CITY OF FRESNO

RETIREE HEALTH REIMBURSEMENT ARRANGEMENT

Amended:
2018

Effective:
March 1, 2006

Contents

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RETIREE HEALTH REIMBURSEMENT ARRANGEMENT

This City Of Fresno Retiree Health Reimbursement Arrangement (Plan) is adopted by City Of Fresno (City), on the date set forth on the signature page hereof, for the exclusive benefit of its eligible Employees and their Dependents.

RECITALS

Whereas:

A. The City provides various employee welfare benefits to its eligible Employees pursuant to the provisions of the Internal Revenue Code (Code) of 1986, as amended.

B. The City wishes to provide to certain of its Employees an employee welfare benefit plan that reimburses the eligible Employees who retire from the Employer for their post-retirement health insurance premiums.

OPERATIVE PROVISIONS

Now, therefore, the City hereby adopts the City Of Fresno Retiree Health Reimbursement Arrangement upon the following terms and conditions:

ARTICLE 1. GENERAL PROVISIONS

1.1. Name.

The name of this Plan is the "City Of Fresno Retiree Health Reimbursement Arrangement."

1.2. Effective Date.

The effective date of the Plan is March 1, 2006 and amended January 1, 2019.

1.3. Purpose.

The City wishes to reward certain Retirees for their long service with the City and to encourage full and complete health care for such Retirees and certain of their family members, through an accident or health plan under Code sections 105 and 106 covering health expenses through the reimbursement of Retiree health insurance premiums. The intention of the City is that the Plan shall also qualify as a "health reimbursement arrangement" within the meaning of Internal Revenue Service Notice 2002-45 and Rev. Rul 2002-41 and any subsequent guidance published by the Internal Revenue Service dealing with health reimbursement arrangements.

1.4. Legally Enforceable.

The City intends that the provisions of this Plan, including, without limitation, relating to coverage and benefits, be legally enforceable by the City's eligible Employees. Notwithstanding the preceding sentence, the City has reserved the right in other provisions of this Plan to terminate the Plan, to amend the Plan, and to exercise discretion with respect to the administration of the Plan in accordance with objective, ascertainable criteria and procedures, including, without limitation, the right to determine whether objective conditions for coverage or benefits under the Plan have been satisfied, the right to condition coverage or benefits on a qualified medical opinion of a physician, the inclusion of a managed care program, and the right to limit benefits to those that constitute the prevailing or reasonable and customary charge for the claim.

1.5. Administrator.

The person(s), individual(s) or administrative committee appointed by the City Manager or designee shall be the "Administrator" of the Plan. The Administrator may engage the services of one or more third parties to assist the Administrator with the administration of the Plan. If the City does not appoint an Administrator, the City Manager or designee shall be the Administrator.

1.6. Discretionary Authority.

The Administrator shall have the discretionary authority to interpret and construe the provisions of this Plan and to decide any disputes and resolve any ambiguities which may arise relative to the rights of the Employees, past and present, and their Dependents, under the terms of the Plan; provided, however, that whenever, in the administration of the Plan, any discretionary action by the Administrator is required, the Administrator shall exercise its authority in a nondiscriminatory manner so that all persons similarly situated will receive substantially the same treatment.

1.7. Exclusive Benefit.

The Plan is established for the exclusive benefit of the City's eligible Employees and their covered Dependents. In addition, if the City elects in writing to cover individuals who may be treated as the City's Employees under the applicable provisions of the Code and the Treasury regulations promulgated thereunder, then such individuals shall be treated as Employees for purposes of this Exclusive Benefit paragraph.

1.8. Income Tax Status.

It is the intention of the City that the benefits payable under this Plan shall be

eligible for exclusion from the gross income of the Employees and their Dependents to the extent permitted by the Code, and that this Plan and all of the benefits provided under this Plan shall qualify as nondiscriminatory under the Code if nondiscrimination is a requirement to such favorable income tax treatment.

ARTICLE 2. GENERAL DEFINITIONS

For purposes of this Plan, unless otherwise clearly apparent from the context, the following phrases or terms shall have the following indicated meanings:

2.1. Account Credit.

"Account Credit" means the amount credited to a Participant's Retiree Health Care Account for each Year Of Credited Service pursuant to Article 4, Section 2, Crediting Of Retiree Health Care.

2.2. Administrator.

"Administrator" means the person(s), individual(s) or committee appointed by the City Manager or designee with authority and responsibility to manage and direct the operation and administration of the Plan.

2.3. City.

"City" means City Of Fresno.

2.4. COBRA.

"COBRA" means the health care continuation provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272), as amended, and the regulations issued thereunder.

2.5. Code.

"Code" means the Internal Revenue Code of 1986, as it may be amended from time to time. Reference to any provision of the Code includes reference to any comparable or succeeding provisions of any legislation that amends, supplements or replaces such provision.

2.6. Contracts.

"Contract" or "Contracts" means any insurance contract, HMO contract, health care service plan document or other service provider agreement, and any other document through which a Retiree or a Retiree's Dependents are provided with insured health benefits and for which the City reimburses the Retiree for the

Retiree's share of the premiums for such insurance coverage under this Plan.

2.7. Conversion Rate.

"Conversion Rate" means the rate at which an eligible Retiree's Credited Hours in excess of the Minimum Credited Hours are converted to Account Credits pursuant subsection A of Article 4, Section 2, Initial Credit Amount, as more specifically set forth in the appendix attached to this Plan that applies to the Employee.

2.8. Credited Hours.

"Credited Hours" means the hours of accrued and unused sick leave, vacation leave, or other hours with respect to an Employee for purposes of this Plan as more specifically set forth in the appendix attached to this Plan that applies to the Employee.

2.9. Dependent.

"Dependent" means any of the Participant's Spouse and each of the Participant's dependents as defined in Code section 152, unless otherwise defined in an applicable Contract.

2.10. Disability Retirement.

"Disability Retirement" means the Employee is eligible for "disability retirement" under the provisions of the City's retirement system that apply to the Employee, if the Employee is otherwise eligible for Service Retirement, all as set forth in the Fresno Municipal Code as in effect from time to time.

2.11. Domestic Partner.

"Domestic Partner" means one of two adults who are in a registered domestic partnership pursuant to section 297 of the California Family Code.

2.12. Employee.

"Employee" means an individual who is employed by the City, and with respect to whom any portion of their income from the City is subject to income tax.

2.13. Health Reimbursement Account.

"Health Reimbursement Account" means the account from which medical reimbursements are paid to eligible Employees in accordance with the Participant Health Reimbursements paragraph, below.

2.14. HIPAA.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 enacted August 21, 1996, as it may be amended from time to time, and including the regulations issued thereunder.

2.15. Hourly Base Rate Of Pay.

"Hourly Base Rate Of Pay" means an amount equal to an Employee's base monthly salary multiplied by twelve (12) months divided by the number of hours shown on the appendix to this Plan for the Employee as determined as of the Employee's date of Termination Of Employment.

2.16. Maximum Used Hours.

"Maximum Used Hours" means the maximum number of Credited Hours that may have been used by an Employee as of the Employee's Termination of Employment for purposes of the Eligibility Requirements paragraph, below, as more specifically set forth in the appendix attached to this Plan that applies to the Employee.

2.17. Minimum Credited Hours.

"Minimum Credited Hours" means the minimum number of Credited Hours that must be accumulated by an Employee as of the Employee's Termination of Employment for purposes of the Eligibility Requirements paragraph, below, as more specifically set forth in the appendix attached to this Plan that applies to the Employee.

2.18. Participant.

"Participant" means any Retiree who has (i) met the Plan's eligibility requirements, (ii) properly completed and returned the applications and agreements required under, and in accordance with, the Application For Participation paragraph, below, (iii) commenced participation in the Plan pursuant to the Commencement Of Participation paragraph, below, and (iv) is or may become eligible to receive a benefit under the Plan. To the extent required by the context, Participant shall also mean the Dependents of a deceased Participant for whom a Retiree Health Care Account is still maintained for the payment of Plan benefits, pursuant to the Benefits Upon Death Of The Participant paragraph, below, and which has not been exhausted.

2.19. Plan.

"Plan" means the City Of Fresno Retiree Health Reimbursement Arrangement as set forth herein and any amendments hereto.

2.20. Plan Year.

"Plan Year" means the twelve (12) consecutive monthly period commencing on July 1 and ending on June 30 each year. The first Plan Year shall be the period from the effective date set forth in the Effective Date paragraph, above, to June 30, 2006.

2.21. Retiree.

"Retiree" means a former Employee of the City who retired from the City as set forth in the Eligibility Requirements paragraph, below.

2.22. Retiree Health Care Account.

"Retiree Health Care Account" means the account set up on the books or records of the City, as described in the Plan Benefits article of the Plan for the Participant and his or her Dependents.

2.23. Service Retirement.

"Service Retirement" means the Employee is eligible for "service retirement" under the provisions of the City's retirement system that apply to the Employee, all as set forth in the Fresno Municipal Code as in effect from time to time.

2.24. Spouse.

"Spouse" means the person who is legally married to the Employee under the laws of the State in which they reside; provided, however, that a Spouse shall not include any such person who is legally separated from the Employee. "Spouse" shall include a Domestic Partner.

2.25. Termination Of Employment.

"Termination Of Employment" means no longer being an Employee for any reason other than death.

ARTICLE 3. ELIGIBILITY AND PARTICIPATION

3.1. Eligibility Requirements.

In order to become an eligible Retiree and to be eligible to become a Participant in this Plan, all of the following eligibility requirements must be satisfied by the Employee:

A. The Employee must be employed in a classification that is set forth in

the City of Fresno Salary Resolution at the time of the Employee's Termination Of Employment;

B. The Employee must have a Termination Of Employment on or after the effective date of this Plan when the Employee is eligible for either a Service Retirement or a Disability Retirement;

C. The Employee must have used no more than the Maximum Used Hours during the period of time preceding the time of the Employee's Termination Of Employment as more specifically set forth in either the City of Fresno Salary Resolution or the Memoranda of Understanding by and between the City of Fresno and each employee organization that applies to the Employee; and

D. The Employee must have more than the Minimum Credited Hours at the time of the Employee's Termination Of Employment as more specifically set forth in either the City of Fresno Salary Resolution or the Memoranda of Understanding by and between the City of Fresno and each employee organizationthat applies to theEmployee.

3.2. Notification To Participant.

The City shall determine which Employees are eligible to participate in this Plan and shall notify each such Employee of the Employee's eligibility to participate in the Plan.

3.3. Commencement Of Participation.

Each eligible Retiree, who meets the eligibility requirements and is not otherwise excluded from participation in the Plan shall become a Participant in this Plan on the day following the Retiree's Termination Of Employment.

3.4. Termination Of Participation.

A. Except as otherwise provided below or elsewhere in this Plan, a Participant will automatically cease to be a Participant on the earliest of the following dates:

1. The date of the death of the Participant;

2. The date of the termination of the Plan in accordance with the Amendments And Termination article; or

3. The date when the Participant's Retiree Health Care Account has been reduced to zero dollars ($0).

B. Termination of participation shall not affect the Participant's or the Participant's Dependents' right to claim benefits for expenses incurred prior to such termination. However, no additional expenses incurred after such termination shall be covered by the Plan. For purposes of this Plan, an expense with respect to the reimbursement of insurance premiums shall be "incurred" when the insurance premiums for the month of coverage are due.

3.5. Benefits Upon Death Of The Retiree.

A. In the event that a Participant dies prior to the date when the Participant's Retiree Health Care Account has been reduced to zero dollars ($0), the amount remaining in the Participant's Retiree Health Care Account may be used by the Participant's Dependents to continue to provide the benefits covered by the Plan for the Participant's Dependents until the earlier of:

1. The date when such Retiree Health Care Account has been reduced to zero dollars ($0); or

2. The date when:

a. With respect to the Participant's Spouse, the earlier of the date of the Spouse's death or (ii) the date of the Spouse's remarriage; or

b. With respect to a Participant's Dependent other than the Participant's Spouse, the date when the Dependent would have ceased to qualify as a Dependent if the Participant had not died.

B. In the event that an Employee dies before becoming a Participant under the Commencement Of Participation paragraph, above, no benefits shall be provided under this Plan with respect to the deceased Employee to any individual.

ARTICLE 4. RETIREE HEALTH CARE ACCOUNTS

4.1. Establishment Of Retiree Health Care Accounts.

At the time each eligible Retiree becomes a Participant in this Plan pursuant to the Commencement Of Participation paragraph, above, the Administrator shall establish a Retiree Health Care Account for the Participant. The account shall be credited with Account Credits in accordance with the Crediting Of Retiree Health Care Accounts paragraph and debited in accordance with the Reductions To Retiree Health Care Accounts paragraph.

4.2. Crediting Of Retiree Health Care Accounts.

A. Initial Credit Amount.

At the time each eligible Retiree becomes a Participant in this Plan pursuant to the Commencement Of Participation paragraph, above, the Participant's Retiree Health Care Account shall be credited by the City with Account Credits in an amount equal to the product of the Retiree's Credited Hours at the time of the Retiree's Termination Of Employment in excess of the Minimum Credited Hours applicable to the Retiree multiplied by the Conversion Rate applicable to the Retiree multiplied by the Retiree's Hourly Base Rate Of Pay at the Retiree's Termination Of Employment.

B. Interest.

A Participant's Retiree Health Care Account shall be credited with interest on a monthly basis using a rate of interest that is equal to the yield on the City's investment portfolio for the month; provided, however, that a Retiree's Health Care Account shall not be reduced for a month if the yield on the City's investment portfolio for the month is less than zero percent (0%).

4.3. Reductions To Retiree Health Care Accounts.

All amounts paid by the Plan under the Plan Benefits article with respect to the Participant shall be charged to and used to reduce the amount credited to a Participant's Retiree Health Care Account. In no event will the amount charged to a Participant's Retiree Health Care Account and paid pursuant to the Plan Benefits article with respect to the Participant exceed the amount credited to such account at the time the claim for such benefits is paid.

4.4. Unused Amounts.

A Participant's Retiree Health Care Account shall be used to provide the benefits available under the Plan Benefits article until the amount credited to the Participant's Retiree Health Care Account has been reduced to zero dollars ($0) unless the Participant sooner ceases to be a Participant in the Plan and no Dependents of the Participant are eligible to receive benefits under the term of this Plan. Once a Participant's Retiree Health Care Account has been reduced to zero dollars ($0), no further benefits shall be payable under the Plan with respect to the Participant. Any amount remaining in a Participant's Retiree Health Care Account following (i) the deaths of the Participant and the Participant's Spouse (if any), (ii) the Participant's Dependents other than the Participant's Spouse (if any) ceasing to be Dependents, and (iii) after the

payment of all benefits due under this Plan shall remain the property of the City and no amount shall be payable to any other person.

ARTICLE 5. PLAN BENEFITS

5.1. Benefits In General.

Subject to the limitations of this Plan Benefits article and the Retiree Health Care Accounts article, above, the benefits provided under this Plan for a Participant shall consist of reimbursements in accordance with the Health Insurance Premium Benefits paragraph, below.

5.2. Source Of Benefits.

The benefits payable under this Plan, other than any benefits from a welfare benefit plan trust, shall be paid from the general assets of the City.

5.3. Health Insurance Premium Benefits.

A. The Plan will reimburse the Participant at least bi-monthly for the Participant's premiums that have been paid to the health insurance company(ies) or other appropriate billing entity by the Participant based upon appropriate proof of prior payment of such premiums by the Participant for the Participant's insured health care benefits (including medical, prescription drug, dental and vision coverage), including COBRA premiums.

B. Such costs shall include those costs incurred with respect to the Participant and the Participant's Dependents who are covered by such health insurance during the Participant's participation in this Plan. There shall be no reimbursement to or payment on behalf of a Participant under this paragraph to the extent there is other reimbursement to or payment on behalf of the Participant.

C. The reimbursement of premiums shall be subject to receipt of such proof, forms and materials as the Administrator shall require from time to time. The Plan will reimburse a Participant for the Participant's health insurance premiums only if the Participant provides written verification from either (i) an independent third party or (ii) in the case of a Participant who is covered by insurance coverage through an employer, that employer, demonstrating that the cost has been incurred and the amount of such expense and the Participant provides such written statement as the Administrator shall require that the cost has not been reimbursed or is not reimbursable under, any other health plan. Thus, for example, the Plan will not make advance reimbursements of future or projected costs, nor will the Plan reimburse premiums or portions of premiums not paid for by the Participant.

D. Unless agreed otherwise, the Administrator shall issue a reimbursement of premiums to a Participant when the minimum amount of health insurance costs to be reimbursed with respect to the Participant reaches two hundred dollars ($200.00).

E. In no event will the amount of the reimbursement of premiums under this paragraph with respect to a Participant exceed the amount then remaining in the Participant's Retiree Health Care Account. If the amount in the Participant's Retiree Health Care Account has been reduced to zero dollars ($0), no further benefits of any kind shall be provided under this Plan with respect to the Participant.

F. No reimbursement shall be made under the Plan for amounts of health expenses which are attributable to (and not in excess of) deductions allowed under Code section 213 for any taxable year. The expenses that are covered under this Health Insurance Premium Benefits paragraph shall be limited to expenses incurred by the Participant or the Participant's Dependents who are covered by the Plan for medical care as defined in Code section 213(d).

G. The benefit provided under this paragraph is intended to comply with the provisions of Code sections 105 and 106 and with the guidance provided by Revenue Ruling 61-146. This paragraph, therefore, will be deemed to be automatically amended to comply with all legislative changes to, and valid regulations promulgated under, these Code sections, as of the effective date of such legislation or regulations and any subsequent guidance modifying, clarifying or superseding Revenue Ruling 61-146.

H. The Plan may, in the Administrator's sole and absolute discretion, pay the premiums directly to the appropriate third party payee in lieu of making reimbursement to the Participant. In such event, the Plan and the City shall be relieved of all further responsibility with respect to any such premiums. Upon written authorization from the Participant, the Plan shall automatically pay the premiums of the City of Fresno Health and Welfare Trust in lieu of making reimbursement to the Participant.

5.4. Working Retirees.

A. Reinstated Employees.

If a Participant is reemployed as an Employee by the City in a position that results in the cancellation of the Participant's retirement allowance under the City's Retirement System as set forth in the City's Municipal Code as in effect from time to time, then:

1. There shall be no reimbursement of any health insurance premiums with respect to the Participant and the Participant's Dependents who are covered by such health insurance that are incurred during the reemployment by the City; and

2. If, upon the subsequent Termination Of Employment by such a Participant, the Participant meets the requirements of the Eligibility Requirements paragraph, above, for the Participant's then applicable job classification and that job classification is set forth on an appendix attached to this Plan at the time of the Employee's - Termination Of Employment, then the Participant's Retiree Health Care Account shall be credited with additional Account Credits under the Initial Credit Amount subparagraph, above, in accordance with that appendix; provided, however, that the Credited Hours that were taken into account under the Eligibility Requirements paragraph, above, at the time of the Participant's previous Termination Of Employment shall not be taken into account again.

B. Appointive Service And Temporary Employees.

If a Participant is reemployed as an Employee by the City in a position that does not result in the cancellation of the Participant's retirement allowance under the City's Retirement System as set forth in the City's Municipal Code as in effect from time to time, then:

1. The reimbursement of health insurance premiums with respect to the Participant and the Participant's Dependents who are covered by such health insurance shall not be suspended as set forth in the Reinstated Employees subparagraph, above; and

2. Upon the subsequent Termination Of Employment by such a Participant, the Participant's Retiree Health Care Account shall not be credited with additional Account Credits under the Initial Credit Amount subparagraph, above, regardless of whether the Participant once again meets the requirements of the Eligibility Requirements paragraph, above.

5.5. Repayment Of Overpaid Benefits.

By accepting the payment of benefits under this Plan, the Participant and the Participant's Dependents receiving the payment agrees that, in the event of overpayment, the recipient will promptly repay the amount of overpayment without interest; provided that, if the recipient has not repaid the overpayment within thirty (30) days after notice, the recipient will also pay an amount equal to simple interest at the rate of ten percent (10%) per annum (or the highest rate allowable by applicable law, if less) on the unpaid amount from the date of

overpayment to the date of repayment, and in addition will pay all legal fees, court costs and the reasonable time value of the Administrator or the City, or any of their employees or agents, related to the collection of such overpayment.

ARTICLE 6. PLAN ADMINISTRATION

6.1. Administrator's Duties.

It shall be a principal duty of the Administrator to see that the Plan is carried out, in accordance with its terms, for the exclusive benefit of persons entitled to participate in the Plan without discrimination among them.

6.2. Appointment And Responsibility Of Representatives.

The Administrator has the power to appoint one or more representatives, accountants, counsel, specialists, and other advisory and clerical persons as it deems necessary or desirable to assist the Administrator in the administration of the Plan. All usual and reasonable expenses of such representatives, accountants, counsel, specialists, and other advisory and clerical persons may be paid in whole by the City; however, the expenses may be paid in part by the City and in part by the Plan upon completion of applicable meet and confer obligations. The Administrator may designate any person as its agent for any purpose. The designated representative of the Administrator shall be responsible only for those specific powers, duties, responsibilities and obligations specifically given to it by the Administrator. The Administrator, the City and any person to whom the Administrator may delegate any duty or power in connection with the Plan's administration may rely upon all tables, valuations, certificates, reports and opinions furnished by any duly appointed actuary, accountant (including employees who are actuaries or accountants), legal counsel, or other specialist, and they shall be fully protected whenever they take action based in good faith in reliance thereon. All actions taken in good faith reliance on advice from the advisors are conclusive upon all persons. Any benefits not paid by the City shall not be the responsibility of the designated representatives.

6.3. Powers And Duties.

Subject to the limitations of the Plan, the Administrator may establish rules for the administration of the Plan and the transaction of its business. The Administrator has the exclusive right (except as to matters reserved by the City or by the Plan) to interpret the Plan and to decide all matters arising under the Plan, including the right to remedy possible ambiguities, inconsistencies, or omissions. Without limiting the generality of the foregoing but in amplification thereof, the Administrator shall have the power to:

A. Provide such rules and regulations as deemed necessary or appropriate for the proper and efficient administration of the Plan, and, from time to time, to amend or supplement such rules and regulations;

B. Interpret and construe the provisions of the Plan, which interpretation and construction shall be final, conclusive and binding on persons claiming benefits under the Plan;

C. Correct any defect, supply any omission or reconcile any inconsistency in the Plan, in such a manner and to such extent as it shall deem necessary or expedient to carry the Plan into effect;

D. Determine answers to, or appropriate handling of, all questions that may arise under the Plan including questions submitted by Participants;

E. Decide all questions concerning the Plan and the eligibility of any individual to participate in the Plan, in accordance with the provisions of the Plan, and resolve any and all disputes that may arise involving Participants, former Participants or Dependents which resolution shall be final and binding;

F. Require any person to furnish such information as the Administrator may request for the purpose of the proper administration of the Plan as a condition to receiving any benefits under the Plan;

G. Determine the amount of benefits which shall be payable to any person in accordance with the provisions of the Plan, inform the City of the amount of such benefits, and provide a full and fair review to any claim for benefits which has been denied in whole or in part;

H. Designate other person(s) to carry out any duty or power which would otherwise be a fiduciary responsibility of the Administrator under the terms of the Plan including but not limited to delegating certain claims administration duties to a claims administrator, provided that any such delegation or allocation of responsibilities shall be set out in a written instrument executed by the Administrator and the designated party;

I. Make such administrative or technical amendments to the Plan as may be necessary or appropriate to carry out the intent of the City, including such amendments as may be required to satisfy the requirements of the Code and any similar provisions or subsequent revenue or other laws, or the rules and regulations from time to time in effect under any such laws or to conform with other governmental regulations or policies; and

J. Notify Plan Participants and Dependents of any substantive amendment or termination of the Plan or change of benefits available under the Plan.

6.4. Records.

The Administrator shall maintain (or cause to be maintained) such records and may make such rules, computations, interpretations, and decisions as may be necessary or desirable for the proper administration of the Plan. The Administrator shall also maintain, for Participants' inspection at the office of the Administrator, copies of the Plan, the latest annual report, summary annual report, and summary plan description and any amendments or changes in any of these documents. On written request, Participants may obtain from the Administrator a copy of such records or documents under the Plan as pertain to the Participant. Such records shall be available for examination at reasonable times and may be copied at a reasonable cost established by the Administrator.

6.5. Reports.

The City, the Administrator, or both shall file (or cause to be filed), in a timely manner, such reports as may be legally required by the Code, the Internal Revenue Service, the Department of Labor, or any other government agency.

6.6. Facility Of Payment.

Whenever, in the Administrator's opinion, a person who is entitled to receive any payment of benefits hereunder is unable to manage his or her personal financial affairs by reason of minority, death, illness or infirmity, mental incapacity or incompetency of any kind, the Administrator may in its discretion:

A. Make payments to the persons or institutions that are .providing for the care and maintenance of the Participant and continue to make such payments to them until a duly appointed legal representative makes a claim for the payment;

B. Apply the payment for the benefit as such Participant or Dependent in such manner as the Administrator considers advisable;

C. Make payments to the legally appointed guardian of such person;

D. Make payments as directed by a court of competent jurisdiction; or

E. Deposit any amount due to a minor to their credit in any savings or commercial bank of the Administrator's choice.

Any payment of a benefit or installment thereof in accordance with the provisions of this Plan shall be a complete discharge of any liability of the City, the Administrator, the Administrator's designated representative, or any other person for the making of such payment under the provisions of the Plan.

6.7. Administrator's Discretion.

The Administrator shall administer the Plan in accordance with its terms and shall have the power and discretion to construe the terms of the Plan and to determine all questions arising in connection with the administration, interpretation and application of the Plan. Any such determination by the Administrator shall be conclusive and binding upon all persons. The Administrator may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of the Plan; provided, however, that any such procedure, discretionary act, interpretation or construction shall be done in a nondiscriminatory manner based upon uniform principles consistently applied and shall be consistent with the intent that the Plan shall continue to satisfy applicable provisions of the Code and the lawful regulations issued pursuant thereto and so that all persons similarly situated will receive substantially the same treatment.

6.8. Rules And Decisions.

Except as otherwise specifically provided in the Plan, the Administrator may adopt such rules and procedures as the Administrator deems necessary, desirable or appropriate for the proper administration of the Plan. All rules and decisions of the Administrator shall be uniformly and consistently applied to all Participants in similar circumstances. When making a determination or calculation, the Administrator shall be entitled to rely upon information furnished by a Participant.

6.9. Reasonable Care.

The Administrator shall use reasonable care and diligence in the exercise of its powers and the performance of its duties hereunder.

6.10. Replacement Of Administrator.

The Administrator may be replaced at any time, without cause, by the City. The City shall then designate by an instrument in writing some other person as the Administrator.

6.11. HIPAA Privacy.

Inasmuch as certain members of the City's workforce have access to protected health information (“PHI”), as defined in HIPAA and its implementing regulations (HIPAA Privacy Rules), for administrative functions of the Plan, and in order for a group health plan's sponsor to have access to PHI from the group health plan, HIPAA and the HIPAA Privacy Rules require that the group health

plan be amended to incorporate the provisions required by the HIPAA Privacy Rules and that the group health plan sponsor has agreed to such provisions, the following provisions shall govern the use and disclosure of PHI to the City by a group health plan benefit provided under the Plan:

A. Permitted Disclosure Of Enrollment/Disenrollment Information.

The Plan (or a health insurance issuer or HMO with respect to the Plan) may disclose to the City information on whether the individual is participating in the Plan, or is enrolled in or has disenrolled from a health insurance issuer or HMO offered by the Plan.

B. Permitted Uses And Disclosure Of Summary Health Information.

The Plan (or a health insurance issuer or HMO with respect to the Plan) may disclose summary health information, as defined in the HIPAA Privacy Rules, to the City, provided the City requests the summary health information for the purpose of obtaining premium bids from health plans for providing health insurance coverage under the Plan or modifying, amending, or terminating the Plan.

C. Uses And Disclosure For Plan Administrative Purposes.

Unless otherwise permitted by law, and subject to the conditions of disclosure described in Article 6, Section 11, subsection D, Conditions Of Disclosure For Plan Administration Purposes, and obtaining written certification pursuant to Article 6, Section 11, subsection F, Certification Of City, the Plan (or a health insurance issuer or HMO on behalf of the Plan) may disclose PHI to the City; provided, however, that the City may use or disclose such PHI for Plan administration purposes only.

1. "Plan administration purposes" means administration functions performed by the City on behalf of the Plan, such as quality assurance, claims processing, auditing, and monitoring.

2. Plan administration functions do not include functions performed by the City in connection with any other benefit or benefit plan of the City, and they do not include any employment-related functions.

Notwithstanding the provisions of this Plan to the contrary, in no event shall the City be permitted to use or disclose PHI in a manner that is inconsistent with section 164.504(f) of the HIPAA Privacy Rules.

D. Conditions Of Disclosure For Plan Administration Purposes.

The City agrees that, with respect to any PHI (other than enrollment/disenrollment information and summary health information, that are not subject to these restrictions) disclosed to it by the Plan (or a health insurance issuer or HMO on behalf of the Plan), the City shall:

1. Not use or further disclose the PHI other than as permitted or required by the Plan or as required by law;

2. Ensure that any agent, including a subcontractor, to whom it provides PHI received from the Plan agrees to the same restrictions and conditions that apply to the City with respect to PHI;

3. Not use or disclose the PHI for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the City;

4. Report to the Plan any use or disclosure of the information that is inconsistent with the uses or disclosures provided for of which it becomes aware;

5. Make available PHI to comply with HIPAA's right to access in accordance with section 164.524 of the HIPAA Privacy Rules;

6. Make available PHI for amendment and incorporate any amendments to PHI in accordance with section 164.526 of the HIPAA Privacy Rules;

7. Make available the information required to provide an accounting of disclosures in accordance with section 164.528 of the HIPAA Privacy Rules;

8. Make its internal practices, books and records relating to the use and disclosure of PHI received from the Plan available to the Secretary of Health and Human Services for purposes of determining compliance by the Plan with HIPAA's privacy requirements;

9. If feasible, return or destroy all PHI received from the Plan that the City still maintains in any form and retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and

10. Ensure that the adequate separation between the Plan and the City (i.e., the "firewall") required by section 164.504(f)(2)(iii) of the HIPAA Privacy Rules is satisfied.

E. Adequate Separation Between The Plan And The City.

The City shall allow only those employees of the City who are responsible for the Plan's administration functions to have access to the PHI. No other employees of the City shall have access to PHI. These employees shall have access to and use PHI only to the extent necessary to perform the plan administration functions that the City performs for the Plan. In the event that any of these specified employees do not comply with the provisions of this provision, such employee(s) shall be subject to disciplinary action by the City for noncompliance pursuant to the City's employee discipline and termination of employment procedures.

F. Certification Of The City.

The Plan (or a health insurance issuer or HMO with respect to the Plan) shall disclose PHI to the City only upon the receipt of a certification by the City that the Plan has been amended to incorporate the provisions required by section 164.504(f)(2)(ii) of the HIPAA Privacy Rules and that the City agrees to the conditions of disclosure set forth in the Conditions Of Disclosure For Plan Administration Purposes paragraph, above.

6.12. HIPAA Security

In addition to the HIPAA Privacy Rules, the City (as Plan Sponsor) and the Plan will comply with the HIPAA Security Rule (45 CFR Part 160 and Subparts A and C of Part 164), as both such Rules are amended by the Health Information Technology for Economic and Clinical Health Act (HITECH). For this purpose, the Plan Sponsor will:

A. Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI (ePHI) that it creates, receives, maintains, or transmits on behalf of this Plan;

B. Ensure that the adequate separation described in Section 6.11, subsection E. is supported by reasonable and appropriate security measures;

C. Ensure that any agent, including a subcontractor, to whom it provides

ePHI agrees to implement reasonable and appropriate security measures to protect such ePHI; and

D. Report to the Plan any security incident of which it becomes aware concerning PHI.

The Plan will notify affected individuals if a breach of unsecured PHI occurs and provide any other required notifications, in accordance with the requirements set forth under the HIPAA Breach Notification Rule (45 CFR §§164.400-.414).

In addition to the HIPAA Privacy Rules related to PHI, the Plan shall comply with the laws of the State of California with respect to the protection, disclosure, and accounting of personal data, to the extent applicable.

6.13. COBRA.

Notwithstanding any provision of this Plan to the contrary, to the extent required by COBRA (as defined in Section 2.04), any Participant in this Plan (or other qualifying beneficiary) whose coverage terminates under the Plan because of a COBRA qualifying event, shall be given the opportunity to continue on a self-pay basis the same coverage that he or she had under the Plan the day before the qualifying event for the periods described in COBRA, subject to all conditions and limitations under COBRA.

ARTICLE 7. CLAIMS PROCEDURES

7.1. Claims For Benefits.

In order to receive benefits under this Plan, the Participant must submit satisfactory proof of entitlement to such a benefit as set forth in this Claims Procedures article. Participants shall provide the Administrator with such information and evidence, and shall sign such documents, as may reasonably be requested from time to time for the purpose of administration of the Plan.

7.2. Filing Claims.

A. Any Participant, Dependent, or duly authorized representative of a Participant or Dependent (Claimant) may file a claim for benefits to which such Claimant believes he or she is entitled. Claims must be made in writing and shall be delivered to the Administrator or a service provider designated by the Administrator.

B. Claimants shall provide the Administrator with such information and evidence, and shall sign such documents, as may reasonably be requested from time to time for the purpose of administration of the Plan,

including, but not limited to a demonstration that (i) the expense was for insurance for medical care as defined in Code section 213(d), (ii) the expense was incurred during the period when the person was covered by this Plan, and (iii) the expense was covered under the Plan.

C. Unless otherwise announced by the Administrator, a claim for benefits must be made no later than October 15 after the end of the Plan Year in which the expense was incurred. Any delinquent claims will not be paid.

7.3. Initial Determination Of Claim.

A. The Administrator shall have full discretion to grant or deny a claim in whole or in part.

B. Within thirty (30) days after receipt of such claim, the Administrator will notify the Claimant, in writing, of the granting or denying, in whole or in part, of such claim unless special circumstances require an extension of time for processing the claim due to matters beyond the control of the Administrator. In no event may the extension exceed fifteen (15) days from the end of the initial thirty (30) day period.

C. If an extension of time is necessary, the Claimant must be given a written notice to this effect prior to the expiration of the initial thirty (30) day period and the notice must indicate the date by which a decision will be made. If such an extension is necessary due to a failure of the Claimant to submit the information necessary to decide the claim, the notice shall specifically describe the required information and the Claimant shall submit the specified information no later than thirty (30) days from receipt of the notice by the Claimant.

D. If a claim is denied in whole or in part, the Administrator's notice denying such claim shall set forth, in a manner calculated to be understood by the Claimant, the following:

1. The specific reason or reasons for the denial;

2. Specific reference to pertinent Plan provisions on which the denial is based;

3. A description of any additional material or information necessary for the Claimant to perfect the claim and an explanation of why such material information is necessary; and

4. An explanation of the Plan's claim review procedures.

E. If notice of the granting or denying of a claim is not furnished in

accordance with the preceding provisions, the claim shall be deemed denied and the Claimant shall be permitted to exercise the Claimant's right to review pursuant to the Claims Appeals paragraph, below.

7.4. Claims Appeals.

If a claim for benefits under the Plan is fully or partially denied, the following appeal procedures shall apply:

A. If a Claimant wishes to appeal a denial of a claim, the Claimant or the Claimant's duly authorized representative:

1. May request a review upon written application to the Administrator;

2. May submit written comments, documents, records, and other information relating to the claim; and

3. May obtain, upon request and free of charge reasonable access to, and copies of, all documents, records, and other information relevant to the Claimant's claim for benefits.

B. The written request for review must be received by the Administrator within fifteen (15) days after the date of mailing of the notice to the Claimant that the Claimant's claim for Plan benefits has been denied.

C. The decision on the review shall be made by a Review Committee whose decision shall be final.

1. The Review Committee shall be comprised of three (3) members: one selected by the Claimant, one selected by the City (other than the Administrator), and a mutually agreed upon third party. The City and the Claimant shall select a mutually agreed upon third party within fourteen (14) calendar days after receipt of written request for review by the Administrator from the Claimant.

2. Fees and expenses, if any, incurred by the Review Committee shall be paid half by the City and half by the Claimant.

3. The Review Committee shall set a date to convene that is not later than sixty (60) days after the Administrator's receipt of the request for a review, provided it meets the criteria for requesting review and time limits set forth above. If an extension of time for the Review Committee to convene is necessary, the Claimant must be given written notice to this effect prior to the expiration of the initial sixty (60) day period and the notice must indicate the date

by which a decision will be made.

4. If the adverse benefit determination that is the subject of the review was based in whole or in part on a medical judgment, the Review Committee shall consult with a health care professional who has appropriate training and experience in the field of medicine involved in the medical judgment, and who shall not be the individual who was consulted in conjunction with the adverse benefit determination that is the subject of review, nor the subordinate of such individual,

5. Any medical or vocational experts whose advice was obtained on behalf of the Plan in connection with a Claimant's adverse benefit determination shall be identified without regard to whether the advice was relied upon in making the benefit determination.

6. The Review Committee shall contact and consult a health care professional as set forth in number 4 above, and consider all relevant documents prior to submitting its final conclusions.

7. The Review Committee shall render its decision on review, in writing, within thirty (30) calendar days of its last meeting with respect to the Claimant's appeal.

8. The decision on review must be written in a manner calculated to be understood by the Claimant. In the case of an adverse benefit determination, the notification to the Claimant shall set forth, in a manner calculated to be understood by the Claimant, the following:

   a. The specific reason or reasons for the denial;

   b. Specific reference to pertinent Plan provisions on which the denial is based; and

   c. A statement that the claimant is entitled to receive, upon request and free of charge reasonable access to, and copies of, all documents, records, and other information relevant to the Claimant's claim for benefits.

9. All time limits under this subparagraph C may be extended by mutual agreement of the Claimant and the Administrator or Review Committee.

7.5. Legal Actions.

A Claimant must submit a written claim and exhaust the preceding claims

procedures before legal recourse of any type is sought. Except as explicitly permitted by statute, the City, the Administrator, and any service provider designated by the Administrator are the only necessary parties to any action or proceeding that involves the Plan or the administration of the Plan. No Employees or former Employees or their Dependents or any person having or claiming to have an interest under the Plan is entitled to notice of process. Any final judgment that is not appealable for any reason (including the passage of time) and that is entered in an action or proceeding involving the Plan is binding and conclusive on the parties to this Plan and all persons having or claiming to have any interest under the Plan.

7.6. Administration Pending Resolution Of Disputes.

If a dispute arises with respect to any matter under this Plan, the Administrator may refrain from taking any other or further action in connection with the matter involved in the controversy until the dispute has been resolved under the Plan.

7.7. Time.

The filing of claims or receipt of notices of rulings and any event starting a time period shall be deemed to commence with personal delivery signed for by the Claimant or by affidavit of personal service, or the date of actual receipts for certified or registered mail or date returned if delivery is refused (or a Claimant has moved without giving the Administrator a forwarding address).

ARTICLE 8. AMENDMENTS AND TERMINATION

8.1. Amendments.

The City reserves the right to amend this Plan at any time without the consent of any Participant or Dependent, by action of the City Council, subject to applicable meet and confer obligations; provided, however, that, except in accordance with the provisions of this Plan, or as otherwise specifically permitted by law, no such amendment shall affect any right to benefits which arose prior to such amendments and no such amendment shall affect the nontaxable benefits of any Participant until the first day of the Plan Year coincident with or next following the adoption date of the amendment. The City may make any amendment that it determines to be necessary or desirable, with or without retroactive effect, to comply with the law.

8.2. Right To Terminate.

A. Although the City intends this Plan to be maintained for an indefinite period of time, the Plan shall be subject to termination at any time hereafter by the City Council, subject to applicable meet and confer obligations.

B. Upon the termination of the Plan; the rights of all Participants affected thereby shall become payable as other benefits for Participants the Administrator may direct, subject to applicable meet and confer obligations. The termination of the Plan shall not affect any affected Participant's right to claim reimbursement of benefits incurred prior to such termination.

8.3. Enactment Of Legislation.

If the federal government, any State or other jurisdiction enacts a law which prohibits the continuance of this Plan, or the Code or other existing laws are interpreted so as to prohibit the continuance of this Plan, the Plan shall terminate automatically coincident with the effective date of such law or interpretation.

ARTICLE 9. MISCELLANEOUS

9.1. Nonalienation Of Benefits.

A. No assets or benefits under this Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution or levy of any kind, either voluntary or involuntary, including any such liability which is for alimony or other payments for the support of a Spouse or former Spouse, or for any other relative of the Participant, prior to actually being received by the person entitled to the benefit under the terms of the Plan. Any attempt to so anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, garnish, execute or levy shall be void. Nor shall any such benefits in any manner be liable for, or subject to, the debts, contracts, liabilities, or torts of any person entitled to such benefits.

B. The prohibitions contained in this Nonalienation Of Benefits paragraph shall not apply to the extent a Participant or Dependent is indebted to the Plan, for any reason, under any provision of this Plan. At the time a distribution is to be made to or for a Participant's or Dependent's benefit, such proportion of the amount distributed as shall equal such indebtedness shall be retained by the Plan to apply against or discharge such indebtedness. Prior to such application, however, the Administrator must give written notice to the Participant or Dependent that such indebtedness is to be so paid in whole or part from the Participant's benefit. If the Participant or Dependent does not agree that the indebtedness is a valid claim against the Participant's benefit, the Participant or Dependent shall be entitled to a review of the validity of the claim in accordance with procedures provided in the Claims Procedures article.

9.2. Divestment Of Benefits.

Subject only to the specific provisions of this Plan, nothing shall be deemed to divest a Participant of a right to the benefit to which the Participant becomes entitled in accordance with the provisions of this Plan.

9.3. Nondiversion.

Irrespective of anything contained in the Plan, as now expressed or hereafter amended, it shall be impossible for any part of the Participant's benefits under the Plan to be used for, or diverted to, any purpose not for the exclusive benefit of Participants or their Dependents at any time prior to the satisfaction of all rights and liabilities, fixed and contingent, with respect to Participants or their Dependents hereunder, either by the operation, amendment, revocation or termination of the Plan. No part of the Participant's benefits under the Plan shall be paid, distributed or made available to the City at any time, except as expressly provided by the Plan.

9.4. Nonguarantee Of Employment.

Nothing contained in this Plan shall be construed as a contract of employment between the City and any Employee, or as a right of any Employee to be continued in the employment of the City, or as creating or modifying the terms of an Employee's employment, or as a limitation on the right of the City to discharge any Employee, with or without cause.

Unless the law or this Plan explicitly provides otherwise, rights under any other employee benefit plan maintained by the City (for example, benefits upon an Employee's death, retirement, or other termination) do not create any rights under this Plan to benefits or continued participation. The fact that an individual is eligible to receive benefits under this Plan does not create any rights under any other employee benefit plan maintained by the City, unless that plan or the law explicitly provides otherwise.

9.5. Rights To The City's Assets.

No Employee, Participant or Dependent shall have any right to, or interest in, any assets of the City upon Termination Of Employment or otherwise, except as provided from time to time under this Plan; and then only to the extent of the benefits payable under the Plan to such Employee, Participant or Dependent. All payments of benefits as provided for in this Plan shall be made solely out of the general assets of the City and neither the Administrator nor its designated representative shall be liable in any manner for such payments.

9.6. Limitation Of Rights Of Participants And Others.

Neither the establishment of this Plan, nor any amendment hereof, nor the payment of any benefits, will be construed as giving to any Participant or any other person any legal or equitable right against the City, Administrator, or its designated representative, except as expressly provided herein. The creation, continuation, or change of the Plan does not give any person a nonstatutory legal or equitable right against the City, any officer, agent or other Employee of the City, any insurer or other service provider providing benefits under any Contract, or the Administrator.

9.7. Taxation.

The City believes this Plan to be in compliance with all applicable sections of the Code. However, this Plan has not been submitted to the Internal Revenue Service for approval and there is no assurance that the intended tax benefits under this Plan will be available. Neither the City, nor the Administrator, nor its designated representative makes any commitment or guarantee that any amounts elected or paid for the benefit of a Participant will be excludable from the Participant's gross income for federal or State income tax purposes, or that any other federal or State tax treatment will apply to, or be available to, any Participant. It shall be the obligation of each Participant to determine whether each payment is excludable from the Participant's gross income for federal and State income tax purposes, and to notify the Administrator if the Participant has reason to believe that any such payment is not so excludable. Each Participant, by accepting a benefit under this Plan, agrees to be liable for any taxes, tax penalties and interest that may be imposed by the Internal Revenue Service, or any other governmental agency, with respect to these benefits.

9.8. Insurer Not A Party.

No insurer or service provider under a Contract shall be considered a party to this Plan, nor to any future amendment to this Plan. The rights and obligations of any insurer or service provider are those specified in the Contract and no provisions of any portion of this Plan shall be deemed to alter or change the terms of such Contract.

9.9. Construction.

A. This Plan shall be construed in accordance with the Code and other pertinent federal laws, and the laws of the State of California. If any provision is susceptible of more than one interpretation, such interpretation shall be given thereto as is consistent with the Plan or benefit being in conformity with the Code.

B. No provision of this Plan shall be construed to conflict with any valid Treasury Department, Department of Labor or Internal Revenue Service regulation, ruling, release or proposed regulation or other order which affects, or could affect, the terms of this Plan.

9.10. Headings.

The headings and subheadings of this Plan have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

9.11. Uniformity.

All provisions of this Plan shall be interpreted and applied in a uniform, nondiscriminatory manner.

9.12. Number.

Wherever appropriate, any reference in this document in the singular shall include the plural and any reference in the plural shall include the singular.

9.13. Controlling Law.

Unless otherwise provided in this Plan, the Plan shall be construed and enforced according to the laws of the United States of America to the extent applicable, otherwise by the laws of California including California's choice-of-law rules, except to the extent those laws would require application of a State other than California.

9.14. Severability.

In the event that any provisions of this document shall be held illegal or invalid for any reason by operation of law or a court of competent jurisdiction, said illegality or invalidity shall not affect the remaining legal and valid provisions of this document. This document shall continue as if said illegal or invalid provisions had not been included herein either initially, or beyond the date it is first held to be illegal or invalid; provided the basic purposes hereof can be effected through the remaining valid and legal provisions.

9.15. Waiver.

Failure to insist upon strict compliance with any provision of this Plan shall not be deemed to be a waiver of such provision or any other provision; waiver of breach of any provision of this Plan shall not be deemed to be a waiver of any other provision or subsequent breach of such provision. No term, condition, or provision of the Plan shall be deemed waived unless the purported waiver is in a writing signed by the party to be charged. No written waiver shall be deemed a continuing waiver unless so specifically stated in the writing, and such waiver shall operate only as to the specific term, condition, or provision waived.

9.16. Entire Document.

This document, including any appendices or supplements hereto, shall constitute the entire document and shall govern the rights, liabilities and obligations of the parties under the Plan, except as it may be modified.

Executed this ___day of _____2018

CITY OF FRESNO

_____

By:

_____

Title: