



Meeting Date: 01 / 24 / 12

| ACTION   | TYPE OF ITEM   |
|--|--|
| <input type="checkbox"/> Approved Recommendation | <input type="checkbox"/> Info/Consent                                  |
| <input type="checkbox"/> Ord. No(s). _____       | <input type="checkbox"/> Report  |
| <input type="checkbox"/> Res. No(s). _____       | <input type="checkbox"/> Public Hearing (Info/consent)                 |
| <input type="checkbox"/> Other _____             | <input checked="" type="checkbox"/> Other <u>City Manager's Report</u> |

Prepared By: Edmund F. Sotelo, City Manager

Agenda Item No. |

**M-1**

Reviewed By: City Manager *[Signature]*

City Attorney *[Signature]*

Finance *[Signature]*

Other (Specify)

**DATE:** December 6, 2011

**TO:** City Council

**FROM:** Edmund F. Sotelo, City Manager

**SUBJECT: PARS SUPPLEMENTAL RETIREMENT BENEFIT**

**RECOMMENDATION**

That City Council receive and file this report.

**DISCUSSION**

On or about April 2002 the City explored with the Public Agency Retirement Services (PARS) the possibility of a 3% at 60 Supplemental Retirement Plan (SRP). This benefit was meant to be for certain Miscellaneous employees only. Initially, Confidential employees elected not to be included in the Plan. Council approved the Plan on January 14<sup>th</sup>, 2003. The implementation date of the Plan was January 1<sup>st</sup>, 2003.

On or about February 4<sup>th</sup>, 2003, the Plan was amended to include certain IRS requirements, i.e. a good faith EGTRRA amendment.

On or about December 15<sup>th</sup>, 2005, the Plan was amended to include domestic partnerships pursuant to changes in California State law.

On or about June 12<sup>th</sup>, 2006, the Plan was amended to include Confidential employees, who had elected to join the Plan prospectively from July 1<sup>st</sup>, 2006.

On or about March 16<sup>th</sup>, 2010 Council adopted an Early Retirement Incentive Plan (ERIP) administered by PARS. Council approved the ERIP and it was implemented. After two enrollment periods, all employees that elected to retire under the ERIP retired by August 31<sup>st</sup>, 2011. The ERIP was a one-time benefit that did not change, enhance or devalue the existing SRP already in place. In fact, employees received the ERIP benefit in addition to the SRP benefit.

On or about August 9<sup>th</sup>, 2010, PARS contacted the City regarding an IRS required restatement of the SRP based upon new remedial Economic Growth and Tax Relief Reconciliation Act (EGTRRA) requirements. The IRS had implemented remedial amendment cycles where employers were required to amend and restate their individually designed qualified governmental retirement plan document(s)

PARS SRP

December 6, 2011

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every five (5) years to incorporate the most recent federal and state law statutory and regulatory changes applicable to qualified governmental plans. Many of the changes reflect the EGTRRA provisions made permanent by the Pension Protection Act of 2006. The new program also placed employers on a specific cycle. The cycle for governmental agencies with individually designed plans was extended to Cycle E with a deadline to amend and restate by January 31, 2011. PARS sent the City's IRS compliant restated Plan to the IRS on January 31<sup>st</sup>, 2011.

On or about June 27<sup>th</sup>, 2011, the Plan was amended to include updated IRS rollover language.

Plan Section 6.2, Rules and Regulations, states that the City has the authority to determine any questions arising in connection with the interpretation, application or administration of the Plan. While reviewing the SRP for IRS compliance, the City noticed that language regarding Union personnel did not accurately state the covered bargaining units. Language clarifying the correct bargaining unit names, i.e., IUOE, Local 501, was inserted to better protect the bargaining unit members. As well, the SRP restated the CalPERS policy regarding paid leave of absences. Since an employee on a paid leave continues to accumulate CalPERS time, language clarifying that policy was stated to make certain that the PARS SRP reflects the accumulations tracked by CalPERS. Also the City made clear the Plan's intent from its inception nearly ten (10) years ago as to what constitutes service time under the Plan. Lastly, the Plan stated that once an employee retired from CalPERS the employee has to stay retired to prevent double dipping under the Plan.

No benefit changes were made. Nothing about the benefit and how the employees receive their PARS benefit changed.

## **FINANCIAL IMPACT**

None.

- Attachment #1 - Original SRP Plan Document
- Attachment #2 – First SRP Plan Amendment
- Attachment #3 – Second SRP Plan Amendment
- Attachment #4 – Third SRP Plan Amendment
- Attachment #5 – January 2011 SRP Plan Restatement
- Attachment #6 - Fourth SRP Plan Amendment

**The City of Oxnard**  
**PARS Supplemental Retirement Plan**  
**Effective January 1, 2003**  
**Defined Benefit Plan**

NB1:508358,9

ATTACHMENT NO. 1  
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## INTRODUCTION

The City Council of the City of Oxnard ("Employer") has adopted this tax qualified governmental defined benefit plan (the "Plan") for the benefit of its eligible employees to provide supplemental retirement benefits to eligible employees of the Employer in addition to the benefits employees will receive from the California Public Employees' Retirement System ("CalPERS").

This Plan and the trust established to hold the assets of the Plan shall be qualified under section 401(a) and tax-exempt under Section 501(a) of the Internal Revenue Code of 1986, together with any amendments thereto (the "Code"). The Employer further intends that this Plan and the trust established hereunder shall meet the requirements of a pension trust under California Government Code sections 53215 – 53224, or their successor sections (the "Act"). At any time prior to the satisfaction of all liabilities with respect to members and their beneficiaries under the trust created pursuant to the this Plan, the trust assets shall not be used for, or diverted to, purposes other than the exclusive benefit of members or their beneficiaries, as prescribed in Section 401(a)(2) of the Code.

The Plan is to satisfy the requirement of the applicable provisions of the Uruguay Round Agreements Act, the Small Business Job Protection Act of 1996, the Uniformed Services Employment and Reemployment Rights Act of 1994, the Taxpayer Relief Act of 1997, the Internal Revenue Service Restructuring and Reform Act of 1998, and the Community Renewal Tax Relief Act of 2000 (commonly referred to as the "GUST" amendments), and that the provisions of this Plan reflecting the GUST amendments are hereby made effective as of the dates required by the legislation referred to in this sentence.

**ARTICLE I**  
**PARTICIPATION**

**1.1 Eligibility for Participation**

An Employee is eligible to participate in this plan if he/she is a City Councilmember who is a member of the Employer's CalPERS Plan, the City Manager, the City Attorney, a full-time regular or part-time regular department head confidential employee, a full-time regular or part-time regular employee represented by Service Employee's International Union (SEIU), a full-time regular or a part-time regular employee represented by International Union of Operating Engineers (IUOE) or a full-time regular or a part-time regular management employee of the Employer on or after January 1, 2003.

**1.2 Eligibility for Retirement Benefits.**

An Employee is eligible to receive Retirement Benefits under this plan upon meeting the requirements of one of the following tiers.

**Tier I**

An Employee who terminates employment with the Employer and concurrently retires under CalPERS shall be eligible to receive Retirement Benefits under this Plan if he/she:

- (a) is employed as a City Councilmember who is a member of the Employer's CalPERS Plan, the City Manager, the City Attorney or a full-time regular or part-time regular department head confidential, SEIU, IUOE, or management employee of the Employer on or after January 1, 2003;
  - (b) is at least fifty (50) years of age;
  - (c) has completed five (5) or more years of employment with the Employer as of the last day of employment with the Employer;
  - (d) has terminated employment with the Employer and concurrently retired under CalPERS;
- and

(e) has applied for benefits under this Plan.

## **Tier II**

An Employee who terminates employment with the Employer and at a later date retires under CalPERS shall be eligible to receive Retirement Benefits under this Plan if he/she:

- (a) was employed as a City Councilmember who is a member of the Employer's CalPERS Plan, the City Manager, the City Attorney or a full-time regular or part-time regular department head confidential, SEIU, IUOE, or management employee of the Employer on or after January 1, 2003;
- (b) is at least fifty (50) years of age;
- (c) has completed five (5) or more years of employment with the Employer as of the last day of employment with the Employer;
- (d) has not taken a distribution of his/her Employee Contribution Account;
- (e) has retired under CalPERS; and
- (f) has applied for benefits under this Plan.

### **1.3 Commencement of Benefits.**

Benefits shall commence as of the first day of the first month after an Employee meets the eligibility requirements of Section 1.2.

### **1.4 Change in Employment Classification**

(a) If an Employee is a full-time regular or part-time regular department head confidential employee, SEIU employee, IUOE employee, management employee, or the City Attorney or City Manager on or after the Plan Effective Date and later changes his/her employment classification and falls under a description other than those listed he/she will remain eligible for purposes of Section 1.1 of this Plan.

(b) If an Employee falls under a description other than those listed in the preceding sentence on or after the Plan Effective Date and later changes his/her employment classification

and falls under the Employer's description of a full-time regular or part-time regular department head confidential employee, SEIU employee, IUOE employee, management employee, or the City Attorney or City Manager he/she must remain a full-time regular Employee in that employment classification and meet the requirements of 2.1 for at least 2 years prior to being eligible to receive Retirement Benefits under this Plan.

This provision, Section 1.4, shall not apply to City Councilmembers.

**ARTICLE II**  
**CONTRIBUTIONS**

**2.1 Amount of Employee Contribution**

Each Employee listed in Section 1.1 shall contribute eight percent (8%) of his/her Compensation to the Plan each year at such times and in the manner established by the Employer.

**2.2 Amount of Employer Contribution**

The Employer shall contribute a percentage of each Employee's Compensation to the Trust each year. The Employer Contribution amount shall be determined by an actuarial study performed every two (2) years as long as this Plan exists.

**2.3 Pick Up of Mandatory Contributions**

In accordance with Section 414(h) of the Code, the mandatory Employee contributions required under Section 2.1 shall be picked up by the Employer.

**2.4 Administrative Expenses**

In accordance with Section 53217 of the Act, the Employer may make contributions to the Trust, in addition to the Employer Contribution set forth in Section 2.2 above, sufficient to defray all or part of the expenses of administering the Plan or may pay such expenses directly.

## ARTICLE III

### BENEFITS

#### 3.1 Retirement Benefits.

Retirement Benefits shall be paid in the Normal Form of Benefit and shall be an amount equal to one-twelfth of the difference between (1) and (2) described below:

(1) The Member's Benefit Service, times the Member's Final Pay, times the PARS Age Factor.

(2) The Member's Benefit Service, times the Member's Final Pay, times the CalPERS Age Factor.

Retirement Benefits shall be subject to an annual 2% compounding cost-of-living adjustment effective beginning on the anniversary date of commencement of the Retirement Benefit.

#### 3.2 Purchase of Military Service Credit.

An Employee who meets the requirements of Section 1.1(a) under Tier I and Tier II and has purchased service credit with PERS on or after the Effective Date of the Plan is eligible to purchase military service credit to be counted toward the Member's Benefit Service in Section 3.1(1) under the Plan. The amount of purchased military service credit shall not exceed the amount purchased through PERS. The purchase of military service credit shall be calculated pursuant to the benefit described in Section 3.1(1), and shall be funded in one lump sum payment made by the Employee at the time of purchase.

The cost to purchase military service credit shall be determined by an Enrolled Actuary. Funds to purchase service credit shall be deposited into the Trust no later than ninety (90) days prior to termination with the Employer.

If an Employee has purchased military service credit and does not meet the requirements of Section 1.1, the Employee shall receive a refund equal to his/her lump sum contribution plus an annual rate of return equal to five percent (5%). If the Employee dies prior to meeting the requirements of Section 1.1, his/her Beneficiary shall receive a refund equal to the Employee's lump sum contribution plus an annual rate of return equal to five percent (5%).

### **3.3 Designation of Beneficiary.**

If the Employee dies prior to retirement under this Plan, the Employee's Vested Employee Contributions shall be payable to the survivor named under the Employee's CalPERS retirement system unless the Employee designates someone else by filing a designation of beneficiary form with the Employer. The rules of (d) below apply if the Employee is designating someone other than his/her spouse.

(a) Upon retirement under this Plan, Each Member shall have the right to designate a Beneficiary to receive the death benefits, if any, that are payable to a Beneficiary based on the Member's distribution choice under this Plan. Such designation does not permit the Member to change a person identified under another provision of the Plan as being eligible to receive a benefit. Such designation must be evidenced by a written instrument filed with the Employer, on a form prescribed by the Employer, and signed by the Member.

(b) The Beneficiary for a married Member shall be the Member's spouse at the date of death, unless the written consent of such spouse is provided upon a form acceptable to the Employer. Each such designation for death benefits must be evidenced by a written instrument filed with the Employer, on a form prescribed by the Employer, and signed by the Member. If no such designation is on file with the Employer at the time of the death of the Member, or if for any reason at the sole discretion of the Employer, such designation is defective, then the spouse

of such Member shall be conclusively deemed to be the Beneficiary designated to receive such benefit.

(c) The signature of the Member's spouse shall be required on a designation of beneficiary form or an application for a benefit under the Plan if the spouse is not the beneficiary, unless the Member declares in writing that one of the following conditions exists:

- (i) The Member is not married;
- (ii) The Member does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse;
- (iii) The spouse is incapable of executing the acknowledgment because of an incapacitating mental or physical condition;
- (iv) The Member and spouse have executed a marriage settlement agreement that makes the community property laws inapplicable to the marriage; or
- (v) The current spouse has no identifiable community property interest in the benefits.

## ARTICLE IV

### VESTING

#### 4.1 Full Vesting.

Each Employee shall be one hundred percent (100%) Vested in his/her Retirement Benefit upon meeting all of the requirements of Section 1.2.

#### 4.2 Vesting in Employee Contribution Account

Each Employee shall be one hundred percent (100%) Vested in his/her Employee Contribution Account at all times. If the Employee terminates, or is terminated from, employment with the Employer, whether voluntarily, involuntarily, by death, disability or in any other manner, before meeting all of the requirements of Section 1.2, the Employee shall receive one hundred percent (100%) of the amounts credited to his/her Employee Contribution Account plus five percent (5%) interest per annum as a lump sum distribution. If the Employee's balance is greater than five thousand dollars (\$5,000.00), the Employee may choose to defer distribution until actual retirement and select either a lump sum distribution or lifetime annuity payment.

#### 4.3 Full or Partial Termination.

Notwithstanding the vesting schedule, upon any full or partial termination of the Plan, the Retirement Benefit of a Member who has satisfied subsection (a), (b) and (c) of Tier I or Tier II of Section 1.2 (and, for a Member who has terminated employment as of the date of such termination of the Plan, who also satisfies subsection (d) of Tier II of Section 1.2) as of the date of such Plan termination shall become one hundred percent (100%) Vested, and such benefit shall be payable in accordance with Section 6.3.

#### 4.4 Attainment of Normal Retirement Age.

A Member shall be fully vested in his/her Retirement Benefit upon attainment of Normal Retirement Age.

**4.5 Effect of Vesting.**

Vesting shall entitle a Member to payment during his/her lifetime of the Retirement Benefit at the times and upon the conditions specified herein, and shall entitle the Member's survivor or Beneficiary to any death benefits provided herein. Any unpaid Retirement Benefits are forfeited upon the Member's death.

**ARTICLE V**  
**DISTRIBUTIONS**

**5.1 Normal Form of Benefit.**

Unless the Member elects another form of benefit as described under Section 5.2, payments to a Member of a Retirement Benefit shall be made in the form of monthly payments commencing pursuant to Section 1.3 and ending on the first day of the month in which the Member's death occurs, in the amount specified in Section 3.1. This form of payment shall be the "Normal Form of Benefit".

**5.2 Other Forms of Benefit.**

In lieu of the Normal Form of Benefit, a Member may elect a form of benefit payment of Actuarial Equivalent value to the Normal Form of Benefit in one of the following forms:

(a) **Joint and 100% Survivor.** Under this form of payment:

(1) The Member receives a reduced monthly benefit, and if the Member predeceases the Beneficiary, the Beneficiary will receive a monthly payment for the life of the Beneficiary equal to 100% of such reduced monthly benefit. The benefit shall terminate as of the first day following the Beneficiary's death.

(2) If the Beneficiary predeceases the Member, the Member's reduced monthly payment will not increase.

(2) The Member's designation of a Beneficiary shall become irrevocable upon the Member's retirement if electing this form of payment.

(b) **Joint and 100% Survivor with Pop-Up Provision.** Under this form of payment:

(1) The Member receives a reduced monthly benefit, and if the Member predeceases the Beneficiary, the Beneficiary will receive a monthly payment for the life

of the Beneficiary equal to 100% of such reduced monthly benefit. The benefit shall terminate as of the first day following the Beneficiary's death.

(2) If the Beneficiary predeceases the Member, the Member's reduced monthly payment shall increase to the Normal Form of Benefit.

(3) The Member's designation of a Beneficiary shall become irrevocable upon the Member's retirement if electing this form of payment.

(c) **Joint and 50% Survivor**, Under this form of payment:

(1) The Member receives a reduced monthly benefit, and if the Member predeceases the Beneficiary, the Beneficiary will receive a monthly payment for the life of the Beneficiary equal to 50% of such reduced monthly benefit. The benefit shall terminate as of the first day following the Beneficiary's death.

(2) If the Beneficiary predeceases the Member, the Member's reduced monthly payment will not increase.

(3) The Member's designation of a Beneficiary shall become irrevocable upon the Member's retirement if electing this form of payment.

(d) **Joint and 50% Survivor with Pop-Up Provision**.

(1) The Member receives a reduced monthly benefit, and if the Member predeceases the Beneficiary, the Beneficiary will receive a monthly payment for the life of the Beneficiary equal to 50% of such reduced monthly benefit. The benefit shall terminate as of the first day following the Beneficiary's death.

(2) If the Beneficiary predeceases the Member, the Member's reduced monthly payment shall increase to the Normal Form of Benefit.

(3) The Member's designation of a Beneficiary shall become irrevocable upon the Member's retirement if electing this form of payment.

(e) **Additional Forms of Payout.** Under this form of payment, at the option of the Member, and with agreement of the Plan Administrator, and upon completion of a form provided by the Plan Administrator, the benefit shall be paid in any other form that is actuarially equivalent to the Normal Form of Benefit.

(f) **Limitations.** In the case of a Member who attains age 70½, distribution of such Member's entire interest must commence not later than the first day of April following the later of the calendar year in which such Member attains age 70½ or the calendar year in which the Member retires. A Member who previously commenced benefits upon attainment of age 70½ may elect to stop receiving such distributions until the April 1 following the calendar year in which the Member retires. In all cases, distributions shall be made in amounts determined in accordance with Code Section 401(a)(9) and the regulations thereunder.

### 5.3 **Actuarial Equivalence.**

For the purpose of establishing actuarial equivalence, the mortality assumption shall be 1983 GAM and the interest assumption shall be 6% per annum.

### 5.4 **Direct Rollovers.**

Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Plan, a distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(a) **Definitions.**

(1) **Eligible Rollover Distribution.** An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the

distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code, any hardship distribution, and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

(2) Eligible Retirement Plan.

(i) An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, or a qualified trust described in Section 401(a) of the Code that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement plan, individual retirement account, or an individual retirement annuity.

(ii) 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 under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

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

## ARTICLE VI

### ADMINISTRATION AND AMENDMENT OF PLAN

#### 6.1 Member's Rights Not Subject To Execution.

The right of a Member to a benefit under this Plan is not assignable and is not subject to execution or any other process whatsoever, except to the extent permitted by the Code of Civil Procedure and the Family Code of the State of California. Any payment hereunder required under the California Family Code to a person other than the Member must not alter the form or amount of benefits hereunder, except that to the extent provided in a valid court order, an Actuarially Equivalent payment may be made to the spouse or child of a beneficiary pursuant to a qualified domestic relations order (as defined in Code Section 414(p)) prior to the Member's retirement.

#### 6.2 Rules and Regulations.

(a) The Employer has full discretionary authority to supervise and control the operation of this Plan in accordance with its terms and may make rules and regulations for the administration of this Plan that are not inconsistent with the terms and provisions hereof. The Employer shall determine any questions arising in connection with the interpretation, application or administration of the Plan (including any question of fact relating to age, employment, compensation or eligibility of Employees) and its decisions or actions in respect thereof shall be conclusive and binding upon any and all persons and parties.

(b) The Employer shall have all powers necessary to accomplish its purposes, including, but not by way of limitation, the following:

- (1) To determine all questions relating to the eligibility of Employees to participate;
- (2) To construe and interpret the terms and provisions of the Plan;
- (3) To compute, certify to, and direct the Trustee with regard to the amount and kind of benefits payable to the Members and their Beneficiaries;
- (4) To authorize all disbursements by the Trustee from the Trust;

(5) To maintain all records that may be necessary for the administration of the Plan other than those maintained by the Trustee; and

(6) To appoint a plan administrator or, any other agent, and to delegate to them or to the Trustee such powers and duties in connection with the administration of the Plan as may from time to time be prescribed, and to designate each such administrator or agent as a fiduciary with regard to matters delegated to him.

(c) With respect to management and control of investments, the Employer shall have the power to direct the Trustee in writing with respect to the investment of the Trust assets or any part thereof. Where investment authority, management and control of Trust assets have been delegated to the Trustee by the Employer, the Trustee shall be a fiduciary with respect to the investment, management and control of the Trust assets contributed by the Employer and Members with full discretion in the exercise of such investment, management and control. Where investment authority, management and control of Trust assets is not specifically delegated to the Trustee, the Trustee shall be subject to the direction of the Employer.

(d) Expenses and fees in connection with the administration of the Plan and the Trust shall be paid from the Trust assets to the fullest extent permitted by law, unless the Employer determines otherwise.

### **6.3 Amendment and Termination.**

(a) Subject to the requirements and limitations of this Section 6.3, the Employer shall have the right to amend, terminate, or otherwise modify this Plan at any time. Such actions shall be done only by written instruction duly executed by the Employer. In the event of the termination of this Plan, the entire interest of each Member who satisfies the requirements of Section 4.3 shall immediately become 100% Vested. After all liabilities of this Plan to Members and their Beneficiaries have been satisfied, any residual assets of this Plan shall be used for such purposes as determined by the Employer, including a distribution of the assets to the general funds of the Employer.

(b) Except as required by the Act, the Code, or any other applicable law, the Employer shall not by amendment, termination, or any other modification of this Plan reduce or impair the Retirement Benefits of those Members who are receiving benefit payments at the effective time of any such amendment, termination, or other modification of this Plan. A

reduction or impairment of Retirement Benefits shall include, but not be limited to, a reduction in any cost-of-living adjustment or an increase in any years of service requirements, and changes in the definitions of Benefit Service or Final Pay to the extent that any of the foregoing would have the effect of reducing the dollar value of a Member's Retirement Benefits.

(c) The Employer shall not amend, terminate, or otherwise modify this Plan in a manner which would reduce or impair the Retirement Benefits of any Member below the actuarial equivalent value that which the Employee would have been entitled had the Employee retired immediately prior to the effective time of the amendment, termination or modification, calculated by considering Benefit Service, Final Pay, the PARS Age Factor and the CalPERS Age Factor as of the date of the amendment, termination or modification. In determining the value to which the Employee would have been entitled, (i) an Employee who has not terminated employment with the Employer as of the effective time of the amendment, termination or modification shall be entitled to the actuarial equivalent value under Section 1.2, Tier I, and shall not be required to satisfy Section 1.2, Tier I (d) or (e), and (ii) an Employee who terminated employment with the Employer before the effective time of the amendment, termination or modification shall be entitled to the actuarial equivalent value under Section 1.2, Tier II, and shall not be required to satisfy Section 1.2, Tier II (e) or (f).

(d) Upon termination of this Plan, the Employer shall either (i) make available to each Employee the actuarial lump sum value of the Employee's Retirement Benefits calculated as described in Section 6.3(c) in the form of an eligible rollover distribution in accordance with Section 5.4, or (ii) purchase an annuity contract on behalf of each Employee from an insurance company in an amount equal to the Employee's Retirement Benefits calculated as described in Section 6.3(c).

#### 6.4 Military Service.

Effective December 12, 1994 and notwithstanding any provision of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the Code.

## ARTICLE VII

### DEFINITIONS

#### 7.1 Definitions.

Whenever the following terms are used in the Plan, with the first letter capitalized, they shall have the meanings specified below.

**"Act"** means the California Government Code, sections 53215-53224.

**"Anniversary Date"** means January 1.

**"Beneficiary"** means the person, persons, trust or trusts designated by a Member, or, in the absence of a designation, entitled by will or the laws of descent and distribution, to receive the benefit specified under this Plan if the Member dies and means the Member's executor or administrator if no other beneficiary is designated and able to act under the circumstances.

**"Benefit Service"** means the total credited CalPERS City of Oxnard service as of the last date of employment with the Employer plus any military service purchased through CalPERS while an Employee of the Employer and prior to the Effective Date of the Plan.

**"CalPERS"** means the California Public Employee Retirement System.

**"CalPERS Age Factor"** means the 2% at age 55 age factor table used by CalPERS determined at the time of retirement under CalPERS.

**"Code"** means the Internal Revenue Code of 1986, as amended from time to time.

**"Compensation"** means, for Plan Years beginning after December 31, 1995 or 90 days after the opening of the first legislature session on or after January 1, 1996, all CalPERS reportable compensation for that portion of the Plan Year during which the Employee was a Member, paid in cash by the Employer to the Member for personal services. Compensation in excess of \$150,000 shall be disregarded. Such amount shall be adjusted for increases in the cost of living in accordance with Code Section 401(a)(17), except that the dollar increase in effect on January 1 of any calendar year shall be effective for the Plan Year beginning with or within such calendar year. For any short Plan Year the Compensation limit shall be an amount equal to the Compensation limit for the calendar year in which the Plan Year begins multiplied by a ratio obtained by dividing the number of full months in the short Plan Year by twelve (12).

**"Effective Date"** means, unless otherwise indicated herein, January 1, 2003.

**"Employee"** means a person employed by the Employer.

**"Employee Contribution Account"** means the account by that name established pursuant to Section 2.1 hereof.

**"Employer"** means the City of Oxnard.

**"Final Pay"** means the highest average annual compensation subject to CalPERS paid to an Employee during any twelve consecutive months of employment with the Employer. CalPERS Employer Paid Member Contributions shall be included in Final Pay.

**"Member"** means an Employee eligible to receive benefits under this Plan.

**"Normal Retirement Age"** shall be sixty (60) years of age.

**"Normal Form of Benefit"** is the form of benefit described in Section 5.1.

“PARS Age Factor” means an age factor determined by the Member’s age at the time of meeting the requirements of Section 1.2 based on the following table:

| Age at Retirement | PARS Age Factor | Age at Retirement | PARS Age Factor |
|-------------------|-----------------|-------------------|-----------------|
| 50.00-50.24       | 2.000%          | 55.25-55.49       | 2.525%          |
| 50.25-50.49       | 2.025%          | 55.50-55.74       | 2.550%          |
| 50.50-50.74       | 2.050%          | 55.75-55.99       | 2.575%          |
| 50.75-50.99       | 2.075%          | 56.00-56.24       | 2.600%          |
| 51.00-51.24       | 2.100%          | 56.25-56.49       | 2.625%          |
| 51.25-51.49       | 2.125%          | 56.50-56.74       | 2.650%          |
| 51.50-51.74       | 2.150%          | 56.75-56.99       | 2.675%          |
| 51.75-51.99       | 2.175%          | 57.00-57.24       | 2.700%          |
| 52.00-52.24       | 2.200%          | 57.25-57.49       | 2.725%          |
| 52.25-52.49       | 2.225%          | 57.50-57.74       | 2.750%          |
| 52.50-52.74       | 2.250%          | 57.75-57.99       | 2.775%          |
| 52.75-52.99       | 2.275%          | 58.00-58.24       | 2.800%          |
| 53.00-53.24       | 2.300%          | 58.25-58.49       | 2.825%          |
| 53.25-53.49       | 2.325%          | 58.50-58.74       | 2.850%          |
| 53.50-53.74       | 2.350%          | 58.75-58.99       | 2.875%          |
| 53.75-53.99       | 2.375%          | 59.00-59.24       | 2.900%          |
| 54.00-54.24       | 2.400%          | 59.25-59.49       | 2.925%          |
| 54.25-54.49       | 2.425%          | 59.50-59.74       | 2.950%          |
| 54.50-54.74       | 2.450%          | 59.75-59.99       | 2.975%          |
| 54.75-54.99       | 2.475%          | 60.00 +           | 3.000%          |
| 55.00-55.24       | 2.500%          |                   |                 |

“Plan” means the City of Oxnard PARS Supplemental Retirement Plan.

“Plan Year” means the consecutive twelve-month period beginning on January 1 and ending on December 31.

“Plan Administrator” means the individual or position designated by the Employer to act on behalf of the Employer in matters relating to this Plan. If no designation is made, the Employer shall be the Plan Administrator. If a Plan Administrator has been appointed the word “Employer” as used in this Plan shall mean Plan Administrator unless the context indicates a different meaning is intended.

**"Public Agency"** means an employer authorized under California Government Code Article 1.5, sections 53215 through 53224 to establish a pension trust.

**"Retirement Benefits"** means the benefits payable to the Member following retirement, as described in Article III.

**"Regulations"** means the regulations adopted or proposed by the Department of Treasury from time to time pursuant to the Code.

**"Trust"** means the trust established as part of the Public Agency Retirement Trust to hold the assets of the Plan.

**"Trustee"** means the trustee of the Trust.

**"Vested"** means the nonforfeitable portion of any account maintained on behalf of a Member.

## APPENDIX A

### ANNUAL ADDITIONAL LIMITS

#### A.1 Definitions.

As used in this Appendix A, the following terms shall have the meanings specified below.

“**Affiliated Company**” means a company required to be aggregated with the Employer for purposes of Code Sections 414(b) and (c), provided, however, the determination under Section 414 (b) and (c) of the Code shall be made as if the phrase “more than 50 percent” were substituted for the phrase “at least 80 percent” each place it is incorporated into Section 414(b) and (c) of the Code.

“**Annual Benefit**” means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) under a plan to which Employees do not contribute and under which no rollover contributions are made, or to which assets have been transferred from a qualified plan that was not maintained by the Employer. If the benefit is payable in a form other than a straight life annuity, such form must be adjusted actuarially to the equivalent of a straight life annuity before applying the limitations of Section A.2(a). The actuarial adjustment to the equivalent of a straight life annuity will apply to all Plan benefits (including those benefits accrued before December 31, 1994) and shall be equal to the greater of (x) an adjustment based on 5% and the mortality table specified in Section 415(b)(2)(E) of the Code or (y) an adjustment based on the factors specified in the Plan to adjust the applicable form of benefits. No actuarial adjustment is required for the following: qualified joint and survivor annuity benefits, pre-retirement disability benefits, pre-retirement death benefits, post-retirement medical benefits, and the value of post-retirement cost-of-living increases made in accordance with the Code and Treas. Reg. Section 1.415-3(c)(2)(iii).

“**Employer**” means the City of Oxnard and any Affiliated Company that adopts this Plan.

“**Limitation Year**” means a twelve-consecutive month period ending on the Anniversary Date. If the Limitation Year is amended to a different 12-consecutive month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made.

"Related Plan" means any other defined benefit plan (as defined in Section 415(k) of the Code) maintained by the Employer.

"Social Security Retirement Age" shall mean the age used as the retirement age for the Member under Section 216(1) of the Social Security Act, except that such section shall be applied without regard to the age increase factor and as if the early retirement age under Section 216(1)(2) of such Act were 62.

"Year of Participation" means the Employee shall be credited with a Year of Participation for each year in which the Member is an Employee of the Employer. An Employee who is permanently and totally disabled within the meaning of Section 415(c)(3)(C)(i) of the Code for an accrual computation period shall receive a Year of Participation with respect to that period. In addition, for an Employee to receive a Year of Participation for an accrual computation period, the Plan must be established no later than the last day of such accrual computation period. In no event will more than one Year of Participation be credited for any 12-month period.

#### **A.2 Limitation on Benefits.**

Notwithstanding any other provision of the Plan:

(a) the Annual Benefit payable with respect to a Member under the Plan for any Limitation Year shall not exceed an amount equal to \$160,000, (or, such other dollar limitation determined for the Limitation Year by automatically adjusting the \$160,000 limitation by the cost of living adjustment factor prescribed by the Secretary of the Treasury under Section 415(d) of the Code in such manner as the Secretary shall prescribe). The new dollar limitation shall apply to Limitation Years ending within the calendar year of the date of the adjustment.

(b) If the Member has less than ten Years of Participation with the Employer, the dollar limitation in Section A.2(a) shall be reduced by multiplying it by a fraction, the numerator of which is the Member's full and partial Years of Participation, and the denominator of which is ten. To the extent provided in regulations or in other guidance issued by the Internal Revenue Service, the preceding sentence shall be applied separately with respect to each change in the benefit structure of the Plan. For Limitation Years commencing after December 31, 1994, the reductions provided in this paragraph do not apply to payments made to the Member if his

payments commence after he has become disabled (within the meaning of Code Section 415(b)(2)(I)), and do not apply to payments made on account of the Member's death.

(c) If the Annual Benefit of a Member commences prior to age 62, the dollar limitation in Section A.2(a) shall not apply and the dollar limitation shall be the actuarial equivalent of an Annual Benefit beginning at age 62, reduced for each month by which benefits commence before the month in which the Member attains age 62. To determine actuarial equivalence, subject to Revenue Ruling 98-1, the adjustment is the greater of (x) an adjustment based on 5% and the mortality table specified in Section 415(b)(2)(E) of the Code or (y) the early retirement factors specified in the Plan that are applicable to the Member's benefit. Any decrease in the dollar limit determined in accordance with this Section A.2(c) shall not reflect the mortality decrement to the extent that benefits will not be forfeited upon the death of the Member. The reduction provided in this Subsection A.2(c) shall not reduce the limitation of Subsection A.2(a) below (x) \$75,000 if benefits begin after age 55, or (y) if the benefit begins before age 55, the equivalent of the \$75,000 limit at age 55. Furthermore, the reduction in this Subsection A.2(c) shall not apply for a Member who is a "qualified participant," as defined in Code Section 415(b)(2)(H).

(d) If the Annual Benefit of a Member commences after age 65, the dollar limitation in Section A.2(a) as reduced in Section A.2(b), if necessary, shall be increased so that it is the actuarial equivalent of an Annual Benefit of such dollar limitation beginning at age 65. To determine actuarial equivalence, subject to Revenue Ruling 98-1, the adjustment is the lesser of (x) an adjustment based on 5% and the mortality table specified in Section 415(b)(2)(E) of the Code or (y) the late retirement factors specified in the Plan that are applicable to the Member's benefit. Any increase in the dollar limit determined in accordance with this Section A.2(d) shall not reflect the mortality decrement to the extent that benefits will not be forfeited upon the death of the Member.

(e) If the benefit the Member would otherwise accrue in a Limitation Year would produce an Annual Benefit in excess of the limitation under Section A.2(a), the rate of accrual will be reduced so that the Annual Benefit will equal the limitation under Section A.2(a).

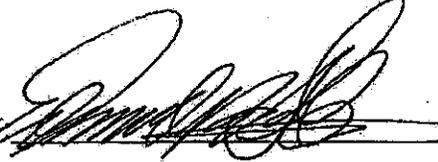
(f) The limitation in Section A.2(a) is deemed satisfied if the Annual Benefit payable to a Member is not more than \$1,000 multiplied by the Member's number of years of service or parts thereof (not to exceed ten) with the Employer, and the Employer has not at any time

maintained a defined contribution plan, a welfare benefit plan as defined in Section 419(e) of the Code, or an individual medical account as defined in Section 415(1)(2) of the Code in which such Member participated.

(g) If the Employer maintains one or more defined benefit plans, in addition to this Plan, covering an Employee who is also a Member in this Plan, the sum of the Annual Benefits of all the plans will be treated as a single benefit for the purposes of applying the limitations of Section A.2(a). If these benefits exceed, in the aggregate, the limitations of Section A.2(a), the Normal Retirement Benefits under this Plan will be reduced (but not below zero) until the sum of the benefits of the Related Plan(s) satisfy the limitations. In the case of an individual who was a Member in one or more defined benefit plans of the Employer as of the first day of the first Limitation Year beginning after December 31, 1986, the application of the limitations of this Section A.2 shall not cause the Limitation under Section A.2(a) for such individual under all such defined benefit plans to be less than the individual's Current Accrued Benefit. The preceding sentence applies only if such defined benefit plans met the requirements of Section 415 of the Code, for all Limitation Years beginning before May 6, 1986. For purposes of this Section A.2(g), an individual's Current Accrued Benefit means a Member's Accrued Benefit under the Plan, determined as if the Member had separated from service as of the close of the last Limitation Year beginning before January 1, 1987, when expressed as an annual benefit within the meaning of Section 415(b)(2) of the Code. In determining the amount of a Member's Current Accrued Benefit, the following shall be disregarded: (i) any change in the terms and conditions of the Plan after May 5, 1986; and (ii) any cost of living adjustments occurring after May 5, 1986.

**ADOPTION OF CITY OF OXNARD PARS SUPPLEMENTAL RETIREMENT PLAN**

The City of Oxnard PARS Supplemental Retirement Plan is hereby adopted effective January 1, 2003.

BY  \_\_\_\_\_

Title: City Manager

Date: 7-9-03

**PLAN SUBMISSION TO THE IRS FOR A LETTER OF DETERMINATION**

The decision to submit the foregoing Plan to the IRS shall be determined by the Plan Administrator pursuant to his/her initials below:

Yes, please submit the Plan to the IRS for a Letter of Determination.

No, do not submit this Plan to the IRS for a Letter of Determination.

If you answered Yes, please provide the following information:

Employer Tax ID# \_\_\_\_\_

List all qualified retirement plans offered by the City of Oxnard (e.g. CalPERS)

| <i>Name of Qualified Plan</i> | <i>Defined Benefit or Defined Contribution</i> |
|-------------------------------|--|
| CalPERS                       | Defined Benefit                                |
|                               |  |
|                               |  |
|                               |  |

**AMENDMENT TO THE  
CITY OF OXNARD  
PARS SUPPLEMENTAL RETIREMENT PLAN**

The City of Oxnard PARS Supplemental Retirement Plan effective January 1, 2003 is hereby amended as follows:

1. Effective January 1, 2003 (except as otherwise provided), the following Appendix B is added to read as follows:

**“APPENDIX B”**

**GOOD FAITH EGTRRA COMPLIANCE**

**B.1. Adoption and Effective Date of Appendix B.**

This Appendix B is adopted to reflect certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”). This Appendix B is intended as good faith compliance with the requirements of EGTRRA and is to be construed in accordance with EGTRRA and guidance issued thereunder. Except as otherwise provided, this Appendix B shall be effective as of the first day of the first Plan Year beginning after December 31, 2001. This Appendix B shall supersede the provisions of the Plan and Appendix A to the extent those provisions are inconsistent with the provisions of this Appendix B.

**B.2. New Mortality Table.**

Notwithstanding any other Plan provisions to the contrary, the applicable mortality table used for purposes of adjusting any benefit or limitation under Section 415(b)(2)(B), (C), or (D) of the Code is the table prescribed in Rev. Rul. 2001-62. Such table shall not be used for any other purpose under the Plan. This Section B.2 shall apply to distributions with annuity starting dates on or after December 31, 2002.

**B.3. Increase in Compensation Limit.**

The annual compensation of each Member taken into account in determining benefit accruals in any Plan Year beginning after December 31, 2001 shall not exceed \$200,000. Annual compensation means compensation during the Plan Year or such other consecutive 12-month

period over which compensation is otherwise determined under the Plan (the determination period). The \$200,000 limit on annual compensation described in this Section B.3 shall be adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

For purposes of determining benefit accruals in a Plan Year beginning after December 31, 2001, the annual compensation limit described in this Section B.3 for determination periods beginning before January 1, 2002 shall be \$150,000 for any determination period beginning in 1996 or earlier; \$160,000 for any determination period beginning in 1997, 1998, or 1999; and \$170,000 for any determination period beginning in 2000 or 2001.

Notwithstanding the foregoing, this Section B.3 shall not apply to any Member eligible for a higher limit on annual compensation under the transition rule described in Section 1.401(a)(17)-1(d)(4)(ii) of the Treasury Regulations.

**B.4. Modification of Definition of Eligible Retirement Plan.**

For purposes of the direct rollover provisions in the Plan, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Code. This Section B.4 shall apply to distributions made after December 31, 2001.

**B.5. Increase in Benefits Limit.**

(a) This Section B.5 shall be effective for Limitation Years ending after December 31, 2001. Notwithstanding the foregoing, this Section B.5 shall not apply to any Member eligible for higher limit on benefits under the special rule described in Section 415(b)(10) of the Code.

(b) Benefit increases resulting from the increase in the limitations of Section 415(b) of the Code shall be provided to all Employees participating in the Plan who have one hour of service on or after the first day of the first Limitation Year ending after December 31, 2001.

(c) The Annual Benefit payable with respect to a Member under the Plan for any Limitation Year shall not exceed the maximum permissible benefit.

(d) **Definitions.**

(1) **Defined benefit dollar limitation.** The "defined benefit dollar limitation" is \$160,000, as adjusted, effective January 1 of each year, under Section 415(d) of the Code in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under Section 415(d) will apply to Limitation Years ending with or within the calendar year for which the adjustment applies.

(2) **Maximum permissible benefit.** The "maximum permissible benefit" is the defined benefit dollar limitation (adjusted where required, as provided in (i) and, if applicable, in (ii) or (iii) below).

(i) If the Member has fewer than ten Years of Participation in the Plan, the defined benefit dollar limitation shall be multiplied by a fraction, (i) the numerator of which is the number of full and partial Years of Participation in the Plan and (ii) the denominator of which is ten.

(ii) If the Annual Benefit of a Member begins prior to age 62, the defined benefit dollar limitation applicable to the Member at such earlier age is an Annual Benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the Member at age 62 (adjusted under (A) above, if required). The defined benefit dollar limitation applicable at an age prior to age 62 is determined as the lesser of the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in the plan for early retirement calculations and the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a five percent interest rate and the applicable mortality table. Any decrease in the defined benefit dollar limitation determined in accordance with this paragraph (ii) shall not reflect a mortality decrement if benefits are not forfeited upon

the death of the Member. If any benefits are forfeited upon death, the full mortality decrement is taken into account.

(iii) If the benefit of a Member begins after the Member attains age 65, the defined benefit dollar limitation applicable to the Member at the later age is the Annual Benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the Member at age 65 (adjusted under (A) above, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age 65 is determined as the lesser of the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in the Plan for late retirement benefits, and the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a five percent interest rate assumption and the applicable mortality table. For these purposes, mortality between age 65 and the age at which benefits commence shall be ignored.”

2. Effective January 1, 2003, the following Appendix C is added to read as follows:

**“APPENDIX C**

**MINIMUM DISTRIBUTION REQUIREMENTS**

**C.1. Adoption and Effective Date of Appendix C.**

This Appendix C is adopted to reflect the final Treasury Regulations promulgated under Section 401(a)(9) of the Code. Except as otherwise provided, this Appendix C shall apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year. This Appendix C shall supersede the provisions of the Plan and Appendix A to the extent those provisions are inconsistent with the provisions of this Appendix C.

All distributions required under this Appendix C will be determined and made in accordance with the Treasury Regulations promulgated under Section 401(a)(9) of the Code. Notwithstanding the other provisions of this Appendix C, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax

Equity and Fiscal Responsibility Act ("TEFRA") and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.

**C.2. Time and Manner of Distribution.**

(a) **Required Beginning Date.** The Member's entire interest will be distributed, or begin to be distributed, to the Member no later than the Member's Required Beginning Date.

(b) **Death of Member Before Distributions Begin.** If the Member dies before distributions begin, the Member's entire interest will be distributed, or begin to be distributed, no later than as follows:

(1) If the Member's surviving spouse is the Member's sole Designated Beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Member died, or by December 31 of the calendar year in which the Member would have attained age 70½, if later.

(2) If the Member's surviving spouse is not the Member's sole Designated Beneficiary, then distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Member died.

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

(4) If the Member's surviving spouse is the Member's sole Designated Beneficiary and the surviving spouse dies after the Member but before distributions to the surviving spouse begin, this Section C.2(b), other than Section C.2(b)(1), will apply as if the surviving spouse were the Member.

(5) For purposes of this Section C.2(b) and Section C.5, distributions are considered to begin on the Member's Required Beginning Date (or, if Section C.2(b)(4) applies, the date distributions are required to begin to the surviving spouse under Section C.2(b)(1)). If annuity payments irrevocably commence to the Member before the Member's Required Beginning Date (or to the Member's surviving spouse before the date distributions are required to begin to the

surviving spouse under Section C.2(b)(1)), the date distributions are considered to begin is the date distributions actually commence.

(c) **Form of Distribution.** Unless the Member'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 C.3, C.4 and C.5 of this Appendix C. If the Member'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 Section 401(a)(9) of the Code and the Treasury Regulations. Any part of the Member's interest which is in the form of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and the Treasury Regulations that apply to individual accounts.

**C.3. Determination of Amount to be Distributed Each Year.**

(a) **General Annuity Requirements.** If the Member's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

(1) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;

(2) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in Section C.4 or C.5;

(3) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;

(4) payments will either be nonincreasing or increase only as follows:

(i) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;

(ii) to the extent of the reduction in the amount of the Member's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in Section C.4 dies or is no longer the Member's Beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p) ;

(iii) to provide cash refunds of employee contributions upon the Member's death; or

(iv) to pay increased benefits that result from a plan amendment.

**(b) Amount Required to be Distributed by Required Beginning Date.** The amount that must be distributed on or before the Member's Required Beginning Date (or, if the Member dies before distributions begin, the date distributions are required to begin under Section C.2(b)(1) or C.2(b)(2)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Member's benefit accruals as of the last day of the first Distribution Calendar Year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Member's Required Beginning Date.

**(c) Additional Accruals After First Distribution Calendar Year.** Any additional benefits accruing to the Member in a calendar year after the first Distribution Calendar Year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

**(d) Election to Allow Members or Beneficiaries to Elect 5-Year Rule.** Members or Beneficiaries may elect on an individual basis whether the 5-year rule or the life expectancy rule in Sections C.2(b) and C.5 of this Appendix C applies to distributions after the death of a Member who has a Designated Beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section C.2(b) of this Appendix C, or by September 30 of the calendar year which contains the

fifth anniversary of the Member's (or, if applicable, surviving spouse's) death. If neither the Member nor Beneficiary makes an election under this paragraph, distributions will be made in accordance with Sections C.2(b) or C.5 of this Appendix C.

**C.4. Requirements For Annuity Distributions That Commence During Member's Lifetime.**

(a) **Joint Life Annuities Where the Beneficiary Is Not the Member's Spouse.** If the Member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Member and a nonspouse Beneficiary, annuity payments to be made on or after the Member's Required Beginning Date to the Designated Beneficiary after the Member's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Member using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the Treasury Regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Member and a nonspouse Beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the Designated Beneficiary after the expiration of the period certain.

(b) **Period Certain Annuities.** Unless the Member's spouse is the sole Designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Member's lifetime may not exceed the applicable distribution period for the Member under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Member reaches age 70, the applicable distribution period for the Member is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations plus the excess of 70 over the age of the Member as of the Member's birthday in the year that contains the annuity starting date. If the Member's spouse is the Member's sole Designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Member's applicable distribution period, as determined under this Section C.4(b), or the joint life and last survivor expectancy of the Member and the Member's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9

of the Treasury Regulations, using the Member's and spouse's attained ages as of the Member's and spouse's birthdays in the calendar year that contains the annuity starting date.

(c) **Election to Allow Designated Beneficiary Receiving Distributions Under 5-Year Rule to Elect Life Expectancy Distributions.** A Designated Beneficiary who is receiving payments under the 5-year rule may make a new election to receive payments under the life expectancy rule until December 31, 2003, provided that all amounts that would have been required to be distributed under the life expectancy rule for all Distribution Calendar Years before 2004 are distributed by the earlier of December 31, 2003 or the end of the 5-year period.

**C.5. Requirements For Minimum Distributions Where Member Dies Before Date Distributions Begin.**

(a) **Member Survived by Designated Beneficiary.** Except as otherwise provided, if the Member dies before the date distribution of his or her interest begins and there is a Designated Beneficiary, the Member's entire interest will be distributed, beginning no later than the time described in Section C.2(b)(1) or C.2(b)(2), over the life of the Designated Beneficiary or over a period certain not exceeding:

(1) unless the annuity starting date is before the first Distribution Calendar Year, the life expectancy of the Designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year immediately following the calendar year of the Member's death; or

(2) if the annuity starting date is before the first Distribution Calendar Year, the life expectancy of the Designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year that contains the annuity starting date.

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

(c) **Death of Surviving Spouse Before Distributions to Surviving Spouse Begin.** If the Member dies before the date distribution of his or her interest begins, the Member's surviving spouse is the Member's sole Designated Beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Section C.5 will apply as if the surviving spouse were the Member, except that the time by which distributions must begin will be determined without regard to Section C.2(b)(1).

**C.6. Definitions.**

(a) **Designated Beneficiary.** The individual who is designated as the Beneficiary consistent with the terms of the Plan and is the Designated Beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury Regulations.

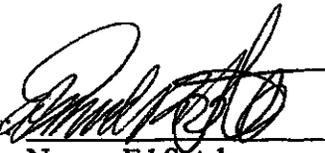
(b) **Distribution Calendar Year.** A calendar year for which a minimum distribution is required. For distributions beginning before the Member's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Member's Required Beginning Date. For distributions beginning after the Member's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under Section C.2(b).

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

(d) **Required Beginning Date.** The April 1 of the calendar year following the later of either the calendar year in which the employee attains age 70½ or the calendar year in which the employee retires."

Executed this 4th day of February, 2003.

City of Oxnard

By   
Name: Ed Sotelo  
Title: City Manager

RECEIVED  
DEC 19 2005

AMENDMENT  
TO  
THE CITY OF OXNARD  
PARS SUPPLEMENTARY RETIREMENT PLAN

WHEREAS, City of Oxnard (the "Agency") has previously adopted the City of Oxnard PARS Supplementary Retirement Plan (the "Plan"); and

WHEREAS, the Agency has the right to amend that Plan; and

WHEREAS, effective as of January 1, 2005, the State of California has enacted the California Domestic Partners Rights and Responsibilities Act of 2003 (the "Act"); and

WHEREAS, certain provisions of the Plan are governed exclusively by Federal Law; and

WHEREAS, Section 297.5(k) of the California Family Code indicates that the Act does not amend or modify federal laws or the benefits, protections and responsibilities provided by those laws; and

WHEREAS, the Agency deems it to be in the best interest of the Agency and the Plan to amend the Plan to comply with the terms of the Act.

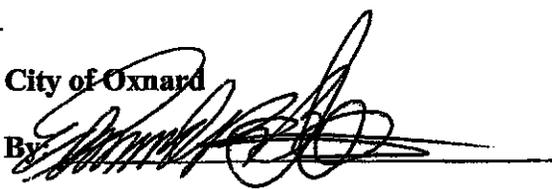
NOW, THEREFORE, BE IT RESOLVED, that Section 2.2 of the Plan is hereby amended by adding the following paragraph at the end thereof to read as follows:

"Effective as of January 1, 2005, for purposes of this Section 2.2 only: (1) all references to 'marriage' shall also include 'registered domestic partnerships,' (2) individuals in a 'registered domestic partnership' shall be considered 'married,' and (3) all references to a 'spouse' shall also include a registered domestic partner. A 'registered domestic partner' and a 'registered domestic partnership' refers to persons and partnerships satisfying the requirements of the California Family Code and officially registered as of the date of death with the Secretary of State as such in accordance with Section 298.5 of the California Family Code."

IN WITNESS WHEREOF, this Amendment is hereby adopted effective as of January 1, 2005.

DATED: DECEMBER 15, 2005

City of Oxnard

By: 

Its: City Manager

**AMENDMENT TO  
THE CITY OF OXNARD  
PARS SUPPLEMENTAL RETIREMENT PLAN #003**

**WHEREAS**, the City of Oxnard (the "City") has adopted the City of Oxnard PARS Supplemental Retirement Plan (the "Plan") effective January 1, 2003 for the benefit of eligible employees; and

**WHEREAS**, the City has reserved the right to amend the Plan in accordance with Section 6.3 of the Plan.

**NOW THEREFORE, BE IT RESOLVED** that effective July 1, 2006 the Plan is hereby amended to include an additional employee classification as follows:

1. Article I, Eligibility for Participation, Section 1.1, is hereby amended in its entirety to read as follows:

An Employee is eligible to participate in this Plan if he/she is a City Councilmember who is a member of the Employer's CalPERS plan, the City Manager, the City Attorney, a full-time regular or part-time regular department head confidential Employee, a full-time regular or part-time regular Employee represented by Service Employee's International Union (SEIU), a full-time regular or a part-time regular Employee represented by International Union of Operating Engineers (IUOE), a full-time regular or a part-time regular management Employee, or an Employee listed on Schedule A, on or after January 1, 2003.

2. Article I, Eligibility for Retirement Benefits, Section 1.2(a), is hereby amended in its entirety to read as follows:

Tier I

An Employee who terminates employment with the Employer and concurrently retires under CalPERS shall be eligible to receive Retirement Benefits under this Plan if he/she:

- (a) is employed as a City Councilmember who is a member of the Employer's CalPERS plan, the City Manager, the City Attorney, a full-time regular or part-time regular department head confidential, SEIU, IUOE, management Employee, or an Employee listed on Schedule A, on or after January 1, 2003;
- (b) is at least fifty (50) years of age;

- (c) has completed five (5) or more years of employment with the Employer as of the last day of employment with the Employer;
- (d) has terminated employment with the Employer and concurrently retired under CalPERS; and
- (e) has applied for benefits under this Plan.

**Tier II**

An Employee who terminates employment with the Employer and at a later date retires under CalPERS shall be eligible to receive Retirement Benefits under this Plan if he/she:

- (a) was employed as a City Councilmember who is a member of the Employer's CalPERS plan, the City Manager, the City Attorney, a full-time regular or part-time regular department head confidential, SEIU, IUOE, management Employee, or an Employee listed on Schedule A, on or after January 1, 2003;
  - (b) is at least fifty (50) years of age;
  - (c) has completed five (5) or more years of employment with the Employer as of the last day of employment with the Employer;
  - (d) has not taken a distribution of his/her Employee Contribution Account;
  - (e) has retired under CalPERS; and
  - (f) has applied for benefits under this Plan.
3. Article I, Change in Employment Classification, Section 1.4, is hereby amended in its entirety to read as follows:
- (a) If an Employee is a full-time regular or part-time regular department head confidential Employee, SEIU Employee, IUOE Employee, management Employee, City Attorney, City Manager, or an Employee listed on Schedule A, on or after the Plan Effective Date and later changes his/her employment classification and falls under a description other than those listed he/she will remain eligible for purposes of Section 1.1 of this Plan.

- (b) If an Employee falls under a description other than those listed in the preceding sentence on or after the Plan Effective date and later changes his/her employment classification and falls under the Employer's description of a full-time regular or part-time regular department head confidential Employee, SEIU Employee, IUOE Employee, management Employee, City Attorney, City Manager, or an Employee listed on Schedule A, he/she must remain a full-time Employee in that employment classification and meet the requirements of Section 2.1 for at least two (2) years prior to being eligible to receive Retirement Benefits under this Plan.

This provision, Section 1.4, shall not apply to City Councilmembers.

Executed this 12<sup>th</sup> day of JUNE, 2006.

By   
Ed Sotelo

Title: City Manager

Schedule A

List of Participants

1. E. Lorraine Ebdon
2. Shirley Jackson
3. Catherine Kinney
4. Bonnie Martin
5. Sally Rivera
6. Suzan Sainsbury
7. Francine Gutierrez

**THE CITY OF OXNARD  
PUBLIC AGENCY RETIREMENT SYSTEM (PARS)  
SUPPLEMENTAL RETIREMENT PLAN**

**AMENDED AND RESTATED**

**EFFECTIVE AS OF JULY 14, 2010**

**DEFINED BENEFIT**

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## INTRODUCTION

The City of Oxnard ("Employer") has adopted this tax-qualified governmental defined benefit plan for the benefit of its eligible employees to provide supplemental retirement benefits to eligible employees of the Employer in addition to the benefits employees will receive from the California Public Employees' Retirement System ("CalPERS"). This document is a full and complete amendment and restatement of the City of Oxnard PARS Supplemental Retirement Plan adopted effective January 1, 2003. This Plan is amended and restated effective July 14, 2010 to reflect the addition of Tier III to Section 1.2.

It is intended that the Plan and the Trust established to hold the assets of the Plan shall be qualified under Section 401(a) and tax-exempt under Section 501(a) of the Internal Revenue Code of 1986, together with any amendments thereto ("Code"). It is further intended that the Plan and the Trust established hereunder shall meet the requirements of a pension trust under California Government Code ("Act") Sections 53215 - 53224, or their successor sections (the "Act").

At any time prior to the satisfaction of all liabilities with respect to Employees and their Beneficiaries under the Trust created pursuant to the Plan, the Trust assets shall not be used for, or diverted to, purposes other than the exclusive benefit of Employees or their Beneficiaries, as prescribed in Section 401(a)(2) of the Code.

It is intended that the Plan satisfy the requirements of the applicable provisions of the Economic Growth and Tax Relief Reconciliation Act (commonly known as "EGTRRA"), the Pension Protection Act of 2006 (commonly known as the "PPA"), the Heroes Earnings Assistance and Relief Tax Act of 2008 (commonly known as the "HEART Act") and final regulations under Section 415 of the Code, and that the provisions of the Plan reflecting such

requirements are hereby made effective as of the dates required by the legislation or guidance referred to in this sentence.

**ARTICLE I**  
**PARTICIPATION**

**1.1 Eligibility for Participation**

An Employee is eligible to participate in the Plan under Tier I or Tier II of the Plan if the Employee is a City Council Employee, the City Manager, the City Attorney, a full-time regular or part-time regular Department Head, a full-time regular or part-time regular Confidential Employee, a full-time regular or part-time regular Management Employee, a full-time regular or part-time regular Employee represented by the Service Employees International Union (SEIU) Local 721, a full-time regular or a part-time regular Employee represented by the International Union of Operating Engineers (IUOE) Local 501, or an Employee listed on Schedule A, on or after January 1, 2003, all of whom fit within the meaning of Employee under the Employer's CalPERS Plan.

**1.2 Eligibility for Benefits**

An Employee shall be eligible to receive Retirement Benefits under the Plan upon satisfying the requirements under one or more of the following tiers of eligibility:

Tier I

An Employee who terminates employment with the Employer and concurrently retires under CalPERS shall be eligible to receive Retirement Benefits under the Plan if the Employee:

(a) is employed by the Employer in one of the following classifications on or after January 1, 2003:

(i) a City Council Employee who is an Employee of the Employer's CalPERS Plan;

- (ii) the City Manager, the City Attorney, a full-time regular or part-time regular Confidential Employee, a full-time regular or part-time regular Department Head, or a full-time regular or part-time regular Management Employee;
  - (iii) a full-time regular or part-time regular Employee of the Employer represented by the Service Employees International Union (SEIU) Local 721, or a full-time regular or part-time regular Employee of the Employer represented by the International Union of Operating Engineers (IUOE) Local 501; or
  - (iv) an Employee designated by the Employer as set forth on Schedule A.
- (b) is at least fifty (50) years of age;
  - (c) has completed five (5) or more years of continuous, uninterrupted employment with the Employer as of the last day of employment with the Employer;
  - (d) has terminated employment with the Employer and concurrently retired under CalPERS; and remains in retired status under CalPERS; and
  - (e) has applied for benefits under the Plan.

Tier II

An Employee who terminates employment with the Employer and at a later date retires under CalPERS shall be eligible to receive Retirement Benefits under the Plan if the Employee:

- (a) is employed by the Employer in one of the following classifications on or after January 1, 2003:
  - (i) a City Council Employee who is an Employee of the Employer's CalPERS Plan;

- (ii) the City Manager, the City Attorney, a full-time regular or part-time regular Confidential Employee, a full-time regular or part-time regular Department Head, or a full-time regular or part-time regular Management Employee;
  - (iii) a full-time regular or part-time regular Employee of the Employer represented by the Service Employees' International Union (SEIU) Local 721 or a full-time regular or part-time regular Employee of the Employer represented by the International Union of Operating Engineers (IUOE) Local 501; or
  - (iv) an Employee designated by the Employer as set forth on Schedule A.
- (b) is at least fifty (50) years of age;
  - (c) has completed five (5) or more years of continuous, uninterrupted employment with the Employer as of the last day of employment with the Employer;
  - (d) has not taken a distribution of the Employee's Employee Contribution Account;
  - (e) has terminated employment with the Employer;
  - (f) has retired under CalPERS; and remains in retired status under CalPERS; and
  - (g) has applied for benefits under the Plan.

### Tier III

An Employee who terminates employment with the Employer and concurrently retires under CalPERS shall be eligible to receive Retirement Benefits under the Plan if he or she:

- (a) is a full-time Miscellaneous or Non-Safety Employee of the Employer, excluding the City Attorney, City Manager, City Clerk, and City Treasurer, as of March 24, 2010;
- (b) is at least fifty (50) years of age;

- (c) has completed five (5) or more years of employment with the Employer as of August 31, 2010;
- (d) has submitted the necessary forms to enroll in the Plan effective no later than June 18, 2010;
- (e) has terminated employment with the Employer effective no later than August 31, 2010;
- (f) has retired under CalPERS effective no later than September 1, 2010, and remains in retired status under CalPERS; and
- (g) has applied for benefits under the Plan.

**1.3 Commencement of Benefits**

Benefits shall commence as of the first day of the first month after an Employee meets the eligibility requirements of Section 1.2, and may be made retroactive to such date.

**1.4 Change in Employment Classification**

(a) If an Employee is a full-time regular or part-time regular Department Head, a full-time regular or part-time regular Confidential Employee, a full-time regular or part-time regular Management Employee, a full-time regular or part-time regular Employee represented by the Service Employees International Union (SEIU) Local 721, a full-time regular or part-time regular Employee represented by the International Union of Operating Engineers (IUOE) Local 501, the City Attorney, the City Manager, or an Employee listed on Schedule A on or after the Plan Effective Date, and if later the Employee's classification changes, as long as the employment classification falls under a job description covered by the Plan, the Employee shall remain eligible for purposes of Section 1.1 of the Plan. Notwithstanding the foregoing, those Employees who move from a covered employment classification to a job description not covered

by the Plan shall no longer be eligible to participate in the Plan, however, upon termination of employment with the Employer, will be entitled to their Vested interest in their previously accrued Employee Contribution Account, plus five percent (5%) interest per annum as a lump sum distribution in lieu of any other Retirement Benefits under the Plan. If the Employee's balance is greater than five thousand dollars (\$5,000.00), the Employee may choose to defer distribution until actual retirement and select either a lump sum distribution or lifetime annuity payment.

(b) If an Employee falls under a job description other than those listed in Section 1.4(a) above on or after the Plan Effective Date and later changes employment classifications and falls under the Employer's description of a full-time regular or part-time regular Department Head, a full-time regular or part-time regular Confidential Employee, a full-time regular or part-time regular Management Employee, a full-time regular or part-time regular Employee represented by Service Employees International Union (SEIU) Local 721, a full-time regular or part-time regular Employee represented by International Union of Operating Engineers (IUOE) Local 501, the City Attorney, the City Manager, or an Employee listed on Schedule A, the Employee must remain a full-time regular or part-time regular Employee in that employment classification and meet the requirements of Section 1.1 for at least two (2) years prior to being eligible to receive Retirement Benefits under the Plan.

This provision shall not apply to City Council Employees.

### 1.5 Approved Leave of Absence

An Employee who is on an approved leave of absence pursuant to the Employer's personnel rules, and whose time is considered and eligible to be reported as work time under CalPERS rules, shall not incur a break in service for purposes of the Plan.

**ARTICLE II**  
**CONTRIBUTIONS**

**2.1 Amount of Employee Contribution**

Each Employee eligible to participate in the Plan pursuant to Section 1.1 of the Plan, shall contribute an amount not to exceed eight percent (8%) of the Employee's Compensation to the Plan each year at such times and in the manner established by the Employer and in accordance with the applicable Memorandum of Understanding, Collective Bargaining Agreement, employment contract, or other governing employment relationship.

**2.2 Amount of Employer Contribution**

The Employer shall contribute a percentage of each Eligible Employee's Compensation to the Trust each year. The Employer Contribution amount shall be determined by an actuarial study performed every two (2) years as long as the Plan exists.

**2.3 Pick Up of Mandatory Contributions**

In accordance with Section 414(h) of the Code, the mandatory Employee contributions required under Section 2.1 shall be picked up by the Employer.

**2.4 Administrative Expenses**

In accordance with Section 53217 of the Act, the Employer may make contributions to the Trust, in addition to the Employer Contribution set forth in Section 2.2 above, sufficient to defray all or part of the expenses of administering the Plan or may pay such expenses directly.

## ARTICLE III

### BENEFITS

#### 3.1 Retirement Benefits

Tier I and Tier II. For Employee's eligible under Tier I or Tier II of Section 1.2, the Retirement Benefit shall be paid in the Normal Form of Benefit and shall be an amount equal to one-twelfth (1/12) of the difference between (1) and (2) below:

- (1) The Employee's Benefit Service, times the Employee's Final Pay, times the PARS Age Factor.
- (2) The Employee's Benefit Service, times the Employee's Final Pay, times the CalPERS Age Factor.

Tier III. For Employee's eligible under Tier III of Section 1.2, the Retirement Benefit shall be paid in the Normal Form of Benefit and shall be an amount equal to one-twelfth (1/12) of seven percent (7%) of the Employee's base annual salary as of June 18, 2010, exclusive of differential pay, special duty pay, special assignment pay, educational incentive pay, and CalPERS Employer Paid Member Contributions (EPMC).

#### 3.2 Survivor Continuance Benefit

No Survivor Continuance Benefit shall be provided unless the Employee elects to have the benefit paid in an Optional Form of Benefit.

#### 3.3 Pre-Retirement Disability Benefit

No Pre-Retirement Disability Benefits shall be provided under the Plan.

#### 3.4 Pre-Retirement Death Benefit

Pre-Retirement Death Benefits shall be provided for those actively employed Employees of the Employer who die after attaining the minimum age requirement and completing the

minimum required years of service with the Employer under Section 1.2, Tier I or Tier II of the Plan. The benefit shall be equal to the Employee's Retirement Benefit, actuarially reduced as if the Employee had retired on the Employee's date of death and elected a 100% joint-and-survivor option. The benefit will be paid over the lifetime of the surviving spouse or registered domestic partner. There is no pre-retirement death benefit payable if there is no surviving spouse or registered domestic partner.

### **3.5 Purchase of Military Service Credit**

An Employee who meets the requirements of Section 1.2(a) under Tier I or Tier II and has purchased service credit with CalPERS on or after the Effective Date of the Plan is eligible to purchase military service credit to be counted toward the Employee's Benefit Service in Section 3.1(1) under the Plan. The amount of purchased military service credit shall not exceed the amount purchased through CalPERS. The purchase of military service credit shall be calculated pursuant to the benefit described in Section 3.1(1), and shall be funded in one lump sum payment made by the Employee at the time of purchase.

The cost to purchase military service credit shall be determined by an Enrolled Actuary. Funds to purchase service credit shall be deposited into the Trust no later than ninety (90) days prior to termination of employment from the Employer.

If an Employee has purchased military service credit and does not meet the requirements of Section 1.2, the Employee shall receive a refund equal to the Employee's lump sum contribution plus an annual rate of return equal to five percent (5%). If the Employee dies prior to meeting the requirements of Section 1.2, the Employee's Beneficiary shall receive a refund equal to the Employee's lump sum contribution plus an annual rate of return equal to five percent (5%).

### 3.6 Designation of Beneficiary

If the Employee dies prior to retirement and has not satisfied the requirements under Section 3.4 of the Plan, the Employee's Vested Employee contributions shall be payable to the survivor named under the Employee's CalPERS retirement system unless the Employee designates someone else by filing a designation of beneficiary form with the Employer. The rules of 3.6(b) below apply if the Employee is designating someone other than the Employee's spouse.

Upon retirement under the Plan:

(a) Each Employee shall have the right to designate a Beneficiary to receive the death benefits, if any, that are payable to a Beneficiary based on the Employee's distribution choice under the Plan. Such designation does not permit the Employee to change a person identified under another provision of the Plan as being eligible to receive a benefit. Such designation must be evidenced by a written instrument filed with the Employer, on a form prescribed by the Employer, and signed by the Employee.

(b) The Beneficiary for a married Employee shall be the Employee's spouse at the date of death, unless the written consent of such spouse is provided upon a form acceptable to the Employer. Each such designation for death benefits must be evidenced by a written instrument filed with the Employer, on a form prescribed by the Employer, and signed by the Employee. If no such designation is on file with the Employer at the time of the death of the Employee, or if for any reason at the sole discretion of the Employer, such designation is defective, then the spouse of such Employee shall be conclusively deemed to be the Beneficiary designated to receive such benefit.

(c) The signature of the Employee's spouse shall be required on a designation of beneficiary form or an application for a benefit under the Plan if the spouse is not the beneficiary, unless the Employee declares in writing that one of the following conditions exists:

(i) The Employee is not married;

(ii) The Employee does not know of, and has taken all reasonable steps to determine the whereabouts of the spouse;

(iii) The spouse is incapable of executing the acknowledgment because of an incapacitating mental or physical condition;

(iv) The Employee and spouse have executed a marriage settlement agreement that makes the community property laws inapplicable to the marriage; or

(v) The current spouse has no identifiable community property interest in the benefits.

(d) Effective as of January 1, 2005, for purposes of this Section 3.6 only, all references in this Section 3.6 to the term "marriage" shall also include the term "registered domestic partnership." All references to the term "married" shall also include "registered domestic partnership" and all references in this Section 3.6 to the term "spouse" shall also include the term "registered domestic partner." The inclusion of "registered domestic partner" in the definition of "spouse" shall not apply for the purposes of Sections 5.3, 5.6 and 7.2 of the Plan.

## ARTICLE IV

### VESTING

#### 4.1 Vesting

An Employee will be one hundred percent (100%) Vested in the Employee's Retirement Benefit upon meeting all of the requirements of Section 1.2.

#### 4.2 Vesting in Employee Contribution Account

Each Employee shall be one hundred percent (100%) Vested in the Employee Contribution Account at all times. If the Employee terminates, or is terminated from employment with the Employer, whether voluntarily, involuntarily, by death, disability or in any other manner, before meeting all of the requirements of Section 1.2, the Employee shall receive one hundred percent (100%) of the amounts credited to the Employee Contribution Account plus five percent (5%) interest per annum as a lump sum distribution. If the Employee's balance is greater than five thousand dollars (\$5,000.00), the Employee may choose to defer distribution until actual retirement and select either a lump sum distribution or lifetime annuity payment.

#### 4.3 Full or Partial Termination

Notwithstanding the vesting schedule, upon any full or partial termination of the Plan, the Retirement Benefit of an Employee who has satisfied subsection (a), (b), and (c) of Tier I or Tier II of Section 1.2 (and, for an Employee who has terminated employment as of the date of such termination of the Plan, who also satisfies subsection (d) of Tier II of Section 1.2 as of the date of such Plan termination shall be Vested, and such benefit shall be payable in accordance with Section 6.3.

**4.4 Attainment of Normal Retirement Age**

An Employee shall be fully Vested in the Employee's Retirement Benefit upon attainment of Normal Retirement Age and by fulfilling all requirements established in Section 1.2.

**4.5 Effect of Vesting**

Vesting shall entitle an Employee to payment during the Employee's lifetime of the Retirement Benefit at the times and upon the conditions specified herein, and shall entitle the Employee's survivor or Beneficiary to any death benefits provided herein. Any unpaid Retirement Benefits are forfeited upon the Employee's death under the Normal Form of Benefit.

**ARTICLE V**  
**DISTRIBUTIONS**

**5.1 Normal Form of Benefit**

Unless the Employee elects an Optional Form of Benefit under Section 5.2, payments to an Employee of a Retirement Benefit shall be made in the form of monthly payments commencing pursuant to Section 1.3 and ending on the first day of the month in which the Employee's death occurs, in the amount specified in Section 3.1. The form of payment shall be the "Normal Form of Benefit." For Employees eligible under Section 1.2, Tier I or Tier II, the Retirement Benefit shall be subject to an annual compounding cost-of-living adjustment effective on the anniversary date of commencement of the Retirement Benefit. The amount of such cost-of-living adjustment shall be two percent (2%) per year, provided that the payment for any year shall not exceed the payment that would have resulted from the cumulative application since the date of benefit commencement (on an annually compounded basis) of the lesser of:

(i) a two percent (2%) annual increase, or

(ii) an annual increase equal to the increase in the Consumer Price Index for All-Urban Consumers issued by the Bureau of Labor Statistics. For avoidance of doubt, if the application of the foregoing proviso causes the increase to the payment in any year to be less than two percent (2%), then the increase to the payment in any subsequent year may be greater than two percent (2%). Furthermore, in no circumstances shall the amount of the payment be decreased. The Retirement Benefit for Employees eligible under Section 1.2, Tier III, is not subject to the aforementioned cost-of-living adjustment.

The Retirement Benefit shall cease for any Employee who returns to active CalPERS status and shall recommence as of the first day of the month after the Employee returns to retired

status under CalPERS at the same benefit amount and option immediately prior to the suspension of benefits.

## 5.2 Optional Forms of Benefit

In lieu of the Normal Form of Benefit, and in accordance with the Employee's tier of eligibility, an Employee may elect a form of benefit payment of Actuarial Equivalence as follows:

(a) **Joint and 100% Survivor Continuance.** Employees eligible under Section 1.2, Tier I, Tier II, or Tier III, may elect this form of payment:

(i) The Employee receives a reduced monthly benefit and if the Employee predeceases the Beneficiary, the Beneficiary will receive a monthly payment for the life of the Beneficiary equal to 100% of such reduced monthly benefit; provided, however, that if the Beneficiary is not the spouse of the Employee, this form of payment shall be available only to the extent permitted pursuant to Section 5.3(b)(iv)(A).

(ii) If the Beneficiary predeceases the Employee, the Employee's reduced monthly payment will not increase.

(iii) The Employee's designation of a Beneficiary shall become irrevocable upon the Employee's retirement if electing this form of payment.

(b) **Joint and 100% Survivor Continuance with Pop-Up Provision.** Employees eligible under Section 1.2, Tier I or Tier II, may elect this form of payment:

(i) The Employee receives a reduced monthly benefit, and if the Employee predeceases the Beneficiary, the Beneficiary will receive a monthly payment for the life of the Beneficiary equal to 100% of such reduced monthly benefit; provided, however, that if the Beneficiary is not the spouse of the Employee, this

form of payment shall be available only to the extent permitted pursuant to Section 5.3(b)(iv)(A). The benefit shall terminate as of the first day following the Beneficiary's death.

(ii) If the Beneficiary predeceases the Employee, the Employee's reduced monthly payment shall increase to the Normal Form of Benefit.

(iii) The Employee's designation of a Beneficiary shall become irrevocable upon the Employee's retirement if electing this form of payment.

(c) **Joint and 50% Survivor Continuance.** Employees eligible under Section 1.2, Tier I or Tier II may elect this form of payment:

(i) The Employee receives a reduced monthly benefit, and if the Employee predeceases the Beneficiary, the Beneficiary will receive a monthly payment for the life of the Beneficiary equal to 50% of such reduced monthly benefit; provided, however, that if the Beneficiary is not the spouse of the Employee, this form of payment shall be available only to the extent permitted pursuant to Section 5.3(b)(iv)(A).

(ii) If the Beneficiary predeceases the Employee, the Employee's reduced monthly payment will not increase.

(iii) The Employee's designation of a Beneficiary shall become irrevocable upon the Employee's retirement if electing this form of payment.

(d) **Joint and 50% Survivor Continuance with Pop-Up Provision.** Employees eligible under Section 1.2, Tier I or Tier II may elect this form of payment:

(i) The Employee receives a reduced monthly benefit, and if the Employee predeceases the Beneficiary, the Beneficiary will receive a monthly payment for the life of the Beneficiary equal to 50% of such reduced monthly benefit;

provided, however, that if the Beneficiary is not the spouse of the Employee, this form of payment shall be available only to the extent permitted pursuant to Section 5.3(b)(iv)(A). The benefit shall terminate as of the first day following the Beneficiary's death.

(ii) If the Beneficiary predeceases the Employee, the Employee's reduced monthly payment shall increase to the Normal Form of Benefit.

(iii) The Employee's designation of a Beneficiary shall become irrevocable upon the Employee's retirement if electing this form of payment.

(e) **Life or Ten Years.** Employees eligible under Section 1.2, Tier III, may elect this form of payment:

(i) The Employee receives a reduced monthly benefit in equal fixed payments over the life of the Employee.

(ii) In the event the Employee dies prior to receiving a total of one hundred and twenty (120) payments, the remaining unpaid monthly payments shall continue to the Beneficiary or subsequent Beneficiaries.

(f) **Fixed-Term Payout.** Employees eligible under Section 1.2, Tier III, may elect this form of payment:

(i) The Employee receives a benefit paid over a designated period of time (not to exceed the Employee's life expectancy) that is actuarially equivalent to the Normal Form of Benefit. The Plan Administrator shall determine the term of the payment.

(ii) Any remaining payments in the fixed-term payout schedule shall continue to the Beneficiary or subsequent Beneficiaries in the event of the Employee's death.

(g) **Other Forms of Payout.**

At the option of the Employee, and with agreement of the Plan Administrator, and upon completion of a form provided by the Plan Administrator, the benefit shall be paid in any other form that is actuarially equivalent to the Normal Form of Benefit.

**5.3 Limitations**

(a) In the case of an Employee who attains age 70½, distribution of such Employee's entire interest must commence not later than the first day of April following the later of the calendar year in which such Employee attains age 70½ or the calendar year in which the Employee retires (the "Required Beginning Date"). In all cases, distributions shall be made in at least the amounts determined in accordance with Code Section 401(a)(9) and the regulations thereunder, as described in Section 5.3(b) below.

(b) With respect to required minimum distributions under this Section 5.3 for calendar years beginning after December 31, 2002, the following rules shall apply:

(i) All distributions required under this Section 5.3 shall be determined and made in accordance with the Treasury Regulations under Section 401(a)(9) of the Code. The requirements of this Section 5.3 will take precedence over any inconsistent provisions of the Plan, provided that this Section 5.3 shall not be considered to allow an Employee or Beneficiary to delay a distribution or elect an optional form of benefit not otherwise provided in the Plan.

(ii) Time and Manner of Distribution

(A) The Employee's entire interest will begin to be distributed to the Employee no later than the Employee's Required Beginning Date as defined in Section 5.3(a).

(B) If the Employee dies before distributions begin, then the Employee's entire interest will begin to be distributed no later than as follows:

(I) If the Employee's surviving spouse is the Employee's sole designated Beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Employee died, or by December 31 of the calendar year in which the Employee would have attained age 70½, if later.

(II) If the Employee's surviving spouse is not the Employee's sole designated Beneficiary, then distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Employee died.

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

(IV) If the Employee's surviving spouse is the Employee's sole designated Beneficiary and the surviving spouse dies after the Employee but before distributions to the surviving spouse begin, this Section 5.3(b)(ii)(B), other than Section 5.3(b)(ii)(B)(I), will apply as if the surviving spouse were the Employee.

For purposes of this Section 5.3(b)(ii)(B) and Section 5.3(b)(v), distributions are considered to begin on the Employee's Required Beginning Date (or, if Section 5.3(b)(ii)(B)(IV) applies, the date distributions are required to begin to the surviving spouse under Section 5.3(b)(ii)(B)(I)). If annuity payments irrevocably commence to the Employee before the Employee's Required Beginning Date (or to the Employee's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 5.3(b)(ii)(B)(I)), the date distributions are considered to begin is the date distributions actually commence.

(C) Unless the Employee'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 5.3(b)(iii), (iv) and (v). If the Employee'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 Section 401(a)(9) of the Code and the Treasury Regulations.

(iii) Determination of Amount to be Distributed Each Year

(A) If the Employee's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

(I) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;

(II) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in Sections 5.3(b)(iv) or (v);

(III) once payments have begun under a fixed-term payout under Section 5.2 (if such a benefit is available), the fixed-term payout period will not be changed even if the period certain is shorter than the maximum permitted;

(IV) payments will either be non-increasing or increase only as follows:

(a) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;

(b) to the extent of the reduction in the amount of the Employee's payments to provide for a survivor benefit upon death, but only if the Beneficiary whose life was being used to determine the distribution period described in Section 5.3(b)(iv) dies or is no longer the Employee's Beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p) of the Code; or

(c) to pay increased benefits that result from a Plan amendment.

(B) The amount that must be distributed on or before the Employee's Required Beginning Date (or, if the Employee dies before

distributions begin, the date distributions are required to begin under Sections 5.3(b)(ii)(B)(I) or (II)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Employee's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Employee's Required Beginning Date.

(C) Any additional benefits accruing to the Employee in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(iv) Requirements For Annuity Distributions That Commence During Employee's Lifetime

(A) If the Employee's interest is being distributed in the form of a benefit described in Section 5.2 for the joint lives of the Employee and a non-spouse Beneficiary, annuity payments to be made on or after the Employee's Required Beginning Date to the designated Beneficiary after the Employee's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Employee using the table set forth in Q&A-2 of Section 1.401(a)(9)-6 of the Treasury Regulations. If the form of distribution combines a benefit described in

Section 5.2 for the joint lives of the Employee and a non-spouse Beneficiary and a fixed-term payout annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated Beneficiary after the expiration of the fixed-term payout period.

(B) Unless the Employee's spouse is the sole designated Beneficiary and the form of distribution is a fixed-term payout annuity, the fixed-term payout period for an annuity distribution commencing during the Employee's lifetime may not exceed the applicable distribution period for the Employee under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations for the calendar year that contains the annuity starting date. If the benefit commencement date precedes the year in which the Employee reaches age 70, the applicable distribution period for the Employee is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations plus the excess of 70 over the age of the Employee as of the Employee's birthday in the year that contains the benefit commencement date. If the Employee's spouse is the Employee's sole designated Beneficiary and the form of distribution is a fixed-term payout annuity, the fixed-term payout period may not exceed the longer of the Employee's applicable distribution period, as determined under this Section 5.3(b)(iv), or the joint life and last survivor expectancy of the Employee and the Employee's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Employee's and spouse's attained ages as of

the Employee's and spouse's birthdays in the calendar year that contains the benefit commencement date.

(v) Requirements For Minimum Distributions Where Employee Dies Before Date Distributions Begin

(A) If the Employee dies before the date distribution of the Employee's interest begins and there is a designated Beneficiary, the Employee's entire interest will be distributed, beginning no later than the time described in Sections 5.3(b)(ii)(B)(I) or (II), over the life of the designated Beneficiary or over a fixed-term payout period not exceeding:

(I) unless the benefit commencement date is before the first distribution calendar year, the life expectancy of the designated Beneficiary is determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year immediately following the calendar year of the Employee's death; or

(II) if the benefit commencement date is before the first distribution calendar year, the life expectancy of the designated Beneficiary is determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year that contains the benefit commencement date.

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

(C) If the Employee dies before the date distribution of the Employee's interest begins, the Employee's surviving spouse is the Employee's sole designated Beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Section 5.3(b)(v) will apply as if the surviving spouse were the Employee, except that the time by which distributions must begin will be determined without regard to Section 5.3(b)(ii)(B)(I).

(vi) Definitions

(A) Designated Beneficiary. The individual who is designated as the Beneficiary under Section 3.6 of the Plan and is the designated Beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury Regulations.

(B) Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the Employee's death, the first distribution calendar year is the calendar year immediately preceding the calendar year that contains the Employee's Required Beginning Date. For distributions beginning after the Employee's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Section 5.3(b)(ii)(B).

(C) Life Expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury Regulations.

(D) Required Beginning Date. The date set forth in Section 5.3(a).

#### **5.4 Cash Out of Small Benefits**

If the Actuarial Equivalence of an Employee's Retirement Benefit is less than \$5,000.00 at termination of employment, such benefit shall be paid as a single cash lump sum in lieu of any other form of benefits hereunder.

#### **5.5 Actuarial Equivalence**

Actuarial Equivalence shall be determined using the mortality assumption based on the 1983 Group Annuity Mortality (GAM) table and the interest assumption shall be 6% per annum.

#### **5.6 Direct Rollovers**

(a) This section applies to all distributions made on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under the Plan, a distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. 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 under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

(b) A Beneficiary who is not the spouse of the Employee may elect a direct trustee-to-trustee transfer that qualifies as an eligible rollover distribution under this Section 5.6. Such transfer shall be made to an individual retirement plan described in Section 408(a) of the Code or an individual retirement account that is established for the purpose of receiving the distribution

on behalf of such Beneficiary. Such individual retirement account shall be deemed an inherited IRA pursuant to the provisions of Section 402(c)(11) of the Code.

(i) Definitions

(A) Eligible Rollover Distribution

An eligible rollover distribution is 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: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten years or more; (ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code, (iii) any hardship distribution, and (iv) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities), unless such portion is transferred in a direct trustee-to-trustee transfer to a qualified trust which is part of a plan which is a defined contribution plan and which agrees to separately account for amounts so transferred, including separate accounting for the portion which is includible in gross income and the portion which is not so includible.

(B) Eligible Retirement Plan

An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, a qualified trust described in Section 401(a) of the Code that accepts the distributee's eligible rollover distribution, an annuity contract described in Section 403(b) of the Code, a Roth IRA described in Code Section 408A (but only if the distributee satisfies the requirements of Code Section 408A(c)(3)(B)), or an eligible plan under Section 457(b) of the Code which is

maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Code. With respect to eligible rollover distributions made on or after January 1, 2008, an eligible retirement plan shall also include a Roth IRA as described in Section 408A of the Code, provided that the distributee is not restricted from making such a rollover from the Plan to a Roth IRA pursuant to Section 408A(c) of the Code.

(C) Direct Rollover

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

## ARTICLE VI

### ADMINISTRATION AND AMENDMENT OF PLAN

#### 6.1 Employee's Rights Not Subject To Execution

The right of an Employee to a benefit under the Plan is not assignable and is not subject to execution or any other process whatsoever, except to the extent permitted by the Code of Civil Procedure and the Family Code of the State of California. Any payment hereunder required under the California Family Code to a person other than the Employee must not alter the form or amount of benefits hereunder, except that to the extent provided in a valid court order, an Actuarial Equivalent payment may be made to the spouse or child of a Beneficiary pursuant to a qualified domestic relations order (as defined in Code Section 414(p)) prior to the Employee's retirement.

#### 6.2 Rules and Regulations

The Employer has full discretionary authority to supervise and control the operation of the Plan in accordance with its terms and may make rules and regulations for the administration of the Plan that are not inconsistent with the terms and provisions hereof. The Employer shall determine any questions arising in connection with the interpretation, application or administration of the Plan (including any question of fact relating to age, employment, compensation or eligibility of Employees) and its decisions or actions in respect thereof shall be conclusive and binding upon any and all persons and parties.

The Employer shall have all powers necessary to accomplish its purposes, including, but not by way of limitation, the following:

- (a) To determine all questions relating to the eligibility of Employees to participate;
- (b) To construe and interpret the terms and provisions of the Plan;

(c) To compute, certify to, and direct the Trustee with regard to the amount and kind of benefits payable to the Employees and their Beneficiaries;

(d) To authorize all disbursements by the Trustee from the Trust;

(e) To maintain all records that may be necessary for the administration of the Plan other than those maintained by the Trustee; and

(f) To appoint a Plan Administrator or, any other agent, and to delegate to them or to the Trustee such powers and duties in connection with the administration of the Plan as may from time to time be prescribed, and to designate each such administrator or agent as a fiduciary with regard to matters delegated to him.

With respect to management and control of investments, the Employer shall have the power to direct the Trustee in writing with respect to the investment of the Trust assets or any part thereof. Where investment authority, management and control of Trust assets have been delegated to the Trustee by the Employer, the Trustee shall be a fiduciary with respect to the investment, management and control of the Trust assets contributed by the Employer and Employees with full discretion in the exercise of such investment, management and control. Where investment authority, management and control of Trust assets are not specifically delegated to the Trustee, the Trustee shall be subject to the direction of the Employer.

Expenses and fees in connection with the administration of the Plan and the Trust shall be paid from the Trust assets to the fullest extent permitted by law, unless the Employer determines otherwise.

To the extent determined by the Employer or its delegatee, elections and consents made by means of electronic media shall be permissible if made according to the relevant provisions of Treasury Regulation Section 1.401(a)-21.

### 6.3 Amendment and Termination

(a) Subject to the requirements and limitations of this Section 6.3, the Employer shall have the right to amend, terminate, or otherwise modify the Plan at any time. Such actions shall be done only by written instruction duly executed by the Employer. In the event of the termination of the Plan, the entire interest of each Employee who satisfies the requirements of Section 4.3 shall immediately become 100% Vested. After all liabilities of the Plan to Employees and their Beneficiaries have been satisfied, any residual assets of the Plan shall be used for such purposes as determined by the Employer, including a distribution of the assets to the general funds of the Employer.

(b) Except as required by the Act, the Code, or any other applicable law, the Employer shall not by amendment, termination, or any other modification of the Plan reduce or impair the Retirement Benefits of those Employees who are receiving benefit payments at the effective time of any such amendment, termination, or other modification of the Plan. A reduction or impairment of Retirement Benefits shall include, but not be limited to, a reduction in any cost-of-living adjustment or an increase in any years of service requirements, and changes in the definitions of Benefit Service or Final Pay to the extent that any of the foregoing would have the effect of reducing the dollar value of an Employee's Retirement Benefits.

(c) The Employer shall not amend, terminate, or otherwise modify the Plan in a manner which would reduce or impair the Retirement Benefits of any Employee below the actuarial equivalent value that which the Employee would have been entitled had the Employee retired immediately prior to the effective time of the amendment, termination or modification, calculated by considering Benefit Service, Final Pay, the PARS Age Factor and the CalPERS Age Factor as of the date of the amendment, termination or modification. In determining the value to which the Employee would have been entitled:

(i) an Employee who has not terminated employment with the Employer as of the effective time of the amendment, termination or modification shall be entitled to the actuarial equivalent value under Section 1.2, Tier I, and shall not be required to satisfy Section 1.2, Tier I (d) or (e); and

(ii) an Employee who terminated employment with the Employer before the effective time of the amendment, termination or modification shall be entitled to the actuarial equivalent value under Section 1.2, Tier II, and shall not be required to satisfy Section 1.2, Tier II (e) or (f).

(d) Upon termination of the Plan, the Employer shall either:

(i) make available to each Employee the actuarial lump sum value of the Employee's Retirement Benefits calculated as described in Section 6.3(c) in the form of an eligible rollover distribution in accordance with Section 5.6; or

(ii) purchase an annuity contract on behalf of each Employee from an insurance company in an amount equal to the Employee's Retirement Benefits calculated as described in Section 6.3(c).

#### 6.4 Military Service

Effective December 12, 1994, and notwithstanding any provision of the Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code. In the case of an Employee who dies while performing qualified military service, the survivors of the Employee are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan had the Employee resumed and then terminated employment on account of death. An Employee receiving a "differential wage payment," as defined in Code

Section 3401(h)(2) shall be treated as an Employee of the Employer, and the differential wage payment shall be treated as compensation.

## ARTICLE VII

### ANNUAL BENEFIT LIMITATIONS

#### 7.1 Definitions and Application

As used in this Article VII, the following terms shall have the meanings specified below. Unless otherwise stated below, the provisions of this Article VII shall apply to Limitation Years beginning on or after July 1, 2007.

**"Affiliated Company"** means a company required to be aggregated with the Employer for Purposes of Code Sections 414(b) and (c), provided, however, the determination under Section 414(b) and (c) of the Code shall be made as if the phrase "more than 50 percent" were substituted for the phrase "at least 80 percent" each place it is incorporated into Section 414(b) and (c) of the Code.

**"Annual Benefit"** means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) under a plan to which Employees do not contribute and under which no rollover contributions are made, or to which assets have been transferred from a qualified plan that was not maintained by the Employer. If the benefit is payable in a form other than a straight life annuity, such form must be adjusted actuarially to be the equivalent of a straight life annuity before applying the limitations of Section 7.2(a). The actuarial adjustment to the equivalent of a straight life annuity will apply to all Plan benefits except as set forth herein. The actuarial adjustment shall be made in accordance with the provisions of Treasury Regulation Section 1.415(b)-(c), which are incorporated herein by reference. No actuarial adjustment is required for the following: qualified joint and survivor annuity benefits, pre-retirement disability benefits, pre-retirement death benefits, post-retirement medical benefits, and the value of an automatic benefit increase feature made in accordance with applicable Treasury Regulations.

**"Employer"** means the Employer and any Affiliated Company that adopts the Plan.

**“Limitation Year”** means a twelve consecutive month period ending on the Anniversary Date. If the Limitation Year is amended to a different twelve consecutive month period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made.

**“Related Plan”** means any other defined benefit plan (as defined in Section 415(k) of the Code) maintained by the Employer.

**“Year of Participation”** means the Employee shall be credited with a Year of Participation for each year in which the Employee has met the requirements of Section 1.2(a). An Employee who is permanently and totally disabled within the meaning of Section 415(c)(3)(C)(i) of the Code for an accrual computation period shall receive a Year of Participation with respect to that period. In addition, for an Employee to receive a Year of Participation for an accrual computation period, the Plan must be established no later than the last day of such accrual computation period. In no event will more than one Year of Participation be credited for any 12-month period.

## **7.2 Annual Limitation on Benefits**

Notwithstanding any other provision of the Plan:

(a) The Annual Benefit payable with respect to an Employee under the Plan for any Limitation Year shall not exceed an amount equal to \$160,000, or such other dollar limitation determined for the Limitation Year by automatically adjusting the \$160,000 limitation by the cost-of-living adjustment factor prescribed by the Secretary of the Treasury under Section 415(d) of the Code in such manner as the Secretary shall prescribe. The new dollar limitation shall apply to Limitation Years ending within the calendar year of the date of the adjustment. Cost-of-living adjustments to the dollar limitation occurring after severance from employment are taken into account.

(b) If the Employee has less than ten (10) Years of Participation with the Employer, the limitation in Section 7.2(a) shall be reduced by multiplying it by a fraction, the numerator of which is the Employee's full and partial Years of Participation, and the denominator of which is ten (10). To the extent provided in Treasury Regulations or in other guidance issued by the Internal Revenue Service, the preceding sentence shall be applied separately with respect to each change in the benefit structure of the Plan. The reduction provided in this paragraph does not apply to payments made to the Employee if the Employee's payments commence after the Employee has become disabled (within the meaning of Code Section 415(b)(2)(I)), and does not apply to payments made on account of the Employee's death.

(c) If the annual Benefit of an Employee begins prior to age 62, the limitation under Section 7.2(a) applicable to the Employee at such earlier age is an annual Benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the limitation applicable to the Employee at age 62 (adjusted under subsection 7.2(b) above, if required). The limitation applicable at an age prior to age 62 shall be determined in accordance with the provisions of Treasury Regulation Section 1.415(b)-1(d), which are incorporated herein by reference. The reduction in this Section 7.2(c) shall not apply for an Employee who is a "qualified participant," as defined in code Section 415(b)(2)(H).

(d) If the Annual Benefit of an Employee begins after age 65, the limitation under Section 7.2(a) applicable to the Employee at such later age is an Annual Benefit payable in the form of a straight life annuity beginning at the later age that is the actuarial equivalent of the limitation applicable to the Employee at age 65 (adjusted under subsection 7.2(b) above, if required). The limitation applicable at an age after age 65 shall be determined in accordance with the provisions of Treasury Regulation Section 1.415(b)-1(e), which are incorporated herein by reference.

(e) Pursuant to Treasury Regulation Section 1.415(b)-1(a)(7)(iii), the rate of an Employee's accrual shall not be limited by this Article VII (but at all times the annual benefit payable to the Employee is subject to the limits set forth in this Article VII).

(f) The limitation in Section 7.2(a) is deemed satisfied if the Annual Benefit payable to an Employee is not more than \$1,000 multiplied by the Employee's number of years of service or parts thereof (not to exceed ten) with the Employer, and the Employer (or a predecessor employer) has not at any time maintained a defined contribution plan in which such Employee participated.

If the Employer maintains one or more defined benefit plans, in addition to the Plan, covering an Employee who is also an Employee in the Plan, the sum of the Annual Benefits of all the plans will be treated as a single benefit for the purposes of applying the limitations of Section 7.2(a). For purposes of the preceding sentence, Annual Benefits under a "qualified governmental excess benefit arrangement," as described in Section 415(m)(3) of the Code, shall be disregarded. If the Annual Benefits exceed, in the aggregate, the limitations of Section 7.2(a), the Normal Retirement Benefits under the Plan will be reduced (but not below zero) until the sum of the benefits of the Related Plan(s) satisfy the limitations. In the case of an individual who was an Employee in one or more defined benefit plans of the Employer as of the first day of the first Limitation Year beginning after December 31, 1986, the application of the limitations of this Section 7.2 shall not cause the limitation under Section 7.2(a) for such individual under all such defined benefit plans to be less than the individual's Current Accrued Benefit. The preceding sentence applies only if such defined benefit plans met the requirements of Section 415 of the Code, for all Limitation Years beginning before May 6, 1986. For purposes of this Section 7.2(f), an individual's Current Accrued Benefit means a Member's Accrued Benefit under the Plan, determined as if the Employee had separated from service as of the close

of the last Limitation Year beginning before January 1, 1987, when expressed as an annual benefit within the meaning of Section 415(b)(2) of the Code. In determining the amount of an Employee's Current Accrued Benefit, the following shall be disregarded:

- (i) any change in the terms and conditions of the Plan after May 5, 1986; and
- (ii) any cost-of-living adjustments occurring after May 5, 1986.

(g) If an Employee makes one or more contributions to the Plan to purchase "permissive service credit," as defined in Code Section 415(n)(3), then the limitations of this Article VII shall be treated as met only if either:

- (i) the limitations provided in Code Section 415(b) are met, determined by treating the accrued benefit derived from such contributions as an annual benefit for purposes of Code Section 415(b); or
- (ii) the requirements of Code Section 415(c) are met, determined by treating all such contributions as annual additions for purposes of Code Section 415(c).

**ARTICLE VIII**  
**DEFINITIONS**

**8.1 Definitions**

Whenever the following terms are used in the Plan, with the first letter capitalized, they shall have the meanings specified below.

**“Act”** means California Government Code.

**“Amended Effective Date”** means, unless otherwise indicated herein, July 14, 2010.

**“Anniversary Date”** means January 1.

**“Beneficiary”** means the person, persons, trust or trusts designated by an Employee, or, in the absence of a designation, entitled by will or the laws of descent and distribution, to receive the benefit specified under the Plan if the Employee dies and means the Employee’s executor or administrator if no other beneficiary is designated and able to act under the circumstances.

**“Benefit Service”** means the total credited CalPERS City of Oxnard service completed from the most recent date of hire with the Employer, plus any military service purchased through CalPERS while an Employee of the Employer prior to the Effective Date of the Plan, plus any military service purchased in accordance with Section 3.5 of the Plan. Additional Retirement Service Credit (airtime) and any other forms of CalPERS purchased service credit shall not be included in Benefit Service under the Plan. Employees who have terminated employment with the Employer and are subsequently rehired are only credited with service under the Plan from the date of their rehire subject to the rules defined herein under Section 1.2.

**“CalPERS”** means the California Public Employees’ Retirement System.

**“Code”** means the Internal Revenue Code of 1986, as amended from time to time.

**“Compensation”** means, for Plan Years beginning after December 31, 2001 or 90 days after the opening of the final legislature session or after January 1, 2002, all compensation for

that portion of the Plan Year during which the Employee was an Employee, paid in cash by the Employer to the Employee for personal services. Compensation in excess of \$220,000 (as adjusted through 2006) shall be disregarded. Such amount shall thereafter be adjusted for increases in the cost-of-living in accordance with Code Section 401(a)(17), except that the dollar increase in effect on January 1 of any calendar year shall be effective for the Plan Year beginning with or within such calendar year. For any short Plan Year the Compensation limit shall be an amount equal to the Compensation limit for the calendar year in which the Plan Year begins multiplied by a ratio obtained by dividing the number of full months in the short Plan Year by twelve (12).

For purposes of determining benefit accruals in a Plan Year beginning after December 31, 2001, the annual compensation limit described in this Section 8.1 for determination periods beginning before January 1, 2002 shall be \$150,000 for any determination period beginning in 1996 or earlier; \$160,000 for any determination period beginning in 1997, 1998, or 1999; and \$170,000 for any determination period beginning in 2000 or 2001.

**“Effective Date”** means, unless otherwise indicated herein, January 1, 2003.

**“Eligible Class of Employees”** means the eligible class of employees as provided herein and in the applicable governing policies and regulations promulgated thereunder by the Employer.

**“Eligible Employee”** means an Employee who meets the requirements as described in Section 1.2.

**“Employee”** means an employee of the Employer.

**“Employee Contribution Account”** means the account by that name established pursuant to Section 2.1 hereof.

**“Employer”** means the City of Oxnard that has adopted the Plan.

“Final Pay” means the highest average annual compensation subject to CalPERS deductions paid to an Employee during any twelve consecutive months of employment with the Employer. CalPERS Employer Paid Member Contributions (EPMC) shall be included in Final Pay, excepting those employees under Tier III, as articulated by the rules herein.

“Ineligible Employee” means an ineligible employee as provided herein and in the applicable governing policies and regulations promulgated thereunder by the Employer.

“Normal Form of Benefit” is the form of benefit described in Section 5.1.

“Normal Retirement Age” means age sixty-two (62) and meeting the requirements of Section 1.2.

“PARS Age Factor” means an age factor determined by the Employee’s age at the time of meeting the requirements of Section 1.2 based on the following table:

| Age at Retirement | PARS Age Factor | Age at Retirement | PARS Age Factor |
|-------------------|-----------------|-------------------|-----------------|
| 50.00-50.24       | 2.000%          | 55.25-55.49       | 2.525%          |
| 50.25-50.49       | 2.025%          | 55.50-55.74       | 2.550%          |
| 50.50-50.74       | 2.050%          | 55.75-55.99       | 2.575%          |
| 50.75-50.99       | 2.075%          | 56.00-56.24       | 2.600%          |
| 51.00-51.24       | 2.100%          | 56.25-56.49       | 2.625%          |
| 51.25-51.49       | 2.125%          | 56.50-56.74       | 2.650%          |
| 51.50-51.74       | 2.150%          | 56.75-56.99       | 2.675%          |
| 51.75-51.99       | 2.175%          | 57.00-57.24       | 2.700%          |
| 52.00-52.24       | 2.200%          | 57.25-57.49       | 2.725%          |
| 52.25-52.49       | 2.225%          | 57.50-57.74       | 2.750%          |
| 52.50-52.74       | 2.250%          | 57.75-57.99       | 2.775%          |
| 52.75-52.99       | 2.275%          | 58.00-58.24       | 2.800%          |
| 53.00-53.24       | 2.300%          | 58.25-58.49       | 2.825%          |
| 53.25-53.49       | 2.325%          | 58.50-58.74       | 2.850%          |
| 53.50-53.74       | 2.350%          | 58.75-58.99       | 2.875%          |
| 53.75-53.99       | 2.375%          | 59.00-59.24       | 2.900%          |
| 54.00-54.24       | 2.400%          | 59.25-59.49       | 2.925%          |
| 54.25-54.49       | 2.425%          | 59.50-59.74       | 2.950%          |
| 54.50-54.74       | 2.450%          | 59.75-59.99       | 2.975%          |
| 54.75-54.99       | 2.475%          | 60.00 +           | 3.000%          |
| 55.00-55.24       | 2.500%          |                   |                 |

**“Plan”** means The City of Oxnard PARS Supplemental Retirement Plan (SRP), inclusive of Tier III, the Employee Retirement Incentive Plan (ERIP) and its requirements.

**“Plan Administrator”** means the individual or position designated by the Employer to act on behalf of the Employer in matters relating to the Plan. If no designation is made, the Employer shall be the Plan Administrator. If a Plan Administrator has been appointed the word “Employer” as used in the Plan shall mean Plan Administrator unless the context indicates a different meaning is intended.

**“Plan Year”** means the consecutive twelve-month period beginning on January 1 and ending on December 31.

**“Public Agency”** means an employer authorized under California Government Code Article 1.5, Sections 53215 through 53224 to establish a pension trust.

**“Regulations”** means the regulations adopted or proposed by the Department of Treasury from time to time pursuant to the Code.

**“Retirement Benefits”** means the benefits payable to the Employee following retirement, as described in Article III.

**“Trust”** means the trust established as part of the Public Agency Retirement Trust to hold the assets of the Plan.

**“Trustee”** means the trustee of the Trust.

**“Vested”** means the non-forfeitable portion of any account maintained on behalf of an Employee.

**“Year of Participation”** means any year in which an Employee has met the requirements of Section 1.2(a).

**ADOPTION BY THE  
CITY OF OXNARD  
AMENDED AND RESTATED  
PARS SUPPLEMENTAL RETIREMENT PLAN**

The Amended and Restated City of Oxnard PARS Supplemental Retirement Plan is hereby adopted effective as of July 14, 2010.

By:   
Edmund Setelo

Title: City Manager

Date: 1/28/11

**Plan Submission to the IRS for a Letter of Determination**

The decision to submit the foregoing Plan to the IRS shall be determined by the Plan Administrator pursuant to the initials below:

Yes, please submit the Plan to the IRS for a Letter of Determination.

No, do not submit the Plan to the IRS for a Letter of Determination.

If you answered Yes, please provide the following information:

Employer Tax ID# \_\_\_\_\_ Tax Year-End \_\_\_\_\_

List all qualified retirement plans offered by City of Oxnard. (e.g. CalPERS)

| <i>Name of Qualified Plan</i>                                       | <i>Defined Benefit or Defined Contribution</i> |
|---|--|
| CalPERS   | Defined Benefit                                |
| City of Oxnard PARS Supplemental Retirement Plan effective 7/1/1999 | Defined Benefit                                |
|   |  |

**AMENDMENT TO THE  
CITY OF OXNARD  
PARS SUPPLEMENTAL RETIREMENT PLAN**

**WHEREAS**, the City of Oxnard (the "Employer") has previously adopted the City of Oxnard PARS Supplemental Retirement Plan, adopted effective January 1, 2003 (the "Plan"); and

**WHEREAS**, the Employer has the right to amend said Plan in accordance with Section 6.3 of the Plan; and

**WHEREAS**, the Employer desires to amend the Plan to comply with recent legislation and regulations applicable to the Plan.

**NOW, THEREFORE**, the Plan is hereby amended as follows:

1. Effective January 1, 2007, Article V, Section 5.6(b)(i)(A), "Eligible Rollover Distribution" is hereby amended in its entirety to read as follows:

"(A) Eligible Rollover Distribution. An eligible rollover distribution is 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: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten years or more; (ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code, (iii) any hardship distribution, and (iv) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities). However, such portion may be transferred only: (i) to an individual retirement account or annuity described in Section 408(a) or (b) of the Internal Revenue Code (or, on or after January 1, 2008, to a Roth IRA described in Section 409A of the Code) or to a qualified defined contribution plan described in Section 401(a) of the Internal Revenue Code; (ii) on or after January 1, 2007, to a qualified defined benefit plan described in Section 401(a) of the Internal Revenue Code or to an annuity contract described in Section 403(b) of the Internal Revenue Code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible."

2. The first sentence of Article VII, Section 7.1, "Definitions and Applications" is hereby amended to read as follows:

"As used in this Article VII, the following terms shall have the meaning specified below. Unless otherwise stated below, the provisions of this Article VII shall apply to Limitation Years beginning on or after July 1, 2009."

This Amendment is hereby adopted this 27<sup>th</sup> day of June, 2011, effective as of the dates set forth above.

City of Oxnard

By: 

Its: City Manager