

ICMA RETIREMENT CORPORATION
GOVERNMENTAL 457 DEFERRED COMPENSATION
AMENDMENT FOR POST-EGTRRA LEGISLATIVE AND REGULATORY CHANGES

Pursuant to Article XII of the ICMA Retirement Corporation Governmental Deferred Compensation Plan & Trust (the “Plan”), ICMA Retirement Corporation, as Plan Administrator, hereby adopts this Amendment on behalf of all adopting Employers to add a new Appendix A as follows, effective as provided therein.

Appendix A

ARTICLE I
PREAMBLE

- 1.01 Applicability.** This Appendix memorializes the operation of the Plan in accordance with the following legislative and regulatory items.
- (a) Pension Protection Act of 2006;
 - (b) Emergency Economic Stabilization Act of 2008;
 - (c) Worker, Retiree, and Employer Recovery Act of 2008;
 - (d) Katrina Emergency Tax Relief Act of 2005; and
 - (e) Gulf Opportunity Zone Act of 2005.
- 1.02 Superseding of Inconsistent Provisions.** This Appendix supersedes the provisions of the Plan and Adoption Agreement to the extent those provisions are inconsistent with the provisions of this Appendix.
- 1.03 Construction.** Except as otherwise provided herein, any reference to “Section” in this Appendix refers only to sections within this Appendix and is not a reference to the Plan. The Article and Section numbering in this Appendix is solely for purposes of this Appendix and does not relate to any Plan article, section, or other numbering designations.

ARTICLE II
PENSION PROTECTION ACT OF 2006

- 2.01 Background.** On August 17, 2006, the Pension Protection Act, Pub. L. No. 109-280 (“PPA”), became law. It amended the Code to provide for a number of changes with regard to Code section 401(a) plans and Code section 457 plans. This Article incorporates the relevant provisions of PPA into the Plan.
- 2.02 Required Notice for Participant Distributions.** With respect to any distribution notice and election form that is, under the terms of the Plan, to be delivered 90 days before the date as of which a distribution is to be made, the window for giving Participants such distribution notices and election forms shall be extended to 180 days before the date as of which a distribution is to commence. This Section 2.02 shall be effective for calendar years beginning after December 31, 2006.
- 2.03 Rollover by a Non-Spouse Designated Beneficiary.**
- (a) Unless otherwise elected by the Employer, for Plan Years beginning after December 31, 2006 but on or before December 31, 2009, a non-spouse beneficiary who qualifies as a “designated beneficiary” under Code section 401(a)(9)(E) may establish an individual retirement plan that will be treated as an Inherited IRA pursuant to the provisions of Code section 402(c)(11) into which all or a portion of a death benefit distribution from this Plan can be transferred directly. A trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a designated beneficiary.

- (b) Notwithstanding the election made in subsection (a), for Plan Years beginning after December 31, 2009, a non-spouse Beneficiary who qualifies as a “designated beneficiary” under Code section 401(a)(9)(E) may establish an individual retirement plan that will be treated as an Inherited IRA pursuant to the provisions of Code section 402(c)(11) into which all or a portion of a death benefit distribution from this Plan can be transferred directly. A trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a designated beneficiary.
- (c) Notwithstanding anything herein to the contrary, a death benefit distribution shall not be eligible for transfer to an Inherited IRA to the extent such distribution is a required minimum distribution under Code section 401(a)(9).

2.04 Distributions for Unforeseen Financial Emergencies.

- (a) Unless otherwise elected by the Employer, after August 31, 2007, the determination of any unforeseen emergency will be expanded to include circumstances of severe financial hardship resulting from an illness or accident of a Primary Beneficiary or other similar extraordinary and unforeseeable circumstances of a Primary Beneficiary that result in a severe financial hardship.
- (b) A “Primary Beneficiary” is an individual or individuals who are named as a Beneficiary under the terms of the Plan and who have a right to all or a portion of the Participant’s account balance upon the Participant’s death.

2.05 Distributions for Health and Long-Term Care Insurance for Public Safety Officers.

- (a) If elected by the Employer, for Plan Years beginning after December 31, 2006, Eligible Retired Public Safety Officers may elect after separation from service to have up to \$3,000 distributed tax-free annually from the Plan in order to pay for Qualified Health Insurance Premiums for an accident or health plan (including a self-insured plan) or a qualified long-term care insurance contract. The Plan shall make such distributions directly to the provider of the accident or health plan or qualified long-term care insurance contract.
- (b) The term “Eligible Retired Public Safety Officer” means an individual who, by reason of disability or attainment of normal retirement age, is separated from service as a Public Safety Officer with the employer who maintains the eligible retirement plan from which distributions pursuant to this Article are made. The term “Public Safety Officer” has the same meaning given such term by section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968.
- (c) The term “Qualified Health Insurance Premiums” means premiums for coverage for the Eligible Retired Public Safety Officer, his spouse, and dependents, by an accident or health insurance plan or qualified long-term care insurance contract (as defined in Code section 7702(B)).

2.06 Rollovers to Roth IRAs. Effective for distributions after December 31, 2007, a Participant may elect to have any portion of an Eligible Rollover Distribution paid directly to a Roth IRA described in Code section 408A.

ARTICLE III EMERGENCY ECONOMIC STABILIZATION ACT OF 2008

3.01 Background. On October 3, 2008, the Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343 (“EESA”), became law. With regard to retirement plans, EESA generally permits plans to allow repayments of certain prior qualified distributions for home purchases for participants affected by certain 2008 Midwestern severe storms, tornadoes, and flooding and to permit repayments of prior qualified distributions for home purchases. This Article incorporates the relevant provisions of EESA into the Plan.

3.02 Qualified Disaster Recovery Assistance Distributions and Repayment Thereof. The provisions relating to qualified disaster recovery assistance distributions and repayment thereof set forth in section 702 of EESA shall apply to the Plan.

- 3.03 Repayment of Prior Qualified Distributions for Home Purchases to Plan.** The provisions relating to repayment of prior qualified distributions for home purchases set forth in section 702 of EESA shall apply to the Plan.

**ARTICLE IV
WORKER, RETIREE, AND EMPLOYER RECOVERY ACT OF 2008**

- 4.01 Background.** On December 23, 2008, the Worker, Retiree, and Employer Recovery Act of 2008, Pub. L. No. 110-458 (“WRERA”), became law. WRERA amended Code section 401(a)(9) to suspend required minimum distributions for 2009. It is also possible that legislation will be enacted in the future that suspends required minimum distributions for 2010 or a later year. This Article incorporates the relevant provisions of WRERA into the Plan and describes the Plan terms that will apply in the event that required minimum distributions are suspended in a year subsequent to 2009.
- 4.02 Application of Minimum Distribution Requirements.** The minimum distribution requirements of section 401(a)(9) of the Code shall only apply to the Plan to the extent that such requirements are applicable by law for a year.
- 4.03 Special Rule for Scheduled Installment Payments.** All installment payments scheduled to be distributed to a Participant prior to the effective date of a suspension of the required minimum distribution provisions of Code section 401(a)(9) shall be distributed as scheduled unless the Participant affirmatively elects to have the payments stopped. Notwithstanding the foregoing, for purposes of this Section 4.03, the effective date of the suspension of the required minimum distribution provisions for 2009 shall be deemed January 6, 2009.

**ARTICLE V
KATRINA EMERGENCY TAX RELIEF ACT OF 2005
AND GULF OPPORTUNITY ZONE ACT OF 2005**

- 5.01 Background.** On September 23, 2005, the Katrina Emergency Tax Relief Act of 2005, Pub. L. No. 109-73 (“KETRA”), became law, and on December 21, 2005, the Gulf Opportunity Zone Act of 2005, Pub. L. No. 109-135 (“GOZA”), became law. Generally, KETRA and GOZA permit plans to allow repayments of certain prior qualified distributions for home purchases for Participants affected by Hurricanes Katrina, Rita, and/or Wilma. This Article incorporates the relevant provisions of KETRA and GOZA into the Plan.
- 5.02 Qualified Hurricane Distributions and Repayment Thereof.** The provisions relating to qualified hurricane distributions and repayment thereof set forth in section 1400Q(a) of the Code shall apply to the Plan.
- 5.03 Repayment of Prior Qualified Distributions for Home Purchases to Plan.** The provisions relating to repayment of prior qualified distributions for home purchases set forth in Code section 1400Q(b) shall apply to the Plan.