority and discretion to invest, manage or control any portion of the Plan assets.

1.15 "Early Retirement Date" means the date specified in the Adoption Agreement on which a Participant has satisfied the requirements specified in the Adoption Agreement (Early Retirement Age). If elected in the Adoption Agreement, a Participant shall become fully Vested upon satisfying such requirements if the Participant is still employed at the Early Retirement Age.

Non-Standardized Governmental 401(a) Pre-Approved Plan

A Participant who severs from employment after satisfying any service requirement but before satisfying the age requirement for Early Retirement Age and who thereafter reaches the age requirement contained herein shall be entitled to receive benefits under this Plan (other than any accelerated vesting and allocations of Employer contributions) as though the requirements for Early Retirement Age had been satisfied.

1.16 "Effective Date" means the date this Plan, including any restatement or amendment of this Plan, is effective. Where the Plan is restated or amended, a reference to Effective Date is the effective date of the restatement or amendment, except where the context indicates a reference to an earlier Effective Date. If any provision of this Plan is retroactively effective, the provisions of this Plan generally control. However, if the provision of this Plan is different from the provision of the Employer's prior plan document and, after the retroactive Effective Date of this Plan, the Employer operated in compliance with the provisions of the prior plan, then the provision of such prior plan is incorporated into this Plan for purposes of determining whether the Employer operated the Plan in compliance with its terms, provided operation in compliance with the terms of the prior plan do not violate any qualification requirements under the Code, Regulations, or other IRS guidance.

The Employer may designate special effective dates for individual provisions under the Plan where provided in the Adoption Agreement or under Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections). If one or more qualified retirement plans have been merged into this Plan, the provisions of the merging plan(s) will remain in full force and effect until the effective date of the plan merger(s).

1.17 "Eligible Employee" means any Eligible Employee as elected in the Adoption Agreement and as provided herein.

(a) **"Reclassified Employees."** An individual shall not be an Eligible Employee (unless otherwise elected in Appendix A to the Adoption Agreement) if such individual is a "Reclassified Employee." A "Reclassified Employee" is any person the Employer does not treat as a common law employee or as a self-employed individual (including, but not limited to, independent contractors, persons the Employer pays outside of its payroll system and out-sourced workers) for federal income tax withholding purposes under Code §3401(a), irrespective of whether there is a binding determination that the individual is an Employee or a Leased Employee of the Employer. Self-Employed Individuals are not "Reclassified Employees."

(b) **Affiliated Employers.** Employees of an Affiliated Employer will not be treated as Eligible Employees prior to the date the Affiliated Employer adopts the Plan as a Participating Employer.

(c) **Union Employees.** If, in the Adoption Agreement, the Employer elects to exclude union employees, then Employees whose employment is governed by a collective bargaining agreement between the Employer and "employee representatives" under which retirement benefits were the subject of good faith bargaining, shall not be eligible to participate in this Plan to the extent of employment covered by such agreement, unless the agreement provides for coverage in the Plan (see Section 4.1(d)). For this purpose, the term "employee representatives" does not include any organization more than half of whose members are employees who are owners, officers, or executives of the Employer. If a Participant performs services both as a collectively bargained Employee and as a non-collectively bargained Employee, then the Participant's Hours of Service in each respective category are treated separately.

(d) **Nonresident aliens.** If, in the Adoption Agreement, the Employer elects to exclude nonresident aliens, then Employees who are nonresident aliens (within the meaning of Code §7701(b)(1)(B)) who received no earned income (within the meaning of Code §911(d)(2)) from the Employer which constitutes income from sources within the United States (within the meaning of Code §861(a)(3)) shall not be eligible to participate in this Plan. In addition, this paragraph shall also apply to exclude from participation in the Plan an Employee who is a nonresident alien (within the meaning of Code §7701(b)(1)(B)) but who receives earned income (within the meaning of Code §911(d)(2)) from the Employer that constitutes income from sources within the United States (within the meaning of Code §861(a)(3)), if all of the Employee's earned income from the Employer from sources within the United States is exempt from United States income tax under an applicable income tax convention. The preceding sentence will apply only if all Employees described in the preceding sentence are excluded from the Plan.

1.18 "Employee" means any person who is employed by the Employer. The term "Employee" shall also include any person who is an employee of an Affiliated Employer and any Leased Employee deemed to be an Employee as provided in Code §414(n) or (o).

1.19 "Employer" means the governmental entity specified in the Adoption Agreement, any successor which shall maintain this Plan and any predecessor which has maintained this Plan. In addition, unless the context means otherwise, the term "Employer" shall include any Participating Employer which shall adopt this Plan. This plan may only be adopted a state or local governmental entity, or agency thereof, including an Indian tribal government, and may not be adopted by any other entity, including a federal government and any agency or instrumentality thereof.

Non-Standardized Governmental 401(a) Pre-Approved Plan

1.20 "**Fiscal Year**" means the Employer's accounting year.

1.21 "**Forfeiture**" means that portion of a Participant's Account that is not Vested and is disposed of in accordance with the provisions of the Plan.

A Forfeiture will occur on the following, as elected by the Employer in the Adoption Agreement:

- (a) The last day of the Plan Year in which a Participant incurs five (5) consecutive 1-Year Breaks in Service, or
- (b) The distribution of the entire Vested portion of the Participant's Account of a Participant who has severed employment with the Employer. For purposes of this provision, if the Participant has a Vested benefit of zero, then such Participant shall be deemed to have received a distribution of such Vested benefit as of the year in which the severance of employment occurs. For this purpose, a Participant's Vested benefit shall not include: (i) qualified voluntary employee contributions within the meaning of Code §72(o)(5)(B), and (ii) the Participant's Rollover Account.
- (c) As soon as reasonable practical after the date a Participant severs employment.

Regardless of the preceding, if a Participant is eligible to share in the allocation of Forfeitures in the year in which the Forfeiture would otherwise occur, then the Forfeiture will not occur until the end of the first Plan Year for which the Participant is not eligible to share in the allocation of Forfeitures. Furthermore, the term "Forfeiture" shall also include amounts deemed to be Forfeitures pursuant to any other provision of this Plan.

1.22 "**Former Employee**" means an individual who has severed employment with the Employer or an Affiliated Employer.

1.23 "**415 Compensation**" means, with respect to any Participant, such Participant's (a) Wages, tips and other compensation on Form W-2, (b) Code §3401(a) wages or (c) 415 safe harbor compensation as elected in the Adoption Agreement for purposes of Compensation (and as defined in Subsections 1.10(a)(1)-3 respectively). 415 Compensation shall be based on the full Limitation Year regardless of when participation in the Plan commences. Furthermore, regardless of any election made in the Adoption Agreement, 415 Compensation shall include any elective deferral (as defined in Code §§402(e)(3), 402(k) and 402(h)(1)(B)) and any amount which is contributed or deferred by the Employer at the election of the Participant and which is not includible in the gross income of the Participant by reason of Code §§125, 457, and 132(f)(4). If the Plan contains pick-up provisions (certain contributions designated as employee contributions, that are then "picked-up" by the Employer), then those pick-up contributions are not includible as Compensation for purposes of IRC §415 & Reg. §1.415-2(d)(2)(i). In addition, Military Differential Pay is treated as 415 Compensation.

(a) **Deemed 125 compensation.** If elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), 415 Compensation shall also include deemed §125 compensation. Deemed §125 compensation is an amount that is excludable under §106 that is not available to a participant in cash in lieu of group health coverage under a §125 arrangement solely because the participant is unable to certify that he or she has other health coverage. An amount will be treated as an amount under Code §125 pursuant to the preceding sentence only if the Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

(b) **Post-severance compensation.** The Administrator shall adjust 415 Compensation for amounts that would otherwise be included in the definition of 415 Compensation but are paid by the later of 2 1/2 months after a Participant's severance from employment with the Employer or the end of the Limitation Year that includes the date of the Participant's severance from employment with the Employer, in accordance with the following, as elected in the Compensation Section of the Adoption Agreement. The preceding time period, however, does not apply with respect to payments described in Subsections (4) and (5) below. Any other payment of compensation paid after severance of employment that is not described in the following types of compensation is not considered 415 Compensation, even if payment is made within the time period specified above.

(1) **Regular pay.** 415 Compensation shall include regular pay after severance of employment (to the extent otherwise included in the definition of 415 Compensation) if:

- (i) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and
- (ii) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer.

(2) **Leave cash-outs.** 415 Compensation shall include leave cash-outs if those amounts would have been included in the definition of 415 Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued.

Non-Standardized Governmental 401(a) Pre-Approved Plan

(3) **Deferred compensation.** 415 Compensation shall include deferred compensation if those amounts would have been included in the definition of 415 Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid if the Participant had continued in employment with the Employer and only to the extent the payment is includible in the Participant's gross income.

(4) **Military Differential Pay.** 415 Compensation shall include payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Code §414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

(5) **Disability pay.** 415 Compensation shall include compensation paid to a Participant who is permanently and totally disabled, as defined in Code §22(e)(3), provided, as elected by the Employer in the Compensation Section of the Adoption Agreement, salary continuation applies to all Participants who are permanently and totally disabled for a fixed or determinable period, or the Participant was not a highly compensated employee (within the meaning of Code §414(q)) immediately before becoming disabled.

(c) **Back pay.** Back pay, within the meaning of Regulations §1.415(c)-2(g)(8), shall be treated as Compensation for the Limitation Year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(d) **Dollar limitation.** 415 Compensation will be limited to the same dollar limitations set forth in Section 1.10(e) adjusted in such manner as permitted under Code §415(d).

(e) **Amendment.** Except as otherwise provided herein, if, in connection with the adoption of any amendment, the definition of 415 Compensation has been modified, then for Plan Years prior to the Plan Year which includes the adoption date of such amendment, 415 Compensation means compensation determined pursuant to the terms of the Plan then in effect.

1.24 "Hour of Service" means (a) each hour for which an Employee is directly or indirectly compensated or entitled to compensation by the Employer for the performance of duties during the applicable computation period (these hours will be credited to the Employee for the computation period in which the duties are performed); (b) each hour for which an Employee is directly or indirectly compensated or entitled to Compensation by the Employer (irrespective of whether the employment relationship has terminated) for reasons other than performance of duties (such as vacation, holidays, sickness, incapacity (including disability), jury duty, lay-off, military duty or leave of absence) during the applicable computation period; (c) each hour for which back pay is awarded or agreed to by the Employer without regard to mitigation of damages (these hours will be credited to the Employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement or payment is made). The same Hours of Service shall not be credited both under (a) or (b), as the case may be, and under (c).

Notwithstanding (b) above, (1) no more than 501 Hours of Service will be credited to an Employee on account of any single continuous period during which the Employee performs no duties (whether or not such period occurs in a single computation period); (2) an hour for which an Employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed is not required to be credited to the Employee if such payment is made or due under a plan maintained solely for the purpose of complying with applicable workers' compensation, or unemployment compensation or disability insurance laws; and (3) Hours of Service are not required to be credited for a payment which solely reimburses an Employee for medical or medically related expenses incurred by the Employee. Furthermore, for purposes of (b) above, a payment shall be deemed to be made by or due from the Employer regardless of whether such payment is made by or due from the Employer directly, or indirectly through, among others, a trust fund, or insurer, to which the Employer contributes or pays premiums and regardless of whether contributions made or due to the trust fund, insurer, or other entity are for the benefit of particular Employees or are on behalf of a group of Employees in the aggregate.

Hours of Service will be credited for employment with all Affiliated Employers and for any individual considered to be a Leased Employee pursuant to Code §414(n) or 414(o) and the Regulations thereunder.

Hours of Service will be determined using the actual hours method unless one of the methods below is elected in the Adoption Agreement. If the **actual hours** method is used to determine Hours of Service, an Employee is credited with the actual Hours of Service the Employee completes with the Employer or the number of Hours of Service for which the Employee is paid (or entitled to payment).

If the **days worked** method is elected, an Employee will be credited with ten (10) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the day.

If the **weeks worked** method is elected, an Employee will be credited with forty-five (45) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the week.

If the **semi-monthly payroll periods worked** method is elected, an Employee will be credited with ninety-five (95) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the semi-monthly payroll period.

Non-Standardized Governmental 401(a) Pre-Approved Plan

If the **months worked** method is elected, an Employee will be credited with one hundred ninety (190) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the month.

If the **bi-weekly payroll periods worked** method is elected, an Employee will be credited with ninety (90) Hours of Service if under the Plan such Employee would be credited with at least one (1) Hour of Service during the bi-weekly payroll period.

1.25 "Insurer" means any legal reserve insurance company which has issued or shall issue one or more Contracts or Policies under the Plan.

1.26 "Investment Manager" means a person or entity which renders investment advice for a fee or other compensation, direct or indirect, with respect to any monies or property of the Plan and which is appointed in accordance with Section 2.1(b).

1.27 "Joint and Survivor Annuity" means an immediate annuity for the life of a Participant with a survivor annuity for the life of the Participant's Spouse which is not less than fifty percent (50%), nor more than one hundred percent (100%) of the amount of the annuity payable during the joint lives of the Participant and the Participant's Spouse which can be purchased with the Participant's Vested interest in the Plan reduced by any outstanding loan balances pursuant to Section 7.4.

1.28 "Late Retirement Date" means the date of, or the first day of the month or the Anniversary Date coinciding with or next following, whichever corresponds to the election in the Adoption Agreement for the Normal Retirement Date, a Participant's actual retirement after having reached the Normal Retirement Date.

1.29 "Leased Employee" means any person (other than an Employee of the recipient Employer) who, pursuant to an agreement between the recipient Employer and any other person or entity ("leasing organization"), has performed services for the recipient (or for the recipient and related persons determined in accordance with Code §414(n)(6)) on a substantially full time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient Employer. Contributions or benefits provided a Leased Employee by the leasing organization which are attributable to services performed for the recipient Employer shall be treated as provided by the recipient Employer. Furthermore, Compensation for a Leased Employee shall only include compensation from the leasing organization that is attributable to services performed for the recipient Employer.

A Leased Employee shall not be considered an employee of the recipient Employer if: (a) such employee is covered by a money purchase pension plan providing: (1) a non-integrated employer contribution rate of at least ten percent (10%) of compensation, as defined in Code §415(c)(3), (2) immediate participation, and (3) full and immediate vesting; and (b) leased employees do not constitute more than twenty percent (20%) of the recipient Employer's nonhighly compensated workforce.

1.30 "Limitation Year" means the "determination period" used to determine Compensation. However, the Employer may elect a different Limitation Year in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections). All qualified plans maintained by the Employer must use the same Limitation Year. Furthermore, unless there is a change to a new Limitation Year, the Limitation Year will be a twelve (12) consecutive month period. In the case of an initial Limitation Year, the Limitation Year will be the twelve (12) consecutive month period ending on the last day of the period specified in the Adoption Agreement. If the Limitation Year is amended to a different twelve (12) consecutive month period, the new "Limitation Year" must begin on a date within the "Limitation Year" in which the amendment is made. The Limitation Year may only be changed by a Plan amendment. Furthermore, if the Plan is terminated effective as of a date other than the last day of the Plan's Limitation Year, then the Plan is treated as if the Plan had been amended to change its Limitation Year.

1.31 "Military Differential Pay" means any differential wage payments made to an individual that represents an amount which, when added to the individual's military pay, approximates the amount of Compensation that was paid to the individual while working for the Employer. An individual receiving a differential wage payment, as defined by Code §3401(h)(2), is treated as an Employee of the Employer making the payment.

1.32 "Nonelective Contribution" means the Employer's contributions to the Plan.

1.33 "Normal Retirement Age" means the age elected in the Adoption Agreement at which time a Participant's Account shall be nonforfeitable (if elected in the Adoption Agreement and if the Participant is employed by the Employer on or after that date). For money purchase pension plans, if the employer enforces a mandatory retirement age, then the Normal Retirement Age is the lesser of that mandatory age or the age specified in the Adoption Agreement. Upon attaining Normal Retirement Age or the stated age and completion of the required years of service and any other reasonable requirements set forth in the Plan, the Plan will provide for full vesting of an Employee's interest.

1.34 "Normal Retirement Date" means the date elected in the Adoption Agreement.

1.35 "1-Year Break in Service" means, if the Hour of Service method is used, the applicable computation period that is used to determine a Year of Service during which an Employee or Former Employee has not completed more than 500 Hours of Service. However, if the Employer selected, in the Service Crediting Method Section of the Adoption Agreement, to define a Year of Service as less than 1,000

Non-Standardized Governmental 401(a) Pre-Approved Plan

Hours of Service, then the 500 Hours of Service in this definition of 1-Year Break in Service shall be proportionately reduced. Further, solely for the purpose of determining whether an Employee has incurred a 1-Year Break in Service, Hours of Service shall be recognized for "authorized leaves of absence" and "maternity and paternity leaves of absence." For this purpose, Hours of Service shall be credited for the computation period in which the absence from work begins, only if credit therefore is necessary to prevent the Employee from incurring a 1-Year Break in Service, or, in any other case, in the immediately following computation period. The Hours of Service credited for a "maternity or paternity leave of absence" shall be those which would normally have been credited but for such absence, or, in any case in which the Administrator is unable to determine such hours normally credited, eight (8) Hours of Service per day. The total Hours of Service required to be credited for a "maternity or paternity leave of absence" shall not exceed the number of Hours of Service needed to prevent the Employee from incurring a 1-Year Break in Service.

"Authorized leave of absence" means an unpaid, temporary cessation from active employment with the Employer pursuant to an established policy, whether occasioned by illness, military service, or any other reason.

A "maternity or paternity leave of absence" means an absence from work for any period by reason of the Employee's pregnancy, birth of the Employee's child, placement of a child with the Employee in connection with the adoption of such child, or any absence for the purpose of caring for such child for a period immediately following such birth or placement.

If the elapsed time method is elected in the Service Crediting Method Section of the Adoption Agreement, then a "1-Year Break in Service" means a twelve (12) consecutive month period beginning on the severance from service date or any anniversary thereof and ending on the next succeeding anniversary of such date; provided, however, that the Employee or Former Employee does not perform an Hour of Service for the Employer during such twelve (12) consecutive month period.

1.36 "Participant" means any Employee or Former Employee who has satisfied the requirements of Sections 3.1 and 3.2 and entered the Plan and is eligible to accrue benefits under the Plan. In addition, the term "Participant" also includes any individual who was a Participant (as defined in the preceding sentence) and who must continue to be taken into account under a particular provision of the Plan (e.g., because the individual has an Account balance in the Plan).

1.37 "Participant Directed Account" means that portion of a Participant's interest in the Plan with respect to which the Participant has directed the investment in accordance with the Participant Direction Procedures.

1.38 "Participant Direction Procedures" means such instructions, guidelines or policies, the terms of which are incorporated herein, as shall be established pursuant to Section 4.10 and observed by the Administrator and applied and provided to Participants who have Participant Directed Accounts.

1.39 "Participating Employer" means an Employer which, with the consent of the "lead Employer" adopts the Plan pursuant to Section 10.1 or Article XI. In addition, unless the context means otherwise, the term "Employer" shall include any Participating Employer which shall adopt this Plan.

1.40 "Period of Service" means the aggregate of all periods of service commencing with an Employee's first day of employment or reemployment with the Employer or an Affiliated Employer and ending on the first day of a Period of Severance, or for benefit accrual purposes, ending on the severance from service date. The first day of employment or reemployment is the first day the Employee performs an Hour of Service. An Employee who incurs a Period of Severance of twelve (12) months or less will also receive service-spanning credit by treating any such period as a Period of Service for purposes of eligibility and vesting (but not benefit accrual). For purposes of benefit accrual, a Participant's whole year Periods of Service is equal to the sum of all full and partial periods of service, whether or not such service is continuous or contiguous, expressed in the number of whole years represented by such sum. For this purpose, fractional periods of a year will be expressed in terms of days.

Periods of Service with any Affiliated Employer shall be recognized. Furthermore, Periods of Service with any predecessor employer that maintained this Plan shall be recognized. Periods of Service with any other predecessor employer shall be recognized as elected in the Adoption Agreement.

In determining Periods of Service for purposes of vesting under the Plan, Periods of Service will be excluded as elected in the Adoption Agreement and as specified in Section 3.5.

In the event the method of crediting service is amended from the Hour of Service method to the elapsed time method, an Employee will receive credit for a Period of Service consisting of:

- (a) A number of years equal to the number of Years of Service credited to the Employee before the computation period during which the amendment occurs; and
- (b) The greater of (1) the Periods of Service that would be credited to the Employee under the elapsed time method for service during the entire computation period in which the transfer occurs or (2) the service taken into account under the Hour of Service method as of the date of the amendment.

Non-Standardized Governmental 401(a) Pre-Approved Plan

In addition, the Employee will receive credit for service subsequent to the amendment commencing on the day after the last day of the computation period in which the transfer occurs.

1.41 "Period of Severance" means a continuous period of time during which an Employee is not employed by the Employer. Such period begins on the date the Employee retires, quits or is discharged, or if earlier, the twelve (12) month anniversary of the date on which the Employee was otherwise first absent from service.

In the case of an individual who is absent from work for "maternity or paternity" reasons, the twelve (12) consecutive month period beginning on the first anniversary of the first day of such absence shall not constitute a one year Period of Severance. For purposes of this paragraph, an absence from work for "maternity or paternity" reasons means an absence (a) by reason of the pregnancy of the individual, (b) by reason of the birth of a child of the individual, (c) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (d) for purposes of caring for such child for a period beginning immediately following such birth or placement.

1.42 "Plan" means this instrument hereinafter referred to as Newport Group, Inc. Non-Standardized Governmental 401(a) Pre-Approved Plan (Basic Plan Document #03 and the Adoption Agreement) as adopted by the Employer, including all amendments thereto and any appendix which is specifically permitted pursuant to the terms of the Plan.

1.43 "Plan Year" means the Plan's accounting year as specified in the Adoption Agreement. Unless there is a Short Plan Year, the Plan Year will be a twelve-consecutive month period.

1.44 "Pre-Retirement Survivor Annuity" means an immediate annuity for the life of a Participant's Spouse, the payments under which must be equal to the benefit which can be provided with the percentage, as specified in the Adoption Agreement, of the Participant's Vested interest in the Plan as of the date of death. If no election is made in the Adoption Agreement, the percentage shall be equal to fifty percent (50%). Furthermore, if less than one hundred percent (100%) of the Participant's Vested interest in the Plan is used to provide the Pre-Retirement Survivor Annuity, a proportionate share of each of the Participant's Accounts subject to the Pre-Retirement Survivor Annuity shall be used to provide the Pre-Retirement Survivor Annuity.

1.45 "Regulation" means the Income Tax Regulations as promulgated by the Secretary of the Treasury or a delegate of the Secretary of the Treasury, and as amended from time to time.

1.46 "Retirement Date" means the date as of which a Participant retires for reasons other than Total and Permanent Disability, regardless of whether such retirement occurs on a Participant's Normal Retirement Date, Early Retirement Date or Late Retirement Date (see Section 6.1).

1.47 "Short Plan Year" means, if specified in the Adoption Agreement or as the result of an amendment, a Plan Year of less than a twelve (12) month period. If there is a Short Plan Year, the following rules shall apply in the administration of this Plan. In determining whether an Employee has completed a Year of Service (or Period of Service if the elapsed time method is used) for benefit accrual purposes in the Short Plan Year, the number of the Hours of Service (or months of service if the elapsed time method is used) required shall be proportionately reduced based on the number of days (or months) in the Short Plan Year.

1.48 "Spouse" means, a spouse as determined under federal tax law. In addition, with respect to benefits or rights not mandated by law, Spouse also includes a spouse as elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections).

1.49 "Terminated Participant" means a person who has been a Participant, but whose employment has been terminated with the Employer (including an Affiliated Employer) or applicable Participating Employer, other than by death, Total and Permanent Disability or retirement.

1.50 "Total and Permanent Disability" means, unless otherwise specified in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months. The disability of a Participant shall be determined by a licensed physician. However, if the condition constitutes total disability under the federal Social Security Acts, the Administrator may rely upon such determination that the Participant is Totally and Permanently Disabled for the purposes of this Plan. The determination shall be applied uniformly to all Participants.

1.51 "Trustee" means any person or entity that has agreed to serve as Trustee pursuant to the terms of the Trust agreement, or any successors thereto. The Employer may designate Trustees by business position or title. In addition, unless the context means, or the Plan provides, otherwise, the term "Trustee" shall mean the Insurer if the Plan is fully insured. The Employer has no reliance on the IRS opinion letter with respect to the separate Trust agreement.

1.52 "Trust Fund" means, if the Plan is funded with a trust, the assets of the Plan and Trust as the same shall exist from time to time.

Non-Standardized Governmental 401(a) Pre-Approved Plan

1.53 "Valuation Date" means the date or dates specified in the Adoption Agreement. Regardless of any election to the contrary, for purposes of the determination and allocation of earnings and losses, the Valuation Date shall include the Anniversary Date and may include any other date or dates deemed necessary or appropriate by the Administrator for the valuation of Participants' Accounts during the Plan Year, which may include any day that the Trustee (or Insurer), any transfer agent appointed by the Trustee (or Insurer) or the Employer, or any stock exchange used by such agent, are open for business.

1.54 "Vested" means the nonforfeitable portion of any Account maintained on behalf of a Participant.

1.55 "Year of Service" means the computation period of twelve (12) consecutive months, herein set forth, and during which an Employee has completed at least 1,000 Hours of Service (unless a different number of Hours of Service is specified in the Adoption Agreement).

For purposes of eligibility for participation, the initial computation period shall begin with the date on which the Employee first performs an Hour of Service (employment commencement date). Unless otherwise elected in the Service Crediting Method Section of the Adoption Agreement, the succeeding computation periods shall begin on the anniversary of the Employee's employment commencement date. However, unless otherwise elected in the Adoption Agreement, if one (1) Year of Service or less is required as a condition of eligibility, then the computation period after the initial computation period shall shift to the current Plan Year which includes the anniversary of the date on which the Employee first performed an Hour of Service, and subsequent computation periods shall be the Plan Year. If there is a shift to the Plan Year, an Employee who is credited with the number of Hours of Service to be credited with a Year of Service in both the initial eligibility computation period and the first Plan Year which commences prior to the first anniversary of the Employee's initial eligibility computation period will be credited with two (2) Years of Service for purposes of eligibility to participate.

If two (2) (or more) Years of Service are required as a condition of eligibility, a Participant will only have completed two (2) (or more) Years of Service for eligibility purposes upon completing two (2) or more consecutive Years of Service without an intervening 1-Year Break in Service.

For vesting purposes, and all other purposes not specifically addressed in this Section, the computation period shall be the period elected in the Service Crediting Method Section of the Adoption Agreement. If no election is made in the Service Crediting Method Section of the Adoption Agreement, then the computation period shall be the Plan Year.

In determining Years of Service for purposes of vesting under the Plan, Years of Service will be excluded as elected in the Adoption Agreement and as specified in Section 3.5.

Years of Service and 1-Year Breaks in Service for eligibility purposes will be measured on the same eligibility computation period. Years of Service and 1-Year Breaks in Service for vesting purposes will be measured on the same vesting computation period.

Years of Service with any Affiliated Employer shall be recognized. Furthermore, Years of Service with any predecessor employer that maintained this Plan shall be recognized. Years of Service with any other employer shall be recognized as elected in the Adoption Agreement.

In the event the method of crediting service is amended from the elapsed time method to the Hour of Service method, an Employee will receive credit for Years of Service equal to:

- (a) The number of Years of Service equal to the number of 1-year Periods of Service credited to the Employee as of the date of the amendment; and
- (b) In the computation period which includes the date of the amendment, a number of Hours of Service (using the Hours of Service equivalency method, if any, elected in the Adoption Agreement) to any fractional part of a year credited to the Employee under this Section as of the date of the amendment.

ARTICLE II ADMINISTRATION

2.1 POWERS AND RESPONSIBILITIES OF THE EMPLOYER

- (a) **Appointment of Trustee (or Insurer) and Administrator.** In addition to the general powers and responsibilities otherwise provided for in this Plan, the Employer shall be empowered to appoint and remove one or more Trustees (or Insurers) and Administrators from time to time as it deems necessary for the proper administration of the Plan to ensure that the Plan is being operated for the exclusive benefit of the Participants and their Beneficiaries in accordance with the terms of the Plan and the Code. The Employer may appoint counsel, specialists, advisers, agents (including any nonfiduciary agent) and other persons as the Employer deems necessary or desirable in connection with the exercise of its fiduciary duties under this Plan. The Employer may compensate such agents or advisers from the assets of the Plan as fiduciary expenses (but not including any business (settlor) expenses of the Employer), to the extent not paid by the Employer.

Non-Standardized Governmental 401(a) Pre-Approved Plan

(b) **Appointment of Investment Manager.** Unless prohibited by the terms of the Trust agreement, the Employer may appoint, at its option, one or more Investment Managers, investment advisers, or other agents to provide investment direction to the Trustee (or Insurer) with respect to any or all of the Plan assets. Such appointment shall be given by the Employer in writing in a form acceptable to the Trustee (or Insurer) and shall specifically identify the Plan assets with respect to which the Investment Manager or other agent shall have the authority to direct the investment.

(c) **Indemnity.** To the extent permitted by the Code, and unless otherwise specified in a separate agreement, the Employer will indemnify and hold harmless the Administrator, officers, directors, shareholders, employees, and agents of the Employer; the Plan; the Trustees, Fiduciaries, Participants and Beneficiaries of the Plan, as well as their respective successors and assigns, against any cause of action, loss, liability, damage, cost, or expense of any nature whatsoever (including, but not limited to, attorney's fees and costs, whether or not suit is brought, as well as IRS plan disqualifications, and other sanctions or compliance fees) arising out of or relating to the Employer's noncompliance with any of the Plan's terms or requirements; any intentional or negligent act or omission the Employer commits with regard to the Plan; and any omission or provision of incorrect information with regard to the Plan which causes the Plan to fail to satisfy the requirements of a tax-qualified plan. This indemnity provision shall continue to apply to the Employer with respect to the period the entity was maintaining this Plan, even if the Employer ceases to maintain the Plan.

2.2 DESIGNATION OF ADMINISTRATIVE AUTHORITY

The Employer may appoint one or more Administrators. If the Employer does not appoint an Administrator, the Employer will be the Administrator. Any person, including, but not limited to, the Employees of the Employer, shall be eligible to serve as an Administrator. Any person so appointed shall signify acceptance by filing written or electronic acceptance with the Employer. An Administrator may resign by delivering a written resignation to the Employer or be removed by the Employer by delivery of written notice of removal, to take effect at a date specified therein, or upon delivery to the Administrator if no date is specified. Upon the resignation or removal of an Administrator, the Employer may designate in writing a successor to this position.

2.3 ALLOCATION AND DELEGATION OF RESPONSIBILITIES

If more than one person is appointed as Administrator, then the responsibilities of each Administrator may be specified by the Employer and accepted in writing by each Administrator. If no such delegation is made by the Employer, then the Administrators may allocate the responsibilities among themselves, in which event the Administrators shall notify the Employer and the Trustee (or Insurer) in writing of such action and specify the responsibilities of each Administrator. The Trustee (or Insurer) thereafter shall accept and rely upon any documents executed by the appropriate Administrator until such time as the Employer or the Administrators file with the Trustee (or Insurer) a written revocation of such designation.

2.4 POWERS AND DUTIES OF THE ADMINISTRATOR

The primary responsibility of the Administrator is to administer the Plan for the exclusive benefit of the Participants and their Beneficiaries, subject to the specific terms of the Plan. The Administrator shall administer the Plan in accordance with its terms and shall have the power and discretion to construe the terms of the Plan and determine all questions arising in connection with the administration, interpretation, and application of the Plan. Benefits under this Plan will be paid only if the Administrator decides in its discretion that the applicant is entitled to them. Any such determination by the Administrator shall be conclusive and binding upon all persons. The Administrator may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of the Plan; provided, however, that any procedure, discretionary act, interpretation or construction shall be done based upon uniform principles consistently applied and shall be consistent with the intent that the Plan continue to be deemed a qualified plan under the terms of Code §401(a). The Administrator shall have all powers necessary or appropriate to accomplish its duties under this Plan.

The Administrator shall be charged with the duties of the general administration of the Plan and the powers necessary to carry out such duties as set forth under the terms of the Plan, including, but not limited to, the following:

- (a) the discretion to determine all questions relating to the eligibility of an Employee to participate or remain a Participant hereunder and to receive benefits under the Plan;
- (b) the authority to review and settle all claims against the Plan, including claims where the settlement amount cannot be calculated or is not calculated in accordance with the Plan's benefit formula. This authority specifically permits the Administrator to settle disputed claims for benefits and any other disputed claims made against the Plan;
- (c) to compute, certify, and direct agents of the Plan with respect to the amount and the kind of benefits to which any Participant shall be entitled hereunder;
- (d) to authorize and direct the Trustee (or Insurer) with respect to all discretionary or otherwise directed disbursements from the Trust Fund;
- (e) to maintain all necessary records for the administration of the Plan;

- (f) to interpret the provisions of the Plan and to make and publish such rules for regulation of the Plan that are consistent with the terms hereof;
- (g) to determine the size and type of any Contract to be purchased from any Insurer, and to designate the Insurer from which such Contract shall be purchased;
- (h) to compute and certify to the Employer and to the Trustee (or Insurer) from time to time the sums of money necessary or desirable to be contributed to the Plan;
- (i) to consult with the Employer and agents of the Plan regarding the short and long-term liquidity needs of the Plan;
- (j) to assist Participants regarding their rights, benefits, or elections available under the Plan; and
- (k) to determine the validity of, and take appropriate action with respect to, any "qualified domestic relations order" received by it.

2.5 RECORDS AND REPORTS

The Administrator shall keep a record of all actions taken and shall keep all other books of account, records, and other data that may be necessary for proper administration of the Plan and shall be responsible for supplying all information and reports to the Internal Revenue Service, Participants, Beneficiaries and others as required by applicable law.

2.6 APPOINTMENT OF ADVISERS

The Administrator may appoint counsel, specialists, advisers, agents (including nonfiduciary agents such as third party administrative services providers and recordkeepers) and other persons as the Administrator deems necessary or desirable in connection with the administration of this Plan, including but not limited to agents and advisers to assist with the administration and management of the Plan, and thereby to provide, among such other duties as the Administrator may appoint, assistance with maintaining Plan records and the providing of investment information to the Plan's investment fiduciaries and, if applicable, to Plan Participants.

2.7 INFORMATION FROM EMPLOYER

The Employer shall supply full and timely information to the Administrator on all pertinent facts as the Administrator may require in order to perform its functions hereunder and the Administrator shall advise appropriate agents of the Plan of such of the foregoing facts as may be pertinent to the agent's duties with respect to the Plan. The Administrator may rely upon such information as is supplied by the Employer and shall have no duty or responsibility to verify such information.

2.8 PAYMENT OF EXPENSES

All reasonable expenses of administration may be paid out of the Plan assets unless paid by the Employer. Such expenses shall include any expenses incident to the functioning of the Administrator, or any person or persons retained or appointed by any named fiduciary incident to the exercise of their duties under the Plan, including, but not limited to, fees of accountants, counsel, Investment Managers, agents (including nonfiduciary agents such as third party administrative services providers and recordkeepers) appointed for the purpose of assisting the Administrator or Trustee (or Insurer) in carrying out the instructions of Participants as to the directed investment of their Accounts (if permitted) and other specialists and their agents and other costs of administering the Plan. If liquid assets of the Plan are insufficient to cover the fees of the Trustee (or Insurer) or the Administrator, then Plan assets shall be liquidated to the extent necessary for such fees. In the event any part of the Plan assets becomes subject to tax, all taxes incurred will be paid from the Plan assets. Until paid, the expenses shall constitute a liability of the Trust Fund.

Expenses may be charged to Account. Unless specifically prohibited under statute, regulation or other guidance of general applicability, the Administrator may charge to the Account of an individual Participant a reasonable charge to offset the cost of making a distribution to the Participant, Beneficiary, or Alternate Payee.

2.9 MAJORITY ACTIONS

Except where there has been an allocation and delegation of administrative authority pursuant to Section 2.3, if there is more than one Administrator, then they shall act by a majority of their number, but may authorize one or more of them to sign all papers on their behalf.

2.10 CLAIMS PROCEDURES

- (a) **Non-ERISA provisions.** Sections 2.10(a) and (b) apply unless (1) the Administrator has adopted other Plan provisions or other claims procedures that override all or a portion of the provisions set forth in this Plan Section 2.10, or (2) the Employer has elected in the Adoption Agreement to apply all or some of Subsections (c) – (g) below (which are based on provisions of the Employee Retirement Security Act even though ERISA does not apply to this Plan).

Non-Standardized Governmental 401(a) Pre-Approved Plan

Any person who believes that he or she is entitled to a benefit under the Plan shall file with the Administrator a written notice of claim for such benefit within 45 days of such right accruing or shall forever waive entitlement to such benefit. Within 120 days after its receipt of such written notice of claim, the Administrator shall either grant or deny such claim provided, however, any delay on the part of the Administrator is arriving at a decision shall not adversely affect benefits payable under a granted claim. The Administrator may, however, implement claims procedures in addition to those provided in this Plan. The implementation of such procedures shall not be considered a Plan amendment that affects an Employer's reliance on this pre-approved plan.

The Administrator and all persons determining or reviewing claims have full discretion to determine benefit claims under the Plan. Any interpretation, determination or other action of such persons shall be subject to review only if it is arbitrary or capricious or otherwise an abuse of discretion. Any review of a final decision or action of the persons reviewing a claim shall be based only on such evidence presented to or considered by such persons at the time they made the decision that is the subject of review.

(b) **Plan Administrator discretion; court review.** The Administrator and all persons determining or reviewing claims have full discretion to determine benefit claims under the Plan. Any interpretation, determination or other action of such persons shall be subject to review only if it is arbitrary or capricious or otherwise an abuse of discretion. Any review of a final decision or action of the persons reviewing a claim shall be based only on such evidence presented to or considered by such persons at the time they made the decision that is the subject of review.

(c) **Initial Claim.** Claims for benefits under the Plan may be filed in writing with the Administrator. Written or electronic notice of the disposition of a claim shall be furnished to the claimant within ninety (90) days (45 days if the claim involves disability benefits and disability is not based on the Social Security Acts) after the application is filed, or such period as is required by applicable law or Department of Labor regulation. Any electronic notification shall comply with the standards imposed by Department of Labor Regulation §2520.104b-1(c)(1)(i), (iii) and (iv) or any subsequent guidance. In the event the claim is denied, the reasons for the denial shall be specifically set forth in the notice in language calculated to be understood by the claimant, pertinent provisions of the Plan shall be cited, and, where appropriate, an explanation as to how the claimant can perfect the claim will be provided. In addition, the claimant shall be furnished with an explanation of the Plan's claims review procedure.

(d) **Claims review.** Any Employee, Former Employee, or Beneficiary of either, who has been denied a benefit by a decision of the Administrator pursuant to Section 2.10 shall be entitled to request the Administrator to give further consideration to the claim by filing with the Administrator a written request. Such request, together with a written statement of the reasons why the claimant believes such claim should be allowed, shall be filed with the Administrator no later than sixty (60) days after receipt of the written notification provided for in this Section 2.10(c). A final decision as to the allowance of the claim shall be made by the Administrator within sixty (60) days (45 days if the claim involves disability benefits and disability is not based on the Social Security Acts) of receipt of the appeal (unless there has been an extension of sixty (60) days (45 days if the claim involves disability benefits and disability is not based on the Social Security Acts) due to special circumstances, provided the delay and the special circumstances occasioning it are communicated to the claimant within the sixty (60) day period (45 days if the claim involves disability benefits and disability is not based on the Social Security Acts)). Such communication shall be written in a manner calculated to be understood by the claimant and shall include specific reasons for the decision and specific references to the pertinent Plan provisions on which the decision is based. The communication may be written or electronic (provided the electronic communication complies with the standards imposed by Department of Labor Regulation §2520.104b-1(c)(1)(i), (iii) and (iv) or any subsequent guidance). Notwithstanding the preceding, to the extent any of the time periods specified in this Section are amended by law or Department of Labor regulation, then the time frames specified herein shall automatically be changed in accordance with such law or regulation.

(e) **Deadline to file claim.** To be considered timely under the Plan's claims procedures, a claim must be filed under Sections 2.10(c) or (d) above within one year after the claimant knew or reasonably should have known of the principal facts upon which the claim is based. Knowledge of all facts that the Participant knew or reasonably should have known shall be imputed to the claimant for the purpose of applying this deadline.

(f) **Exhaustion of administrative remedies.** The exhaustion of the claims procedures is mandatory for resolving every claim and dispute arising under this Plan. As to such claims and disputes: (1) no claimant shall be permitted to commence any legal action to recover Plan benefits or to enforce or clarify rights under the Plan or under any other provision of law, whether or not statutory, until the claims procedures set forth in Subsections (a) and (b) above have been exhausted in their entirety; and (2) in any such legal action all explicit and all implicit determinations by the Administrator (including, but not limited to, determinations as to whether the claim, or a request for a review of a denied claim, was timely filed) shall be afforded the maximum deference permitted by law.

(g) **Deadline to file action.** No legal action to recover Plan benefits or to enforce or clarify rights under the Plan or under any other provision of law, whether or not statutory, may be brought by any claimant on any matter pertaining to this Plan unless the legal action is commenced in the proper forum before the earlier of: (1) thirty (30) months after the claimant knew or reasonably should have known of the principal facts on which the claim is based, or (2) six (6) months after the claimant has exhausted the claims procedure under this Plan. Knowledge of all facts that the Participant knew or reasonably should have known shall be imputed to every claimant who is or claims to be a Beneficiary of the Participant or otherwise claims to derive an entitlement by reference to the Participant for purposes of applying the previously specified periods.

ARTICLE III
ELIGIBILITY

3.1 CONDITIONS OF ELIGIBILITY

An Eligible Employee shall be eligible to participate hereunder on the date such Employee has satisfied the conditions of eligibility, if any, elected in the Adoption Agreement.

3.2 EFFECTIVE DATE OF PARTICIPATION

(a) **General rule.** An Eligible Employee who has satisfied the conditions of eligibility pursuant to Section 3.1 shall become a Participant effective as of the date elected in the Adoption Agreement.

(b) **Rehired Employee.** This Subsection only applies to the extent the Employer elects to apply the Break-in-Service rules in Appendix A to the Adoption Agreement. If the Break-in-Service rules do not apply, then a rehired Employee is treated as a new hire. If the Break-in-Service rules do apply, then if an Eligible Employee is not employed on the date determined pursuant to (a) above, but is reemployed before a 1-Year Break in Service has occurred, then such Eligible Employee shall become a Participant on the date of reemployment or, if later, the date that the Employee would have otherwise entered the Plan had the Employee not terminated employment. If such Employee incurs a 1-Year Break in Service, then eligibility will be determined under the 1-Year Break in Service rules set forth in Section 3.5.

(c) **Recognition of predecessor service.** Unless specifically provided otherwise in the Adoption Agreement, an Eligible Employee who satisfies the Plan's eligibility requirement conditions by reason of recognition of service with a predecessor employer will become a Participant as of the day the Plan credits service with a predecessor employer or, if later, the date the Employee would have otherwise entered the Plan had the service with the predecessor employer been service with the Employer.

(d) **Noneligible to eligible class.** If an Employee, who has satisfied the Plan's eligibility requirements and would otherwise have become a Participant, shall go from a classification of a noneligible Employee to an Eligible Employee, such Employee shall become a Participant on the date such Employee becomes an Eligible Employee or, if later, the date that the Employee would have otherwise entered the Plan had the Employee always been an Eligible Employee.

(e) **Eligible to noneligible class.** If an Employee, who has satisfied the Plan's eligibility requirements and would otherwise become a Participant, shall go from a classification of an Eligible Employee to a noneligible class of Employees, such Employee shall become a Participant in the Plan on the date such Employee again becomes an Eligible Employee, or, if later, the date that the Employee would have otherwise entered the Plan had the Employee always been an Eligible Employee. However, if such Employee incurs a 1-Year Break in Service, eligibility will be determined under the 1-Year Break in Service rules set forth in Section 3.5 (if applicable to the Plan).

3.3 DETERMINATION OF ELIGIBILITY

The Administrator shall determine the eligibility of each Employee for participation in the Plan based upon information furnished by the Employer. Such determination shall be conclusive and binding upon all persons, as long as the same is made pursuant to the Plan.

3.4 TERMINATION OF ELIGIBILITY

In the event a Participant shall go from a classification of an Eligible Employee to an ineligible Employee, such Participant shall continue to vest in the Plan for each Year of Service (or Period of Service, if the elapsed time method is used) completed while an ineligible Employee, until such time as the Participant's Account is forfeited or distributed pursuant to the terms of the Plan. Additionally, the Participant's interest in the Plan shall continue to share in the earnings of the Trust Fund in the same manner as Participants.

3.5 REHIRED EMPLOYEES AND 1-YEAR BREAKS IN SERVICE

(a) **Application of Break-in Service rules.** The Break-in-Service rules set forth in this Section only apply if the Employer elects to apply the Break-in-Service rules in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections). If the Employer does not elect to apply the Break-in-Service rules, then rehired Employees are treated as new hires.

(b) **Rehired Participant/immediate re-entry.** If any Former Employee who had been a Participant is reemployed by the Employer, then the Employee shall become a Participant as of the reemployment date, unless the Employee is not an Eligible Employee or unless the Employee does not satisfy the eligibility conditions taking into account prior service to the extent such prior service is not disregarded pursuant to Section 3.5(e) below. If such prior service is disregarded, then the rehired Eligible Employee shall be treated as a new hire.

(c) **Rehired Eligible Employee who satisfied eligibility.** If any Eligible Employee had satisfied the Plan's eligibility requirements but, due to a severance of employment, did not become a Participant, then such Eligible Employee shall become a Participant as of the

Non-Standardized Governmental 401(a) Pre-Approved Plan

later of (1) the entry date on which he or she would have entered the Plan had there been no severance of employment, or (2) the date of his or her re-employment. Notwithstanding the preceding, if the rehired Eligible Employee's prior service is disregarded pursuant to Section 3.5(e) below, then the rehired Eligible Employee shall be treated as a new hire.

(d) **Rehired Eligible Employee who had not satisfied eligibility.** If any Eligible Employee who had not satisfied the Plan's eligibility requirements is rehired after severance from employment, then such Eligible Employee shall become a Participant in the Plan in accordance with the eligibility requirements set forth in the Adoption Agreement and the Plan. However, in applying any shift in an eligibility computation period, the Eligible Employee is not treated as a new hire unless prior service is disregarded in accordance with Section 3.5(e) below.

(e) **Reemployed after five (5) 1-Year Breaks in Service ("rule of parity" provisions).** If the Employer elects in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) to apply the "rule of parity" provisions, then if any Employee is reemployed after five (5) 1-Year Breaks in Service has occurred, Years of Service (or Periods of Service if the elapsed time method is being used) shall include Years of Service (or Periods of Service if the elapsed time method is being used) prior to the 5-Year Break in Service subject to the rules set forth below. The Employer may elect in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) to make the provisions of this paragraph applicable for purposes of eligibility and/or vesting.

(1) In the case of a Former Employee who under the Plan does not have a nonforfeitable right to any interest in the Plan resulting from Employer contributions, Years of Service (or Periods of Service) before a period of 1-Year Breaks in Service will not be taken into account if the number of consecutive 1-Year Breaks in Service equals or exceeds the greater of (i) five (5) or (ii) the aggregate number of pre-break Years of Service (or Periods of Service). Such aggregate number of Years of Service (or Periods of Service) will not include any Years of Service (or Periods of Service) disregarded under the preceding sentence by reason of prior 1-Year Breaks in Service;

(2) A Former Employee who has not had Years of Service (or Periods of Service) before a 1-Year Break in Service disregarded pursuant to (1) above, shall participate in the Plan as of the date of reemployment, or if later, as of the date the Former Employee would otherwise enter the Plan pursuant to Sections 3.1 and 3.2 taking into account all service not disregarded.

(f) **Vesting after five (5) 1-Year Breaks in Service.** If the Employer elects in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) to apply the Break-in-Service rules, then if a Participant incurs five (5) consecutive 1-Year Breaks in Service, the Vested portion of such Participant's Account attributable to pre-break service shall not be increased as a result of post-break service. In such case, separate accounts will be maintained as follows:

(1) one account for nonforfeitable benefits attributable to pre-break service; and

(2) one account representing the Participant's Employer-derived Account balance in the Plan attributable to post-break service.

(g) **Waiver of allocation or contribution conditions.** If the Employer elects in the Adoption Agreement to waive allocations or contributions due to retirement (early or normal retirement), then a Participant shall only be entitled to one such waiver. Accordingly, if a Participant retires and allocation or contribution conditions are waived, then the Plan will not waive the allocation or contribution conditions if the Participant is rehired and then retires again.

3.6 ELECTION NOT TO PARTICIPATE

An Employee may, subject to the approval of the Employer, elect voluntarily not to participate in any component of the Plan before the Employee first becomes eligible to participate in any qualified plan (subject to Code §401(a)), or any other plan or arrangement of the employer that is described in Code section 219(g)(5)(A) (whether or not terminated) maintained by the Employer. Such election must be made upon inception of the Plan or such other plan or arrangement or at any time prior to the time the Employee first becomes eligible to participate under any such plan maintained by the Employer. The election not to participate must be irrevocable and communicated to the Employer, in writing, within a reasonable period of time before the date the Employee would have otherwise entered the Plan. Notwithstanding anything in this Section to the contrary, if any prior Plan document of this Plan contained a provision permitting an Employee to make a revocable election not to participate and an Employee made such revocable election not to participate while that prior Plan document was in effect, then such Employee's waiver shall continue to be in effect.

3.7 OMISSION OF ELIGIBLE EMPLOYEE; INCLUSION OF INELIGIBLE EMPLOYEE

If, in any Plan Year, any Employee who should be included as a Participant in the Plan is erroneously omitted and discovery of such omission is not made until after a contribution by the Employer for the year has been made and allocated, or any person who should not have been included as a Participant in the Plan is erroneously included, then the Employer may take corrective actions consistent with, the IRS Employee Plans Compliance Resolution System (i.e., Rev. Proc. 2018-52, Rev. Proc. 2019-19, or any subsequent guidance).

**ARTICLE IV
CONTRIBUTION AND ALLOCATION**

4.1 FORMULA FOR DETERMINING EMPLOYER'S CONTRIBUTION

(a) For a Money Purchase Plan

All contributions made by the Employer will be made in cash. For each Plan Year, the Employer will contribute to the Plan the following:

- (1) The amount of any mandatory Employee contributions and after-tax voluntary Employee contributions made by Participants; plus
- (2) On behalf of each Participant eligible to share in allocations, for each year of such Participant's participation in this Plan, the Employer will contribute the amount specified in the Adoption Agreement; plus
- (3) If elected in the Adoption Agreement, a matching contribution equal to the amount specified in the Adoption Agreement of each Participant eligible to share in the allocations of the matching contribution, which amount shall be deemed an Employer matching contribution.

(b) For a 401(a) Plan

For each Plan Year, the Employer will (or may with respect to any discretionary contributions) contribute to the Plan:

- (1) The amount of any mandatory Employee contributions and after-tax voluntary Employee contributions; plus
- (2) If elected in the Adoption Agreement, a matching contribution equal to the amount specified in the Adoption Agreement of each Participant eligible to share in the allocations of the matching contribution, which amount shall be deemed an Employer matching contribution; plus
- (3) If elected in the Adoption Agreement, an Employer contribution equal to a specified contribution or a discretionary amount determined each year by the Employer.

(c) Frozen Plans. The Employer may designate that the Plan is a frozen Plan at the Contribution Types Section of the Adoption Agreement. As a frozen Plan, the Employer will not make any Employer contributions with respect to Compensation earned after the date the Plan is frozen. In addition, once a Plan is frozen, no additional Employees shall become Participants.

(d) Union Employees. Regardless of any provision in this Plan to the contrary, Employees whose employment is governed by a collective bargaining agreement between the Employer and "employee representatives" under which retirement benefits were the subject of good faith bargaining shall be eligible to participate in this Plan to the extent of employment covered by such agreement provided the agreement provides for coverage in the Plan. The benefits, including but not limited to, contributions, allocations and vesting, under this Plan shall be those set forth in the Adoption Agreement. For this purpose, the term "employee representatives" does not include any organization more than half of whose members are employees who are owners, officers, or executives of the Employer. If a Participant performs services both as a collectively bargained Employee and as a non-collectively bargained Employee, then the Participant's Hours of Service and Compensation in each respective category are treated separately for purposes of the Plan.

(e) Social Security Replacement Plan. The Employer may elect under the Adoption Agreement to indicate its intention to qualify this Plan as a Social Security Replacement Plan under Code §3121(b)(7)(F). If the Employer makes the election to qualify the Plan as a Social Security Replacement Plan, the Plan will allocate a minimum contribution amount (Employer and Employee Contributions) of seven and one-half percent (7.5%) of Compensation. The Plan will consider each Participant a member of a retirement system that provides benefits comparable to the benefits he or she would have received under Social Security. In the case of part-time, seasonal and temporary Employees, the benefit will be nonforfeitable.

4.2 TIME OF PAYMENT OF EMPLOYER'S CONTRIBUTION

Unless otherwise provided by contract or law, the Employer may make its contribution to the Plan for a particular Plan Year at such time as the Employer, in its sole discretion, determines. If the Employer makes a contribution for a particular Plan Year after the close of that Plan Year, the Employer will designate to the Administrator the Plan Year for which the Employer is making its contribution.

4.3 ALLOCATION OF CONTRIBUTION, FORFEITURES AND EARNINGS

(a) Separate accounting. The Administrator shall establish and maintain an Account in the name of each Participant to which the Administrator shall credit as of each Anniversary Date, or other Valuation Date, all amounts allocated to each such Participant as set forth herein.

Non-Standardized Governmental 401(a) Pre-Approved Plan

(b) **Allocation of contributions.** The Employer shall provide the Administrator with all information required by the Administrator to make a proper allocation of the Employer's contribution, if any, for each Plan Year. Within a reasonable period of time after the date of receipt by the Administrator of such information, the Administrator shall allocate any contributions as follows:

(1) **Money Purchase Pension Plan.** For a Money Purchase Plan:

- (i) The Employer's contribution shall be allocated to each Participant's Account in the manner set forth in Section 4.1 herein and as specified in the Adoption Agreement.
- (ii) Notwithstanding the preceding provisions, a Participant shall only be eligible to share in the allocations of the Employer's contribution for the year if the Participant is an Eligible Employee at any time during the year and the conditions set forth in the Adoption Agreement are satisfied.

(2) **401(a) Plan.** For a 401(a) Plan (which is a profit sharing plan within the meaning of Code §401(a)):

- (i) The Employer's contribution shall be allocated to each Participant's Account in accordance with the allocation method that corresponds with the elections in the Adoption Agreement. The Employer shall provide the Administrator with all information required by the Administrator to make a proper allocation of the Employer's contribution for each Plan Year. Within a reasonable period of time after the date of receipt by the Administrator of such information, the allocation shall be made in accordance with the elections in the Adoption Agreement.
- (ii) Notwithstanding the preceding provision, a Participant shall only be eligible to share in the allocations of the Employer's contribution for the year if the Participant is an Eligible Employee at any time during the year and the conditions set forth in the Adoption Agreement are satisfied.

(c) **Gains or losses.** Except as otherwise provided in Section 4.10 with respect to Participant Directed Accounts, as of each Valuation Date, before allocation of any Employer contributions and Forfeitures, any earnings or losses (net appreciation or net depreciation) of the Trust Fund (exclusive of assets segregated for distribution) shall be allocated in accordance with such rules and procedures that are established by the Administrator and that are applied in a uniform and nondiscriminatory manner based upon the investments of the Trust Fund and the Participants' accounts to which the net income is allocated. For purposes of this Section, the term "net income" means the net of any interest, dividends, unrealized appreciation and depreciation, capital gains and losses, and investment expenses of the Trust Fund determined on each Valuation Date. However, Participants' accounts which have been segregated for investment purposes (including any Participant Directed Accounts) will only have the net income earned thereon allocated thereto. Policy dividends or credits will be allocated to the Participant's Account for whose benefit the Policy is held.

Recapture account. The Administrator in its discretion may use a "Recapture Account" to pay non-settlor Plan expenses and may allocate funds in the "Recapture Account" (or excess funds therein after payment of Plan expenses) as earnings or as otherwise permitted by applicable law. The Administrator will exercise its discretion in a reasonable, uniform and nondiscriminatory manner. A "Recapture Account" is an account designated to receive amounts which a Plan service provider receives in the form of 12b-1 fees, sub-transfer agency fees, shareholder servicing fees or similar amounts (also known as "revenue sharing"), which are received by the service provider from a source other than the Plan and which the service provider may remit to the Plan.

Late trading and market timing settlement. In the event the Plan becomes entitled to a settlement from a mutual fund or other investment relating to late trading, market timing or other activities, the Administrator will allocate the settlement proceeds to Participants and Beneficiaries in accordance with Department of Labor Field Assistance Bulletin 2006-01 or other applicable law.

(d) **Contracts.** Participants' Accounts shall be debited for any insurance or annuity premiums paid, if any, and credited with any dividends or interest received on Contracts.

(e) **Forfeitures.** Forfeitures must be disposed of no later than the last day of the Plan Year following the Plan Year in which the Forfeiture occurs. The Employer may direct the Administrator to use Forfeitures to satisfy any contribution that may be required pursuant to Section 6.10 or to pay any Plan expenses. With respect to a Money Purchase Plan, any remaining Forfeitures will be disposed of in accordance with the elections in the Adoption Agreement. With respect to all other plans, the Employer must direct the Administrator to use any remaining Forfeitures in accordance with any combination of the following methods, including a different method based on the source of such Forfeitures. Forfeitures may be:

- (1) Added to any Employer discretionary contribution and allocated in the same manner
- (2) Used to reduce any Employer contribution

- (3) Added to any Employer matching contribution and allocated as an additional matching contribution
- (4) Allocated to all Participants in the same proportion that each Participant's Compensation for the Plan Year bears to the Compensation of all Participants for such year

If Forfeitures are allocated to Participants (rather than used to reduce Employer contributions) then the Employer must also direct the Administrator as to which Participants are eligible to share in such allocation.

(f) **Delay in processing transactions.** Notwithstanding anything in this Section to the contrary, all information necessary to properly reflect a given transaction may not be available until after the date specified herein for processing such transaction, in which case the transaction will be reflected when such information is received and processed. Subject to express limits that may be imposed under the Code, the processing of any contribution, distribution or other transaction may be delayed for any legitimate business reason (including, but not limited to, failure of systems or computer programs, failure of the means of the transmission of data, force majeure, the failure of a service provider to timely receive values or prices, and correction for errors or omissions or the errors or omissions of any service provider). The processing date of a transaction will be binding for all purposes of the Plan.

4.4 MAXIMUM ANNUAL ADDITIONS

(a) Calculation of "annual additions."

- (1) If a Participant does not participate in, and has never participated in another qualified plan maintained by the "employer," or a welfare benefit fund (as defined in Code §419(e)) maintained by the "employer," or an individual medical benefit account (as defined in Code §415(l)(2)) maintained by the "employer," or a simplified employee pension (as defined in Code §408(k)) maintained by the "employer" which provides "annual additions," the amount of "annual additions" which may be credited to the Participant's Accounts for any Limitation Year shall not exceed the lesser of the "maximum permissible amount" or any other limitation contained in this Plan. If the "employer" contribution that would otherwise be contributed or allocated to the Participant's Accounts would cause the "annual additions" for the Limitation Year to exceed the "maximum permissible amount," the amount contributed or allocated will be reduced so that the "annual additions" for the Limitation Year will equal the "maximum permissible amount," and any amount in excess of the "maximum permissible amount" which would have been allocated to such Participant may be allocated to other Participants.
- (2) Prior to determining the Participant's actual 415 Compensation for the Limitation Year, the "employer" may determine the "maximum permissible amount" for a Participant on the basis of a reasonable estimation of the Participant's 415 Compensation for the Limitation Year, uniformly determined for all Participants similarly situated.
- (3) As soon as is administratively feasible after the end of the Limitation Year, the Administrator shall determine the "maximum permissible amount" for each Participant for such Limitation Year on the basis of the Participant's actual 415 Compensation for such Limitation Year.

(b) "Annual additions" if a Participant is in more than one plan.

- (1) Except as provided in Subsection (c) below, this Subsection applies if, in addition to this Plan, a Participant is covered under another "employer" maintained qualified defined contribution plan, welfare benefit fund (as defined in Code §419(e)), individual medical benefit account (as defined in Code §415(l)(2)), or simplified employee pension (as defined in Code §408(k)), which provides "annual additions," during any Limitation Year. The "annual additions" which may be credited to a Participant's Accounts under this Plan for any such Limitation Year shall not exceed the "maximum permissible amount" reduced by the "annual additions" credited to a Participant's Accounts under the other plans and welfare benefit funds, individual medical benefit accounts, and simplified employee pensions for the same Limitation Year. If the "annual additions" with respect to the Participant under other defined contribution plans and welfare benefit funds maintained by the "employer" are less than the "maximum permissible amount" and the "employer" contribution that would otherwise be contributed or allocated to the Participant's Accounts under this Plan would cause the "annual additions" for the Limitation Year to exceed this limitation, the amount contributed or allocated will be reduced so that the "annual additions" under all such plans and welfare benefit funds for the Limitation Year will equal the "maximum permissible amount," and any amount in excess of the "maximum permissible amount" which would have been allocated to such Participant may be allocated to other Participants. If the "annual additions" with respect to the Participant under such other defined contribution plans, welfare benefit funds, individual medical benefit accounts and simplified employee pensions in the aggregate are equal to or greater than the "maximum permissible amount," no amount will be contributed or allocated to the Participant's Account under this Plan for the Limitation Year.
- (2) Prior to determining the Participant's actual 415 Compensation for the Limitation Year, the "employer" may determine the "maximum permissible amount" for a Participant on the basis of a reasonable estimation of the Participant's 415 Compensation for the Limitation Year, uniformly determined for all Participants similarly situated.

Non-Standardized Governmental 401(a) Pre-Approved Plan

- (3) As soon as is administratively feasible after the end of the Limitation Year, the Administrator shall determine the "maximum permissible amount" for each Participant for such Limitation Year on the basis of the Participant's actual 415 Compensation for the Limitation Year.
- (4) If, pursuant to Section 4.4(b)(2), a Participant's "annual additions" under this Plan and such other plans would result in an "excess amount" for a Limitation Year, the "excess amount" will be deemed to consist of the "annual additions" last allocated, except that "annual additions" attributable to a simplified employee pension will be deemed to have been allocated first, followed by "annual additions" to a welfare benefit fund or individual medical benefit account, and then by "annual additions" to a plan subject to Code §412, regardless of the actual allocation date.
- (5) If an "excess amount" was allocated to a Participant on an allocation date of this Plan which coincides with an allocation date of another plan, the "excess amount" attributed to this Plan will be the product of:
- (i) the total "excess amount" allocated as of such date, times
 - (ii) the ratio of (A) the "annual additions" allocated to the Participant for the Limitation Year as of such date under this Plan to (B) the total "annual additions" allocated to the Participant for the Limitation Year as of such date under this and all the other qualified defined contribution plans.
- (c) **Coverage under another plan.** If the Participant is covered under another qualified defined contribution plan maintained by the "employer," "annual additions" which may be credited to the Participant's Accounts under this Plan for any Limitation Year will be limited in accordance with Section 4.4(b), unless the "employer" provides other limitations in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections).
- (d) **Time when "annual additions" credited.** An "annual addition" is credited to the Account of a Participant for a particular Limitation Year if it is allocated to the Participant's Account under the Plan as of any date within that Limitation Year. However, an amount is not deemed allocated as of any date within a Limitation Year if such allocation is dependent upon participation in the Plan as of any date subsequent to such date.

For purposes of this subparagraph, "employer" contributions are treated as credited to a Participant's Account for a particular Limitation Year only if the contributions are actually made to the Plan no later than the 15th day of the tenth calendar month following the end of the calendar year or Fiscal Year (as applicable, depending on the basis on which the Employer keeps its books) with or within which the particular Limitation Year ends.

- (e) **Definitions.** For purposes of this Section, the following terms shall be defined as follows:

(1) **"Annual additions"** means the sum credited to a Participant's Accounts for any Limitation Year of (a) "employer" contributions, (b) Employee contributions (except as provided below), (c) Forfeitures, (d) amounts allocated to an individual medical benefit account, as defined in Code §415(l)(2), which is part of a pension or annuity plan maintained by the "employer," (e) amounts derived from contributions paid or accrued which are attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in Code §419A(d)(3)) under a welfare benefit fund (as defined in Code §419(e)) maintained by the "employer" and (f) allocations under a simplified employee pension. Except, however, the Compensation percentage limitation referred to in paragraph (e)(5)(ii) below shall not apply to: (1) any contribution for medical benefits (within the meaning of Code §419A(f)(2)) after separation from service which is otherwise treated as an "annual addition," or (2) any amount otherwise treated as an "annual addition" under Code §415(l)(1).

(i) **Restorative payments.** "Annual additions" for purposes of Code §415 and this Section shall not include restorative payments. A restorative payment is a payment made to restore losses to a Plan resulting from actions by a fiduciary for which there is reasonable risk of liability for breach of a fiduciary duty under applicable federal or state law, where Participants who are similarly situated are treated similarly with respect to the payments. Generally, payments are restorative payments only if the payments are made in order to restore some or all of the Plan's losses due to an action (or a failure to act) that creates a reasonable risk of liability for such a breach of fiduciary duty (other than a breach of fiduciary duty arising from failure to remit contributions to the Plan). Payments made to the Plan to make up for losses due merely to market fluctuations and other payments that are not made on account of a reasonable risk of liability for breach of a fiduciary duty are not restorative payments and generally constitute contributions that are considered "annual additions."

(ii) **Other amounts.** "Annual additions" for purposes of Code §415 and this Section shall not include: (A) The direct transfer of a benefit or employee contributions from a qualified plan to this Plan; (B) Rollover contributions (as described in Code §§401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)); (C) Repayments of loans made to a Participant from the Plan; and (D) Repayments of amounts described in Code §411(a)(7)(B) (in accordance with Code §411(a)(7)(C)) and Code §411(a)(3)(D) or repayment of contributions to a governmental plan (as defined in Code §414(d)) as described in Code §415(k)(3), as well as Employer restorations of benefits that are required pursuant to such repayments.

Non-Standardized Governmental 401(a) Pre-Approved Plan

- (2) **"Defined contribution dollar limitation"** means \$56,000 (or the amount as adjusted under Code §415(d)).
- (3) **"Employer"** means, for purposes of this Section, the Employer that adopts this Plan and all Affiliated Employers.
- (4) **"Excess amount"** means the excess of the Participant's "annual additions" for the Limitation Year over the "maximum permissible amount."
- (5) **"Maximum permissible amount"** means, except to the extent permitted under this Plan and Code §414(v), the maximum "annual addition" that may be contributed or allocated to a Participant's Accounts under the Plan for any Limitation Year, which shall not exceed the lesser of:
 - (i) the "defined contribution dollar limitation," or
 - (ii) one hundred percent (100%) of the Participant's 415 Compensation for the Limitation Year.

The 415 Compensation Limitation referred to in (ii) shall not apply to any contribution for medical benefits after separation from service (within the meaning of Code §§401(h) or 419A(f)(2)) which is otherwise treated as an "annual addition."

If a short Limitation Year is created because of an amendment changing the Limitation Year to a different twelve (12) consecutive month period, the "maximum permissible amount" will not exceed the "defined contribution dollar limitation" multiplied by a fraction, the numerator of which is the number of months in the short Limitation Year and the denominator of which is twelve (12).

(f) **Special rules.**

(1) **Aggregation of plans.** For purposes of applying the limitations of Code §415, all defined contribution plans (without regard to whether a plan has been terminated) ever maintained by the "employer" (or a "predecessor employer") under which the Participant receives "annual additions" (including voluntary employee contribution accounts in a defined benefit plan, mandatory contributions to a defined benefit plan, individual medical benefit accounts under §401(h), key employee accounts under a welfare benefit plan described in §419, and simplified employee pensions under §408(k)) of the employer or a predecessor employer, whether or not terminated, will be treated as one defined contribution plan for purposes of the limitations under §415(c). Where the employer is a member of a controlled group of corporations or commonly controlled trades or businesses, or a member of an affiliated service group, within the meaning of §§414(b), (c) or (m) and §415(g) and (h), the plan must provide that all such employers are treated as a single employer for purposes of the Plan's application of the §415 limitations. Notwithstanding the preceding, multiemployer plans are not aggregated with other multiemployer plans for purposes of §415. For purposes of this Section:

(i) A former "employer" is a "predecessor employer" with respect to a participant in a plan maintained by an "employer" if the "employer" maintains a plan under which the participant had accrued a benefit while performing services for the former "employer", but only if that benefit is provided under the plan maintained by the "employer". For this purpose, the "formerly affiliated plan" rules in Regulation §1.415(f)-1(b)(2) apply as if the "employer" and "predecessor employer" constituted a single employer under the rules described in Regulation §1.415(a)-1(f)(1) and (2) immediately prior to the "cessation of affiliation" (and as if they constituted two, unrelated employers under the rules described in Regulation §1.415(a)-1(f)(1) and (2) immediately after the "cessation of affiliation") and "cessation of affiliation" was the event that gives rise to the "predecessor employer" relationship, such as a transfer of benefits or plan sponsorship.

(ii) With respect to an "employer" of a Participant, a former entity that antedates the "employer" is a "predecessor employer" with respect to the Participant if, under the facts and circumstances, the "employer" constitutes a continuation of all or a portion of the trade or business of the former entity.

(2) **Break-up of an affiliated employer or an affiliated service group.** For purposes of aggregating plans for Code §415, a "formerly affiliated plan" of an "employer" is taken into account for purposes of applying the Code §415 limitations to the "employer," but the "formerly affiliated plan" is treated as if it had terminated immediately prior to the "cessation of affiliation." For purposes of this paragraph, a "formerly affiliated plan" of an "employer" is a plan that, immediately prior to the "cessation of affiliation," was actually maintained by one or more of the entities that constitute the "employer" (as determined under the employer affiliation rules described in Regulation §1.415(a)-1(f)(1) and (2)), and immediately after the "cessation of affiliation," is not actually maintained by any of the entities that constitute the "employer" (as determined under the employer affiliation rules described in Regulation §1.415(a)-1(f)(1) and (2)). For purposes of this paragraph, a "cessation of affiliation" means the event that causes an entity to no longer be aggregated with one or more other entities as a single "employer" under the employer affiliation rules described in Regulation §1.415(a)-1(f)(1) and (2) (such as the sale of a subsidiary outside a controlled group), or that causes a plan to not actually be maintained by any of the entities that constitute the "employer" under the employer affiliation rules of Regulation §1.415(a)-1(f)(1) and (2) (such as a transfer of plan sponsorship outside of a controlled group).

(3) **Mid-year aggregation.** Two or more defined contribution plans that are not required to be aggregated pursuant to Code §415(f) and the Regulations thereunder as of the first day of a Limitation Year do not fail to satisfy the requirements of Code §415 with respect to a Participant for the Limitation Year merely because they are aggregated later in that Limitation Year, provided that no "annual additions" are credited to the Participant's Account after the date on which the plans are required to be aggregated.

4.5 ADJUSTMENT FOR EXCESS ANNUAL ADDITIONS

Notwithstanding any provision of the Plan to the contrary, if the "annual additions" (as defined in Section 4.4) are exceeded for any Participant, then the Plan may only correct such excess in accordance with the Employee Plans Compliance Resolution System (EPCRS) as set forth in Rev. Proc. 2018-52, Rev. Proc. 2019-19, or any superseding guidance.

4.6 ROLLOVERS

(a) **Acceptance of "rollovers" into the Plan.** If elected in the Adoption Agreement and with the consent of the Administrator, the Plan may accept a "rollover," provided the "rollover" will not jeopardize the tax-exempt status of the Plan or create adverse tax consequences for the Employer. The amounts rolled over shall be separately accounted for in a "Participant's Rollover Account." A Participant's Rollover Account shall be fully Vested at all times and shall not be subject to Forfeiture for any reason. For purposes of this Section, the term Participant shall include any Eligible Employee who is not yet a Participant, if, pursuant to the Adoption Agreement, "rollovers" are permitted to be accepted from Eligible Employees. In addition, for purposes of this Section the term Participant shall also include Former Employees if elected in the Adoption Agreement. Regardless of whether new loans are permitted, if the Plan permits rollovers, the Administrator may, in a uniform and nondiscriminatory manner, accept rollovers of loans into this Plan if the terms of such loans meet the requirements of being definite, have a reasonable rate of interest, and/or have a definite repayment period (e.g., an asset purchase acquisition whereby the Employer may choose to accept the rollover of Participant loans from a prior employer in a uniform and nondiscriminatory manner).

(b) **Treatment of "rollovers" under the Plan.** Amounts in a Participant's Rollover Account shall be held by the Trustee (or Insurer) pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as elected in the Adoption Agreement and Subsection (c) below. The Trustee (or Insurer) shall have no duty or responsibility to inquire as to the propriety of the amount, value or type of assets transferred, nor to conduct any due diligence with respect to such assets; provided, however, that such assets are otherwise eligible to be held by the Trustee (or Insurer) under the terms of this Plan.

(c) **Distribution of "rollovers."** At such time as the conditions set forth in the Adoption Agreement have been satisfied, the Administrator, at the election of the Participant, shall direct the distribution of up to the entire amount credited to the Rollover Account maintained on behalf of such Participant. Any distribution of amounts held in a Participant's Rollover Account shall be made in a manner which is consistent with and satisfies the provisions of Sections 6.5 and 6.6. Furthermore, unless otherwise elected in the Adoption Agreement, such amounts shall be considered to be part of a Participant's benefit in determining whether an involuntary cash-out of benefits may be made without Participant consent.

(d) **"Rollovers" maintained in a separate account.** The Administrator may direct that "rollovers" made after a Valuation Date be segregated into a separate account for each Participant until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated, invested as part of the general Trust Fund or, if elected in the Adoption Agreement, directed by the Participant.

(e) **Limits on accepting "rollovers."** Prior to accepting any "rollovers" to which this Section applies, the Administrator may require the Employee to establish (by providing opinion of counsel or otherwise) that the amounts to be rolled over to this Plan meet the requirements of this Section. The Employer may instruct the Administrator, operationally, to limit the source of "rollover" contributions that may be accepted by the Plan.

(f) **Definitions.** For purposes of this Section, the following definitions shall apply:

(1) A "rollover" means: (i) amounts transferred to this Plan directly from another "eligible retirement plan;" (ii) distributions received by an Employee from other "eligible retirement plans" which are eligible for tax-free rollover to an "eligible retirement plan" and which are transferred by the Employee to this Plan within sixty (60) days following receipt thereof; and (iii) any other amounts which are eligible to be rolled over to this Plan pursuant to the Code or any other federally enacted legislation.

(2) An "eligible retirement plan" means an individual retirement account described in Code §408(a), an individual retirement annuity described in Code §408(b) (other than an endowment contract), a qualified trust (an employees' trust described in Code §401(a) which is exempt from tax under Code §501(a)), an annuity plan described in Code §403(a), an eligible deferred compensation plan described in Code §457(b) which is maintained by an eligible employer described in Code §457(e)(1)(A), and an annuity contract described in Code §403(b).

(g) **Pre-Participation Rollovers.** If an Eligible Employee makes a Rollover Contribution to the Plan prior to satisfying the Plan's eligibility conditions or prior to reaching his or her Entry Date, then the Administrator will treat the Employee as a limited Participant

Non-Standardized Governmental 401(a) Pre-Approved Plan

(as described in Rev. Rul. 96-48). A limited Participant does not share in the Plan's allocation of Employer Contributions nor Forfeitures until the Employee actually becomes a Participant in the Plan.

4.7 PLAN-TO-PLAN TRANSFERS FROM QUALIFIED PLANS

(a) **Transfers into this Plan.** With the consent of the Administrator, amounts may be transferred (within the meaning of Code §414(l)) to this Plan from other tax qualified plans under Code §401(a), provided the plan from which such funds are transferred permits the transfer to be made and the transfer will not jeopardize the tax-exempt status of the Plan or Trust or create adverse tax consequences for the Employer. Prior to accepting any transfers to which this Section applies, the Administrator may require an opinion of counsel that the amounts to be transferred meet the requirements of this Section. The amounts transferred shall be set up in a separate account herein referred to as a "Participant's Transfer Account." Furthermore, for vesting purposes, the Participant's Transfer Account may be treated as a separate "Participant's Account."

(b) **Accounting of transfers.** Amounts in a Participant's Transfer Account shall be held by the Trustee (or Insurer) pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as elected in the Adoption Agreement and Subsection (d) below, provided the restrictions of Subsection (c) below and Section 6.16 are satisfied. The Trustee (or Insurer) shall have no duty or responsibility to inquire as to the propriety of the amount, value or type of assets transferred, nor to conduct any due diligence with respect to such assets; provided, however, that such assets are otherwise eligible to be held by the Trustee (or Insurer) under the terms of this Plan. Notwithstanding anything in this Section to the contrary, transferred amounts are not required to be separately accounted for and may be combined with the corresponding Account maintained in this Plan provided all rights, benefits and features and other attributes are identical with respect to each account, or are identical after the combination.

(c) **Distribution of plan-to-plan transfer amounts.** At Normal Retirement Date, or such other date when the Participant or the Participant's Beneficiary shall be entitled to receive benefits, the Participant's Transfer Account shall be used to provide additional benefits to the Participant or the Participant's Beneficiary. Any distribution of amounts held in a Participant's Transfer Account shall be made in a manner which is consistent with and satisfies the provisions of Sections 6.5 and 6.6. Furthermore, such amounts shall be considered to be part of a Participant's benefit in determining whether an involuntary cash-out of benefits may be made without Participant consent.

(d) **Segregation.** The Administrator may direct that Employee transfers made after a Valuation Date be segregated into a separate account for each Participant until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated, invested as part of the general Trust Fund or, if elected in the Adoption Agreement, directed by the Participant.

(e) **Pre-Participation Transfers.** The Administrator has the discretion to accept a Transfer of plan assets on behalf of an Employee prior to the date the Employee satisfies the Plan's eligibility conditions or prior to reaching the Entry Date in a uniform and nondiscretionary manner. If the Plan accepts such a direct transfer of plan assets, then the Administrator will treat the Employee as a limited Participant pursuant to Section 4.6(g).

4.8 MANDATORY EMPLOYEE CONTRIBUTIONS

(a) **Mandatory Employee contributions.** An Employer may elect in the Adoption Agreement to provide for mandatory Employee contributions. If the Employer elects to provide for such contributions, each Participant will make a mandatory Employee contribution in the amount elected in the Adoption Agreement. Alternatively, the Employer may elect to provide a range of mandatory Employee contribution percentages from which the Participant may choose to contribute. Under this option, the Employee, if required as a condition of employment, must make an irrevocable election to contribute a percentage of his or her Compensation no later than his or her effective date of participation. If not required as a condition of employment, such mandatory Employee contribution election shall be made prior to participation in the Plan. During the period of the Participant's participation in the Plan, the Participant may not revoke the election and receive cash in lieu of the contribution, nor may the Participant change the amount of the mandatory Employee contribution. Amounts attributable to mandatory Employee contributions shall be fully Vested.

(b) **Employer pick-up contribution.** Unless otherwise elected in the Adoption Agreement, the Employer will "pick-up" the mandatory Employee contributions and will pay the mandatory Employee contributions to the Plan as an Employer contribution. This provision is effective only after the Employer provides for the treatment of the mandatory Employee contributions as described in this paragraph, through a person authorized to take such action, and evidenced in writing by minutes of a meeting, resolution, ordinance, or other formal action by the Employer, which will effectuate the "pick-up" provision. Furthermore, as of the date of the "pick-up," Participants are not permitted to opt-out of the "pick-up" or to receive the mandatory Employee contributions directly instead of having them paid to the Plan. Mandatory Employee contributions that are "picked-up" by the Employer are excludible from the Employee's gross income.

4.9 AFTER-TAX VOLUNTARY EMPLOYEE CONTRIBUTIONS

(a) **After-tax voluntary Employee contributions.** If elected in the Adoption Agreement, each Participant may, in accordance with procedures established by the Administrator, elect to make after-tax voluntary Employee contributions to this Plan. Such contributions

Non-Standardized Governmental 401(a) Pre-Approved Plan

must generally be paid to the Trustee (or Insurer) within a reasonable period of time after being received by the Employer. An after-tax voluntary Employee contribution is any contribution made to the Plan by or on behalf of a Participant that is included in the Participant's gross income in the year in which made and that is separately accounted for under the Plan.

(b) **Full vesting.** The balance in each Participant's Voluntary Contribution Account shall be fully Vested at all times and shall not be subject to Forfeiture for any reason.

(c) **Distribution at any time.** A Participant may elect at any time to withdraw after-tax voluntary Employee contributions from such Participant's Voluntary Contribution Account and the actual earnings thereon in a manner which is consistent with and satisfies the provisions of Section 6.5. If the Administrator maintains sub-accounts with respect to after-tax voluntary Employee contributions (and earnings thereon) which were made on or before a specified date, a Participant shall be permitted to designate which sub-account shall be the source for the withdrawal. Forfeitures of Employer contributions shall not occur solely as a result of an Employee's withdrawal of after-tax voluntary Employee contributions.

(d) **Used to provide benefits.** At Normal Retirement Date, or such other date when the Participant or the Participant's Beneficiary is entitled to receive benefits, the Participant's Voluntary Contribution Account shall be used to provide additional benefits to the Participant or the Participant's Beneficiary.

4.10 PARTICIPANT DIRECTED INVESTMENTS

(a) **Directed investment options allowed.** If permitted by the Administrator and the terms of the Trust, Participants may direct the Trustee (or Insurer) as to the investment of all or a portion of their individual Account balances in accordance with the Plan's procedures. Participants may direct the Trustee (or Insurer), in writing (or in such other form which is acceptable to the Trustee (or Insurer)), to invest their accounts in specific assets, specific funds or other investments permitted under the Plan and the Participant Direction Procedures. That portion of the Account of any Participant that is subject to investment direction of such Participant will be considered a Participant Directed Account.

(b) **Establishment of Participant Direction Procedures.** The Administrator will establish Participant Direction Procedures, to be applied in a uniform manner, setting forth the permissible investment options under this Section, how often changes between investments may be made, and any other limitations and provisions that the Administrator may impose on a Participant's right to direct investments.

(c) **Administrative discretion.** The Administrator may, in its discretion, include or exclude by amendment or other action from the Participant Direction Procedures such instructions, guidelines or policies as it deems necessary or appropriate to ensure proper administration of the Plan, and may interpret the same accordingly.

(d) **Allocation of gains or losses.** As of each Valuation Date, all Participant Directed Accounts shall be charged or credited with the net earnings, gains, losses and expenses as well as any appreciation or depreciation in the market value using publicly listed fair market values when available or appropriate as follows:

(1) to the extent the assets in a Participant Directed Account are accounted for as pooled assets or investments, the allocation of earnings, gains and losses of each Participant's Account shall be based upon the total amount of funds so invested in a manner proportionate to the Participant's share of such pooled investment; and

(2) to the extent the assets in a Participant Directed Account are accounted for as segregated assets, the allocation of earnings, gains on and losses from such assets shall be made on a separate and distinct basis.

(e) **Plan will follow investment directions.** Investment directions will be processed as soon as administratively practicable after proper investment directions are received from the Participant. No guarantee is made by the Plan, Employer, Administrator or Trustee (or Insurer) that investment directions will be processed on a daily basis, and no guarantee is made in any respect regarding the processing time of an investment direction. Notwithstanding any other provision of the Plan, the Employer, Administrator or Discretionary Trustee (or Insurer) reserves the right to not value an investment option on any given Valuation Date for any reason deemed appropriate by the Employer, Administrator or Discretionary Trustee (or Insurer). Furthermore, the processing of any investment transaction may be delayed for any legitimate business reason (including, but not limited to, failure of systems or computer programs, failure of the means of the transmission of data, the failure of a service provider to timely receive values or prices, and correction for errors or omissions or the errors or omissions of any service provider) or force majeure. The processing date of a transaction will be binding for all purposes of the Plan and considered the applicable Valuation Date for an investment transaction.

(f) **Other documents required by directed investments.** Any information regarding investments available under the Plan, to the extent not required to be described in the Participant Direction Procedures, may be provided to Participants in one or more documents (or in any other form, including, but not limited to, electronic media) which are separate from the Participant Direction Procedures and are not thereby incorporated by reference into this Plan.

4.11 QUALIFIED MILITARY SERVICE

(a) **USERRA.** Notwithstanding any provisions of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code §414(u). Furthermore, loan repayments may be suspended under this Plan as permitted under Code §414(u)(4).

(b) **Benefit accrual.** If the Employer elects in the Adoption Agreement to apply this Subsection, then effective as of the date specified in the Adoption Agreement, for benefit accrual purposes, the Plan treats an individual who becomes Totally and Permanently disabled while performing "qualified military service" (as defined in Code §414(u)) with respect to the Employer as if the individual had resumed employment in accordance with the individual's reemployment rights under Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA), on the day preceding Total and Permanent Disability and terminated employment on the actual date of death or Total and Permanent Disability.

The Plan will determine the amount of after-tax voluntary Employee contributions of an individual treated as reemployed under this Section for purposes of applying paragraph Code §414(u)(8)(C) on the basis of the individual's average actual after-tax voluntary Employee contributions for the lesser of: (1) the 12-month period of service with the Employer immediately prior to "qualified military service" (as defined in Code §414(u)); or (2) the actual length of continuous service with the Employer.

(c) **Death benefits.** If a Participant dies while performing "qualified military service" (as defined in Code §414(u)), the Participant's Beneficiary is entitled to any additional benefits (other than benefit accruals relating to the period of "qualified military service" but including vesting credit for such period and any other ancillary life insurance or other survivor benefits) provided under the Plan as if the Participant had resumed employment and then terminated employment on account of death. Moreover, the Plan will credit the Participant's "qualified military service" as service for vesting purposes, as though the Participant had resumed employment under Uniformed Services Employment and Reemployment Rights Act of 1994, as amended (USERRA) immediately prior to the Participant's death.

(d) **Military Differential Pay.** The following applies with respect to Military Differential Pay: (1) an individual receiving Military Differential Pay is treated as an Employee of the Employer making the payment; (2) the Military Differential Pay is treated as 415 Compensation (and Compensation unless otherwise elected in the Adoption Agreement); and (3) the Plan is not treated as failing to meet the requirements of any provision described in Code §414(u)(1)(C) (or corresponding Plan provisions) by reason of any contribution or benefit which is based on the Military Differential Pay. The Administrator operationally may determine, for purposes of the provisions described in Code §414(u)(1)(C), whether to take into account any matching contributions, attributable to Military Differential Pay.

(e) **Deemed Severance.** Notwithstanding Subsection (b)(1) above, if elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), a Participant who performs service in the uniformed services (as defined in Code §414(u)(12)(B)) on active duty for a period of more than thirty (30) days, the Participant will be deemed to have a severance from employment solely for purposes of eligibility for distribution of amounts not attributable to Employer contributions to a money purchase pension plan. However, the Plan will not distribute such a Participant's Account on account of this deemed severance unless the Participant specifically elects to receive a benefit distribution hereunder. If a Participant elects to receive a distribution on account of this deemed severance, then the individual may not make an after-tax voluntary Employee contribution during the six (6) month period beginning on the date of the distribution. If a Participant would be entitled to a distribution on account of a deemed severance, and a distribution on account of another Plan provision, then the other Plan provision will control and the six (6) month suspension will not apply.

4.12 INSTRUCTIONS TO ADMINISTRATOR AND NOTIFICATION TO PARTICIPANTS

For Plan Years beginning after the end of the Plan Year in which this document is first adopted, if a "Flexible Discretionary Match" contribution formula applies (i.e., a formula that provides an Employer with discretion regarding how to *allocate* a matching contribution to Participants) and the Employer makes a "Flexible Discretionary Match" to the Plan, the Employer must provide the Plan Administrator or Trustee written instructions describing (1) how the "Flexible Discretionary Match" formula will be allocated to Participants (e.g., a uniform percentage of Elective Deferrals or a flat dollar amount), (2) the computation period(s) to which the "Flexible Discretionary Match" formula applies, and (3) if applicable, a description of each business location or business classification subject to separate "Flexible Discretionary Match" allocation formulas. Such instructions must be provided no later than the date on which the "Flexible Discretionary Match" is made to the Plan. A summary of these instructions must be communicated to Participants who receive an allocation of the "Flexible Discretionary Match" no later than 60 days following the date on which the last "Flexible Discretionary Match" contribution is made to the Plan for the Plan Year.

Solely for purposes of this Section, a matching contribution is to be considered as being a "Flexible Discretionary Match" contribution unless the Employer has provided a definitely determinable allocation formula for the matching contribution on the Adoption Agreement. In order to be definitely determinable, then the components of the allocation formula described in the preceding sentence must be specified on the Adoption Agreement and cannot themselves be discretionary. Thus, regardless of whether the contribution formula for the matching contribution is fixed or discretionary, the provisions of the preceding paragraph apply unless the amount to be allocated to the Participant for the Plan Year can be determined without any discretion on the part of the Employer.

ARTICLE V VALUATIONS

5.1 VALUATION OF THE TRUST FUND

The Administrator shall direct the Trustee (or Insurer), as of each Valuation Date, to determine the net worth of the assets comprising the Trust Fund as it exists on the Valuation Date. In determining such net worth, the Trustee (or Insurer) shall value the assets comprising the Trust Fund at their fair market value as of the Valuation Date and may deduct all expenses for which the Trustee (or Insurer) has not yet been paid by the Employer or the Trust Fund. The Trustee (or Insurer), when determining the net worth of the assets, may update the value of any shares held in a Participant Directed Account by reference to the number of shares held on behalf of the Participant, priced at the market value as of the Valuation Date.

5.2 METHOD OF VALUATION

Except as otherwise provided in the Trust agreement, in determining the fair market value of securities held in the Trust Fund which are listed on a registered stock exchange, the Administrator shall direct the Trustee (or Insurer) to value the same at the prices they were last traded on such exchange preceding the close of business on the Valuation Date. If such securities were not traded on the Valuation Date, or if the exchange on which they are traded was not open for business on the Valuation Date, then the securities shall be valued at the prices at which they were last traded prior to the Valuation Date. Any unlisted security held in the Trust Fund shall be valued at its bid price next preceding the close of business on the Valuation Date, which bid price shall be obtained from a registered broker or an investment banker. In determining the fair market value of assets other than securities for which trading or bid prices can be obtained, the Trustee, the Administrator (if the Trustee is a directed Trustee), or Insurer may appraise such assets itself (assuming it has the appropriate expertise), or in its discretion, employ one or more appraisers for that purpose and rely on the values established by such appraiser or appraisers.

ARTICLE VI DETERMINATION AND DISTRIBUTION OF BENEFITS

6.1 DETERMINATION OF BENEFITS UPON RETIREMENT

Every Participant may terminate employment with the Employer and retire for purposes hereof on the Participant's Normal Retirement Date or Early Retirement Date. However, a Participant may postpone the severance of employment with the Employer to a later date, in which event the participation of such Participant in the Plan, including the right to receive allocations pursuant to Section 4.3, shall continue until such Participant's Retirement Date. Upon a Participant's Retirement Date, or if elected in the Adoption Agreement, the attainment of Normal Retirement Date without severance of employment with the Employer (subject to Section 6.11), or as soon thereafter as is practicable, the Administrator shall direct the distribution, at the election of the Participant (unless a distribution is mandatory under the other terms of the Plan), of the Participant's entire Vested interest in the Plan in accordance with Section 6.5.

6.2 DETERMINATION OF BENEFITS UPON DEATH

(a) **100% vesting on death.** Upon the death of a Participant before the Participant's Retirement Date or other severance of employment, all amounts credited to such Participant's Combined Account shall, if elected in the Adoption Agreement, become fully Vested. The Administrator shall direct, in accordance with the provisions of Sections 6.6 and 6.7, the distribution of the deceased Participant's Vested accounts to the Participant's Beneficiary.

(b) **Distribution upon death.** Upon the death of a Participant, the Administrator shall direct, in accordance with the provisions of Sections 6.6 and 6.7, the distribution of any remaining Vested amounts credited to the accounts of such deceased Participant to such Participant's Beneficiary.

(c) **Determination of death benefit by Administrator.** The Administrator may require such proper proof of death and such evidence of the right of any person to receive payment of the value of the account of a deceased Participant as the Administrator may deem desirable. The Administrator's determination of death and of the right of any person to receive payment shall be conclusive.

(d) **Beneficiary designation.** Each Participant must designate a Beneficiary on a form and in such manner as provided by the Administrator.

(e) **Spousal consent to alternative Beneficiary.** This Subsection applies if the Employer has elected in the Adoption Agreement either to apply the Joint and Survivor Annuity rules or to provide that a Participant's Spouse is the Beneficiary unless the Spouse consents to an alternative Beneficiary. Unless otherwise elected in the manner prescribed in Section 6.6, the Beneficiary of the Pre-Retirement Survivor Annuity (or if applicable, the entire death benefit) shall be the Participant's surviving Spouse. Except, however, the Participant may designate a Beneficiary other than the Spouse if:

(1) the Participant and the Participant's Spouse have validly waived the Pre-Retirement Survivor Annuity in the manner prescribed in Section 6.6, and the Spouse has waived the right to be the Participant's Beneficiary,

- (2) the Participant is legally separated or has been abandoned (within the meaning of local law) and the Participant has a court order to such effect (and there is no "qualified domestic relations order" as defined in Code §414(p) which provides otherwise),
- (3) the Participant has no Spouse, or
- (4) the Spouse cannot be located.

In such event, the designation of a Beneficiary shall be made on a form satisfactory to the Administrator. A Participant may at any time revoke a designation of a Beneficiary or change a Beneficiary by filing written (or in such other form as permitted by the IRS) notice of such revocation or change with the Administrator. However, the Participant's Spouse must again consent in writing (or in such other form as permitted by the IRS) to any change in Beneficiary unless the original consent acknowledged that the Spouse had the right to limit consent only to a specific Beneficiary and that the Spouse voluntarily elected to relinquish such right.

(f) **Beneficiary if no Beneficiary elected by Participant.** In the event no valid designation of Beneficiary exists, or if the Beneficiary with respect to a portion of a Participant's death benefit is not alive at the time of the Participant's death and no contingent Beneficiary has been designated, then such portion of the death benefit will be paid in the following order of priority, unless the Employer specifies a different order of priority in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), to:

- (1) The Participant's surviving Spouse;
- (2) The Participant's issue, per stirpes;
- (3) The Participant's surviving parents, in equal shares; or
- (4) The Participant's estate.

If the Beneficiary does not predecease the Participant, but dies prior to distribution of the death benefit, the death benefit will be paid to the Beneficiary's "designated Beneficiary" (or if there is no "designated Beneficiary," to the Beneficiary's estate). For purposes of these provisions, and with respect to any Beneficiary designations, adopted children shall be treated as children.

(g) **Divorce revokes spousal Beneficiary designation.** Notwithstanding anything in this Section to the contrary, unless otherwise elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) or prohibited by applicable State law, if a Participant has designated the Spouse as a Beneficiary, then a divorce decree that relates to such Spouse shall revoke the Participant's designation of the Spouse as a Beneficiary unless the decree or a "qualified domestic relations order" (within the meaning of Code §414(p)) provides otherwise or a subsequent Beneficiary designation is made.

(h) **Insured death benefit.** If the Plan provides an insured death benefit and a Participant dies before any insurance coverage to which the Participant is entitled under the Plan is effected, the death benefit from such insurance coverage shall be limited to the premium which was or otherwise would have been used for such purpose.

(i) **Plan terms control.** In the event of any conflict between the terms of this Plan and the terms of any Contract issued hereunder, the Plan provisions shall control.

6.3 DETERMINATION OF BENEFITS IN EVENT OF DISABILITY

In the event of a Participant's Total and Permanent Disability prior to the Participant's Retirement Date or other severance of employment, all amounts credited to such Participant's Combined Account shall, if elected in the Adoption Agreement, become fully Vested. In the event of a Participant's Total and Permanent Disability, the Participant's entire Vested interest in the Plan will be distributable and may be distributed in accordance with the provisions of Sections 6.5 and 6.7.

6.4 DETERMINATION OF BENEFITS UPON TERMINATION

(a) **Payment on severance of employment.** If a Participant's employment with the Employer and any Affiliated Employer is severed for any reason other than death, Total and Permanent Disability, or attainment of the Participant's Retirement Date, then such Participant shall be entitled to such benefits as are provided herein.

Distribution of the funds due to a Terminated Participant shall be made on the occurrence of an event which would result in the distribution had the Terminated Participant remained in the employ of the Employer (upon the Participant's death, Total and Permanent Disability, Early or Normal Retirement). However, at the election of the Participant, the Administrator shall direct that the entire Vested portion of the Terminated Participant's Combined Account be payable to such Terminated Participant provided the conditions, if any, set forth in the Adoption Agreement have been satisfied. Any distribution under this paragraph shall be made in a manner which is consistent with and satisfies the provisions of Section 6.5.

Regardless of whether distributions in kind are permitted, in the event the amount of the Vested portion of the Terminated Participant's Combined Account equals or exceeds the fair market value of any insurance Contracts, the Administrator may direct the Trustee (or Insurer), when agreed to by the Terminated Participant, to assign, transfer, and set over to such Terminated Participant all Contracts on such Terminated Participant's life in such form or with such endorsements, so that the settlement options and forms of payment are consistent with the provisions of Section 6.5. In the event that the Terminated Participant's Vested portion does not at least equal the fair market value of the Contracts, if any, the Terminated Participant may pay over to the Trustee (or Insurer) the sum needed to make the distribution equal to the value of the Contracts being assigned or transferred, or the Trustee (or Insurer), pursuant to the Participant's election, may borrow the cash value of the Contracts from the Insurer so that the value of the Contracts is equal to the Vested portion of the Terminated Participant's Combined Account and then assign the Contracts to the Terminated Participant.

Notwithstanding the above, unless otherwise elected in the Adoption Agreement, if the value of a Terminated Participant's Vested benefit derived from Employer and Employee contributions does not exceed \$5,000 (or such lower amount as elected in the Adoption Agreement), the Administrator shall direct that the entire Vested benefit be paid to such Participant in a single lump-sum as soon as practical without regard to the consent of the Participant, provided the conditions, if any, set forth in the Adoption Agreement have been satisfied. A Participant's Vested benefit shall not include (1) qualified voluntary employee contributions within the meaning of Code §72(o)(5)(B) and (2) if selected in the Conditions for Distributions Upon Severance of Employment Section of the Adoption Agreement, the Participant's Rollover Account. If a mandatory distribution is made pursuant to this paragraph and such distribution is greater than \$1,000 and the Participant does not elect to have such distribution paid directly to an "eligible retirement plan" specified by the Participant in a "direct rollover" in accordance with Section 6.14 or to receive the distribution directly, then the Administrator shall transfer such amount to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b) designated by the Administrator. However, if the Participant elects to receive or make a "direct rollover" of such amount, then the Administrator shall direct the Trustee (or Insurer) to cause the entire Vested benefit to be paid to such Participant in a single lump sum, or make a "direct rollover" pursuant to Section 6.14, provided the conditions, if any, set forth in the Adoption Agreement have been satisfied. The Administrator may establish a procedure as to whether a Participant who fails to make an affirmative election with respect to a mandatory distribution of \$1,000 or less is treated as having made or not made a "direct rollover" election. For purposes of determining whether the \$1,000 threshold set forth in this paragraph is met, the mandatory distribution includes amounts in a Participant's Rollover Account. For purposes of determining whether the \$5,000 threshold in this paragraph is met, a Participant's Rollover Account is taken into account unless otherwise elected in the Adoption Agreement.

(b) **Vesting schedule.** The Vested portion of any Participant's Account shall be a percentage of such Participant's Account determined on the basis of the Participant's number of Years of Service (or Periods of Service if the elapsed time method is elected) according to the vesting schedule specified in the Adoption Agreement. However, a Participant's entire interest in the Plan shall be non-forfeitable upon the Participant's Normal Retirement Age (if the Participant is employed by the Employer on or after such date). In addition, Employee contributions (voluntary and mandatory) and contributions for sick leave/vacation leave conversions shall be fully Vested.

6.5 DISTRIBUTION OF BENEFITS

(a) **Forms of distributions.** Subject to the Joint and Survivor Annuity requirements in Subsection (c) below (if the Employer elects to apply such provisions), the Administrator, pursuant to the election of the Participant, shall direct the distribution to a Participant or Beneficiary any amount to which the Participant or Beneficiary is entitled under the Plan in one or more of the following methods which are permitted pursuant to the Adoption Agreement.

- (1) One lump-sum payment in cash or in property, provided that if a distribution of property is permitted, it shall be limited to property that is specifically allocated and identifiable with respect to such Participant.
- (2) Partial withdrawals.
- (3) Payments over a period certain in monthly, quarterly, semi-annual, or annual cash installments. The period over which such payment is to be made shall not extend beyond the earlier of the Participant's life expectancy (or the joint life expectancy of the Participant and the Participant's designated Beneficiary). Once payments have begun, a Participant may elect to accelerate the payments (reduce the term and increase payments).
- (4) Purchase of or providing an annuity. However, such annuity may not be in any form that will provide for payments over a period extending beyond either the life of the Participant (or the lives of the Participant and the Participant's designated Beneficiary) or the life expectancy of the Participant (or the life expectancy of the Participant and the Participant's designated Beneficiary).

(b) **Consent to distributions.** Benefits may not be paid without a Participant's consent if the value of the Participant's Accounts exceed the dollar threshold specified in the Adoption Agreement. If the value of the Participant's Accounts does not exceed such threshold, then the Administrator may only distribute such benefit in a lump-sum. For purposes of this Subsection, the Participant's Accounts shall not include, if selected in the Conditions for Distributions Upon Severance of Employment Section of the Adoption Agreement, the Participant's Rollover Account.

(c) **Required minimum distributions (Code §401(a)(9)).** Notwithstanding any provision in the Plan to the contrary, the distribution of a Participant's benefits, whether under the Plan or through the purchase of an annuity Contract, shall be made in accordance with the requirements of Section 6.8.

(d) **Annuity Contracts.** All annuity Contracts under this Plan shall be non-transferable when distributed. Furthermore, the terms of any annuity Contract purchased and distributed to a Participant or Spouse shall comply with all of the requirements of this Plan.

(e) **Qualified Joint and Survivor Annuity.**

(1) The provisions of this Subsection (e) apply if the Employer elects to apply the Joint and Survivor Annuity rules in the Adoption Agreement. A Participant who is married on the Annuity Starting Date and who does not die before the Annuity Starting Date shall receive the value of all Plan benefits in the form of a Joint and Survivor Annuity. The Joint and Survivor Annuity is an annuity that commences immediately and shall be equal in value to a single life annuity. Such joint and survivor benefits following the Participant's death shall continue to the Spouse during the Spouse's lifetime at a rate equal to either fifty percent (50%), seventy-five percent (75%) (or, sixty-six and two-thirds percent (66 2/3%) if the Insurer used to provide the annuity does not offer a joint and seventy-five percent (75%) survivor annuity), or one hundred percent (100%) of the rate at which such benefits were payable to the Participant. Unless otherwise elected in the Adoption Agreement, a joint and fifty percent (50%) survivor annuity shall be considered the designated qualified Joint and Survivor Annuity and the normal form of payment for the purposes of this Plan. However, the Participant may, without spousal consent, elect an alternative Joint and Survivor Annuity, which alternative shall be equal in value to the designated qualified Joint and Survivor Annuity. An unmarried Participant shall receive the value of such Participant's benefit in the form of a life annuity. Such unmarried Participant, however, may elect to waive the life annuity. The election must comply with the provisions of this Section as if it were an election to waive the Joint and Survivor Annuity by a married Participant, but without fulfilling the spousal consent requirement. The Participant may elect to have any annuity provided for in this Section distributed upon the attainment of the "earliest retirement age" under the Plan. The "earliest retirement age" is the earliest date on which, under the Plan, the Participant could elect to receive retirement benefits.

(2) Any election to waive the Joint and Survivor Annuity must be made by the Participant in writing (or in such other form as permitted by the IRS) during the election period and be consented to in writing (or in such other form as permitted by the IRS) by the Participant's Spouse. If the Spouse is legally incompetent to give consent, the Spouse's legal guardian, even if such guardian is the Participant, may give consent. Such election shall designate a Beneficiary (or a form of benefits) that may not be changed without spousal consent (unless the consent of the Spouse expressly permits designations by the Participant without the requirement of further consent by the Spouse). Such Spouse's consent shall be irrevocable and must acknowledge the effect of such election and be witnessed by a Plan representative or a notary public. Such consent shall not be required if it is established to the satisfaction of the Administrator that the required consent cannot be obtained because there is no Spouse, the Spouse cannot be located, or other circumstances that may be prescribed by Regulations. The election made by the Participant and consented to by such Participant's Spouse may be revoked by the Participant in writing (or in such other form as permitted by the IRS) without the consent of the Spouse at any time during the election period. A revocation of a prior election shall cause the Participant's benefits to be distributed as a Joint and Survivor Annuity. The number of revocations shall not be limited. Any new election must comply with the requirements of this paragraph. A former Spouse's waiver shall not be binding on a new Spouse.

(3) The election period to waive the Joint and Survivor Annuity shall be the one-hundred eighty (180) day period ending on the Annuity Starting Date.

(4) For purposes of this Section and Section 6.6, Spouse or surviving Spouse means the Spouse or surviving Spouse of the Participant, provided that a former Spouse will be treated as the Spouse or surviving Spouse and a current Spouse will not be treated as the Spouse or surviving Spouse to the extent provided under a "qualified domestic relations order" as described in Code §414(p).

(5) With regard to the election, except as otherwise provided herein, the Administrator shall, in accordance with Regulation §1.417(a)(3)-1, provide to the Participant no less than thirty (30) days and no more than one-hundred eighty (180) days before the Annuity Starting Date a written (or such other form as permitted by the IRS) explanation of:

- (i) the terms and conditions of the qualified Joint and Survivor Annuity and the "qualified optional survivor annuity" that is payable in lieu of the qualified Joint and Survivor Annuity,
- (ii) the Participant's right to make and the effect of an election to waive the Joint and Survivor Annuity,
- (iii) the right of the Participant's Spouse to consent to any election to waive the Joint and Survivor Annuity, and
- (iv) the right of the Participant to revoke such election, and the effect of such revocation.

Non-Standardized Governmental 401(a) Pre-Approved Plan

(6) Any distribution provided for in this Section may commence less than thirty (30) days after the notice required by Code §417(a)(3) is given provided the following requirements are satisfied:

(i) the Administrator clearly informs the Participant that the Participant has a right to a period of thirty (30) days after receiving the notice to consider whether to waive the Joint and Survivor Annuity and to elect (with spousal consent) a form of distribution other than a Joint and Survivor Annuity;

(ii) the Participant is permitted to revoke any affirmative distribution election at least until the Annuity Starting Date or, if later, at any time prior to the expiration of the seven (7) day period that begins the day after the explanation of the Joint and Survivor Annuity is provided to the Participant;

(iii) the Annuity Starting Date is after the time that the explanation of the Joint and Survivor Annuity is provided to the Participant. However, the Annuity Starting Date may be before the date that any affirmative distribution election is made by the Participant and before the date that the distribution is permitted to commence under (iv) below; and

(iv) distribution in accordance with the affirmative distribution election does not commence before the expiration of the seven (7) day period that begins the day after the explanation of the Joint and Survivor Annuity is provided to the Participant.

(f) **Qualified Joint and Survivor Annuity but not the normal form.** The provisions of this Section apply if the Employer has elected in the Adoption Agreement to apply the Joint and Survivor Annuity requirement to a Participant, but the Qualified Joint and Survivor Annuity is not the normal form of distribution.

(1) The Joint and Survivor Annuity provisions of Section 6.5(e) shall not apply if a Participant does not elect an annuity form of distribution. Furthermore, Subsection (3) below shall not apply if a Participant elects an annuity form of distribution.

(2) Notwithstanding anything in Sections 6.2 and 6.6 to the contrary, upon the death of a Participant, the automatic form of distribution will be a lump-sum rather than a Qualified Pre-Retirement Survivor Annuity. Furthermore, the Participant's Spouse will be the Beneficiary of the Participant's entire Vested interest in the Plan unless an election is made to waive the Spouse as Beneficiary. The other provisions in Section 6.2 shall be applied by treating the death benefit in this Subsection as though it is a Qualified Pre-Retirement Survivor Annuity.

(3) Except to the extent otherwise provided in this Section, the provisions of Sections 6.2 and 6.5 regarding spousal consent shall be inoperative with respect to this Plan.

(4) The distribution may commence less than thirty (30) days after the notice required under Regulation §1.411(a)-11(c) is given, provided:

(i) the Administrator clearly informs the Participant that the Participant has a right to a period of at least thirty (30) days after the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and

(ii) the Participant, after receiving the notice, affirmatively elects a distribution.

6.6 DISTRIBUTION OF BENEFITS UPON DEATH

(a) **Consent.** If the value of the death benefit derived from Employer and Employee contributions does not exceed \$5,000, the Administrator shall direct the distribution of such amount to the Participant's Beneficiary in a single lump-sum as soon as practicable. If the value exceeds \$5,000, an immediate distribution of the entire amount may be made to the Beneficiary, provided such Beneficiary consents to the distribution.

(b) **Forms of distribution.** Death benefits may be paid to a Participant's Beneficiary in one of the following optional forms of benefits subject to the rules specified in Section 6.8 and the elections made in the Adoption Agreement. Such optional forms of distributions may be elected by the Participant. However, if no optional form of distribution was elected by the Participant prior to death, then the Participant's Beneficiary may elect the form of distribution.

(1) One lump-sum payment in cash or in property that is allocated to the Accounts of the Participant at the time of the distribution.

(2) Partial withdrawals.

(3) Payment in monthly, quarterly, semi-annual, or annual cash installments over a period to be determined by the Participant or the Participant's Beneficiary. In order to provide such installment payments, the Administrator may (A) segregate the aggregate

Non-Standardized Governmental 401(a) Pre-Approved Plan

amount thereof in a separate, federally insured savings account, certificate of deposit in a bank or savings and loan association, money market certificate or other liquid short-term security or (B) purchase a nontransferable annuity Contract for a term certain (with no life contingencies) providing for such payment. After periodic installments commence, the Beneficiary shall have the right to reduce the period over which such periodic installments shall be made, and the cash amount of such periodic installments shall be adjusted accordingly.

(4) In the form of an annuity over the life expectancy of the Beneficiary.

(c) **Required minimum distributions (Code §401(a)(9)).** Notwithstanding any provision in the Plan to the contrary, distributions upon the death of a Participant shall comply with the requirements of Section 6.8.

(d) **Payment to a child.** For purposes of this Section, any amount paid to a child of the Participant will be treated as if it had been paid to the surviving Spouse if the amount becomes payable to the surviving Spouse when the child reaches the age of majority.

(e) **Voluntary Contribution Account.** In the event that less than one hundred percent (100%) of a Participant's interest in the Plan is distributed to such Participant's Spouse, the portion of the distribution attributable to the Participant's Voluntary Contribution Account shall be in the same proportion that the Participant's Voluntary Contribution Account bears to the Participant's total interest in the Plan.

(f) **Qualified Pre-Retirement Survivor Annuity (QPSA).** The provisions of this Subsection (f) apply if the Employer elects to apply the Joint and Survivor Annuity rules in the Adoption Agreement. Unless otherwise elected as provided below, a Vested Participant who dies before the Annuity Starting Date and who has a surviving Spouse shall have the Pre-Retirement Survivor Annuity paid to the surviving Spouse. The Participant's Spouse may direct that payment of the Pre-Retirement Survivor Annuity commence within a reasonable period after the Participant's death. If the Spouse does not so direct, payment of such benefit will commence at the time the Participant would have attained the later of Normal Retirement Age or age 62. However, the Spouse may elect a later commencement date. Any distribution to the Participant's Spouse shall be subject to the rules specified in Section 6.8.

(1) **Election to waive QPSA.** Any election to waive the Pre-Retirement Survivor Annuity before the Participant's death must be made by the Participant in writing (or in such other form as permitted by the IRS) during the election period and shall require the Spouse's irrevocable consent in the same manner provided for in Section 6.5(e)(2). Further, the Spouse's consent must acknowledge the specific non-Spouse Beneficiary. Notwithstanding the foregoing, the non-Spouse Beneficiary need not be acknowledged, provided the consent of the Spouse acknowledges that the Spouse has the right to limit consent only to a specific Beneficiary and that the Spouse voluntarily elects to relinquish such right.

(2) **Time to waive QPSA.** The election period to waive the Pre-Retirement Survivor Annuity shall begin on the first day of the Plan Year in which the Participant attains age 35 and end on the date of the Participant's death. An earlier waiver (with spousal consent) may be made provided a written (or such other form as permitted by the IRS) explanation of the Pre-Retirement Survivor Annuity is given to the Participant and such waiver becomes invalid at the beginning of the Plan Year in which the Participant turns age 35. In the event a Participant separates from service prior to the beginning of the election period, the election period shall begin on the date of such separation from service.

(3) **QPSA notice.** With regard to the election, the Administrator shall provide each Participant within the applicable election period, with respect to such Participant (and consistent with Regulations), a written (or such other form as permitted by the IRS) explanation of the Pre-Retirement Survivor Annuity containing comparable information to that required pursuant to Section 6.5(e)(5). For the purposes of this paragraph, the term "applicable period" means, with respect to a Participant, whichever of the following periods ends last:

(i) The period beginning with the first day of the Plan Year in which the Participant attains age 32 and ending with the close of the Plan Year preceding the Plan Year in which the Participant attains age 35;

(ii) A reasonable period after the individual becomes a Participant;

(iii) A reasonable period ending after the Plan no longer fully subsidizes the cost of the Pre-Retirement Survivor Annuity with respect to the Participant; or

(iv) A reasonable period ending after Code §401(a)(11) applies to the Participant.

For purposes of applying this Subsection, a reasonable period ending after the enumerated events described in (ii), (iii) and (iv) is the end of the two (2) year period beginning one (1) year prior to the date the applicable event occurs and ending one (1) year after that date. In the case of a Participant who separates from service before the Plan Year in which age 35 is attained, notice shall be provided within the two (2) year period beginning one (1) year prior to separation and ending one (1) year after separation. If such a Participant thereafter returns to employment with the Employer, the "applicable period" for such Participant shall be redetermined.

6.7 TIME OF DISTRIBUTION

Except as limited by Section 6.8, whenever a distribution is to be made, or a series of payments are to commence, the distribution or series of payments may be made or begun as soon as practicable. Notwithstanding anything in the Plan to the contrary, unless a Participant otherwise elects, payments of benefits under the Plan will be begun not later than the later of the sixtieth (60th) day after the close of the Plan Year in which the latest of the following events occurs: (a) the date on which the Participant attains the earlier of age 65 or the Normal Retirement Age specified herein; (b) the tenth (10th) anniversary of the year in which the Participant commenced participation in the Plan; or (c) the date the Participant terminates service with the Employer. The failure of a Participant to request a distribution shall be deemed to be an election to defer the commencement of payment of any benefit until the time otherwise permitted under the Plan.

6.8 REQUIRED MINIMUM DISTRIBUTIONS

(a) General rules

(1) **Effective Date.** Subject to the good faith interpretation standard, the requirements of this Section shall apply to any distribution of a Participant's interest in the Plan and will take precedence over any inconsistent provisions of this Plan.

(2) **Requirements of Treasury Regulations incorporated.** All distributions required under this Section will be determined and made in accordance with the Regulations under Code §401(a)(9) and the minimum distribution incidental benefit requirement of Code §401(a)(9)(G).

(3) **Limits on distribution periods.** As of the first "distribution calendar year," distributions to a Participant may only be made in accordance with the selections made in the Form of Distributions Section of the Adoption Agreement. If such distributions are not made in a single-sum, then they may only be made over one of the following periods: (i) the life of the Participant, (ii) the joint lives of the Participant and a "designated Beneficiary," (iii) a period certain not extending beyond the "life expectancy" of the Participant, or (iv) a period certain not extending beyond the joint life and last survivor expectancy of the Participant and a "designated Beneficiary."

(4) TEFRA Section 242(b)(2) elections.

(i) Notwithstanding the other provisions of this Section, other than the Spouse's right of consent afforded under the Plan, distributions may be made on behalf of any Participant, including a five percent (5%) owner, who has made a designation in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and in accordance with all of the following requirements (regardless of when such distribution commences):

(A) The distribution by the Plan is one which would not have disqualified such Plan under Code §401(a)(9) as in effect prior to amendment by the Deficit Reduction Act of 1984.

(B) The distribution is in accordance with a method of distribution designated by the Participant whose interest in the Plan is being distributed or, if the Participant is deceased, by a Beneficiary of such Participant.

(C) Such designation was in writing, was signed by the Participant or the Beneficiary, and was made before January 1, 1984.

(D) The Participant had accrued a benefit under the Plan as of December 31, 1983.

(E) The method of distribution designated by the Participant or the Beneficiary specifies the time at which distribution will commence, the period over which distributions will be made, and in the case of any distribution upon the Participant's death, the Beneficiaries of the Participant listed in order of priority.

(ii) A distribution upon death will not be covered by the transitional rule of this Subsection unless the information in the designation contains the required information described above with respect to the distributions to be made upon the death of the Participant.

(iii) For any distribution which commences before January 1, 1984, but continues after December 31, 1983, the Participant, or the Beneficiary, to whom such distribution is being made, will be presumed to have designated the method of distribution under which the distribution is being made if the method of distribution was specified in writing and the distribution satisfies the requirements in (i)(A) and (i)(E) of this Subsection.

(iv) If a designation is revoked, any subsequent distribution must satisfy the requirements of Code §401(a)(9) and the Regulations thereunder. If a designation is revoked subsequent to the date distributions are required to begin, the Plan must distribute by the end of the calendar year following the calendar year in which the revocation occurs the total amount not yet distributed which would have been required to have been distributed to satisfy Code §401(a)(9) and the Regulations thereunder, but for the Section 242(b)(2) election. For calendar years beginning after December 31, 1988, such distributions

Non-Standardized Governmental 401(a) Pre-Approved Plan

must meet the minimum distribution incidental benefit requirements. Any changes in the designation will be considered to be a revocation of the designation. However, the mere substitution or addition of another Beneficiary (one not named in the designation) under the designation will not be considered to be a revocation of the designation, so long as such substitution or addition does not alter the period over which distributions are to be made under the designation, directly or indirectly (for example, by altering the relevant measuring life).

(v) In the case in which an amount is transferred or rolled over from one plan to another plan, the rules in Regulation §1.401(a)(9)-8, Q&A-14 and Q&A-15, shall apply.

(5) **Good faith interpretation standard.** In applying any provision of this section, the Plan will apply a reasonable good faith interpretation of Code §401(a)(9).

(b) Time and manner of distribution

(1) **Required beginning date.** The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's "required beginning date."

(2) **Death of Participant before distributions begin.** If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows as elected in the Distributions Upon Death Section of the Adoption Agreement (or if no election is made, then the Beneficiary may elect either the lifetime method or the five-year method and if the Beneficiary makes no election, the five-year method shall apply):

(i) **Lifetime method (Spouse).** If the Participant's surviving Spouse is the Participant's sole "designated Beneficiary," then, except as otherwise provided herein, distributions to the surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later.

(ii) **Lifetime method (non-Spouse).** If the Participant's surviving Spouse is not the Participant's sole "designated Beneficiary," then, except as provided in Section 6.8(b)(3) below, distributions to the "designated Beneficiary" will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(iii) **Five-year method.** If there is no "designated Beneficiary" as of September 30 of the year following the year of the Participant's death or if otherwise elected pursuant to the Adoption Agreement with respect to a "designated Beneficiary," the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(iv) **Death of Spouse.** If the Participant's surviving Spouse is the Participant's sole "designated Beneficiary" and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this Section 6.8(b)(2), other than Section 6.8(b)(2)(i), will apply as if the surviving Spouse were the Participant.

For purposes of this Section 6.8(b)(2) and Section 6.8(b)(3), unless Section 6.8(b)(2)(iv) applies, distributions are considered to begin on the Participant's "required beginning date." If Section 6.8(b)(2)(iv) applies, distributions are considered to begin on the date distributions are required to begin to the surviving Spouse under Section 6.8(b)(2)(i). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's "required beginning date" (or to the Participant's surviving Spouse before the date distributions are required to begin to the surviving Spouse under Section 6.8(b)(2)(i)), the date distributions are considered to begin is the date distributions actually commence.

(3) **Forms of distribution.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the "required beginning date," as of the first "distribution calendar year" distributions will be made in accordance with Sections 6.8(c) and 6.8(d) and only in a form of distribution provided in Section 6.5 or 6.6, as applicable. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code §401(a)(9) and the Regulations thereunder.

(c) Required minimum distributions during Participant's lifetime

(1) **Amount of required minimum distribution for each "distribution calendar year."** During the Participant's lifetime, the minimum amount that will be distributed for each "distribution calendar year" is the lesser of the following:

(i) the quotient obtained by dividing the "Participant's account balance" by the distribution period in the Uniform Lifetime Table set forth in Regulation §1.401(a)(9)-9, using the Participant's age as of the Participant's birthday in the "distribution calendar year"; or

(ii) if the Participant's sole "designated Beneficiary" for the "distribution calendar year" is the Participant's Spouse, the quotient obtained by dividing the "Participant's account balance" by the number in the Joint and Last Survivor Table set

Non-Standardized Governmental 401(a) Pre-Approved Plan

forth in Regulation §1.401(a)(9)-9, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the "distribution calendar year."

(2) **Lifetime required minimum distributions continue through year of Participant's death.** Required minimum distributions will be determined under this Section 6.8(c) beginning with the first "distribution calendar year" and up to and including the "distribution calendar year" that includes the Participant's date of death.

(d) Required minimum distributions after Participant's death

(1) Death on or after date distributions begin.

(i) **Participant survived by "designated Beneficiary."** If the Participant dies on or after the date distributions begin and there is a "designated Beneficiary," the minimum amount that will be distributed for each "distribution calendar year" after the year of the Participant's death is the quotient obtained by dividing the "Participant's account balance" by the longer of the remaining "life expectancy" of the Participant or the remaining "life expectancy" of the Participant's "designated Beneficiary," determined as follows:

(A) The Participant's remaining "life expectancy" is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(B) If the Participant's surviving Spouse is the Participant's sole "designated Beneficiary," the remaining "life expectancy" of the surviving Spouse is calculated for each "distribution calendar year" after the year of the Participant's death using the surviving Spouse's age as of the Spouse's birthday in that year. For "distribution calendar years" after the year of the surviving Spouse's death, the remaining "life expectancy" of the surviving Spouse is calculated using the age of the surviving Spouse as of the Spouse's birthday in the calendar year of the Spouse's death, reduced by one for each subsequent calendar year.

(C) If the Participant's surviving Spouse is not the Participant's sole "designated Beneficiary," the "designated Beneficiary's" remaining "life expectancy" is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(ii) **No "designated Beneficiary."** If the Participant dies on or after the date distributions begin and there is no "designated Beneficiary" as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each "distribution calendar year" after the year of the Participant's death is the quotient obtained by dividing the "Participant's account balance" by the Participant's remaining "life expectancy" calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(2) Death before date distributions begin.

(i) **Participant survived by "designated Beneficiary."** Except as provided in Section 6.8(b)(3), if the Participant dies before the date distributions begin and there is a "designated Beneficiary," the minimum amount that will be distributed for each "distribution calendar year" after the year of the Participant's death is the quotient obtained by dividing the "Participant's account balance" by the remaining "life expectancy" of the Participant's "designated Beneficiary," determined as provided in Section 6.8(d)(1).

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

(iii) **Death of surviving Spouse before distributions to surviving Spouse are required to begin.** If the Participant dies before the date distributions begin, the Participant's surviving Spouse is the Participant's sole "designated Beneficiary," and the surviving Spouse dies before distributions are required to begin to the surviving Spouse under Section 6.8(b)(2)(i), this Section 6.8(d)(2) will apply as if the surviving Spouse were the Participant.

(e) Definitions. For purposes of this Section, the following definitions apply:

(1) "Designated Beneficiary" means the individual who is designated as the Beneficiary under the Plan and is the "designated Beneficiary" under Code §401(a)(9) and Regulation §1.401(a)(9)-4.

(2) "Distribution calendar year" means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first "distribution calendar year" is the calendar year immediately preceding the calendar year which contains the Participant's "required beginning date." For distributions beginning after the Participant's death,

Non-Standardized Governmental 401(a) Pre-Approved Plan

the first "distribution calendar year" is the calendar year in which distributions are required to begin under Section 6.8(b). The required minimum distribution for the Participant's first "distribution calendar year" will be made on or before the Participant's "required beginning date." The required minimum distribution for other "distribution calendar years," including the required minimum distribution for the "distribution calendar year" in which the Participant's "required beginning date" occurs, will be made on or before December 31 of that "distribution calendar year."

(3) "Life expectancy" means the life expectancy as computed by use of the Single Life Table in Regulation §1.401(a)(9)-9.

(4) "Participant's account balance" means the Participant's account balance as of the last Valuation Date in the calendar year immediately preceding the "distribution calendar year" (valuation calendar year) increased by the amount of any contributions made and allocated or Forfeitures allocated to the account balance as of the dates in the valuation calendar year after the Valuation Date and decreased by distributions made in the valuation calendar year after the Valuation Date. For this purpose, the Administrator may exclude contributions that are allocated to the account balance as of dates in the valuation calendar year after the Valuation Date, but that are not actually made during the valuation calendar year. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the "distribution calendar year" if distributed or transferred in the valuation calendar year.

(a) **Reduction for QLACs.** A Participant's account balance is reduced by any QLACs (as defined below). This paragraph applies only to QLACs purchased on or after July 2, 2014.

(b) **Definition of QLAC.** A QLAC is qualifying longevity annuity contract as defined in A-17 of Regulation §1.401(a)(9)-6. Pursuant to such Regulation, a QLAC is an annuity contract that is purchased from an insurance company for a Participant and that, in accordance with the rules of application of paragraph (c) below, satisfies each of the following requirements:

(1) The premiums paid with respect to the contract on a date do not exceed the lesser of the following amounts, determined in accordance with the provisions of paragraph (b) of A-17 of Regulation §1.401(a)(9)-6.

(a) An amount equal to the excess of \$125,000 (as adjusted under paragraph (d)(2) of A-17 of Regulation §1.401(a)(9)-6), over the sum of the premiums paid before that date with respect to the contract, and the premiums paid on or before that date with respect to any other contract that is intended to be a QLAC and that is purchased for the Participant under the Plan, or any other plan, annuity, or account described in Code §401(a), 403(a), 403(b), or 408 or eligible governmental plan under §457(b).

(b) An amount equal to the excess of 25% of the Participant's account balance under the Plan (including the value of any QLAC held under the Plan for the Participant) as of that date, over the sum of the premiums paid before that date with respect to the contract, and the premiums paid on or before that date with respect to any other contract that is intended to be a QLAC and that is held or was purchased for the Participant under the Plan.

(2) The contract provides that distributions under the contract must commence not later than a specified annuity starting date that is no later than the first day of the month next following the eighty-fifth (85th) anniversary of the Employee's birth;

(3) The contract provides that, after distributions under the contract commence, those distributions must satisfy the requirements of paragraph (c) of A-17 of Regulation §1.401(a)(9)-6 (other than the requirement that annuity payments commence on or before the required beginning date (RBD));

(4) The contract does not make available any commutation benefit, cash surrender right, or other similar feature except as otherwise permitted under A-17 of Regulation §1.401(a)(9)-6;

(5) No benefits are provided under the contract after the death of the employee other than the benefits described in paragraph (c) of A-17 of Regulation §1.401(a)(9)-6;

(6) Except as otherwise permitted under A-17 of Regulation §1.401(a)(9)-6, when the contract is issued, the contract (or a rider or endorsement with respect to that contract) states that the contract is intended to be a QLAC; and

(7) The contract is not a variable contract under Code §817, an indexed contract, or a similar contract, except to the extent provided by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin.

(c) **Rules of application relating to premiums.**

(1) **Reliance on representations.** For purposes of the limitation on premiums described in paragraphs (b)(1) and (2) above, unless the Administrator has actual knowledge to the contrary, the Administrator may rely on an Employee's representation (made in writing or such other form as may be prescribed by the Commissioner) of the amount of the premiums described in such paragraphs, but only with respect to premiums that are not paid under a plan, annuity, or contract that is maintained by the Employer or an entity that is treated as a single employer with the Employer under Code §414(b), (c), (m), or (o).

(2) **Consequences of excess premiums.** If an annuity contract fails to be a QLAC solely because a premium for the contract exceeds the limits under paragraph (b)(1)(a) above, then the contract is not a QLAC beginning on the date that premium payment is made unless the excess premium is returned to the non-QLAC portion of the Participant's account in accordance with paragraph (d)(1)(ii)(B) of A-17 of Regulation §1.401(a)(9)-6. If the contract fails to be a QLAC, then the value of the contract may not be disregarded under paragraph (a) above as of the date on which the contract ceases to be a QLAC.

If the excess premium is returned (either in cash or in the form of a contract that is not intended to be a QLAC) to the non-QLAC portion of the Participant's account by the end of the calendar year following the calendar year in which the excess premium was originally paid, then the contract will not be treated as exceeding the limits under paragraph (b)(1)(a) above at any time, and the value of the contract will not be included in the employee's account balance under paragraph (a) above. If the excess premium (including the fair market value of an annuity contract that is not intended to be a QLAC, if applicable) is returned to the non-QLAC portion of the Participant's account after the last valuation date for the calendar year in which the excess premium was originally paid, then the Participant's account balance for that calendar year must be increased to reflect that excess premium in the same manner as a Participant's account balance is increased under Regulation §1.401(a)(9)-7, A-2 to reflect a rollover received after the last valuation date.

(3) **Application of 25-percent limit.** For purposes of the 25% limit under paragraph (b)(1)(b) above, a Participant's account balance on the date on which premiums for a contract are paid is the account balance as of the last valuation date preceding the date of the premium payment, adjusted as follows. The account balance is increased for contributions allocated to the account during the period that begins after the valuation date and ends before the date the premium is paid and decreased for distributions made from the account during that period.

(d) **Dollar and age limitations subject to adjustments.** In the case of calendar years beginning on or after January 1, 2015, the \$125,000 amount under paragraph (b)(1)(a) will be adjusted at the same time and in the same manner as the limits are adjusted under Code §415(d), except that the base period shall be the calendar quarter beginning July 1, 2013, and any increase under this paragraph that is not a multiple of \$10,000 will be rounded to the next lowest multiple of \$10,000. The maximum age set forth in paragraph (b)(2) may be adjusted to reflect changes in mortality, with any such adjusted age to be prescribed by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin and made available by the Superintendent of Documents.

If a contract fails to be a QLAC because it does not satisfy the dollar limitation in paragraph (b)(1)(a) or the age limitation in paragraph (b)(2), any subsequent adjustment that is made pursuant to this paragraph (d) will not cause the contract to become a QLAC.

(5) "Required beginning date" means, except as otherwise elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), with respect to any Participant, April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70 1/2 or the calendar year in which the Participant retires.

6.9 DISTRIBUTION FOR MINOR OR INCOMPETENT INDIVIDUAL

If, in the opinion of the Administrator, a Participant or Beneficiary entitled to a distribution is not able to care for his or her affairs because of a mental condition, a physical condition, or by reason of age in the case of a minor, the Administrator shall direct the distribution to the Participant's or Beneficiary's valid power of attorney, court appointed guardian, or any other person authorized under state law to receive the benefit (including a custodian under a Uniform Transfers or Gifts to Minors Act), upon furnishing evidence of such status satisfactory to the Administrator. The Administrator and the Trustee (or Insurer) do not have any liability with respect to payments so made and neither the Administrator nor the Trustee (or Insurer) has any duty to make inquiry as to the competence of any person entitled to receive payments under the Plan.

6.10 LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN

In the event that all, or any portion, of the distribution payable to a Participant or Beneficiary hereunder shall, at the later of the Participant's attainment of age 62 or Normal Retirement Age, remain unpaid solely by reason of the inability of the Administrator to ascertain the whereabouts of such Participant or Beneficiary, the amount so distributable may, in the sole discretion of the Administrator, either be treated as a Forfeiture or be paid directly to an individual retirement account described in Code §408(a) or an individual

Non-Standardized Governmental 401(a) Pre-Approved Plan

retirement annuity described in Code §408(b). Before treating any Participant as being missing, the Administrator must conduct a reasonable and diligent search for the Participant, using one or more of search methods the Plan Administrator determines are appropriate under the circumstances, such as the methods suggested by DOL Field Assistance Bulletin 2014-01. Such search methods include:

- (1) provide a distribution notice to the lost Participant at the Participant's last known address by certified or registered mail;
- (2) check with the administrator of other employee benefit plans of the Employer that may have more up-to-date information regarding the Participant's whereabouts;
- (3) identify and contact the Participant's Designated Beneficiary;
- (4) use one or more free internet search tools;
- (5) attempt contact via email or telephone, or
- (6) use proprietary internet search tools, commercial locator services, credit reporting agencies, information brokers, or other search methods. Regarding search methods (2) and (3) above, if the Plan Administrator encounters privacy concerns, the Plan Administrator may request that the Employer or other plan fiduciary (under (2)), or the Designated Beneficiary (under (3)), contact the Participant or forward a letter requesting that the Participant contact the Plan Administrator.

In addition, if the Plan provides for mandatory distributions and the amount to be distributed to a Participant or Beneficiary does not exceed \$1,000, then the amount distributable may, in the sole discretion of the Administrator, either be treated as a Forfeiture, be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b) or use the PBGC Missing Participant Program, or any successor program, at the time it is determined that the whereabouts of the Participant or the Participant's Beneficiary cannot be ascertained. In the event a Participant or Beneficiary is located subsequent to the Forfeiture and prior to the time the Plan has been terminated, such benefit shall be restored, first from Forfeitures, if any, and then from an additional Employer contribution if necessary. Upon Plan termination, the portion of the distributable amount that is an "eligible rollover distribution" as defined in Section 6.14(b)(1) may be paid directly to an individual retirement account described in Code §408(a) or an individual retirement annuity described in Code §408(b). However, regardless of the preceding, a benefit that is lost by reason of escheat under applicable state law is not treated as a Forfeiture for purposes of this Section nor as an impermissible forfeiture under the Code.

6.11 IN-SERVICE DISTRIBUTION

If elected in the Adoption Agreement, at such time as the conditions set forth in the Adoption Agreement have been satisfied, then the Administrator, at the election of a Participant who has not severed employment with the Employer, shall direct the distribution of up to the entire Vested amount then credited to the Accounts as elected in the Adoption Agreement maintained on behalf of such Participant. For purposes of this Section, a Participant shall include an Employee who has an Account balance in the Plan. In the event that the Administrator makes such a distribution, the Participant shall continue to be eligible to participate in the Plan on the same basis as any other Employee. Any distribution made pursuant to this Section shall be made in a manner consistent with Section 6.5. Furthermore, if an in-service distribution is permitted from more than one account type, the Administrator may determine any ordering of a Participant's in-service distribution from such accounts. The Administrator may adopt a policy imposing frequency limitations or other reasonable administrative conditions on in-service distributions made pursuant to this Section.

6.12 DISTRIBUTION FOR HARDSHIP

(a) **Hardship events.** If elected in the Adoption Agreement, the Administrator, at the election of the Participant, shall direct the distribution to any Participant in any one Plan Year to an amount necessary to satisfy the Participant's immediate and heavy financial need, determined in accordance with the remaining provisions of this Section. A hardship distribution may only be made on account of an immediate and heavy financial need of the Participant and where the distribution is necessary to satisfy the immediate and heavy financial need. Such distributions may also be made from those Accounts from which such distribution are authorized by the remaining provisions of this Section. For purposes of this Section, a Participant shall include an Employee who has an Account balance in the Plan. Any distribution made pursuant to this Section shall be deemed to be made as of the first day of the Plan Year or, if later, the Valuation Date immediately preceding the date of distribution, and the Account from which the distribution is made shall be reduced accordingly. Withdrawal under this Section shall be authorized only if the distribution is for an immediate and heavy financial need. The Administrator will determine whether there is an immediate and heavy financial need based on the facts and circumstances. An immediate and heavy financial need includes, but is not limited to, a distribution for one of the following:

- (1) Expenses for (or necessary to obtain) medical care (as defined in Code §213(d));
- (2) Costs directly related to the purchase (excluding mortgage payments) of a principal residence for the Participant;
- (3) Payments for burial or funeral expenses for the Participant's deceased parent, Spouse, children or dependents (as defined in Code §152, and without regard to Code §152(d)(1)(B));
- (4) Payment of tuition, related educational fees, and room and board expenses, for up to the next twelve (12) months of post-secondary education for the Participant, the Participant's Spouse, children, or dependents (as defined in Code §152, and without regard to Code §§152(b)(1), (b)(2), and (d)(1)(B));

Non-Standardized Governmental 401(a) Pre-Approved Plan

(5) Payments necessary to prevent the eviction of the Participant from the Participant's principal residence or foreclosure on the mortgage on that residence; or

(6) Expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty deduction under Code §165 (determined without regard to whether the loss exceeds 10% of adjusted gross income).

(b) **Beneficiary-based distribution.** If in the Adoption Agreement, then effective as of the date specified in the Adoption Agreement, a Participant's hardship event includes an immediate and heavy financial need of the Participant's "primary Beneficiary under the Plan," that would constitute a hardship event if it occurred with respect to the Participant's Spouse or dependent as defined under Code §152 (such hardship events being limited to educational expenses, funeral expenses and certain medical expenses). For purposes of this Section, a Participant's "primary Beneficiary under the Plan" is an individual who is named as a Beneficiary under the Plan (by the Participant or pursuant to Section 6.2) and has an unconditional right to all or a portion of the Participant's Account balance under the Plan upon the Participant's death.

(c) **Other limits and conditions.** If elected in the Adoption Agreement, no distribution shall be made pursuant to this Section from the Participant's Account until such Account has become fully Vested. Furthermore, if a hardship distribution is permitted from more than one Account, the Administrator may determine any ordering of a Participant's hardship distribution from such Accounts.

(d) **Distribution rules apply.** Any distribution made pursuant to this Section shall be made in a manner which is consistent with and satisfies the provisions of Section 6.5.

6.13 QUALIFIED DOMESTIC RELATIONS ORDER DISTRIBUTION

All benefits provided to a Participant in this Plan shall be subject to the rights afforded to any Alternate Payee under a "qualified domestic relations order." Furthermore, unless otherwise elected in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections) a distribution to an Alternate Payee shall be permitted if such distribution is authorized by a "qualified domestic relations order," even if the affected Participant has not reached the "earliest retirement age." For the purposes of this Section, "qualified domestic relations order" and "earliest retirement age" shall have the meanings set forth under Code §414(p). For purposes of this Section, however, a distribution that is made pursuant to a domestic relations order which meets the requirements of Code §414(p)(1)(A)(i) will be treated as being made pursuant to a "qualified domestic relations order."

A domestic relations order that otherwise satisfies the requirements for a "qualified domestic relations order" will not fail to be a "qualified domestic relations order": (i) solely because the order is issued after, or revises, another domestic relations order or "qualified domestic relations order"; or (ii) solely because of the time at which the order is issued, including issuance after the Annuity Starting Date or after the Participant's death.

6.14 DIRECT ROLLOVERS

(a) **Right to direct rollover.** Notwithstanding any provision of the Plan to the contrary that would otherwise limit a "distributee's" election under this Section, a "distributee" may elect, at the time and in the manner prescribed by the Administrator, to have an "eligible rollover distribution" paid directly to an "eligible retirement plan" specified by the "distributee" in a "direct rollover." However, if less than the entire amount of the "eligible rollover distribution" is being paid directly to an "eligible retirement plan," then the Administrator may require that the amount paid directly to such plan be at least \$500.

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

(1) **Eligible rollover distribution.** An "eligible rollover distribution" means any distribution described in Code §402(c)(4) and generally includes any distribution of all or any portion of the balance to the credit of the "distributee," except that an "eligible rollover distribution" does not include: (a) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the "distributee" or the joint lives (or joint life expectancies) of the "distributee" and the "distributee's" "designated Beneficiary," or for a specified period of ten (10) years or more; (b) any distribution to the extent such distribution is required under Code §401(a)(9); (c) any hardship distribution; (d) the portion of any other distribution(s) that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); (e) any loans that are treated as deemed distributions under Code §72(p) which are not also an offset distribution; (f) the costs of life insurance coverage (P.S. 58 costs); (g) any other distributions described in Regulation §1.402(c)-2; and any other distribution reasonably expected to total less than \$200 during a year.

Notwithstanding the above, a portion of a distribution shall not fail to be an "eligible rollover distribution" merely because the portion consists of after-tax voluntary Employee contributions which are not includible in gross income. However, such portion may be transferred only to:

(i) a traditional individual retirement account or annuity described in Code §408(a) or (b) (a "traditional IRA")

Non-Standardized Governmental 401(a) Pre-Approved Plan

(ii) for taxable years beginning after December 31, 2006, a Roth individual account or annuity described in Code §408A (a "Roth IRA"), or

(iii) a qualified defined contribution plan or an annuity contract described in Code §401(a) or Code §403(b), respectively, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(2) **Eligible retirement plan.** An "eligible retirement plan" is a "traditional IRA," a "Roth IRA," a qualified trust (an employees' trust) described in Code §401(a) which is exempt from tax under Code §501(a), an annuity plan described in Code §403(a), an eligible plan under Code §457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision and which agrees to separately account for amounts transferred into such plan from this Plan, and an annuity contract described in Code §403(b), and for distributions made after December 18, 2015, a SIMPLE IRA to the extent permitted under Code §408(p)(1)(B), that accepts the "distributee's" "eligible rollover distribution." The definition of "eligible retirement plan" shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is an Alternate Payee. If any portion of an "eligible rollover distribution" is attributable to payments or distributions from a designated Roth account, an "eligible retirement plan" with respect to such portion shall include only another designated Roth account of the individual from whose account the payments or distributions were made, or a Roth IRA of such individual. In the case of a "distributee" who is a non-Spouse designated Beneficiary, (i) the "direct rollover" may be made only to a traditional or Roth individual retirement account or an annuity described in Code §408(b) ("IRA") that is established on behalf of the designated non-Spouse Beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Code §402(c)(11), and (ii) the determination of any required minimum distribution required under Code §401(a)(9) that is ineligible for rollover shall be made in accordance with IRS Notice 2007-7, Q&A 17 and 18.

(3) **Distributee.** A "distributee" includes an Employee or Former Employee. In addition, the Employee's or Former Employee's surviving Spouse and the Employee's or Former Employee's Spouse or former Spouse who is the Alternate Payee, are "distributees" with regard to the interest of the Spouse or former Spouse.

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

(c) **Participant notice.** A Participant entitled to an "eligible rollover distribution" must receive a written explanation of the right to a "direct rollover," the tax consequences of not making a "direct rollover," and, if applicable, any available special income tax elections. The notice must be provided no less than thirty (30) days and no more than one-hundred eighty (180) days before the Annuity Starting Date. The "direct rollover" notice must be provided to all Participants, unless the total amount the Participant will receive as a distribution during the calendar year is expected to be less than \$200.

(d) **Non-Spouse Beneficiary rollover right.** A non-Spouse Beneficiary who is a "designated Beneficiary" under Code §401(a)(9)(E) and the Regulations thereunder, by a direct trustee-to-trustee transfer ("direct rollover"), may roll over all or any portion an "eligible rollover distribution" to an IRA the Beneficiary establishes for purposes of receiving the distribution.

If the Participant's named Beneficiary is a trust, the Plan may make a direct rollover to an IRA on behalf of the trust, provided the trust satisfies the requirements to be a "designated Beneficiary."

6.15 RESTRICTIONS ON DISTRIBUTION OF ASSETS TRANSFERRED FROM A MONEY PURCHASE PLAN

Notwithstanding any provision of this Plan to the contrary, to the extent that any optional form of benefit under this Plan permits a distribution prior to the Employee's retirement, death, Total and Permanent Disability, or severance from employment, and prior to Plan termination, the optional form of benefit is not available with respect to benefits attributable to assets (including the post-transfer earnings thereon) and liabilities that are transferred, within the meaning of Code §414(l), to this Plan from a money purchase pension plan qualified under Code §401(a) (other than any portion of those assets and liabilities attributable to after-tax voluntary Employee contributions or to a direct or indirect rollover contribution). A Participant may not obtain an in-service distribution with respect to such transferred amounts prior to the earlier of the Participant's Normal Retirement Age or attainment of age 62.

6.16 CORRECTIVE DISTRIBUTIONS

Nothing in this Article shall preclude the Administrator from making a distribution to a Participant, to the extent such distribution is made to correct a qualification defect in accordance with the corrective procedures under the IRS' Employee Plans Compliance Resolution System or any other voluntary compliance programs established by the IRS.

6.17 SERVICE CREDIT PURCHASES

The Administrator, upon Participant request, may direct the transfer of all or a portion of the Participant's Account to a governmental defined benefit plan (as defined in Code §414(d)) in which he or she participates for the purchase of permissive service credit (as defined in Code §415(n)(3)(A)).

6.18 UNCASHED CHECKS

Subject to the provisions of Section 6.10, the Plan Administrator operationally may dispose of an uncashed distribution from the Plan to a lost Participant at the time and in the manner described in this Section. Prior to doing so, the Plan Administrator must make reasonable and diligent efforts to contact the lost Participant, including using such search methods the Plan Administrator determines are appropriate under the circumstances. At the discretion of the Administrator, Plan distributions that remain uncashed, and which the Administrator chooses not to reinvest in the Plan may be: (1) voluntarily remitted to a State unclaimed property department, but no sooner than the appropriate state dormancy period has expired; or (2) deposited for the benefit of the lost Participant either to a: (a) bank account, or (b) individual retirement account if the original distribution was an eligible rollover distribution.

For purposes of this Section 6.18, a distribution is "uncashed" if it remains uncashed by the "cash-by" date on the check or in an accompanying notice, e.g., a date prescribed by the bank or the Plan. This "cash-by" date must be at least forty-five (45) days after the check is issued. If there is no prescribed "cash-by" date, then the amount is considered uncashed if it is not cashed by the check's stale date.

6.19 HEALTH INSURANCE PAYMENTS FOR PUBLIC SAFETY OFFICERS

An "eligible retired public safety officer" may elect annually for that taxable year to have the Plan deduct an amount from a distribution which the "eligible retired public safety officer" otherwise would receive and include in income. The Plan will pay such deducted amounts directly to pay "qualified health insurance premiums" as defined in Code §402(l). Any election made under this Plan must conform to the requirements of Code §402(l). A "qualified retired public safety officer" is a public safety officer (as defined in §1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C 3796b(9)(A)) who, by reason of disability or attainment of Normal Retirement Age, is separated from service as a public safety officer with the Employer. "Qualified health insurance premiums" means the premiums for coverage for the "eligible retired public safety officer," his or her Spouse, and dependents (as defined in Code §152), by an accident or health plan or qualified long-term care insurance contract (as defined in Code §7702B(b)).

ARTICLE VII TRUST, TRUSTEE AND CUSTODIAN

7.1 CONFLICT WITH PLAN

In the event of any conflicts between the provisions of this Plan and the Trust agreement, the provisions of this Plan control.

7.2 POWERS AND DUTIES OF CUSTODIAN

Subject to the terms of the Trust agreement, the Employer may appoint a Custodian of the Plan assets. The duties of the Custodian are those set forth in the agreement with the Custodian. Any reference in the Plan to a Trustee also is a reference to a Custodian unless the Employer has appointed a Custodian separate from the Trustee or the context of the Plan indicates otherwise.

7.3 LIFE INSURANCE

(a) **Permitted insurance.** To the extent not prohibited under the terms of the Trust agreement, the Trustee (or Insurer), in accordance with operational procedures of the Administrator, shall ratably apply for, own, and pay all premiums on Contracts on the lives of the Participants or, in the case of a 401(a) Plan, on the life of a member of the Participant's family or on the joint lives of a Participant and a member of the Participant's family. Furthermore, if a Contract is purchased on the joint lives of the Participant and another person and such other person predeceases the Participant, then the Contract may not be maintained under this Plan. Any initial or additional Contract purchased on behalf of a Participant shall have a face amount of not less than \$1,000, an amount set forth in the Administrator's procedures, or the limitation of the Insurer, whichever is greater. If a life insurance Contract is to be purchased for a Participant, then the aggregate premium for ordinary life insurance for each Participant must be less than 50% of the aggregate contributions and Forfeitures allocated to the Participant's Combined Account. For purposes of this limitation, ordinary life insurance Contracts are Contracts with both non-decreasing death benefits and non-increasing premiums. If term insurance or universal life insurance is purchased, then the aggregate premium must be 25% or less of the aggregate contributions and Forfeitures allocated to the Participant's Combined Account. If both term insurance and ordinary life insurance are purchased, then the premium for term insurance plus one-half of the premium for ordinary life insurance may not in the aggregate exceed 25% of the aggregate Employer contributions and Forfeitures allocated to the Participant's Combined Account. Notwithstanding the preceding, the limitations imposed herein with respect to the purchase of life insurance shall not apply, in the case of a 401(a) Plan, to the portion of the Participant's Account that has accumulated for at least two (2) Plan Years or to the entire Participant's Account if the Participant has been a Participant in the Plan for at least five (5) years. In addition, amounts transferred to this Plan in accordance with Section 4.6(f)(1)(ii) or (iii) and a Participant's Voluntary Contribution Account may be used to purchase Contracts without limitation. Thus, amounts that are not subject to the limitations contained herein may be used to purchase life insurance on any person in whom a Participant has an insurable interest or on the joint lives of a Participant and any person in whom the Participant has an insurable interest, and without regard to the amount of premiums paid to purchase any life insurance hereunder.

(b) **Contract conversion at retirement.** The Administrator must direct the Trustee (or Insurer) to distribute any Contracts to the Participant or convert the entire value of the Contracts at or before retirement into cash or provide for a periodic income so that no portion of such value may be used to continue life insurance protection beyond the Participant's actual retirement date.

Non-Standardized Governmental 401(a) Pre-Approved Plan

(c) **Limitations on purchase.** No life insurance Contracts shall be required to be obtained on an individual's life if, for any reason (other than the nonpayment of premiums) the Insurer will not issue a Contract on such individual's life.

(d) **Proceeds payable to Plan.** The Trustee (or Insurer) must be the owner of any life insurance Contract purchased under the terms of this Plan. The Contract must provide that the proceeds will be payable to the Trustee (or Insurer); however, the Trustee (or Insurer) shall be required to pay over all proceeds of the Contract to the Participant's "designated Beneficiary" in accordance with the distribution provisions of Article VI as directed by the Administrator. A Participant's Spouse will be the "designated Beneficiary" pursuant to Section 6.2, unless a qualified election has been made in accordance with Sections 6.5 and 6.6 of the Plan, if applicable. Under no circumstances shall the Trust retain any part of the proceeds that are in excess of the cash surrender value immediately prior to death. However, the Trustee (or Insurer) shall not pay the proceeds in a method that would violate the requirements of the Retirement Equity Act of 1984, as stated in Article VI of the Plan, or Code §401(a)(9) and the Regulations thereunder. In the event of any conflict between the terms of this Plan and the terms of any insurance Contract purchased hereunder, the Plan provisions shall control.

(e) **No responsibility for act of Insurer.** The Employer, the Administrator and the Trustee shall not be responsible for the validity of the provisions under a Contract issued hereunder or for the failure or refusal by the Insurer to provide benefits under such Contract. The Employer, Administrator and the Trustee are also not responsible for any action or failure to act by the Insurer or any other person which results in the delay of a payment under the Contract or which renders the Contract invalid or unenforceable in whole or in part.

7.4 LOANS TO PARTICIPANTS

(a) **Permitted Loans.** To the extent not prohibited under the terms of the Trust agreement, the Administrator, the Administrator may, in the Administrator's sole discretion, make loans to Participants. If loans are permitted, then the following shall apply: (1) loans shall be made available to all Participants on a reasonably equivalent basis; (2) loans shall bear a reasonable rate of interest; (3) loans shall be adequately secured; and (4) loans shall provide for periodic repayment over a reasonable period of time. Furthermore, no Participant loan shall exceed the Participant's Vested interest in the Plan. For purposes of this Section, the term Participant shall include any Eligible Employee who is not yet a Participant, if, pursuant to the Adoption Agreement, "rollovers" are permitted to be accepted from Eligible Employees.

(b) **Loan program.** The Administrator shall be authorized to establish a Participant loan program to provide for loans under the Plan. In order for the Administrator to implement such loan program, a separate written document forming a part of this Plan must be adopted, which document shall specifically include, but need not be limited to, the following:

- (1) the identity of the person or positions authorized to administer the Participant loan program;
- (2) a procedure for applying for loans;
- (3) the basis on which loans will be approved or denied;
- (4) limitations, if any, on the types and amounts of loans offered;
- (5) the procedure under the program for determining a reasonable rate of interest;
- (6) the types of collateral which may secure a Participant loan; and
- (7) the events constituting default and the steps that will be taken to preserve Plan assets in the event such default.

(c) **Loan default.** Notwithstanding anything in this Plan to the contrary, if a Participant or Beneficiary defaults on a loan made pursuant to this Section that is secured by the Participant's interest in the Plan, then a Participant's interest may be offset by the amount subject to the security to the extent there is a distributable event permitted by the Code or Regulations. Notwithstanding anything in the Plan's loan policy to the contrary, if a loan is accelerated due to a Participant's termination of employment, then the Plan may direct that the loan note be transferred or directly rolled over to another plan that will accept the transfer or rollover of the note.

(d) **Loans subject to Plan terms.** Notwithstanding anything in this Section to the contrary, if this is an amendment and restatement of an existing Plan, any loans made prior to the date this amendment and restatement is adopted shall be subject to the terms of the Plan in effect at the time such loan was made.

7.5 PLAN-TO-PLAN TRANSFERS

Notwithstanding any other provision contained in this Plan and to the extent not prohibited under the terms of the Trust agreement, the Administrator may direct the Trustee to transfer the interest, if any, of a Participant to another trust forming part of a pension, profit sharing, or stock bonus plan that meets the requirements of Code §401(a), provided that the trust to which such transfers are made permits the transfer to be made and further provided that the terms of the transferee plan properly allocates the funds in each account to a transferee account that preserves all the required features and restrictions applicable to such account under this Plan. However, the transfer of amounts

from this Plan to a nonqualified foreign trust is treated as a distribution and the transfer of assets and liabilities from this Plan to a plan that satisfies Section 1165 of the Puerto Rico Code is also treated as distribution from the transferor plan.

ARTICLE VIII AMENDMENT, TERMINATION AND MERGERS

8.1 AMENDMENT

(a) **General rule on Employer amendment.** The Employer shall have the right at any time to amend this Plan subject to the limitations of this Section. However, any amendment that affects the rights, duties or responsibilities of the Trustee (or Insurer) or Administrator may only be made with the Trustee's (or Insurer's) or Administrator's written consent. Any such amendment shall become effective as provided therein upon its execution. The Trustee (or Insurer) shall not be required to execute any such amendment unless the amendment affects the duties of the Trustee (or Insurer) hereunder.

(b) **Permissible amendments.** The Employer may amend the Plan to accomplish any of the following items without affecting reliance on the opinion letter: (1) change the choice of options in the Adoption Agreement or Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections), (2) add certain sample or model amendments published by the Internal Revenue Service or other required good-faith amendments where the IRS has provided that their adoption will not cause the Plan to be treated as an individually designed plan, (3) add a list of any protected benefits" which must be preserved, (4) adjust the limitations under Code §§415, 402(g), 401(a)(17) and 414(q)(1)(B) to reflect annual cost-of-living increases, and (5) change the pre-approved plan Provider's name. "Provider" pursuant to this Section 8 means the entity that contracts with the mass submitter to provide the Basic Plan Document and Adoption Agreement for use by the Employer or, in the alternative, the mass submitter that provides such documents directly to its clients. An Employer that amends the Plan for any other reason, including a waiver of the minimum funding requirement under Code §412(c), will no longer participate in this pre-approved plan and this Plan will be considered to be an individually designed plan for purposes of reliance. A Plan amendment does not include an amendment or substitution of the Trust.

(c) **Provider amendments.** The Employer (and every Participating Employer) expressly delegates authority to the Provider, the right to amend the Plan by submitting a copy of the amendment to each Employer (and Participating Employer) who has adopted this pre-approved plan, after first having received a ruling or favorable determination from the Internal Revenue Service that the pre-approved Plan as amended qualifies under Code §401(a) (unless a ruling or determination is not required by the IRS). The Provider will amend the Plan Documents from time to time in accordance with this Section 8.1(c). For purposes of this Section, the mass submitter shall be recognized as the agent of the Provider. If the Provider does not adopt any amendment made by the mass submitter, it will no longer be identical to, or a minor modifier of, the mass submitter plan.

(d) **Impermissible amendments.** No amendment to the Plan shall be effective if it authorizes or permits any part of the Trust Fund (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries or estates; or causes any reduction in the amount credited to the account of any Participant; or causes or permits any portion of the Trust Fund to revert to or become property of the Employer.

8.2 TERMINATION

(a) **Termination of Plan.** The Employer shall have the right at any time to terminate the Plan by delivering to the Trustee (or Insurer) and Administrator written notice of such termination. The Employer has no obligation or liability whatsoever to maintain the Plan for any specific length of time and may terminate the Plan or discontinue contributions under the Plan at any time without liability hereunder for any such discontinuance. Upon any full or partial termination or upon the complete discontinuance of the Employer's Contributions to the Plan (in the case of a Profit Sharing Plan), all amounts credited to the affected Participants' Combined Accounts shall become 100% Vested and shall not thereafter be subject to Forfeiture.

(b) **Distribution of assets.** Upon the full termination of the Plan, the Employer shall direct the distribution of the assets to Participants in a manner that is consistent with and satisfies the provisions of Section 6.5. Distributions to a Participant shall be made in cash (or in property if permitted in the Adoption Agreement) or through the purchase of irrevocable nontransferable deferred commitments from the Insurer.

8.3 MERGER, CONSOLIDATION OR TRANSFER OF ASSETS

This Plan may be merged or consolidated with, or its assets and/or liabilities may be transferred to, any other plan provided the benefits which would be received by a Participant of this Plan, in the event of a termination of the plan immediately after such transfer, merger or consolidation, are at least equal to the benefits the Participant would have received if the Plan had terminated immediately before the transfer, merger or consolidation.

ARTICLE IX MISCELLANEOUS

9.1 EMPLOYER ADOPTIONS

- (a) **Method of adoption.** Any organization may become the Employer hereunder by executing the Adoption Agreement.
- (b) **Separate affiliation.** Except as otherwise provided in this Plan, the affiliation of the Employer and the participation of its Participants shall be separate and apart from that of any other employer and its participants hereunder.

9.2 PARTICIPANT'S RIGHTS

This Plan shall not be deemed to constitute a contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon the Employee as a Participant of this Plan.

9.3 ALIENATION

- (a) **General rule.** Subject to the exceptions provided below and as otherwise permitted by the Code, no benefit which shall be payable to any person (including a Participant or the Participant's Beneficiary) shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, and the same shall not be recognized except to such extent as may be required by law.
- (b) **Exception for loans.** Subsection (a) shall not apply to the extent a Participant or Beneficiary is indebted to the Plan by reason of a loan made pursuant to Section 7.4. At the time a distribution is to be made to or for a Participant's or Beneficiary's benefit, such portion of the amount to be distributed as shall equal such indebtedness shall be paid to the Plan, to apply against or discharge such indebtedness. Prior to making a payment, however, the Participant or Beneficiary must be given notice by the Administrator that such indebtedness is to be so paid in whole or part from the Participant's interest in the Plan. If the Participant or Beneficiary does not agree that the indebtedness is a valid claim against the Participant's interest in the Plan, the Participant or Beneficiary shall be entitled to a review of the validity of the claim in accordance with procedures provided in Section 2.10.
- (c) **Exception for QDRO.** Subsection (a) shall not apply to a "qualified domestic relations order" defined in Code §414(p), and those other domestic relations orders permitted to be so treated by the Administrator under the provisions of the Retirement Equity Act of 1984.

9.4 PLAN COMMUNICATIONS, INTERPRETATION AND CONSTRUCTION

- (a) **Applicable law.** This Plan shall be construed and enforced according to the Code and the laws of the state or commonwealth in which the Employer's principal office is located (unless otherwise designated in Appendix A to the Adoption Agreement (Special Effective Dates and Other Permitted Elections)), other than its laws respecting choice of law, to the extent not pre-empted by federal law.
- (b) **Administrator's discretion.** The Administrator has total and complete discretion to interpret and construe the Plan and to determine all questions arising in the administration, interpretation and application of the Plan. Any determination the Administrator makes under the Plan is final and binding upon any affected person. The Administrator must exercise all of its Plan powers and discretion, and perform all of its duties, in a uniform manner.
- (c) **Communications.** All Participant or Beneficiary notices, designations, elections, consents or waivers must be made in a form the Administrator (or, as applicable, the Trustee or Insurer) specifies or otherwise approves. Any person entitled to notice under the Plan may waive the notice or shorten the notice period unless such actions are contrary to applicable law.
- (d) **Evidence.** Anyone, including the Employer, required to give data, statements or other information relevant under the terms of the Plan ("evidence") may do so by certificate, affidavit, document or other form which the person to act in reliance may consider pertinent, reliable and genuine, and to have been signed, made or presented by the proper party or parties. The Administrator, Trustee and Insurer are protected fully in acting and relying upon any evidence described under the immediately preceding sentence.
- (e) **Plan terms binding.** The Plan is binding upon all parties, including but not limited to, the Employer, Trustee, Insurer, Administrator, Participants and Beneficiaries.
- (f) **Parties to litigation.** Except as otherwise provided by applicable law, a Participant or a Beneficiary is not a necessary party or required to receive notice of process in any court proceeding involving the Plan, the Trust or any fiduciary. Any final judgment (not subject to further appeal) entered in any such proceeding will be binding upon all parties, including the Employer, the Administrator, Trustee, Insurer, Participants and Beneficiaries.

Non-Standardized Governmental 401(a) Pre-Approved Plan

(g) **Fiduciaries not insurers.** The Trustee, Administrator and the Employer in no way guarantee the Plan assets from loss or depreciation. The Employer does not guarantee the payment of any money which may be or becomes due to any person from the Plan. The liability of the Employer, the Administrator and the Trustee to make any distribution from the Trust at any time and all times is limited to the then available assets of the Trust.

(h) **Construction/severability.** The Plan, the Adoption Agreement, the Trust and all other documents to which they refer, will be interpreted consistent with and to preserve tax qualification of the Plan under Code §401(a) and tax exemption of the Trust under Code §501(a) and also consistent with other applicable law. To the extent permissible under applicable law, any provision which a court (or other entity with binding authority to interpret the Plan) determines to be inconsistent with such construction and interpretation, is deemed severed and is of no force or effect, and the remaining Plan terms will remain in full force and effect.

(i) **Uniformity.** All provisions of this Plan shall be interpreted and applied in a uniform manner.

(j) **Headings.** The headings and subheadings of this Plan have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

9.5 GENDER, NUMBER AND TENSE

Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply; whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply; and whenever any words are used herein in the past or present tense, they shall be construed as though they were also used in the other form in all cases where they would so apply.

9.6 LEGAL ACTION

In the event any claim, suit, or proceeding is brought regarding the Trust and/or Plan established hereunder to which the Trustee (or Insurer), the Employer or the Administrator may be a party, and such claim, suit, or proceeding is resolved in favor of the Trustee (or Insurer), the Employer or the Administrator, they shall be entitled to be reimbursed from the Trust Fund for any and all costs, attorney's fees, and other expenses pertaining thereto incurred by them for which they shall have become liable.

9.7 PROHIBITION AGAINST DIVERSION OF FUNDS

(a) **General rule.** Except as provided below and otherwise specifically permitted by law, it shall be impossible by operation of the Plan or of the Trust, by termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by any other means, for any part of the corpus or income of any Trust Fund maintained pursuant to the Plan or any funds contributed thereto to be used for, or diverted to, purposes other than the exclusive benefit of Participants or their Beneficiaries.

(b) **Mistake of fact.** In the event the Employer shall make a contribution under a mistake of fact, the Employer may demand repayment of such contribution at any time within one (1) year following the time of payment and the Trustee (or Insurer) shall return such amount to the Employer within the one (1) year period. Earnings of the Plan attributable to the contributions may not be returned to the Employer but any losses attributable thereto must reduce the amount so returned.

9.8 EMPLOYER'S AND TRUSTEE'S PROTECTIVE CLAUSE

The Employer, Administrator and Trustee, and their successors, shall not be responsible for the validity of any Contract issued hereunder or for the failure on the part of the Insurer to make payments provided by any such Contract, or for the action of any person which may delay payment or render a Contract null and void or unenforceable in whole or in part.

9.9 INSURER'S PROTECTIVE CLAUSE

Except as otherwise agreed upon in writing between the Employer and the Insurer, an Insurer which issues any Contracts hereunder shall not have any responsibility for the validity of this Plan or for the tax or legal aspects of this Plan. The Insurer shall be protected and held harmless in acting in accordance with any written direction of the Administrator or Trustee and shall have no duty to see to the application of any funds paid to the Trustee, nor be required to question any actions directed by the Administrator or Trustee. Regardless of any provision of this Plan, the Insurer shall not be required to take or permit any action or allow any benefit or privilege contrary to the terms of any Contract which it issues hereunder, or the rules of the Insurer.

9.10 RECEIPT AND RELEASE FOR PAYMENTS

Any payment to any Participant, the Participant's legal representative, Beneficiary, or to any guardian or committee appointed for such Participant or Beneficiary in accordance with the provisions of this Plan, including those referenced in Section 6.9, shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Trustee (or Insurer) and the Employer.

9.11 ACTION BY THE EMPLOYER

Whenever the Employer under the terms of the Plan is permitted or required to do or perform any act or matter or thing, it shall be done and performed by a person duly authorized by its legally constituted authority.

9.12 APPROVAL BY INTERNAL REVENUE SERVICE

Notwithstanding anything herein to the contrary, if, pursuant to an application for qualification is made by the time prescribed by law or such later date as the Secretary of Treasury may prescribe, the Commissioner of the Internal Revenue Service or the Commissioner's delegate should determine that the Plan does not initially qualify as a tax-exempt plan under Code §§401 and 501, and such determination is not contested, or if contested, is finally upheld, then if the Plan is a new plan, it shall be void ab initio and all amounts contributed to the Plan, by the Employer, less expenses paid, shall be returned within one (1) year and the Plan shall terminate, and the Trustee (or Insurer) shall be discharged from all further obligations. If the disqualification relates to a Plan amendment, then the Plan shall operate as if it had not been amended. If the Employer's Plan fails to attain or retain qualification, such Plan will no longer participate in this pre-approved plan and will be considered an individually designed plan.

9.13 PAYMENT OF BENEFITS

Except as otherwise provided in the Plan, benefits under this Plan shall be paid, subject to Sections 6.11 and 6.12, only upon death, Total and Permanent Disability, normal or early retirement, severance of employment, or termination of the Plan.

9.14 ELECTRONIC MEDIA

The Administrator may use any electronic medium to give or receive any Plan notice, communicate any Plan policy, conduct any written Plan communication, satisfy any Plan filing or other compliance requirement and conduct any other Plan transaction to the extent permissible under applicable law. A Participant or a Participant's Spouse, to the extent authorized by the Administrator, may use any electronic medium to make or provide any Beneficiary designation, election, notice, consent or waiver under the Plan, to the extent permissible under applicable law. Any reference in this Plan to a "form," a "notice," an "election," a "consent," a "waiver," a "designation," a "policy" or to any other Plan-related communication includes an electronic version thereof as permitted under applicable law. Notwithstanding the foregoing, any Participant or Beneficiary notices and consent that are required pursuant to the Code must satisfy Regulation §1.401(a)-21.

9.15 PLAN CORRECTION

The Administrator in conjunction with the Employer may undertake such correction of Plan errors as the Administrator deems necessary, including correction to preserve tax qualification of the Plan under Code §401(a) or to correct a fiduciary breach under state or local law. Without limiting the Administrator's authority under the prior sentence, the Administrator, as it determines to be reasonable and appropriate, may undertake correction of Plan document, operational, demographic and Employer eligibility failures under a method described in the Plan or under the IRS Employee Plans Compliance Resolution System ("EPCRS") or any successor program to EPCRS. Furthermore, the Employer may make corrective contributions pursuant to this Section regardless of whether the Plan otherwise permits such contribution source. In addition, the Plan is authorized to recover benefits from Participants or Beneficiaries that have been improperly distributed.

9.16 NONTRUSTEED PLANS

If the Plan is funded solely with Contracts, then notwithstanding Sections 9.7 and 9.12, no Contract will be purchased under the Plan unless such Contract or a separate definite written agreement between the Employer and the Insurer provides that no value under Contracts providing benefits under the Plan or credits determined by the Insurer (on account of dividends, earnings, or other experience rating credits, or surrender or cancellation credits) with respect to such Contracts may be paid or returned to the Employer or diverted to or used for other than the exclusive benefit of the Participants or their Beneficiaries. However, any contribution made by the Employer because of a mistake of fact must be returned to the Employer within one year of the contribution.

If this Plan is funded by individual Contracts that provide a Participant's benefit under the Plan, such individual Contracts shall constitute the Participant's Account balance. If this Plan is funded by group Contracts, under the group annuity or group insurance Contract, premiums or other consideration received by the Insurer must be allocated to Participants' Accounts under the Plan.

**ARTICLE X
PARTICIPATING EMPLOYERS**

10.1 ELECTION TO BECOME A PARTICIPATING EMPLOYER

Notwithstanding anything herein to the contrary, with the consent of the Employer, any Employer may adopt the Employer's Plan and all of the provisions hereof, and participate herein and be known as a Participating Employer, by a properly executed document evidencing said intent and will of such Participating Employer (a participation agreement). In the event a Participating Employer is not an Affiliated Employer, then the provisions of Article XI shall apply rather than the provision of this Article XI.

10.2 REQUIREMENTS OF PARTICIPATING EMPLOYERS

(a) **Permissible variations of participation agreement.** The participation agreement must identify the Participating Employer and the covered Employees and provide for the Participating Employer's signature. In addition, in the participation agreement, the Employer shall specify which elections, if any, the Participating Employer can modify, and any restrictions on the modifications. Any such modification shall apply only to the Employees of that Participating Employer. The Participating Employer shall make any such modification by selecting the appropriate option on its participation agreement to the Employer's Adoption Agreement. To the extent that the participation agreement does not permit modification of an election, any attempt by a Participating Employer to modify the election shall have no effect on the Plan and the Participating Employer is bound by the Plan terms as selected by the Employer. If a Participating Employer does not make any permissible participation agreement election modifications, then with regard to any election, the Participating Employer is bound by the Adoption Agreement terms as completed by the "lead Employer."

(b) **Holding and investing assets.** The Trustee (or Insurer) may, but shall not be required to, commingle, hold and invest as one Trust Fund all contributions made by Participating Employers, as well as all increments thereof. However, the assets of the Plan shall, on an ongoing basis, be available to pay benefits to all Participants and Beneficiaries under the Plan without regard to the Employer or Participating Employer who contributed such assets.

(c) **Payment of expenses.** Unless the Employer otherwise directs, any expenses of the Plan which are to be paid by the Employer or borne by the Trust Fund shall be paid by each Participating Employer in the same proportion that the total amount standing to the credit of all Participants employed by such Employer bears to the total standing to the credit of all Participants.

10.3 DESIGNATION OF AGENT

Each Participating Employer shall be deemed to be a part of this Plan; provided, however, that with respect to all of its relations with the Trustee (or Insurer) and Administrator for purposes of this Plan, each Participating Employer shall be deemed to have designated irrevocably the Employer as its agent. Unless the context of the Plan clearly indicates otherwise, the word "Employer" shall be deemed to include each Participating Employer as related to its adoption of the Plan.

10.4 EMPLOYEE TRANSFERS

In the event an Employee is transferred between Participating Employers, accumulated service and eligibility shall be carried with the Employee involved. No such transfer shall effect a severance of employment hereunder, and the Participating Employer to which the Employee is transferred shall thereupon become obligated hereunder with respect to such Employee in the same manner as was the Participating Employer from whom the Employee was transferred.

10.5 PARTICIPATING EMPLOYER'S CONTRIBUTION AND FORFEITURES

Any contribution and/or Forfeiture subject to allocation during each Plan Year shall be determined and allocated separately by each Participating Employer and shall be allocated only among the Participants eligible to share in the contribution and Forfeiture allocation of the Employer or Participating Employer making the contribution or by which the forfeiting Participant was employed.

On the basis of the information furnished by the Administrator, the Trustee (or Insurer) shall keep separate books and records concerning the affairs of each Participating Employer hereunder and as to the accounts and credits of the Employees of each Participating Employer. The Trustee (or Insurer) may, but need not, register Contracts so as to evidence that a particular Participating Employer is the interested Employer hereunder, but in the event of an Employee transfer from one Participating Employer to another, the employing Employer shall immediately notify the Trustee (or Insurer) thereof.

10.6 AMENDMENT

Any Participating Employer hereby authorizes the Employer to make amendments on its behalf, unless otherwise agreed among all affected parties. Any such amendment is effective and binding upon existing Participating Employers.

10.7 DISCONTINUANCE OF PARTICIPATION

Any Participating Employer that is an Affiliated Employer shall be permitted to discontinue or revoke its participation in the Plan at any time. At the time of any such discontinuance or revocation, satisfactory evidence thereof and of any applicable conditions imposed shall be delivered to the Trustee (or Insurer). The Trustee (or Insurer) shall thereafter transfer, deliver and assign Contracts and other Trust Fund assets allocable to the Participants of such Participating Employer to such new trustee (or insurer) or custodian as shall have been designated by such Participating Employer, in the event that it has established a separate qualified retirement plan for its employees. If no successor is designated, the Trustee (or Insurer) shall retain such assets for the Employees of said Participating Employer pursuant to the provisions of Article VII hereof. In no such event shall any part of the corpus or income of the Trust Fund as it relates to such Participating Employer be used for or diverted to purposes other than for the exclusive benefit of the Employees of such Participating Employer.

10.8 ADMINISTRATOR'S AUTHORITY

The Administrator shall have authority to make any and all necessary rules or regulations, binding upon all Participating Employers and all Participants, to effectuate the purpose of this Article.

ARTICLE XI MULTIPLE EMPLOYER PROVISIONS

11.1 ELECTION AND OVERRIDING EFFECT

If a Participating Employer that is not an Affiliated Employer adopts this Plan, then the provisions of this Article XI shall apply to each Participating Employer as of the Effective Date specified in its participation agreement and supersede any contrary provisions in the basic Plan document or the Adoption Agreement. If this Article XI applies, then the Plan shall be a multiple employer plan as described in Code §413(c). In this case, the Employer and each Participating Employer acknowledge that the Plan is a multiple employer plan subject to the rules of Code §413(c) and the Regulations thereunder, and specific annual reporting requirements.

11.2 DEFINITIONS

The following definitions shall apply to this Article XI and shall supersede any conflicting definitions in the Plan:

(a) **Employee.** "Employee" means any common law employee, Leased Employee or other person the Code treats as an employee of a Participating Employer for purposes of the Participating Employer's qualified plan. Either the Adoption Agreement or a participation agreement to the Adoption Agreement may designate any Employee, or class of Employees, as not eligible to participate in the Plan.

(b) **Lead Employer.** "Lead Employer" means the signatory Employer to the Adoption Agreement execution page, and does not include any Affiliated Employer or Participating Employer. The "lead Employer" has the same meaning as the Employer for purposes of making Plan amendments and other purposes regardless of whether the "lead Employer" is also a Participating Employer under this Article XI. The "lead Employer" may execute a Participation Agreement setting forth elections which are specific to the "lead Employer".

11.3 PARTICIPATING EMPLOYER ELECTIONS

The participation agreement must identify the Participating Employer and the covered Employees and provide for the Participating Employer's signature. In addition, in the participation agreement, the "lead Employer" shall specify which elections, if any, the Participating Employer can modify, and any restrictions on the modifications. Any such modification shall apply only to the employees of that Participating Employer. The Participating Employer shall make any such modification by selecting the appropriate option on its participation agreement to the "lead Employer's" Adoption Agreement. To the extent that the Adoption Agreement does not permit modification of an election, any attempt by a Participating Employer to modify the election shall have no effect on the Plan and the Participating Employer is bound by the Plan terms as selected by the "lead Employer." If a Participating Employer does not make any permissible participation agreement election modifications, then with regard to any election, the Participating Employer is bound by the Adoption Agreement terms as completed by the "lead Employer."

11.4 TESTING

The Administrator shall apply the Code §415 limitation in Section 4.4 for the Plan as a whole.

11.5 COMPENSATION

(a) **Separate determination.** A Participant's Compensation shall be determined separately for each Participating Employer for purposes of allocations under Article IV.

(b) **Joint status.** For all Plan purposes, including but not limited to determining the Code §415 limits in Section 4.4, Compensation includes all Compensation paid by or for any Participating Employer.

11.6 SERVICE

An Employee's service includes all Hours of Service and Years of Service with any and all Participating Employers. An Employee who terminates employment with one Participating Employer and immediately commences employment with another Participating Employer has not separated from service or had a severance from employment.

11.7 COOPERATION AND INDEMNIFICATION

(a) **Cooperation.** Each Participating Employer agrees to timely provide all information the Administrator deems necessary to insure the Plan is operated in accordance with the requirements of the Code and will cooperate fully with the "lead Employer," the Plan, the Plan fiduciaries and other proper representatives in maintaining the qualified status of the Plan. Such cooperation will include payment of such amounts into the Plan, to be allocated to employees of the Participating Employer, which are reasonably required to maintain the tax-qualified status of the Plan.

(b) **Indemnity.** Each Participating Employer will indemnify and hold harmless the Administrator, the "lead Employer" and its subsidiaries; officers, directors, shareholders, employees, and agents of the "lead Employer"; the Plan; the Trustees, Participants and Beneficiaries of the Plan, as well as their respective successors and assigns, against any cause of action, loss, liability, damage, cost, or expense of any nature whatsoever (including, but not limited to, attorney's fees and costs, whether or not suit is brought, as well as IRS plan disqualifications, other sanctions or compliance fees and penalties) arising out of or relating to the Participating Employer's noncompliance with any of the Plan's terms or requirements; any intentional or negligent act or omission the Participating Employer commits with regard to the Plan; and any omission or provision of incorrect information with regard to the Plan which causes the Plan to fail to satisfy the requirements of a tax-qualified plan. This indemnity provision shall continue to apply to a Participating Employer with respect to the period such entity was a Participating Employer, even if the Participating Employer withdraws or is removed pursuant to Sections 11.8 or 11.9.

11.8 INVOLUNTARY TERMINATION

Unless the "lead Employer" provides otherwise in an addendum hereto, the "lead Employer" shall have the power to terminate the participation of any Participating Employer (hereafter "Terminated Employer") in this Plan. If and when the "lead Employer" wishes to exercise this power, the following shall occur:

(a) **Notice.** The "lead Employer" shall give the "Terminated Employer" a notice of the "lead Employer's" intent to terminate the "Terminated Employer's" status as a Participating Employer of the Plan. The "lead Employer" will provide such notice not less than thirty (30) days prior to the date of termination unless the "lead Employer" determines that the interest of Plan Participants requires earlier termination.

(b) **Spin-off.** The "lead Employer" shall establish a new defined contribution plan, using the provisions of this Plan with any modifications contained in the "Terminated Employer's" participation agreement, as a guide to establish a new defined contribution plan (the "spin-off plan"). The "lead Employer" will direct the Trustee to transfer (in accordance with the rules of Code §414(l) and the provisions of Section 8.3) the Accounts of the Employees of the "Terminated Employer" to the "spin-off plan." The "Terminated Employer" shall be the Employer, Administrator, and sponsor of the "spin-off plan." The Trustee of the "spin-off plan" shall be the person or entity designated by the "Terminated Employer." However, the "lead Employer" shall have the option to designate an appropriate financial institution as Trustee instead if necessary to protect the interest of the Participants. The "lead Employer" shall have the authority to charge the "Terminated Employer" or the Accounts of the Employees of the "Terminated Employer" a reasonable fee to pay the expenses of establishing the "spin-off plan."

(c) **Alternatives.** The "Terminated Employer," in lieu of creation of the "spin-off plan" under (b) above, has the option to elect a transfer alternative in accordance with this Subsection (c).

(1) **Election.** To exercise the option described in this Subsection, the "Terminated Employer" must inform the "lead Employer" of its choice and must supply any reasonably required documentation as soon as practical. If the "lead Employer" has not received notice of a "Terminated Employer's" exercise of this option within ten (10) days prior to the stated date of termination, the "lead Employer" can choose to disregard the exercise and proceed with the Spin-off.

(2) **Transfer.** If the "Terminated Employer" selects this option, the Administrator shall transfer (in accordance with the rules of Code §414(l) and the provisions of Section 8.3) the Accounts of the Employees of the "Terminated Employer" to a qualified plan the "Terminated Employer" maintains. To exercise this option, the "Terminated Employer" must deliver to the "lead Employer" or Administrator in writing the name and other relevant information of the transferee plan and must provide such assurances that the Administrator shall reasonably require to demonstrate that the transferee plan is a qualified plan.

(d) **Participants.** The Employees of the "Terminated Employer" shall cease to be eligible to accrue additional benefits under the Plan with respect to Compensation paid by the "Terminated Employer," effective as of the date of termination. To the extent that these Employees have accrued but unpaid contributions as of the date of termination, the "Terminated Employer" shall pay such amounts to

Non-Standardized Governmental 401(a) Pre-Approved Plan

the Plan or the "spin-off plan" no later than thirty (30) days after the date of termination, unless the "Terminated Employer" effectively selects the Transfer option under Subsection (c)(2) above.

(e) **Consent.** By its signature on the participation agreement, the "Terminated Employer" specifically consents to the provisions of this Article and agrees to perform its responsibilities with regard to the "spin-off plan," if necessary.

11.9 VOLUNTARY TERMINATION

A Participating Employer (hereafter "withdrawing employer") may voluntarily withdraw from participation in this Plan at any time. If and when a "withdrawing employer" wishes to withdraw, the following shall occur:

(a) **Notice.** The "withdrawing employer" shall inform the "lead Employer" and the Administrator of its intention to withdraw from the Plan. The "withdrawing employer" must give the notice not less than thirty (30) days prior to the effective date of its withdrawal.

(b) **Procedure.** The "withdrawing employer" and the "lead Employer" shall agree upon procedures for the orderly withdrawal of the "withdrawing employer" from the plan. Such procedures may include any of the optional spin-off or transfer options described in Section 11.8.

(c) **Costs.** The "withdrawing employer" shall bear all reasonable costs associated with withdrawal and transfer under this Section.

(d) **Participants.** The Employees of the "withdrawing employer" shall cease to be eligible to accrue additional benefits under the Plan as to Compensation paid by the "withdrawing employer," effective as of the effective date of withdrawal. To the extent that such Employees have accrued but unpaid contributions as of the effective date of withdrawal, the "withdrawing employer" shall contribute such amounts to the Plan or the "spin-off plan" promptly after the effective date of withdrawal, unless the accounts are transferred to a qualified plan the "withdrawing employer" maintains.

11.10 DESIGNATION OF AGENT

Each Participating Employer shall be deemed to be a part of this Plan; provided, however, that with respect to all its relations with the Trustee (or Insurer) and Administrator for purposes of this Plan, each Participating Employer shall be deemed to have designated irrevocably the Employer as its agent. Unless the context of the Plan clearly indicates otherwise, the word "Employer" shall be deemed to include each Participating Employer as related to its adoption of the Plan.

**NEWPORT GROUP, INC.
DEFINED CONTRIBUTION PROTOTYPE PLAN AND TRUST
AND
DEFINED CONTRIBUTION VOLUME SUBMITTER PLAN AND TRUST**

**AMENDMENT TO IMPLEMENT HARDSHIP DISTRIBUTION
PROVISIONS OF THE BIPARTISAN BUDGET ACT OF 2018**

**ARTICLE I
PREAMBLE**

- 1.1 **Adoption and effective date of Amendment.** The prototype sponsor and volume submitter practitioner, on behalf of the adopting employer, adopts this Amendment to the Newport Group, Inc. Defined Contribution Volume Submitter Plan and Trust and Defined Contribution Prototype Plan and Trust ("Plans"). Except as otherwise specified in this Amendment, this Amendment is effective ("the Effective Date") on the first day of the first Plan Year beginning after December 31, 2018, or as soon as administratively feasible thereafter, and in no event later than January 1, 2020. If the adopting employer's plan, prior to this Amendment, does not provide for hardship distributions, then this Amendment will be void and of no effect.
- 1.2 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plans to the extent those provisions are inconsistent with the provisions of this Amendment. Except as otherwise provided in this Amendment, terms defined in the Plans will have the same meaning in this Amendment.
- 1.3 **Construction.** Except as otherwise provided in this Amendment, any "Section" reference in this Amendment refers only to this Amendment and is not a reference to the Plans. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to the Plans' article, section, or other numbering designations.
- 1.4 **Effect of restatement of Plan.** If the prototype sponsor and volume submitter practitioner restates the Plans using the prototype sponsor and volume submitter practitioner's pre-approved plans based on The Cumulative List of Changes in Plan Qualification Requirements for Pre-approved Defined Contribution Plans for 2017 (Notice 2017-37) or any earlier Cumulative List, then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plans are restated onto a plan document which incorporates these provisions).
- 1.5 **Adoption by prototype sponsor/volume submitter practitioner.** The prototype sponsor and volume submitter practitioner hereby adopts this Amendment on behalf of all adopting employers. The adoption by the prototype sponsor/volume submitter practitioner becomes applicable with respect to an adopting employer's plan on the Effective Date (or, if later, the Effective Date of the adopting employer's plan), unless the adopting employer individually adopts an alternative amendment, prior to the expiration of the remedial amendment period relating to this Amendment.

**ARTICLE II
ELECTIONS**

Instructions: Complete the elections at Sections 2.1 and 2.2. The default elections in Section 2.3 will apply.

- 2.1 **Termination of deferral suspension.** Hardship distributions made on or after the Effective Date will not trigger a suspension of Elective Deferrals, pursuant to Section 3.1(c). If a Participant received a hardship distribution before the Effective Date, and therefore Elective Deferrals were suspended, will the Participant be able to resume deferrals as soon as practical after the Effective Date?
 - a. ☐ **YES.** Beginning on the Effective Date, Elective Deferrals will not be suspended on account of a hardship distribution, regardless of the date of the distribution.
 - b. ☒ **NO.** The Participant's suspension of Elective Deferrals begun before the Effective Date will continue as originally scheduled.

- 2.2 **Expansion of sources available for a hardship distribution.** Pursuant to Amendment Section 3.2, are QNECs and QMACs available for hardship distributions?
- a. ☐ **YES.** QNECs and QMACs are available for hardship distributions.
 - b. ☒ **NO.** QNECs and QMACs are not available for hardship distributions.
- 2.3 **Default Provisions.** The following provisions apply except to the extent the prototype sponsor and volume submitter practitioner makes a different election in one or more of Sections 2.4 through 2.7.
- a. **After the Effective Date, Participants do not need to take plan loans before taking hardship distributions.**
 - b. **After the Effective Date, earnings on Elective Deferrals may be withdrawn on account of a hardship.**
 - c. **Hardship needs include residential casualty losses (without regard to whether the casualty was in a federally declared disaster area) and Disaster Losses, effective January 1, 2018 or as soon as practical thereafter.**
 - d. **The Effective Date is the first day of the first Plan Year beginning after December 31, 2018, or as soon as administratively feasible thereafter, and in no event later than January 1, 2020.**

Skip Sections 2.4 through 2.7 if you accept the default provisions listed in Section 2.3. Any entry in Sections 2.4 through 2.7 will override those defaults.

- 2.4 **Loan Requirement.** The provisions of Amendment Section 3.1(b), requiring recipients of hardship distributions to take available nontaxable loans, will NOT apply unless selected below:
- a. ☐ Amendment Section 3.1(b) APPLIES (i.e., Participants are required to obtain a Plan loan) indefinitely, unless and until the Plan is further amended.
- 2.5 **Expansion of sources available for a hardship distribution.** Earnings on amounts attributable to Elective Deferrals are available for hardship distribution, unless selected below:
- a. ☐ Earnings on amounts attributable to Elective Deferrals are NOT available for hardship distributions.
- 2.6 **Hardship needs/events.** The provisions of Amendment Sections 3.3 (relating to residential casualty losses) and 3.4 (relating to Disaster Losses) apply as of January 1, 2018, or as soon as practical thereafter, unless otherwise elected below.
- a. ☐ Amendment Section 3.3 will NOT apply (and so casualty losses are limited to federally declared disasters, pursuant to Code §165(h)).
 - b. ☐ Amendment Section 3.4 will NOT apply (and so the Plan will not make hardship distributions on account of Disaster Losses).
- 2.7 **Effective Dates.** Unless otherwise selected below, the Effective Date is the first day of the first Plan Year beginning after December 31, 2018, or as soon as administratively feasible thereafter, and in no event later than January 1, 2020. Except as otherwise specified in this Amendment, all provisions are effective on the Effective Date set forth below or as soon as administratively feasible thereafter.
- a. ☒ Other general Effective Date: the provisions of Section 3.1(c) and the related election in Section 2.1(b) are effective April 8, 2019, or if later, the first day of the Plan Year beginning after such date (may not be earlier than the first day of the first Plan Year beginning on or after January 1, 2019 or after January 1, 2020).
 - b. ☐ Special Effective Date for Amendment Section 2.2a: _____ *[Enter a special effective date, no sooner than the first day of the 2019 Plan Year.]*
 - c. ☒ Special Effective Date for Amendment Section 2.3a: April 8, 2019, or if later, the first day of the Plan Year beginning after such date *[Enter a special effective date, no sooner than the first day of the 2019 Plan Year.]*

- d. [X] Special Effective Date for Section 2.3b: April 8, 2019, or if later, the first day of the Plan Year beginning after such date. [Enter a special effective date no sooner than the first day of the 2019 Plan Year.]
- e. [X] Special Effective Date for Amendment Section 2.3c: January 1, 2019 [Enter a special effective date for the expansion of hardship needs/events, no sooner than January 1, 2018.]

ARTICLE III DISTRIBUTION BASED ON HARDSHIP

3.1 Modification of hardship necessity provisions.

a. The Necessity Provisions of the Plan are repealed. Except as otherwise provided in this Section 3.1, the plan will not make a hardship distribution to a Participant unless the Participant has obtained all other currently available distributions (including distributions of ESOP dividends under section Code §404(k), but not hardship distributions) under the plan and all other plans of deferred compensation, whether qualified or nonqualified, maintained by the adopting employer. In addition, for a distribution that is made on or after January 1, 2020 (or such earlier date as the Plan Administrator has implemented the procedure), the Participant must certify (in writing, by an electronic medium as defined in Treas. Reg. §1.401(a)-21(e)(3), or in such other form as authorized in IRS guidance) that he or she has insufficient cash or other liquid assets reasonably available to satisfy the need.

b. If and only if elected in Amendment Section 2.4, before a hardship distribution may be made, a Participant must obtain all nontaxable loans (determined at the time a loan is made) available under the plan and all other plans maintained by the adopting employer.

c. The plan will not suspend the Participant from making Elective Deferrals on account of receipt of a hardship distribution. This provision will apply to hardship distributions made after the Effective Date. Under Amendment Section 2.1, it may also apply, as of the Effective Date, to certain suspensions of Elective Deferrals on account of receipt of a hardship distribution prior to the Effective Date.

3.2 Modification of amounts that may be withdrawn on account of a hardship. Except as otherwise elected in Amendment Sections 2.2 and 2.5, earnings on Elective Deferrals, QNECs, and QMACs (and the earnings thereon) may be withdrawn on account of a hardship. The hardship provisions set forth in the plan, except as modified by this Amendment, continue to apply.

3.3 Residential casualty loss. Except as otherwise provided in Amendment Section 2.6, effective January 1, 2018 or as soon as practical thereafter, to the extent the plan permits hardship distributions for expenses to repair damage to the Participant's principal residence that would qualify for a casualty loss deduction under Code §165, such amounts will be determined without regard to Code §165(h)(5).

3.4 Disaster loss. If the plan is a Deemed Need Plan, as elected by the adopting employer, then except as otherwise provided in Amendment Section 2.6, effective January 1, 2018 or as soon as practical thereafter, the financial needs which can justify a hardship distribution to a Participant are expanded to include Disaster Losses.

ARTICLE IV DEFINITIONS

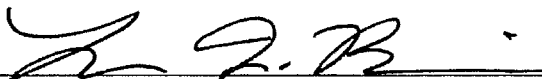
4.1 Suspensions of Elective Deferrals. Any reference to suspension of Elective Deferrals means and includes a suspension of Elective Deferrals and/or Employee Contributions to this Plan or any other qualified plan, a 403(b) plan, or an eligible governmental plan (described in Treas. Reg. §1.457-2(f)) of the Employer.

4.2 QNECs. A "QNEC" is a Qualified Nonelective Contribution, described in Code §401(m)(4)(C) or a safe harbor nonelective contribution described in Code §401(k)(12)(C). For purposes of this Amendment only, a QACA nonelective contribution described in Code §401(k)(13)(D)(i)(II) will also be treated as though it were a QNEC.

- 4.3 **QMACs.** A “QMAC” is a Qualified Matching Contribution, described in Code §401(d)(3)(D)(ii)(I), or a safe harbor matching contribution described in Code §401(k)(12)(B). For purposes of this Amendment only, a QACA matching contribution described in Code §401(k)(13)(D)(i)(I) will also be treated as though it were a QMAC.
- 4.4 **Necessity Provisions.** The “Necessity Provisions” of the Plan are those provisions which implement the provisions of Treas. Reg. §1.401(k)-1(d)(3)(iv)(B), (C), (D), and (E), as in effect April 1, 2019. These provisions may either reflect the safe harbor “deemed necessary” standards of subparagraph (E) of that regulation, or the non-safe harbor “no alternative means” standards of subparagraphs (B), (C), and (D) of that regulation.
- 4.5 **Deemed Need Plan.** The adopting employer’s plan is a “Deemed Need Plan” to the extent the plan limits eligibility for a hardship distribution to the deemed immediate and heavy financial needs described in Treas. Reg. §1.401(k)-1(d)(3)(iii)(B), as in effect April 1, 2019.
- 4.6 **Disaster Losses.** Disaster Losses are expenses and losses (including loss of income) incurred by the Participant on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Pub. L. 100-707, provided that the Participant’s principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster.
- 4.7 **Prototype sponsor and volume submitter practitioner.** The prototype sponsor and volume submitter practitioner means the Sponsor of a Prototype Plan or VS Practitioner of a Volume Submitter Plan as defined in Rev. Proc. 2015-36, or the Sponsor of a Pre-approved Plan, as defined in Rev. Proc. 2017-41. References to the prototype sponsor and volume submitter practitioner’s plans or to pre-approved plans refer to the Prototype Plans, Volume Submitter Plans, and/or Pre-approved Plans sponsored by the prototype sponsor and volume submitter practitioner for use by adopting employers, as the case may be.

* * * * *

The prototype sponsor and volume submitter practitioner hereby adopts this amendment on behalf of all adopting employers.

 12/26/2019
(signature and date)

Laura Ramanis
(print name)

Prototype Sponsor and Volume Submitter Practitioner Name: Newport Group, Inc.

Plan Names: Defined Contribution Prototype Plan and Trust and Defined Contribution Volume Submitter Plan and Trust

**NEWPORT GROUP, INC.
AMENDMENT TO IMPLEMENT SECURE ACT AND OTHER LAW CHANGES**

**ARTICLE 1
PREAMBLE**

- 1.1 **Adoption and effective date of Amendment.** The Document Provider, on behalf of the Employer, hereby adopts this Amendment to the Employer's Plan. Each Article specifies the effective date of its provisions. Also see Section 1.5.
- 1.2 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment. Except as otherwise provided in this Amendment, terms defined in the Plan will have the same meaning in this Amendment. Most Articles include definitions which are specific to that Article. Also see Section 1.6
- 1.3 **Numbering.** Except as otherwise provided in this Amendment, any "Section" reference in this Amendment refers only to this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to the Plan article, section, or other numbering designations.
- 1.4 **Intention; Construction.** The purpose of this amendment is to amend the Plan in accordance with pension-related provisions of the Further Consolidated Appropriations Act of 2019 ("FCAA") in general, and Division O of that Act, the Setting Every Community Up for Retirement Enhancement Act of 2019 ("SECURE"), in specific. It also addresses a provision of the Bipartisan American Miners Act ("BAMA"), which is also part of FCAA, as well as a section of the Coronavirus Aid, Relief, and Economic Security Act ("CARES"). The provisions of this Amendment shall be interpreted and applied to be consistent with FCAA and CARES and IRS guidance issued in connection therewith, whether such guidance is issued before or after the date of this amendment.
- 1.5 **Effect of subsequent restatement or amendment of Plan.** If the Employer restates the Plan, then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated onto a plan document which incorporates these provisions). Some Articles in this amendment may not apply to a particular plan at the time the Amendment is executed but they will apply in the future based on subsequent amendments. For example, Article 8 is limited to 401(k) plans; its provisions do not apply to a profit-sharing plan that does not have a 401(k) feature. But if that plan is subsequently amended to add a 401(k) feature, then the provisions of Article 8 (and corresponding Section 2.8) will automatically become effective at that time.
- 1.6 **Preservation of prior amendments.** If the Employer previously amended the Plan after December 20, 2019 to implement a provision contained in one or more Articles of this Amendment, that prior amendment shall remain in effect and will not be superseded by this Amendment, unless Section 1.6(a) is selected. For example, if the Employer previously adopted an amendment to implement the BAMA provisions of Article 10, that amendment remains in effect, notwithstanding the provisions of this Amendment, unless Section 1.6(a) is selected.

(a) [] This amendment supersedes all prior inconsistent amendments of the Plan.
- 1.7 **Adoption by Document Provider.** The Document Provider hereby adopts this Amendment on behalf of all of the Document Provider's Plans adopted by its adopting employers. The "Document Provider" means the Sponsor of a Prototype Plan or Volume Submitter Practitioner of a Volume Submitter Plan as defined in Rev. Proc. 2013-22 or 2015-36, or the Provider of a Pre-approved Plan, as defined in Rev. Proc. 2017-41. References to the "Document Provider's Plans" or to "pre-approved plans" refer to the Prototype Plans, Volume Submitter Plans, and/or Pre-approved Plans sponsored by the Document Provider for use by adopting employers, as the case may be, except as limited in Section 1.7(a).

- (a) ☐ This Amendment will apply to all of the Document Provider's Plans except the following:
(Optional. List plan types, such as Defined Benefit Plans or 403(b) Plans, which the Document Provider does not wish to amend):
-

ARTICLE 2 IDENTIFICATION; ELECTIONS

- 2.1 **Instructions: The Document Provider should complete any applicable elections it wishes at Sections 1.6 and 1.7 and 2.3 through 2.10.** If the Employer is satisfied with those choices, the Employer does not need to execute this Amendment.
- 2.2 **Plan Type Definitions.** "Qualified Plan" means a 401(k) Plan, Profit-Sharing Plan, Money Purchase Pension Plan or Defined Benefit Plan. "Defined Contribution Plan" means a Qualified Plan other than a Defined Benefit Plan.
- 2.3 **Operating Elections.** Many subsequent Articles of this Amendment refer to elections appearing in this Article 2. Each of Sections 2.4 through 2.10 refers to a corresponding Article. For example, Section 2.4 has the elections related to Article 4. The definitions in those Articles apply to the elections in the corresponding Section of this Article 2, and those elections have the same effective date as the corresponding Article. Each Section of this Article lists the default provisions which will apply if no election is made. If you accept the default(s), there is no need to complete the Section. There are no elective provisions which apply to Article 3 or Articles 11 through 16. The following are the defaults and a summary of the Articles for which there are no elections.
- Article 3. Permits retroactive safe harbor 401(k) amendments (to appear in separate document). Eliminates requirement of safe harbor notice for safe harbor nonelective.
 - Article 4. Except as elected below, QBADs are not permitted.
 - Article 5. Distributions of RMDs will not begin before a Participant turns 72.
 - Article 6. Except as elected below, the Plan will apply its RMD provisions with respect to the 5-year rule in administering the 10-year rule.
 - Article 7. Except as elected below, RMDs subject to 5-Year Rule for participants who died from 2015 through 2019 are extended one year unless the beneficiary objects.
 - Article 8. Except as elected below, none of the optional elections with regard to LTPT Employees apply.
 - Article 9. The QACA maximum automatic deferral is 10% of compensation.
 - Article 10. The amendment does not modify the minimum age for in-service distributions.
 - Article 11. Administrative policy can permit distributions of Discontinued Lifetime Income Investments.
 - Article 12. Updated RMD tables and 2022 transition.
 - Article 13. Permits retroactive plan adoption.
 - Article 14. Difficulty of care payments are compensation for purposes of Code §415 only.
 - Article 15. 403(b) plans can distribute custodial accounts on termination.
 - Article 16. Deemed IRA accounts are not subject to maximum age.

Check (a) or (b).

- (a) ☐ All defaults apply. *Skip the rest of Article 2 and sign the amendment.*
 (b) ☒ One or more defaults do not apply. *Complete those sections in Article 2 for which you do not accept the default; then sign the amendment.*

- 2.4 **Article 4 – Birth/Adoption Distributions.** In the absence of an election below, Article 4 does NOT apply. To permit QBADs (Qualified Birth and Adoption Distributions), check (a). If QBADs are available, they apply to all accounts except as provided in Article 4 or in elections (b), (c), (d), or (e). *(Select all that apply.)*

- (a) ☒ Article 4 applies effective January 1, 2020, unless a different date is selected in (1) below.
 (1) ☐ _____. *(Enter date after December 31, 2019.)*

- (b) ☐ QBADs may only be made from accounts in which the Participant is fully vested.
- (c) ☐ QBADs are only available from the following Accounts (*select one or more*):
 - (1) ☐ Pre-Tax Elective Deferrals
 - (2) ☐ Roth Elective Deferrals
 - (3) ☐ Employer matching contributions (including safe harbor contributions and QMACs)
 - (4) ☐ Employer nonelective contributions (including safe harbor contributions and QNECs)
 - (5) ☐ Rollover contributions
 - (6) ☐ After-tax employee contributions
 - (7) ☐ Transferred accounts
 - (8) ☒ Describe: Permitted from all accounts, other than pension accounts (subject to spousal consent rules) and Employer Stock (must be definitely determinable and not subject to discretion)
- (d) ☒ QBADs are not available if the Participant has severed employment.
- (e) ☐ Describe additional limitations: _____
(*must be definitely determinable and not subject to discretion*)

2.5 Article 5 – RMD Timing. Unless Section 2.5(a) is selected, distribution of RMDs will begin for Affected Participants no sooner than April 1 of the calendar year following the year the Participant attains age 72.

- (a) ☐ Distribution of RMDs to Affected Participants will NOT be delayed on account of this Amendment (i.e., distributions will generally commence no later than April 1 of the calendar year following the year the Affected Participant attains age 70½), in accordance with Section 5.5. This election is effective for distributions after December 31, 2019, except as specified below (*Optional: select either or both of (1) or (2)*):
 - (1) ☐ Section 5.5 is effective for distributions after _____ and prior to the earlier of January 1, 2022 or the date entered in 2.5(a)(2). (*Enter date on or after December 31, 2019.*)
 - (2) ☐ Section 5.5 is repealed for distributions after _____ (*enter date on or after the date entered in 2.5(a)(1) and before January 1, 2022*), subject to the anti-cutback rule of Code §411(d)(6) to the extent applicable.

2.6 Article 6 – 10-Year Rule for Beneficiary RMDs. RMDs to an Eligible Designated Beneficiary of a Participant who dies prior to the Participant's RBD will be made as elected below. In the absence of an election in Section 2.6, the Plan's provisions about Beneficiary elections with regard to the 5-Year Rule will apply, substituting the 10-Year Rule for the 5-Year Rule.

- (a) ☐ **Beneficiary election.** The Eligible Designated Beneficiary may elect application of the 10-Year Rule or the Life Expectancy rule. If the Beneficiary does not make a timely election (*Select one of (1) or (2)*):
 - (1) ☐ **10-year rule.** The 10-year rule applies to the Eligible Designated Beneficiary.
 - (2) ☐ **Life Expectancy Rule.** The Life Expectancy rule applies to the Eligible Designated Beneficiary.
- (b) ☒ **10-year rule.** The 10-year rule applies to the Eligible Designated Beneficiary.
- (c) ☐ **Life Expectancy rule.** The Life Expectancy rule applies to the Eligible Designated Beneficiary.
- (d) ☐ **Shorter Period.** The entire interest of the Eligible Designated Beneficiary will be distributed no later than December 31 of the _____ (*enter a number of years, not exceeding "tenth"*) year following the year of the Participant's death.
- (e) ☐ **Other:** (*Describe, e.g., the 10-Year Rule applies to all Beneficiaries other than a surviving spouse Beneficiary.*) _____

2.7 Article 7 - CARES RMD Waivers; 5-Year Rule. Unless the Employer elects otherwise below, beneficiaries of Applicable Participant Accounts will have the option to extend distribution under the 5-Year Rule by one year, and in the absence of a beneficiary election the extension will apply.

- (a) ☐ **No extension without request.** The provisions of Section 7.2 apply but in the absence of a beneficiary election the extension will NOT apply.
- (b) ☒ **Not Apply.** Article 7 will NOT apply to this Plan.

2.8 **Article 8 – LTPT Employees.** The Employer makes the following optional elections with regard to LTPT Employees. *(Select all that apply.)*

- (a) ☐ An LTPT Employee, in addition to being eligible to defer will also be treated as a Regular Participant for purposes of *(check any or all that apply)*:
- (1) ☐ Receiving an allocation of the safe harbor contributions (including QACA).
 - (2) ☐ Receiving an allocation of Employer matching contributions
 - (3) ☐ Receiving an allocation of Employer nonelective contributions.
 - (2) ☐ Making after-tax Employee voluntary contributions.
 - (3) ☐ Making rollover contributions.
 - (4) ☐ Making deemed IRA contributions described in Code §408(q).
- (b) ☐ The following provisions which apply to Regular Participants do not apply to LTPT Employees *(check any or all that do not apply to LTPT Employees)*:
- (1) ☐ The ability to make Roth elective deferrals.
 - (2) ☐ Automatic deferral provisions.
 - (3) ☐ Automatic escalation provisions.
- (c) ☒ Instead of being the first day of the first month and the seventh month of the Plan Year, the LTPT Entry Date is *(select one)*:
- (1) ☒ The same as the entry date which applies to Elective Deferrals of Regular Participants.
 - (2) ☐ Describe: _____
- (d) ☒ In addition to Union Employees and Nonresident Aliens, the following Employees are LTPT Excluded Employees *(check all that apply; see the instructions)*:
- (1) ☒ Employees described in a category of employees that would be excluded from the Plan even if they satisfied the minimum age and service requirements which apply to Employees generally.
 - (2) ☐ Describe: _____
- (e) ☒ Instead of age 21, the LTPT Minimum Age is *(select one)*:
- (1) ☐ Waived.
 - (2) ☒ The same minimum age that applies to Regular Participants.
 - (3) ☐ Age _____ *(Cannot exceed age 21).*

2.9 **Article 9 – QACA Maximum Automatic Deferrals.** In the absence of an election below, Article 9 does NOT apply and automatic deferrals under a QACA shall not exceed 10% of a Participant's Compensation. To permit automatic deferrals of up to 15% of compensation, *complete (a) below and (b) if applicable.*

- (a) ☐ Article 9 applies effective on or after the first day of the first plan year beginning after December 31, 2019, unless a different date is selected in (1) below.
- (1) ☐ _____. *(Enter date on or after the first day of the first plan year beginning after December 31, 2019.)*
- (b) ☐ The following modified QACA statutory schedule will apply (the limitations in the parentheses below only applies to QACAs): *(Select and complete one of (1), (2), or (3) below. The resulting schedule must satisfy Code §401(k)(13)(C)(iii))*:
- (1) ☐ **Detailed Schedule.** The following modified QACA statutory schedule will apply. **NOTE:** *Plan Years 1 & 2 must be between 3% and 10%. 3-14 may not exceed 15%*

<u>Plan Year of application to a Participant</u>	<u>Automatic Deferral Percentage</u>
1	_% (not less than 3 and not more than 10)
2	_% (not less than 3 and not more than 10)
3	_% (not less than 4 and not more than 15)
4	_% (not less than 5 and not more than 15)
5	_% (not less than 6 and not more than 15)
6	_% (not less than 6 and not more than 15)
7	_% (not less than 6 and not more than 15)
8	_% (not less than 6 and not more than 15)
9	_% (not less than 6 and not more than 15)
10	_% (not less than 6 and not more than 15)

11	% (not less than 6 and not more than 15)
12	% (not less than 6 and not more than 15)
13	% (not less than 6 and not more than 15)
14 and thereafter	% (not less than 6 and not more than 15)

(2) ☐ **Fixed Increase.**

- a. First plan year of application to a participant: ____ (not less than 3 and not more than 10)
- b. Second plan year of application to a participant: ____ (not less than 3 and not more than 10)
- c. In subsequent plan years the automatic deferral percentage will increase by ____% per year up to a maximum of ____% (not more than 15) of Compensation

(3) ☐ **Describe:** _____

2.10 **Article 10 – In-Service Distributions.** In the absence of an election below, Article 10 does NOT apply. To permit in-service distributions at age 59½ for pension plans, check (a) Check (b) to specify an age greater than 59 ½. If Article 10 applies, it applies to all Accounts except as limited in Article 10.

(a) ☐ Article 10 applies effective on or after the first day of the first plan year beginning after December 31, 2019, unless a different date is selected in (1) below.

(1) ☐ _____. (Enter date on or after the first day of the first plan year beginning after December 31, 2019.)

(b) ☐ Age at which in-service distributions are permitted _____ (Enter age greater than 59½.)

ARTICLE 3

ADP SAFE HARBOR NONELECTIVE PLANS – SECURE §103

3.1 **Application.** This Article 3 will apply only if the Plan is a 401(k) or a 403(b) Plan. It is effective for Plan Years beginning after December 31, 2019.

3.2 **No need for safe harbor notice.** If the Employer makes a Safe Harbor Nonelective Contribution, then the Plan can use the ADP Safe Harbor, whether or not Participants receive a Safe Harbor Notice, and the Plan Administrator is not required to provide a Safe Harbor Notice. However, the Plan is required to provide a Safe Harbor Notice if the plan utilizes the ACP safe harbor described in Code §401(m)(11) or (12), unless the plan is a QACA.

3.3 **Retroactive adoption.** Unless the Plan at any time during the Plan Year is a Safe Harbor Match Plan, then the Employer may amend the Plan at any time within twelve months after the end of the Plan Year to provide (A) that the Employer will make a Safe Harbor Nonelective Contribution for the entire Plan Year, (B) that the Plan qualifies for the ADP Safe Harbor for the Plan Year, and (C) that the Plan will not be required to perform the ADP Test for the Plan Year. However, if the Employer adopts the amendment on or after the 30th day before the close of the Plan Year, the Safe Harbor Nonelective Contribution must be at least 4% of the Participant's Compensation.

3.4 **Definitions.** The following terms have the meaning set forth in this paragraph as more fully provided in the plan terms pertaining to the related subject matter.

(a) A “**Safe Harbor Nonelective Contribution**” means a contribution described in Code §401(k)(12)(C) or Code §401(k)(13)(D)(i)(II) of at least 3% of Compensation.

(b) The “**ADP Test**” means the test provided in Code §401(k)(3)(ii).

(c) The “**ADP Safe Harbor**” means the safe harbor provided by Code §401(k)(12)(A) or Code §401(k)(13).

(d) A “**Safe Harbor Match Plan**” is a Plan which provided during the Plan Year that Participants would receive a matching contribution described in Treas. Reg. §1.401(k)-3(c) or Treas. Reg. §1.401(k)-3(k)(2).

(e) A “**Safe Harbor Notice**” is a notice described in Code §401(k)(12)(D) or Code §401(k)(13)(E).

(f) A “**QACA**” is a Qualified Automatic Contribution Arrangement described in Code §401(k)(13).

ARTICLE 4 **BIRTH/ADOPTION DISTRIBUTIONS – SECURE Act §113**

- 4.1 **Application.** This Article 4 will apply only if (1) the Plan is a Defined Contribution Plan, or a 403(b) Plan, and (2) the Employer elects in Section 2.4(a) for this Article 4 to apply, effective on the date specified in Section 2.4(a).
- 4.2 **Distribution Authorized.** Except as limited by Section 2.4 (b), (c), (e), a Participant may request a distribution of up to \$5,000 (per child or Eligible Adoptee) as a QBAD. The Participant may request the distribution whether or not the Participant has severed employment unless Section 2.4(d) is selected. This \$5,000 limit shall be reduced by QBADs to the Participant made with respect to the same child or Eligible Adoptee by other plans maintained by the Employer or a related employer described in Code §414(b), (c), (m), or (o). However, if the Plan is a Money Purchase Pension Plan (or the account from which the distribution is withdrawn was transferred from a Money Purchase Pension Plan), and the Participant has not separated from service, the Participant may not take a QBAD prior to attaining the earlier of Normal Retirement Age or age 59½. The Plan Administrator may adopt a policy imposing frequency limitations or other reasonable administrative conditions for QBADs.
- 4.3 **Definitions.** The following definitions apply for this Article 4 and Section 2.4:
- (a) A “**QBAD**” is a Qualified Birth or Adoption Distribution described in Code §72(t)(2)(H)(iii). A QBAD must be made during the 1-year period beginning on the date on which a child of the Participant is born or on which the legal adoption of an Eligible Adoptee by the Participant is finalized.
- (b) An “**Eligible Adoptee**” is an individual, other than a child of the Participant’s spouse, who has not attained age 18 or is physically or mentally incapable of self-support. An individual is considered physically or mentally incapable of self-support if that individual 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 to be of long-continued and indefinite duration. This provision shall be applied in a manner consistent with Part D of IRS Notice 2020-68.
- 4.4 **Rollover.** A Participant who received one or more QBADs from this Plan may, if the Plan then permits the Participant to make rollover contributions, make one or more contributions in an aggregate amount not to exceed the amount of such QBADs. The Plan will treat such a contribution as a rollover contribution made by direct trustee-to-trustee transfer within 60 days of distribution.
- 4.5 **Reliance.** The Plan Administrator may rely on an individual’s reasonable representation that the individual is eligible to receive a QBAD unless the Plan Administrator has actual knowledge to the contrary.
- 4.6 **Status.** A QBAD is not an eligible rollover distribution for purpose of the obligation to permit a direct rollover under Code §401(a)(31), the notice requirement of Code §402(f), or the mandatory withholding rules of Code §3405(c)(1).

ARTICLE 5 **REQUIRED BEGINNING DATE – SECURE Act §114**

- 5.1 **Application.** This Article 5 will apply to all plans, regardless of type. It is effective with regard to RMDs required to be made after December 31, 2019.
- 5.2 **Delay of Required Beginning Date.** An Affected Participant’s RBD shall not be earlier than April 1 of the calendar year following the year the Affected Participant attains age 72. For purposes of determining an Affected Participant’s RBD, an Affected Participant will be treated as a more than 5% owner if the

Participant was a 5-percent owner (as defined in Code §416(i)(1)(B)) as to the Plan Year ending in the calendar year the Participant attains age 72.

- 5.3 **Spousal Distributions.** If an Affected Participant dies prior to the Participant's RBD, and the Participant's sole Designated Beneficiary is the Participant's surviving spouse, then the RMDs to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 72, if later. However, this Section will apply only if the Plan, prior to this Amendment, permitted a surviving spouse to delay RMD distributions to December 31 of the calendar year in which the Participant would have attained age 70½.
- 5.4 **Definitions.** The following definitions apply for this Article 5 and Section 2.5:
- (a) A Participant is an "**Affected Participant**" if the Participant was born after June 30, 1949.
- (b) An "**RMD**" is a Required Minimum Distribution as described in Code §401(a)(9).
- (c) A Participant's "**RBD**" is the Participant's Required Beginning Date as described in Code §401(a)(9)(C), as amplified by Section 5.2.
- 5.5 **Optional Distribution Timing.** If the Employer elects in Section 2.5(a) for this Section 5.5 to apply, the timing and form of distributions to an Affected Participant will be determined as though this Article 5 had not been adopted. Distributions pursuant to this paragraph, which are not RMDs, will be treated as eligible rollover distributions for purposes of the direct rollover provisions of Code §401(a)(31). This Section 5.5 will no longer be effective for distributions after December 31, 2021, or, if earlier, the date specified in Section 2.5(a)(2).

ARTICLE 6

BENEFICIARY RMDs – SECURE Act §401

- 6.1 **Application.** This Article 6 will apply to all plans other than Defined Benefit Plans. This Article will not apply to qualified annuities described in SECURE Act §401(b)(4)(B).
- 6.2 **Effective Date.** Except as provided in Section 6.4, Article 6 will apply to Participants who die on or after the Effective Date of this Article. Generally, the Effective Date of this Article is January 1, 2020. In the case of a governmental plan (as defined in Code §414(d)), the Effective Date of this Article is January 1, 2022. The Effective Date of this Article 6 in the case of a collectively-bargained plan will be the date determined in SECURE Act §401(b)(2). See Section 6.5 regarding the limited application of this Article to certain accounts of Participants who died before the Effective Date of this Article.
- 6.3 **Death before RBD.** If the Participant dies before the Participant's RBD, the Plan will distribute or commence distribution of the Participant's Vested Accrued Benefit not later than as follows:
- (a) **No Designated Beneficiary** If there is no Designated Beneficiary as of September 30 of the year following the calendar year of the Participant's death, the Beneficiary's entire interest will be distributed under the 5-Year Rule.
- (b) **Eligible Designated Beneficiary.** If the distributee of a Participant's account is an Eligible Designated Beneficiary, the Beneficiary's entire interest will be distributed under the Life Expectancy Rule unless the 10-Year Rule applies. The Employer may elect application of the Life Expectancy rule or the 10-Year Rule in Section 2.6. In the absence of an election in Section 2.6, the Plan's provisions with regard to election of the 5-Year Rule will apply, substituting the 10-Year Rule for the 5-Year Rule. A permitted Beneficiary election must be made no later than the earlier of December 31 of the calendar year in which distribution would be required to begin under the Life Expectancy Rule, or by December 31 of the calendar year which contains the tenth anniversary of the Participant's (or, if applicable, surviving spouse's) death.

- (c) **Other Designated Beneficiaries.** If the distributee of the Participant's account is a Designated Beneficiary who is not an Eligible Designated Beneficiary, then the Beneficiary's entire interest will be distributed under the 10-Year Rule.
- (d) **10-Year Rule.** If distribution of a deceased Participant's account thereof is subject to the "10-Year Rule," then the Plan will distribute the account in full no later than December 31 of the tenth year following the year of the Participant's death. No RMDs are required to be distributed from the account prior to that date.
- 6.4 **Death after RBD.** If the Participant dies on or after the Participant's RBD, the Participant's remaining interest will be distributed at least as rapidly as under the method of distribution being used as of the date of the participant's death, as provided, and determined under Treas. Reg. §1.401(a)(9)-2, Q&A 5, using the Life Expectancy Rule. If the Beneficiary is not an Eligible Designated Beneficiary, the Plan will distribute the remaining account in full no later than December 31 of the tenth year following the year of the Participant's death.
- 6.5 **Beneficiary Death.** If an Eligible Designated Beneficiary receiving distributions under the Life Expectancy Rule dies before receiving distribution of the Beneficiary's entire interest in the Participant's account, the Plan will distribute that interest in full no later than December 31 of the 10th year following the year of the Eligible Designated Beneficiary's death. Similarly, if a Participant died before the Effective Date of this Article 6, and the beneficiary died after such Effective Date, but prior to receiving full distribution of the beneficiary's interest, the Plan will distribute that interest in full no later than December 31 of the tenth year following the year of the beneficiary's death.
- 6.6 **Age of Majority.** If a child of the Participant was receiving distributions under the Life Expectancy rule, when the child reaches the age of Majority, the Plan will distribute the child's account in full no later than 10 years after that date, provided the child is not otherwise an Eligible Designated Beneficiary, such as a disabled or chronically ill individual.
- 6.7 **Definitions; operating rules.** The following definitions and operating rules apply for this Article 6 and Section 2.6:
- (a) An "**RMD**" is a Required Minimum Distribution as described in Code §401(a)(9).
- (b) A Participant's "**RBD**" is the Participant's Required Beginning Date as described in Code §401(a)(9)(C) and the Plan. Also see Section 5.2.
- (c) A distributee of a Participant's account is a "**Designated Beneficiary**" if the distributee is an individual or trust who is a beneficiary of the account (whether pursuant to a designation by the Participant or application of the Plan terms) and who is a designated beneficiary under Code §401(a)(9) and Treas. Reg. §1.401(a)(9)-4, Q&As-4 and -5.
- (d) An individual is an "**Eligible Designated Beneficiary**" of a Participant if the individual qualifies as a Designated Beneficiary and is (1) the Participant's spouse, (2) the Participant's child who has not reached the age of Majority, (3) an individual not more than 10 years younger than the Participant, (4) a disabled individual, as defined in Code §72(m)(7), or (5) an individual who has been certified to be chronically ill (as defined in Code §7702B(c)(2)) for a reasonably lengthy period, or indefinitely. Certain trusts may be treated as Eligible Designated Beneficiaries pursuant to Code §401(a)(9)(H)(iv) and (v).
- (e) Whether a child has reached the age of "**Majority**" is determined under Code §401(a)(9)(F) and applicable regulations and guidance issued thereunder.
- (f) The "**Life Expectancy Rule**" for distributing RMDs is described in Code §401(a)(9)(B)(iii) and is further described in the Plan.
- (g) The "**5-Year Rule**" for distributing RMDs is described in Code §401(a)(9)(B)(ii) and is further described in the Plan.

(h) The “**10-Year Rule**” is described in Section 6.3(d).

(i) **Shorter period.** Section 2.6 may specify a shorter period to be used in place of the tenth year after the death of a Participant or Beneficiary.

(j) **Separate share rule.** All references in this Article to a Participant’s Account and a Beneficiary’s interest in that account will be applied separately to each separate account determined under Treas. Reg. §1.401(a)(9)-8, Q&A 2 and 3, and Code §401(a)(9)(H)(iv).

ARTICLE 7 EXTENSION OF 5-YEAR RULE FOR RMDs – CARES §2203

7.1 **Application.** This Article 7 will apply only to Defined Contribution plans, including 401(k) Plans, Profit-Sharing Plans, Money Purchase Pension Plans, and 403(b) Plans. It does not apply to Defined Benefit Plans. It does not apply if the Employer has selected Section 2.7(b); otherwise, it is effective January 1, 2020.

7.2 **Waiver; default provision.** The beneficiary of an Applicable Participant Account will have the option to extend the deadline to distribute the account for one year. The default in the absence of a beneficiary election will be to extend the distribution, unless the Employer elects in Section 2.7(a) for the default to be not to extend unless the beneficiary requests it.

7.3 **Definitions.** The following definitions apply for this Article 7 and Section 2.7:

(a) “**RMDs**” means required minimum distributions described in Code §401(a)(9).

(b) The “**5-Year Rule**” for distributing RMDs is described in Code §401(a)(9)(B)(ii) and is further described in the Plan.

(c) “**Applicable Participant Account**” means the remaining account of a Participant who died during the years 2015-2019, to the extent the account is subject to the 5-Year Rule.

ARTICLE 8 LONG-TERM PART-TIME EMPLOYEES – SECURE §112

8.1 **Application.** This Article 8 will apply only if the Plan is a 401(k) Plan that permits elective deferrals. It is effective for Plan Years beginning after December 31, 2020.

8.2 **LTPT Employee Deferrals.** An LTPT Employee will be eligible to make Elective Deferrals to the Plan. An LTPT Employee enters the Elective Deferral portion of the Plan on the Employee’s LTPT Entry Date if the Employee is still an LTPT Employee on that Entry Date. The provisions of the Plan relating to rehired employees, breaks in service, and change in status will apply to LTPT Employees.

8.3 **Limited Participation.** An LTPT Employee who is eligible to make Elective Deferrals under Section 8.2 will be a Participant solely with regard to Elective Deferrals and related Account Balances. Except as otherwise provided in Section 2.8(a), an LTPT Employee will not be eligible (1) to receive any employer contributions, including top-heavy minimum allocations and safe harbor contributions, (2) to make after-tax Employee voluntary contributions, (3) to make rollover contributions (unless otherwise permitted under the Plan’s administrative policies related to rollover contributions), or (4) to make deemed IRA contributions described in Code §408(q).

8.4 **Satisfaction of Eligibility Conditions.** If and when an LTPT Employee becomes a Regular Participant, the individual will no longer be an LTPT Employee, but will instead participate in the Plan in the same manner as other Regular Participants, except as provided in Section 8.5.

- 8.5 **Vesting.** For purposes of applying any vesting schedule in the Plan applicable to Employer contributions other than elective deferrals, an LTPT Employee or a Regular Participant who was previously an LTPT Employee (1) will be credited with a Year of Service for each vesting computation period during which the Employee was credited with more than 500 Hours of Service (or such lower requirement as may apply to Regular Participants) in such period, and (2) will not be credited with a break in service for any vesting computation period unless the Employee has no more than 500 Hours of Service in such period. The Plan Administrator may optionally apply any simplified method of determining years of service under this Section announced by the IRS.
- 8.6 **Testing.** Pursuant to Code §401(k)(15)(i)(II), the Plan Administrator may elect to exclude LTPT Employees from coverage testing under Code §410(b), the ADP test of Code §401(k)(3), the ACP test of Code §401(m)(2), and other nondiscrimination testing under Code §401(a)(4).
- 8.7 **Application of Elective Deferral Provisions.** Except as otherwise provided in Section 2.8(b), all provisions of the Plan related to Elective Deferrals which apply to Regular Participants also apply to LTPT Employees who are eligible to defer, including as applicable (1) eligibility to make Roth deferrals, (2) automatic enrollment provisions, (3) automatic escalation provisions.
- 8.8 **Definitions.** The following definitions apply for this Article 8 and Section 2.8:
- (a) An “**LTPT Employee**” means a long-term part-time employee described in Code §§401(k)(2)(D) and 401(k)(15). Specifically, an LTPT Employee is an Employee, other than an LTPT Excluded Employee, who has not entered the Plan as a Regular Participant, but who is credited with at least three (3) consecutive Eligibility Computation Periods beginning after December 31, 2020 with at least 500 Hours of Service in each and who has attained the LTPT Minimum Age.
- (b) With regard to an LTPT Employee, the “**LTPT Entry Date**,” unless otherwise specified in Section 2.8(c), is the earlier of the first day of the first month or the seventh month of the Plan Year immediately following or coincident with the date an Employee becomes an LTPT Employee. In no event will the LTPT Entry Date exceed the maximum delay in participation specified in Code §410(a)(4).
- (c) An “**LTPT Excluded Employee**” refers to a Union Employee or a Nonresident Alien and those individuals described in Section 2.8(d). However, in no event will an Employee be an LTPT Excluded Employee merely because the Employee failed to satisfy a service condition, or is a part-time, seasonal, or temporary employee. In no event will an Employee be an LTPT Excluded Employee to the extent such an exclusion is not permitted under applicable IRS guidance.
- (d) The “**LTPT Minimum Age**” is 21 unless Section 2.8(e) specifies a different age (or waives the LTPT Minimum Age). The LTPT Minimum Age shall not exceed 21.
- (e) An Employee is a “**Regular Participant**” if the Employee has satisfied all conditions to enter the Plan (or any portion thereof) determined without regard to this Article 8, including those relating to the Employee’s entry date. An LTPT Employee becomes a Regular Participant on such entry date.
- (f) A “**Union Employee**” is an employee described in Code §410(b)(3)(A).
- (g) A “**Nonresident Alien**” is an employee described in Code §410(b)(3)(C).

ARTICLE 9

QACA MAXIMUM AUTOMATIC DEFERRAL – SECURE §102

- 9.1 **Application.** This Article 9 will apply only if (1) the Plan is a 401(k) Plan or a 403(b) Plan, and (2) the Employer elects in Section 2.9 for this Article 9 to apply, effective on the date specified in Section 2.9(a).
- 9.2 **Higher Maximum Contribution.** If the Plan includes a QACA, then the automatic deferral percentage which applies to a Participant (referred to as the “qualified percentage” in Treas. Reg. §1.401(k)-12(j)(2))

shall not exceed 10% of the Participant's Compensation during the Initial Period and shall not exceed 15% of the Participant's Compensation after the Initial Period.

- 9.3 **Validation; Policy.** If the Employer amends or has amended the plan (effective for a Plan Year beginning on or after the effective date specified in Section 2.9) to provide for an automatic deferral percentage which does not exceed the limitations of Section 9.2, the amendment is valid notwithstanding any limitations contained in any provision of the Plan which would limit the automatic deferral percentage to 10%. The Plan Administrator may adopt a reasonable, uniform policy in applying the increased limit provided by this Article 9 to QACA automatic escalation provisions in effect prior to the effective date of the Article.

- 9.4 **Definitions.** The following definitions apply for this Article 9 and Section 2.9:

(a) "QACA" means a Qualified Automatic Contribution Arrangement described in Code §401(k)(13).

(b) The "Initial Period" for a Participant begins when the Participant first has contributions made pursuant to a default election under the QACA for a Plan Year and ends on the last day of the following Plan Year.

ARTICLE 10 IN-SERVICE PENSION DISTRIBUTIONS – BAMA §104

- 10.1 **Application.** This Article 10 will apply only if (1) the Plan is a Money Purchase Pension Plan, a Defined Benefit Plan, or, as described in Section 10.3, a 401(k) or Profit-Sharing Plan, and (2) the Employer elects in Section 2.10 for this Article 10 to apply, effective on the date specified in Section 2.10(a).
- 10.2 **Distribution at 59½.** A Participant can take an in-service distribution at age 59½, or, if later, the age (if any) specified in Section 2.10(b). Such a distribution will be limited to the vested portion of the Participant's accrued benefit or account and will be subject to all Plan provisions related to in-service distributions.
- 10.3 **Limited application to Profit-Sharing Plans.** If the Employer elects in Section 2.10 for this Article 10 to apply, this Article 10 will apply to an account in a 401(k) Plan or a Profit-Sharing Plan which holds assets transferred from a Money Purchase Pension Plan or a Defined Benefit Plan.

ARTICLE 11 DISTRIBUTIONS OF DISCONTINUED LIFETIME INCOME INVESTMENTS – SECURE §109

- 11.1 **Application.** This Article 11 will apply only if (1) the Plan is a Defined Contribution Plan, or a 403(b) Plan. It is effective for Plan Years beginning after December 31, 2019.
- 11.2 **Distributions authorized.** The Plan Administrator may authorize Participants to request, and as soon as practical after a Participant makes a request the request the Plan will make, a distribution of a Discontinued Lifetime Income Investment. Distribution under this Article is limited to the 90-day period prior to the date on which the Lifetime Income Investment is no longer authorized to be held as an investment option under the Plan. Such distribution will be in the form of a Qualified Distribution, or in the form of a Qualified Plan Distribution Annuity Contract, as determined by the Plan Administrator. The Plan Administrator will administer this section in a reasonable, nondiscriminatory manner, and may authorize distributions of some Discontinued Lifetime Income Investments and not others.
- 11.3 **Definitions.** The terms "Lifetime Income Investment," "Qualified Distribution" and "Qualified Plan Distribution Annuity Contract" have the meanings set forth in Code §401(a)(38)(B). A "Discontinued Lifetime Income Investment" is a Lifetime Income Investment which will no longer be authorized to be held as an investment option under the Plan.

ARTICLE 12
UPDATED LIFE EXPECTANCY TABLES – TREAS. REG. §1.401(a)(9)-9

- 12.1 **Application.** This Article 12 will apply to all plans and is effective for distribution calendar years beginning on or after January 1, 2022.
- 12.2 **New RMD Tables.** Any Plan reference to the life expectancy tables detailed in Treas. Reg. §1.401(a)(9), such as the Uniform Life Table, the Single Life Table, or the Joint and Last Survivor Table, refers to these tables as published in Treas. Reg. §1.401(a)(9)-9 from time to time, and is subject to adjustment as described in Treas. Reg. §1.401(a)(9)-9(f).

ARTICLE 13
ADOPTION OF PLAN AFTER YEAR END – SECURE §201

- 13.1 **Application.** This Article 13 will apply only if the Plan is a Qualified Plan. It is effective for Plan Years beginning after December 31, 2019.
- 13.2 **Retroactive Plan Adoption.** If the Employer adopted the underlying Plan to which this Amendment relates after the close of a taxable year, but prior to the due date (including extensions) of the Employer's federal income tax return for that taxable year, the Plan is treated as having been adopted as of the last day of the taxable year if the Plan's initial effective date is any date within that taxable year. However, no Participant may make elective deferrals to the Plan prior to the date it was adopted.

ARTICLE 14
DIFFICULTY OF CARE PAYMENTS – SECURE §116

- 14.1 **Application.** This Article 14 will apply only if the Plan is a Defined Contribution Plan or a 403(b) Plan. It is effective for Plan Years beginning after December 31, 2015.
- 14.2 **Inclusion in 415 Compensation.** The amount of a Participant's Compensation for purposes of determining the annual addition limit under Code §415(c)(1)(B) is increased by the amount of Difficulty of Care Payments the Employer makes to the Participant.
- 14.3 **Definition.** A "Difficulty of Care Payment" is a payment described in Code §131(c)(1) made in connection with qualified foster individuals.

ARTICLE 15
403(b) TERMINATION DISTRIBUTIONS – SECURE §110

- 15.1 **Application.** This Article 15 will apply only if the Plan is a 403(b) Plan. It is effective January 1, 2009.
- 15.2 **Custodial Accounts.** In connection with distributions upon termination of the Plan, the Plan may treat the delivery of a custodial account as a distribution, pursuant to Rev. Rul. 2020-83.

ARTICLE 16
REPEAL OF DEEMED IRA MAXIMUM AGE – SECURE §107

- 16.1 **Application.** This Article 16 will apply only if the Plan permits deemed IRA contributions (sometimes called "designated IRA" contributions) described in Code §408(q). It is effective January 1, 2020.
- 16.2 **No Maximum Age.** To the extent the Plan otherwise permits a Participant to make deemed IRA contributions, the Participant may make such contributions regardless of whether the Participant has attained age 70½ or any other age.

* * * * *

The Document Provider hereby adopts this amendment on behalf of all adopting employers.

By: 
(Authorized signer for Document Provider)

Laura Ramanis
(print name)

Document Provider Name: Newport Group, Inc.

The Document Provider executed this Amendment this 26 day of May, 2022.

**NEWPORT GROUP, INC.
AMENDMENT FOR CARES ACT**

**ARTICLE 1
PREAMBLE; DEFINITIONS**

- 1.1 **Adoption of Amendment.** The Document Provider, on behalf of the Employer, hereby adopts this Amendment to the Employer's Plan to implement provisions of the Act which affect the Plan. All references to the Plan include the Plan's loan program, policy, or procedure to the extent applicable.
- 1.2 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.3 **Construction.** Except as otherwise provided in this Amendment, any Article or Section reference in this Amendment refers only to this Amendment and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment and does not relate to the Plan article, section, or other numbering designations.
- 1.4 **Effect of restatement of Plan.** If the Employer restates the Plan then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated onto a plan document which incorporates these provisions).
- 1.5 **Definitions.** Except as otherwise provided in this Amendment, terms defined in the Plan will have the same meaning in this Amendment. The following definitions apply specifically to this Amendment:
 - A. The "Act" is the Coronavirus Aid, Relief, and Economic Security Act, also known as the CARES Act. This Amendment shall be interpreted and applied to comply with the Act.
 - B. A "Qualified Individual" means any individual who meets one or more of the criteria described in paragraphs (1), (2), (3), or (4). Participants, alternate payees and beneficiaries of deceased participants can be treated as Qualified Individuals. The Plan Administrator may rely on an individual's certification that the individual satisfies a condition to be a Qualified Individual unless the Plan Administrator has actual knowledge to the contrary. In applying the criteria, "COVID-19" means either the virus SARS-CoV-2 or coronavirus disease 2019; "an approved test" means a test approved by the Centers for Disease Control and Prevention (including a test authorized under the Federal Food, Drug, and Cosmetic Act); and a "member of the individual's household" means someone who shares the individual's principal residence. The criteria are as follows:
 - (1) The individual was diagnosed with COVID-19 by an approved test;
 - (2) The individual's spouse or dependent (as defined in Code §152) was diagnosed with COVID-19 by an approved test;
 - (3) The individual has experienced adverse financial consequences because: (a) the individual or the individual's spouse, or a member of the individual's household was quarantined, furloughed or laid off, or had work hours reduced due to COVID-19; (b) the individual, the individual's spouse, or a member of the individual's household was unable to work due to lack of childcare due to COVID-19; (c) A business owned or operated by the individual, the individual's spouse, or a member of the individual's household closed or reduced hours due to COVID-19; or (d) the individual, the individual's spouse, or a member of the individual's household had a reduction in pay (or self-employment income) due to COVID-19 or had a job offer rescinded or start date for a job delayed due to COVID-19; or
 - (4) The individual satisfies any other criteria determined by the Treasury or the IRS.

- 1.6 **Adoption by Document Provider.** The Document Provider hereby adopts this Amendment on behalf of all of the Document Provider's plans adopted by its adopting employers. The adoption by the Document Provider becomes applicable with respect to an Employer's Plan on March 27, 2020 (or, if later, the Effective Date of the Plan), unless the Employer individually adopts this Amendment, or an alternative amendment, prior to the expiration of the remedial amendment period relating to this Amendment. The Document Provider means the Sponsor of a Prototype Plan or Volume Submitter Practitioner of a Volume Submitter Plan as defined in Rev. Proc. 2013-22 or 2015-36, or the Provider of a Pre-approved Plan, as defined in Rev. Proc. 2017-41. References to the Document Provider's plans or to pre-approved plans refer to the Prototype Plans, Volume Submitter Plans, and/or Pre-approved Plans sponsored by the Document Provider for use by adopting employers, as the case may be, except as limited in Section 2.1.

ARTICLE 2 IDENTIFYING INFORMATION; EMPLOYER ELECTIONS

Instructions: The Document Provider should complete the elections at Sections 2.1 (if applicable), 2.3, and 2.4. If the Employer is satisfied with those choices, the Employer does not need to execute this Amendment.

- 2.1 **Application to Document Provider plans:** This Amendment will apply to all preapproved plans (including Prototype and Volume Submitter plans) of the Document Provider except the following: *(Optional. List plan types, such as Defined Benefit Plans or 403(b) Plans, which the Document Provider does not wish to amend):*
Volume Submitter Defined Benefit Plan

- 2.2 **Employer identifying information.** *(Complete only if Employer is separately adopting this Amendment.)*

A. Name of Employer: N/A

B. Name of Plan: N/A

C. Type of Plan *(check one; optional)*

- (1) ☐ 401(k) Plan
- (2) ☐ Profit-Sharing Plan (other than a 401(k) plan)
- (3) ☐ Money Purchase Pension Plan
- (4) ☐ Defined Benefit Plan (including a cash balance plan)
- (5) ☐ 403(b) Plan

- 2.3 **Relief for Qualified Individuals.** Will the Plan provide any or all of the following relief for Qualified Individuals: (1) Coronavirus-Related Distributions described in Article 3, (2) increased loan limits described in Section 4.2, (3) the loan repayment extension described in Section 4.3. *(Select one of (a), (b), or (c). If (c) is selected, then select one or more of (d), (e), and/or (f))*
- (a) ☐ **No.** The Plan will not provide any of these relief provisions.
 - (b) ☐ **Yes.** The Plan will provide all of these relief provisions. The limitations on distributions described in Sections 2.3(d)(1) – (4) and the limitations on loans in Section 2.3(e)(1) – (3) and Section 2.3(f)(1) – (3) do not apply.
 - (c) ☒ **Some.** The Plan will provide those relief provisions selected in (d), (e), or (f) below.

(d) ☒ **The Coronavirus-Related Distribution provisions described in Article 3** *(If (d) is selected, the Employer or Document Provider may optionally select one or more of (1), (2), (3), or (4).)*

- (1) ☐ Coronavirus-Related Distributions are not available from an account in which the Participant is not 100% vested.
- (2) ☐ Coronavirus-Related Distributions may be made only from the following accounts:

(3) ☐ The maximum amount of Coronavirus-Related Distributions from the Plan to a Qualified Individual will not exceed: \$_____. *(Enter amount less than \$100,000.)*

- (4) ☐ The following additional provisions apply to Coronavirus-Related Distributions: _____ (Enter limitations or restrictions which are nondiscriminatory and not subject to Employer discretion.)
- (e) ☐ **The increased loan limit described in Section 4.2** (If (e) is selected, the Employer or Document Provider may optionally select one or both of (1), (2), or (3).)
- (1) ☐ The maximum dollar amount of loans pursuant to Section 4.2 will not exceed: \$_____. (Enter amount less than \$100,000.)
- (2) ☐ The maximum percentage of the present value of the nonforfeitable accrued benefit that may be loaned pursuant to Section 4.2 will not exceed: _____%. (Enter percentage less than 100%.)
- (3) ☐ The following additional provisions apply to the increased loan limit: _____ (Enter limitations or restrictions which are nondiscriminatory.)
- (f) ☐ **The loan repayment extension described in Section 4.3** (If (f) is selected, the Employer or Document Provider may optionally select one or more of (1), (2), or (3).)
- (1) ☐ The Suspension Period will begin _____ (Enter date not before March 27, 2020) and end _____. (Enter date not later than December 31, 2020.)
- (2) ☐ The Extension Period will be _____. (Enter period, up to one year, the due date of the loan will be extended, such as "six months.")
- (3) ☐ The following additional provisions apply to the loan repayment extension: _____ (Enter limitations or restrictions which are nondiscriminatory.)

- 2.4 **RMD waivers for 2020.** Unless otherwise elected below, the provisions of Section 5.2 apply and a Participant or Beneficiary who would have been required to receive a 2020 RMD or Extended 2020 RMD will receive the distribution unless the Participant or Beneficiary chooses not to receive the distribution.
- (a) ☐ **No RMDs without request.** The provisions of Section 5.2 apply and a Participant or Beneficiary who would have been required to receive a 2020 RMD or Extended 2020 RMD will not receive the distribution unless the Participant or Beneficiary chooses to receive the distribution.
- (b) ☒ **Split.** The provisions of Section 5.2 apply. A Participant or Beneficiary who would have been required to receive a 2020 RMD will not receive the distribution unless the Participant or Beneficiary chooses to receive the distribution. A Participant or Beneficiary who would have been required to receive an Extended 2020 RMD will receive the distribution unless the Participant or Beneficiary chooses not to receive the distribution.
- (c) ☐ **No change to RMDs.** Payment of RMDs or Extended 2020 RMDs will be governed by the terms of the Plan without regard to this Amendment (i.e., no election is available to Participants or Beneficiaries).
- (d) ☐ **Describe:** _____.

For purposes of Section 5.3, the Plan will also treat the following as eligible rollover distributions in 2020: (Choose one or none of (e), (f), (g), or (h): If no election is made, then a direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code §401(a)(9)(I)):

- (e) ☐ 2020 RMDs.
- (f) ☒ 2020 RMDs and Extended 2020 RMDs.
- (g) ☐ 2020 RMDs but only if paid with an additional amount that is an eligible rollover distribution without regard to Code §401(a)(9)(I).
- (h) ☐ Describe: _____.

The provisions of Article 5, and the elections in this Section 2.4, will be effective on the date specified in Section 2.5, unless a different date is entered here: _____ (Optional. Enter a date between March 27, 2020 and December 31, 2020. RMD distributions before the selected effective date should have followed plan terms in effect before this Amendment.)

- 2.5 **Effective Date. This Amendment is effective March 27, 2020** (or as soon as practical thereafter), or, if later, the following date: _____ (Optional. Enter a date not later than December 31, 2020.)

ARTICLE 3 CORONAVIRUS-RELATED DISTRIBUTIONS

- 3.1 **Application.** This Article 3 will apply if Section 2.3(b) or Section 2.3(d) is selected.
- 3.2 **Coronavirus-Related Distribution(s).** Subject to the provisions described in Section 2.3(d)(4), if any, a Qualified Individual may take one or more Coronavirus-Related Distributions. The accounts from which the amount may be distributed shall be limited if selected in Sections 2.3(d)(1) and (2). However, if the Plan is a Defined Benefit Plan, and the Qualified Individual has not separated from service, the Qualified Individual may not take a Coronavirus-Related Distribution prior to attaining the earlier of Normal Retirement Age or age 59½. The provisions of this Section will apply notwithstanding any limitation in the Plan on partial distributions or any otherwise applicable plan or administrative limits on the number of allowable distributions.
- 3.3 **Repayment of distribution.** If the Plan permits a Participant to make rollover contributions, then a such a Participant who received a Coronavirus-Related Distribution (from this Plan and/or another eligible retirement plan as defined in Code §402(c)(8)(B)), at any time during the 3-year period beginning on the day after receipt of the distribution, may make one or more contributions to the Plan, as rollover contributions, in an aggregate amount not to exceed the amount of such distribution.
- 3.4 **Definition of Coronavirus-Related Distribution.** A “Coronavirus-Related Distribution” means a distribution to a Qualified Individual during the period beginning January 1, 2020 and ending December 30, 2020. The total amount of Coronavirus-Related Distributions to a Qualified Individual pursuant to this Amendment from all plans maintained by the Employer, or any related employer described in Code §414(b), (c), (m), or (o), shall not exceed \$100,000, (or such lesser amount specified in Section 2.3(d)(3)). The Coronavirus-Related Distributions from the Plan to a Qualified Individual will not exceed the amount of the individual’s vested account balance or the present value of the individual’s vested accrued benefit.

ARTICLE 4 PARTICIPANT LOAN RELIEF

- 4.1 **Application.** This Article 4 will apply only if the Plan permits participant loans. Section 4.2 will apply if Section 2.3(b) or Section 2.3(e) is selected. Section 4.3 will apply if Section 2.3(b) or Section 2.3(f) is selected.
- 4.2 **Increased loan limit.** Notwithstanding the loan limitation that otherwise would apply, the Plan will determine the loan limit under Code §72(p)(2)(A) for a loan to a Qualified Individual, made during the period beginning March 27, 2020 and ending September 22, 2020, by substituting “\$100,000” (or such lesser amount specified in Section 2.3(e)(1)) for “\$50,000,” and by substituting “100% (or such lesser percentage specified in Section 2.3(e)(2)) of the present value of the nonforfeitable accrued benefit of the employee under the Plan” for “one-half of the present value of the nonforfeitable accrued benefit of the employee under the Plan” (or its equivalent). The provisions described in Section 2.3(e)(3), if any, will apply in connection with loans to Qualified Individuals.
- 4.3 **Extension of certain repayments.** If a Qualified Individual has an outstanding loan from the Plan on or after March 27, 2020, then: (1) if the date for any repayment of such loan occurs during the Suspension Period, the due date is extended for the Extension Period; (2) the due date of the loan will be extended by the Extension Period; (3) the Plan will adjust any subsequent repayments to reflect the extension of the due date and any interest accrued during the Suspension Period; and (4) the Plan will disregard the Extension Period in determining the 5-year period and the loan term under Code §72(p)(2)(B) or (C). The provisions described in Section 2.3(f)(3), if any, will apply in connection with the suspension and extension described in this Section. The Suspension Period, unless otherwise specified in Section 2.3(f)(1), will begin March 27, 2020 and end December 31, 2020. The Extension Period, unless otherwise specified in Section 2.3(f)(2)

will be one year. The provisions of this Section 4.3 will be applied in accordance with Section 5.B. of Notice 2020-50, or any subsequent applicable guidance, and the adjustment described in (3) may reflect the “safe harbor” described therein.

ARTICLE 5 WAIVER OF 2020 REQUIRED MINIMUM DISTRIBUTIONS (RMDs)

- 5.1 **Application.** This Article 5 will apply only to defined contribution plans, including 401(k) Plans, Profit-Sharing Plans, Money Purchase Pension Plans, and 403(b) Plans. The definitions in Section 5.4 will apply in interpreting Section 2.4.
- 5.2 **Waiver; default provision.** This Section 5.2 will apply unless Section 2.4(c) is selected or to the extent 2.4(d) overrides it. Notwithstanding the provisions of the Plan relating to RMDs, whether a Participant or Beneficiary who would have been required to receive 2020 RMDs, and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2020 RMDs, or (2) Extended 2020 RMDs will receive those distributions is determined in accordance with the option chosen in Section 2.4. Notwithstanding the option chosen in Section 2.4, a Participant or Beneficiary will be given an opportunity to make an election as to whether or not to receive those distributions. If the Plan permits a Beneficiary of a deceased Participant to make the election to use the 5-year rule or the life expectancy rule, the deadline to make the election may be extended to reflect the adoption of Code §401(a)(9)(I).
- 5.3 **Direct rollovers.** Notwithstanding the provisions of the Plan relating to required minimum distributions under Code §401(a)(9), and solely for purposes of applying the direct rollover provisions of the Plan, certain additional distributions in 2020, as elected by the Employer in Section 2.4, will be treated as eligible rollover distributions. If no election is made by the Employer in Section 2.4, then a direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code §401(a)(9)(I).
- 5.4 **Definitions. “RMDs”** means required minimum distributions described in Code §401(a)(9). **“2020 RMDs”** means required minimum distributions the Plan would have been required to distribute in 2020 (or permitted to pay in 2021 for the 2020 calendar year for a Participant with a required beginning date of April 1, 2021) but for the enactment of Code §401(a)(9)(I). **“Extended 2020 RMDs”** means one or more payments in a series of substantially equal distributions (that include the 2020 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant’s designated Beneficiary, or for a period of at least 10 years.
- 5.5 **Installment payments.** A Participant or Beneficiary receiving payment of 2020 RMDs or 2020 Extended RMDs pursuant to this Article 5 may receive them in any method (including installments or partial distributions) which would have been permitted under the terms of the Plan if the amounts would have been RMDs but for the enactment of Code §401(a)(9)(I).

* * * * *

The Document Provider hereby adopts this amendment on behalf of all adopting employers.

By: 
(Authorized signer for Document Provider)

Laura Ramanis
(print name)

Document Provider Name: Newport Group, Inc.

The Document Provider executed this Amendment this 26 day of May, 2022.



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Plan Description: Non-Standardized Pre-Approved Money Purchase/Profit Sharing
FFN: 317D7840703-001 Case: 201901780 EIN: 27-2037969
Letter Serial No: Q702637a
Date of Submission: 12/31/2018

NEWPORT GROUP INC
200 DRYDEN ROAD
DRESHER, PA 19025

Contact Person:
Janell Hayes
Telephone Number:
513-975-6319
In Reference To: TEGE:EP:7521
Date: 06/30/2020

Dear Applicant:

In our opinion, the form of the plan identified above is acceptable for use by employers for the benefit of their employees under Internal Revenue Code (IRC) Section 401.

We considered the changes in qualification requirements in the 2017 Cumulative List of Notice 2017-37, 2017-29 Internal Revenue Bulletin (IRB) 89. Our opinion relates only to the acceptability of the form of the plan under the IRC. We did not consider the effect of other federal or local statutes.

You must provide the following to each employer who adopts this plan:

- . A copy of this letter
- . A copy of the approved plan
- . Copies of any subsequent amendments including their dates of adoption
- . Direct contact information including address and telephone number of the plan provider

Our opinion on the acceptability of the plan's form is a determination as to the qualification of the plan as adopted by a particular employer only under the circumstances, and to the extent, described in Revenue Procedure (Rev. Proc.) 2017-41, 2017-29 I.R.B. 92. The employer who adopts this plan can generally rely on this letter to the extent described in Rev. Proc. 2017-41. Thus, Employee Plans Determinations, except as provided in Section 12 of Rev. Proc. 2020-4, 2020-01 I.R.B. 148 (as updated annually), will not issue a determination letter to an employer who adopts this plan. Review Rev. Proc. 2020-4 to determine the eligibility of an adopting employer, and the items needed, to submit a determination letter application. The employer must also follow the terms of the plan in operation.

Except as provided below, our opinion doesn't apply to the requirements of IRC Sections 401(a)(4), 401(l), 410(b), and 414(s). Our opinion doesn't apply to IRC Sections 415 and 416 if an employer maintains or ever maintained another qualified plan for one or more employees covered by this plan. For this purpose, we will not consider the employer to have maintained another defined contribution plan provided both of the following are true:

- . The employer terminated the other plan before the effective date of this plan
- . No annual additions have been credited to any participant's account under the other plan as of any date within the limitation year of this plan

Also, for this purpose, we'll consider an employer as maintaining another defined contribution plan, if the employer maintains any of the following:

- . A welfare benefit fund defined in IRC Section 419(e), which provides post-retirement medical benefits allocated to separate accounts for key employees as defined in IRC Section 419A(d)

- . An individual medical account as defined in IRC Section 415(l)(2), which is part of a pension or annuity plan maintained by the employer
- . A simplified employee pension plan

Our opinion doesn't apply to Treasury Regulations Section 1.401(a)-1(b)(2) requirements for a money purchase plan or target benefit plan where the normal retirement age under the employer's plan is lower than age 62.

Our opinion doesn't constitute a determination that the plan is an IRC Section 414(d) governmental plan. This letter is not a ruling with respect to the tax treatment to be given contributions which are picked up by the governmental employing unit within the meaning of IRC Section 414(h)(2).

Our opinion doesn't constitute a determination that the plan is an IRC Section 414(e) church plan.

Our opinion may not be relied on by a non-electing church plan for rules governing pre-ERISA participation and coverage.

Our opinion applies to the requirements of IRC Section 410(b) if 100 percent of all non-excludable employees benefit under the plan.

Employers who choose a safe harbor allocation formula and a safe harbor compensation definition may also rely on this opinion letter for the non-discriminatory amounts requirement under IRC Section 401(a)(4).

If this plan includes a cash or deferred arrangement (CODA) or otherwise provides for contributions subject to IRC Sections 401(k) and/or 401(m), the employer may rely on the opinion letter regarding the form of the non-discrimination tests of IRC Sections 401(k)(3) and 401(m)(2), if the employer uses a safe harbor compensation definition. For plans described in IRC Sections 401(k)(12) or (13) and/or 401(m)(11) or (12), employers may rely on the opinion letter regarding whether the plan's form satisfies the requirements of those sections unless the plan provides for the safe harbor contribution to be made under another plan. For SIMPLE plans described in IRC Sections 401(k)(11) and 401(m)(10), employers may also rely on the opinion letter regarding whether the plan's form satisfies the requirements of those sections.

The provisions of this plan override any conflicting provision contained in the trust or custodial account documents used with the plan, and an adopting employer may not rely on this letter to the extent that provisions of a trust or custodial account that are a separate portion of the plan override or conflict with the provisions of the plan document. This opinion letter does not cover any provisions in trust or custodial account documents.

An employer who adopts this plan may not rely on this letter when:

- . the plan is being used to amend or restate a plan of the employer which was not previously qualified
- . the employer's adoption of the plan precedes the issuance of the letter
- . the employer doesn't correctly complete the adoption agreement or other elective provisions in the plan
- . the plan is not identical to the pre-approved plan (that is, the employer has made amendments that cause the plan not to be considered identical to the pre-approved plan, as described in Section 8.03 of Rev. Proc. 2017-41)

Our opinion doesn't apply to what is contained in any documents referenced outside the plan or adoption agreement, if applicable, such as a collective bargaining agreement.

Our opinion doesn't consider issues under Title I of the Employee Retirement Income Security Act (ERISA) which are administered by the Department of Labor.

If you, the pre-approved plan provider, have questions about the status of this case, you can call the telephone number at the top of the first page of this letter. This number is only for the provider's use.

Individual participants or adopting eligible employers with questions about the plan should contact you.

You must include your address and telephone number on the pre-approved plan or the plan's adoption agreement, if applicable, so that adopting employers can contact you directly.

If you write to us about this plan, provide your telephone number and the best time to call if we need more information. Whether you call or write, refer to the letter serial number and file folder number at the top of the first page of this letter.

Let us know if you change or discontinue sponsorship of this plan.

Keep this letter for your records.

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Daniel Dragoo".

Daniel Dragoo
Director, EP Rulings & Agreements

Letter 6186 (June-2020)
Catalog Number 72434C

INFORMATION REGARDING QUALIFIED DOMESTIC RELATIONS ORDERS (QDROS)

What is a Qualified Domestic Relations Order? A Qualified Domestic Relations Order (a "QDRO") is a domestic relations order that directs a retirement plan to pay all or a portion of a participant's benefits to a spouse, former spouse, child or dependent (an "Alternate Payee"). It is frequently issued in connection with a domestic relations proceeding in order to provide for the division of marital property, or to provide alimony or child support.

Why is a QDRO Necessary? Most retirement plans are subject to the Employee Retirement Income Security Act of 1974 ("ERISA"). Under ERISA, a plan is not allowed to make payments from a Participant's account to an Alternate Payee unless a QDRO has been received. In order to be a QDRO, the order must contain certain information and satisfy numerous specific legal requirements. Plans that are not subject to ERISA (for example, governmental plans) may choose to follow similar rules.

Who determines whether a domestic relations order is a QDRO? The Plan Administrator determines whether a domestic relations order received by it is a QDRO. That determination is made in accordance with the terms of the plan document and the Domestic Relations Order Procedures ("Procedures") adopted by the Plan Administrator. A copy of those Procedures is attached.

How do I submit a domestic relations order to the Plan Administrator to have it approved as a QDRO? You have two choices for submitting a domestic relations order to the Plan Administrator.

- First, you can submit a **proposed** domestic relations order (*i.e.*, one that has not yet been signed) to the Plan Administrator for pre-approval. After the Plan Administrator determines that the proposed order meets applicable requirements, you can submit it to the court or applicable state agency/instrumentality for entry, and then return a copy of the signed order to the Plan Administrator.
- Second, you can submit an actual domestic relations order (*i.e.*, one that has already been signed) to the Plan Administrator for review and approval. However, if the Plan Administrator determines that the order is not a QDRO, you will have to have the order revised and get it executed a second time. Any subsequent order should specifically state that it is amending or superseding the previous order.

In either event, the Plan Administrator needs an original or a certified copy of a signed QDRO before it can be implemented. A sample "model" order that you or your attorney can use to draft your domestic relations order is available upon request. All orders or proposed orders should be sent to the Plan Administrator at the following address:

Plan Administrator for the _____ Plan

What happens if I don't have a QDRO yet? The Procedures also address steps that may be taken before a domestic relations order is prepared.

What should I do if I have any questions? Please contact your Plan Administrator if you have any questions with respect to these Procedures. In addition, the Department of Labor has a publication entitled *QDROs: The Division of Retirement Benefits Through Qualified Domestic Relations Orders*. This publication is available on their website at <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/publications/qdros.pdf> as well as by contacting the Department of Labor.

QUALIFIED DOMESTIC RELATIONS ORDER (QDRO) PROCEDURES

These Procedures are adopted by the Plan effective with respect to new matters commencing on or after the date set forth below, and supersede any prior procedures relating to the receipt and handling of domestic relations orders. They set forth the process to be followed in determining whether a domestic relations order received by the Plan is a QDRO, as well as the manner in which the Plan will respond to requests for information and handle a Participant's account pending receipt of an actual domestic relations order.

1. ***Definitions.*** Wherever used herein, the following terms have the following meanings:
 - A. ***Alternate Payee.*** A spouse, former spouse, child, or other dependent of a Participant. To the extent an Alternate Payee designates a representative to receive copies of notices and other materials, the term Alternate Payee includes such designated representative.
 - B. ***Code.*** The Internal Revenue Code of 1986, as amended.
 - C. ***Domestic Relations Order.*** A judgment, decree, or order (including the approval of a property settlement) that is made pursuant to state domestic relations law (including community property law).
 - D. ***Participant.*** An employee or former employee with an account balance in the Plan.
 - E. ***Qualified Domestic Relations Order ("QDRO").*** A Domestic Relations Order that creates or recognizes the existence of an Alternate Payee's right to receive, or assigns to an Alternate Payee the right to receive, all or a portion of the Participant's account balance under the Plan. The QDRO must contain certain information and satisfy numerous specific legal requirements.
2. ***Access to Information.*** Upon written request, the Plan Administrator will provide a prospective Alternate Payee with such information as is reasonably requested in order to enable the preparation of a QDRO. Such information might include the summary plan description, a copy of these Procedures, a model QDRO, and copies of benefit statements. The disclosure of this information is conditioned on the prospective Alternate Payee providing documentation that establishes to the satisfaction of the Plan Administrator that (i) he or she is the spouse, former spouse, child or other dependent of the Participant, and (ii) a domestic relations proceeding involving the Participant is currently in progress. Sufficient documentation may include, but is not limited to, certified copies of marriage, divorce, or birth certificates, and copies of current administrative or court documents identifying the Participant and the prospective Alternate Payee as parties. The Plan Administrator will also comply with all proper requests for information received in the form of a subpoena.
3. ***Administrative Hold Prior to Receipt of Domestic Relations Order.*** The Plan Administrator will place an "Administrative Hold" on a Participant's account if the Plan Administrator receives (i) a request for information that satisfies the criteria set forth in 2. above, including a subpoena; (ii) a proposed domestic relations order that is being submitted for pre-approval; or (iii) any other written notification that establishes to its satisfaction that a domestic relations order relating to the Participant's account will be issued (each a "Notice of Adverse Interest"). If an Administrative Hold is placed on a Participant's account, the following will occur:
 - A. The Plan Administrator will promptly notify the Participant that an Administrative Hold is being placed on his or her account. The notice will include a brief description of the terms

of the Administrative Hold and the conditions under which such hold may be released, and include a copy of these Procedures and a copy of the model QDRO.

B. During the period that the Administrative Hold is in place, no distributions or loans will be made to the Participant except for (i) required minimum distributions under Section 401(a)(9) of the Code, (ii) installment payments that were in progress prior to receipt by the Plan Administrator of the Notice of Adverse Interest, or (iii) any other distributions required by law, unless the prospective Alternate Payee (or guardian, as applicable) consents in writing to the distribution or loan in the presence of a notary public.

C. The Plan Administrator will release the Administrative Hold 90 days after the date it was first put into effect or, if sooner, upon the first of the following to occur:

i. Receipt of a notarized written statement from the prospective Alternate Payee releasing any claim to the assets in the Participant's account.

ii. Receipt of a domestic relations order relating to the Participant's account (in this case, the Plan Administrator will take the appropriate steps discussed elsewhere in these Procedures).

iii. Receipt of a certified order establishing that the entire account is awarded to the Participant, that the assets in the Participant's account are not marital assets, or that applicable restrictions on the account have been lifted.

D. If the Notice of Adverse Interest is a proposed domestic relations order that has been submitted for pre-approval, a copy of the proposed order will be provided to the Participant with the Participant notice in paragraph A. above. Within 90 days of receipt of the proposed order, the Plan Administrator will review the proposed order and notify the Alternate Payee and the Participant whether the proposed order is deficient in any manner or would qualify as a QDRO if entered by a court or other appropriate state agency.

4. ***Receipt of Domestic Relations Order.*** Upon the receipt of a Domestic Relations Order, the following will occur:

A. The Plan Administrator will log in the date of the Plan's receipt of the Domestic Relations Order.

B. The Plan Administrator will promptly provide notice of the receipt of the Domestic Relations Order to the Participant and each Alternate Payee. Notices will be sent to the addresses included in the Domestic Relations Order, and include a copy of these Procedures. It is the responsibility of the Participant and the Alternate Payee to advise the Plan Administrator of any changes in their respective mailing addresses or legal names.

C. Within 90 days of the receipt of the Domestic Relations Order, the Plan Administrator will evaluate the order to determine whether it is a QDRO (see 5. Below).

D. The Plan Administrator will separately account for and preserve the amounts that would be payable to the Alternate Payee under the Domestic Relations Order during the "Determination Period" as defined in this paragraph D. The separate accounting requirement may be satisfied, at the Plan Administrator's discretion, by a segregation of the assets that are subject to separate accounting. If no segregation of assets is made, then no distributions or loans will be made to the Participant during the Determination Period except for (i) required minimum distributions under Section 401(a)(9) of the Code, (ii) installment payments that were in progress prior to receipt of the Domestic Relations Order, or (iii) any other distributions required

by law; provided, however, that installment payments may be continued only to the extent of the portion of the installment payments that exceed the Alternate Payee's putative interest therein.

The "Determination Period" is the period beginning on the first date following the Plan's receipt of the Domestic Relations Order (or, if later, the first date following the Plan's receipt of the Domestic Relations Order upon which a payment would be required to be made to an Alternate Payee under the order), and ending upon the date the Plan Administrator makes a final determination that the order is or is not a QDRO or, if earlier, the date that is 18 months following the first day of the Determination Period.

E. The Plan Administrator will send written notice to the Participant and each Alternate Payee of the Plan Administrator's decision as to whether a Domestic Relations Order is a QDRO. In the case of a determination that an order is not a QDRO, the written notice will contain the following information:

- i. The reason(s) the order was determined not to be a QDRO;
- ii. References to the Plan provisions on which the Plan Administrator based its decision;
- iii. An explanation of any time limits that apply to rights available to the parties under the Plan (such as the duration of any protective actions the Plan Administrator will take); and
- iv. A description of any additional material, information, or modifications necessary for the order to be a QDRO and an explanation of why such material, information, or modifications are necessary.

F. All appeals regarding the Plan Administrator's determination regarding the order should be sent in writing to the following address:

Plan Administrator for the _____ Plan

5. ***Requirements of a Qualified Domestic Relations Order.*** To be a QDRO, the order must:

- Affirmatively state that it relates to the provision of child support, alimony payments, or marital property rights
- Affirmatively state that it is made pursuant to state domestic relations law
- Contain (i) the name and last known mailing address of the Participant and each Alternate Payee, (ii) the name of the Plan, (iii) the dollar amount or percentage (or the method for determining the dollar amount or percentage) of the Participant's account that is to be paid to the Alternate Payee, and (iv) the number of payments or time period to which the order relates. [Note: Orders which are incomplete with respect to items (i) and (ii) will not be rejected if the missing or unclear information can be obtained by information in the records of the Plan Administrator or through communications with the Participant and Alternate Payee.]

In addition, in order to be a QDRO, the order **cannot**:

- Require the Plan to provide an Alternate Payee or Participant with any type or form of benefit, or any option, not otherwise provided under the Plan; however, it may provide for

immediate payment to the Alternate Payee even if the Participant is not yet eligible to receive a distribution from the Plan

- Require the Plan to provide for increased benefits (determined on the basis of actuarial value)
- Require the Plan to pay benefits to an Alternate Payee that are required to be paid to another Alternate Payee under another order previously determined to be a QDRO
[Note: It is the Participant's responsibility to notify the Plan Administrator of any prior QDROs]
- Require the Plan to pay benefits to an Alternate Payee in the form of a Qualified Joint and Survivor Annuity for the lives of the Alternate Payee and his or her subsequent spouse.

The Plan Administrator's review is not a determination that the court or agency issuing the Domestic Relations Order has jurisdiction to issue an order, that state law is correctly applied in the order, that service was properly made on the parties, or that an individual identified in an order as an Alternate Payee is a proper Alternate Payee under state law.

Unless otherwise provided under the terms of the QDRO, all QDROs will be administered in accordance with the following:

A. Loans. For purposes of determining the amount of an Alternate Payee's interest, the outstanding balance of a Participant loan will be included in valuing the Participant's account. For purposes of dividing a Participant's Account, the outstanding Participant loan shall be assigned to the Participant.

B. Investments and Sources. The Alternate Payee's interest will be taken on a pro rata basis from each account and each investment fund that is maintained on the Participant's behalf by the Plan. Notwithstanding the foregoing, any outstanding Participant loan is administered in accordance with paragraph A.

C. Tax Basis. Pursuant to Section 72(m)(10) of the Code, the tax basis of the distribution to an Alternate Payee who is a spouse or former spouse of the Participant will be allocated on a pro rata basis.

D. Incorporation of terms. Unless otherwise specified, the terms used in the order shall have the same meaning that they do in the Plan.

E. Assignment and Segregation Dates. If the date as of which the Alternate Payee's interest is to be determined under the order (the "Assignment Date") is other than a Valuation Date under the Plan, then the Alternate Payee's interest will be determined as of the Valuation Date immediately preceding the Assignment Date that is specified in the Domestic Relations Order. [Note: It may not be possible to implement the order if a date other than a Valuation Date is used as the Assignment Date.] If the date as of which the Alternate Payee's interest is to be segregated is other than a Valuation Date under the Plan, then the Alternate Payee's interest will be segregated as of the Valuation Date immediately preceding the specified segregation date. Any contributions, allocations, or other amounts that may be contributed or allocated to the Participant's account after the Assignment Date will not be taken into account in determining the amount payable to the Alternate Payee. However, any investment earnings or losses from the Assignment Date through the date of segregation will be allocated on a pro rata basis between the Participant and Alternate Payee.

F. Vested and Non-Vested Amounts. A Participant's total account includes vested and non-vested amounts, and vested and non-vested amounts are allocated on a pro rata basis between the Participant and the Alternate Payee.

G. **Fees.** All fees and expenses for the review of a Domestic Relations Order will be allocated pro rata between the Participant and the Alternate Payee. Contact the Plan Administrator for information regarding current fees.

6. ***Treatment of Alternate Payee if an order is accepted as a QDRO.*** An Alternate Payee will be considered a Beneficiary under the Plan and be afforded the same rights as a Beneficiary. The Plan Administrator will provide any appropriate disclosure information relating to the Plan to the Alternate Payee.

7. ***Miscellaneous.***

A. ***Application of QDRO to Current and Successor/Transferee Plan(s).*** Any order that is determined to be a QDRO with respect to the Plan will be deemed to apply to any successor plan(s) or any transferee plan(s). Further, changes in the Plan Sponsor, the Plan Administrator, or the Plan Name will not affect a QDRO.

B. ***Modification of Procedures.*** The Plan, by action of the Plan Administrator, may modify these procedures without notice to any party. Any such modifications shall be effective as of the date of adoption, unless either retroactive or prospective effective dates are specified, in which case such specification shall control. The Plan Administrator shall provide a copy of the modified procedures to each Participant and Alternate Payee in any matter then pending, to the extent the procedures will apply to pending matters.

SAMPLE QDRO FOR A DEFINED CONTRIBUTION PLAN

QUALIFIED DOMESTIC RELATIONS ORDER (QDRO)

Set forth below is sample language that is designed to assist practitioners in drafting a QDRO. Practitioners who use this language will need to conform it to the terms of the retirement plan to which the QDRO applies, and to specify the amounts assigned and other terms of the QDRO so as to achieve an appropriate property division or level of family support. In addition, practitioners will need to conform this language to meet State and Local law and court requirements.

Although the sample language addresses a variety of matters, it is not designed to address all retirement benefit issues that may arise. For example, the sample language does not address what would occur on the death of either the Participant or the Alternate Payee prior to the date of the establishment of the Alternate Payee's separate account. In addition, some of the sample language, while helpful in facilitating the administration of a QDRO, is not necessarily required.

A domestic relations order is not required to incorporate the sample language. Instead, alternative formulations are permissible for use in drafting QDROs, and may be advisable in some situations.

The purpose of this sample language is solely to assist practitioners in drafting QDROs. No representations are being made as to the suitability of this language in any particular situation. The Plan Sponsor, the Plan Administrator, and the employees and agents of the Plan Sponsor and the Plan Administrator, disclaim any liability as a result of the use of this document and disclaim any responsibility for whether the sample language is suitable or advisable in any particular situation. A variety of complex factors need to be considered in preparing a QDRO. Parties to any proceeding are advised to seek independent legal advice before using this sample QDRO.

The Department of Labor has issued a booklet entitled "QDROs: The Division of Retirement Benefits Through Qualified Domestic Relations Order". This booklet is available from the Department of Labor, and can also be found on its website at <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/publications/qdros.pdf>. It describes some of the factors that should be considered in preparing a QDRO.

[CAPTION]

This Order creates and recognizes the existence of Alternate Payee's right to receive all or a portion of Participant's benefit under the _____ Plan. This Order is made pursuant to the applicable domestic relations laws of the State of _____. This Order relates to the provision of child support, spousal support, or marital property rights to a spouse, former spouse, child or dependent of Participant.

Part 1—Plan Information

This domestic relations order applies to the _____ Plan (the "Plan"). Petitioner is sometimes referred to herein as [Participant/Alternate Payee], and Respondent is sometimes referred to herein as [Participant/Alternate Payee].

Part 2—Participant and Alternate Payee Information

Plan Participant

Name:

Address:

Date of Birth:

Social Security Number:

Alternate Payee

Name:

Address:

Date of Birth:

Social Security Number:

Participant and Alternate Payee will notify the Plan Administrator in writing of any changes to their respective mailing addresses and names.

Part 3—Other Information

Participant and Alternate Payee were married on _____. They were [separated/divorced] on _____.

Part 4—Division of Benefits

As of _____, 20____, Participant is _____ percent vested in [his/her] account under the Plan.

NOTE TO QDRO PREPARER: Choose one of the following:

Percentage Option

Alternate Payee is assigned ____ percent of the Participant's total account under the Plan as of _____ (the "Assignment Date"). The Participant's total account shall include vested and non-vested amounts. The amount that the Alternate Payee is assigned hereunder shall be referred to herein as the "Alternate Payee's Interest."

- [If the Assignment Date is other than a Valuation Date under the Plan, the Alternate Payee's Interest shall be determined as of the Valuation Date immediately preceding the Assignment Date. See *Note to QDRO Preparer, below, for important information regarding this issue.*]
- The Alternate Payee's Interest shall be adjusted for Earnings and Losses on such percentage from the Assignment Date until the Valuation Date immediately preceding the segregation of the Alternate Payee's Interest into a separate account. [If the Assignment Date is other than a Valuation Date under the Plan, the Earnings and Losses shall be determined from the Valuation Date immediately preceding the Assignment Date.]
- The Alternate Payee's Interest shall be taken proportionately from each contribution account and each investment fund that is maintained on Participant's behalf by the Plan, except that, as discussed in Part 5, below, any outstanding Participant Loan shall be assigned to the Participant.
- The Alternate Payee's Interest shall be taken proportionately from vested and non-vested amounts.
- In the event that, after assignment of an outstanding Participant Loan to the Participant or for any other reason, there are not sufficient funds in the Participant's total account to satisfy the percentage interest specified above (as adjusted), the Alternate Payee will instead receive the remaining balance of the Participant's total account (excluding any outstanding Participant Loans).

Participant is entitled to the remaining balance of Participant's Account, if any. Participant is also entitled to any future allocations, contributions, or other amounts that are not specifically assigned to Alternate Payee pursuant to this (or another) QDRO.

Dollar Amount Option

Alternate Payee is assigned the sum of \$ _____ from the Participant's total account under the Plan as of _____, 20__ (the "Assignment Date"). The Participant's total account shall include vested and non-vested amounts. The amount that the Alternate Payee is assigned hereunder shall be referred to herein as the "Alternate Payee's Interest."

- [If the Assignment Date is other than a Valuation Date under the Plan, the Alternate Payee's Interest shall be determined as of the Valuation Date immediately preceding the Assignment Date. See *Note to QDRO Preparer, below, for important information regarding this issue.*]
- The Alternate Payee's Interest shall be adjusted for Earnings and Losses on such dollar amount from the Assignment Date until the Valuation Date immediately preceding the segregation of the Alternate Payee's Interest into a separate account. [If the Assignment Date is other than a Valuation Date under the Plan, the Earnings and Losses shall be determined from the Valuation Date immediately preceding the Assignment Date.]
- The Alternate Payee's Interest shall be taken proportionately from each contribution account and each investment fund that is maintained on Participant's behalf by the Plan, except that, as discussed in Part 5, below, any outstanding Participant Loan shall first be assigned to the Participant.
- The Alternate Payee's Interest shall be taken proportionately from vested and non-vested amounts.

- In the event that, after assignment of an outstanding Participant Loan to the Participant or for any other reason, there are not sufficient funds in the Participant's total account to satisfy the dollar amount specified above (as adjusted), the Alternate Payee will instead receive the remaining balance of the Participant's total account (excluding any outstanding Participant Loans).

Participant is entitled to the remaining balance of Participant's Account, if any. Participant is also entitled to any future allocations, contributions, or other amounts that are not specifically assigned to Alternate Payee pursuant to this (or another) QDRO.

NOTE TO QDRO PREPARER: *You may wish to use one of the Plan's Valuation Dates as the Assignment Date, as such term is defined above. It may not be possible to implement the Order if a date other than a Valuation Date is used.*

*Care should be taken to address contributions, allocations, or other amounts that may be contributed or allocated after the Valuation Date, and are not attributable to the period preceding the Valuation Date. Conversely, some amounts that are contributed or allocated after the Valuation Date do relate back and are attributable to the period preceding the Valuation Date. **This issue is of particular importance if the Assignment Date is not a Valuation Date under the Plan.***

Part 5—Plan Loans

NOTE TO QDRO PREPARER: *Choose one of the following:*

No Outstanding Participant Loans

Participant has no outstanding Participant Loans under the Plan.

Outstanding Participant Loan

Participant has an outstanding Participant Loan. For purposes of determining the amount of the Alternate Payee's Interest, the outstanding balance of the Participant Loan as of the Assignment Date shall be taken into account. For purposes of dividing the Participant's Account, the outstanding Participant Loan shall be assigned to Participant.

Part 6—Establishment of Separate Account

The Plan Administrator will segregate the Alternate Payee's Interest into a separate plan account for Alternate Payee's benefit.

Alternate Payee shall be afforded all the rights and privileges with respect to the Alternate Payee's separate plan account that are provided to an Alternate Payee under the Plan.

Alternate Payee will be responsible for informing the Plan Administrator as to when to commence benefits, subject to the requirements of the Plan and the Law.

Part 7—Miscellaneous

1. **Application of QDRO to Current and Successor and Transferee Plan(s).** This Order will apply to the Plan as well as to any successor plan(s) or any transferee plan(s).
2. **Certain Plan Changes.** Changes in the Plan Sponsor, Plan Administrator, or Plan Name shall not affect this Order.

3. **Earnings and Losses.** Unless otherwise specifically provided herein, Earnings and Losses means expenses and investment experience.
4. **Impermissible Provisions.** This Order is not intended to require the Plan to provide for increased payments over those due Participant under the Plan. In addition, this Order is not intended to provide any type or form of benefit, or any option, not otherwise provided under the Plan.
5. **Name and Address.** Both Participant and Alternate Payee must advise the Plan Administrator of any changes in their respective mailing addresses and legal names.
6. **Notice of Prior Order.** Participant and Alternate Payee certify that they are not aware of any other Order that relates to the benefits described herein (except other proceedings in the same matter of which the Plan Sponsor is already aware). Should a prior Order exist, the interested parties will notify the Plan Administrator prior to the Plan Administrator's determination of the "qualified status" of this Order.
7. **Qualified Domestic Relations Order.** This Order is intended to be a Qualified Domestic Relations Order pursuant to applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code") and the Employee Retirement Income Security Act of 1974, as amended ("ERISA").
8. **Tax Basis.** Pursuant to Section 72(m)(10) of the Code, the tax basis of the distribution to an Alternate Payee who is the spouse or former spouse of the Participant will be on a pro rata basis
9. **Terms.** The terms used in this Order shall have the same meaning as they do in the Plan.
10. **Valuation.** If the Assignment Date is other than a Valuation Date under the Plan:
 - The Alternate Payee's Interest will be determined [using the values] as of the Valuation Date immediately preceding the Assignment Date; and
 - Earnings and Losses shall be calculated from the Valuation Date immediately preceding the Assignment Date.

[DATE AND SIGNATURE OF PARTIES AND THEIR ATTORNEYS]

[ORDER OF COURT--DATE AND SIGNATURE]



MEMORANDUM

TO: The Mayor and Town Commissioners
THRU: Robert Garlo, Town Manager *RG*
FROM: Matthew Pazanski, Finance/HR Director *MP*
SUBJECT: Review and Acceptance of Group Retirement Plan Actuarial Valuation Report
DATE: December 5, 2025

Background

Ascensus (formerly Newport Group) provides actuary and recordkeeping services for the Town's defined benefit Group Retirement Plan for the Employees of the Town of Jupiter Island. This plan was frozen to new participants as of September 30, 2009. As required, Ascensus completes Actuarial Valuation Reports and Governmental Accounting Disclosures each year.

The primary purpose of the actuarial valuation is to measure the Plan's funding progress and determine Employer contributions for the Plan Year.

In summary, the plan experienced a \$499,637 gain for the year ended 9/30/2025 due to positive returns and plan liability decreases, see page 4 of the Actuarial Valuation Report. The plan's year end Funded Ratio was 93.56% as compared to the previous 86.58%-2024 and 75.75%-2023, these results are outlined on page 18. Page 9 of the report, Summary of Census Data, provides an overview of the members, retirees and benefits being distributed.

The Pension Committee met on December 4, 2025, for their regularly scheduled quarterly meeting and reviewed the report's Schedule of Contributions on page 2. Because of the strong performance and liability decreases the plan contributions could be actuarially decreased to \$285,296. The Town's average yearly contribution over the past 10 years was approximately \$430,000. The Pension Committee recommends keeping the funding level at this year's budgeted amount of \$475,000.

As part of the valuation and reporting process the report must be "accepted" by the Town Commission. After it is accepted, Ascensus will complete the required filing with the Florida Department of Management Services, Division of Retirement.

Recommendation

Staff recommends the Town Commission consider a motion to accept the Group Retirement Plan for the Employees of the Town of Jupiter Island Actuarial Valuation Report for the plan year beginning October 1, 2025.

November 17, 2025

Matthew Pazanski, CGFO, PHR
Finance/HR Director
Town of Jupiter Island
2 SE Bridge Road
Jupiter Island, FL 33455

**Re: Group Retirement Plan for the Employees of the Town of Jupiter Island
Actuarial Valuation Report for the plan year beginning October 1, 2025
GASB 67/68 Disclosure for the plan year ending September 30, 2025**

Dear Matt:

Attached please find the reports for the annual funding and GASB disclosures.

This cover letter and the accompanying discussion of actuarial assumptions should be considered part of both reports.

There is an experience gain of \$499,637 for the plan year that ended September 30, 2025. This is amortized over five years. The two main components that led to this gain are the positive returns on plan assets and actuarial experience due primarily from the deaths of two retirees.

Due to the experience gain, you could reduce quarterly contributions to \$71,324. In prior years, the Commission seemed hesitant to reduce the contributions until the plan was closer to being fully funded.

On page 12 of the Actuarial Valuation Report, please see a chart comparing the present value of benefits with the market and actuarial value of assets. The graph shows that the difference between the market value of assets and the plan's liabilities has decreased significantly over the last two years.

If you have any questions or comments, please let me know.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brian R. West".

Brian R. West, EA, FSA, MSEA, FCA, MAAA
Consulting Actuary
FuturePlan by Ascensus

Group Retirement Plan for the Employees of the Town of Jupiter Island Assumptions

Determination of actuarial liabilities for uncertain future payments includes assumptions made regarding the amount of the payment along with the probability of the payments. Typical assumptions for pension plans are a discount rate, mortality, probability of termination of employment, probability of disability of active participants, probability of retirement at specific ages, etc.

Below is a review of the actuarial assumptions used for the determination of funding liability, funding contribution determination and GASB reporting purposes.

Mortality

Florida state law requires that reporting of liabilities and contributions to the Florida Retirement System use a mortality table that has been used on either of the two most recent actuarial valuations of the Florida Retirement System Pension Plan.

Based upon my review of the most recently available actuarial valuation of the FRS Pension Plan, I believe that the mortality tables used were developed by the actuarial firm from a study using data from the FRS or similar systems.

I have interpreted this requirement to use the same base mortality tables with the most recently available mortality improvement scale. The most recently available improvement scale is MP-2021 provided by the Society of Actuaries.

In each of the 2014-2021 years, the Society of Actuaries has released a new mortality improvement table. While the tables are called "mortality improvement" tables, the change in expected "improvement" may result in higher or lower expected mortality. The updated mortality improvement table includes mortality through the year that is two years prior to the update. Therefore, the MP-2021 table included mortality through 2019.

The expected MP-2022, MP-2023, MP-2024 and MP-2025 tables would include mortality through 2020, 2021, 2022 and 2023, respectively. However, due to uncertainties surrounding how excess deaths related to Covid should be treated, the Society of Actuaries did not release MP-2022, MP-2023, MP-2024 or MP-2025.

Instead, it is left to the actuary's professional judgement as to how to adjust MP-2021 for future mortality improvement.

Based upon my review of the literature and conversations with other actuaries, several factors lead to the continued use of MP-2021 without any changes. These factors include:

1. No clear picture of the short- or long-term impact of the pandemic
 - a. The short-/long-term impact on pension plans participants should be less than that on the general public.
2. Materiality of results
 - a. In a review of sample pension plans, various adjustments to MP-2021 resulted in a liability change of less than 0.2%.

In my opinion, this set of mortality tables, along with the noted mortality improvement scale, should reasonably represent the expected mortality of the members of this plan.

Termination, Disability and Retirement

The plan has been frozen to new entrants and accruals for several years. At the time of this valuation there are very few actively employed participants. There are no more participants eligible for Unreduced Retirement, a termination benefit is the same as the benefit payable at normal retirement age and not all actively employed participants are eligible for a disability benefit under the plan.

Due to the size of the plan, the participant data would not produce enough creditable information to use plan-specific assumptions. As part of this valuation, I reviewed the prior assumptions along with several publicly available assumptions for termination and disability.

Based upon this review, I have determined that using no assumption for termination or disability and an assumption of 100% at age 65 provides a reasonable actuarial liability and cost for the plan.

Salary Scale

While the plan benefits are frozen and will not increase due to increases in participant salaries, GASB reporting requires the use of the Entry Age Normal, Level % of pay actuarial method. This method is also used to determine the actuarial liability for the plan and the actuarially determined contribution.

As with the assumptions in the prior section, there is not enough plan data to generate a credible plan-specific assumption. After discussion with the plan sponsor, for the 2023 reporting year, we increased the salary scale to 7% for that year and the next years to more accurately reflect the compensation increases expected to be paid. Following the three-year period of increased salary increases, the plan sponsor believes that a 3% salary scale will continue to be a reasonable assumption for the participants in this plan going forward.

Interest Rate

It is my understanding that the interest rate to be used for funding/reporting purposes is set by the Town Commission as recommended by the Pension Committee. However, Actuarial Standards of Practice require that I review this assumption and provide comment if I believe the assumption would not be my best estimate.

I have reviewed this assumption based upon the current asset allocation and using recent capital market assumptions. As such, I believe that the interest rate of 5.5% used to determine liabilities, actuarially determined contributions and GASB reporting is reasonable.

November 6, 2025

Daniel Anderson
Mauldin & Jenkins, LLC
1401 Manatee Ave West, Suite 1200
Bradenton, FL 34205

Re: Group Retirement Plan for the Employees of the Town of Jupiter Island
Governmental Accounting Standards Board
Statements 67/68 Disclosures

Dear Daniel:

Attached are your GASB 67/68 disclosures for the Fiscal Year ending September 30, 2025.

1. Actuarial Present Value of Total Projected Benefits:

Retirees and Beneficiaries	\$10,725,443
Terminated Vested Employees	\$653,046
Current Active Members	\$465,991
Total	\$11,844,480

2. Date of the above Valuation of total projected benefit is September 30, 2025.

3. Principal assumptions used to determine Actuarial present value of total projected benefits:

Please see the Assumptions and Methods page.

4. Please see the following answers:

- a. Minimum Annual Contribution:
 - i. \$443,444 for 2024 Plan Year, \$285,296 for 2025 Plan Year
- b. Actuarial Cost Method:
 - i. Entry Age Normal, Level Percent of Pay
- c. Actuarial Assumptions:
 - i. Please see the Assumptions and Methods page.
- d. Effect of any change in Methods or Assumptions:
 - i. Not applicable
- e. Alternative Funding Standard Account was not elected.

5. Employee group covered:

Participants in the Group Retirement Plan for the Employees of the Town of Jupiter Island.

Daniel Anderson
November 6, 2025
Page 2 of 3

6. Please see the following answers:
 - a. Benefit provisions used in the actuarial calculation:
 - i. Please see the Summary of Plan Specifications page.
 - b. Description of any benefits not included in the Actuarial present values of total projected benefits:
 - i. Not applicable
 - c. The effective date of the last plan amendment included in this valuation:
 - i. October 1, 2016 Early Retirement Incentive Program amendment.
7. Please see the following information relating to the employee census data:
 - a. The source and nature of the data:
 - i. Census information received from the Town of Jupiter Island
 - b. The date as of which the census data was collected:
 - i. October 1, 2025
 - c. Please see the following table:

<u>Participants</u>	<u>Number of Persons</u>	<u>Compensation</u>
Currently receiving payments	45	0
Active with vested benefits	5	\$749,915
Terminated with deferred vested benefits	14	0
Active without vested benefits	0	0
Other	0	0
Total	64	\$749,915

8. Please see the effects of the following factors:
 - a. Plan Amendments:
 - i. See Determination of Actuarial (Gains)/Losses page.
 - b. Changes in the nature of the plan:
 - i. See Determination of Actuarial (Gains)/Losses page.
 - c. Changes in Actuarial Assumptions
 - i. See Determination of Actuarial (Gains)/Losses page.
9. Please see the following description of the methods used:
 - a. Are the methods used in accordance with the guidelines of GASB:
 - i. Yes
 - b. Have the methods been changed from those of the prior period and the reason:
 - i. No
 - c. Any significant assumptions underlying the measurement or presentation?
 - i. No

Daniel Anderson
November 6, 2025
Page 3 of 3

10. We have not been notified of a decision by the Board of Trustees to fully or partially terminate the Plan.
11. Please describe the nature of any relationship that you may have with the Town of Jupiter Island that may appear to impair the objectivity of your work:
We are not aware of any direct or indirect relationship that could create a conflict of interest that could impair the objectivity of our work.
12. What is the amount of the unbilled and/or unpaid actuarial or other fees due to the plan year-end and payable by the plan:
There are no current unpaid fees.
13. Please see the attached Actuarial Valuation Reports for the Plan Years beginning October 1, 2024 and October 1, 2025.

If you have any questions or comments on the disclosures, please let me know.

Sincerely,

A handwritten signature in blue ink, appearing to read "Brian R. West".

Brian R. West, EA, FSA, MSEA, FCA, MAAA
Consulting Actuary
FuturePlan by Ascensus

Group Retirement Plan for the Employees of the Town of Jupiter Island

Government Accounting Standards Board Statements 67 & 68 Disclosures

Fiscal Year
October 1, 2024 to September 30, 2025

GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND

GOVERNMENT ACCOUNTING STANDARDS BOARD STATEMENT 68
FISCAL YEAR ENDING SEPTEMBER 30, 2025

Certification

Enclosed are the Fiscal Year End disclosure information pursuant to Governmental Accounting Standards Board Statements 67 and 68 ("GASB 67/68"). Determinations for purposes other than financial accounting requirements may be significantly different from the results reported herein. The use of this report for other than for financial accounting purposes may not be appropriate.

We relied upon participant data supplied by the Plan Sponsor and financial information as of the date(s) noted on the Assumptions page. We reviewed the participant data for internal consistency and reasonableness and have no reason to doubt its substantial accuracy. We also used and relied upon plan information supplied by the Plan Sponsor. The Plan Sponsor is solely responsible for the validity and completeness of the information.

This valuation has been conducted in accordance with generally accepted actuarial principles and practices, including the applicable Actuarial Standards of Practice as issued by the Actuarial Standards Board. In addition, the valuation results are based upon our understanding of GASB 67/68.

The actuarial assumptions are described in the Actuarial Assumptions exhibit of this report. The Plan Sponsor selected the actuarial assumptions and prescribed them for ASC 715 purposes. We provided guidance to the Plan Sponsor on the support and selection of certain actuarial assumptions. Unless otherwise mentioned in the cover letter, we believe that the actuarial assumptions represent reasonable expectations of future experience of the Plan.

A valuation model was used to develop the liabilities for the plan. The valuation model relies on ProVal software, which was developed by Winklevoss Technologies, LLC. Experts within FuturePlan by Ascensus selected this software and determined it is appropriate for performing this valuation. We coded and reviewed the software for the provisions, assumptions, methods, and data of the Plan as outlined in this actuarial report.

The undersigned is a Member of the American Academy of Actuaries and other actuarial organizations and meets the Qualification Requirements of the American Academy of Actuaries to render the actuarial opinion contained herein.

We are not aware of any direct or material indirect financial interest or relationship, including investments or other services that could create a conflict of interest that would impair the objectivity of our work.

Certified By:
FuturePlan by Ascensus



Brian R. West, EA, FSA, MSEA, FCA, MAAA
Consulting Actuary

Prepared by:



Lisa Whipkey
Senior Actuarial Analyst

GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND

GASB STATEMENTS 67 & 68
September 30, 2025

Table of Contents

10-Year Disclosures	1
Changes in the Net Pension Liability	2
Pension Expense - Fiscal Year Ending September 30, 2025	3
Pension Expense - Estimated - Fiscal Year Ending September 30, 2026	4
Differences between Projected and Actual Earnings on Pension Investments	5
Determination of Actuarial Liability (Gains)/Losses	6
Amortizations of (Gains)/Losses	
(Gains)/Losses in Actuarial Liability	7
(Gains)/Losses in Plan Assets	8
(Gains)/Losses due to Changes in Assumptions	9
Deferred Outflows and Inflows of Resources and Deferred Inflows of Resources Related to Pensions	
Total Plan	10
(Gains)/Losses in Actuarial Liability	11
(Gains)/Losses in Plan Assets	12
(Gains)/Losses due to Changes in Assumptions	13
Assumptions And Methods	14
Summary of Plan Specifications	16

GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND

GOVERNMENT ACCOUNTING STANDARDS BOARD STATEMENT 67
10-YEAR DISCLOSURES

Fiscal Year End	09/30/2025	09/30/2024	09/30/2023	09/30/2022	09/30/2021	09/30/2020	09/30/2019	09/30/2018	09/30/2017	09/30/2016
A. Changes in Net Pension Liability										
1. Total Pension Liability (TPL)										
a. Beginning Value	12,535,121	12,677,941	12,959,280	12,669,005	12,795,851	13,191,054	13,305,155	13,383,694	13,356,965	12,194,120
b. Service Cost	20,305	18,487	12,680	10,668	15,117	25,308	24,603	31,976	38,814	90,976
c. Interest on Total Pension Liability	660,373	668,326	683,622	728,231	736,678	761,859	769,461	774,744	773,506	708,105
d. Change in Benefit Terms	0	0	0	0	0	0	0	0	0	536,779
e. Assumption Changes	0	273,321	(62,266)	553,073	24,327	(201,472)	(25,936)	0	138,141	209,885
f. Experience Gains/Losses	(274,024)	(12,845)	169,578	83,298	140,993	34,175	135,365	122,551	84,157	562,872
g. Benefit Payments	(1,097,294)	(1,090,109)	(1,084,953)	(1,084,995)	(1,043,961)	(1,015,073)	(1,017,594)	(1,007,810)	(1,007,889)	(945,772)
h. Ending Value	11,844,481	12,535,121	12,677,941	12,959,280	12,669,005	12,795,851	13,191,054	13,305,155	13,383,694	13,356,965
2. Plan Fiduciary Net Position (FNP)										
a. Beginning Value	11,014,523	9,628,909	9,053,321	11,372,123	10,009,719	10,055,741	10,392,257	10,470,590	9,779,411	9,455,807
b. Contributions	443,444	593,750	462,500	425,000	318,750	425,000	531,250	318,750	425,000	331,161
c. Net Investment Income	887,323	1,896,453	1,214,741	(1,645,507)	2,101,315	556,551	161,648	622,037	1,278,521	941,766
d. Benefit Payments	(1,097,294)	(1,090,109)	(1,084,953)	(1,084,995)	(1,043,961)	(1,015,073)	(1,017,594)	(1,007,810)	(1,007,889)	(945,772)
e. Administrative Expenses	(9,500)	(14,480)	(16,700)	(13,300)	(13,700)	(12,500)	(11,820)	(11,310)	(4,453)	(3,551)
f. Other	0	0	0	0	0	0	0	0	0	0
g. Ending Value	11,238,496	11,014,523	9,628,909	9,053,321	11,372,123	10,009,719	10,055,741	10,392,257	10,470,590	9,779,411
3. Net Pension Liability (NPL) (1.h. - 2.g.)	605,985	1,520,598	3,049,032	3,905,959	1,296,882	2,786,132	3,135,313	2,912,898	2,913,104	3,577,554
B. Funding Disclosure										
1. Total Pension Liability	11,844,481	12,535,121	12,677,941	12,959,280	12,669,005	12,795,851	13,191,054	13,305,155	13,383,694	13,356,965
2. Plan's Net Financial Position	11,238,496	11,014,523	9,628,909	9,053,321	11,372,123	10,009,719	10,055,741	10,392,257	10,470,590	9,779,411
3. Net Pension Liability	605,985	1,520,598	3,049,032	3,905,959	1,296,882	2,786,132	3,135,313	2,912,898	2,913,104	3,577,554
4. Plan's NFP/TPL	94.88%	87.87%	75.95%	69.86%	89.76%	78.23%	76.23%	78.11%	78.23%	73.22%
5. Covered Payroll	778,153	674,396	616,527	572,306	623,567	934,044	870,822	1,021,979	1,123,300	1,123,300
6. NPL/Covered Payroll	77.87%	225.48%	494.55%	682.49%	207.98%	298.29%	360.04%	285.03%	259.33%	318.49%
C. Contribution Disclosure										
1. Actuarially Determined Contributions	443,444	523,680	495,824	375,194	438,436	434,885	353,918	367,286	312,434	316,624
2. Actual Contributions Deposited	443,444	593,750	462,500	425,000	318,750	425,000	318,750	425,000	331,161	331,161
3. Annual Contribution Deficiency/(Excess)	0	(70,070)	33,324	(49,806)	119,686	9,885	35,168	(57,714)	(18,727)	(14,537)
4. Covered Payroll	778,153	674,396	616,527	572,306	623,567	934,044	1,021,979	1,123,300	1,123,300	1,389,114
5. Actual Contributions/Covered Payroll	56.99%	88.04%	75.02%	74.26%	51.12%	45.50%	31.19%	37.83%	29.48%	23.84%
D. Actual Rate of Return										
1. Money-Weighted Rate of Return	8.39%	20.41%	13.90%	-14.99%	21.94%	5.79%	6.20%	13.66%	10.31%	-7.05%
E. Sensitivity of Total Pension Liability to changes in the Discount Rate +/- 1%										
1. Total Pension Liability (Discount Rate)	11,844,481	12,535,121	12,677,941	12,959,280	12,669,005	12,795,851	13,305,155	13,383,694	13,356,965	12,194,120
2. Total Pension Liability (Discount Rate + 1%)	10,917,146	11,541,799	11,665,900	11,894,295	11,649,082	11,758,976	12,173,866	12,221,245	12,196,693	11,188,942
3. Total Pension Liability (Discount Rate - 1%)	12,924,115	13,693,491	13,859,692	14,207,637	13,862,370	14,005,476	14,630,863	14,750,029	14,718,872	13,354,001

GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND

GOVERNMENT ACCOUNTING STANDARDS BOARD STATEMENT 68
FISCAL YEAR ENDING SEPTEMBER 30, 2025

Changes in the Net Pension Liability

	Total Pension Liability (a)	Plan Fiduciary Net Position (b)	Net Pension Liability (a) - (b)
A. Balances at Beginning of Period	12,535,121	11,014,523	1,520,598
B. Changes for the year			
1. Service Cost	20,305		20,305
2. Interest	660,373		660,373
3. Actuarial (Gain)/Loss	(274,024)		(274,024)
4. Plan Amendments	0		0
5. Assumption Changes	0		0
6. Contributions - Employer	0	443,444	(443,444)
7. Contributions - Employee	0	0	0
8. Net investment income	0	887,323	(887,323)
9. Benefit payments	(1,097,294)	(1,097,294)	0
10. Administrative expense	0	(9,500)	9,500
11. Other	0	0	0
12. Net Changes	<u>(690,640)</u>	<u>223,973</u>	<u>(914,613)</u>
C. Balances at End of Period	11,844,481	11,238,496	605,985
D. Sensitivity of Net Pension Liability			
1. NPL (Current Discount Rate)	11,844,481	11,238,496	605,985
2. NPL (Current Discount Rate + 1%)	10,917,146	11,238,496	(321,350)
3. NPL (Current Discount Rate - 1%)	12,924,115	11,238,496	1,685,619

GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND

GOVERNMENT ACCOUNTING STANDARDS BOARD STATEMENT 68
FISCAL YEAR ENDING SEPTEMBER 30, 2025

Pension Expense

A.	Service Cost	20,305
B.	Interest on Total Pension Liability	
	1. Total Pension Liability, beginning of year	12,535,121
	2. Service Cost	20,305
	3. Actual Distributions	1,097,294
	4. Net Total Pension Liability	12,006,779
	(1 + 2 - .5*3)	
	5. Interest on Total Pension Liability	660,373
C.	Employee Contributions	0
D.	Projected Earnings on pension plan investments	
	1. Assets, Beginning of Year	11,014,523
	2. Expected Distributions, weighted	558,839
	3. Expected Contributions, weighted	182,176
	4. Average Assets (1 + 2 + 3)	10,637,860
	5. Projected Earnings on pension plan investments	585,082
E.	Amortization of Changes in fiduciary net position	
	1. Actuarial Gain/Loss in Total Pension Liability	(275,234)
	2. Changes in Total Pension Liability due to Assumption Changes	25,748
	3. Gain/Loss of Expected Asset Return versus Actual Earnings	(319,723)
	4. Total Amortization included in Pension Expense	(569,209)
F.	Administrative Expense	20,000
G.	Changes in Benefit Terms	0
H.	Other changes in fiduciary net position	0
	Total Pension Expense	(453,613)
	A + B5 + C - D5 + E4 + F + G + H	

GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND

GOVERNMENT ACCOUNTING STANDARDS BOARD STATEMENT 68
FISCAL YEAR ENDING SEPTEMBER 30, 2026

Pension Expense - Estimated

A.	Service Cost	20,847
B.	Interest on Total Pension Liability	
	1. Total Pension Liability, beginning of year	11,844,480
	2. Service Cost	20,847
	3. Expected Distributions	1,049,580
	4. Net Total Pension Liability	11,340,537
	(1+ 2 - .5*3)	
	5. Interest on Total Pension Liability	623,730
C.	Employee Contributions	0
D.	Projected Earnings on pension plan investments	
	1. Assets, Beginning of Year	11,238,496
	2. Expected Distributions, weighted	535,290
	3. Expected Contributions, weighted	107,084
	4. Average Assets (1 - 2 + 3)	10,810,290
	5. Projected Earnings on pension plan investments	594,566
E.	Amortization of Changes in fiduciary net position	
	1. Actuarial Gain/Loss in Total Pension Liability	0
	2. Changes in Total Pension Liability due to Assumption Changes	0
	3. Gain/Loss of Expected Asset Return versus Actual Earnings	(25,223)
	4. Total Amortization included in Pension Expense	(25,223)
F.	Administrative Expense	21,000
G.	Changes in Benefit Terms	0
H.	Other changes in fiduciary net position	0
	Total Pension Expense	45,788
	A + B5 + C - D5 + E4 + F + G + H	

GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND

GOVERNMENT ACCOUNTING STANDARDS BOARD STATEMENT 68
FISCAL YEAR ENDING SEPTEMBER 30, 2025

Differences between Projected and Actual Earnings on Pension Investments

A. Plan Assets at Fair Value at End of Year	\$ 11,238,496
B. Actual Disbursements	
1. Participants	1,097,294
2. Administrative Expenses	9,500
3. Transfers to Other Plans	0
4. Settlements/Curtailments	0
5. Total Disbursements	1,106,794
C. Actual Receipts	
1. Employer Contributions	443,444
2. Participant Contributions	0
3. Transfers from Other Plans	0
4. Total Receipts	443,444
D. Plan Assets at Fair Value at Beginning of Year	11,014,523
E. Actual Return on Assets (A + B5 - C4 - D)	887,323
F. Expected Return	585,082
G. Asset (Gain) or Loss (F - E)	\$ (302,241)

GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND

GOVERNMENT ACCOUNTING STANDARDS BOARD STATEMENT 68
FISCAL YEAR ENDING SEPTEMBER 30, 2025

Determination of Actuarial Liability (Gains)/Losses

A. Total Pension Liability - Beginning of Period	12,535,121
B. Changes for the year	
1. Service Cost	20,305
2. Interest on BoY liability and service cost	690,548
3. Actual benefit payments with interest	(1,127,470)
4. Other	
5. Net Changes	<u>(416,617)</u>
C. Total Pension Liability - Expected End of Period	12,118,504
D. Actuarial Experience	
1. Expected End of Period	12,118,504
2. Actual End of Period before Amendment/Change in Assumptions	11,844,480
3. Difference between Expected and Actual Experience	(274,024)
E. Plan Amendment	
1. Actual End of Period before Amendment	11,844,480
2. Actual End of Period after Amendment	11,844,480
3. (Gain)/Loss due to Amendment	0
F. Change in Assumptions	
1. Actual End of Period before Change in Assumptions	11,844,480
2. Actual End of Period after Change in Assumptions	11,844,480
3. (Gain)/Loss	0
G. Final End of Period	11,844,480

GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND

GOVERNMENT ACCOUNTING STANDARDS BOARD STATEMENT 68
FISCAL YEAR ENDING SEPTEMBER 30, 2025

Schedule of Differences between Expected and Actual Experience

Valuation Date	Original Base	Amortization Period	09/30/2024 Outstanding Balance	09/30/2025 Amortization	09/30/2025 Outstanding Balance
09/30/2014	288,977	3.380	0	0	0
09/30/2015	294,499	3.035	0	0	0
09/30/2016	562,872	2.517	0	0	0
09/30/2017	84,157	2.398	0	0	0
09/30/2018	122,551	2.229	0	0	0
09/30/2019	135,365	2.137	0	0	0
09/30/2020	34,175	1.323	0	0	0
09/30/2021	140,993	1.360	0	0	0
09/30/2022	83,298	1.401	0	0	0
09/30/2023	169,578	1.170	0	0	0
09/30/2024	(12,845.00)	1.104	(1,210)	(1,210)	0

Total Prior	(1,210)	(1,210)	0
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New Base Amortization Base	
Date Created	09/30/2025
Amortization Base	(274,024)
Amortization Period	1.000
Annual Amortization Amount	(274,024)
Total at September 30, 2025	0
Deferred Outflows at September 30, 2025	0
Deferred Inflows at September 30, 2025	0
Next Year Amortization	0

GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND

GOVERNMENT ACCOUNTING STANDARDS BOARD STATEMENT 68
FISCAL YEAR ENDING SEPTEMBER 30, 2025

Schedule of Differences between Projected and Actual Earnings on Pension Investments

Date	Original Base	Amortization Period	09/30/2024 Outstanding Balance	09/30/2025 Amortization	09/30/2025 Outstanding Balance
09/30/2014	25,639	5.000	0	0	0
09/30/2015	1,353,267	5.000	0	0	0
09/30/2016	(396,988)	5.000	0	0	0
09/30/2017	(714,326)	5.000	0	0	0
09/30/2018	(16,628)	5.000	0	0	0
09/30/2019	446,752	5.000	2	2	0
09/30/2020	50,932	5.000	10,188	10,186	2
09/30/2021	(1,523,439)	5.000	(304,687)	(304,687)	0
09/30/2022	2,303,844	5.000	921,537	460,769	460,768
09/30/2023	(738,797)	5.000	(443,279)	(147,759)	(295,520)
09/30/2024	(1,388,932)	5.000	(1,111,146)	(277,786)	(833,360)
					-
					-
Total Prior			(927,384)	(259,275)	(668,110)

New Base Amortization Base	
Date Created	09/30/2025
Amortization Base	(302,241)
Amortization Period	5.000
Annual Amortization Amount	(60,448)
Total at September 30, 2025	(909,903)
Deferred Outflows at September 30, 2025	460,770
Deferred Inflows at September 30, 2025	(1,370,673)
Next Year Amortization	(25,223)

GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND

GOVERNMENT ACCOUNTING STANDARDS BOARD STATEMENT 68
FISCAL YEAR ENDING SEPTEMBER 30, 2025

Schedule of Changes in Assumptions

Valuation Date	Original Base	Recognition Period	09/30/2024 Outstanding Balance	09/30/2025 Amortization	09/30/2025 Outstanding Balance
09/30/2016	209,885	2.517	0	0	0
09/30/2017	138,141	2.398	0	0	0
09/30/2018	0	0.000	0	0	0
09/30/2019	(25,936)	2.137	0	0	0
09/30/2020	(201,472)	1.323	0	0	0
09/30/2021	24,327	1.360	0	0	0
09/30/2022	553,073	1.401	0	0	0
09/30/2023	(62,266)	1.170	0	0	0
09/30/2024	273,321	1.104	25,748	25,748	0

Total Prior	25,748	25,748	0
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New Base Amortization Base	
Date Created	09/30/2025
Amortization Base	0
Amortization Period	1.000
Annual Amortization Amount	0
Total at September 30, 2025	0
Deferred Outflows at September 30, 2025	0
Deferred Inflows at September 30, 2025	0
Next Year Amortization	0

GOVERNMENT ACCOUNTING STANDARDS BOARD STATEMENT 68
FISCAL YEAR ENDING SEPTEMBER 30, 2025

Deferred Outflows and Inflows of Resources and Deferred Inflows of Resources Related to Pensions

	Deferred Outflows of Resources	Deferred Inflows of Resources
Differences between expected and actual experience	0	0
Net difference between projected and actual earnings on pension plan investments	460,770	1,370,673
Changes of Assumptions	0	0
Total	<u>460,770</u>	<u>1,370,673</u>

Amounts reported as deferred outflows and inflows of resources related to pensions will be recognized in pension expense as follows:

Year ended	
09/30/2026	(25,223)
09/30/2027	(485,993)
09/30/2028	(338,236)
09/30/2029	(60,450)
09/30/2030	(1)
Thereafter	0

GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND

GOVERNMENT ACCOUNTING STANDARDS BOARD STATEMENT 68
FISCAL YEAR ENDING SEPTEMBER 30, 2025

Deferred Outflows and Inflows of Resources Related to Pensions
Differences between expected and actual experience

				<u>Balances at September 30, 2025</u>	
<u>Fiscal Year Ending</u>	<u>Experience Loss (a)</u>	<u>Experience Gains (b)</u>	<u>Amounts recognized through September 30, 2025 (c)</u>	<u>Deferred Outflows of Resources (a) -(c)</u>	<u>Deferred Inflows of Resources (b) -(c)</u>
09/30/2014	288,977		288,977	0	
09/30/2015	294,499		294,499	0	
09/30/2016	562,872		562,872	0	
09/30/2017	84,157		84,157	0	
09/30/2018	122,551		122,551	0	
09/30/2019	135,365		135,365	0	
09/30/2020	34,175		34,175	0	
09/30/2021	140,993		140,993	0	
09/30/2022	83,298		83,298	0	
09/30/2023	169,578		169,578	0	
09/30/2024		(12,845)	(12,845)		0
09/30/2025		(274,024)	(274,024)		0
				<u>0</u>	<u>0</u>

GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND

GOVERNMENT ACCOUNTING STANDARDS BOARD STATEMENT 68
FISCAL YEAR ENDING SEPTEMBER 30, 2025

Deferred Outflows and Inflows of Resources Related to Pensions
Net difference between projected and actual earnings on plan investments

Fiscal Year Ending	Experience Loss (a)	Experience Gains (b)	Amounts recognized through September 30, 2025 (c)	Balances at September 30, 2025	
				Deferred Outflows of Resources (a) -(c)	Deferred Inflows of Resources (b) -(c)
09/30/2014	25,639		25,639	0	
09/30/2015	1,353,267		1,353,267	0	
09/30/2016		(396,988)	(396,988)		0
09/30/2017		(714,326)	(714,326)		0
09/30/2018		(16,628)	(16,628)		0
09/30/2019	446,752		446,752	0	
09/30/2020	50,932		50,930	2	
09/30/2021		(1,523,439)	(1,523,439)		0
09/30/2022	2,303,844		1,843,076	460,768	
09/30/2023		(738,797)	(443,277)		(295,520)
09/30/2024		(1,388,932)	(555,572)		(833,360)
09/30/2025		(302,241)	(60,448)		(241,793)
				<u>460,770</u>	<u>(1,370,673)</u>

GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND

GOVERNMENT ACCOUNTING STANDARDS BOARD STATEMENT 68
FISCAL YEAR ENDING SEPTEMBER 30, 2025

Deferred Outflows and Inflows of Resources Related to Pensions
Changes of Assumptions

Fiscal Year Ending	Increase in TPL (a)	Decrease in TPL (b)	Amounts recognized through September 30, 2025 (c)	Balances at September 30, 2025	
				Deferred Outflows of Resources (a) -(c)	Deferred Inflows of Resources (b) -(c)
09/30/2016	209,885		209,885	0	
09/30/2017	138,141		138,141	0	
09/30/2018					
09/30/2019		(25,936)	(25,936)		0
09/30/2020		(201,472)	(201,472)		0
09/30/2021	24,327		24,327	0	
09/30/2022	553,073		553,073	0	
09/30/2023		(62,266)	(62,266)		0
09/30/2024	273,321		273,321	0	
09/30/2025			0		
				<u>0</u>	<u>0</u>

GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND

ASSUMPTIONS AND METHODS
GOVERNMENTAL ACCOUNTING STANDARDS BOARD STATEMENTS 67 & 68
FISCAL YEAR ENDING SEPTEMBER 30, 2025

	Beginning	Ending
Discount Rate	5.50%	5.50%
Investment Rate of Return	5.50%	5.50%
Salary Increases, including inflation	7.00%/3.00%	7.00%/3.00%
Inflation	3.00%	3.00%
Mortality	Non-Disabled (pre and post-retirement)	
	Male	Pub 2010 Headcount Weighted General Healthy Retiree Male Table, set back 1 year, projected generationally with MP-2021
	Female	Pub 2010 Headcount Weighted General Healthy Retiree Female Table, projected generationally with MP-2021
	Disabled Retiree	
	Male	Pub-2010 Headcount Weighted General Disabled Retiree Male Table, set forward 4 years, projected generationally with MP-2021
	Female	Pub-2010 Headcount Weighted General Disabled Retiree Female Table, set forward 4 years, projected generationally with MP-2021
Termination Rates	None	
Disability Rates	None	
Retirement Rates	100% at age 65	

GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND

ASSUMPTIONS AND METHODS
GOVERNMENTAL ACCOUNTING STANDARDS BOARD STATEMENTS 67 & 68
FISCAL YEAR ENDING SEPTEMBER 30, 2025

Changes in Assumptions, other than discount rate or expected long term rate of return:

None.

GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND

GOVERNMENT ACCOUNTING STANDARDS BOARD STATEMENT 67 AND 68
FISCAL YEAR ENDING SEPTEMBER 30, 2025

Summary of Plan Specifications

Plan Effective Date	March 1, 1975
Plan Year	October 1 to September 30
Eligibility	Attainment of age 21 and one Year of Service. See Plan document for exceptions.
Credited Service	Measured on Elapsed Time from Date of Hire to the earlier of Date of Termination or September 30, 2009, determined in whole years and completed months.
Normal Retirement	Age 65 or, if later, the 5th anniversary of participation in the plan. 3% (2% for Participants with Termination Dates on or before October 1, 1991) of the Participant's Average Earnings multiplied by the Participant's total years of Credited Service.
Reduced Early Retirement	Age 55 and completion of 10 years of Credited Service. Normal Retirement Benefit reduced by 1/15th per year for the first five years and 1/30th per year for the next five years that the Early Retirement Date precedes the Normal Retirement Date.
Unreduced Early Retirement	Age 55 and completion of 25 years of Credited Service. Normal Retirement Benefit unreduced for Early Retirement.
Amendment during October 1, 2015 through September 30, 2016 Plan Year	Plan Amended to allow Unreduced Retirement at age 55 for three participants if terminated by September 30, 2016.
Disability Retirement	Total and Permanent Disability during active employment with the Plan Sponsor and completion of five or more Years of Credited Service. The monthly Single Life Annuity shall be equal to 2/3rds of the Accrued Benefit as of such Disability Retirement Date, payable up to the participant's Normal Retirement Date.
Death Benefit	Completion of five or more years of Credited Service. Life Annuity payable to spouse of married participant. No death benefits are payable to unmarried participants. Calculated as if the participant had survived until their Earliest Retirement Date, elected the Joint and 50% Survivor option and died the next day.

GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND

GOVERNMENT ACCOUNTING STANDARDS BOARD STATEMENT 67 AND 68
FISCAL YEAR ENDING SEPTEMBER 30, 2025

Summary of Plan Specifications

Vested Termination	Completion of five or more years of Credited Service. Accrued Benefit payable at Normal Retirement.
Normal Form of Payment	Five Year Certain and Life
Plan Freeze Date	September 30, 2009 No New Entrants No Credited Service granted for any purpose other than Vesting, except for Special Circumstance Participants.
Special Circumstance Participant	Fourteen employees who were within 5.5 years of age 65 or age 55 with 25 years of Credited Service as of September 30, 2009. These participants will continue to earn Credited Service toward eligibility for a Normal Retirement pension or the unreduced Early Retirement pension.

Group Retirement Plan for the Employees of the Town of Jupiter Island

Actuarial Valuation Report

as of October 1, 2025

For the Plan Year
October 1, 2025 - September 30, 2026

GROUP RETIREMENT PLAN FOR THE EMPLOYEES OF THE TOWN OF JUPITER ISLAND

Actuarial Certification October 1, 2025

This report documents the results of the October 1, 2025 actuarial valuation of the Group Retirement Plan for the Employees of the Town of Jupiter Island ("Plan"). The primary purpose of the actuarial valuation is to measure the Plan's funding progress and determine Employer contributions for the Plan Year.

Determinations for purposes other than the funding requirements may be significantly different from the results reported herein. The use of this report for other than its intended purposes may not be appropriate.

We relied upon participant data supplied by Town of Jupiter Island ("Sponsor"). We reviewed the participant data for internal consistency and reasonableness and have no reason to doubt its substantial accuracy. The Sponsor is solely responsible for the validity and completeness of this information.

This valuation has been conducted in accordance with generally accepted actuarial principles and practices, including the applicable Actuarial Standards of Practice as issued by the Actuarial Standards Board.

Where options in assumptions and methods were available, we discussed such options with the Sponsor. In our opinion, unless otherwise mentioned on the cover letter, each significant actuarial assumption and method takes into account the reasonable expectations of the plan. The actuarial assumptions and methods are described in the Actuarial Assumptions exhibit of this report.

A valuation model was used to develop the liabilities for the plan. The valuation model relies on ProVal software, which was developed by Winklevoss Technologies, LLC. Experts within FuturePlan by Ascensus selected this software and determined it is appropriate for performing this valuation. We coded and reviewed the software for the provisions, assumptions, methods, and data of the Plan as outlined in this actuarial report.

Low Default Risk Obligation Measure (LDROM) - The purpose of this measurement is to illustrate the liability measured using interest rates based on low default fixed income securities and an immediate gain funding method. Plan provisions and other assumptions are the same as denoted elsewhere in this report. For purposes of determining the Discount Rate to use in determining the LDROM, we used the FTSE Pension Discount Curve in effect on the day before the valuation date. The resulting Discount Rate is 5.10%. Using this Discount Rate, the LDROM is \$12,410,900.

The undersigned is a Member of the American Academy of Actuaries and other actuarial organizations and meets the Qualification Requirements of the American Academy of Actuaries to render the actuarial opinion contained herein.

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

**Actuarial Certification
October 1, 2025**

Thus, in our opinion, the actuarial valuation report presents fairly the actuarial position of the Plan as of the actuarial valuation date. We are available to answer any questions on the material contained in this report, or to provide any further information or exhibits as requested.

We are not aware of any direct or material indirect financial interest or relationship, including investments or other services that could create a conflict of interest that would impair the objectivity of our work.

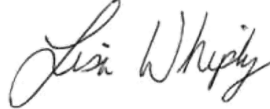
Respectfully submitted
FuturePlan by Ascensus

Certified By:



Brian R. West, EA, FSA, MSEA, FCA, MAAA
Enrollment Number 23-07202

Prepared by:



Lisa Whipkey
Senior Actuarial Analyst

November 17, 2025

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

**Actuarial Valuation Report
October 1, 2025**

ACTUARIAL VALUATION SUMMARY	Page
Summary of Basic Results	1
Schedule of Contributions	2
 ACTUARIAL RESULTS	
Actuarial Amortizations	3
Reconciliation of Unfunded Actuarial Accrued Liability	4
Reconciliation of Funding Standard Account	5
Accumulated/Projected Plan Benefits	6
Normal Cost by Decrement	7
 PLAN AND VALUATION DATA	
Reconciliation of Participant Status	8
Summary of Census Data	9
Reconciliation of Market Value of Assets	10
Actuarial Value of Assets	11
Actuarial Value of Assets, Market Value of Assets and Present Value of Benefits	12
Asset Rate of Return Analysis - Market Value of Assets	13
Assumptions and Methods	14
Summary of Plan Provisions	16
 ADDITIONAL DISCLOSURES	
Pension Plan Risk Measurements	18
Pension Plan Risk Definitions	19
Other Disclosures Required by Florida Administrative Code 60T-1.003	21
Active Participant Age-Service Distribution	22

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

Summary of Basic Results

	October 1, 2024	October 1, 2025
A. Number of Participants	65	64
B. Market Value of Assets	\$11,014,523	\$11,238,496
Actuarial Value of Assets	\$10,193,631	\$10,305,850
C. Active Participant Valuation Salary	778,153	749,915
D. Minimum Contribution Requirements		
1. Normal Cost	20,305	20,847
2. Net Amortization of Changes in UAAL	408,599	255,090
3. Beginning of Year Contribution (1 + 2)	428,904	275,937
4. End of Year Contribution (adjusted for timing of deposits)	443,444	285,296
5. End of Year Contribution, if using credit balance	0	0
E. Change in Contribution due to Change in Assumptions		
	Before	After
1. Normal Cost	20,847	20,847
2. Net Amortization of Changes in UAAL	255,090	255,090
3. Beginning of Year Contribution (1 + 2)	275,937	275,937
4. End of Year Contribution (adjusted for timing of deposits)	285,295	285,296
5. End of Year Contribution, if using credit balance	0	0

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

**Schedule of Contributions
October 1, 2025**

<u>Deposits for the 2025 Plan Year</u>	<u>Expected Date</u>	<u>Amount</u>
First Quarterly	12/31/2025	71,324.00
Second Quarterly	03/31/2026	71,324.00
Third Quarterly	06/30/2026	71,324.00
Fourth Quarterly	09/30/2026	71,324.00
Total Deposits Due for the 2025 Plan Year		285,296.00

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

**Actuarial Amortizations
October 1, 2025**

Date	Source	Original UAAL Amount	Current UAAL		
			Years	Remaining Amount	Payment
10/01/1991	Plan Amendment	701,873	0.0	0	0
10/01/1991	Assumption Change	(141,695)	0.0	0	0
10/01/1993	Assumption Change	61,923	0.0	0	0
10/01/1993	Plan Amendment	(94,914)	0.0	0	0
10/01/1995	Assumption Change	173,768	0.0	0	0
10/01/1998	Assumption Change	725,042	3.0	145,045	50,958
10/01/1999	Assumption Change	80,826	4.0	20,898	5,652
10/01/2005	Assumption Change	(517,730)	10.0	(279,765)	(35,181)
10/01/2006	Plan Amendment	362,698	11.0	209,523	24,541
10/01/2008	Assumption/Method Change	(618,885)	13.0	(399,453)	(41,530)
10/01/2009	Plan Freeze	(5,672,030)	14.0	(3,835,442)	(379,106)
10/01/2009	Plan Amendment	687,623	14.0	464,971	45,959
10/01/2012	Assumption Change	1,041,917	17.0	789,319	68,863
10/01/2016	FRS Mortality	211,335	11.0	144,524	16,928
10/01/2016	ERIP	536,779	21.0	456,803	35,273
10/01/2017	Salary Scale Change	138,141	2.0	34,181	17,549
10/01/2017	Funding Method Change	6,148,463	17.0	5,015,503	437,570
10/01/2018	Experience (Gain)/Loss	144,616	0.0	0	0
10/01/2019	FRS Mortality Revision	(25,937)	14.0	(20,912)	(2,067)
10/01/2019	Experience (Gain)/Loss	246,247	0.0	0	0
10/01/2020	Experience (Gain)/Loss	134,813	0.0	0	0
10/01/2020	FRS Mortality Revision	(201,472)	15.0	(169,752)	(16,030)
10/01/2021	Experience (Gain)/Loss	(75,241)	1.0	(16,739)	(16,739)
10/01/2021	Assumption Change	24,327	16.0	21,329	1,933
10/01/2022	Experience (Gain)/Loss	364,274	2.0	157,500	80,857
10/01/2022	Assumption Change to 5.5%	553,073	17.0	502,822	43,868
10/01/2023	Experience (Gain)/Loss	265,435	3.0	167,700	58,918
10/01/2023	Salary Scale Change	(62,266)	8.0	(52,328)	(7,830)
10/01/2024	Experience (Gain)/Loss	(207,557)	4.0	(170,368)	(46,071)
10/01/2024	FRS Mortality Revision	273,322	19.0	265,483	21,679
10/01/2025	Experience (Gain)/Loss	(499,637)	5.0	(499,637)	(110,904)
		4,759,131		2,951,205	255,090

Expected Amortization payments for the next three years

Plan Year

10/01/2026	271,827
10/01/2027	173,424
10/01/2028	63,549

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

**Reconciliation of Unfunded Actuarial Accrued Liability
October 1, 2025**

	October 1, 2024	October 1, 2025
A. Expected Unfunded Actuarially Accrued Liability		
1. Prior Year Unfunded Actuarially Accrued Liability	2,597,078	2,341,490
2. Prior Year Normal Cost	18,487	20,305
3. Prior Year Contribution	475,000	443,444
4. Interest at the Assumed Rate		
a. Prior Unfunded Liability and Normal Cost	143,853	129,896
b. Prior Contributions	8,693	9,979
5. Change in Assumptions/Funding Method	273,322	0
6. Expected Unfunded Liability	2,549,047	2,038,268
7. This Year's Unfunded Actuarially Accrued Liability	2,341,490	1,538,631
8. Experience (Gain)/Loss	(207,557)	(499,637)
B. Reconciliation of Unfunded Liability to Amortization Bases		
1. Total Unfunded Actuarially Accrued Liability Bases	3,679,542	2,951,205
2. Credit Balance	1,338,052	1,412,574
3. Total Unfunded Actuarially Accrued Liability	2,341,490	1,538,631
C. Calculation of Unfunded Liability		
1. Total Actuarially Accrued Liability (EAN, level %)	12,535,121	11,844,481
2. Actuarial Value of Assets	10,193,631	10,305,850
3. Total Unfunded Actuarially Accrued Liability	2,341,490	1,538,631

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

**Reconciliation of Funding Standard Account
October 1, 2025**

	October 1, 2024	October 1, 2025
A. Total Charges		
1. Prior Year Funding Deficiency	0	0
2. Last Year's Normal Cost	18,487	20,305
3. Total Amortization Charges at Beginning of Year	986,496	953,151
4. Interest at the Assumed Rate on:		
a. 1, 2 and 3 for one year	55,274	53,540
5. Total Charges	1,060,257	1,026,996
B. Total Credits		
6. Prior Year Credit Balance	1,316,321	1,338,052
7. Prior Year Employer Contributions	475,000	443,444
8. Total Amortization Credits at Beginning of Year	498,481	544,552
9. Interest at the Assumed Rate on:		
a. 6 and 8 for one year	99,814	103,543
b. 7 from dates paid	8,693	9,979
10. Total Credits	2,398,309	2,439,570
C. Credit Balance/(Funding Deficiency): 10 minus 5	1,338,052	1,412,574

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

**Accumulated/Projected Plan Benefits
October 1, 2025**

A. Actuarial Present Value of Accrued Benefits	October 1, 2024	October 1, 2025
1. Active Members (by decrement)		
a. Retirement	611,063	624,870
b. Termination	0	0
c. Disability	0	0
d. Mortality	9,840	9,271
e. Return of Employee Contributions	0	0
f. Total	620,903	634,141
2. Retirees	10,728,782	9,967,552
3. Beneficiaries receiving benefits	542,011	539,017
4. Disability Retirees	221,778	218,874
5. Deferred Vested Members	609,040	653,046
6. Total	12,722,514	12,012,630
B. Market Value of Assets	11,014,523	11,238,496
C. Unfunded Present Value of Accrued Benefits	1,707,991	774,134
D Changes in Present Value of Accrued Benefits		
1. Prior Year Present Value	12,868,467	12,722,514
a. Decrease in discount period at 5.50%	677,788	669,563
b. Benefits Paid	(1,090,109)	(1,097,294)
c. Assumption Changes	278,752	0
d. Plan Amendments	0	0
e. Additional benefits earned	0	0
f. Experience Gains and Losses	(12,384)	(282,153)
2. Total Changes	(145,953)	(709,884)
3. Present Value	12,722,514	12,012,630

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

**Normal Cost by Decrement
October 1, 2025**

A. Actuarial Present Value of Accrued Benefits	October 1, 2024	October 1, 2025
1. Active Members (by decrement)		
a. Retirement	19,796	20,324
b. Termination	0	0
c. Disability	0	0
d. Mortality	509	523
e. Return of Employee Contributions	0	0
f. Total	20,305	20,847

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

**Reconciliation of Participant Status
October 1, 2025**

	Active	Vested Deferred	Receiving Benefits	Total
A. Participant Count as of October 1, 2024:	6	13	46	65
1. Retired	0	0	0	0
2. Non-Vested	0	0	0	0
3. Vested Deferred	(1)	1	0	0
4. Death with Beneficiary	0	0	(1)	(1)
5. Death without Beneficiary	0	0	(1)	(1)
6. Benefits Ceased	0	0	0	0
7. Paid Lump Sum	0	0	0	0
8. Beneficiary Receiving	0	0	1	1
9. New Participants	0	0	0	0
10. Rehire	0	0	0	0
11. Other - New DV Beneficiaries	0	0	0	0
B. Net Change During the Year	(1)	1	(1)	(1)
C. Participant Count as of October 1, 2025:	5	14	45	64

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

**Summary of Census Data
October 1, 2025**

	October 1, 2024	October 1, 2025
A. Active Members		
1. Number	6	5
2. Covered Annual Payroll	778,153	749,915
3. Average Annual Payroll	129,692	149,983
4. Average Age	52.9	53.8
5. Average Past Total Service	18.1	20.2
6. Average Past Benefit Service	7.1	8.2
7. Average Age at Hire	30.8	29.6
B. Retirees and Beneficiaries		
1. Number	45	44
2. Annual Benefits	1,081,703	1,034,271
3. Average Annual Benefit	24,038	23,506
4. Average Age	70.8	71.2
C. Disability Retirees		
1. Number	1	1
2. Annual Benefits	15,591	15,591
3. Average Annual Benefit	15,591	15,591
4. Average Age	62.2	63.2
D. Deferred Vested Participants		
1. Number	13	14
2. Annual Benefits	86,252	89,464
3. Average Annual Benefit	6,635	6,390
4. Average Age	55.1	56.0

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

**Reconciliation of Market Value of Assets
October 1, 2025**

A. Assets:	October 1, 2024	October 1, 2025
1. Mutual Funds	10,474,095.45	10,572,837.09
2. Cash (Interest and Non-Interest Bearing)	0.00	0.00
3. Variable Rate Money Market Sweep	540,427.88	664,132.18
4. Accrued Income	0.00	1,526.96
5. Contribution Receivable	0.00	0.00
6. October Benefits Paid in September	0.00	0.00
7. Total Assets	11,014,523.33	11,238,496.23
B. Prior Year Assets	9,747,658.66	11,014,523.33
C. Employer Contributions for the Prior Plan Year		
1. Deposited during the year	593,750.00	443,444.00
2. Receivables for the year preceding the prior year	118,750.00	0.00
3. Receivables for the prior year	0.00	0.00
4. Total contributions for the prior plan year	475,000.00	443,444.00
D. Investment Income:		
1. Mutual Fund Dividends	342,710.69	501,099.81
2. Realized and Unrealized Gain (Loss) on MF	1,548,504.14	372,547.88
3. Revenue Sharing	0.00	0.00
4. Money Market Sweep Interest	12,366.68	19,510.68
5. Transfers	0.00	0.00
6. Other	0.00	0.00
7. Change in Accrued Income	0.00	1,526.96
8. Total Investment Income:	1,903,581.51	894,685.33
E. Expenses:		
1. Lump Sum Benefit Payments	0.00	0.00
2. Returned Checks/ACH Reject	0.00	0.00
3. October Benefits paid in September	0.00	0.00
4. Monthly Benefit Payments	1,090,109.48	1,097,294.16
5. Trustee/Custodian Expenses	7,127.36	7,362.27
6. Actuarial Expenses	14,480.00	9,500.00
7. Total Expenses:	1,111,716.84	1,114,156.43
F. Assets	11,014,523.33	11,238,496.23

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

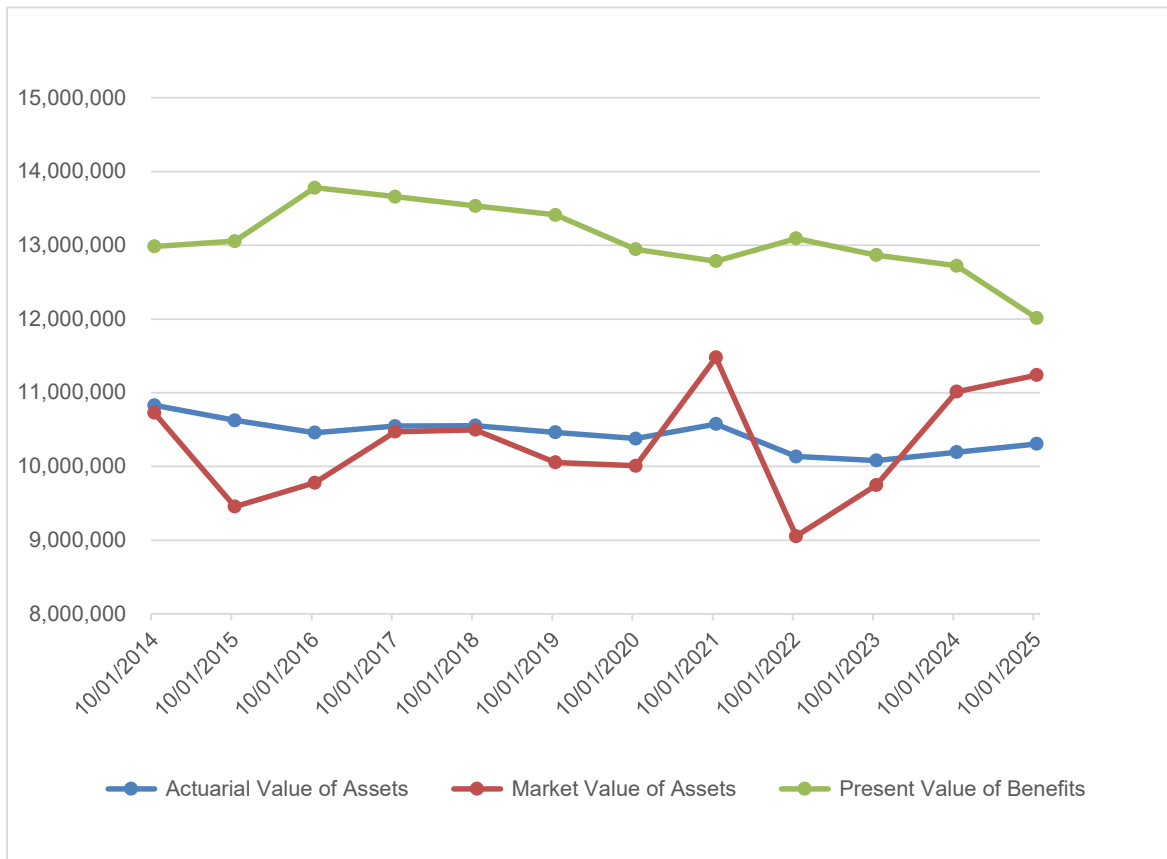
**Actuarial Value of Assets
October 1, 2025**

	October 1, 2024	October 1, 2025
A. Beginning of Year Assets		
1. Market Value	9,747,659	11,014,523
2. Actuarial Value	10,080,863	10,193,631
B. End of Year Market Value of Assets	11,014,523	11,238,496
C. Net of Contributions and Distributions		
1. Contributions	475,000	443,444
2. Distributions	(1,104,589)	(1,106,794)
3. Net (C2 + C1)	(629,589)	(663,350)
D. Actual Net Investment Earnings	1,896,454	887,323
E. Expected Investment Earnings	537,134	542,408
F. Expected Actuarial Value of Assets (A2 + C3 + E)	9,988,408	10,072,688
G. Market Value minus Expected Actuarial Value (B - F)	1,026,116	1,165,808
H. 20% of Difference	205,223	233,162
I. Actuarial Value of Assets		
1. Actuarial Value (F + H)	10,193,631	10,305,850
2. 80% of Market Value	8,811,619	8,990,797
3. 120% of Market Value	13,217,428	13,486,195
4. Final Actuarial Value	10,193,631	10,305,850

The Actuarial Value of Assets phase in the difference between the expected actuarial value and actual market value of assets at the rate of 20% per year. The final Actuarial Value of Assets must fall within a corridor that is within 20% of the Market Value of Assets.

GROUP RETIREMENT PLAN FOR THE EMPLOYEES OF THE TOWN OF JUPITER ISLAND

Actuarial Value of Assets, Market Value of Assets and Present Value of Benefits October 1, 2025



Date	Actuarial Value of Assets	Market Value of Assets	Present Value of Benefits	Comment
10/01/2014	10,828,734	10,729,207	12,984,708	Newport Takeover of Actuarial
10/01/2015	10,626,037	9,455,807	13,056,936	
10/01/2016	10,457,395	9,779,411	13,780,540	Mortality Tables updated to match FRS funding assumptions, and ERIP
10/01/2017	10,546,956	10,470,590	13,659,470	
10/01/2018	10,553,964	10,498,507	13,533,638	
10/01/2019	10,462,872	10,055,741	13,412,528	
10/01/2020	10,377,939	10,009,719	12,944,909	Mortality Tables updated to match updated FRS funding assumptions
10/01/2021	10,574,855	11,478,373	12,785,473	Remove Turnover and Disability Decrements
10/01/2022	10,135,797	9,053,321	13,093,247	Interest Rate change from 6.00% to 5.50%
10/01/2023	10,080,863	9,747,659	12,868,467	Change in Salary Scale for expected temporary increases
10/01/2024	10,193,631	11,014,523	12,722,514	
10/01/2025	10,305,850	11,238,496	12,012,630	

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

**Asset Rate of Return Analysis - Market Value of Assets
October 1, 2025**

<u>Plan Year Ending</u>	<u>Rate of Return</u>	<u>3-Year Average</u>	<u>4-Year Average</u>	<u>5-Year Average</u>
09/30/2025	8.39%	14.13%	6.03%	9.03%
09/30/2024	20.41%	5.25%	9.19%	8.50%
09/30/2023	13.90%	5.69%	5.72%	4.88%
09/30/2022	-14.99%	3.12%	2.74%	3.42%
09/30/2021	21.94%	9.44%	8.62%	9.61%
09/30/2020	5.79%	4.51%	6.73%	7.43%
09/30/2019	1.60%	7.04%	7.85%	4.69%
09/30/2018	6.20%	10.01%	5.47%	5.63%
09/30/2017	13.66%	5.23%	5.48%	6.91%
09/30/2016	10.31%	2.89%	5.28%	7.82%
09/30/2015	-7.05%	3.66%	7.21%	5.26%
09/30/2014	6.23%	12.43%	8.58%	8.44%
09/30/2013	12.80%	9.37%	9.00%	7.13%
09/30/2012	18.60%	7.77%	5.76%	3.79%
09/30/2011	-2.20%	1.79%	0.39%	2.65%
09/30/2010	7.90%	1.27%	3.90%	4.33%
09/30/2009	-0.05%	2.60%	3.46%	5.04%
09/30/2008	-3.70%	4.66%	6.35%	6.16%
09/30/2007	12.20%	9.93%	8.78%	9.04%
09/30/2006	6.10%	7.66%	8.27%	6.28%
09/30/2005	11.60%	9.00%	6.33%	4.16%
09/30/2004	5.40%	4.63%	2.37%	2.93%
09/30/2003	10.10%	1.39%	2.33%	3.03%
09/30/2002	-1.30%	-0.14%	1.34%	2.25%
09/30/2001	-4.10%	2.23%	3.16%	3.74%
09/30/2000	5.20%	5.70%	5.80%	5.94%
09/30/1999	5.90%	6.00%	6.12%	6.30%
09/30/1998	6.00%	6.20%	6.40%	6.56%
09/30/1997	6.10%	6.53%	6.70%	6.96%
09/30/1996	6.50%	6.90%	7.17%	7.42%
09/30/1995	7.00%	7.40%	7.65%	7.82%
09/30/1994	7.20%	7.87%	8.02%	8.02%
09/30/1993	8.00%	8.30%	8.22%	NA
09/30/1992	8.40%	8.30%	NA	NA
09/30/1991	8.50%	NA	NA	NA
09/30/1990	8.00%	NA	NA	NA

Rates of return for plan Years ending September 30, 2013, going forward, were calculated as a Money Weighted Rate of Return.

GROUP RETIREMENT PLAN FOR THE EMPLOYEES OF THE TOWN OF JUPITER ISLAND

Assumptions and Methods October 1, 2025

Interest Rate	5.50%	
Salary Increases, including inflation	7.00%	plan years 2023 - 2025
	3.00%	2026 plan year forward
Actuarial Cost Method	Entry Age Normal, level percent of pay Under the Entry Age Normal Cost Method the Employer contribution is equal to Normal Cost plus amortization of changes to the Unfunded Entry Age Accrued Liability. Normal Cost is computed on an individual basis for all participants as follows: Projected benefits of each individual included in an actuarial valuation are allocated on a level basis over the earnings of the individual between entry age and assumed exit. The portion of this actuarial present value allocated to a valuation year is the normal cost. Entry Age Accrued liability is the accumulated value of the Normal Cost from the participant's entry age to the valuation date.	
Mortality	Non-Disabled (pre and post-retirement) Male Pub 2010 Headcount Weighted General Employee/Healthy Retiree Male Table, set back 1 year, projected generationally with MP-2021 Female Pub 2010 Headcount Weighted General Employee/Healthy Retiree Female Table, projected generationally with MP-2021 Disabled Retiree Male Pub-2010 Headcount Weighted General Disabled Retiree Male Table, set forward 4 years, projected generationally with MP-2021 Female Pub-2010 Headcount Weighted General Disabled Retiree Female Table, set forward 4 years, projected generationally with MP-2021	
Termination Rates	None	
Disability Rates	None	
Retirement Rates	Age 65, or immediately if beyond age 65	

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

**Assumptions and Methods
October 1, 2025**

Changes in Assumptions

None

Change in Method

None

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

**Summary of Plan Provisions
October 1, 2025**

Plan Effective Date	March 1, 1975
Plan Year	October 1 to September 30
Eligibility	Attainment of age 21 and one Year of Service. See Plan document for exceptions.
Credited Service	Measured on Elapsed Time from Date of Hire to the earlier of Date of Termination or September 30, 2009, determined in whole years and completed months.
Normal Retirement	Age 65 or, if later, the 5th anniversary of participation in the plan. 3% (2% for Participants with Termination Dates on or before October 1, 1991) of the Participant's Average Earnings multiplied by the Participant's total years of Credited Service.
Reduced Early Retirement	Age 55 and completion of 10 years of Credited Service. Normal Retirement Benefit reduced by 1/15th per year for the first five years and 1/30th per year for the next five years that the Early Retirement Date precedes the Normal Retirement Date.
Unreduced Early Retirement	Age 55 and completion of 25 years of Credited Service. Normal Retirement Benefit unreduced for Early Retirement.
Disability Retirement	Total and Permanent Disability during active employment with the Plan Sponsor and completion of five or more Years of Credited Service. The monthly Single Life Annuity shall be equal to 2/3rds of the Accrued Benefit as of such Disability Retirement Date, payable up to the participant's Normal Retirement Date.
Death Benefit	Completion of five or more years of Credited Service. Life Annuity payable to spouse of married participant. No death benefits are payable to unmarried participants. Calculated as if the participant had survived until their Earliest Retirement Date, elected the Joint and 50% Survivor option and died the next day.

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

**Summary of Plan Provisions
October 1, 2025**

Vested Termination	Completion of five or more years of Credited Service. Accrued Benefit payable at Normal Retirement.
Normal Form of Payment	Five Year Certain and Life
Plan Freeze Date	September 30, 2009 No new entrants. No Credited Service granted for any purpose other than Vesting, except for Special Circumstance Participants.
Special Circumstance Participant	Fourteen employees who were within 5.5 years of age 65 or age 55 with 25 years of Credited Service as of September 30, 2009. These participants will continue to earn Credited Service toward eligibility for a Normal Retirement pension or the unreduced Early Retirement pension.

GROUP RETIREMENT PLAN FOR THE EMPLOYEES OF THE TOWN OF JUPITER ISLAND

Pension Plan Risk Measurements October 1, 2025

Risk is the potential that actual future measurements deviate from expected future measurements that result from actual experience deviating from actuarially assumed experience. Please see the Appendix to this report for a general discussion on pension plan risk. This section of the report contains additional information that in the judgement of the actuary who has signed this document, a more detailed assessment should be provided.

Risk Measurements	2025	2024	2023
a. Ratio of retired liability to total accrued liability	82.98%	84.33%	82.82%
b. Ratio of market value of assets to exp benefit payments (years)	10.71	10.03	8.86
c. Ratio of benefit payments to contributions (cash basis)	218.98%	318.08%	269.21%
d. The duration of the actuarial accrued liability	9.07	9.31	9.20
e. Plan Asset Allocation	See plan asset statements		

Ratio of retired liability to total accrued liability - The larger this measure is, the more mature the plan is, and the less expected time there will be before the majority of benefits must be paid. The larger the measure, the less susceptible the plan may be to demographic and economic risks.

Ratio of market value of assets to benefit payments - is used as a predictor of the number of annual payments a plan can make with the current assets and rate of benefit payments. It is also useful for judging cash flow needs. The lower the number, the fewer years of benefit payments the current assets will support.

Ratio of benefit payments to contributions - a number over 100% indicates that the plan pays annual benefits greater than the contributions to the plan. Numbers over 100% indicate a negative cash flow.

Duration of actuarial liability - is another method of measuring the effects of interest rates on the plan liabilities. The smaller this number is, the less effect there will be from changing interest rates. A rough estimate is that for every 100 basis point change in interest rates, the liability changes in the opposite direction by the duration divided by 100. Duration is also the weighted average of time of future benefit payments which may also be used for assessing cash flow needs of the plan. This duration may be compared to the asset duration to assess asset/liability mismatch risk, see the Appendix for more risk assessment information. If the plan pays benefits with values based upon underlying interest rates, i.e. lump sums, this duration measurement does not include changes to those underlying interest rates.

Plan Asset Allocation - is used to assess the level of risk the underlying investment strategy may hold. Therefore, it is important to the Plan Sponsor to have regular discussions with the plan's investment advisor to ensure that the investment policy of the plan is designed to meet the goals of the Plan Sponsor to meet a specific liability and understand the volatility of the underlying asset returns as they relate to future required contribution levels and expected benefit payments.

Historical Funding Measures	2025	2024	2023
a. Normal Cost	20,847	20,305	18,487
b. Actuarially Determined Contribution	275,937	428,904	506,502
c. Present Value of Accrued Benefits	12,012,630	12,722,514	12,868,467
d. Market Value of Assets (Funding)	11,238,496	11,014,523	9,747,659
e. Funded Ratio	93.56%	86.58%	75.75%
f. Participant Count	64	65	66

If, in the judgement of the actuary who has signed this document, a specific risk should have a more detailed assessment, the actuary will communicate and discuss this issue in a separate document.

GROUP RETIREMENT PLAN FOR THE EMPLOYEES OF THE TOWN OF JUPITER ISLAND

Pension Plan Risk Definitions October 1, 2025

Risk is the potential that actual future measurements deviate from expected future measurements that result from actual experience deviating from actuarially assumed experience. Measuring pension obligations requires a set of assumptions. These assumptions may be set by law, determined by the actuary or, for some purposes, by the Plan Sponsor.

Inherent in these assumptions is the knowledge that future results will be different from the assumptions and the difference may be significant. For pension plans, the inherent risk of the deviance of actual experience from assumed experience is borne, solely, by the Plan Sponsor.

We have attempted to provide you, as the Plan Sponsor, with some assessment of the risk. If in the judgement of the actuary who has signed this actuarial valuation, a specific risk should have a more detailed assessment, the actuary will communicate and discuss this issue in a separate document.

Investment Risk - Your assets are expected to earn a certain return and it is generally understood that the assets may underperform, outperform or meet that rate. In general, if investment returns are lower than expected, future contributions will increase. If investment returns are higher than expected, future contributions will decrease.

It is important to the Plan Sponsor to have regular discussions with the plan's investment advisor to ensure that the investment policy of the plan is designed to meet the goals of the Plan Sponsor to meet a specific liability and understand the volatility of the underlying asset returns as they relate to future required contribution levels and expected benefit payments.

Longevity Risk - Longevity risk is the risk that participants will live longer than expected and receive a larger number of eventual benefits. In the case that plan participants outlive the mortality assumption, future contributions and liabilities will be higher than expected. In cases where plan participants die earlier than the mortality assumption expects, future liabilities and contributions will decrease.

Other Demographic Risks - There are various other demographic risks which may or may not apply to every plan. Common assumptions for demographics are the rate at which participants take early retirement, terminate employment or become disabled. If a plan offers subsidized early or disability benefits, early or disability retirements in excess of those assumed will increase the plan's liabilities and future contributions.

Asset/Liability Mismatch Risk - As part of the discussion with the investment advisor, the Plan Sponsor and the investment advisor should understand the nature of the expected future benefits of the plan (i.e. lump sums or annuities) along with the amounts of these expected future payments so that cash flow needs can be met.

Furthermore, assets may be invested in a manner such that, due to overall economic factors, plan assets decline while interest rates decrease (and liabilities increase). Without attention to this risk, the plan assets may not have the cash flow to be able to provide a large benefit payment when due.

Interest Rate Risk - This is the risk that future interest rates will be different than those assumed. This is important for many reasons:

1. Private plans are required to determine minimum funding liabilities and contributions based upon current corporate bond yield curves with a hybrid 25-year averaging.
2. PBGC premiums and lump sums payments subject to Internal Revenue Code 417(e) for private plans are based upon the same yield curves, without smoothing.
3. Plan assets may include investments which are more sensitive to changes in interest rates in the economy.

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

**Pension Plan Risk Definitions
October 1, 2025**

In general, increases in corporate bond yields will be reflected in lower liabilities and contribution requirements to the plan. The reverse is true, as shown by experience, that decreases in these yields will cause an increase in plan liabilities and contribution requirements.

Contribution Risk - This is the risk that the contributions to the plan will not be sufficient to cover liabilities. If contributions are not made, at least in an amount according to actuarial valuations, future contributions would be expected to increase, if all other assumptions are met.

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

**Other Disclosures Required by Florida Administrative Code 60T-1.003
October 1, 2025**

Events not taken into account None

Trends not assumed to continue No trend assumptions used

Amortization periods by type - current method

Type	Amortization period
Experience (Gain)/Loss	5
Assumption Changes that affect all participants	20
Assumption Changes that affect active participants only	10
Plan Amendments	20
Funding Method Change	20

Above are maximum amortization periods. At such time that the amortization period would exceed the average life expectancy of all participants (or average expected future service for active only changes), the amortization period will be rounded down to the next whole number.

Benefits not valued Disability

Expected Salary to Actual Salary comparison

Plan Year Ending	Expected	Actual
September 30, 2025	7.00%	-3.63%
September 30, 2024	7.00%	11.49%
September 30, 2023	7.00%	9.48%

**GROUP RETIREMENT PLAN FOR THE EMPLOYEES
OF THE TOWN OF JUPITER ISLAND**

**Active Participant Age-Service Distribution
October 1, 2025**

Attained Age	Accrual Service									Total
	0 to 4 No.	5 to 9 No.	10 to 14 No.	15 to 19 No.	20 to 24 No.	25 to 29 No.	30 to 34 No.	35 to 39 No.	40 & up No.	
Under 25	0	0	0	0	0	0	0	0	0	0
25 to 29	0	0	0	0	0	0	0	0	0	0
30 to 34	0	0	0	0	0	0	0	0	0	0
35 to 39	0	0	0	0	0	0	0	0	0	0
40 to 44	0	0	0	0	0	0	0	0	0	0
45 to 49	1	0	1	0	0	0	0	0	0	2
50 to 54	0	0	1	0	0	0	0	0	0	1
55 to 59	0	0	1	0	0	0	0	0	0	1
60 to 64	1	0	0	0	0	0	0	0	0	1
65 to 69	0	0	0	0	0	0	0	0	0	0
70 & up	0	0	0	0	0	0	0	0	0	0
Total	2	0	3	0	0	0	0	0	0	5



TOWN OF JUPITER ISLAND

MEMORANDUM

To: Mayor & Town Commission

Through: Robert Garlo, Town Manager

CC: Kimberly Kogos, Town Clerk

From: John Duchock, Asst. Town Manager

RE: Agenda Item No. 9 – Legal Services Request for Proposal (RFP2026-02)

Date: 12/5/2025

Background:

The Town Commission directed the Town Manager and staff to conduct a solicitation for legal services for Town Attorney during the October 29, 2025 Commission meeting. Subsequently, staff prepared and advertised a Request for Proposals (RFP), beginning on November 6 and requiring interested parties to submit responses no later than 2:00 PM on December 8. A copy of the RFP document, highlighting the selection criteria and submittal requirements, is included for reference.

The following briefly outlines the selection process moving forward, including key dates for review and selection meetings along with requested Commission actions for each meeting.

Monday, December 8 – Bid packages will be opened and cataloged at 2:00 PM. A summary memo with selection criteria guidelines and a ranking sheet will be prepared by Town staff for Commission consideration. **Commission action:** None required.

Tuesday, December 9 – A complete set of bid packages, as well as the summary memo, ranking sheet, and other pertinent reference material will be provided to each Commissioner for review. **Commission action:** Review packages/materials and complete ranking sheet before December 12.

Friday, December 12 – A Special Town Commission meeting will be held beginning at 9:00 AM to review and tabulate ranking sheets from each Commissioner with the goal of identifying top firms for short-list interviews. **Commission action:** Provide completed ranking sheet and direction on final list of firms to interview during December 16 meeting.

Tuesday, December 16 – A Special Town Commission meeting will be held to interview short-listed firms. One hour time slots will be established beginning at 10:00 AM.

Candidates may be allowed a brief (5-minute) introduction presentation. Introductory presentations will be followed by a 25-minute question and answer session. Following completion of all interviews, Commissioners will rank short-list firms in order of preference. **Commission action:** Lead question and answer sessions during interviews and provide final rankings for tabulation by staff.

Wednesday, December 17 – The results of the selection process will be reviewed during the Town Commission meeting. **Commission action:** Based on the results of the short-list ranking tabulation, the Commission will be asked to authorize the Town Manager to enter into contract negotiations with the top-ranked firm.

Recommendation:

For information purposes only. The memo will be updated based on the results of the initial review, short-list, and final ranking decision of the Commission.

TOWN OF JUPITER ISLAND

SPECIFICATIONS AND APPLICATION FOR LEGAL SERVICES

REQUEST FOR PROPOSALS

RFP 2026-02

November 5, 2025



Equal Opportunity Employer

TABLE OF CONTENTS

1. Requests for Proposals and Guidelines for Application to Be Considered for Town Attorney
2. Exhibit "A" - General Statement of Professional Services
3. Notice of Request for Proposals #2026-02, Legal Services

PART 1 - REQUESTS FOR PROPOSALS
GUIDELINES FOR APPLICATION TO BE
CONSIDERED FOR TOWN ATTORNEY

I. INTRODUCTION

The Town of Jupiter Island, Florida, is requesting proposals from law firms or attorneys licensed by the Florida Bar for the position of Town Attorney. The Attorney selected will be appointed to serve as Town Attorney commencing upon appointment.

The Town was established by the Florida Legislature in 1953. The Town also has a Dependent Special District (Beach Protection District). The climate and environmental resources of Jupiter Island have contributed to the development of a high-quality, low-density residential community that seeks to preserve natural resources to the maximum extent possible. The primary land uses in the Town are single-family residential development in secluded estates and homes.

The Town utilizes a Town Commission/Manager form of government. The Town is governed by a five-member Commission elected for four-year overlapping terms. A total of 82 regular and 13 part-time employees carry out the functions of Administration, Public Safety, Public Works, Building and Zoning, Finance, Beach District and the South Martin Regional Utility (SMRU). SMRU provides water and wastewater services on Jupiter Island and the Hobe Sound mainland and retains independent counsel for those services, which is not part of this RFP.

The ad valorem tax or “property tax” is a major revenue source for the financing of budgets to meet the Town’s needs. There are 678 real property parcels within the town. The Town’s 2025 taxable value established by the Martin County Property Appraiser is \$3,981,306,781. The Town’s General Fund Budget for 2025/26 is \$13.6 million.

II. MINIMUM REQUIREMENTS

All applicants must be a member of The Florida Bar in good standing with at least ten (10) years of Florida Municipal Government legal experience preferred, including litigation. Florida Bar Certification in Town, County and Local Government Law is desirable, but most importantly the Town seeks applicants from a broad range of experience in governmental law, including but not limited to, the organization and regulation of municipal government, intergovernmental relationships, contractual law, land use and zoning, law enforcement, Provisions Supplemental to Criminal Procedure Law (FSS 932), forfeiture and emergency medical services and environmental regulation and compliance. Applicants experienced in all of these fields of governmental law are encouraged to apply. Additionally, applicants must be fully informed in all matters related to compliance with all laws relating to government in the sunshine and public records.

All applicants must have experience in litigation and administrative procedures and the ability to oversee, coordinate and work with outside specialty law firms.

At the time of application, the successful applicant must be a full-time resident in the Southeast Florida area.

Successful bidder must provide and maintain a Professional Liability Policy with a minimum coverage of \$1,000,000 per claim and \$2,000,000 aggregate for the entire term of the contract.

The successful bidder must provide and maintain Worker's Compensation insurance as required by State of Florida for the entire term of the contract.

The Town Attorney, whether an individual or a law firm, will not be permitted to represent any client before the Town Commission or any committee, department or agency of the Town, and will agree not to undertake any other private representation, which might create a conflict of interest with the Town. The Town Attorney may not represent any Town Commission member, individually, or, any member of their family or any business in which the Town Commission member or their family has an interest.

III. DUTIES AND RESPONSIBILITIES

By reason of the organization of the Town of Jupiter Island, the broad authority and responsibility of the Town of Jupiter Island and the general oversight authority of the Town Commission, the duties and responsibility of the Town Attorney include advice and counsel to the Town Commission, Town Manager, Town Boards, Committees and Staff. However, in the rare event that a potential conflict of interest was to occur, the Town Attorney's fiduciary obligation is to the Town of Jupiter Island. Attached hereto as Exhibit "A" is a general statement of professional services to be rendered by the Town Attorney. However, only the most frequently utilized facets of representation have been specific and Exhibit "A" is not intended to be exclusive. Rather, the successful applicant shall be prepared to undertake all tasks necessary in order to provide comprehensive and professional representation.

IV. APPLICATION

All proposals shall be in writing and submitted to the Town of Jupiter Island as more particularly set forth hereinafter. At a minimum, the following must be included in all proposals, not to exceed forty (40) pages in total:

1. A summary of the representing Attorney's education, background and experience.
2. A chronological summary of employment history from law school graduation to and including the applicant's current position. List other municipalities and governmental entities currently being represented by the applicant.
3. A statement as to whether or not the applicant has ever been disciplined by the Florida Bar or any similar body regulating the practice of law in any other jurisdiction.
4. A description of the applicant's current principal areas of practice.
5. A representative client list for the applicant or the applicant's firm. List any clients currently represented by the applicant that could cause a conflict of interest with responsibilities to the Town of Jupiter Island. Describe how the applicant will resolve these and any future conflicts of interest.

List any potential conflicts of interest or ethical considerations related to representation or affiliation with any boards, organizations, committees, clients, or any other entity.

6. Three recent professional references for the firm, from current or past clients, where services were provided similar to this scope. The Town reserves the right to contact the references.
7. A statement as to the approach, methodology and work plan the applicant expects to use in providing legal representation for the Town Commission. If the applicant intends to utilize the assistance of other attorneys, either in his or her own law firm or otherwise, this statement should include:
 - a. The names and positions of the proposed assistants;

- b. The areas of practice where the assistants are expected to be utilized;
 - c. The applicant's plan for supervising the assistants; and
 - d. The percentage of the total representation the applicant expects to provide personally.
8. An explanation of the applicant's plan and ability to provide priority attention in accomplishing legal representation for the Town Commission.
9. A specific explanation of the financial arrangements under which the applicant would be willing to accept appointment to the position of Town Attorney. At a minimum, this shall include:
- a. The hourly rate to be charged by the applicant and any assistants.
 - b. If a lump sum charge or annual retainer is proposed,
 - i) The amount of lump sum charge and,
 - ii) The service to be included within that charge.
 - c. Whether any charge is to be made and, if so, how much, for the following:
 - i) Secretarial expense
 - ii) Paralegal services
 - iii) Library resources
 - iv) Computer research time
 - v) Copying machine
 - vi) Postage
 - vii) General office supplies
 - viii) Office space
 - ix) Other overhead
 - x) Travel and per diem

V. SELECTION CRITERIA

Town Commission members will each review the proposals submitted and will short list the applicants to not less than three (3). Based upon the number and quality of proposals received the Town Commission may increase the short list to more than three (3). Thereafter the applicants placed on the short list will be interviewed by the Town Commission. The final selection will be made during an open meeting of the Town Commission.

In determining the successful applicant, the Town Commission will consider the general ability of each applicant, the demonstrated commitment of each applicant to the Town, experience in municipal law, special expertise the applicant may possess, courtroom experience, experience in practicing before administrative agencies, experience in representing public boards or agencies, academic background, office location of the applicant, size and competence of applicant's office staff, past litigation and conflict with the Town, impact of additional work load on applicant's practice, the applicant's proposal for financial arrangements and the applicant's overall demeanor.

VI. GENERAL INFORMATION

The Town of Jupiter Island is accepting sealed proposals from experienced and qualified attorneys and/or law firms to provide a full range of municipal legal services and to serve as the Town Attorney.

Request for Proposals and Guidelines for Application can be obtained from the Town of Jupiter Island Town Clerk, Kimberly Kogos at 2 Bridge Rd., Hobe Sound, Florida 33455 between 8:00 a.m. and 4:00 p.m., by email request to kkogos@tji.martin.fl.us, by phone at 772-545-0100.

Interested firms are required to submit **one (1) master and seven (7) copies** of the completed proposals along with **one electronic copy to the Town Clerk no later than 2:00 p.m. on December 8, 2025 in a sealed envelope clearly marked “Request for Proposal #2026-02, Legal Services.”** No proposal will be considered which does not contain all the information specified herein. Late responses will be returned to the sender unopened.

Responses will be publicly opened at 2pm on December 8, 2025, at the Town of Jupiter Island, Town Hall, 2 Bridge Road, Hobe Sound, FL 33455, in the presence of the Town Clerk or designee. The selection schedule is as follows:

- **December 12, 2025, 9am** - The Town Commission will complete the **short list of applicants during a special-called public meeting**. Applicants will be notified and interviews will be scheduled following short list selection.
- **December 16, 2025** - The Town Commission members will **interview each short-listed applicant during a special-called public meeting** following the regular Town Commission meetings scheduled for that morning.
- **December 17, 2025** - Unless the deadline is extended by majority vote of the Town Commission, **final selections will be made during the Town Commission meeting on December 17, 2025.**

Requests for additional information or clarification regarding this Request for Proposals should be presented in writing to Kimberly Kogos, Town Clerk, Town of Jupiter Island 2 Bridge Rd., Hobe Sound, Florida 33455 or e-mail at kkogos@tji.martin.fl.us.

All Proposals will be screened to ensure that all qualifications and requirements of the RFP are met. The Town of Jupiter Island reserves the right to waive any irregularities and reject any and all proposals. If selected, a formal contract will be negotiated with the selected firm.

PART 2 - "Exhibit A"

GENERAL STATEMENT OF PROFESSIONAL SERVICES

The following constitutes a summary of the legal services requested by the Town of Jupiter Island.

I. TOWN COMMISSION: Provide advice and counsel to the Town collectively and to individual Commission members concerning compliance with and application of state and federal laws, and Town policies relative to operations of the Town. By reason of the Town Commission's broad duties and responsibilities, general counsel will provide consultation and legal advice to the Town Commission with regard to all those issues set forth herein for particular the Beach Protection District, departments and administrative levels. In addition, the general counsel will advise the Town Commission in additional areas including, but not limited to the following:

- a) advise as to the scope and extent of authority, duties and powers conferred upon the Town Commission under state law,
- b) advise the Town Commission with regard to the state laws and the standards,
- c) advise the Town Commission as to state laws pertaining to the organization of the Town Commission,
- d) advise the Town Commission as to the application and interpretation of Town's present policies, rules and consultation concerning proposals for new policies and rules to be considered for adoption by the Town,
- e) advise the Town Commission as to the procedural and legal requirements applicable to the scheduling and conduct of regular and special meetings,
- f) advise the Town Commission as to the utilization and scope of emergency powers under exigent conditions,
- g) advise the Town Commission with regard to use of its eminent domain authority and with regard to the acquisition and disposal of real property,
- h) advise the Town Commission with regard to the scope and exercise of its authority to contract and to sue,
- i) advise the Town Commission as to procedural requirements for adopting rules and policies and assist staff in preparation of proposed rules and policies,
- j) provide legal counsel and advice to members of the Town Commission concerning potential conflicts of interest, and the preparation and filing of requests with the Attorney General for legal opinions relative to district interests and rulings as to conflicts of interest,

- k) provide monthly status reports to the Town Commission itemizing and briefly describing all pending civil litigation involving the Town,
- l) advise the Town Commission upon matters involving suspension and dismissal of personnel, preparation of final orders, and defense of final orders in appellate proceedings,
- m) representation of the Town with regard to disputes involving competitive procurement of goods and services and the application of Chapter 120, Florida Statutes to such matters,
- n) provide advice and counsel to the Town Commission concerning application of Section 286.011, Florida Statutes ("The Sunshine Law"),
- o) advise staff and members of special committees appointed by the Town Commission relating to application of state and federal laws, and Town policy to the subjects being examined by such committees,
- p) consult with the Town Manager as to specific items scheduled to appear on the Town Commission agenda and attend regular and special meetings of the Town Commission when requested by the Town Commission or Town Manager. Regular Town Commission meetings are scheduled a couple of months in advance. If requested in advance by the Town Manager, the attorney shall also attend workshops and special commission meetings at the desired time and date of the Commission,
- q) The Town Attorney shall represent the Town Commission and each of the Town Boards, provide appropriate legal advice and/or written opinions, as necessary, and provide parliamentary guidance concerning the conduct of each of the meetings of the Town Boards as requested by the Town Commission or the Town Manager when items under consideration warrant legal input. The following is a list of the Town Boards and when they currently meet. Regular attendance at the Development Review Board is required as well as written Final Development Orders following each meeting. The current Town Attorney has been instructed to attend the following or as instructed by the Town Manager:
- Development Review Board meets on the first Thursday of every month at 9:00 a.m. if there are agenda items.
 - Other Boards and Committees as needed and scheduled (ie Local Planning Agency [LPA]).
- r) provide draft ordinances, resolutions and contracts when requested to do so by Town Commission, the Town Manager, the Police Chief or the Building Official,
- s) consultation with the Town Commission concerning items upon agendas for the regular and special meetings of the Town Commission, and
- t) assist and advise the Town Commission with regard to negotiations with other governmental entities concerning matters of interest to the Town.

II. FACILITIES: Provide advice and counsel to administrative staff concerning compliance of state and federal laws, Town policies relating to operational functions including, but not limited to, the following:

- a) consultation with staff as to the legal requirements relating to payment and performance bonds and bid bonds,
- b) advise administrative staff concerning the due process and state procedural requirements applicable to competitive procurement of services,
- c) consultation with staff with regard to matters of rights-of-way, public easements, conflicts and agreements with other governmental agencies relating to land use and utilities,
- d) review and/or preparation of all land contracts with individuals and other governmental agencies,
- e) attendance of counsel at real estate closings in land transfers,
- f) review and/or drafting of instruments of real property,
- g) negotiation of intergovernmental agreements relating to land use or land transfer and preparation and/or analysis of intergovernmental agreements,
- h) representation of the Town Commission in eminent domain proceedings including pre-suit preparation and negotiations, recommendation of experts inclusive of real estate appraisers, and coordination of staff and outside consultants,
- i) representation of the Town in all administrative and judicial proceedings challenging adoption and implementation of Town boundaries, and
- j) consultation and participation in negotiations and conferences relating to intergovernmental contact in areas of annexation, zoning, land use, platting, water management, concurrency, and land use plans of the municipal and county levels,
- k) advise staff on general questions concerning labor, municipal finance litigation, enforcement, building codes, and other matters, and
- l) liaison with outside counsel, when required.

III. BUSINESS/SUPPORT SERVICES: Provide advice and counsel to administrative staff concerning compliance with and application of state and federal laws relating to operational functions including, but not limited to, the following:

- a) consultation with regard to TRIM timelines and TRIM advertisements for preparation of annual budgets,
- b) attendance of counsel at all public hearings and meetings relating to adoption of Town budget,

- c) consultation with regard to proposed resolutions and ordinances as to form and content, and advise when they are in conflict with state or federal law,
- d) consultation and legal advice relative to procedures and issuance of Invitations to Bid (ITB) and Requests for Proposals (RFP) for competitive procurement of services and goods,
- e) review and analysis of all contracts for procurement of goods and services,
- f) representation of the Town of Jupiter Island in all civil litigation not otherwise specified in which the Town Commission is a party,
- g) representation of the Town with regard to all bid protests and litigation relative to competitive procurement of goods and services,
- h) review of all negligence claims asserted against the Town of Jupiter Island,
- i) review all proposed settlements of litigation for approval, and
- j) consultation and advice with regard to all matters of Town financing including loans, state funding mechanisms, notes, bond issues, bond validation and certificates of participation.
- k) assists with legal issues, parameters and structure involved in the Town Comprehensive Plan, Land Development Regulations, personnel regulations, etc.

IV. HUMAN RESOURCES: Provide advice and counsel to administrative staff concerning compliance and application of state and federal laws relating to operational functions including, but not limited to, the following:

- a) procedural requirements and implementation of procedures for the discipline, suspension, and dismissal of personnel,
- b) review and analysis of grievance proceedings and decisions,
- c) consultation and review of recommendations regarding Town of Jupiter Island policy and procedures.

V. COMPREHENSIVE PLANNING FOR EQUAL OPPORTUNITIES: Provide advice and counsel to administrative staff concerning compliance with and application of state and federal laws relating to operational functions including, but not limited to, the following:

- a) representation of the Town with regard to claims and disputes raised internally; claims filed with county, state and federal agencies; and claims filed with state and federal courts,
- b) attendance of counsel at administrative hearings and fact-finding sessions relating to charges of discriminatory conduct, and

c) negotiation and review of conciliation agreements within administrative proceedings.

VI. OFFICIAL RECORDS: Provide advice and counsel with regard to all matters of the official records and minutes of all Town Council meetings and application of Chapter 119, Florida Statutes (Florida Public Records Law).

VII. UTILTY AND LABOR COUNSEL SERVICES: Currently the Town engages two separate legal firms for services regarding South Martin Regional Utility and Labor matters.

VIII. SPECIAL COUNSEL SERVICES: On occasion the Town Commission and Board meetings, upon its own volition, may retain special counsel to provide representation in areas requiring particular expertise. Except as otherwise instructed by the Town Commission, the Town Attorney is expected to remain generally informed regarding the special counsel's actions and provide such assistance as may be reasonably requested by the special counsel. The following, while not exclusive, suggests those areas of practice where special counsel might be retained:

General Liability
Auto Claims
Bond Counsel
Construction Litigation
Eminent Domain

IX. BILLING: Each bill for services and costs should be submitted to the Town in a form that includes, at a minimum, the following information:

Date of Service	Description of Service Specifying Town Department, Board, Case or Issue	Name of Person Requesting Work	Person Who Performed Service	Time Spent x Hourly Rate = Cost
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Different services performed on the same day (e.g., research, drafting, meetings, etc.), shall be listed separately. The description of service should permit the Town to perform a meaningful analysis of the services provided. For example, "legal research" or "telephone conference" is not an acceptable description of services. The subject matter of a telephone call or the research performed, and the purpose thereof shall be specified. The monthly invoice shall categorize the charges by the department in which they represent. For example, all charges for the month relative to the public safety department shall be totaled separately. All charges relative to communications, public safety department, administrative, Commission meeting attendance, etc. shall all be individually totaled on one invoice, along with a summary statement indicating total amount due for the month.

PART 3 -
NOTICE OF REQUEST FOR PROPOSALS
TOWN ATTORNEY

**ADVERTISEMENT
REQUEST FOR PROPOSAL
RFP 2026-02
MUNICIPAL LEGAL SERVICES
TOWN OF JUPITER ISLAND**

The Town of Jupiter Island, Florida, is requesting proposals from law firms or attorneys licensed by the Florida Bar for the position of Town Attorney. The Attorney selected will be appointed to serve as Town Attorney commencing upon appointment.

All Bid packages must be delivered or mailed to: Town of Jupiter Island Town Clerk, 2 Bridge Road Hobe Sound, FL 33455, by no later than Monday, December 8, 2025, at 2:00 PM local time. Sealed envelopes must be labeled on the outside of the envelope "RFP 2026-02, Municipal Legal Services".

All bids will be time/date stamped at the time they are received. The Town reserves the right to reject any or all bids. For more information and to receive a bid package, please contact Town Clerk Kimberly Kogos at 772-545-0100 or kkogos@tji.martin.fl.us.

Certification

The undersigned hereby confirms as follows:

1. I am a duly authorized agent of the law firm submitting the proposal.
2. I have read the Proposal in its entirety and fully understand and accept these terms unless specific variations have been expressly listed below or attached.
3. My firm, _____, agrees to hold all prices, terms and conditions firm for acceptance for ninety (90) calendar days following the date and time of the bid opening.

By: _____	_____
Manual Signature of Agent	Date
_____	_____
Typed/Printed Name of Agent	Title of Agent



TOWN OF JUPITER ISLAND

MEMORANDUM

To: Mayor & Town Commission

Through: Robert Garlo, Town Manager *RG*

CC: Kimberly Kogos, Town Clerk

From: John Duchock, Asst. Town Manager

RE: Agenda Item No. 10 – Comprehensive Plan Agreement Amendment

Date: 12/5/2025

Background:

Kimley Horn has provided an updated timeline for the completion of the Comprehensive Plan update process. As currently planned, the scope of services must be expanded to include a community survey, as well as additional meetings and presentations to the Commission. The original agreement provided for three drafts of the comp plan document. The expanded input from the LPA workshop, the survey, and interim Town Commission meetings will require two additional interim draft documents (*Draft #s 2 & 4 below*) to capture the extra input and feedback, prior to presenting in final format and transmitting to the State.

The current schedule of meetings and milestones is as follows:

Task	Date	Notes
<i>Draft#2</i> Distribution	Week of December 8, 2025	The updated draft plan will be distributed to the Town Commission and members of the LPA for review.
LPA Workshop <i>Draft#2</i>	January 7, 2026	Presentation of the draft plan to LPA.
Community Survey (start)	January 8, 2026	Online survey is opened with invitations/notices sent to residents.
Commission Meeting <i>Draft#2</i>	January 21, 2026	Presentation of LPA workshop takeaways and ongoing survey discussion.
Community Survey (end)	February 8, 2026	Online survey is closed. Begin survey analysis and preparation of <i>Draft#3</i> .
Commission Meeting <i>Draft#3</i>	February 25, 2026	Presentation of <i>Draft#3</i> reflecting LPA workshop and survey. Commission direction on preparation of <i>Draft#4</i> for LPA transmittal hearing.

LPA Transmittal Hearing	March 2026	Present <i>Draft#4</i> to LPA for recommendation to the Commission.
Commission Meeting	March 25, 2026	Presentation of LPA recommendation to Commission. Commission direction to develop ordinance to transmit Comp Plan to the State.
Commission Transmittal	April 2026	First Public Hearing to transmit the Comp Plan to the State (first reading of an ordinance).
Final State mandated plan changes	May 2026 (60-day typical)	State acceptance or comments on required changes. <i>Draft#5</i> prepared in response to State required changes.
Final Adoption <i>Draft#5</i>	TBD	Second Public Hearing to transmit final Comp Plan to the State (second reading of an ordinance).

Based on acceptance of the expanded scope of work and proposed schedule above, Kimley Horn has prepared the attached amendment to the scope of services agreement. The total cost for the expanded services is \$69,500.

Additionally, Kimley Horn has provided an updated list of survey questions for Commission consideration.

Recommendation:

Town staff is seeking Commission feedback on the survey questions, approval of the proposed schedule, and authorization to amend the existing agreement to include the additional services as proposed by Kimley Horn for a lump sum fee of \$69,500.

AMENDMENT NUMBER 01 TO THE AGREEMENT BETWEEN CLIENT AND KIMLEY-HORN AND ASSOCIATES, INC.

This is Amendment number 01 dated November 21, 2025 to the agreement between the Town of Jupiter Island ("Client") and Kimley-Horn and Associates, Inc. ("Consultant") dated October 3, 2024 ("the Agreement") concerning the Jupiter Island Comprehensive Plan (the "Project").

The Consultant has entered into the Agreement with Client for the furnishing of professional services, and the parties now desire to amend the Agreement.

The Agreement is amended to include services to be performed by Consultant for compensation as set forth below in accordance with the terms of the Agreement, which are incorporated by reference.

Project Understanding: on September 16, 2025, at the Town Commission meeting Kimley-Horn was asked to provide additional services for the comprehensive plan update project to supplement overall public engagement, including a new online survey, additional Town Council and Local Planning Agency meetings, and additional revisions to the comprehensive plan document to address comments raised during these engagement events.

The original schedule, which was presented at the project kickoff meeting and to the Town Commission, outlined a 12-month timeline with plan adoption anticipated for November 2025. However, the revised schedule now projects adoption of the comprehensive plan in the fall of 2026.

Consultant will perform the following services:

Task 1: Survey and Analysis

Kimley-Horn will prepare one (1) online survey with up to 10 questions regarding the comprehensive plan. The community survey will include a mix of open-ended and multiple-choice questions designed to gather feedback on key aspects of the Comprehensive Plan Update. Kimley-Horn will deliver the survey questions to the Client for review and will address up to three (3) sets of consolidated and conformed comments.

Kimley-Horn will design one (1) graphic flyer to advertise the survey. The flyer will be provided in both PDF and JPG format so that it can be printed or shared via e-mail. It will be the Town's responsibility to share the survey information via their social media platforms and through normally distributed publications to Town residents (i.e. email or flyers). The survey will be hosted on an external website and be open for up to four (4) weeks.

Once the survey is closed, Kimley-Horn will analyze the results and provide one (1) written summary memo to the Client. The survey raw data will be provided as an appendix to the memo. Kimley-Horn will address up to one (1) set of consolidated and conformed comments.

Task 2: Project Management and Project Status Calls

Kimley-Horn will participate in up to 12 one-hour virtual meetings with Client representatives to review the project's progress and status and to revisit each of the project tasks. The Kimley-Horn project director or deputy project director shall attend the conference calls. The purpose of the project status calls is to review deliverables and Client comments associated with the deliverables.

Task 3: Town Commission Meetings

Kimley-Horn will attend up to six (6) additional Town Commission to provide updates on the Comprehensive Plan Update. Three (3) of the meetings were attended prior to the date of this

amendment including September 16, 2025, October 29, 2025, and November 20, 2025.

The three future meetings are tentatively set for January 21, 2026, February 25, 2026, and March 25, 2026. Kimley-Horn will prepare one (1) PowerPoint presentation for each meeting and provide the presentation to the Client for review prior to the scheduled meeting for comment. One (1) round of consolidated and conformed comments on each of the PowerPoints will be addressed, and the updated presentation will be sent to the Client at least one (1) day prior to each meeting. The Client shall provide the required public notice for all meetings.

Task 4: Comprehensive Plan Additional Drafts

Kimley-Horn shall provide up to two (2) additional drafts of the goals, policies and objectives of the Town Comprehensive Plan.

The first additional draft will be provided in December 2025, prior to the Local Planning Agency Workshop tentatively scheduled for January 7, 2026. This draft will incorporate Town Commission comments received during the November 20, 2025 meeting.

The second additional draft will be provided in March 2026, prior to the Local Planning Agency transmittal hearing. This draft will incorporate Town Commission comments received during the February 25th meeting and based on the survey results.

The interim drafts will be utilized to address revisions to the policy text to ensure they reflect the intentions of the Town Commission.

Consultant and Client agree to the following general schedule in connection with the services set forth above:

We will provide our services as expeditiously as practicable for delivery of the scope of work referenced herein and under the assumption of reasonable requests and timely responses by the Client. We are ready to commence work upon notice to proceed and return this agreement herein as ratified.

For the services set forth above, Client shall pay Consultant the following compensation:

Kimley-Horn will perform the services in Tasks 1 – 4 for the total lump sum fee below.

Task Number & Name		Fee	Type
1	Survey and Analysis	\$12,500	Lump Sum
2	12 months of project management and client meetings	\$8,000	Lump Sum
3	6 Town Commission Meetings	\$22,000	Lump Sum
4	2 Additional Drafts of the Comprehensive Plan	\$27,000	Lump Sum
Total		\$69,500	

CLIENT:

TOWN OF JUPITER ISLAND

By: _____

Title: _____

Date: _____

CONSULTANT:

KIMLEY-HORN AND ASSOCIATES, INC.

By:  _____

Title: Associate

Date: 12-04-25

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT TO PROVIDE PROFESSIONAL SERVICES (AGREEMENT) is made and entered into this 3rd day of October, 2024, by and between the Town of Jupiter Island, a municipal corporation of the state of Florida, 2 Bridge Road, Jupiter Island, Florida, 33455 ("Town") and Kimley-Horn and Associates Inc., 1920 Wekiva Way, Suite 200, West Palm Beach, FL 33411 ("Consultant"), (collectively the Parties).

WITNESSETH THAT:

WHEREAS, the Town is a municipal corporation of the state of Florida with such power and authority as has been conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town issued a Request for Proposals (RFP) to solicit from professional planning firms proposals to provide professional planning services associated with the preparation of an Evaluation and Appraisal Report (EAR), and amendments to its Comprehensive Plan; and

WHEREAS, a Town Evaluation Committee met and conducted interviews of the planning firms who responded to the RFP and then met again to rank the respondents;

WHEREAS, the Consultant represented to the Town that it is qualified and able to provide the planning services solicited by the Town; and

WHEREAS, the Town Manager recommended to the Town Commission and the Town Commission accepted the Town Manager's recommendation that the Town enter into this Agreement with Consultant.

NOW THEREFORE, the Town and the Consultant in consideration of the benefits flowing from each to the other do hereby agree as follows:

1. SCOPE OF WORK, PLANNING SERVICES AND PERFORMANCE:

The services to be provided by the Consultant shall be in accordance with the tasks set forth in the attached Exhibit "A". The Town specifically reserves the right to determine whether any specific task requested by the Town is within the scope of work to be provided by the Consultant. The Consultant understands and acknowledges that this Agreement does not obligate the Town to provide Consultant with a minimum or guaranteed amount of work. The parties also agree and understand that funding for the specific tasks is subject to the Town Commission budgeting and appropriating funds for the work specified therein.

In the performance of professional services, the Consultant shall use that degree of care and skill ordinarily exercised by other similar professionals in the field under similar conditions in similar localities. The Consultant shall use due care in performing its services and shall have due regard for acceptable professional standards and principles. Consultant's standard of care shall not be altered by the application, interpretation, or construction of any other provision of this Agreement.

2. CONSIDERATION

As consideration for providing the services set forth in this Agreement, the Town shall pay the Consultant in accordance with the tasks set forth in the attached Exhibit "A." The Consultant agrees that the Town may adjust the consideration for this Agreement to exclude any significant sums by which the consideration was increased due to inaccurate, incomplete, or non-current wage rates and other actual unit costs. The Town may make any such adjustment within the term of this Agreement.

4. EQUAL OPPORTUNITY/MBE PARTICIPATION

The Consultant hereby assures that no person shall be discriminated against on the grounds of race, color, creed, national origin, handicap, age, or sex, in any activity under this Agreement. The Consultant shall take all measures necessary to effectuate these assurances.

The Consultant acknowledges that the Town encourages the participation of minority owned, and women owned business enterprises in the Town's procurement and contracting activity. Accordingly, the Consultant shall take all necessary and reasonable steps to ensure that women and minority business enterprises (W/MBE) have the opportunity to compete for and perform work related to this Agreement.

5. NON-EXCLUSIVITY

This Agreement shall not impose any obligation on the Town to utilize the Consultant for all work within its profession for, which the Town may requires said professional services during the term of the Agreement. The Town specifically reserves the right to concurrently contract with other companies for similar or related work if it deems such an action to be in the Town's best interest.

6. INVOICING AND PAYMENT

The Consultant's invoices shall be emailed to Matthew Pazanski, the Town Director of Finance at mpazanski@tji.martin.fl.us, or mailed to the following address: Finance Department, Town of Jupiter Island, 2 Bridge Road, Jupiter Island, Florida 33455.

Invoices for services shall be submitted to the Town in detail sufficient for a proper pre-

audit and post-audit thereof. Any invoice for travel expenses shall only be payable on a reimbursement basis, when authorized by the Town. The Consultant shall submit all documentation, including receipts in order to be entitled to reimbursement in accordance with Section 112.061, Florida Statutes.

Records of costs incurred under terms of this Agreement shall be maintained and made available upon request to the Town at all times during the term of this Agreement and for three years after final payment has been made. Copies of these records shall be promptly furnished to the Town upon its written request.

The Town shall pay the full amount of the invoice within thirty (30) days of receipt of invoice, subject to review and acceptance of Consultant work product and details of work effort reflected in the invoice. If the Town fails to make any payment due the Consultant within 30 days after the Town's receipt and without notification of deficiencies by the Town, the Consultant may, after giving notice to the Town, suspend services under this Agreement until all amounts due are paid in full. The Town reserves the right to withhold payment of an invoice in the event it determines that the work has not been performed to the satisfaction of the Town.

7. INDEMNIFICATION AND INSURANCE

For One Hundred Dollars and No Cents (\$100.00) consideration, the sufficiency of which is hereby acknowledged, payable as part of and included in the first payment of an invoice by the Town, the Consultant shall indemnify, and hold harmless the Town, its elected and appointed officials, assigns, and employees, from any and all claims or causes of action, including without limitation, all damages, losses, liabilities, expenses, costs, and reasonable attorney's fees related to such claims to the extent caused by any negligent act or omission, or the violation of any federal, state, or local law or regulation, by the Consultant, its subcontractors, agents, assigns, invitees, or employees in connection with this Agreement. The Consultant further acknowledges that it is solely responsible for ensuring its compliance and the compliance of its subcontractors, agents, assigns, invitees and employees with the terms of this Agreement.

The Consultant shall obtain or possess the following insurance coverages, and will provide Certificates of Insurance to the Town, with the Certificate Holder listed as the Town of Jupiter Island, to verify such coverage as a condition of this Professional Services Agreement:

- a) Workers' Compensation - The Bidder shall provide coverage for its employees with statutory workers' compensation limits, and no less than \$500,000.00 for Employers' Liability. Said coverage shall include a waiver of subrogation in favor of the Town and its agents, employees and officials.
- b) Commercial General Liability - The Bidder shall provide coverage for all operations including, but not limited to Contractual, Products and Completed Operations, and

Personal Injury. The limits shall be not less than \$2,000,000.00, per occurrence, Combined Single Limits (CSL) or its equivalent. The General Aggregate limit shall either apply separately to this Contract or shall be at least twice the required occurrence limit.

- c) Business Automobile Liability - The Bidder shall provide coverage for all owned, non-owned and hired vehicles with limits of not less than \$1,000,000.00, per occurrence, Combined Single Limits (CSL) or its equivalent.

The Consultant shall provide the Town certificates of insurance as proof of insurance prior to the commencement of any performance by the Consultant. The Consultant shall notify the Town at least thirty (30) days prior to cancellation or modification of any insurance policy required under this Agreement. The failure to provide the Town with proof of insurance, or the cancellation of any insurance policy during the term of this Agreement shall be cause for the Town's termination of the Agreement. In the event any insurance policy required by this Agreement shall lapse, be cancelled or terminated, Consultant shall immediately provide the Town with a certificate of insurance for a new policy.

8. TERMINATION/REMEDIES

If the Town fails to fulfill its obligations under this Agreement, the Consultant shall have the right to terminate this Agreement.

The Town may terminate this Agreement in whole, or in part for any work that has not yet been performed whenever the Town shall determine that such termination is in the best interest of the Town. Any such termination shall be effected by delivery to the Consultant of a written notice specifying that the Agreement is being terminated, and the date upon which such termination becomes effective. In the event of termination, the Town shall compensate the Consultant for all authorized and accepted work performed through the termination date. Thereafter, the Town shall be relieved of any and all future obligations hereunder, including but not limited to lost profits and consequential damages, under the scope of services provided for in this Agreement.

9. ATTORNEY FEES

If either party initiates legal action, for breach of the Agreement, or to enforce the terms of this Agreement, the prevailing party shall be entitled to recover an attorney's fee.

10. STANDARDS OF COMPLIANCE

The Consultant, its employees, subcontractors or assigns, shall comply with all applicable published federal, state, and local laws and regulations relating to the performance of this Agreement. The Town undertakes no duty to ensure such compliance, but will attempt to advise the Consultant, upon request, as to any such laws of which it has present knowledge.

The Consultant shall not be exempted from paying Florida sales and use taxes to the appropriate governmental agencies or for payments the Consultant is obligated to make to suppliers for taxes on materials it uses to fulfill its contractual obligations with the Town. The Consultant shall be responsible and liable for the payment of all of its FICA/Social Security and other taxes it is obligated to pay as a result of this Agreement.

All final plans, documents, reports, studies and other data prepared by the Consultant shall, if applicable, bear the professional's seal and/or signature, in accordance with applicable Florida Statutes, or administrative rules promulgated by the Department of Business and Professional Regulation.

11. RELATIONSHIP BETWEEN THE PARTIES

The Consultant is an independent contractor and is not an employee or agent of the Town. Nothing in this Agreement shall be interpreted to establish any relationship other than that of an independent contractor, between the Town and the Consultant, its employees, agents, subcontractors, or assigns, during or after the performance of this Agreement. The Consultant shall not assign, delegate, or otherwise transfer its rights and obligations as set forth in this Agreement without the prior written consent of the Town. Any attempted assignment in violation of this provision shall be void.

The Consultant shall not pledge the Town's credit or make the Town a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness.

12. RECORDS RETENTION/OWNERSHIP/AUDIT

- 12.1 The Consultant shall comply with public records laws Chapter 119, Florida Statutes, specifically to: Keep and maintain public records that ordinarily and necessarily would be required by the Town in order to perform the service; Provide the public with access to public records on the same terms and conditions that the Town would provide the records and at a cost that does not exceed the cost provided in Chapter 119, F.S. or as otherwise provided by law; Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed exempt as authorized by law; Meet all requirements for retaining public records and transfer, at no cost, to the Town all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt of confidential and exempt from public disclosure requirements. All records stored electronically must be provided to the Town in a format that is compatible with the information technology systems of the Town.

- 12.2 The Town has not performed a pre-audit of the Consultant's or Sub consultant's financial and/or accounting records to verify actual or average direct labor payroll rates or verify the general overhead factor and profit margin. However, the Consultant shall permit the Town or its designated agent to inspect such records at the location where they are kept upon reasonable notice. Furthermore, the Town shall have the right to audit the Consultant's and any Sub consultant's financial and accounting records, in accordance with generally accepted governmental auditing standards, within a period of one (1) year after completion of this Agreement. This audit may be performed by the Town or its designated agent.
- 12.3 All documents, including, but not limited to, technical reports, research notes, scientific data and computer programs in draft and final form including the source code and object code, which are developed by the Consultant in connection with this Agreement, may be utilized by the Town in its normal course of business. Town use may include, but shall not be limited to, reproduction, distribution, and preparation of derivative works. The Town shall not hold the Consultant responsible or liable if documents are modified by the Town or used for other purposes than intended, without written authorization or adaptation by the Consultant.

13. CONFLICTS

The Town recognizes and acknowledges that the Consultant is engaged in a business which provides consulting services to multiple clients including other governmental entities. Further, the Town recognizes and acknowledges that the Consultant may presently, or may in the future, represent clients who are or may be doing business in or with the Town. The Town agrees that the Consultant may perform services for clients who are or may have matters before the Town Commission, provided Consultant discloses any and all clients it represents who may have any matters which are now or may reasonably be expected to come before the Town Commission for its consideration and, provided further, that the Town Commission *waives the actual conflict of interest created by the Consultant's representation of the other client.*

14. GENERAL PROVISIONS

- 14.1 Notwithstanding any provisions of this Agreement to the contrary, the parties shall not be held liable for any failure or delay in the performance of this Agreement that arises from fires, floods, strikes, embargoes, acts of the public enemy, unusually severe weather, outbreak of war, restraint of Government, riots, civil commotion, force majeure, act of God, or for any other cause of the same character which is unavoidable through the exercise of due care and beyond the control of the parties.

Failure to perform shall be excused during the continuance of such circumstances, but the Town shall have the option of terminating this Agreement or electing to allow the Agreement to remain in effect.

- 14.2 The laws of the state of Florida shall govern all aspects of this Agreement. In the event it is necessary for either party to initiate legal action regarding this Agreement, venue shall be in the Nineteenth (19th) Judicial Circuit for claims under state law and in the Southern District of Florida for any claims which are justifiable in federal court.
- 14.3 In the event any provisions of this Agreement shall conflict, or appear to conflict, the Agreement, including all exhibits, attachments and all documents specifically incorporated by reference, shall be interpreted as a whole to resolve any inconsistency.
- 14.4 Failures or waivers to insist on strict performance of any covenant, condition, or provision of this Agreement by the parties, their successors and assigns shall not be deemed a waiver of any of its rights or remedies, nor shall it relieve the other party from performing any subsequent obligations strictly in accordance with the terms of this Agreement. No waiver shall be effective unless in writing and signed by the party against whom enforcement is sought. Such a waiver shall be limited to the provisions of this Agreement specifically referred to therein and shall be not deemed a waiver of any other provision. No waiver shall constitute a continuing waiver unless the writing states otherwise.
- 14.5 All words used herein in the singular form will extend to and include the plural. All words used in the plural form will extend to and include the singular. All words used in any gender will extend to and include all genders.
- 14.6 Should any term or provision of this Agreement be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this Agreement, to the extent that the Agreement shall remain operable, enforceable and in full force and effect to the extent permitted by law.
- 14.7 This Agreement may be amended, modified, or extended only with the written approval of the parties.
- 14.8 This Agreement states the entire understanding and Agreement between the parties and supersedes any and all written or oral representations, statements, negotiations, or Agreements previously existing between the

parties with respect to the subject matter of this Agreement. The Consultant recognizes that any representations, statements, or negotiations made by Town staff do not suffice to legally bind the Town in a contractual relationship unless they have been reduced to writing and signed by an authorized Town representative. This Agreement shall inure to the benefit of and shall be binding upon the parties, their respective assigns, and successors in interest.

15. PUBLIC RECORDS

The Consultant shall comply with Florida's Public Records Law. Specifically, the Consultant shall:

- 15.1 Keep and maintain public records required by the Town to perform the services.
- 15.2 Upon the request of the Town, provide the Town with such public records within a reasonable time at a cost that does not exceed the costs provided for in Chapter 119, Florida Statutes.
- 15.3 Ensure that any public records that are exempt or confidential from public records disclosure are not disclosed except as authorized by law for the duration of the work and services to be provided pursuant to this Agreement and following completion of this Agreement.
- 15.4 Upon the completion of the work and services to be performed pursuant to this Agreement, the Consultant shall transfer, at no cost, to the Town all public records in possession of the Consultant or its sub consultants related to the Agreement; or keep and maintain the public records associated with the services provided for in the Agreement. If the Consultant transfers all public records to the Town upon completion of the services under this Agreement, the Consultant shall destroy any duplicate public records that are exempt from public records disclosure. If the Consultant shall keep and maintain public records during the time it is performing the work and services pursuant to this Agreement. The Consultant acknowledges that it is required to comply with all applicable requirements pertaining to the retention of public records. All records stored electronically shall be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the.
- 15.5 IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS

AGREEMENT, THE CONTACTOR SHOULD CONTACT THE
CUSTODIAN OF PUBLIC RECORDS AT: TOWN CLERK, 2
BRIDGE ROAD, HOBE SOUND, FL 33455;
KKOGOS@tji.martin.fl.us

16. SEVERABILITY

If any part of this Agreement is contrary to, prohibited by, or deemed invalid under applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited, or invalid, but the remainder hereof shall not be invalidated thereby and shall be given full force and effect so far as possible.

IN WITNESS WHEREOF, the parties' duly authorized representatives hereby execute this Agreement on the date first written above.

ATTEST:

By: _____

Kimberly Kogos, Town Clerk



TOWN OF JUPITER ISLAND

By: _____

Penny Townsend, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: _____

Thomas J. Baird, Town Attorney

KIMLEY-HORN AND ASSOCIATES INC.

By: _____

Its: _____

Printed _____

EXHIBIT A

SCOPE OF SERVICES FOR THE PROJECT

Project Management and Kick Off

Kimley-Horn shall designate a project director who along with her designated core project team shall attend a “kick-off” meeting with the Town Manager and those individuals representing the Town as he designates, to set goals and expectations, review the scope and budget, establish communication protocols, and to confirm the project schedule to ensure that periodic working draft documents pertaining to the deliverables are provided in accordance with the agreed time frames. A meeting summary will be provided to the Town Manager, or his designee after the kick-off meeting.

Monthly Project Status Calls

Kimley-Horn shall establish a time for monthly conference calls to review the project’s progress and status and to revisit each of the agenda items from the project kick off. The Kimley-Horn project director or deputy project director shall attend the monthly conference calls. The purpose of the project status calls is to ensure that the Town understands that the key elements of the proposed deliverables are fully understood and agreed on before drafting begins.

Town Administration Interviews

Kimley-Horn shall participate in one-on-one “interviews” with members of the Town’s Administration as designated by the Town Manager to gain a better understanding of what matters are most significant to them. These meetings shall be scheduled at the beginning of each phase of the project. One (1) professional designated by Kimley-Horn shall participate in up to six (6) one-hour interviews. Kimley-Horn shall prepare one (1) set of interview questions for the interviews to prompt discussion. These meetings may occur virtually at the discretion of the Town Manager.

Evaluation and Appraisal Report (“EAR”)

Every seven years the state of Florida requires that local governments conduct an evaluation and appraisal review (EAR) of their comprehensive plan pursuant to Florida Statute §163.3191. The Town of Jupiter Island last conducted their EAR in 2018, requiring the next evaluation to begin by 2025.

Statutory Compliance

Kimley-Horn shall evaluate the Town’s Comprehensive Plan since 2018, and identify all statutory changes in Chapter 163, Florida Statutes between 2019 and 2024, to determine what goals, objectives and policies may require amendment to ensure compliance with

current law as administered by the Florida Department of Commerce. During the evaluation Kimley-Horn shall identify any goals, objectives or policies that may be out of date, duplicative or contradictory. In addition, Kimley-Horn shall identify any goals, objectives or policies which may be more appropriately relocated to the land development regulations contained in the Town Code.

Data Inventory and Analysis Fees for Professional Services.

Kimley-Horn shall collect data specific to the elements of the comprehensive plan and assess changes since the Town's last data inventory and analysis update. Kimley-Horn will rely on the information provided by the Town, as well as local, regional and state agencies. At a minimum, Kimley-Horn shall review and analyze the data from the following documents collected, including:

- Town Planning Documents
- Martin County Planning Documents including the Comprehensive Plan
- Regional Planning Documents
- Transportation Plans, Studies and Data
- Resiliency, Preservation and Coastal Studies and Plans
- Public Facility Data (utilities, infrastructure)
- Capital Improvement Plans
- Environmental and Coastal Resource Studies, Permits and Plans
- Demographic and Socioeconomic Data
- Emergency Services Data

Kimley-Horn shall update the 2018 Data Inventory and Analysis (DIA) document, which provides the current technical analyses for each comprehensive plan element. Demographic data including population projections for the 2045 planning horizon shall be established and incorporated into level of service analysis for the planning horizon. This analysis establishes the basis of the proposed amendments to the elements in the comprehensive plan. Kimley-Horn shall ensure all data and analysis related to septic to sewer, resilience strategies, sea level rise, and the preservation and enhancement of the existing coastal zone, including the beach dune system, are evaluated in specific detail as part of this review. Kimley-Horn shall also evaluate the Town's plan in comparison to the Martin County Comprehensive Plan, including its capital improvements element, to assess short and long-term impacts as it relates to the level of service established therein, with an emphasis on the level of services projected for roads which impact the Town.

Map Series

The Future Land Use Map and comprehensive plan map series within the current plan shall be updated to reflect the current Town boundaries and any changes since the last Comprehensive Plan update in 2018.

Kimley-Horn shall request GIS data sets from the Town, Martin County or Treasure Coast

Regional Planning Council to update the map series. The Town shall provide all future land use changes by ordinance since the most recent Comprehensive Plan update in a consolidated format, preferably in an excel table, if applicable. Kimley-Horn shall revise the map series as applicable and provide one (1) final draft to the Town for their use.

EAR Spreadsheet

Kimley-Horn shall prepare a spreadsheet that includes an assessment of each goal, policy and objective in the 2018 comprehensive plan. The spreadsheet shall note policies recommended to be retained, modified, or removed, based on the findings of the data analysis as well as the statutory compliance analysis. If a policy is recommended for removal, or modification the spreadsheet will include an explanation of the basis for the recommended action. The spreadsheet shall also include new policies to be considered based on the analysis. Kimley-Horn shall provide one (1) draft plan evaluation in a spreadsheet format for the Town to review.

Comprehensive Plan Update

Citizen Workshop

Kimley-Horn shall prepare for and facilitate one (1) citizen workshop for the purpose of communicating the opportunities afforded by updating the Comprehensive Plan, as well as to provide a platform for residents and other stakeholders to share their vision for the future of the Town. The workshop shall be held for two (2) hours at a town public property an “open house” format with up to five (5) stations focusing on specific planning topics or themes agreed upon by the Town. Up to four (4) professionals from Kimley-Horn representing distinct planning specializations shall attend and occupy each of the stations.

The workshop is intended to encourage interactive participation to envision the future of the Town and to allow the Town’s residents to engage in interactive mapping and visual preference activities toward identifying the Town’s strengths, weaknesses, opportunities and threats. This task includes preparation of the presentation material including a PowerPoint presentation and up to ten (10) information boards. The Town shall provide the meeting venue and notification of the meeting to the public.

Policy Drafting

Kimley-Horn shall prepare a draft update to the Town’s Comprehensive Plan upon the Town Commission’s acceptance of the EAR recommendations. The goals, objectives, and policies of the elements of the Comprehensive Plan shall be amended, as appropriate, to incorporate input from residents as well as the data analysis and the statutory compliance assessment. The amended policies are intended to establish a framework for the future of Town through 2045.

The following elements will be amended as necessary and appropriate:

- Future Land Use
- Transportation
- Housing
- Infrastructure
- Coastal Management
- Conservation
- Recreation and Open Space
- Intergovernmental Coordination
- Capital Improvements
- Administrative Sections (Town Profile and Vision, Implementation, Monitoring, Public Participation)

Kimley-Horn shall provide one (1) draft of each element for the Town in Microsoft word format.

Comprehensive Plan Focus Group

Kimley-Horn shall facilitate one (1) focus group meeting for up to two (2) hours to share the draft 2045 comprehensive plan to facilitate public comment on the same. The Town shall provide a list of anticipated meeting attendees, as well as the meeting venue and public notice of the public meeting. At the Town Manager's discretion this focus group meeting may be conducted virtually.

Joint Town Commission/Local Planning Agency Public Workshop

Kimley-Horn shall present the draft 2045 comprehensive plan at one (1) joint public workshop comprised of the members of the Local Planning Agency (LPA) and the Town Commission. Kimley-Horn shall prepare one (1) presentation to be utilized during the workshop reflecting a summary of the changes it is proposing to the comprehensive plan. The presentation will be submitted to Town Manager for review prior to the scheduled workshop meeting. The Town shall provide public notice of the joint meeting and its location. Kimley-Horn shall make one (1) revision to the 2045 comprehensive plan after the focus group meetings and joint workshop are completed.

Transmittal and Adoption of Amendments to the Comprehensive Plan

Once the final draft of the comprehensive plan has been provided to the Town, Kimley-Horn shall present the updated 2045 Comprehensive Plan at one LPA advertised public hearing. Kimley-Horn shall prepare a PowerPoint presentation summarizing the changes to the comprehensive plan. Any input received will be added to a recommendation memorandum to be presented to the Town Council.

After the LPA makes its recommendation, Kimley-Horn shall present the 2045 Comprehensive Plan to the Town Council at one (1) advertised public hearing with a

recommendation to transmit the plan to the Florida Department of Commerce. Within 10 days of its transmittal, Kimley-Horn shall transmit the 2045 Comprehensive Plan to the Florida Department of Commerce via their portal and to the required state and regional agencies by e-mail.

Kimley-Horn shall update the 2045 Comprehensive Plan to incorporate comments received from Florida Commerce, other state and regional agencies as may be appropriate. Kimley-Horn shall present the 2045 Comprehensive Plan at one (1) Town Commission advertised public hearing for adoption.

Kimley-Horn shall provide the Town with one (1) digital “camera ready” document of the 2045 Comprehensive Plan with print-ready graphics in an ADA-compliant format, usable on the Town’s website. All GIS maps and data (shapefiles) used to create the map series shall be provided to the Town. Kimley-Horn shall send the 2045 comprehensive plan adopted by the Town Commission to Florida Commerce within 30 days of its adoption.

Land Development Regulations

LDR Consistency Review

Kimley-Horn shall review and prepare an assessment of the Town’s current Land Development Regulations (LDRs) with the adopted 2045 Comprehensive Plan. Concurrent with the consistency review, Kimley-Horn shall review the LDRs for internal inconsistencies and duplications using the following approaches:

- Analyze existing zoning districts including specific uses, floor area ratios and development criteria.
- Evaluate and recommend the consolidation of sections of the LDR to increase ease of use, as appropriate.
- Evaluate the existing review processes established in the current LDRs and evaluate their efficiency including the current structure and operation of the Town’s existing board, agency and committee functions.
- Recommend, in cooperation with the Town’s consulting coastal engineers and the Town staff, if appropriate, the location of the Waterfront Setback Line at the completion of the Town’s current study.

Kimley-Horn shall prepare a LDR amendment matrix that includes an assessment of any LDR sections which are proposed to be removed, or modified based on the findings of the consistency review.

The table below shows the tasks and fees in accordance with the Scope of Services described hereinabove. The Scope of Services is based on a 12 month schedule.

TASK		FEE
<i>Project Management</i>		\$19,278
Project Kick Off and Project Management		\$7,392
Monthly Project Status Calls		\$5,420
Leadership Interviews		\$6,466
<i>Evaluation of the Comprehensive Plan (EAR)</i>		\$45,230
Statutory Compliance		\$6,683
Data Inventory and Analysis		\$22,666
Map Series		\$4,281
EAR Spreadsheet		\$11,648
<i>Comprehensive Plan Update</i>		\$88,736
Citizen Workshop		\$16,539
Policy Drafting (Draft 1)		\$20,582
Focus Group		\$5,243
Joint Public Workshop and Revised Comprehensive Plan (Draft 2)		\$18,057
Transmittal, Final Comprehensive Plan and Adoption (Draft 3)		\$28,315
<i>Land Development Regulation (LDR) Update</i>		\$17,647
Consistency Review		\$17,647
TOTAL		\$170,891
<i>OUT OF POCKET EXPENSES (TRAVEL COSTS, PRINTING, PRESENTATION MATERIALS)</i>		NOT TO EXCEED \$10,000

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Town of Jupiter Island

2050 Comprehensive Plan

Online Survey

January 2026

Intro questions:

1. Is the Town of Jupiter Island your primary residence?

Yes or No

2. How long have you lived in the Town?

- Less than 1 year
- 1 to 5 years
- 6 to 10 years
- 11 years or more

3. Did you know the Town is updating its Comprehensive Plan?

Yes or No

4. Have you directly participated or offered input on the existing and/or proposed Comprehensive Plan?

Yes or No

Town Vision

5. Is the Town's vision and plan for the future accurately reflected in the Comprehensive Plan today?

- Yes, the Comprehensive Plan accurately reflects the Town's vision and future plans.
- No, the Comprehensive Plan does not accurately reflect the Town's vision and future plans.
- Somewhat; the Plan reflects certain aspects, but not all of the Town's vision and plans.
- I am not familiar with the Comprehensive Plan.

6. Think of the Town in 2050. What do you hope is the same as in 2025? What do you hope is different?

(Fill in the blank)

7. What top three words describe the character of life on Jupiter Island?

(Fill in the blank)

Land Use

8. Do you think the land on Jupiter Island should be used for anything other than homes and natural areas?

- Yes, I support the use of land for other purposes.
- No, I only support single-family residential, and conservation/preservation uses.
- I am unsure / No opinion.

If yes, please describe the use:

Housing

9. Does the density of housing on the island seem low, adequate or high?

- Low – There is plenty of open space and not enough housing.
- Adequate – The current housing density feels just right for the island.
- High – There are too many homes and not enough open space.
- Unsure / No opinion

10. Should the Town allow for an increase in the total number of single-family residences currently permissible, or consider limited or controlled increases based on the capacity of the roadways and utilities available on the island?

- Yes, the Town should allow for an increase in the total number of single-family residences.
- Yes, but only if increases are limited or controlled based on the capacity of roadways and utilities.
- No, the Town should not allow any increase in the total number of single-family residences.
- Unsure / No opinion

Transportation

11. Do you feel that the current road system on Jupiter Island meets the needs of all users – residents, contractors, bicyclists, visitors?

- Yes, the current road system meets the needs of all users.
- Yes, but there are some minor issues that should be addressed.
- No, the road system does not adequately meet the needs of all users.
- Unsure / No opinion

Infrastructure

12. Do you support initiatives that would provide sewer service on Jupiter Island as an option to individual septic fields?

- Yes, I support initiatives that would offer sewer service as an alternative to individual septic fields.
- Yes, but only if the sewer service is environmentally beneficial and cost effective.
- No, I would not support initiatives that would offer sewer service as an alternative to individual septic fields.
- Unsure / No opinion

13. If available would you abandon a septic field to connect to a sewer system?

- Yes, I would abandon a septic field to connect to a sewer system if available.
- No, I would prefer to continue using my septic field rather than connect to a sewer system.
- Unsure / No opinion

Coastal Management

14. Do you support continuing beach nourishment and dune maintenance projects funded through Town taxes on real estate?

- Yes, I support continuing beach nourishment and dune maintenance projects funded through Town taxes on real estate.
- Yes, but only if these projects are demonstrated to be beneficial for resiliency purposes and are cost-effective.
- No, I do not support using Town taxes on real estate to fund beach nourishment and dune maintenance projects.
- Unsure / No opinion

15. Is the Town doing enough to protect the coastal and marine environment?

- Yes, I believe the Town is doing enough to protect the coastal and marine environment.
- No, I do not think the Town is doing enough to protect the coastal and marine environment.
- Somewhat, but I think more actions could be taken to further protect the coastal and marine environment.
- Unsure / No opinion

Conservation

16. Is the Town doing enough to preserve and protect the natural environment on Jupiter Island?

- Yes, I believe the Town is doing enough to preserve and protect the natural environment.
- No, I do not think the Town is doing enough to preserve and protect the natural environment.
- Somewhat, but I think more actions could be taken to further preserve and protect the natural environment.
- Unsure / No opinion

17. Describe one major conservation matter that the Town should address today or in the future.

(Fill in)

Recreation and Open Space

18. Would you agree that the current public and private recreation, and open space resources are sufficient for the needs of residents?

- Yes, current public and private recreation and open space resources are adequate for the needs of residents to ensure a high quality of life.
- No, more investment is needed in public parks, recreational facilities, and open spaces to meet the growing needs and interests of the community.
- Somewhat sufficient: The resources are somewhat sufficient, but there is room for improvement. Adding more amenities, maintaining existing spaces, and expanding recreational opportunities would better serve residents.
- Unsure / No opinion: I am not sure whether the current resources are sufficient, or I do not have enough information to form an opinion.

Intergovernmental

19. How important is it for the Town to coordinate with neighboring municipalities and agencies on issues like traffic, emergency management, and coastal protection?

- Very Important: Coordination with neighboring municipalities and agencies is essential for the safety and well-being of residents.
- Somewhat Important: It is beneficial for the Town to work with others on these issues, but not always critical.
- Not Very Important: The Town can address these matters independently without significant input from neighboring areas.
- Not Important at All: Cooperation on these issues is unnecessary; the Town should focus solely on its own needs.
- Unsure / No Opinion

Capital Improvements

20. What types of capital improvement projects do you believe should be the highest priority for future Town investment?

- Dune Infrastructure: Protecting our coastline is critical. Investing in dune restoration and reinforcement will help safeguard the town from storms and flooding, ensuring the long-term resilience of our community.
- Roadway Upgrades: Improving and maintaining our roads should be a top priority to enhance safety for all that use the roadways.
- Public Safety: Upgrading emergency services, such as fire, police, and medical response and equipment, is essential to keep residents safe.
- Stormwater Management and Flood Mitigation: Investing in infrastructure to manage stormwater and prevent flooding will reduce property damage and environmental impacts from severe weather events.
- If a project you feel is important is not listed here please let us know:



Date: December 12, 2025

To: John Duchock, Town of Jupiter Island

From: Ali Palmer, Kimley-Horn

Subject: Comprehensive Plan Update

Attachments: December 2025 Comprehensive Plan Draft

Summary of December 2025 Draft:

During the November 20, 2025 Town Commission meeting, Kimley-Horn received guidance regarding additional revisions to the goals, objectives, and policies. The December 2025 draft reflects several notable changes to the policies compared to the November 2025 draft. Each of the major policy changes have been included in this document, the most critical changes are outlined as follows:

Urban Sprawl

- Land development regulations are strengthened to prevent urban sprawl by strictly enforcing minimum lot size and width requirements, with limited exceptions and variance processes, while ensuring effective screening and preservation of open space, light, and sight-lines

Flood Protection & Dune Management

- Explicitly recognize dunes as essential infrastructure for flood protection and require the maintenance of a continuous, healthy dune system as part of the Town's Level of Service standards.
- Establish a comprehensive dune master plan that categorizes dune types and management zones for ongoing development and maintenance.

Evacuation Routes & Public Safety

- Strengthened language around hurricane evacuation planning and coordination with Martin County Emergency Management..

Hazard Mitigation & Waterfront Setback

- Policies added to confirm the establishment of a waterfront setback line in the Land Development Regulations, and prohibiting development east of the oceanfront setback line except for dune crossovers.

Manatee Protection

- Policy added to promote and expands manatee slow-speed zones in critical habitats, with requirements for signage, public education, and compliance with wildlife protection standards.

Sea Turtle Protection

- Policies introduced to enhance protection for sea turtles, including measures for restrictive lighting, habitat preservation and requirements for compliance with wildlife safeguarding standards.

Septic to Sewer

- Policy initiatives address the assessment of transition from septic systems to sewer connections to improve environmental quality and public health over the next 25 years.

December 2025 Draft Major Policy Revisions

Future Land Use

1.1.2.2 Policy 1.1.3.2: To prevent urban sprawl, new lots may only be created if they fully comply with all land development regulations for size, width, and other requirements. Creating lots that do not meet these standards is prohibited with the exception of what is listed in this element.

Policy 1.1.4.2: To prevent urban sprawl, new lots may only be created if they fully comply with all land development regulations for size, width, and other requirements. Creating lots that do not meet these standards is prohibited with the exception of what is listed in this element.

Policy 1.1.4.4.: The standards for minimum lot size and width shall be strictly enforced if subdivision or replatting is proposed, provided , however, that in certain instances a reduction of the minimum lot width may be permitted through the variance process and approved by the Board of Adjustment Development Review Board (with appeal to the Town Commission) after holding a public hearing and finding that the following standards are met:

- a. That there would be no net loss of light, air and open space as a result of the reduction in standard;
- b. That the lot provides adequate space for driveways and access easements;
- c. That sight-lines to the Ocean or the Indian River from existing or future homes on adjacent lots are not unreasonably compromised;
- d. That the building footprint for the principal residence and all accessory buildings is shown on the plat in a manner to limit any future construction to the area within the footprint so designated;
- e. That the reduction in lot width does not exceed fifteen percent (15%) of the required width. The overall size and scale of development on a lot shall not result in increased visibility of structures from adjacent properties or public rights-of-way, and

- f. To ensure effective screening, all properties must provide buffering that obscures the view of all building floors from neighboring properties and public rights-of-way.

OBJECTIVE 1.1.6: The Town shall continue to implement land development regulations that can meet established level of service standards and discourage urban sprawl.

01.01.05.01 Policy 1.1.6.1: A concurrency analysis shall be conducted prior to the approval of any application for development, and no development order shall be issued unless:

1. Existing facilities and services meet the Town's ~~The level of service standards adopted in Sections 02.01.01.01 and 04.01.01.01 of the Comprehensive Plan for Transportation, Capital Improvement, and Infrastructure facilities elements; or should be applied to all applications for development approval.~~

2. 01.01.05.03 All ~~The final development orders should be specifically is~~ conditioned on the availability of facilities and services necessary to serve the proposed development at the time the impact of development will occur, consistent with the Town's Concurrency Management System and the infrastructure at adopted level of service standards.

01.01.05.02 Policy 1.1.6.2: Developments that would impact existing facilities by reducing the level of service below adopted levels and which are to be constructed prior to the availability of scheduled improvements, should will be required to pay for such impacts or provide their own facilities constructed to Town specifications. Payments shall be made, and construction of facilities shall be completed, before a certificate of occupancy is issued by the Town for said development.

Policy 1.2.1.4: All existing native vegetation within the dune areas, east and west of the waterfront setback line, should be preserved on property within all future land use designations to maintain the existing dune crest and mitigate major erosion events.

OBJECTIVE 1.2.4: Recognize the adopted Soil Map of Jupiter Island and ensure that all future land use decisions, including designations on the Future Land Use Map, are coordinated with the identified soil and topographic characteristics of the area.

Policy 1.2.4.1: The Soil Map is hereby adopted by reference as Figure X-X

Policy 1.2.4.4: The Town will also utilize available data sources for wetlands, uplands, and critical habitats when delineating future land uses and evaluating requests for changes in land use.

Transportation

~~02.01.02.02~~ **Policy: Objective 2.1.2** The Town should work in partnership with the County, State and Federal agencies to protect the road rights-of-way through on-going beach protection efforts.

Policy 2.1.2.1: The Town's should work with County, State, and Federal agencies to protect, enhance, and maintain its dune and beach systems by help safeguard and strengthen public right-of-ways and evacuation routes.

Housing

Policy 3.1.2.2: No building permits for new homes shall be issued unless essential infrastructure—potable water, sewer or septic, roadway, stormwater drainage, and electricity—is installed and operational.

Infrastructure

Policy 4.1.4.3: Assess the transition from Onsite Sewage Treatment and Disposal Systems (commonly referred to as septic systems) to sanitary sewer throughout the Town over the next 25-year planning horizon, concluding in 2050.

OBJECTIVE 4.1.8: To improve flood protection from storms and storm surge through the use of beach and dunes as infrastructure.

Policy 4.1.8.1: The Town should manage beaches and dunes in accordance with the goals, objectives, and policies of the Coastal Management Element.

Policy 4.1.8.2: Dunes should be considered infrastructure for flood protection and the Town should support efforts to maintain a continuous healthy and robust dune system in accordance with the Level of Service standards of Policy 4.1.1.1.

Coastal Management

GOAL 5.1: To promote the conservation and preservation of the town's natural resources and coastal wildlife habitat to plan for, and where appropriate, restrict development which would damage or destroy the natural, archeological, or historic resources of the coastal area.

~~05.01.02.04~~ **Policy 5.1.2.1:** Improvements to the Town's beaches should continue to be implemented in a manner that does not damage or destroy and protects and enhances natural beach wildlife habitats and dune areas serving as optimal habitat for nesting sea turtles and other native species of flora and fauna.

Policy 5.1.2.3: Regulate beachfront lighting, beach and dune preservation, stabilization, and restoration to ensure the health and wellbeing of vital sea turtle habitat throughout the island.

Policy 5.1.2.4: Implement specific prohibitions on development processes and activities which may be disruptive to the nesting, migratory, hatching, or other behaviors of sea turtles.

Policy 5.1.2.5: Facilitate reduction of light pollution and negative impacts of lighting on sea turtle nesting and hatchlings through continued strengthening of lighting ordinances and enforcement of lighting restrictions during sea turtle nesting season.

Policy 5.1.3.2: Promote and expand manatee slow-speed zones in critical habitats south of the Bridge Road bridge, prohibiting activity that harms submerged lands, while ensuring clear signage, public education, and compliance with state and federal wildlife protection standards.

Policy 5.1.4.12: Continue to administer mangrove trimming and permitting as regulated by the Florida Department of Environmental Protection.

05.01.05.00 OBJECTIVE 5.1.5: To protect the natural functions of the coastal barrier, with significant effort to and protect and enhance the coastal dunes and ocean beach system as part of the Town's infrastructure.

05.01.05.04 Policy 5.1.5.4: Removal of natural existing native dune vegetation should be prohibited, and preservation and enhancement of native dune vegetation should be encouraged.

Policy 5.1.5.8: All existing native vegetation within the dune areas, east and west of the waterfront setback line, should be preserved to maintain the existing dune crest and mitigate major erosion events.

Policy 5.1.5.9: Develop and maintain a comprehensive dune master plan that categories the different types of dunes in the Town and clearly defines dune management zones that address the various ownership types and functional roles and include recommendations to enhance and maintain the existing dune system tailored to each zone.

05.03.03.00-OBJECTIVE 5.3.3: No development shall occur east of the existing primary dune, except for local, regional and state restoration or protective projects. New construction, expansion, or redevelopment in this area is strictly prohibited to protect coastal resilience.

Policy 5.3.3.1: Establish a waterfront setback line in the Land Development Regulations where no development (other than dune crossovers) shall be allowed east of the oceanfront waterfront setback line. This waterfront setback line shall not be moved for the purpose of development and construction.

Conservation

Policy 6.1.6.4: The Town's LDR's shall require that all development, including single-family residential development, preserve a portion of their parcel through easement if there is existing, high quality upland, coastal or wetland vegetative habitat on the parcel.

Policy 6.1.6.5: The Town's LDR's shall require proposed developments to establish and maintain a vegetated and functional littoral zone as part of the surface water management system for any marine wetlands occurring on all properties, consistent with FDEP standards.

Policy 6.1.6.6: The Town's LDR's shall require that existing vegetation, excluding invasives, remain within the required landscape buffers for all parcels.

Intergovernmental

08.01.03.01 Policy 8.1.3.1: The Town developed a revised shall maintain and update the Emergency Management Plan in coordination with the Martin County Comprehensive Emergency Management Plan, and consistent with the policies in the Coastal Management Element.

08.01.03.04 Policy 8.1.3.4: The Town should continue to cooperate Revisit and where appropriate, coordinate with the FDEP's Florida Coastal Office in administration of the Indian River Lagoon Aquatic Preserve Management Plan which applies to the estuarine waters adjacent to Jupiter Island. Construction, excavation or other activities waterward of the mean high water line that can impact on estuarine environmental quality should continue to be coordinated with the FDEP.

08.01.04.03 Policy 8.1.4.2: Where the Town is unable to resolve intergovernmental conflicts with local jurisdictions, the Town Commission will determine appropriateness for the respective issues to be mediated as outlined in Florida Statutes.

Capital Improvements

09.01.06.04 Policy 9.1.1.4: Any capital improvements projects defined in the future shall be evaluated and ranked in order of priority according to the following guidelines:

- a. Public Health and Safety: Whether the project is needed to protect public health and safety, to fulfill the Town's legal commitment to provide facilities and services, or to preserve or achieve full use of existing facilities.
- b. Level of Service: Whether the project increases efficiency of use of existing facilities, prevents or reduces future improvement costs, or provides service to developed areas lacking full service, ~~or promotes in-fill development~~. If public facilities are developer-provided, they shall accommodate public facility demands based upon adopted Level of Service standards.

- c. Financial Feasibility: Whether the project is financially feasible based on the established criteria for evaluating capital improvement projects and its budgetary impacts.
- d. Efficiency: Whether the project represents a logical extension of facilities and services and the effects upon appropriate State agency and/or Water Management District facilities plans shall be evaluated.
- ~~e. Updated every year to reflect a 5-year projection of Capital Expenditures.~~
- e. Quality of Life: Priority should also be given to projects that would enhance the quality of life.

TOWN VISION

The Town of Jupiter Island is a barrier island community, between the Indian River Lagoon and the Atlantic Ocean, where the beauty of nature will always dominate the presence of man. Our vision for the future is illustrated by the traditions of the past, formed by a community of caring individuals who, with imagination and heart, have combined the island's beautiful gifts of nature with those of tradition and family. Inherent in the character of the Town are tranquility, ~~seclusion~~ serenity, and safety. The residents of Jupiter Island will faithfully endeavor to preserve and nurture their unique community for all future generations.

PURPOSE OF THIS PLAN

Under Chapter 163, Florida Statutes, a comprehensive plan serves as the foundational policy document guiding decision making in a community. Its purpose is to establish principles, guidelines, standards, and strategies that reflect local commitments and provide a consistent framework for governance. The plan sets meaningful and predictable standards, ensuring that quality of life and natural resources on the island are protected and preserved. It also identifies programs necessary for these protections and includes procedures for monitoring and evaluation.

TOWN PROFILE

The Town of Jupiter Island is situated on a barrier island at the south end of Martin County. The Town consists of approximately 1,643 acres of land bound on the east by nine miles of ocean frontage and on the west by the Intracoastal Waterway - Indian River Lagoon Aquatic Preserve. The Town's permanent population was ~~804~~ 847 according to the 2020 census, and in 2030 is estimated to be ~~780~~ 826, with a seasonal population of approximately 3,000.

The Town was established by the Florida Legislature in 1953. The climate and environmental resources of Jupiter Island have contributed to the development of a high-quality, low-density residential community that seeks to preserve natural resources to the maximum extent possible. The primary land uses in the Town are single-family residential development in secluded estates and homes and conservation/preservation. The few commercial land uses within the Town exist primarily to serve residents. The remaining vacant land is designated for single-family residential, recreational, and conservation uses.

The Town Charter establishes a Town Commission/Manager form of government. The Town is governed by a five-member Commission elected for four-year overlapping terms. The Commission elects its Mayor and appoints a Town Manager and Town Attorney. The Town Manager is responsible for retaining employees to provide for proper operation of the Town. A total of 90 employees carry out the functions of Public Safety, South Martin Regional Utility (SMRU), Public Works, Building and Zoning, Finance and Administration. The Town residents are very public service oriented. ~~Almost 64~~ More than 50 residents serve on the many boards and committees that make the Town run successfully. Residents are also active outside the Town to help with various programs of community interest.

The Town follows the procedures set forth in Chapters 166 and 200 of the Florida Statutes in establishing the ~~budgetary data~~ budget and mileage rate. The ad valorem tax or "property tax" is a major revenue source for the financing of budgets to meet the Town's needs. Each year, the Martin County Property Appraiser determines the total value of each parcel of property based on its fair market value. There are 597 taxable parcels within the Town. The Town's ~~2017~~ 2025 taxable value established by the Martin County Property Appraiser is \$2,432,462,327 ~~981,306,781~~.

OBJECTIVES AND POLICIES NOT APPLICABLE

No objectives or policies pertaining to the discouragement of the proliferation of urban sprawl are necessary or applicable in the Town because it is virtually developed, and the only areas for potential development are located on "in-fill" parcels.

No policies are necessary or applicable to the protection of potable water wellfields since there are now no such facilities in the Town, nor are any expected in the future.

FUTURE LAND USE ELEMENT

Purpose

As an element of the Town Comprehensive Plan required by Section 163.3177(6)(a), Florida Statutes, the purpose of the Future Land Use Element is to designate the proposed future general distribution, location, and extent of land uses within the Town of Jupiter Island. Each land use has approximate acreages and permitted uses, as well as standards for controlling population densities and building intensities consistent with the Town's vision.

~~For the most part,~~ The land use categories shown on the Future Land Use Map generally coincide with the existing land use and zoning pattern in the Town. Since its inception, the Town has been a planned residential ~~and resort~~ community. The existing platting arrangement and land use and zoning patterns largely reflect the original intentions of the Town's founders. Land use mapping locations as depicted ~~on~~ in the Future Land Use Map Series, therefore, represent land use locational strategies that have been well thought out over time, with due consideration given to the suitability of each land use module for the category assigned to it. Future land uses shall accommodate at least the minimum amount of land required to accommodate the ~~medium projections of the University of Florida's Bureau of Economic and Business Research for at least a 10-year planning period, unless otherwise limited~~ projected Town population for the 10-year and 25-year planning period.

Goals, Objectives, and Policies

01.01.00.00 GOAL 1.1: To preserve and enhance the Town's community character as a high quality, single-family residential community.

OBJECTIVE 1.1.1: Manage and coordinate land use through the establishment of Future Land Use Designations with regulations that preserve and protect natural resources and the Town's vision.

The Town of Jupiter Island Future Land Use Plan is organized into the four different land use classifications designations listed below. ~~The regulatory significance of each of these land use categories is set forth in Sections 01.02.01.00 through 01.02.05.00:~~

- Residential
- Recreation
- Conservation/Preservation
- Public Facilities

Policy 1.1.1.1: Residential Future Land Use Designation

The Residential land use category is intended primarily to permit development of single-family structures. The Residential district is intended to permit one-family detached dwellings and other customary accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory building should be located on the same lot with the principal building. Such permitted accessory buildings and uses should include, but not necessarily be limited to, staff quarters, private garages, guest houses, beach houses, tennis courts and swimming pools. No more than two (2) accessory buildings for living quarters shall be permitted as defined in the Town's Zoning Ordinance, ~~should be permitted.~~

Policy 1.1.1.2: Recreation Future Land Use Designation

The Recreation land use category designates locations for publicly and privately owned or controlled recreational lands and other open space areas intended for active or passive use. Designation of an area in this category signifies the expectation that the area will continue to be put to recreation and open space use for the foreseeable future. Sites designated in the Recreation category should not be used for other than the intended purposes without careful consideration of the most appropriate use and a properly enacted amendment to the Future Land Use Plan.

Policy 1.1.1.3: Conservation Future Land Use Designation

The Conservation/Preservation land use category is intended to designate land areas for the purpose of conserving or protecting natural resources or environmental quality and includes areas designated for such purposes as flood control, protection of quality or quantity of groundwater or surface water, floodplain management, fisheries management, or protection of vegetative communities or wildlife habitats.

Policy 1.1.1.4: Public Facilities Future Land Use Designation

The Public Facilities land use category designates locations for publicly-owned infrastructure systems, such as rights-of-way, sewer, solid waste, drainage, potable water, educational, and public health systems, public buildings, grounds and facilities. Designation of an area in the Public category signifies the expectation that the area will continue to be put to public use for at least the next five years. Sites designated in this category should not be used for other than public purposes without careful consideration of the most appropriate non-public use and a properly enacted amendment to the Future Land Use Plan.

01.01.01.00-OBJECTIVE 1.1.2: To eliminate or reduce land uses inconsistent with the community character, as set forth in this Future Land Use Plan.

01.01.01.01-Policy 1.1.2.1: The Future Land Use Plan should be interpreted as the exact intent of the Town's Local Planning Agency and Town Commission.

01.01.01.02-Policy 1.1.2.2: Land use areas as shown on the Future Land Use Map should be delineated along logical demarcation lines.

01.01.01.03-Policy 1.1.2.3: Zoning map designations and zoning ordinance text should be consistent with the Comprehensive Plan and this Future Land Use Element Plan. Zoning map or text amendments inconsistent with this Future Land Use Plan should be reviewed as Comprehensive Plan amendments.

01.01.01.04-Policy 1.1.2.4: Elimination or reduction of existing non-conforming land uses should be accomplished with proper respect for the vested rights of property owners.

01.01.01.05-Policy 1.1.2.5: Expansion of non-conforming land uses should be prohibited.

01.01.01.06-Policy 1.1.2.6: Additional commercial development should not be permitted except to enhance the quality of services at the Jupiter Island Club and the Hobe Sound Yacht Club.

01.01.01.07 Policy 1.1.2.7: The Town should change the zoning designation of the residentially zoned properties that have been placed into conservation/preservation to conservation/preservation on the zoning map.

Policy 1.1.2.8: Maintain the Town's character as a single-family residential community that prioritizes conservation and preservation, as well as the natural beauty and ecological significance of the barrier island.

01.01.02.00-OBJECTIVE 1.1.3: ~~To achieve an orderly simple energy-efficient and energy conserving land use pattern with a high degree of use compatibility within each land use category and which are based upon greenhouse gas reduction strategies ensuring that land uses are appropriately integrated and harmonious with surrounding uses.~~

1.1.2.1 Policy 1.1.3.1: ~~Zoning Land Development Regulations should protect single-family residential uses development from the encroachment of incompatible land uses.~~

1.1.2.2 Policy 1.1.3.2: ~~The Future Land Use Map Plan will shall be based upon energy-efficient land use patterns that account for existing and future electric power generation and transmission and energy conservation. To prevent urban sprawl, new lots may only be created if they fully comply with all land development regulations for size, width, and other requirements. Creating lots that do not meet these standards is prohibited with the exception of what is listed in this element.~~

01.01.03.00 OBJECTIVE 1.1.4: To maintain the ambiance and quality of life in the Town as provided for in this Comprehensive Plan through the implementation of appropriate land development regulations.

01.01.03.01-Policy 1.1.4.1: Consistent land development regulations should be adopted for the purpose of plan implementation. At a minimum, such land development regulations should regulate the following:

1. Zoning of properties in accordance with the land use designations as delineated on the Future Land Use Map, and zoning text in accordance with the Land Use Plan explanatory text, including establishment of densities and intensities of use for each land use category;
2. The number, size and placement of signs;
3. The development of land within areas subject to seasonal or periodic flooding;
4. Drainage and stormwater management;
5. Maintenance of safe and convenient on-site traffic flow;
6. Provision of adequate parking space on developed properties; and
7. Coastal and wetland management

Policy 1.1.4.2: To prevent urban sprawl, new lots may only be created if they fully comply with all land development regulations for size, width, and other requirements. Creating lots that do not meet these standards is prohibited with the exception of what is listed in this element.

Policy 1.1.4.3: Subdivision or replatting of land. Replatting provisions must comply with land development regulation's. and should require that Any building permit for a structure that will use which building relating thereto would utilize more than one lot or portion thereof, must file a replat of all affected lots. In addition, no partition of dividing lots should be

~~allowed to in a way that creates nonconformities as to other with other land development code regulations provisions is prohibited.~~

Policy 1.1.4.4.: The standards for minimum lot size and width shall be strictly enforced if subdivision or replatting is proposed, provided , however, that in certain instances a reduction of the minimum lot width may be permitted through the variance process and approved by the Board of Adjustment-Development Review Board (with appeal to the Town Commission) after holding a public hearing and finding that the following standards are met:

- a. That there would be no net loss of light, air and open space as a result of the reduction in standard;
- b. That the lot provides adequate space for driveways and access easements;
- c. That sight-lines to the Ocean or the Indian River from existing or future homes on adjacent lots are not unreasonably compromised;
- d. That the building footprint for the principal residence and all accessory buildings is shown on the plat in a manner to limit any future construction to the area within the footprint so designated;
- e. ~~That the reduction in lot width does not exceed fifteen percent (15%) of the required width~~ The overall size and scale of development on a lot shall not result in increased visibility of structures from adjacent properties or public rights-of-way, and
- f. To ensure effective screening, all properties must provide buffering that obscures the view of all building floors from neighboring properties and public rights-of-way.

~~01.01.04.00~~ **OBJECTIVE 1.1.5:** To promote the rehabilitation and restoration of older structures.

~~01.01.04.01~~ **Policy 1.1.5.1:** The zoning ordinance should be reviewed to assure that its provisions do not preclude the renovations of existing residential structures.

~~01.01.05.00~~ **OBJECTIVE 1.1.6:** The Town shall continue to implement land development regulations that can meet established level of service standards and discourage urban sprawl. To coordinate future land uses with the capacity of facilities and services.

~~01.01.05.01~~ **Policy 1.1.6.1:** A concurrency analysis shall be conducted prior to the approval of any application for development, and no development order shall be issued unless:

1. Existing facilities and services meet the Town's ~~The~~ level of service standards adopted in Sections 02.01.01.01 and 04.01.01.01 of the Comprehensive Plan for Transportation, Capital Improvement, and Infrastructure facilities elements; or should be applied to all applications for development approval.

2. 01.01.05.03 All ~~The final~~ development orders should be is specifically conditioned on the availability of facilities and services necessary ~~to serve the proposed development at the time the impact of development will occur, consistent with the Town's Concurrency Management System and the infrastructure at~~ adopted level of service standards.

~~01.01.05.02~~ **Policy 1.1.6.2:** ~~Developments that would impact existing facilities by reducing the level of service below adopted levels and which are to be constructed prior to the availability of scheduled improvements, should will be required to pay for such impacts or provide their own facilities constructed to Town specifications. Payments shall be made, and construction of facilities shall be completed, before a certificate of occupancy is issued by the Town for said development.~~

~~01.01.06.00~~ **OBJECTIVE 1.1.7: To ensure the availability of suitable land for utility facilities necessary to support proposed development.**

~~01.01.06.1~~ **Policy 1.1.7.1:** Suitable land should be dedicated or reserved by the Town for utility facilities necessary to support proposed development

~~01.02.00.00~~ **GOAL 1.2: To Plan for, and Where appropriate, Restrict development that would damage or destroy natural or historic resources.**

~~01.02.01.00~~ **OBJECTIVE 1.2.1: To protect, conserve, or enhance wetlands and natural vegetation, environmentally sensitive habitats and conservation designated lands, consistent with the Conservation and Coastal Management Elements.**

~~01.02.01.01~~ **Policy 1.2.1.1:** Marine and estuarine wetlands should be protected from dredge and fill activities associated with development through standards that meet or exceed existing Federal, State, County and/or Town regulation of these activities.

~~01.02.01.02~~ **Policy 1.2.1.2:** Future disruptions or degradations of wetlands should be accompanied by mitigation measures to ensure no net loss in wetland acreage.

~~01.02.01.03~~ **Policy 1.2.1.3:** The Town should continue to conduct on-site inspection of building sites prior to any clearing in preparation for construction in order to assure that mangrove habitat and or any other upland littoral zone vegetation is protected and accommodated in the site design east of the oceanfront waterfront setback line or west of the riverfront waterfront setback line, consistent with the requirements of Chapter 403, Florida Statutes.

~~01.02.01.04~~ **Policy 1.2.1.4:** The Town's clearing and landscaping requirements should require a permit before any clearing or grubbing may begin on all subdivision lots or development sites prior to the issuance of a development permit.

Policy 1.2.1.4: All existing native vegetation within the dune areas, east and west of the waterfront setback line, should be preserved on property within all future land use designations to maintain the existing dune crest and mitigate major erosion events.

~~01.02.02.00~~ **OBJECTIVE 1.2.2: To protect, conserve or enhance living marine resources and wildlife habitats.**

~~01.02.02.01~~ **Policy 1.2.2.1:** New point-sources of pollution discharging directly into the Indian River lagoon, or into drainage structures leading to the lagoon, should be restricted.

~~01.02.02.02~~ **Policy 1.2.2.2:** Development should be designed to accommodate stormwater on-site in accordance with applicable performance standards and the Infrastructure element.

~~01.02.03.00~~ **OBJECTIVE 1.2.3: To coordinate with any appropriate resource planning and management plan prepared pursuant to Chapter 380, Florida Statutes and approved by the Governor and Cabinet.**

~~01.02.03.01~~ **Policy 1.2.3.1:** The Town should continue to adopt specific policies and land development regulations when necessary in order to coordinate with any approved state, regional and local resource planning and management plan affecting the Town's resources. The Town should keep ~~itself~~ informed about the preparation of such plans.

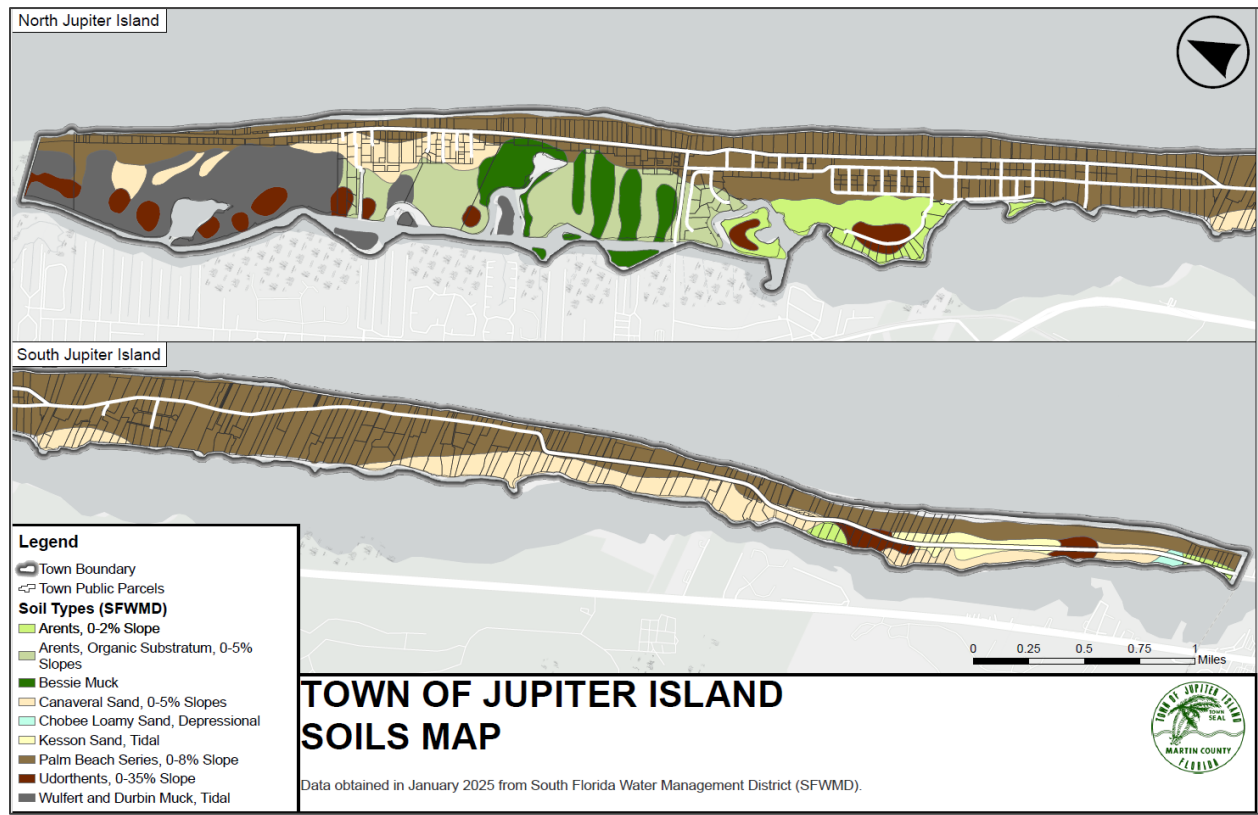
~~01.02.04.00~~ **OBJECTIVE 1.2.4: Recognize the adopted Soil Map of Jupiter Island and ensure that all future land use decisions, including designations on the Future Land Use Map, are coordinated with the identified soil and topographic characteristics of the area.**

Policy 1.2.4.1: The Soil Map is hereby adopted by reference as Figure X-X

Policy 1.2.4.2: The Town's LDRs should be modified to include the coordination of future land uses with appropriate topography and soil conditions.

~~01.02.04.01~~ **Policy 1.2.4.3:** Decisions regarding future land development should consider the natural topography of the development site and the soil types occurring on the site.

Policy 1.2.4.4: The Town will also utilize available data sources for wetlands, uplands, and critical habitats when delineating future land uses and evaluating requests for changes in land use.



TRANSPORTATION ELEMENT

Purpose

As an element of the Town Comprehensive Plan, required by Section 163.3177(6)(b), Florida Statutes, the purpose of the Transportation Element is to establish the desired and projected transportation system and to plan for the future motorized and non-motorized Transportation system addressing issues in relationship to the size and character of the Town, with an emphasis on transportation that is safe and coordinated. The future Transportation system is supported by the goals, objectives, and policies, set forth herein, and is depicted on the Future Transportation Land Use Map Series.

The Transportation Element supporting data and analysis document describes and analyzes current and future conditions of the Town of Jupiter Island Transportation system. The system includes all roads, streets, and highways, and other public accessways dedicated and opened to public travel. These include primarily Martin County Road 707, which is the major north-south route through the Town and is classified as a minor arterial road. Gomez Road and North Beach Road are the primary Town roads and are classified as collector roads. The remaining roads within the Town are classified as local residential roads.

The future Transportation plan for the Town is embodied in the Transportation goals, objectives and policies and the Future Transportation Land Use Map Series. The components of the future system will remain essentially the same as at present. The adopted level of service to be maintained for all roads within the system is Level of Service A or such other standard as may be required by the Florida Department of Transportation (FDOT).

Goals, Objectives, and Policies

02.01.00.00 GOAL 2.1: To establish the desired transportation system in the Town and particularly to plan for future motorized and non-motorized transportation systems.

02.01.01.00 OBJECTIVE 2.1.1: To provide safe, efficient, and cost-effective vehicular and pedestrian movement throughout the Town. while providing for reduction of greenhouse gases.

02.01.01.01 Policy 2.1.1.1: The Town should maintain a Transportation Level of Service (LOS) A on all of the Town's roadways.

02.01.01.02 Policy 2.1.1.2: The Town will continue to maintain "The Ramble", a pedestrian and bicycle path used by residents and visitors, which provides for an alternative mode of transportation that reduces greenhouse gases and helps with energy conservation.

02.01.01.03 Policy 2.1.1.3: The Town's shall enforce a maximum 30 MPH miles per hour (MPH) speed limit throughout the Town, encourages using encouraging the use of golf carts as an alternative transportation method. The use of golf carts provides a reduction in greenhouse gas emissions.

02.01.01.04-Policy 2.1.1.4: The Town's Land Development Regulations (LDRs) should be revised to address the connections and access points of driveways and roads to roadways for the purpose of minimizing conflict points between automobiles.

02.01.01.05-Policy 2.1.1.5: The Town's LDRs ~~to be adopted within one year of the required date of submittal to the State DEO for the Comprehensive Plan,~~ should provide for safe and convenient on-site traffic flow.

02.01.02.02-Policy: Objective 2.1.2 The Town should work in partnership with the County, State and Federal agencies to protect the road rights-of-way through on-going beach protection efforts.

Policy 2.1.2.1: The Town's should work with County, State, and Federal agencies to protect, enhance, and maintain its dune and beach systems by help safeguard and strengthen public right-of-ways and evacuation routes.

02.01.02.00-OBJECTIVE Policy 2.1.2.2: The Town has determined that relocating the road right-of way on both North Beach and South Beach Roads is unfeasible.

02.01.02.01-Policy 2.1.2.3: The Town has assumed ownership of the North Beach Road right-of-way and ~~no modification of the road profile has been accomplished. The Town~~ has determined that relocating the road right-of-way is unfeasible.

02.01.03.00-OBJECTIVE 2.1.3: To coordinate the future maintain a safe, effective transportation system and with future land uses of the on the Town's roadways.

02.01.03.01-Policy 2.1.3.1: Future traffic improvements or changes to the Town 's Transportation system should be coordinated with the ~~proposed~~ future land uses as shown on the adopted Future Land Use Map. Conversely, future land use and development should be coordinated with the ~~proposed future~~ transportation system as shown on the adopted Future Transportation Facilities Map.

02.01.04.00-OBJECTIVE 2.1.4: To coordinate cooperate with Martin County on transportation planning and traffic improvements with in the County's' the future transportation plans and traffic improvement programs of Martin County.

02.01.04.01-Policy 2.1.4.1: ~~The Town should convey to~~ maintain open communication with Martin County ~~its concerns regarding anticipated rapid county the projected County population growth, which could have a significant and its impact on the Town's roadway system within the Town, including potential adverse impacts on the maintained level of service.~~

02.01.04.02-Policy 2.1.4.2: The Town should coordinate closely cooperate with Martin County to ensure that needed drainage, safety and maintenance projects within County-owned and maintained roadways improvements to County Road 707-within the Town's limits are adopted in made part of the County's Capital Improvement Plan (CIP), the Martin Metropolitan Planning Organization (MPO) Long Range Transportation Plan and the Florida Department of Transportation's (FDOT) Five-Year Road Work Program. The Town should keep itself informed about all County planned road improvements that will impact the Town's Transportation system.

02.01.04.03-Policy 2.1.4.3: ~~For all County rights-of-way in the Town,~~ The Town shall enter into negotiations with Martin County to amend the Joint Planning Agreement ~~with Martin~~

County which will control ensuring that any decisions regarding County right-of-way within the Town – such as the any sale of right-of-way, the width of pavement, use of roads for bicycles and golf carts, landscaping within rights-of-way and any other issue which would change the character and ambiance of the Town-are carefully monitored.

HOUSING ELEMENT

Purpose

As an element of the Town Comprehensive Plan, required by Section 163.3177(6)(f), Florida Statutes, the purpose of the Housing Element is to provide appropriate goals, objectives and policies and to demonstrate the Town's commitment ~~to meet identified or projected deficits in the supply of housing needs within the Town. These plans and policies address government activities as well as provide direction and assistance to the efforts of the private sector.~~

The Housing Element support ~~data and analysis document~~ presents an inventory and analysis of existing and future conditions of housing in the Town of Jupiter Island. The community is characterized by many affluent winter residents who occupy large single-family homes. These homes often provide accessory quarters for guests and employees. The only multiple-family units within the Town are the guest rooms at the Jupiter Island Club and special dormitory-type housing provided for employees of the Club.

The Town's plan for future housing is set forth in the goals, objectives and policies presented below. In accordance with the Future Land Use ~~Plan~~ Element, all new housing in the Town will be exclusively single-family residences. However, it will be the Town's policy to continue to permit accessory housing units on single-family lots to accommodate guests and employees of the residents. In addition, special housing for employees of the Jupiter Island Club ~~will~~ may continue to be permitted.

Goals, Objectives, and Policies

03.01.00.00 GOAL 3.1: ~~To provide for safe and adequate, decent, energy-efficient, and sanitary housing at a range of costs and types necessary to meet the needs of the present current and future population of the Town of Jupiter Island.~~

03.01.01.00 OBJECTIVE 3.1.1: ~~To ensure that new housing in the Town of Jupiter Island will be compatible with the community character.~~

03.01.01.01 Policy 3.1.1.1: ~~The Town's Land Development Regulations require the Town will to work with developers from the inception of a project to ensure the project meets the Town's needs of the Town and is consistent with the Town's high-quality, low-density residential character through the requirements of the development review process, as defined in the Town's Land Development Regulations.~~

03.01.01.02 Policy 3.1.1.2: ~~In accordance with the Future Land Use Element Goals, Objectives and Policies, all future housing development within the Town of Jupiter Island should be restricted to single-family residences. However, The Town should continue to allow provision of housing units accessory to single-family residences for the use of guests and employees and provision of, as well dormitory-style housing for employees of the Jupiter Island Club and guest accommodations at the Jupiter Island Club in the same manner as they are now constructed complimentary to the existing structures on the Club property.~~

03.01.01.03 Policy 3.1.1.3: ~~The Town LDRs should ensure the compatibility of new housing proposals with existing natural resources and with the environmentally sensitive habitats within the Coastal Zone.~~

03.01.01.04 Policy 3.1.1.4: ~~The Town should continue to review the historic significance of housing stock and should notify each owner of identified property of the results.~~

~~03.01.02.00~~ OBJECTIVE 3.1.2: To ensure adequate community infrastructure and essential services to meet the need of new housing units.

~~03.01.02.01~~ Policy 3.1.2.1: The Town should examine the capacity of existing infrastructure and essential services and plan, through the Capital Improvements Element of the Comprehensive Plan, for needed improvements to serve new housing.

Policy 3.1.2.2: No building permits for new homes shall be issued unless essential infrastructure—potable water, sewer or septic, roadway, stormwater drainage, and electricity—is installed and operational.

~~03.01.03.00~~ OBJECTIVE 3.1.3: To contribute the Town's population to the regional efforts to establish need for affordable housing.

~~03.01.03.01~~ Policy 3.1.3.1: The Town should participate in any county or regional plan, ~~such as an urban county Community Development Block Grant Program,~~ which permits municipalities that cannot provide ~~low income~~ affordable housing to contribute their population to a regional plan for the purpose of meeting regional housing needs.

~~03.01.03.02~~ Policy 3.1.3.2: The Town should request Martin County to utilize ~~some~~ a portion of the ~~substantial~~ ad valorem tax dollars paid by the Town to address the regional issue of adequate low- and moderate-income housing.

~~03.01.04.00~~ OBJECTIVE 3.1.4: The Town shall provide strategies for increased energy-efficiency related to design and construction of new housing.

~~03.01.04.01~~ Policy 3.1.4.1: The Town shall develop and incorporate energy-efficiency standards, plans and principles within the LDR's to be followed in energy efficiency in the design and construction of new housing, including and in the use of renewable energy resources shall be developed and incorporated within the LDR's.

INFRASTRUCTURE ELEMENT

Purpose

As an element of the Town Comprehensive Plan required by Section 163.3177(6)(c), Florida Statutes, the purpose of the Infrastructure Element is to provide for necessary public facilities and services, including sanitary sewer, solid waste, flood protection, stormwater drainage, potable water, and natural groundwater aquifer recharge, ~~in correlation alignment with the future land use projections element.~~

The five main components of the Infrastructure Element are examined in the element's data and analysis support document. For each component, the existing conditions and future needs are analyzed. The Town's existing public infrastructure facilities and services ~~in the Town are limited to~~ consist of solid waste collection and disposal, ~~and the~~ management and maintenance of stormwater and flood protection, ownership of the water utility, and management conveyance of the sanitary sewer conveyance from for the Jupiter Island Club.

The Town provides garbage, yard waste, and recycling collection and disposal for all its residents and the Jupiter Island Club facilities.

Potable water supply service ~~is provided~~ within the Town is provided by the Town-owned South Martin Regional Utility(SMRU), with the exception of the 600 Block which receives water from the Village of Tequesta.

There are two sanitary sewer systems within the municipal boundaries of the Town. The public systems service the Jupiter Island Club and the 600 Block of S. Beach Road. Please refer to figure 4.2.1 in the Infrastructure Element, Data and Analysis. All other residential and developed properties are served by on-site septic tanks.

The SMRU also provides both potable water supply service and wastewater treatment service to ~~some certain areas~~ of southeastern Martin County ~~(see Map below)~~. The SMRU has been issued Water Use Permit number 43-00066-W by the South Florida Water Management District. As part of the permit process, for which SMRU submitted a map depicting defining the "Service Area", ~~that which~~ includes the Town and a larger portion of the unincorporated area of southeastern Martin County ~~than SMRU currently serves (see Map below).~~

Irrigation quality water is not available at this time in Jupiter Island.

There are no utility scale potable water wells or wellfields within the Town, ~~and~~ It has been determined that the Town's land area ~~probably~~ does not contribute directly significantly to recharge of the surficial aquifer that supplies the SMRU potable water wells, ~~that which~~ are located on the mainland outside the municipal boundaries of the Town.

Gomez Road is served by an exfiltration stormwater system without discharge to any waterbody.

The plan ~~for meeting to meet~~ the Town's future needs for public infrastructure facilities or services is outlined in the goals, objectives, and policies below. The plan incorporates ~~provides for a~~ the SMRU Water Supply Facilities Work Plan by reference, which meets the needs of existing and new development within the Town for the next ten years. The work plan is required by Section 163.3177(6)(c) Florida Statutes. The Data and Analysis portion of the plan has been amended to provide the background for the work plan. Included here are revised goals, objectives and policies intended to define and guide the implementation of the work plan.

Goals, Objectives, and Policies

4.01.00.00 GOAL 4.1: To provide the needed public facilities for the Town in a manner which: protects investments in existing facilities; ~~promotes orderly, compact urban growth, supports planned growth,~~ while maintaining an acceptable level of service (LOS); protects the natural environment; and protects natural resources.

04.01.01.00 OBJECTIVE 4.1.1: To continue to ensure that at the time a development permit is issued by the Town, adequate infrastructure facility capacity is available or will be available when needed to serve the developments within the Town.

04.01.01.01 Policy 4.1.1.1: The Town should adopt the following level of service standards which should be used as the basis for determining the availability of facility capacity and the demand generated by a development.

Municipal Roadways: LOS "A" at peak hour

Solid Waste Disposal: Collect and dispose of 9 pounds of solid waste/capita per day

Stormwater Drainage: Design storm frequency for a 5-year, 24-hour storm duration, as found in the SFWMD ERP Information Manual Volume IV. The stormwater management devices and structures should be designed with a safety factor of 20% beyond the level of service standard and should include for ongoing maintenance of the devices and structures.

Flood Protection:

Potable Water Supply: Provide water quality at levels meeting or exceeding levels required by regulatory agencies and in quantities at ~~600~~ 678 gallons/capita/day (inclusive of irrigation) for the Town and 175 gallons/capita/day (inclusive of irrigation) system-wide for SMRU.

Wastewater Supply: Provide wastewater collection service at levels required by regulatory agencies and in quantities not exceeding 100gallons/capita/day for the Town, as well as system-wide.

04.01.01.02 Policy 4.1.1.2: All improvements for replacement, expansion or increase in capacity of facilities should be compatible with the adopted level of service standards for the facilities.

04.01.01.03 Policy 4.1.1.3: The Town should annually update facility demand and capacity information for SMRU based on development permits issued by the Town and according to information from ~~the~~ Martin County on development permits issued to other users of SMRU potable water supply and wastewater treatment services.

04.01.01.04 Policy 4.1.1.4: The Town should coordinate with all other nearby local governments to promote compatibility between their comprehensive plans and development permit

procedures and the availability of SMRU potable water supply and wastewater treatment facilities.

04.01.01.05 Policy 4.1.1.5: The Town shall coordinate with Martin County to ensure that urban services such as potable water supply service and wastewater treatment service to be provided by SMRU to new or existing development outside the municipal boundaries of Town shall occur only when the Comprehensive Plan provisions, Land Development Regulations, and Urban Services Boundary of the County are fully met.

[SMRU MAP WILL BE ADDED ONCE PROVIDED]

04.01.02.00 OBJECTIVE 4.1.2: To develop and maintain a five-year schedule of capital improvement needs for public infrastructure facilities, to be updated annually in conformance with the review process for the Capital Improvements Element of this plan.

04.01.02.01 Policy 4.1.2.1: Proposed capital improvement projects should be evaluated and annually ranked according to criteria established by the Town Commission. Some policy considerations are:

- a. The proposed project is required to protect the safety, health of the public or fulfill the Town's legal commitment to provide facilities and services, or to preserve or achieve full use of existing facilities.
- b. The proposed project increases efficiency of use of existing facilities, prevents or reduces future improvement costs, provides service to developed areas lacking full service or promotes redevelopment.
- c. The proposed project represents a logical extension of facilities and services within a designated service area.
- d. The proposed facility is required to maintain the adopted level of service.

04.01.03.00 OBJECTIVE 4.1.3: To provide effective stormwater management through the use of natural sheet flow and percolation.

04.01.03.01 Policy 4.1.3.1: The Town should continue to regulate development to assure that adequate on-site containment of stormwater is achieved.

04.01.03.02 Policy 4.1.3.2: The Town should Identify and prioritize stormwater and drainage capital improvements in those areas where the sheet flow is interrupted and causing causes flooding of public spaces and streets or rights-of-way and provide capital improvements which will remedy the problems. The Town has undertaken a program of stormwater improvements via exfiltration in conjunction with the repaving of Town roadways.

04.01.05.00 OBJECTIVE 4.1.4: To assure an adequate quantity of high-quality potable water for to meet the needs of current and future residents of the Town and areas served by SMRU.

04.01.05.01 Policy 4.1.4.1: The Town should adopt update and implement a water supplemental supply facilities workplan in cooperation with the South Florida Water Management District and Martin County.

04.01.05.02 Policy: The Town of Jupiter Island should continue to investigate the purchase of the water distribution system at the extreme south end of its jurisdiction to assure all Town residents of high quality potable water.

04.01.05.03 Policy 4.1.4.2: The Town should continue to permit disposal of wastewater effluent through the use of septic tanks while protecting the quality of surface and ground water.

Policy 4.1.4.3 : Assess the transition from Onsite Sewage Treatment and Disposal Systems (commonly referred to as septic systems) to sanitary sewer throughout the Town over the next 25-year planning horizon, concluding in 2050.

04.01.05.04 Policy 4.1.4.4: The Town, during the development of its LDRs, should continue to study water usage and recommendations for reduction of use for irrigation and other non-potable water needs to decrease the demand for potable water purposes and enforce the SFWMD Model Water Conservation Ordinance.

04.01.05.05 Policy 4.1.4.5: The Town should require as a condition of any building permit that the irrigation plan be reviewed for the conservation of potable water.

04.01.05.06 Policy 4.1.4.6: The Town should require all new construction and renovation to utilize ultra-low water conserving plumbing fixtures.

04.01.06.00 OBJECTIVE 4.1.5: To adopt a 10-Year Water Supply Facilities Work Plan for the South Martin Regional Utility (SMRU) that is consistent with the Upper East Coast Regional Water Supply Plan (RWSP) of the South Florida Water Management District (SFWMD).

04.01.06.01 Policy 4.1.5.1: The Town shall coordinate with SFWMD to develop maintain the water supply facilities work plan for potable water supply to serve users within the municipal boundaries of the Town. The Town shall coordinate with SFWMD and Martin County to develop update the water supply facilities work plan for users within the urban services district boundaries of unincorporated Martin County who are served by SMRU.

04.01.06.02 Policy The Town shall develop a maintain the water supply facilities work plan for SMRU that anticipates supplying potable water to a total population of 29,500 persons (Source: SFWMD 2016 Upper East Coast Water Supply Plan Update) by the year 2040, which includes 3,800 persons as the seasonal peak population of the Town (Source: Data and Analysis).

04.01.06.03 Policy 4.1.5.2: The Town hereby adopts by reference the Ten (10) Year Water Supply Facilities Work Plan 2017 Update prepared by South Martin Regional Utility (SMRU), as a part of this comprehensive plan.

04.01.06.04 Policy 4.1.5.3: The Town shall adopt a revised Ten (10) Year Water Supply Facilities Work Plan -2017 Update as a part of this comprehensive plan within 18 months after the South Florida Water Management District approves the 2016 Upper East Coast Water Supply Plan Update .

04.01.06.06 Policy 4.1.5.4: Any update to the Ten (10) Year Water Supply Facilities Work Plan 2017 Update will be done following the requirements of Chapter 163, Florida Statutes.

~~04.01.07.00 Objective: To achieve full operation of the 4 mgd reverse osmosis (RO) plant utilizing the Floridian Aquifer, by 2025.~~

~~04.01.07.01 Policy: The Town shall design and permit the RO plant for a potential capacity of 4mgd when future population increases demands it.~~

04.01.08.00 OBJECTIVE 4.1.6: To protect the surficial aquifers from saltwater intrusion.

04.01.08.01 Policy 4.1.6.1: The Town (SMRU) shall ~~operate~~ maintain operation of the RO Reverse Osmosis Water Treatment Plant to supplement the water supply drawn from the ~~surficial aquifers~~ Surficial Aquifer System at the south plant especially at times of low surficial aquifer recharge rates as in times of drought.

04.01.08.02 Policy 4.1.6.2: The Town shall continue to monitor and protect the surficial aquifer wells from saltwater intrusion and shall limit the use of those wells at the time of low recharge rates.

~~04.01.09.00 OBJECTIVE 4.1.7:~~ To conserve water resource through the use of water conserving techniques such as water efficient landscaping, ~~ultra-low volume plumbing fixtures~~, a water conserving rate structure, a leak detection program, a rain sensor device program, water conservation education, and use of reclaimed water.

04.01.09.01 Policy 4.1.7.1: The Town (SMRU) shall make 100 percent use of reclaimed water at the south system recharging the groundwater system through reclaimed water irrigation.

04.01.09.02 Policy 4.1.7.2: The Town shall make 100 percent use of reclaimed water at the north system by providing reclaimed water to golf course facilities ~~including Loblolly Pines and Medalist Golf Club golf courses~~ for irrigation use.

04.01.09.03 Policy 4.1.7.3: The Town ~~has successfully implemented~~ should maintain and continue to enforce the Mandatory, Year-Round Landscape Irrigation Conservation Measures, as detailed in Chapter 40E-24, Florida Administrative Code F.A.C., through the use of public information and education, announcements, and watering restrictions detailed in monthly newsletters, notices on SMRU water bills, and through notices placed on the Town's website. ~~Enforcement of these mandatory regulations are handled by the Town's Public Safety Department, with warnings and Notices of Violations.~~

OBJECTIVE 4.1.8: To improve flood protection from storms and storm surge through the use of beach and dunes as infrastructure.

Policy 4.1.8.1: The Town should manage beaches and dunes in accordance with the goals, objectives, and policies of the Coastal Management Element.

Policy 4.1.8.2: Dunes should be considered infrastructure for flood protection and the Town should support efforts to maintain a continuous healthy and robust dune system in accordance with the Level of Service standards of Policy 4.1.1.1.

COASTAL MANAGEMENT ELEMENT

Purpose

As an element of the Town Comprehensive Plan required by Section 163.3177(6)(g), Florida Statutes, the purpose of the Coastal Management Element is to plan for, and where appropriate, restrict development activities where such activities would damage or destroy coastal resources, and to protect human life and limit public expenditure in areas that are subject to destruction by natural disaster or sea level rise.

The Coastal Management Element ~~support document~~ data and analysis provides inventories and analyses of the following concerns in the coastal area: land use, infrastructure, historic resources, natural resources, estuarine environmental conditions, beach and dune systems, hurricane evacuation, and post-disaster redevelopment.

Located on a barrier island, the Town of Jupiter Island is wholly located within the coastal area and is bounded on the east by oceanic waters and on the west by estuarine waters. The ocean shoreline continues to experience severe erosion, which is being addressed by the on-going beach renourishment program of the Town. Hobe Sound and Jupiter Sound are within the Indian River Lagoon Aquatic Preserve. In addition to these marine ecosystems, the Town is bounded on the north by the Hobe Sound National Wildlife Refuge. Within the southern portion of the Town is another major preserve, the Blowing Rocks Preserve. The Town's location amidst these major coastal environmental systems ~~impacts~~ imposes significant limitations on any the Town's future development plans.

The Town's plan for coastal resource management is contained within the goals, objectives, and policies in the following section. The protection of natural resources from the impacts of development and protection of the residents from natural disaster and sea level rise will continue to be primary concerns in the Town's future planning.

Goals, Objectives, and Policies

~~05.01.00.00~~ GOAL 5.1: To promote the conservation and preservation of the town's natural resources and coastal wildlife habitat to plan for, and where appropriate, restrict development which would damage or destroy the natural, archeological, or historic resources of the coastal area.

~~05.01.01.00~~ OBJECTIVE 5.1.1: Land Development Regulations serve to protect, conserve or enhance wetlands and to mitigate the unavoidable adverse impacts of human presence.

~~05.01.01.01~~ Policy 5.1.1.1: Marine and estuarine wetlands, including seagrass beds and coastal marshes within shallow estuarine waters, should continue to be protected from dredge and fill activities associated with development through standards that meet or exceed existing Federal, State, County and/or Town regulation of these activities, except in cases necessary to public safety or overriding ecological necessity.

~~05.01.01.02~~ Policy 5.1.1.2: Future disruptions or degradation of wetlands should be accompanied by mitigation measures to ensure no net loss in wetland acreage.

~~05.01.02.00~~ OBJECTIVE 5.1.2: Land Development Regulations protect, conserve or enhance living marine resources and wildlife habitats in the coastal area.

~~05.01.02.01~~ Policy 5.1.2.1: Improvements to the Town's beaches should continue to be implemented in a manner that does not damage or destroy and protects and enhances natural beach wildlife habitats and dune areas serving as optimal habitat for nesting sea turtles and other native species of flora and fauna.

~~05.01.02.02~~ Policy 5.1.2.2 Beach activities, including recreation, beach cleaning and lighting of beach structures should continue to be regulated in a manner that protects sea turtle nesting areas from ~~unreasonable~~ disturbance in accordance with all applicable Federal and State regulations and Town Ordinances, including Jupiter Island Code, Chapter 3, "Animals", Article II "Sea Turtles"

Policy 5.1.2.3: Regulate beachfront lighting, beach and dune preservation, stabilization, and restoration to ensure the health and wellbeing of vital sea turtle habitat throughout the island.

Policy 5.1.2.4: Implement specific prohibitions on development processes and activities which may be disruptive to the nesting, migratory, hatching, or other behaviors of sea turtles.

Policy 5.1.2.5: Facilitate reduction of light pollution and negative impacts of lighting on sea turtle nesting and hatchlings through continued strengthening of lighting ordinances and enforcement of lighting restrictions during sea turtle nesting season.

~~05.01.03.00~~ OBJECTIVE 5.1.3: **Land Development Regulations continue to protect, conserve or enhance estuarine habitats.**

~~05.01.03.01~~ Policy 5.1.3.1: Estuarine fauna, including the Florida manatee, should continue to be protected from damage or destruction by establishment of boating speed limits in any designated manatee habitats, and in waters containing seagrass beds.

Policy 5.1.3.2: Promote and expand manatee slow-speed zones in critical habitats south of the Bridge Road bridge, prohibiting activity that harms submerged lands, while ensuring clear signage, public education, and compliance with state and federal wildlife protection standards.

~~05.01.03.02~~ Policy 5.1.3.3: The Town should continue to ~~cooperate~~ align with the ~~existing~~ Indian River Lagoon Aquatic Preserves Management Plan and ~~should cooperate~~ ensure consistency with ~~any~~ relevant future resource protection plans, such as resource planning and management plans or estuarine sanctuary plans developed for the Indian River Lagoon.

~~05.01.04.00~~ OBJECTIVE 5.1.4: **To maintain or improve estuarine environmental quality.**

~~05.01.04.01~~ Policy 5.1.4.1: The Town shall continue to oppose discharges from Lake Okeechobee into the St. Lucie Estuary and Indian River Lagoon, and would support low level water releases from Lake Okeechobee during very dry times.

~~05.01.04.02~~ Policy 5.1.4.2: The Town will continue to ~~press~~ urge the State and Federal agencies, that are responsible for the discharges and water treatment, to restrict discharges and to move the water south of Lake Okeechobee.

~~05.01.04.03~~ Policy 5.1.4.3: The Town shall support efforts by State and Federal agencies to create various types of water storage, such as reservoirs north and south of Lake Okeechobee,

aquifer storage, recovery wells, deep injection wells, into which the lake can be discharged.

~~05.01.04.04~~ Policy 5.1.4.4: The Town shall foster maintenance of the water quality of the Indian River Lagoon to be maintained at ~~its current~~ the designation of "Good", through cooperation between the Town and other ~~local~~ governments agencies having jurisdiction over the lagoon and its shores.

~~05.01.04.05~~ Policy 5.1.4.5: The LDR's shall restrict ~~new~~ point-sources of pollution discharging directly into the Indian River Lagoon, or into canals leading to the lagoon.

~~05.01.04.06~~ Policy 5.1.4.6: The LDR's shall require future development on any unfortified areas of the estuarine shoreline that lack wetland vegetation to be planted with native vegetation in order to stabilize the shoreline, limit stormwater run-off and soil erosion, and trap sediments and other non-point source pollutants. Hardening of the shoreline, in the event plantings fail to achieve the purpose, should be undertaken in accordance with state and local regulations. ~~This policy has been implemented.~~

~~05.01.04.07~~ Policy 5.1.4.7: The LDR's shall regulate structures that impede circulation patterns in the Indian River lagoon within the town's jurisdiction, such as docks and boardwalk structures.

~~05.01.04.08~~ Policy 5.1.4.8: The LDR's shall restrict activities and land uses known to adversely affect the quality and quantity of natural groundwater, recharge areas, wellhead protection areas and surface waters used as a public water supply.

~~05.01.04.09~~ Policy 5.1.4.9: The Town shall vigorously enforce the prohibitions against, modifying, or contaminating, marine grass beds and tidal marsh areas as required by federal, state and local laws.

~~05.01.04.10~~ Policy 5.1.4.10: The Town shall assure through development review and approval that conservation lands will be protected or restored by requiring that all pertinent interests provide aquatic weed control, invasive species removal, and the control of contaminants and excess nutrients.

Policy 5.1.4.12: Continue to administer mangrove trimming and permitting as regulated by the Florida Department of Environmental Protection.

~~05.01.05.00~~ OBJECTIVE 5.1.5: To protect the natural functions of the coastal barrier, with significant effort to and protect and enhance the coastal dunes and ~~ocean~~ beach system as part of the Town's infrastructure.

~~05.01.05.01~~ Policy 5.1.5.1: The Town should continue to implement its on-going beach renourishment or renourishment projects aimed at restoring or maintaining beaches and protecting upland structures for so long as the cost is acceptable to the Town's residents.

~~05.01.05.02~~ Policy 5.1.5.2: Future improvements on the beaches of the Town of Jupiter Island should be implemented in a manner that protects the natural functions of the coastal barrier, including nourished or renourished beaches, dunes, or berms.

~~05.01.05.03~~ **Policy 5.1.5.3:** Future construction along the beaches of the Town of Jupiter Island should be implemented in a manner to preserve existing dune vegetation and should provide walk-over structures at points of beach access.

~~05.01.05.04~~ **Policy 5.1.5.4:** Removal of natural existing native dune vegetation should be prohibited, and preservation and enhancement of native dune vegetation should be encouraged.

~~05.01.05.05~~ **Policy 5.1.5.5:** The Town's general ordinances shall prohibit all vehicular traffic on the beach and in primary dunes with the exception of official vehicles.

~~05.01.05.06~~ **Policy 5.1.5.6:** Construction, including erection of new seawalls or repair of damaged seawalls, should be permitted seaward of the Martin County Coastal Construction Control Line only in accordance with applicable Federal, State and local regulations.

~~05.01.05.07~~ **Policy 5.1.5.7:** The Town will work to allow rebuilding of damaged seawalls and other structures appropriate to the character of the Town.

Policy 5.1.5.8: All existing native vegetation within the dune areas, east and west of the waterfront setback line, should be preserved to maintain the existing dune crest and mitigate major erosion events.

Policy 5.1.5.9: Develop and maintain a comprehensive dune master plan that categories the different types of dunes in the Town and clearly defines dune management zones that address the various ownership types and functional roles and include recommendations to enhance and maintain the existing dune system tailored to each zone.

~~05.01.06.00~~ **OBJECTIVE 5.1.6:** To provide for the protection, preservation, or sensitive reuse of historic resources and archaeological resources in the coastal area.

~~05.01.06.01~~ **Policy 5.1.6.1:** The Town will identify any sites that may be eligible for local designation as significant contributors to the aesthetic or architectural character of the community.

~~05.02.00.00~~ **GOAL 5.2:** To continue to provide public access, the same as present, to existing county and federal beaches and shores.

~~05.02.01.00~~ **OBJECTIVE 5.2.1:** To maintain the amount of physical public access to beaches and shores consistent with estimated Town needs.

~~05.02.01.01~~ **Policy 5.2.1.1:** Existing facilities for public access to beaches and shores should be maintained.

~~05.02.01.02~~ **Policy 5.2.1.2:** The existing ~~level~~ locations of public beach access shall be limited to Blowing Rocks Preserve, the Hobe Sound Beach, and the Hobe Sound National Wildlife site.

~~05.02.02.00~~ **OBJECTIVE 5.2.2:** To establish level of service standards and phasing of infrastructure improvements in the coastal area.

~~05.02.02.01~~ **Policy 5.2.2.1:** The level of service standards adopted elsewhere in this Comprehensive Plan for facilities should be applied to all applications for development approval.

05.02.02.02 Policy 5.2.2.2: Developments that would impact existing facilities by reducing the level of service below adopted levels and which are to be constructed prior to the availability of scheduled improvements, should pay for such impacts or provide their own facilities constructed to Town specifications.

05.03.00.00 GOAL 5.3: To protect human life and limit public expenditures subsidizing development in areas subject to destruction by natural disaster or sea level rise.

05.03.01.00 OBJECTIVE 5.3.1: To maintain or reduce hurricane evacuation times.

05.03.01.01 Policy 5.3.1.1: ~~Deficiencies in the Town's local hurricane evacuation plan should be identified and remedied. The Town should investigate further the need to revise the designated evacuation routes set forth in the Martin County Hurricane Evacuation Plan.~~ **Maintain an effective Town Hurricane Evacuation Plan that ensures the orderly and rapid evacuation of the Town in the event of an impending hurricane.**

05.03.01.02 Policy 5.3.1.2: The Town will coordinate with Martin County Emergency Management personnel to help ensure that traffic control points along the Town's evacuation routes are properly manned during evacuation.

05.03.01.03 Policy 5.3.1.3: All future improvements to roadways along local evacuation routes should include remedies for any existing flooding problems and any other hazard or transportation constraints.

05.03.01.04 Policy 5.3.1.4: The Town shall continue to cooperate with the Treasure Coast Region and ensure consistency with the Martin County Hurricane Evacuation Plans. Specific procedures for integration into the county and regional hurricane evacuation plans should be adopted.

05.03.02.00 OBJECTIVE 5.3.2: To direct population concentrations away from known or predicted Coastal High-Hazard Areas.

05.03.02.01 Policy 5.3.2.1: ~~The coastal high-hazard area is the area below the elevation of the category 1 storm surge line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized storm surge model.~~ **Discourage new development in the Coastal High Hazard Area, defined as the area below the elevation of the category 1 storm surge line, as established by a Sea, Lake, and overland Surges from Hurricane (SLOSH) computerized storm surge model,** as defined in Section 163.3178(2)(h), Florida Statutes.

05.03.03.00 OBJECTIVE 5.3.3: ~~To limit public expenditures that subsidize development permitted east of existing primary dune except for restoration, protective measures or enhancement of natural resources. No development shall occur east of the existing primary dune, except for local, regional and state restoration or protective projects. New construction, expansion, or redevelopment in this area is strictly prohibited to protect coastal resilience.~~

05.03.03.01 Policy ~~Town-funded public structures and facilities should not be built east of the existing primary dune except for purposes of public access or resource restoration.~~

Policy 5.3.3.1: Establish a waterfront setback line in the Land Development Regulations where no development (other than dune crossovers) shall be allowed east of the oceanfront

waterfront setback line. This waterfront setback line shall not be moved for the purpose of development and construction.

~~05.03.03.02~~ Policy 5.3.3.2: The hazard mitigation annex of the Martin County Comprehensive Emergency Management Plan and interagency hazard mitigation reports should be reviewed in order to identify specific actions that could be implemented to reduce exposure to natural hazards or sea level rise.

~~05.03.03.03~~ Policy 5.3.3.3: Monitor and maintain the established Erosion Control Line along the length of the permitted beach nourishment project shoreline and extend the Erosion Control Line where needed to support the expansion of beach nourishment where appropriate, thereby limiting seaward encroachment of development in those areas.

~~05.03.04.00~~ OBJECTIVE 5.3.4: To prepare post-disaster redevelopment plans that will reduce or eliminate the exposure of human life and public and private property to natural hazards.

~~05.03.04.01~~ Policy 5.3.4.1: The Town will provide immediate response to post-hurricane situations.

~~05.03.04.02~~ Policy 5.3.4.2: The Town's Emergency Management Plan, General orders 9.2.3 outlines specific steps to be taken to institute post-disaster recovery operations.

~~05.03.04.03~~ Policy 5.3.4.3: The Town shall support the Martin County Post Disaster Redevelopment Plan as it aligns with the Town's Emergency Management Plan.

~~05.03.05.00~~ OBJECTIVE 5.3.5: To coordinate coastal area population densities with appropriate regional or local hurricane evacuation plans.

~~05.03.05.01~~ Policy 5.3.5.1: The sole evacuation route within the Town is Bridge Road (CR 708). The Martin County Hurricane Evacuation Plan directs Town residents who reside north of Bridge Road to use Bridge Road for evacuation and are then directed north onto either AIA and U.S. 1. Town residents who reside south of Bridge Road are directed south to evacuate the Island and then directed north on U.S. 1 or to the Florida Turnpike for evacuation of the area.

~~05.03.06.00~~ OBJECTIVE 5.3.6: Development and redevelopment projects shall be reviewed to eliminate inappropriate and unsafe buildings and structures in coastal areas when opportunities arise.

~~05.03.06.01~~ Policy 5.3.6.1: The Town's Land Development Regulations shall be amended to include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise.

~~05.03.06.02~~ Policy 5.3.6.2: The Town's Land Development Regulations shall be amended to encourage the use of best practices development and redevelopment principles , strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency .

~~05.03.06.03~~ Policy 5.3.6.3: The Town's Land Development Regulations shall be amended to identify site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in this state.

~~05.03.06.04~~ Policy 5.3.6.4: The Town's Land Development Regulations ~~are currently~~ shall be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida Building Code and applicable flood plain management regulations set forth in Title 44 C.F.R. Code of Federal Regulations, Part 60.

~~5.3.6.6~~ Policy 5.3.6.5: The Town's Land Development Regulations ~~currently~~ shall require that any construction activities seaward of the Coastal Construction Control Line are established pursuant to s. 161.053 ~~be~~ are consistent with chapter 161.

~~05.03.06.06~~ Policy 5.3.6.6: ~~The Town does participate in the National Flood Insurance Program Community Rating System ("CRS") administered by the Federal Emergency Management Agency to achieve flood insurance premium discounts for their residents. The Town's current ISO CRS rating is a 7, which results in a 15% flood insurance premium discount for property owners located in a Special Flood Hazard Area.~~ Participate in the National Flood Insurance Program Community Rating System as administered by FEMA and endeavor to improve the Town Community Rating System rating.

~~05.04.00.00~~ GOAL 5.4: To coordinate and cooperate with other local governments in coastal resource protection and management efforts.

~~05.04.01.00~~ OBJECTIVE 5.4.1: To establish an intergovernmental coordination mechanism with adjacent local governments and Federal/State park counterparts, consistent with the policies of the Intergovernmental Coordination Element of this Comprehensive Plan, for area-wide conservation of coastal resources.

~~05.04.01.01~~ Policy 5.4.1.2: The Town shall review comprehensive plans of adjacent municipalities, Federal and State parks, and Martin County to determine whether or not coastal resources are being managed in a consistent manner.

~~05.04.01.02~~ Policy 5.4.1.3: ~~The Town should~~ Continue to participate in the joint planning and coordination efforts on the regarding the St. Saint Lucie Inlet Management Plan as outlined in the Interlocal Agreement between the Town and Martin County.

~~05.04.01.03~~ Policy 5.4.1.4: The Town shall adopt by reference the Martin County Manatee Protection Plan as it applies to coastal and Intracoastal waters of the Town.

~~05.04.01.04~~ Policy 5.4.1.5: The Town shall adopt by reference the Martin County Boat Facility Siting Plan except that nothing herein shall preclude the maintenance or expansion of the Jupiter Island Club Marina nor shall it prevent the creation of future docking facilities at the Hobe Sound Yacht Club.

~~05.04.02.01~~ Policy 5.4.1.6: The Town shall actively pursue any opportunity to obtain easements which would not unreasonably encumber the use of private property.

CONSERVATION ELEMENT

Purpose

As an element of the Town Comprehensive Plan required by Section 163.3177(6)(d), Florida Statutes, the purpose of the Conservation Element is to promote the conservation, use and protection of natural resources and ultimately to protect and enhance the public health, safety and welfare and the quality of the environment.

The Conservation Element supporting data and analysis ~~support document~~ describes the natural resources of the Town and their significance to the unique quality of life in the Town. The resources inventoried include adjacent beaches, dunes, water bodies, ground water resources, wetlands, flood plains, minerals, soils, vegetative communities, wildlife, and air quality. Due to ~~it's~~ the Town's location on a coastal barrier island, the Town contains a wealth of natural resources whose protection and wise use are of primary concern in the community's future planning.

The Conservation Element Goals, Objectives and Policies, set forth below, are the narrative of the Town's plan for conservation of natural resources in the future. The main issues to be addressed, as identified in the Conservation support document, are beach erosion control and monitoring of biological impacts, residential development intensity, and conservation of potable water resources.

Goals, Objectives, and Policies

~~06.01.00.00~~ GOAL 6.1: To Conserve, protect, and appropriately manage the natural environment of the Town ensure the highest possible environmental quality, limit impacts to natural resources, and to provide the factors that affect conservation.

~~06.01.01.00~~ OBJECTIVE 6.1.1: ~~To meet or exceed the minimum air quality levels~~ Maintain an average Air Quality Index of "Good," as established by the Florida Department of Environmental Protection (FDEP).

~~06.01.01.01~~ Policy 6.1.1.1: The Town is willing to cooperate with the State and/or Martin County in monitoring air quality.

~~06.01.01.02~~ Policy 6.1.1.2: The Town will continue to prohibit the establishment of industrial uses within the Town, which could have an adverse impact on air quality.

~~06.01.01.03~~ Policy 6.1.1.3 [MISSING POLICY FROM ADOPTED DRAFT]

~~06.01.01.04~~ Policy 6.1.1.4: The Town promotes alternative transportation modes such as golf carts, as a means of protecting air quality and providing for energy conservation to reduce air pollution and support energy conservation.

~~06.01.01.05~~ Policy 6.1.1.5: The Town will continue to maintain the "Ramble" as a pedestrian walking path south of Grenville Road and a bike or walking path from Grenville Road to Estrada Road.

~~06.01.02.00~~ OBJECTIVE 6.1.2: To protect the environmental quality of the Indian River Lagoon as set forth in the Coastal ~~Zone~~ Management Element Goals, Objectives and Policies.

~~06.01.02.01~~ **Policy 6.1.2.1:** The Town should cooperate with all Federal, State and regional regulatory agencies with jurisdiction over wetlands to improve compliance with State and Federal regulations.

~~06.01.03.00~~ **OBJECTIVE 6.1.3:** To conserve the potable water resources of the Town by reducing the amount of water used for irrigation by a factor of five percent (5%) for the period 2025 to 2035.

~~06.01.03.01~~ **Policy 6.1.3.1:** The Town shall promote water conservation practices by residents of the Town and encourages the use of water-conserving appliances.

~~06.01.03.02~~ **Policy 6.1.3.2:** The Town should cooperate with SFWMD requests for implementation of emergency water conservation measures.

~~06.01.03.03~~ **Policy 6.1.3.3:** The Town shall coordinate with SFWMD to develop a plan to reduce the use of the potable water supply to serve the irrigation needs of users within the municipal boundaries of the Town. The Town shall coordinate with SFWMD and Martin County to develop a plan to reduce the use of potable water supply to serve the irrigation needs of users within the urban services district boundaries of unincorporated Martin County who are served by SMRU. ~~The Town shall develop such a plan for SMRU that anticipates the irrigation needs of a total population of 29,500 persons (Source: SFWMD Upper East Coast Water Supply Plan) in its service area by the year 2040, which includes 3,800 persons as the seasonal peak population of the Town (Source: Data and Analysis).~~

~~06.01.03.04~~ **Policy 6.1.3.4:** The Town encourages water-conserving landscaping principles, including the use of:

- a. Highly drought-resistant plant materials;
- b. Limiting the areas of turf cover to areas where functional benefits are provided;
- c. Efficient irrigation systems and;
- d. The use of soil improvements and mulches to improve water holding capacity.
- e. Improved turf grasses which are Florida friendly and salt tolerant should be identified for future use in the Town.

~~06.01.03.05~~ **Policy 6.1.3.5:** The Town requires that irrigation plans be reviewed for the conservation of water as provided in the Florida Building Code.

~~06.01.03.06~~ **Policy 6.1.3.6:** The Town requires that all new construction and renovation utilize ultra-low water conserving plumbing fixtures provided in the Florida Building Code.

~~06.01.03.07~~ **Policy 6.1.3.7:** The Town's LDR's include the SFWMD's Surface Water Improvement and Management Plan (SWIM) and future modifications.

~~06.01.03.08~~ **Policy 6.1.3.8:** The Town requires a detailed study of water usage and recommendations for reduction of use for irrigation purposes.

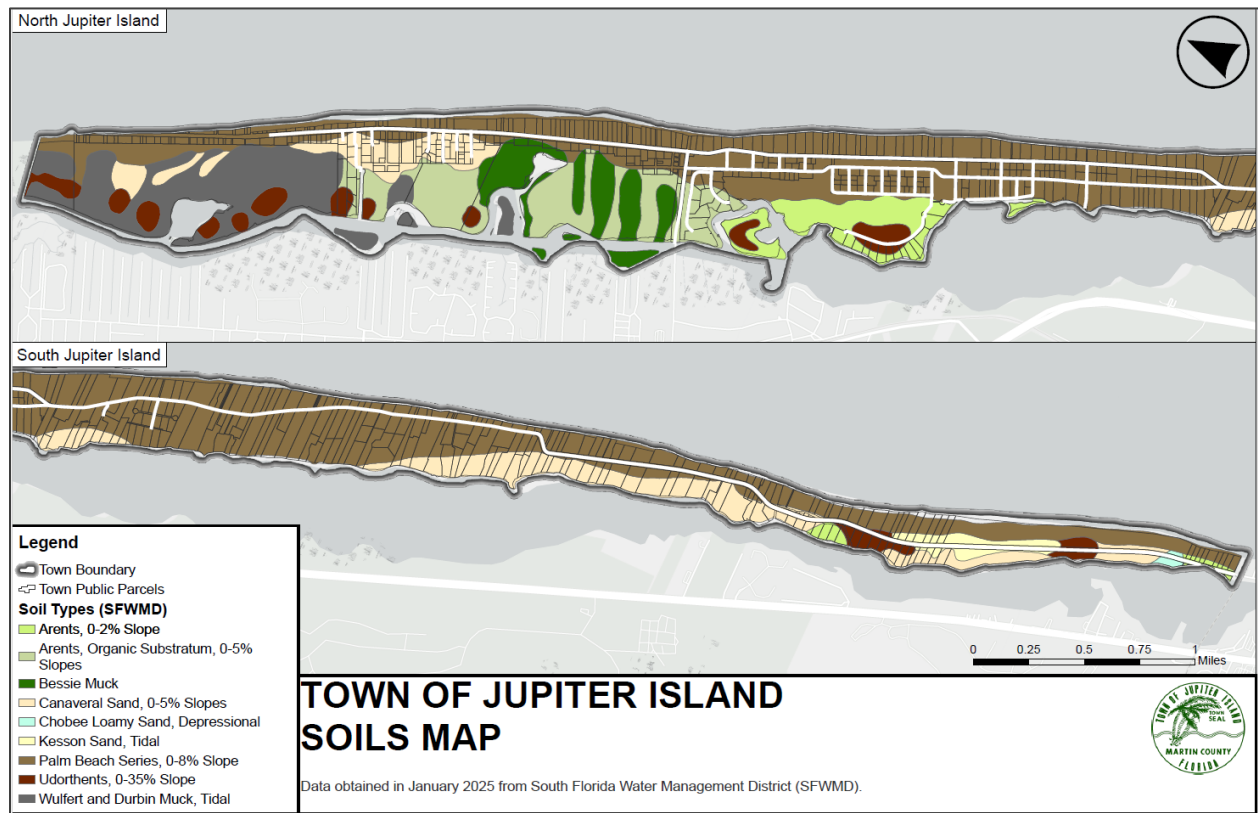
~~-[06.01.04 OBJECTIVES AND POLICIES MISSING FROM ADOPTED DRAFT]~~

~~06.01.05.00~~ **OBJECTIVE 6.1.5:** To conserve the soils, sands and minerals of the Town.

06.01.05.01 Policy 6.1.5.1: Soil erosion is minimized by consideration of topography, hydrology and vegetative cover in review of site development plans.

06.01.05.02 Policy 6.1.5.2: The Town assists the United States Department of Agriculture (USDA) ~~USDA~~ Soil Conservation Service-in any activities or programs directed at minimizing soil erosion.

06.01.05.03 Policy 6.1.5.3: The Town conserves possible mineral resources by prohibiting mining and excavation activities.



06.01.06.00 OBJECTIVE 6.1.6: To appropriately manage and protect the Town's vegetative communities.

06.01.06.01 Policy 6.1.6.1: The natural vegetative communities of the Town should continue to be protected through the designation of large vegetative areas as conservation areas, and through landscaping or other regulations designed to preserve natural and planted vegetation.

06.01.06.02 Policy 6.1.6.2: Dune vegetation on Town beaches should be maintained and protected as set forth in the Coastal ~~Zone~~ Management Element goals, objectives and policies.

06.01.06.03 Policy 6.1.6.3: -The Town's LDR's shall protect the Indian River Lagoon, the natural vegetative communities, near shore reefs, and the mangrove wetlands from degradation associated with development or redevelopment. ~~This policy has been implemented.~~

Policy 6.1.6.4: The Town's LDR's shall require that all development, including single-family residential development, preserve a portion of their parcel through easement if there is existing, high quality upland, coastal or wetland vegetative habitat on the parcel.

Policy 6.1.6.5: The Town's LDR's shall require proposed developments to establish and maintain a vegetated and functional littoral zone as part of the surface water management system for any marine wetlands occurring on all properties, consistent with FDEP standards.

Policy 6.1.6.6: The Town's LDR's shall require that existing vegetation, excluding invasives, remain within the required landscape buffers for all parcels.

~~06.01.07.00~~ OBJECTIVE 6.1.7: To protect wildlife habitats and wildlife species, which are endangered and threatened species, and species of special concern, as set forth in the Coastal ~~Zone~~ Management Element goals, objectives and policies.

~~06.01.07.01~~ Policy 6.1.7.1: The Town's Public Safety Department enforces the applicable federal and state regulations restricting activities which adversely affect the survival of endangered and threatened species and species of special concern.

~~06.01.08.00~~ OBJECTIVE 6.1.8: To continue to seek, through joint private, federal, state, county and town partnerships, the acquisition of environmentally sensitive lands which protect unique, rare or endangered habitats and enhance the survival of endangered flora and fauna species for conservation and stewardship of critical environmentally sensitive habitats.

~~06.01.08.01~~ Policy 6.1.8.1: The Town shall continue to make its best efforts, through joint private, federal, state, county and town initiatives to acquire for public ownership environmentally sensitive habitats, which enhance the survival of endangered flora and fauna species.

~~6.1.9.1~~ OBJECTIVE 6.1.9: To properly store, collect, and dispose of hazardous and toxic wastes.

~~6.1.9.1~~ Policy 6.1.9.1: The Town prohibits the establishment of uses classified as hazardous waste generators as defined by the U.S. Department of Environmental Protection .

~~6.1.9.3~~ Policy 6.1.9.2: The Town cooperates with Martin County and provides the Town 's citizens with information on the types of and best practices for the disposal of small amounts of toxic and hazardous wastes.

~~06.01.09.03~~ Policy 6.1.9.3: Town should adopt an ordinance on the collection of hazardous and toxic wastes.

New Conservation Policies for Consideration:

Policy Protect against loss of air quality by maintaining land use controls that promote only activities compatible with existing land uses and natural systems and prohibit activities that generate air pollutants and other adverse impacts on the environmentally fragile coastal ecosystem.

Policy Require erosion and dust control measures on cleared or disturbed sites to prevent fugitive dust and stabilize exposed soil.

Policy : To achieve a reduction in the current rates of water consumption, implement the following performance standards in the Town Land Development Regulations:

- a. Encourage the use of reclaimed water for high-capacity needs, such as irrigation through targeted initiatives.
- b. Discourage the use of potable water for irrigation where non-potable alternative sources are available.

RECREATION AND OPEN SPACE ELEMENT

Purpose

~~The purpose of the Recreation and Open Space Element is to plan for a comprehensive system of public and private recreation and open space sites which are available to the public. The Recreation and OpenSpace support document presents an inventory and analysis of existing and future recreation and open space resources.~~

As an element of the Town Comprehensive Plan required by Section 163.3177(6)(e), Florida Statutes, the purpose of the Recreation and Open Space Element is to guide the development and maintenance of a comprehensive system of public and private recreation and open space resources available to the public. This element is supported by an inventory and analysis of existing conditions and future needs.

The recreational resources of the Town include the private recreational facilities of the Jupiter Island Club. The club operates four major facilities for use of members and guests, including the golf course and club house, tennis club and courts, the main club facility, the Inn, Tangerine Theater, and the Beach Club. In addition, many of the large single-family homes in the community have private tennis courts or swimming pools. Public recreational facilities in or near the Town include the Hobe Sound Public Beach, the Hobe Sound National Wildlife Refuge, and Blowing Rocks Preserve. The purpose of the Recreation and Open Space Element is to plan for a comprehensive system of public and private recreation and open space sites which are available to the public.

The Recreation and Open Space support document presents an inventory and analysis of existing and future recreation and open space resources. The recreational resources of the Town include the private recreational facilities of the Jupiter Island Club.

The Town's plan for future recreation and open space is set forth in the goals, objectives, and policies presented below. Maintenance of the Jupiter Island ~~Beach Club~~ and other private recreational opportunities is expected to continue in the future. Public parks and conservation/open space areas are also expected to continue to contribute to the recreational opportunities available both to the Town's residents and to the general public. In accordance with the Coastal Management goals, objectives, and policies, further development of public beach access with parking facilities within the Town is not planned.

Goals, Objectives, and Policies

07.01.00.00 GOAL 7.1: To ensure provision of sufficient parks, high-quality recreational facilities and open space areas to satisfy the health, safety, and welfare needs of Town residents, including special groups such as the elderly and handicapped persons with disabilities.

07.01.01.00-OBJECTIVE 7.1.1: To protect lands designated for open space from incompatible land uses.

07.01.01.02-Policy 7.1.1.1: The Town should require the provision of open space within future development sites.

07.01.01.03-Policy 7.1.1.2: The Town's LDR's ensure that there will not be a reduction in the amount of open space from that which is currently permitted in the codes.

07.01.02.00-OBJECTIVE 7.1.2: To acquire and maintain environmentally sensitive lands that promote greenways and lands suitable for outdoor recreation through the Town's continuing

partnership with The Nature Conservancy, the National Wildlife Refuge, and with other federal, state or local agencies in future acquisitions.

~~07.01.02.01~~ **Policy 7.1.2.1:** The Town shall continue to coordinate with private, state, federal, and county agencies to identify natural area greenways and wildlife corridors which link existing parks, preserves, and similar areas for conservation and habitat purposes.

~~07.01.03.00~~ **OBJECTIVE 7.1.3: To protect existing public access to the public beaches.**

~~07.01.03.03~~ **Policy 7.1.3.1:** The Town ~~Comprehensive Plan~~ should continue to allow existing public beach access points as set forth in the Coastal Zone Goals, Objectives and Policies.

~~07.01.03.04~~ **Policy 7.1.3.2:** No further public beach access points that include public parking areas shall be developed within the Town of Jupiter Island.

~~07.01.03.05~~ **Policy 7.1.3.3:** No further public beach access points that include public parking areas shall be developed within the Town of Jupiter Island.

~~07.01.03.06~~ **Policy 7.1.3.4:** The Town's LDR's shall acknowledge and protect the public nature of the beach located seaward of the mean high water line.

~~07.01.03.07~~ **Policy 7.1.3.5:** The Town's LDR's shall include an ordinance specifically protecting the points of access: at The Nature Conservancy's Blowing Rocks Preserve, the Hobe Sound Public Beach and the Hobe Sound National Wildlife Refuge.

INTERGOVERNMENTAL COORDINATION ELEMENT

Purpose

The purpose of the Intergovernmental Coordination Element is to identify and resolve incompatible goals, objectives, and policies and development proposed in local government comprehensive plans and to determine and respond to the need for coordination processes and procedures with adjacent local governments, and regional and state agencies. The purpose of the Intergovernmental Coordination Element is to coordinate relationships and to establish the principles and guidelines to be used for joint planning initiatives and coordination with adjacent local governments and other external governmental and quasi-governmental agencies. As an element of the Town Comprehensive Plan required by Section 163.3177(6)(h), Florida Statutes, the Intergovernmental Coordination Element endeavors to ensure that opportunities for joint planning are identified and coordinated, potential disputes are resolved, and interlocal agreements are implemented into the Town's planning processes.

Further, the Intergovernmental Coordination Element provides the principles and guidelines to be used in accomplishing the coordination of the Town's Comprehensive Plan with the plans of the school board and other units of local government providing services but not having regulatory authority over land use.

The Intergovernmental Coordination Element supporting data and analysis document provides an inventory of existing coordinating mechanisms between the Town and adjacent local governments, including Palm Beach County, the Village of Tequesta, and Martin County, School Boards, local service providers, independent special districts, regional planning agencies, and state agencies. The Town will continue to monitor its interactions with other agencies and make adjustments as needed.

The goals, objectives, and policies that follow embody the Town's plan for meeting the purpose of this element in the future. Reviews of the Comprehensive Plans for the Village of Tequesta and Martin County should be undertaken as they become available in order to determine the need for additional coordination as future development occurs.

Goals, Objectives, and Policies

08.01.00.00 GOAL 8.1: To extend the best cooperative efforts of all municipal agencies to the citizenry. Maintain and strengthen coordination with neighboring municipalities, Martin County, regional planning agencies, special districts, Martin County School Board and all State and Federal agencies, toward the general purpose of effective and responsive operation of government in the geographic area of concern to advance the Town's vision.

08.01.01.00 OBJECTIVE 8.1.1: To encourage the maximum participation of the Town's residents in the comprehensive planning process.

08.01.01.01 Policy: The Town should ~~adopt~~ develop a public participation program that ensures adequate information exchange between the Town government and the citizens and that provides for active involvement by the citizens in the comprehensive planning process.

08.01.02.00 OBJECTIVE 8.1.2: To coordinate future land use decisions within the area of concern. Coordinate land use, planning and development decisions with adjacent jurisdictions and relevant agencies.

08.01.02.01 Policy 8.1.2.1: The Town does not intend to annex additional lands unless such annexation is determined by special study to have a favorable cost/revenue ratio.

~~08.01.02.02~~ Policy 8.1.2.2: ~~The Town shall~~ Continue to cooperate with the ~~SFWMD~~ South Florida Water Management District (SFWMD) toward the implementation of the Upper East Coast Regional Water Supply Plan (~~RWSP~~) and the protection of the surficial aquifers from saltwater intrusion.

~~08.01.02.03~~ Policy 8.1.2.3: The Town shall continue to work in partnership with Martin County and other municipalities to coordinate and address impacts on adjacent municipalities and to coordinate the establishment of level of service standards.

~~08.01.03.00~~ OBJECTIVE 8.1.3: ~~To coordinate coastal resources management within the coastal area of concern.~~

~~08.01.03.01~~ Policy 8.1.3.1: The Town ~~developed a revised~~ shall maintain and update the Emergency Management Plan in coordination with the Martin County Comprehensive Emergency Management Plan, and consistent with the policies in the Coastal Management Element.

~~08.01.03.02~~ Policy 8.1.3.2: ~~The Town should continue to~~ Coordinate with Martin County, FDEP, Palm Beach County, and Jupiter Inlet Navigational Districts to ensure that the Town is apprised in advance of any proposed inlet improvements, dredging, beach nourishment, sand transfer facilities, and other inlet and shoreline protection structures that ~~have an impact on the Town's beaches~~ may impact the Town's coastal areas.

~~08.01.03.03~~ Policy 8.1.3.3: The Town should continue to coordinate its recreation plan with the Florida Department of Environmental Protection (FDEP) Division of Recreation and Parks and Martin County's ~~recreation program~~ Department of Parks and Recreation regarding Town recreational areas and open spaces.

~~08.01.03.04~~ Policy 8.1.3.4: ~~The Town should continue to cooperate~~ Revisit and where appropriate, coordinate with the FDEP's Florida Coastal Office in administration of the Indian River Lagoon Aquatic Preserve Management Plan which applies to the estuarine waters adjacent to Jupiter Island. Construction, excavation or other activities waterward of the mean high water line that can impact on estuarine environmental quality should continue to be coordinated with the FDEP.

~~08.01.03.04~~ Policy 8.1.3.5: Maintain coordination and cooperative joint planning efforts with the FDEP, US Army Corps of Engineers, Bureau of Ocean Energy Management, and other jurisdictional reviewing and permitting agencies regarding any activities that may impact shoreline, bathymetric, or benthic resources in the Indian River Lagoon.

~~08.01.03.05~~ Policy 8.1.3.6: ~~The Town should~~ Continue to coordinate with the FDEP Office of Resiliency and Coastal Protection, the Army Corps of Engineers (USACE), and Martin County regarding any regional sand supply, submerged lands leases, beach renourishment and dune restoration projects, with the FDEP Division of Beaches and Shores, and the Corps of Engineers through formal review and permitting procedures, as well as with Martin County through the Interlocal Agreement.

~~08.01.03.06~~ Policy: ~~The Town should continue to locally administer the Coastal Construction Control Line permitting program within its boundaries, in coordination with the FDEP.~~

08.01.03.07 Policy: ~~The Town should continue to update its coastal construction codes in accordance with any revisions made in the Department of Economic Opportunity (DEO) model coastal construction code.~~

08.01.03.08 Policy 8.1.3.7: ~~The Town should continue to cooperate~~ Coordinate with the Department of Environmental Protection FDEP in the administration of the Erosion Control Line Program.

08.01.03.09 Policy 8.1.3.8: The Town should continue to participate in and cooperate with State and local programs which acquire environmentally sensitive lands, and protect the natural environment.

08.01.04.00 Objective 8.1.4: ~~To ensure consistency of~~ Encourage alignment between the Town Comprehensive Plan goals, objectives, and policies ~~within the area of concern with~~ and the Treasure Coast Regional Planning Council's Strategic Regional Policy Plan.

08.01.04.01 Policy 8.1.4.1: ~~The Town should review the comprehensive plan goals, objectives and policies of the Village of Tequesta, Martin County and the Regional Policy Plan in comparison with the Town's plan, in order to~~ Review the comprehensive plans of neighboring jurisdictions, including Martin County, Palm Beach County, and the Village of Tequesta, to identify potential conflicts and any need for further coordination efforts.

08.01.04.03 Policy 8.1.4.2: ~~The Town should utilize the Treasure Coast Regional Planning Council's informal mediation process processes for resolving conflicts with other local governments. Where the Town is unable to resolve intergovernmental conflicts with local jurisdictions, the Town Commission will determine appropriateness for the respective issues to be mediated as outlined in Florida Statutes.~~

08.01.05.00 Objective 8.1.5: To ensure consistency of the Town's Comprehensive Plan with the State of Florida Comprehensive Plan.

08.01.05.01 Policy 8.1.5.1: The Town should continue coordination of the Comprehensive Plan with the ~~DEO~~ Florida Department of Commerce to ensure consistency with the State Comprehensive Plan and compliance with State regulations.

08.01.06.00 Objective 8.1.6: To ensure the coordination of coastal area population densities with appropriate regional or local evacuation plans.

08.01.06.01 Policy 8.1.6.1: The Town will provide information regarding regional or local evacuation plans to all residents on a regular basis, using the Town website and newsletters.

08.01.07.00 Objective 8.1.7: To limit public expenditures that subsidize development in high-hazard coastal areas.

08.01.07.01 Policy 8.1.7.1: The Town's Land Development Regulations should require all redevelopment to meet new, safer construction standards as established in the Florida Building Code.

08.01.08.00 Objective Policy 8.1.8: ~~To communicate with the~~ The Town should maintain active communication with the Martin County School Board to jointly establish cooperation and coordination between the Town and the School Board.

~~08.01.08.01~~ **Policy 8.1.8.1:** The Town shall establish pursuant to Section 163.31777(6)(a)(b), by written confirmation by the Martin County School Board, that the Town has no existing public schools and that the School Board has no short-term or long-term plan to construct a school within the municipal boundaries of the Town.

~~08.01.09.00~~ **Objective 8.1.9: To communicate with Martin County to jointly establish cooperation and coordination between the Town and Martin County.**

~~08.01.09.01~~ **Policy 8.1.9.1:** The Town shall enter into negotiations with Martin County to create Joint Planning Agreement with Martin County which will control any sale of right-of-way, the width of pavement, use of roads for bicycles and golf carts, landscaping within rights-of-way and any other issues which would change the character and ambiance of the Town.

~~08.01.10.00~~ **Objective 8.1.10: To ensure a meaningful and on-going process for collaborative planning and intergovernmental coordination service delivery between the Town (SMRU) South Martin Regional Utility (SMRU) and Martin County in regard to for water supply, conservation, and reuse and water supply project issues.**

~~08.01.10.01~~ **Policy 8.1.10.1:** ~~The Town (SMRU) shall~~ Promote intergovernmental coordination with Martin County and the Village of Tequesta by sharing information regarding water supply needs, in the implementation of alternative water supply projects, including reuse, conservation, and establishing LOS standards. Share data and planning information with Martin County regarding water supply needs, alternative water supply projects, including reuse, conservation, and establishing LOS standards through the SMRU.

~~08.01.10.02~~ **Policy 8.1.10.2:** Secure the cooperation of neighboring jurisdictions and/or service providers through Interlocal agreements and intergovernmental coordination that address how interconnects, supply costs, and costs for impacts to public facilities and services (particularly water and sewer systems), will be borne and by whom, when the impacts are imposed upon the affected entities, jurisdictions and/or service providers.

~~8.1.11.1~~ **OBJECTIVE: To promote fair and equitable dispute resolution with other jurisdictions as they may arise in the future.**

~~8.1.11.2~~ **Policy: The Town shall utilize the dispute resolutions processes as prescribed in Section 186.509 F.S. if such disputes arise between the Town and other jurisdictions in the Town's geographic sphere.**

CAPITAL IMPROVEMENTS ELEMENT

Purpose

As required by Section 163.3177(3)(a), Florida Statutes, the Town's Capital Improvements Element endeavors to outline and respond to the demand for public services, establish a 5-year Capital Improvement Program (CIP) consistent with the Town long-range budget projections, and ensure the level of service (LOS) standards established in the Town Comprehensive Plan are consistent and achieved. The purpose of the Capital Improvements Element is to provide for public facilities while ensuring fiscal solvency and equitably meeting the needs of Town residents.

Every year the appendix shall be updated with the most recently adopted version of the CIP and shall include a five-year schedule of capital improvements.

Goals, Objectives, and Policies

09.00.00.00 GOAL 9.1: ~~To Undertake capital improvements necessary to keep the Town's present public facilities in good condition and to accommodate new development, while following sound fiscal practices and the requirements of current~~ consistent with the requirements Florida Statutes and the Town administrative code.

09.01.01.00 OBJECTIVE 9.1.1: ~~To Utilize the Capital Improvements Element as a means to assess the Town's~~ as a tool to assess potential public facility deficiencies and to achieve an affordable implementation schedule.

09.01.01.02 Policy 9.1.1.1: ~~The Town shall Continue the annual preparation to~~ annually prepare and update of a five-year Capital Improvement Program CIP, including a one-year capital budget, based on decisions and priorities as outlined in the Comprehensive Plan.

09.01.01.03 Policy: ~~In setting priorities, the following order should be used:~~

- ~~1. Public safety implications:~~
- ~~2. Level of service or capacity problems: next in priority would be projects needed to maintain the stated level of service.~~
- ~~3. Ability to finance: a third criterion is the budgetary impact; will it exceed budget projections.~~
- ~~4. Quality of life projects: priority should next be given to those projects not in categories 1, 2 or 3 but that would enhance the quality of life.~~

09.01.01.04 Policy: ~~The Comprehensive Plan should guide the decisions to fund Capital Improvements and to guide the priorities among them.~~

09.01.02.00 Objective Policy 9.1.1.2: ~~To use Utilize the Future Land Use Plan and financial analyses of the kind contained Town's Comprehensive Plan and adopted LOS standards established herein as a basis for reviewing development applications in order to maintain adequate levels of service.~~

03.01.02.01 Policy 9.1.1.3: ~~The Town should examine the capacity of existing infrastructure and essential services and plan, through the Capital Improvements Element of the Comprehensive Plan, for needed improvements to serve new housing. Examine the capacity of existing infrastructure and service delivery to plan for necessary improvements to support the Town vision.~~

09.01.06.01 Policy 9.1.1.4: Any capital improvements projects defined in the future shall be evaluated and ranked in order of priority according to the following guidelines:

- a. Public Health and Safety: Whether the project is needed to protect public health and safety, to fulfill the Town's legal commitment to provide facilities and services, or to preserve or achieve full use of existing facilities.
- b. Level of Service: Whether the project increases efficiency of use of existing facilities, prevents or reduces future improvement costs, or provides service to developed areas lacking full service, or promotes in-fill development. If public facilities are developer-provided, they shall accommodate public facility demands based upon adopted Level of Service standards.
- c. Financial Feasibility: Whether the project is financially feasible based on the established criteria for evaluating capital improvement projects and its budgetary impacts.
- d. Efficiency: Whether the project represents a logical extension of facilities and services and the effects upon appropriate State agency and/or Water Management District facilities plans shall be evaluated.
- e. ~~Updated every year to reflect a 5-year projection of Capital Expenditures.~~
- e. Quality of Life: Priority should also be given to projects that would enhance the quality of life.

09.01.01.01 Policy 9.1.1.5: ~~The operating budget shall continue~~ Continue to accommodate annual replacements such as police cars, major pieces of equipment and street renovations in the operating budget.

OBJECTIVE 9.1.2: Provide adequate public facilities access and minimize the adverse effects of development by establishing level of service (LOS) standards that maintains access for all.

09.01.02.01 Policy 9.1.2.1: ~~The level of service standard for drainage shall~~ Maintain a minimum LOS for stormwater and drainage to be adequately accommodate stormwater runoff from a 24-hour, five-year frequency storm, with a design safety factor of 20% and on-going maintenance of the stormwater drainage systems.

09.01.02.02 Policy 9.1.2.2: ~~The level of service standard for the water system shall be~~ Maintain a potable water LOS of at least 678 gallons per person per day (inclusive of irrigation) at a residual pressure of at least 40 pounds per square inch (psi) and a static pressure of 55 psi.

09.01.02.03 Policy 9.1.2.3: ~~The level of service standard for~~ Maintain a maximum LOS for solid waste collection and disposal of shall be 9.0 pounds per capita per day.

09.01.02.04 Policy 9.1.2.4: ~~The level of service standards for streets shall be~~ Maintain a minimum LOS of "A" for all public roads Level of Service A at peak hour.

09.01.04.01 Policy 9.1.2.5: The LDR's include a Concurrency Management System (CMS) specifying that no development permit shall be issued unless the public facilities necessitated by the project (in order to meet level of service standards) will be in place concurrently with the impacts of the development.

09.01.04.02 Policy 9.1.2.6: The LDR's specify the levels of service standards found in this plan and specify that the concurrency test shall be met at the time a development order is issued for a specific plan for development, including densities and intensities of development.

09.01.04.00 Objective: ~~To implement a concurrency management system whereby public facility requirements will be provided for future development and for purposes of issuing development orders and development permits.~~

09.01.05.00 Objective: ~~To ensure a meaningful and on-going process for collaborative planning and intergovernmental coordination between the Town (SMRU), and Martin County in regard to future planning of water system capital improvements.~~

09.01.05.01 Policy: ~~The Town (SMRU) will promote intergovernmental coordination by sharing information as to water system capital improvements planning and proposed capital projects.~~

09.01.06.00 Objective: ~~Capital improvements will be provided to: (1) correct existing deficiencies; (2) accommodate needs generated by future growth activities; and/or (3) replace worn out or obsolete facilities, as determined.~~

09.01.06.01 Policy: ~~Any capital improvements projects defined in the future shall be evaluated and ranked in order of priority according to the following guidelines:~~

~~a. Whether the project is needed to protect public health and safety, to fulfill the Town's legal commitment to provide facilities and services, or to preserve or achieve full use of existing facilities.~~

~~b. Whether the project increases efficiency of use of existing facilities, prevents or reduces future improvement costs, provides service to developed areas lacking full service, or promotes in-fill development.~~

~~c. Whether the project represents a logical extension of facilities and services.~~

~~d. Whether the project is financially feasible based on the established criteria for evaluating capital improvement projects.~~

~~e. If public facilities are developer provided, they shall accommodate public facility demands based upon adopted Level of Service standards.~~

~~f. Effects upon appropriate State agency and/or Water Management District facilities plans shall be evaluated.~~

~~g. Updated every year to reflect a 5-year projection of Capital Expenditures.~~

PROPERTY RIGHTS ELEMENT

Purpose

The purpose of the Property Rights Element is to ensure that Town of Jupiter Island respects judicially acknowledged and constitutionally protected property rights. As an element of the Town Comprehensive Plan required by Section 163.3177(6)(i), Florida Statutes, the Property Rights Element endeavors to ensure that the personal and private property of Town residents is respected in Town planning initiatives.

Goals, Objectives, and Policies

GOAL 10.1: The Town of Jupiter Island will Make decisions with respect for property rights and with respect for people's rights to participate in decisions that affect their lives and property.

OBJECTIVE 1 10.1.1: The Town of Jupiter Island will respect judicially acknowledged and constitutionally protected private property rights.

Policy 4.4 10.1.1.1: The Town of Jupiter Island will Consider in its decision-making the right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

Policy 4.2 10.1.1.2: The Town of Jupiter Island will Consider in its decision-making the right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

Policy 4.3 10.1.1.3: The Town of Jupiter Island will Consider in its decision-making the right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

Policy 4.4 10.1.1.4: The Town of Jupiter Island will Consider in its decision-making the right of a property owner to dispose of his or her property through sale or gift.

OBJECTIVE 2 10.1.2: People have the right to participate in planning and development decisions that affect their lives and property. The Town of Jupiter Island decision-making will be transparent and follow the public hearing requirements of Florida law so that all people may participate in decisions that affect their lives and property. Land development regulations may provide for additional opportunities for people to participate in public hearings regarding planning and development decisions through the processes and standards contained in Chapter 166, Florida Statutes and the Town's Code of Ordinances.

Policy 2.4 10.1.2.1: All land use and development decisions that affect the lives and property of property owners and residents of the Town shall be made in a public hearing that complies with all applicable laws of the state and town.

Policy 2.2 10.1.2.2: The Town of Jupiter Island recognizes that planning and development decisions affect complex systems and have impacts that occur beyond the site of a particular development proposal. Any affected person, as defined in F.S. § 163.3184(1)(a) of the Act may participate in and be a party to a hearing on decisions regarding the site of a development proposal.

Policy 2.3 10.1.2.3: An affected person's right to be heard. The Town of Jupiter Island recognizes that it should make planning and development decisions in response to true and accurate

information. In all decisions this policy governs, the Town of Jupiter Island will Provide every affected person(s) an equal opportunity to be heard and to be informed of all information on which the Town of Jupiter Island bases its decision. The Town of Jupiter Island will endeavor not to provide any affected person any greater opportunity to be heard than another affected person.

Policy ~~2-4~~ 10.1.2.4: An affected person's right to be heard.

The Town of Jupiter Island recognizes that it should make planning and development decisions in response to true and accurate information. In all decisions this policy governs, the Town of Jupiter Island will provide every affected person an equal opportunity to be heard, and to be informed of all information on which the Town of Jupiter Island bases its decision. The Town of Jupiter Island will endeavor not to provide any affected person any greater opportunity to be heard than another affected person.

Objective ~~3~~ 10.1.3: People rely on this comprehensive plan and on the zoning designations of properties when deciding how to use property. The Town of Jupiter Island shall strive to make its decision-making reliable and predictable to promote sound, long-term investments in the town.

Policy ~~3-4~~ 10.1.3.1: Majority-plus-one vote required.

The Town of Jupiter Island may only amend the future land use of real property in the town by the affirmative vote of a majority plus one of the Town Commission.

TOWN OF JUPITER ISLAND SINGLE SOURCE MEMORANDUM

TO	:	Town Commission
FROM	:	Catherine Harding, Director of Building, Planning, and Zoning
REGARDING	:	Request for Spending Authorization
VENDOR	:	Diversified Building Department Management
GOOD/SERVICE	:	Building Official, Inspections and Permit Review Services
DATE REQUESTED	:	12/13/2025
EST FY EXPENDITURE	:	\$80,000.00
VALID FISCAL YEAR	:	2025-2026

Background:

The Town and Diversified Building Department Management (DBDM) currently has a professional services agreement through October 7, 2026, please see attached. This memorandum is requesting annual spending approval for \$80,000.00 to provide service to the Town.

DBDM provides a multi-licensed building inspector/plans examiner to the Town of Jupiter Island. DBDM is and continues to be duly certified in all categories of building inspector/plans examiner as required by the State of Florida and maintains said certification(s) in full compliance with the State of Florida. Diversified Building Department Management provides its own transportation and all necessary tools while completing inspections.

DBDM has extensive experience and knowledge of the Town of Jupiter Island, and with the building regulations pertaining to the State of Florida. DBDM's owner (Mr. Buck Evans) has over 35 years of experience and 13 years servicing the Town.

Recommendation:

Staff recommends the Town Commission consider a motion to approve spending authorization for Diversified Building Department Management in the amount of \$80,000.00 to provide building inspector, plans examiner and other related services to the Town.



Memorandum

To: Mayor & Town Commission
From: R. Garlo, Town Manager *RUG*
Date: December 12, 2025
Re: Letter of Agreement with the P5 Group

I've provided a Letter of Agreement between the Town and the P5 Group, led by former Senator Ken Pruitt, for the provision of legislative and governmental representation services within the State of Florida.

With certain matters being considered by the Florida Legislature, never has it been more important to have an effective advocate on issues important to the Town.

Mr. Pruitt is already representing Martin County and the Village of Tequesta, and I believe he is perfectly positioned to provide these services to the Town.

Please consider the Letter of Agreement as provided, outlining the Scope of Work, in the amount of \$6,250 per month commencing January 1, 2026.

THE
P5
GROUP

Governmental Affairs Consulting

January 1, 2026

LETTER OF AGREEMENT

This Letter of Agreement ("Agreement") is entered into between The P5 Group, LLC ("P5") and the Town of Jupiter Island ("TOWN") for the provision of legislative and governmental representation services within the State of Florida.

Scope of Work

P5 shall consult and advise, as requested by the TOWN, on all proposed or pending legislation before the Florida Senate and / or Florida House of Representatives in regular session, special session, or committee, as well as regulatory or funding matters before the Governor of Florida, the Governor's Cabinet, Florida State agencies, and/ or any other public bodies of the State of Florida on an "as needed" basis as determined in the sole discretion of the TOWN, including, but not limited to:

- Closely monitor legislative, regulatory, and policy actions by the State of Florida through interaction with legislative leadership, House and Senate members and their professional staff; and
- Advocate to key legislators and professional staff on issues important to the TOWN as directed by the TOWN through the Town Manager or Town Commission; and
- Plan and coordinate meetings on behalf of the Town Manager and Town Commission with key legislators and key professional staff; and
- Provide regular consultation and communication with the Town Manager and / or Town Commission as requested by the Town Manager or the Town Commission.
- Work on other defined TOWN projects as agreed by the parties.

Duration and Termination

This Agreement shall commence on January 1, 2026, and continue for twelve (12) months. Thereafter, it shall automatically renew on a month-to-month basis unless terminated or renegotiated by either party with thirty (30) days' prior written notice.

Compensation

In consideration for the services provided, TOWN shall pay P5 \$6,250 per month. Payments shall be due on the first day of each month, beginning with the commencement of the Agreement.



01/01/2026

THE P5 GROUP, LLC

DATE

TOWN OF JUPITER ISLAND

DATE

Upcoming Town Meetings and Events
2025-2026

Date	Day	Time	Event/Meeting	Location
December 12	Friday	9am	Special Called Town Commission Meeting (RFP Selection)	Island Room
December 16	Tuesday	9am	Town Coffee with Commissioner Field	Conference Room
December 16	Tuesday	10am	Special Town Commission Meeting - RFP 2026-02 Interviews	Island Room
December 16	Tuesday	2:30pm	Beach Protection District Meeting	Island Room
December 17	Wednesday	9am	Town Commission Meeting	Island Room
December 17	Wednesday	12pm	Annual Town Employee and Board/Committee Member Appreciation Luncheon	Main Club Terrace
December 25-26	Thurs-Friday	All Day	Holiday - Christmas Holiday - Town Offices Closed	
January 1	Thursday	All Day	Holiday - New Years Day - Town Offices Closed	
January 8	Thursday	9am	Development Review Board	Island Room
January 19	Monday	All Day	Holiday - Martin Luther King Jr. Day - Town Offices Closed	
January 20	Tuesday	9am	Town Coffee with Commissioner Taddeo	Conference Room
January 20	Tuesday	10am	SMRU and Beach Protection District Meeting	Island Room
January 21	Wednesday	9am	Town Commission Meeting	Island Room
February 5	Thursday	9am	Development Review Board	Island Room
February 16	Monday	All Day	Holiday - President's Day - Town Offices Closed	
February 19	Thursday	9am	Pension Board Meeting	Conference Room
February 19	Thursday	10:15am	Joint Town/SMRU Defined Contribution Plan Mtg	Conference Room
February 24	Tuesday	9am	Town Coffee with Commissioner Warner	Conference Room
February 24	Tuesday	10am	Beach Protection District Meeting	Island Room
February 25	Wednesday	9am	Town Commission Meeting	Island Room
March 5	Thursday	9am	Development Review Board	Island Room
March 24	Tuesday	9am	Town Coffee with Mayor Twonsend	Conference Room
March 24	Tuesday	10am	SMRU and Beach Protection District Meeting	Island Room
March 25	Wednesday	9am	Town Commission Meeting	Island Room

1-Dec-25

Key	
Changes from Previous Schedule	
Development Review Board	
Town Hall Closed	
Municipal Election	

Agendas posted on Town Website: www.townofjupiterisland.com prior to the meeting