Ed Murray, WY Secretary of State
FILED: 05/28/2015 02:21 PM
Original ID: 2007-000001235
Amendment ID: 2015-000001042

Wyoming Retirement System

Deferred Compensation 457(b) Plan For Public Employees

Plan Document

Received by
Wyoming Secretary of State's Office

Received
MAY 28 2015
Secretary of State
Wyoming

Effective July 1, 2015

TABLE OF CONTENTS:

ARTICLE I: DEFINITIONS 3

ARTICLE II: ELECTION TO DEFER COMPENSATION 6

ARTICLE III: ACCOUNTS, REPORTS AND PLAN OWNERSHIP 10

ARTICLE IV: CREATION OF TRUST 10

ARTICLE V: INVESTMENT OF DEFERRED AMOUNTS 11

ARTICLE VI: ELIGIBILITY FOR BENEFITS DISTRIBUTION 11

ARTICLE VII: TRANSFERS AND ROLLOVERS BETWEEN PLANS 17

ARTICLE VIII: TERMINATION AND AMENDMENTS 20

ARTICLE IX: ADMINISTRATION AND COORDINATION 21

ARTICLE X: DEFERRAL LIMITATIONS AND "CATCH-UP" DEFERRALS UNDER THE PLAN 22

ARTICLE XI: MISCELLANEOUS PROVISIONS 23

APPROVED BY: 26

REGISTERED BY: 26

Note: The State of Wyoming Deferred Compensation Plan was established in 1979 under the State Treasurer's Office and transferred to the Wyoming Retirement System (WRS) on 7/1/2001. The WRS Board has amended the Plan Document effective 1/1/2002, 1/1/2005, 6/1/2011 and 7/1/2015.

The State of Wyoming in accordance with the provisions of Section 457 of the Internal Revenue Code of 1986, as amended, and in accordance with the provisions of Wyoming Statutes (W.S. 9-3-501 through 9-3-508), hereby establishes the Employer's Deferred Compensation Plan and Trust hereinafter referred to as the "Plan." The Plan consists of the provisions set forth in this document, and is applicable to each Employee who adopts the Plan. The Plan is effective as to each such Employee upon the date the Employee becomes a "Participant" by submitting the "Participation Agreement" with the Plan Administrator or when an employee is covered by the Eligible Automatic Contribution Arrangement.

ARTICLE I: Definitions

Where used in this Plan, the following words and phrases have the respective meanings set forth below. Whenever used herein the masculine gender shall include the feminine gender and the singular shall include the plural unless the provisions of the Plan require a different construction.

1.01 **EMPLOYER** means the State of Wyoming or any of its political subdivisions, which have adopted the Plan in accordance with procedures established by the Wyoming Retirement System.

1.02 **EMPLOYEE** means any person including elected or appointed officials receiving any type of Compensation from the State of Wyoming or any of its political subdivisions for whom services are rendered and who is under the direction of the compensating entity (Employer).

1.03 **PLAN** means the Wyoming Retirement System 457(b) Deferred Compensation Plan.

1.04 **COMPENSATION** means all cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses and overtime pay, that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employee's gross income for the calendar year but for a compensation reduction election under Code section 125, 132(f), 401(k), 403(b), or 457(b) (including an election to defer compensation under Article II). To the extent permitted by

Treasury regulations or other similar guidance (including, without limitation, the requirements contained in Treasury Regulations Section 1.457-4(d)(1) and 1.415-2(e)(3)(i)), accrued bona fide sick, vacation or other leave pay so long as the Participant would have been able to use the leave if employment had continued and it is paid within the longer of two and one-half (2 ½) months after the Participant's severance from employment or the end of the calendar year in which the Participant severs employment with the Employer.

For Plan Years after December 31, 2008, to the extent permitted by the applicable Code provisions and Treasury regulations, Compensation shall include pay received by a Participant from the Employer while performing Qualified Military Service but only to the extent the pay does not exceed the amounts the Participant would have received if the Participant had continued to perform services for the employer rather than entering Qualified Military Service.

1.05 **PLAN ADMINISTRATOR** means the Executive Director of the Wyoming Retirement System or his designees.

1.06 **BENEFICIARY** means the person(s) or entity designated by a Participant to receive the Participant's Account Balance upon the death of the Participant.

1.07 **PARTICIPANT** means any public Employee who participates under this Plan by signing and filing a Participation Agreement or an Employee covered by the Eligible Automatic Contribution Arrangement (EACA)

1.08 **BOARD** means the Wyoming Retirement System Board created by W.S. 9-3-404 and appointed by Wyoming's Governor.

1.09 **PARTICIPATION AGREEMENT** means the application signed by the Participant and approved by the Plan Administrator to participate in the Plan.

1.10 **NORMAL RETIREMENT AGE** means age 70 ½ for members of the Wyoming Retirement System Defined Benefit Plans unless the Participant has elected an alternate Normal Retirement Age by written instrument delivered to the Plan Administrator prior to severance from employment. The earliest alternate Normal Retirement Age allowed is the age at which the Participant has the right to retire under his Employer's basic pension plan without consent of the Employer, and to receive immediate retirement benefits without actuarial or similar reduction because of retirement before some later specified age in the Employer's basic pension plan. If the Participant is not a member of the Wyoming Retirement System Defined Benefit Plans, Normal Retirement Age means age 65. A Participant's Normal Retirement Age determines the period during which a Participant may utilize the catch-up in section 10.02 of the Plan. Once a Participant has to any extent utilized the catch-up option of section 10.02, his Normal Retirement Age may not be changed.

1.11 **INCLUDIBLE COMPENSATION** means compensation within the meaning of IRC Section 415(c)(3).

1.12 **INVESTMENT PROVIDER** means the entity providing investment options approved by the Board or its designee.

1.13 **PLAN YEAR** means the calendar year in which the Plan becomes effective and each succeeding calendar year thereafter during the existence of the Plan.

1.14 **ACCOUNT BALANCE** means the bookkeeping account maintained with respect to each Participant which reflects the value of the deferred Compensation credited to the Participant, including the Participant's Annual Deferrals, the Participant's Designated Roth Contributions, the earnings or loss of the Fund (net of Fund expenses) allocable to the Participant, any transfers for the Participant's benefit and any distribution made to the Participant or the Participant's Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant's death, then each Beneficiary's share of the Account Balance shall be treated as a separate account for each Beneficiary. The Account Balance includes any account established under Article VII for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant's death, and any account or accounts established for an Alternate Payee (as defined in Code section 414(p)(8)).

1.15 **ELIGIBLE PLAN** means a Plan satisfying the requirements of Code section 457(b) and Section 1.457-3 through Section 1.457-10 of the regulations of the Internal Revenue Service in effect on July 11, 2003, and as amended.

1.16 **FINANCIAL HARDSHIP COMMITTEE** is a Committee appointed by the Plan Administrator. This Committee shall rule as to whether or not a Participant has met the requirements of section 6.02 of the Plan.

1.17 **TRUST** means the Trust created in accordance with W.S. 9-3-503(c) which shall consist of all Deferred Compensation under the Plan, plus any net gains and income thereon less distributions to Participants and Beneficiaries. It is the intention of the Wyoming Retirement System to self-trustee the Plan.

1.18 **TRUSTEE** means the Wyoming Retirement System Board.

1.19 **RECORD KEEPER** means that company or entity selected by the Plan Administrator on the basis of competitive proposals to maintain and report Account Balances and provide other services.

1.20 **SEVERANCE OF EMPLOYMENT** means a Participant has left employment with the Employer, has received all due Compensation, has not returned to that

employment, and has no intention of returning to that employment. A Participant whose employment is interrupted by Qualified Military Service under Code section 414(u) for at least 30 days shall be deemed severed from employment until such time he or she is reemployed following the term of duty. Effective for Plan Years after December 31, 2008, if a Participant called to Qualified Military Service receives a distribution from the Plan due to severance, the Participant's deferrals to the Plan shall be suspended for six-months following the date of the distribution.

1.21 **DEFERRED COMPENSATION** means amounts deferred, pre-tax deferrals, Roth contributions or both, by an Employee in accordance with section 2.01, and where the context so requires, investment earnings on such amounts.

1.22 **QUALIFIED MILITARY SERVICE** means any service in the uniformed service (as defined in Chapter 43 of Title 38 of the United States Code as in effect as of December 12, 1994) by any individual if such individual is entitled to reemployment rights under such Chapter with respect to such service.

1.23 **DESIGNATED ROTH CONTRIBUTION** is Deferred Compensation that is:

(a) Designated irrevocably by the Participant at the time of the deferral election as a Roth Contribution that is being made in lieu of all or a portion of the pre-tax deferrals the Participant is otherwise eligible to make under the Plan; and

(b) Treated by the Employer as includible in the Participant's income at the time the Participant would have received that amount in cash if the Participant had not made a deferral election.

1.24 **IN-PLAN ROTH ROLLOVER** is an eligible amount from an individual's Account Balance, other than individual's designated Roth Account Balance, that is rolled over to the individual's designated Roth Account Balance in the Plan, pursuant to Section 402A(c)(4) of the Internal Revenue Code.

1.25 **CODE** is the sections of the Internal Revenue Code of 1986, as now in effect or as hereafter amended or recodified. References herein to specific section numbers of the Code shall be deemed to include Treasury regulations and Internal Revenue Service guidance thereunder as in effect now, as amended or recodified in corresponding provisions of any future United States internal revenue law.

ARTICLE II: Election to Defer Compensation

2.01 An Employee may elect to participate in the Plan by submitting a Participation Agreement under procedures established by the Wyoming Retirement System prior to the beginning of the month in which the deferral is to become effective. The form for this purpose shall be provided by the Wyoming Retirement System and will have no effect until it is submitted to the Wyoming Retirement System by the Participant,

and accepted by the Plan Administrator. Participation of seasonal, intermittent, or temporary Employees is allowed with approval of the Wyoming Retirement System.

2.02 Upon submitting the Participation Agreement, the Participant elects to participate in this Plan and consents to the Employer deferring the amount specified in the Participation Agreement from the Participant's gross Compensation, and investing that amount in the investment option of the Participant's choice. The dollar amount deferred must be at least twenty dollars ($20.00) per month.

2.03 Notwithstanding Section 2.01, the Employer may elect to establish Eligible Automatic Contribution Arrangement ("EACA") in accordance with procedures established by the Plan Administrator. The Plan Administrator will establish procedures whereby, each employee is deemed to have elected to participate in the Plan and consents to the deferral by the Employer of a uniform percentage of Compensation for an Eligible Automatic Contribution Arrangement ("EACA") intended to satisfy Code § 414(w) for any payroll period for which a Participation Agreement is not in effect. If such procedures are in place, a Participant may elect a different deferral amount per payroll period, including zero, by entering into a Participation Agreement. For Eligible Automatic Contribution Arrangements intended to satisfy Code § 414(w), in addition to the above, the Administrator shall provide to each Participant affected by this Section 2.03 with an annual notice that satisfies the requirements contained in Code § 414(w) and any applicable guidance issued thereunder. The EACA will include the following procedures:

(a) All Employees hired on or after July 1, 2015 who do not have Participation Agreements (either to have no elective deferrals made or to have a different amount of elective deferrals made on their behalf) in effect shall be deemed to have elected to participate in the Plan and to have consented to make Default Elective Deferrals.

(b) "Default Elective Deferrals" are the elective deferrals that will be made on behalf of each Participant covered by the EACA. The amount of Default Elective Deferrals made on behalf of a Participant each pay period is equal to 3% (the "Default Percentage") multiplied by the Participant's Includible Compensation for that pay period as a pre-tax contribution.

(c) Default Elective Deferrals will commence as soon as administratively practicable after an Employee covered by the EACA first becomes a Participant; provided, however, the Participant will have at least 30 days after the notice described in this Section of the Plan Document to enter into a Participation Agreement (either to have no elective deferrals made or to have a different amount of elective deferrals made on his behalf) before Default Elective Deferrals are made on the Participant's behalf. Default Elective Deferrals being made on behalf of a Participant will cease as soon as administratively feasible after the Participant enters into a Participation Agreement (either to have no elective deferrals made or to have a different amount of elective deferrals made on his behalf). A Participant who enters into a Participation Agreement will not remain covered by the EACA.

(d) The Participant may request a withdrawal of any Default Elective Deferrals made under the EACA, plus earnings, for up to 90 days from the date Default Elective Deferrals are first withheld from his Compensation. The effective date of the withdrawal will be as soon as administratively practicable, but in no event later than the earlier of (i) the pay date for the second payroll period that begins after the Participant's withdrawal request, and (ii) the first pay date that occurs after 30 days after the Participant's request, plus attributable earnings through the date of distribution. Any matching contributions made on withdrawn Default Elective Deferrals will be forfeited. Unless the Participant affirmatively elects otherwise, any such withdrawal request will be treated as an affirmative election to cease having elective deferrals made on his behalf. Default Elected Deferrals will be invested in a Stable Value Fund for the first 90 days following the Participant's automatic enrollment. After the initial 90 day period of automatic enrollment, the Default Elected Deferrals will be invested in an appropriate target date fund. A Participant who enters into a Participation Agreement will not remain covered by the EACA.

(e) Default Elective Deferrals will be reduced or suspended to meet the limitation under Code §§ 457(e)(15) and to satisfy any suspension period required after an unforeseeable emergency. If a Participant's elective deferrals are suspended for any reason, Default Elective Deferrals will cease as of the date the suspension begins and will not automatically resume after the end of such suspension.

2.04 The Employee may revoke the election to participate or may amend the amount of Compensation deferred by submitting a revocation or amendment agreement in the procedural manner approved by the Plan Administrator. Any revocation or amendment shall be effective prospectively only. The election of any Employee to participate in the Plan, the amount of Compensation deferred, and the investment options selected are irrevocable with respect to past amounts deferred. An amendment with respect to the deferral amount must be submitted to the Wyoming Retirement System prior to the beginning of the month in which the amended deferral amount is to become effective.

2.05 With respect to a new Employee, Compensation may be deferred for the calendar month during which the Participant first becomes an Employee, if a participation agreement for such deferral is entered into on or before the first day on which the Participant becomes an Employee.

2.06 A Participant or Beneficiary may elect to transfer deferred amounts or redirect future deferrals among approved investment options. Some trading restrictions may apply.

2.07 The maximum amount deferred by a Participant shall be subject to the limitations contained in Section 457 of the Code, as amended, and shown in Article X of the Plan. Except as provided in sections 10.02 and 10.04, the maximum that may be deferred under the Plan for any taxable year by a Participant shall not exceed the

lesser of (1) the applicable dollar amount in effect for the year, as adjusted for the calendar year in accordance with Code 457(e)(15), or (2) 100% of the Participant's Includible Compensation, each reduced by any amount specified in section 2.08 that taxable year.

2.08 The deferral limitation shall be reduced by any amount excludable from the Participant's gross income attributable to elective deferrals to another eligible deferred compensation plan described in Code section 457(b).

2.09 The Participant is immediately 100% vested in all amounts correctly deferred into his or her Account Balance and in any earnings or losses on those amounts.

2.10 Participant Roth contributions shall be allowed after January 1, 2011 at a date determined by the Plan Administrator and eligible rollover contributions of Designated Roth Contributions made from an applicable retirement plan described in 402A(e)(1) shall be allowed. Each Participant may make Designated Roth Contributions; provided, however, that a Participant shall not make a Roth Contribution to the Plan for any Plan Year to the extent such Roth Contribution would exceed the limitations of section 2.07.

(a) This Subsection will apply to Designated Roth Contributions beginning with the effective date specified by the Plan Administrator but in no event before the first day of the first taxable year beginning on or after January 1, 2011.

(b) As of the effective date, the Plan will accept Deferred Compensation as Roth Contributions made on behalf of Participants. A Participant's Designated Roth Contributions will be allocated to a separate Account Balance maintained for such deferrals as described in 2.11.

(c) Unless specifically stated otherwise, Designated Roth Contributions will be treated as Deferred Compensation for all purposes under the Plan.

2.11 **SEPARATE ACCOUNTING** Contributions and withdrawals of Designated Roth Contributions will be credited and debited to the Roth Account Balance maintained for each Participant.

(c) The Plan will maintain a record of the amount of Designated Roth Contributions in each Participant's Roth Account Balance.

(d) Gains, losses and other credits or charges must be separately allocated on a reasonable and consistent basis to each Participant's Roth Account Balance and the Participant's other accounts under the Plan.

(e) No contributions other than Designated Roth Contributions and properly attributable earnings will be credited to each Participant's Roth Account Balance.

ARTICLE III: Accounts, Reports and Plan Ownership

3.01 The Employer shall, in a timely manner, remit the deferred amount to the Record Keeper who shall, in a timely manner, remit the deferrals to the approved Investment Providers. A timely manner is described in section 4.02.

3.02 The Participant's Account Balance shall be credited each pay period by the Record Keeper with the amount deferred. A written report of the status of the Participant's Account Balance shall be furnished to the Participant periodically in accordance with the law, and as required by the Wyoming Retirement System.

3.03 All interest, dividends, charges for administration and premiums, and changes in value due to market fluctuations applicable to each Participant's Account Balance, which is invested in accordance with his investment specification, shall be credited or debited as they occur. All reports to the Participant shall be based on fair market value as of the reporting date.

3.04 Within ninety (90) days after the end of the calendar year, the Record Keeper shall file with the Wyoming Retirement System a written report of the assets of the Plan, a schedule of all receipts and disbursements and a report of all material transactions of the Plan during the preceding year. This report shall be in such form and contain such other information as the Wyoming Retirement System shall determine or require, and may be in conjunction with the audit required by W.S. 9-3-507(d).

3.05 Any Participant or his representative may examine his individual records during normal business hours.

3.06 The Plan assets will be held in Trust for the exclusive benefit of Employees and their Beneficiaries.

3.07 The State of Wyoming and the Wyoming Retirement System do not underwrite or guarantee the deferrals made under this Plan or the resulting Account Balances.

ARTICLE IV: Creation of Trust

4.01 Notwithstanding any contrary provision of the Plan, in accordance with Section 457(g) of the Code, and with W.S. 9-3-503(c), all amounts of Compensation deferred pursuant to the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall be held in trust

for the exclusive benefit of Participants and Beneficiaries under the Plan. Any Trust under the Plan shall be established pursuant to a written agreement that constitutes a valid Trust under the laws of the State of Wyoming, and Participants may refer to that document.

4.02 All amounts of Compensation deferred under the Plan shall be transferred to a Trust established under the Plan within a period that is not longer than is reasonable for the proper administration of the accounts of Participants. The transfer to the Trust shall occur on the same day Compensation is withheld by the Employer or at the soonest it is reasonably practicable to do so. But in any event, all amounts of Compensation deferred under the Plan shall be transferred to a Trust established under the Plan not later than fifteen (15) business days after the end of the month in which the Compensation would otherwise have been paid to the Employee.

4.03 The Board may establish reasonable procedures providing for the payment of Plan administrative and investment expenses from the assets of the Trust and for the assessment of Plan administrative and investment expenses against Account Balances in the Trust.

ARTICLE V: Investment of Deferred Amounts

5.01 The deferred amount shall be delivered by the Employer to the Record Keeper, who shall then, in a timely manner, submit the deferred amount to the approved Investment Providers. The records for each Participant will be kept by the approved Record Keeper.

5.02 The Board or its designee shall have the authority to establish and change the character of any investment fund and/or eliminate or add any investment fund, as it may, in its sole discretion, deem appropriate from time to time. The Board may establish rules governing a Participant's right to select investment funds with respect to a Participant's future contributions to the Plan and to transfer funds between investment options. Notwithstanding anything in the Plan to the contrary, any contributions invested in guaranteed investment contracts or in an investment fund covered by a prospectus shall be subject to any and all terms of such contract or prospectus, including any limitations therein placed on the exercise of any rights otherwise granted to a Participant under any other provisions of this Plan.

ARTICLE VI: Eligibility for Benefits Distribution

Benefits shall be paid in accordance with the provisions of this Article.

6.01 **SEVERANCE OF EMPLOYMENT** If the Participant severs employment with the Employer, benefits may be paid out in accordance with the payment option available and selected by the Participant.

6.02 **UNFORESEEABLE EMERGENCIES** If the Financial Hardship Committee has determined that a Participant has incurred a genuine Unforeseeable Emergency and that no other resources of financial relief are available, the Plan Administrator may approve and payout a Participant's request for a payment from the Participant's account. Any payment made under this provision shall be in a lump sum, and shall not exceed the amounts necessary to satisfy the emergency situation. The Plan Administrator shall have the right to request and review all pertinent information necessary to assure that hardship withdrawal requests are consistent with the provisions of Section 457 of the Code, and any Treasury Regulations or other guidance issued from time to time.

Unforeseeable emergency is defined in Section 457 of the Code as severe financial hardship to the Participant resulting from an illness or accident of the Participant or a dependent of the Participant, loss of the Participant's property due to casualty, or other circumstances arising as a result of events beyond the control of the Participant. Further, a distribution under the unforeseeable emergency clause in the Plan may not be made to the extent the hardship could be relieved through compensation by insurance, by liquidation of the Participant's other assets to the extent the liquidation would not itself cause severe financial hardship, or ceasing further deferral under the Plan. For example, the imminent foreclosure of or eviction from the Participant's primary residence may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses, including non-refundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency. Finally, the need to pay for the funeral expenses of a spouse or a dependent (as defined in Section 152, and, for taxable years beginning on or after January 1, 2005, without regard to Section 152(b)(1), (b)(2), and (d)(1)(B)) of a Participant may also constitute an unforeseeable emergency. Except as otherwise specifically provided in paragraph (c)(2)(i) of Treasury Regulation Section 1.457-6, the purchase of a home and the payment of college tuition are not unforeseeable emergencies under paragraph (c)(2)(i) of Treasury Regulation Section 1.457-6.

(a) The following events will not be considered unforeseeable emergencies under the Plan:

(1) Enrollment of a child in college; or
(2) Purchase of a house.

(b) These events are not normally considered Unforeseeable Emergencies. The Hardship Committee may review them if circumstances prove the unforeseen emergency results from illness or other casualty loss:

(1) Purchase of an automobile;
(2) Repayment of loans;
(3) Payment of income taxes; and
(4) Marital separation or divorce.

(c) The events listed below may receive consideration for Unforeseeable Emergency distribution only when resulting directly and solely from illness or casualty loss:

(1) Repair of an automobile;
(2) Repayment of loans delinquent by more than 120 days;
(3) Payment on back taxes or fines associated with back taxes;
(4) Unpaid expenses including rent, utility bills, mortgage payments or medical bills; and
(5) Bankruptcy.

(d) Disputes with regard to section 6.02 will be resolved according to the Administrative Procedures Act as set forth in Wyoming Statutes.

6.03 DEATH

(a) If the Participant dies after the commencement of distributions to the Participant, the Participant's remaining account shall be distributed to the Beneficiary as required by Code section 401(a)(9) and the regulations thereunder.

(b) If the Participant dies prior to the commencement of distributions to the Participant, and:

(1) If the Beneficiary is the Participant's surviving spouse:

(i) The commencement date shall be no later than the last day of the calendar year in which the Participant would have attained age 70 ½ (or, if later, the calendar year immediately following the year of the Participant's death); and

(ii) Distribution shall be made to the Beneficiary over a period that does not exceed the life expectancy of the Beneficiary.

(2) If the Beneficiary is not the Participant's surviving spouse:

(i) The commencement date shall be no later than December 31st of the year following the Participant's death; and

(ii) Distribution shall be made to the Beneficiary over a period that does not exceed the life expectancy of the Beneficiary.

(3) If the Beneficiary is not an individual, the commencement date and

period of distribution shall be as required by Code section 401(a)(9) and the regulations issued thereunder.

(i) Subject to the limitations set forth above, distributions shall be made to the Beneficiary commencing on the first regular distribution commencement date after the Wyoming Retirement System receives satisfactory proof of the Participant's death (or on the first regular distribution commencement date thereafter as the Employer or Plan Administrator may establish from time to time), unless prior to such date the Beneficiary elects a deferred commencement date consistent with this section.

(4) Distribution shall be made in a form, amount, and manner determined under sections 6.07 and 6.08 that is consistent with the limitations set forth above.

(c) If there are two or more Beneficiaries, the provisions of this section and section 6.07 shall be applied to each Beneficiary separately with respect to each Beneficiary's share in the Participant's Account Balance.

(d) If the Beneficiary dies after beginning to receive benefits but before the entire Account Balance has been distributed, the remaining account balance shall be paid to any designee appointed by the Beneficiary on a form approved by the Wyoming Retirement System or the estate of the Beneficiary in a lump sum.

(e) Under no circumstances shall the Employer be liable to the Beneficiary for the amount of any payment made in the name of the Participant before the Wyoming Retirement System receives satisfactory proof of the Participant's death.

(f) In the Case of a Participant who dies while performing Qualified Military Service under Code section 414(u), the beneficiaries of the Participant shall, to the extent required by Code section 401(a)(37), be entitled to any additional benefits (other than benefit accruals relating to the period of Qualified Military Service) that would be provided under the Plan had the Participant resumed and then terminated employment on account of death.

6.04 **DISTRIBUTION TO A PARTICIPANT** The Participant may elect a commencement date for all or a portion of the Participant's Account Balance anytime after the Participant has had a Severance of Employment, but such date may not be later than April 1st following the calendar year in which the Participant attains age seventy and one-half (70 ½), or, if later, when the Participant has a Severance of Employment. A Participant who has attained age seventy and one-half (70 ½), but

has not had a Severance of Employment may elect to receive distributions in accordance with policies established by the Plan Administrator.

6.05 DISTRIBUTION OF DE MINIMIS ACCOUNTS

(a) **Involuntary Distribution**: The Plan may distribute the total amount payable under the Plan to a Participant if the following requirements are met:

(1) The total amount payable to the Participant under the Plan does not exceed five hundred dollars ($500.00);

(2) The Participant has not previously received a distribution of the total amount payable to the Participant under the Plan; and

(3) No amount has been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the distribution.

(b) **Voluntary In-Service Distribution**: A Participant who is an active Employee of an eligible Employer may request a distribution of the total amount payable to the Participant under the Plan if the following requirements are met:

(1) The total amount payable to the Participant under the Plan does not exceed five thousand dollars ($5,000.00) (or the dollar limit under Section 411(a)(11) of the Code, if greater);

(2) The Participant has not previously received an in-service distribution of the total amount payable to the Participant under the Plan; and

(3) No amount has been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the in-service distribution.

6.06 DESIGNATED BENEFICIARY The Participant shall file with the Wyoming Retirement System a written Beneficiary or change of Beneficiary Form designating the person or persons who shall receive the benefits payable under the Plan in the event of the Participant's death. The form for this purpose shall be provided by the Wyoming Retirement System and will have no effect until it is signed, filed with the Wyoming Retirement System by the Participant, and accepted by the Plan Administrator. If the Participant dies without having a Beneficiary Form on file, the payments shall be made to the properly appointed fiduciary of the Participant's probate estate. Provided, that if a fiduciary has not been appointed and qualified within one hundred twenty (120) days after the death, the payment may be made first, to a surviving spouse, second, to a surviving child or children, or third, to a surviving parent or parents. The Participant accepts and acknowledges that he has the burden for executing and filing with the Wyoming Retirement System a proper Beneficiary Designation Form.

6.07 **PAYMENT OPTIONS** A Participant's election of a payment option must be made at least thirty (30) days prior to the date that the payment of benefits is to commence. A Participant may elect to have his or her account distributed in accordance with one or more of the following payment options:

(a) Full distribution. A single lump-sum payment.

(b) Partial distribution. A payment of a portion of the Account Balance.

(c) Periodic payment. Installment payments from the Account Balance for a period of years (payable on a monthly, quarterly, semi-annual, or annual basis). Distributions will not exceed the balance of the Account Balance.

(d) Such other forms of payments as may be approved by the Plan Administrator consistent with the limitations of Section 457(d) of the Code.

(e) A Participant who is an eligible retired public safety officer, as defined under Code section 402(l)(4)(B), may elect to have distributions made directly to an insurer to pay qualified health insurance premiums for coverage for the eligible retired public safety officer, his/her spouse and dependents, by an accident or health insurance plan or qualified long-term care insurance contract as defined in Code section 7702B(b). Any elections and distributions under this section 6.07(e) shall be made in a manner consistent with the requirements and limits contained in Code section 402(l) and any applicable guidance issued there under.

Once payments have commenced, the form or amount of payment option may be changed up to two times per calendar year without charge, subject to the rules of the payment option selected. Additional changes in the same calendar year may involve a fee paid by the Participant or Beneficiary.

6.08 **LIMITATIONS OF DISTRIBUTION OPTIONS** No distribution option may be selected by a Participant or Beneficiary under this Article unless it satisfies the requirements of Section 401(a)(9) of the Code.

6.09 **TAXATION OF DISTRIBUTIONS** To the extent required by law, income and other taxes shall be withheld from each benefit payment and payments shall be reported to the appropriate governmental agency or agencies.

6.10 **CONDITIONS FOR DISTRIBUTIONS**

(a) **Section 457 Deferred Compensation:** Payments from a Participant's Section 457 Deferred Compensation account to the Participant or Beneficiary shall not be made earlier than:

(1) the Participant's Severance of Employment or death;

(2) the Participant's account meets all of the requirements for a de minimis distribution pursuant to section 6.05;

(3) the Participant incurs an approved Unforeseeable Emergency pursuant to section 6.02; or

(4) April 1st of the calendar year following the calendar year in which the Participant attains age 70 ½.

(b) In-service distributions from a Participant's rollover account(s) are allowed.

(c) In-service distributions of amounts transferred into the Plan through plan-to-plan transfers are not allowed.

6.11 **Required Minimum Distribution Waiver of 2009** Notwithstanding any other provisions of Article VI of the Plan Document, a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Section 401(a)(9)(H) of the Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant's designated Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will receive those distributions for 2009 unless the Participant or Beneficiary chooses not to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence. If the Participant or Beneficiary has not elected to receive a 2009 RMD or Extended 2009 RMD then the Participant or Beneficiary will not receive a 2009 or Extended 2009 RMD unless the Participant elects to receive the distribution(s).

ARTICLE VII: Transfers and Rollovers Between Plans

7.01 **TRANSFERS TO THE PLAN** If a Participant or Employee was formerly in an eligible deferred compensation plan maintained by another employer, and if such plan permits the direct transfer of that individual's interest therein to the Plan, then the Plan shall accept assets representing the value of such interest provided, however, that the individual concerned has had a Severance of Employment with that employer. Such amounts shall be held, accounted for, administered and otherwise treated in the same manner as Compensation Deferred by the Participant except that such amounts shall not be considered Compensation Deferred under the Plan in the taxable year of such transfer in determining the maximum deferral. The Wyoming Retirement System may

require such documentation from the predecessor plan as it deems necessary to confirm that such plan is an eligible deferred compensation plan within the meaning of Section 457 of the Code, and to assure that transfers are provided under such Plan. The Wyoming Retirement System may refuse to accept a transfer in the form of assets other than cash.

7.02 **IN-SERVICE DISTRIBUTIONS** Amounts transferred into the Plan in accordance with section 7.01 may not be used for in-service distributions.

7.03 **TRANSFERS FROM THE PLAN** Upon an event qualifying for a distribution, a Participant may request a transfer of his or her account to any other bona fide eligible deferred compensation plan. Requests for such transfer must be made in writing to the Wyoming Retirement System. If an amount is to be transferred pursuant to this provision, the Plan Administrator shall transfer such amount directly to the other deferred compensation plan. Amounts transferred to another eligible deferred compensation plan shall be treated as distributed from this Plan and this Plan shall have no further responsibility to the Participant or any Beneficiary with respect to the amount transferred.

7.04 **MULTIPLE 457 PLANS** If the Employer offers more than one bona fide eligible deferred compensation plan, a Participant may request a transfer of his or her account from this Plan to another available plan without a Severance of Employment. Requests for such transfer must be made in writing to the Wyoming Retirement System. If an amount is to be transferred pursuant to this provision, the Wyoming Retirement System shall transfer such amount directly to the other deferred compensation plan. Amounts transferred to another eligible deferred compensation plan shall be treated as distributed from this Plan and this Plan shall have no further responsibility to the Participant or any Beneficiary with respect to the amount transferred.

7.05 **TRUSTEE TO TRUSTEE TRANSFERS** In-service transfers of Plan assets to purchase permissible service credit from a governmental defined benefit plan pursuant to Code section 457(e)(17) are allowed.

7.06 **ROLLOVERS TO PLAN** The Plan shall accept Participant or Employee rollover contributions, as defined in the Code, from (1) individual retirement accounts or annuities described under Code section 408(a) or 408(b); (2) qualified pension or profit-sharing plans as described in Code section 401(a); (3) tax-sheltered annuities described in Code section 403(b); and (4) other eligible deferred compensation plans described in Code 457(b). A rollover contribution shall be held in a separate rollover account(s), as the Plan Administrator shall determine from time to time. In-service distributions from the rollover account(s) are allowed. Notwithstanding any other provisions of section 7.06 of the Plan, and solely for purposes of applying the rollover provisions of the Plan, 2009 RMDs and Extended 2009 RMDs, will be treated as Eligible Rollover Distributions.

(a) The Plan will accept a rollover contribution from another Roth Account Balance under an applicable retirement plan described in Section 402A(e)(1) and only to the extent the rollover is permitted under the rules of Section 402(c) and Section 1.402A-2 of the Treasury regulations. The Plan Administrator or other responsible party must provide the Plan with a statement indicating the first year of the five-taxable-year period and the portion of the rollover distribution that is attributable to investment in the contract under Code section 72 or a statement that the distribution is a qualified distribution.

7.07 ELIGIBLE ROLLOVER DISTRIBUTIONS

(a) **General:** Notwithstanding any provision of the Plan to the contrary that would otherwise limit an election under this section, a Participant, the surviving spouse of a Participant (or a Participant's former spouse who is the Alternate Payee under a Qualified Domestic Relations Order as defined in Code section 414(p)) (herein collectively called "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 in a direct rollover. A non-spousal Beneficiary may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid in a direct rollover to an inherited IRA referred to in Code section 402(c)(11).

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

(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, or the non-spousal Beneficiary, 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 Code section 401(a)(9); any distribution that is a deemed distribution under the provisions of Code section 72(p); or any distribution on account of unforeseeable emergency.

(2) Eligible Retirement Plan. An eligible retirement plan is an individual retirement account described in Code section 408(a), an individual retirement annuity described in Code section 408(b), a Roth IRA* described in Code section 408A, an annuity plan described in Code section 403(a) that accepts the distributee's eligible rollover

distribution, a qualified trust described in Code section 401(a) that accepts the distributee's eligible rollover distribution, a tax-sheltered annuity described in Code section 403(b) that accepts the distributee's eligible rollover distribution, or another eligible deferred compensation plan described in Code section 457(b) that accepts the distributee's eligible rollover distribution.
*Effective for distributions made on/after January 1, 2008, an eligible retirement plan includes a Roth IRA described in Code section 408A.

(3) Distributee. A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order, as defined in Code section 414(p), are distributees with regard to the interest of the spouse or former spouse.

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

7.08 **IN-PLAN ROTH ROLLOVERS** A Participant, the surviving spouse of a Participant (or a Participant's former spouse who is the Alternate Payee under a Qualified Domestic Relations Order as defined in Code section 414(p)) (herein collectively called "distributee") may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution or any amount not otherwise distributable under the Plan, paid to the Plan in an In-Plan Roth Rollover to the distributee's designated Roth Account Balance.

(a) The Plan shall establish and maintain a separate Roth Account Balance for any In-Plan Roth Rollover.

(b) An In-Plan Roth Rollover that is an In-Plan Roth direct rollover is not treated as distribution for the purposes of loans or distribution of de minimis accounts from the Plan.

ARTICLE VIII: Termination and Amendments

8.01 The Board may at any time amend or terminate the Plan with or without the consent of the Participant (or Beneficiary thereof) provided:

(a) All amendments shall become effective thirty (30) days after giving notice. Notice shall be deemed given when the amendment is posted in the office of the Wyoming Retirement System.

(b) No amendment shall deprive the Participant of any of the benefits to which he is entitled under this Plan with respect to deferred amounts credited to his

account prior to the effective date of the amendment; and

(c) If the Plan is amended, terminated, or the acceptance of additional deferred amounts suspended permanently, the Plan Administrator shall nonetheless be responsible for the supervision and payment of benefits resulting from amounts deferred prior to the amendment, modification, or termination in accordance with Article VI hereof.

8.02 This Plan, and any properly adopted amendment thereof, shall constitute the total agreement or contract between Employer and the Participant regarding the Plan. No oral statement regarding the Plan may be relied upon by the Participant.

8.03 This Plan and any properly adopted amendment, shall be binding on the parties hereto and their respective heirs, administrators, trustee, successors, and assigns and on all designated Beneficiaries of the Participant.

ARTICLE IX: Administration and Coordination

9.01 The Plan Administrator is authorized to resolve any questions of fact necessary to decide the Participant's rights under the Plan and such decision shall be binding on the Participant and any Beneficiary thereof.

9.02 The Plan Administrator is authorized to construe the Plan and to resolve any ambiguity in the Plan.

9.03 The Participant specifically agrees not to seek recovery against the Board, the Employer, the Plan Administrator, or any employee, contractee, or agent of the Employer or Wyoming Retirement System for any loss sustained by the Participant or his Beneficiary, for the non-performance of their duties, negligence, or any other misconduct of the above named persons except that this paragraph shall not excuse fraud or a wrongful taking by any person.

9.04 The Plan Administrator, the Employer, or the Record Keeper, if in doubt concerning the correctness of their action in making a payment of a benefit, may suspend the payment until satisfied as to the correctness of the payment or as to the person to receive the payment or to allow the filing in any state court of competent jurisdiction, a suit in such form as they consider appropriate for a legal determination of the benefits to be paid and the persons to receive them. The Employer, the Record Keeper, or the Plan Administrator shall comply with the final orders of the court in such suit and the Participant, for himself and his Beneficiary, consents to be bound hereby insofar as it affects the benefits payable under this Plan or the method of manner of payment.

9.05 The Wyoming Retirement System, the Plan Administrator, the Employer, and the Board do not waive sovereign immunity by entering into this Plan Document, and specifically retain immunity and all the defenses available to them as a sovereign pursuant to W.S. 1-39-104(a) and all other state laws.

9.06 Any companies that may issue any policies, contracts, or other investment media used by the Plan Administrator or specified by the Participant, are not parties to this Plan and such companies shall have no responsibility or accountability to the Participant or his Beneficiary with regard to the operation of this Plan; however these companies do acknowledge that the monies they invest for Participants are the assets of a Trust held exclusively for the benefit of the Participants.

9.07 Participation in this Plan by a public Employee shall not be construed to give a contract of employment to the Participant or to alter or amend an existing employment contract of the Participant, nor shall participation in this Plan be construed as affording to the Participant any representation or guarantee regarding his continued employment.

9.08 The Plan Administrator, the Employer, the Wyoming Retirement System, and the Record Keeper do not represent or guarantee that any particular Federal or State income, payroll, personal property, or other tax consequence will occur because of the Participant's participation in this Plan. The Participant should consult with his own representative regarding all questions of Federal or State income, payroll, personal property, or other tax consequences arising from participation in this Plan.

9.09 It is agreed that neither the Participant nor his Beneficiary nor any other designee shall have any right to commute, sell, assign, transfer, or otherwise convey the right to receive any payments hereunder which payments and right thereto are expressly declared to be non-assignable and non-transferable.

ARTICLE X: Deferral Limitations and "Catch-Up" Deferrals under the Plan

10.01 Except as provided in section 10.02 and section 10.04, the maximum that may be deferred under the Plan for the Participant's taxable year shall not exceed the lesser of:

(a) The applicable dollar amount in Section 457(e)(15) or

(b) 100% of all Participant's includible compensation, as defined by the Code as amended from time to time.

After 2006, the maximum deferred amount may be indexed for cost of living in increments of five hundred dollars ($500.00) as per IRS Code section 457(e)(15) and 415(d).

10.02 For one or more of the Participant's last three taxable years ending before he attains Normal Retirement Age under the Plan, the "catch-up" deferral shall be the lesser of:

(a) twice the applicable limit set forth in 457(e)(15) or an indexed amount when permitted by a change in the Code, or

(b) the sum of (i) the limitation established for the purposes of section 10.01 of the Plan for the taxable year (determined without regard to this section), plus (ii) so much of the limitation established under section 10.01 for taxable years before the taxable year as has not heretofore been used under section 10.01 or 10.02.

10.03 The maximum "catch-up" as defined in section 10.02 may be used only once. Any unused eligible deferral amounts will be forfeited.

10.04 Participants age fifty and over by the end of a Plan Year may contribute additional amounts as allowed under new Code section 414(v), subject to Section 414(v)(6)(C) which states that the age fifty catch-up is not available during the three years the Participant is utilizing the regular catch-up.

Article XI: Miscellaneous Provisions

11.01 **QUALIFIED MILITARY SERVICE** Contributions and benefits with respect to Qualified Military Service shall be provided in accordance with Section 414(u) of the Code.

11.02 **QUALIFIED DOMESTIC RELATIONS ORDERS** Domestic relations orders approved by the Plan Administrator shall be administered as follows.

(a) To the extent required under a final judgment, decree, or order meeting the requirements of Code section 414(p), herein referred to as a Qualified Domestic Relations Order ("QDRO"), which is duly filed upon the Plan, any portion of a Participant's account may be paid or set aside for payment to a spouse, former spouse or a child of the Participant.

Where necessary to carry out the terms of such a QDRO, a separate account shall be established with respect to the spouse, former spouse, or child, and such person shall be entitled to make investment selections with respect thereto in the same manner as the Participant. All costs and charges incurred in carrying out the investment selection shall be deducted from the account created for the spouse, former spouse, or child making the investment selection.

Any amounts so set aside for a spouse, former spouse or a child shall be paid out in a lump sum at the earliest date that benefits may be paid to the Participant, unless the QDRO directs a different form of payment or different payment date. Withholding and income tax reporting shall be done with

respect to the alternate payee under the terms of the Code as amended from time to time.

(b) The Plan's liability to pay benefits to a Participant shall be reduced to the extent that amounts have been paid or set aside for payment to a spouse, former spouse or child pursuant to this section. No amount shall be paid or set aside unless the Employer, or its agents or assigns, has been provided with satisfactory evidence releasing them from any further claim by the Participant with respect to these amounts. The Participant shall be deemed to have released the Employer from any claim with respect to such amounts in any case in which the Employer has been notified of or otherwise joined in a proceeding relating to a QDRO which sets aside a portion of the Participant's account for a spouse, former spouse or child, and the Participant fails to obtain an order of the court in the proceeding relieving the Employer from the obligation to comply with the QDRO.

(c) The Plan shall not be obligated to comply with any judgment, decree or order which attempts to require the Plan to violate any Plan provision or any provision of Code section 457. Neither the Plan nor its agents or assigns shall be obligated to defend against or set aside any judgment, decree, or order described herein or any legal order relating to the division of a Participant's benefits under the Plan unless the full expense of such legal action is borne by the Participant. In the event that the Participant's action (or inaction) nonetheless causes the Plan, its agents or assigns to incur such expense, the amount of the expense may be charged against the Participant's account and thereby reduce Plan's obligation to pay benefits to the Participant. In the course of any proceeding relating to divorce, separation, or child support, the Plan, its agents and assigns shall be authorized to disclose information relating to Participant's Account Balance to the Participant's spouse, former spouse or child (including the legal representatives of the spouse, former spouse or child), or to a court.

11.03 **EDUCATION** It is recommended that Employers facilitate the Wyoming Retirement System's educational programs, and to the extent possible allow Employees to attend during working hours.

11.04 **EMPLOYER PARTICIPATION** Notwithstanding any other provisions of this Plan, the Employer may add to the amounts payable to any Participant under the Plan additional Deferred Compensation for services to be rendered by the Participant to the Employer during a payroll period, provided such additional Compensation deferred, when added to all other Compensation deferred under the Plan, does not exceed the maximum deferral permitted by Article X. An Employer contribution shall be a pre-tax contribution and immediately be considered Compensation to the Employee.

Conforming amendment allowing Participants to direct their own deferrals and the employer contributions:

(a) Participants shall have the option to direct the investment of their personal contributions and any of their Employer contributions and the earnings thereon among alternative investment options established as part of the overall Trust, unless otherwise specified by the Employer. Such investment options shall be under the full control of the Trustee or its designee. A Participant's right to direct the investment of any contribution shall apply only to making selections among the options made available under the Plan.

(b) Each Participant shall designate in the Participation Agreement or in any other manner authorized by the Wyoming Retirement System the investment that shall be used to determine the earnings to be accrued on amounts deferred by him. If the investment chosen by the Participant experiences a gain, the Participant's benefits under the Plan likewise shall reflect earnings for that period. If the investment chosen by a Participant experiences a loss, or if charges are made under such investment, the Participant's benefits under the Plan likewise shall reflect such loss or charge for that period.

(c) Neither the Employer, the Wyoming Retirement System, the Plan Administrator, the Trustee nor any other person shall be liable for any losses incurred by virtue of following the Participant's directions or with any reasonable administrative delay in implementing such directions.

11.05 **ADVISORY SERVICES** The Plan Administrator may choose to make available investment advisory services to Plan Participants. Investment advisory services shall be provided by an independent, federally registered investment advisory firm that has entered into a separate written agreement with the Wyoming Retirement System. The advisory provider may offer investment guidance, investment advice, and/or advisory managed account services. These services are optional to Plan Participants and are subject to additional account fees.

11.06 **TAX TREATMENT OF AMOUNTS CONTRIBUTED** It is intended that pursuant to Code section 457, the amount deferred shall not be considered current compensation for purposes of federal income taxation except to the extent that the amount deferred is Designated Roth Contributions.

11.07 **EMPLOYER CONTRIBUTIONS 401(a) PLAN** The Wyoming Retirement System is authorized to establish a 401(a) defined contribution plan for the purpose of depositing employer contributions. Upon creation of such a plan, any Employer that elects this provision shall deposit all future employer contributions into the 401(a) plan.

APPROVED BY:

5/22/2015

Laura Ladd, Chairman
Wyoming Retirement System Board

Date

REGISTERED BY:

Secretary of State
Business Division Director

5/28/15
Date