



# City of Marietta

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

## Motion Signature

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File Number: 20170990

### ICMA-RC 457(b) Deferred Compensation Agreement

Motion approving the updated administrative services agreement on the 457(b) deferred compensation plan with ICMA-RC. Besides a new fee structure, changes were made to the administrative services agreement to reflect the term of council.

Date November 8, 2017

A handwritten signature in cursive script that reads "R. Steve Tumlin, Jr." written over a horizontal line.

R. Steve Tumlin, Jr., Mayor

A handwritten signature in cursive script that reads "Stephanie Guy" written over a horizontal line.

Stephanie Guy, City Clerk

20170990  
Exhibit A

CONTRACT/AGREEMENT NO. 4573  
CITY OF MARIETTA, GA.  
RECORDS

## ADMINISTRATIVE SERVICES AGREEMENT

Between

**ICMA Retirement Corporation**

and

City of Marietta

Type: 457

Account #: 302900

## ADMINISTRATIVE SERVICES AGREEMENT

This Administrative Services Agreement (“Agreement”), made as of the *8<sup>th</sup>* day of ~~November~~ 20 17 between the International City Management Association Retirement Corporation (“ICMA-RC”), a nonprofit corporation organized and existing under the laws of the State of Delaware, and the City of Marietta (“Employer”), a City organized and existing under the laws of the State of Georgia with an office at 205 Lawrence Street NE, Marietta, Georgia 30060.

### RECITALS

Employer acts as public plan sponsor of a retirement plan (“Plan”), and in that capacity, has responsibility to obtain administrative services and investment alternatives for the Plan;

VantageTrust is a group trust established and maintained in accordance with New Hampshire Revised Statutes Annotated section 391:1 and Internal Revenue Service Revenue Ruling 81-100, 1981-1 C.B. 326, which provides for the commingled investment of retirement funds held by various state and local governmental units for their employees;

ICMA-RC acts as investment adviser to VantageTrust Company, LLC, the Trustee of VantageTrust;

ICMA-RC has designed, and VantageTrust offers, a series of separate funds (the “Funds”) for the investment of plan assets as referenced in VantageTrust’s principal disclosure documents, the VantageTrust Disclosure Memorandum and the Funds’ Fact Sheets (together, “VT Disclosures”); and

In addition to serving as investment adviser to VantageTrust, ICMA-RC provides a range of services to public employers for the operation of employee retirement plans including, but not limited to, communications concerning investment alternatives, account maintenance, account recordkeeping, investment and tax reporting, transaction processing, benefit disbursement, and asset management.

## AGREEMENTS

1. Appointment of ICMA-RC

Employer hereby appoints ICMA-RC as Administrator of the Plan to perform all nondiscretionary functions necessary for the administration of the Plan. The functions to be performed by ICMA-RC shall be those set forth in Exhibit A to this Agreement.

2. Adoption of Trust

Employer has adopted the Declaration of Trust of VantageTrust Company and agrees to the commingled investment of assets of the Plan within VantageTrust. Employer agrees that the investment, management, and distribution of amounts deposited in VantageTrust shall be subject to the Declaration of Trust, as it may be amended from time to time and shall also be subject to terms and conditions set forth in disclosure documents (such as the VT Disclosures or Employer Bulletins) as those terms and conditions may be adjusted from time to time.

3. Employer Duty to Furnish Information

Employer agrees to furnish to ICMA-RC on a timely basis such information as is necessary for ICMA-RC to carry out its responsibilities as Administrator of the Plan, including information needed to allocate individual participant accounts to Funds in VantageTrust, and information as to the employment status of participants, and participant ages, addresses, and other identifying information (including tax identification numbers). Employer also agrees that it will notify ICMA-RC in a timely manner regarding changes in staff as it relates to various roles. This is to be completed through the online EZLink employer contact options. ICMA-RC shall be entitled to rely upon the accuracy of any information that is furnished to it by a responsible official of the Employer or any information relating to an individual participant or beneficiary that is furnished by such participant or beneficiary, and ICMA-RC shall not be responsible for any error arising from its reliance on such information. ICMA-RC will provide reports, statements and account information to the Employer through EZLink, the online plan administrative tool.

Employer is required to send in contributions through EZLink, the online plan administration tool provided by ICMA-RC. Alternative electronic methods may be allowed, but must be approved by ICMA-RC for use. Contributions may not be sent through paper submittal documents.

To the extent Employer selects third-party funds that do not have fund profile information provided to ICMA-RC through our electronic data feeds from external sources (such as Morningstar) or third party fund providers, the Employer is responsible for providing to ICMA-RC timely fund investment updates for disclosure to Plan participants. Such updates may be provided to ICMA-RC through the Employer's investment consultant or other designated representative.

Failure to provide timely fund profile update information, including the source of the information, may result in a lack of fund information for participants, as ICMA-RC will remove outdated fund profile information from the systems that provide fund information to Plan participants.

4. Certain Representations and Warranties

ICMA-RC represents and warrants to Employer that:

- (a) ICMA-RC is a non-profit corporation with full power and authority to enter into this Agreement and to perform its obligations under this Agreement. The ability of ICMA-RC to serve as investment adviser to VantageTrust is dependent upon the continued willingness of VantageTrust for ICMA-RC to serve in that capacity.
- (b) ICMA-RC is an investment adviser registered as such with the U.S. Securities and Exchange Commission under the Investment Advisers Act of 1940, as amended.
- (c) ICMA-RC shall maintain and administer the Plan in accordance with the requirements for eligible deferred compensation plans under Section 457 of the Internal Revenue Code and other applicable federal law; provided, however, that ICMA-RC shall not be responsible for the eligible status of the Plan in the event that the Employer directs ICMA-RC to administer the Plan or disburse assets in a manner inconsistent with the requirements of Section 457 or otherwise causes the Plan not to be carried out in accordance with its terms. Further, in the event that the Employer uses its own customized plan document, ICMA-RC shall not be responsible for the eligible status of the Plan to the extent affected by terms in the Employer's plan document that differ from those in ICMA-RC's standard plan document. ICMA-RC shall not be responsible for monitoring state or local law applicable to retirement plans or for administering the Plan in compliance with local or state requirements unless Employer notifies ICMA-RC of any such local or state requirements.

Employer represents and warrants to ICMA-RC that:

- (d) Employer is organized in the form and manner recited in the opening paragraph of this Agreement with full power and authority to enter into and perform its obligations under this Agreement and to act for the Plan and participants in the manner contemplated in this Agreement. Execution, delivery, and performance of this Agreement will not conflict with any law, rule, regulation or contract by which the Employer is bound or to which it is a party.
- (e) Employer understands and agrees that ICMA-RC's sole function under this Agreement is to act as recordkeeper and to provide administrative,

investment or other services at the direction of Plan participants, the Employer, its agents or designees in accordance with the terms of this Agreement. Under the terms of this Agreement, ICMA-RC does not render investment advice, is not the Plan Administrator or Plan Sponsor as those terms are defined under applicable federal, state, or local law, and does not provide legal, tax or accounting advice with respect to the creation, adoption or operation of the Plan and its related trust. ICMA-RC does not perform any service under this Agreement that might cause ICMA-RC to be treated as a “fiduciary” of the Plan under applicable law, except, and only, to the extent that ICMA-RC provides investment advisory services to individual participants enrolled in Guided Pathways.

- (f) Employer acknowledges and agrees that ICMA-RC does not assume any responsibility with respect to the selection or retention of the Plan’s investment options. Employer shall have exclusive responsibility for the Plan’s investment options, including the selection of the applicable mutual fund share class. Where applicable, Employer understands that the VT Retirement Income Advantage Fund is an investment option for the Plan and that the fund invests in a separate account available through a group variable annuity contract. By entering into this Agreement, Employer acknowledges that it has received the Important Considerations document and the VT Disclosures and that it has read the information therein concerning the VT Retirement Income Advantage Fund.
- (g) Employer acknowledges that certain such services to be performed by ICMA-RC under this Agreement may be performed by an affiliate or agent of ICMA-RC pursuant to one or more other contractual arrangements or relationships, and that ICMA-RC reserves the right to change vendors with which it has contracted to provide services in connection with this Agreement without prior notice to Employer.
- (h) Employer acknowledges that it has received ICMA-RC’s Fee Disclosure Statement, prepared in substantial conformance with ERISA regulations regarding the disclosure of fees to plan sponsors.
- (i) Employer approves the use of its Plan in ICMA-RC external media, publications and materials. Examples include press releases announcements and inclusion of the general plan information in request for proposal responses.

5. Participation in Certain Proceedings

The Employer hereby authorizes ICMA-RC to act as agent, to appear on its behalf, and to join the Employer as a necessary party in all legal proceedings involving the garnishment of benefits or the transfer of benefits pursuant to the divorce or separation of participants in the Plan. Unless Employer notifies ICMA-RC otherwise, Employer consents to the

disbursement by ICMA-RC of benefits that have been garnished or transferred to a former spouse, current spouse, or child pursuant to a domestic relations order or child support order.

6. Compensation and Payment

- (a) ICMA-RC's compensation under this Agreement shall be as set forth in subsection (c) below.
- (b) **Revenue Requirement.** ICMA-RC shall receive total annual aggregate recordkeeping revenue of 0.0775% from investment options offered by the Plan. ICMA-RC shall provide an administrative allowance quarterly to the Employer or to the Plan in an amount equal to any revenue in excess of the revenue requirement. In the event that recordkeeping revenue received by ICMA-RC from investment options offered by the Plan falls below the revenue requirement, ICMA-RC and the Employer shall mutually agree upon a method to make up the shortfall necessary to meet the revenue requirement. Employer understands that the Plan administrative allowance is to be used only to pay for reasonable plan administrative expenses of the Plan or allocated to Plan participants at the instruction of the Employer.
- (c) **Compensation for Management Services to VantageTrust, Compensation for Advisory and other Services to the VT III Vantagepoint Funds and Payments from Third-Party Mutual Funds.** Employer acknowledges that, in addition to amounts payable under this Agreement, ICMA-RC receives fees from VantageTrust for investment advisory services and plan and participant services furnished to VantageTrust. Employer further acknowledges that ICMA-RC, including certain of its wholly owned subsidiaries, receives compensation for advisory and other services furnished to the VT III Vantagepoint Funds, which serve as the underlying portfolios of a number of Funds offered through VantageTrust. For a VantageTrust Fund that invests substantially all of its assets in a third-party mutual fund not affiliated with ICMA-RC, ICMA-RC or its wholly owned subsidiary receives payments from the third-party mutual fund families or their service providers in the form of 12b-1 fees, service fees, compensation for sub-accounting and other services provided based on assets in the underlying third-party mutual fund. These fees are described in the VT Disclosures and ICMA-RC's fee disclosure statement. In addition, to the extent that third party mutual funds are included in the investment line-up for the Plan, ICMA-RC receives administrative fees from its third party mutual fund settlement and clearing agent for providing administrative and other services based on assets invested in third party mutual funds; such administrative fees come from payments made by third party mutual funds to the settlement and clearing agent.

- (d) **Redemption Fees.** Redemption fees imposed by outside mutual funds in which Plan assets are invested are collected and paid to the mutual fund by ICMA-RC. ICMA-RC remits 100% of redemption fees back to the specific mutual fund to which redemption fees apply. These redemption fees and the individual mutual fund's policy with respect to redemption fees are specified in the prospectus for the individual mutual fund and referenced in the VT Disclosures.
- (e) **Payment Procedures.** All payments to ICMA-RC pursuant to this Section 6 shall be made from Plan assets held by VantageTrust or received from third-party mutual funds or their service providers in connection with Plan assets invested in such third-party mutual funds, to the extent not paid by the Employer. The amount of Plan assets administered by ICMA-RC shall be adjusted as required to reflect any such payments as are made from the Plan. In the event that the Employer agrees to pay amounts owed pursuant to this Section 6 directly, any amounts unpaid and outstanding after 30 days of invoice to the Employer shall be withdrawn from Plan assets.

The compensation and payment set forth in this Section 6 are contingent upon the Employer's use of ICMA-RC's EZLink system for contribution processing and submitting contribution funds by ACH or wire transfer on a consistent basis over the term of this Agreement. The compensation and payment set forth in this Section 6 is further contingent upon the VP PLUS Fund being offered as the only stable value fund offered under the Plans.

Employer further acknowledges and agrees that compensation and payment under this Agreement shall be subject to re-negotiation in the event that the Employer chooses to implement additional funds not on ICMA-RC's mutual fund platform.

7. Contribution Remittance

Employer understands that amounts invested through VantageTrust are to be remitted directly to VantageTrust in accordance with instructions provided to Employer by ICMA-RC and are not to be remitted to ICMA-RC. In the event that any check or wire transfer is incorrectly labeled or transferred to ICMA-RC, ICMA-RC may return it to Employer with proper instructions.

8. Responsibility

ICMA-RC shall not be responsible for any acts or omissions of any person with respect to the Plan or its related trust, other than ICMA-RC in connection with the administration or operation of the Plan.

9. Term

The initial term of this Agreement shall be from November 8, 2017 (“Inception Date”) through December 31, 2017. Thereafter, commencing January 1, 2018, the Employer may terminate this Agreement on or after the 13<sup>th</sup> day of January, 2022.

10. Transition

If the Agreement is not renewed, ICMA-RC will provide an orderly transition of assets and records to the new record keeper. A transition letter will be provided to the Employer which outlines the process and the responsibilities of ICMA-RC after the transition of assets and records has been completed.

The Employer understands and acknowledges that, in the event the Employer terminates this Agreement (or replaces the VT PLUS Fund as an investment option in its investment line-up), ICMA-RC retains full discretion to release Plan assets invested in the VT PLUS Fund in an orderly manner over a period of up to 12 months from the date ICMA-RC receives written notification from the Employer that it has made a final and binding selection of a replacement for ICMA-RC as administrator of the Plan (or a replacement investment option for the VT PLUS Fund).

11. Amendments and Adjustments

- (a) This Agreement may be amended by written instrument signed by the parties.
- (b) ICMA-RC may amend this agreement by providing 60 days’ advance written notice to the Employer prior to the effective date of such proposed amendment. Such amendment shall become effective unless, within the 60-day notice period, the Employer notifies ICMA-RC in writing that it objects to such amendment.
- (c) The parties agree that enhancements may be made to administrative and operations services under this Agreement. The Employer will be notified of enhancements through the Employer Bulletin, quarterly statements, electronic messages or special mailings. Likewise, if there are any reductions in fees, these will be announced through the Employer Bulletin, quarterly statement, electronic messages or special mailing.

12. Notices

All notices required to be delivered under this Agreement shall be in writing and shall be delivered, mailed, e-mailed or faxed to the location of the relevant party set forth below or to such other address or to the attention of such other persons as such party may hereafter specify by notice to the other party.

**ICMA-RC:** Legal Department, ICMA Retirement Corporation, 777  
North Capitol Street, N.E., Suite 600, Washington, D.C., 20002-4240  
**Facsimile;** (202) 962-4601

**Employer:** at the office set forth in the first paragraph hereof, or to any other address, facsimile number or e-mail address designated by the Employer to receive the same by written notice similarly given.

Each such notice, request or other communication shall be effective: (i) if given by facsimile, when transmitted to the applicable facsimile number and there is appropriate confirmation of receipt; (ii) if given by mail or e-mail, upon transmission to the designated address with no indication that such address is invalid or incorrect; or (iii) if given by any other means, when actually delivered at the aforesaid address.

13. Complete Agreement

This Agreement shall constitute the complete and full understanding and sole agreement between ICMA-RC and Employer relating to the object of this Agreement and correctly sets forth the complete rights, duties and obligations of each party to the other as of its date. This Agreement supersedes all written and oral agreements, communications or negotiations among the parties. Any prior agreements, promises, negotiations or representations, verbal or otherwise, not expressly set forth in this Agreement are of no force and effect.

14. Titles

The headings of Sections of this Agreement and the headings for each of the attached schedules are for convenience only and do not define or limit the contents thereof.

15. Incorporation of Schedules

All Schedules (and any subsequent amendments thereto), attached hereto, and referenced herein, are hereby incorporated within this Agreement as if set forth fully herein.

16. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia, applicable to contracts made in that jurisdiction without reference to its conflicts of laws provisions.

In Witness Whereof, the parties hereto certify that they have read and understand this Agreement and all Schedules attached hereto and have caused this Agreement to be executed by their duly authorized officers as of the Inception Date first above written.

CITY OF MARIETTA

By *R. Steve Tomlin, Jr.* 11/14/17  
Signature/Date

By *R. Steve Tomlin, Jr., Mayor*  
Name and Title (Please Print)

INTERNATIONAL CITY MANAGEMENT  
ASSOCIATION RETIREMENT CORPORATION

By *Erica McFarquhar*  
Erica McFarquhar  
Assistant Secretary

Please return an executed copy of the Agreement to a Delivery Address, either:

- (a) Electronically to [PlanAdoptionServices@icmarc.org](mailto:PlanAdoptionServices@icmarc.org), or
- (b) In paper form to ICMA-RC  
ATTN: PLAN ADOPTION SERVICES  
777 North Capitol Street NE  
Suite 600  
Washington DC 20002-4240

**Exhibit A**

**Administrative Services**

The administrative services to be performed by ICMA-RC under this Agreement shall be as follows:

- (a) Participant enrollment services, including providing a welcome package and enrollment kit containing instructions and notices necessary to implement the Plan's administration. Employees will enroll online or through a paper form. ICMA-RC will provide an enrollment link through the general ICMA-RC web site. Employer will also make available the online enrollment link in their Intranet site or via email to new employees. Employer can also enroll employees through EZLink.
- (b) Establishment of participant accounts for each employee participating in the Plan for whom ICMA-RC receives appropriate enrollment instructions. ICMA-RC is not responsible for determining if such Plan participants are eligible under the terms of the Plan.
- (c) Allocation in accordance with participant directions received in good order of individual participant accounts to investment funds offered under the Plan.
- (d) Maintenance of individual accounts for participants reflecting amounts deferred, income, gain or loss credited, and amounts distributed as benefits.
- (e) Maintenance of records for all participants for whom participant accounts have been established. These files shall include enrollment instructions (provided to ICMA-RC through Account Access or EZLink), beneficiary designation instructions and all other and documents concerning each participant's account.
- (f) Provision of periodic reports to the Employer through EZLink. Participants will have access to account information through Investor Services, Voice Response System, Account Access and through quarterly statements that can be delivered electronically through Account Access or by postal service.
- (g) Communication to participants of information regarding their rights and elections under the Plan.
- (h) Making available Investor Services Representatives through a toll-free telephone number from 8:30 a.m. to 9:00 p.m. Eastern Time, Monday through Friday (excluding holidays and days on which the securities markets or ICMA-RC are closed for business (including emergency closings), to assist participants.
- (i) Making available access to ICMA-RC's web site, to allow participants to access certain account information and initiate plan transactions at any

time. Account access is normally available 24 hours a day, seven days a week except during scheduled maintenance periods designed to ensure high-quality performance. The scheduled maintenance window is outlined at <https://harper1.icmarc.org/login.jsp>.

- (j) Maintaining the security and confidentiality of client information through a system of controls including but not limited to, as appropriate: restricting plan and participant information only to those who need it to provide services, software and hardware security, access controls, data back-up and storage procedures, non-disclosure agreements, security incident response procedures, and audit reviews.
- (k) Making available access to ICMA-RC's plan sponsor EZLink web site to allow plan sponsors to access certain plan information and initiate plan transactions such as enrolling participants and managing contributions at any time. EZLink is normally available 24 hours a day, seven days a week except during scheduled maintenance periods designed to ensure high-quality performance. The scheduled maintenance window is outlined at <https://harper1.icmarc.org/login.jsp>
- (l) Distribution of benefits as agent for the Employer in accordance with terms of the Plan. Participants who have separated from service can request distributions through Account Access or via form.
- (m) Upon approval by the Employer that a domestic relations order is an acceptable qualified domestic relations order under the terms of the Plan, ICMA-RC will establish a separate account record for the alternate payee and provide for the investment and distribution of assets held there under.
- (n) Loans may be made available on the terms specified in the Loan Guidelines, if loans are adopted by the Employer. Participants can request loans through Investor Services or Account Access.
- (o) Guided Pathways – Participant Advice and Guidance may be made available through a third party vendor on the terms specified on ICMA-RC's website.
- (p) ICMA-RC will determine appropriate delivery method (electronic and/or print) for plan sponsor/participant communications and education based on a number of factors (audience, effectiveness, etc.).



# City of Marietta

205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30067

## Motion Signature

File Number: 20140671

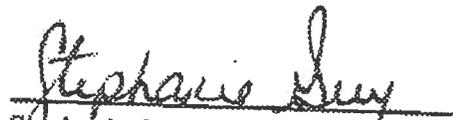
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### Addendum to 457 Deferred Compensation Plans

Motion to approve an addendum to the existing 457 Deferred Compensation Plans to allow participants to take loans from their personal accounts per the terms as set forth herein.

Date 08/13/2014

  
R. Steve Tumlin, Jr., Mayor

  
Stephanie Guy, City Clerk



# Loan Implementation Package for 457/401 Plan Sponsors

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# Introduction and Summary Instructions for 457 and 401 Plan Sponsors

Making a loan program available in your retirement plan will provide eligible plan participants with the ability to borrow money from their accounts. As the administrator of your loan program, ICMA-RC will attempt to minimize the amount of resources you need to devote to the program. However, there are administrative and fiduciary responsibilities associated with offering loans which, as a practical matter, cannot be delegated to ICMA-RC.

Please review all of the information in this packet carefully prior to submitting the applicable forms to implement the loan program in your plan.

The below instructions provide you with easy-to-follow steps to implement a loan program in your ICMA-RC 457 or 401 plan.

- STEP 1:** Review the Loan Guidelines Agreement Instructions carefully prior to returning the required forms to implement your plan's loan program.
- STEP 2:** Complete the *Loan Guidelines Agreement*.
- STEP 3:** Determine whether any formal action is required by your legislative body and/or plan administrative committee to implement a loan program. If formal action is required, you may want to use the suggested resolution in this packet.
- STEP 4:** Complete the following documents (*if applicable*)
- **457 Plan Loan Administration Agreement** — If you have multiple 457 plan providers, you must complete and return this document to ICMA-RC.
  - **Loan Amendment (401 Plans Only)** — If you are amending your existing 401 plan to add loan provisions, you must complete and return this document to ICMA-RC.
- STEP 5:** Return copies of the following documents to ICMA-RC (please be sure to submit all pages and retain the originals for your records):
- *Loan Guidelines Agreement*
  - Loan Amendment to the 401 Plan Adoption Agreement (*if applicable*)
  - 457 Plan Loan Administration Agreement (*if applicable*)
  - Suggested Resolution (*if applicable*)

**FAX TO:**  
Workflow Management Team  
202-682-6439

**OR**

**MAIL TO:**  
ICMA-RC  
ATTN: Workflow Management Team  
P.O. Box 96220  
Washington, DC 20090-6220

- STEP 6:** Please allow 5–7 business days for ICMA-RC to establish your plan's loan program.

*Please retain original copies of any documents you return to ICMA-RC for your records.*

*If you have any questions relating to the adoption process, please contact your Plan Sponsor Services team at 800-326-7272.*

# Loan Guidelines Agreement Instructions

The information in this packet is intended to assist you with implementing a loan program within your ICMA-RC 457 or 401 plan(s). The packet provides an overview of the issues and complexities of establishing and maintaining a loan program under the most common types of retirement plan arrangements. It is not intended to be all inclusive. Special situations and/or solutions not discussed in this document will need to be reviewed on a case-by-case basis.

The instructions contain information that will help you understand the decisions you will need to make when you establish your loan program and help you complete the *Loan Guidelines Agreement*. Please carefully review the information in this section and complete all applicable sections of the *Loan Guidelines Agreement*.

Here are a few of the elections that you will need to make:

- Will loans be available for all purposes or only in hardship situations?
- How many loans will participants be allowed to have outstanding at one time? (up to five)
- How long will participants have to repay a loan used to purchase a new primary residence? (up to 30 years)
- How will participants repay their loans? (payroll deduction, ACH payments from their bank accounts, or both)

In order to offer loans within your retirement plan, the Internal Revenue Code requires that you establish written guidelines that govern the Plan's loan program. You may elect to use the *Loan Guidelines Agreement* to serve this purpose for your Plan.

If you have any questions relating to the process of implementing a loan program, please contact your Plan Sponsor Services team at 800-326-7272.

## Section I: Employer Plan Information

Enter the name of your employer plan. Also specify the plan type and your ICMA-RC plan number.

## Section II: Eligibility & Loan Source

Loans are available to all active employees, except those with an existing loan in default.

**Loan Source** — Use this section to specify the sources that will be available for participant loans.

## Section III: Loan Purpose

Specify whether loans may be taken for (A) all purposes or (B) only in the case of hardship. If you choose the "all purposes" option, more of your employees are likely to request loans than if you select the "hardship only" option.

(A) All Purposes

(B) Hardship Only

**401 Plans:** Under the Code, only employers can authorize a loan for hardship purposes. Generally, for loan purposes, the IRS defines "hardship" situations for these purposes to include, but not to be limited to: unreimbursed medical expenses, buying or rehabilitating the participant's principal residence, and paying for college education for the participant or his/her qualified dependents. Car loan, car repairs, and the purchase or repair of a vacation or rental property would not be included in the hardship definition.

Employers have the ability to make their plan's loan program more restrictive under both of the above options.

## Section IV: Application Process

No action is required in this section. The application process available to participants will vary depending on the option you select in Section III (Loan Purpose).

## Section V: Maximum Number of Loans

Specify whether participants may have only one (1) or up to five (5) loans outstanding at one time. The option you choose in this section will have a significant impact on the number of loans made from your plan. Regardless of your election, a participant may receive a maximum of one (1) loan per calendar year.

**Note:** If you select Payroll Deduction as a repayment option for your participants in Section VIII, *each loan repayment for each pay period must be accounted for separately*. As such, repayments of multiple loans are a much larger burden on your payroll system (and personnel) than a repayment of a single loan.

## Section VI: Loan Amount

No action is required in this section. The Maximum Loan Amount Worksheet includes instructions you can use to calculate the maximum loan amount for a participant. The loan modeling option on ICMA-RC's Account Access website can also be used to calculate a participant's maximum loan amount.

## Section VII: Length of Loan

Loans must be repaid in substantially equal installments of principal and interest over a period that does not exceed five (5) years. However, if the participant will be using the loan to purchase a principal residence, the five (5) year time limit may not apply. In this section of the form, you specify the maximum repayment period for principal residence loans, with 30 years being the maximum term.

In determining the maximum repayment period for residential loans, you should be mindful that the loan term may extend beyond the period the participant is employed by you. If you allow employees to continue to pay their loans after they separate from service (see the Acceleration section), repayments would continue by the participant, through you, for the entire term of the loan (e.g., 30 years). Every payroll period, the participant (former employee) will be required to give you a check for the periodic loan repayment amount. You then include this amount with your next contribution submittal to ICMA-RC. *Loan repayments may not be made directly to ICMA-RC by the participant, unless you choose ACH debit as a repayment option in Section VIII.*

## Section VIII: Loan Repayment Process

Specify the repayment method(s) and repayment frequency your plan will use.

**Repayment Method** — You can allow repayments to be made via payroll deduction and/or ACH payments from a participant's bank account.

- (1) **Payroll Deduction** — With this option, you will include the loan repayment detail when you remit contribution detail to ICMA-RC via the EZLink website.

### *Initiating Payroll Deduction*

Payroll deduction should begin within two payroll cycles following the employee's receipt of the loan. Employees using this method must notify the Employer immediately so that repayments will begin as soon as practicable, on a date determined by the Employer's payroll cycle. Failure to begin payroll deduction in a timely manner could lead to the employee's loan entering delinquency status.

- (2) **ACH** — With this option, participants authorize ICMA-RC to debit loan repayments directly from the participant's bank account via Automated Clearing House (ACH). This feature frees you of the burden of establishing and monitoring loan repayments via payroll deduction.

## ADDITIONAL LOAN REPAYMENTS AND EARLY PAY-OFF

A participant may pay off all or a portion of the principal and interest early without penalty or additional fee. Extra payments are applied forward to both principal and interest as specified in the original repayment schedule, unless the additional payment is for the full balance due. Please note that no payment date may be "skipped" even if the employee has made a large payment or submitted multiple payments.

## Section IX: Loan Interest Rate

No action is required in this section. It simply describes the interest rate that will be used for participant loans.

## Section X: Security/Collateral

No action is required in this section. It simply describes the amount that will be used as collateral for participant loans.

## Section XI: Acceleration

Specify whether participants who have separated from service will be able to continue loan repayments until they have withdrawn their entire account balance from the plan, or if outstanding loans will be due and payable at the time participants separate from service.

You should consider the options in this section carefully, since your election will impact when outstanding loans become taxable to participants. If a participant does not repay the outstanding loan amount at the time it is due, the loan is "foreclosed," and the outstanding loan amount must be reported by ICMA-RC as a taxable distribution in the year of the foreclosure.

Given the burdens associated with collecting loan repayments from former employees, you may not wish to maintain a potentially long term "relationship" with former employees (especially in the case of residential loans).

## Section XII: Reamortization

No action is required in this section. It simply provides information related to the reamortization of participant loans.

## Section XIII: Refinance

No action is required in this section. It simply provides information related to the refinancing of participant loans.

## Section XIV: Reduction of Loan

No action is required in this section. It simply describes how outstanding loans will be handled in the event of a participant's death.

## Section XV: Deemed Distributions

No action is required in this section. However you should familiarize yourself with this information and note that loan repayments must be made in accordance with the plan document, plan loan guidelines, and as reflected in the promissory note signed by the participant. Failure to make loan repayments according to the loan terms will result in the outstanding loan balance being deemed distributed and taxable to the participant.

### TIMING

A loan will be deemed distributed when a scheduled payment is still unpaid at the end of the calendar quarter following the calendar quarter in which the payment was due. For example, if a participant does not make a loan payment that was scheduled to be made on February 1, the maximum cure period for the repayment is June 30. If the total amount of all delinquent payments is not received by the end of the cure period, the loan is deemed distributed.

### CONSEQUENCES OF DEEMED DISTRIBUTED LOANS (EMPLOYERS)

Employers who do not ensure proper loan repayment practices in their retirement loan programs risk not only having individual participant loans being deemed distributed, but also potentially jeopardize the tax-favored status of the entire plan. In the extreme, plans with mismanaged loan programs — a high occurrence of deemed distributed loans, and/or program participants in default, for example — may be disqualified (in the case of 401 plans) or classified as ineligible (for 457 plans) by the IRS. Disqualification results in the loss of tax-deferred status for all contributions and a possible increase in the taxable income for participating employees.

It is a plan sponsor's fiduciary obligation to properly manage the retirement plan and its benefits. Mismanagement of a loan program may be considered failure to meet this fiduciary obligation and may expose a plan sponsor to litigation, in addition to being in violation of applicable laws and regulations.

Employers, as plan sponsors and fiduciaries, have an obligation to comply with plan document and loan guideline requirements applicable to participant loans. In this regard, loan payments must be made in accordance with the plan document, plan loan guidelines, and as reflected in the promissory note signed by the participant. Employers retain this obligation if there is a loan program

associated with their retirement plan, regardless of the provisions governing the loan program.

### CONSEQUENCES OF DEEMED DISTRIBUTED LOANS (PARTICIPANTS)

The principal balance, in addition to any accrued interest, is reported as a distribution to the IRS. However, the taxable distribution is not the only event in conjunction with a deemed distribution. The following negative consequences occur as a result of deemed distribution.

- The deemed distribution is a taxable event. However, it is not an actual distribution and therefore remains an asset of the participant's account. The outstanding loan balance and accrued interest continue to be reported on the participant's account statements.
- Repayment of a deemed distribution will not change or reverse the taxable event.
- The loan continues to be considered outstanding until it is repaid or "offset" using the participant's account balance. An offset can occur only if the participant is eligible to receive a distribution from the plan as outlined in your plan document.
- Participants are required to repay any outstanding deemed distributed loan before they can become eligible for a new loan. The deemed distributed loan and any interest accrued since the date it became a taxable event is taken into account when determining the maximum amount available for a new loan.
- A participant who has had a prior deemed distribution must make repayments to a new loan through payroll deduction, or provide proof of adequate security.

## Section XVI: Fees

No action is required in this section. It simply provides that fees may be charged for various services associated with the application for and issuance of loans. Participants should review the Annual Service and Fee Disclosure notice(s) for your plan for more information on the applicable fees.

## Section XVII: Signatures

Please have an authorized plan representative sign and date this section of the agreement.

## SPECIAL CIRCUMSTANCES

### Emergency Withdrawals (457 Plans Only)

457 Plans: Loans must be coordinated with unforeseeable emergency withdrawals. The emergency withdrawal

regulations under Section 457 of the Code require that an emergency withdrawal be a resource of the “last resort.” If the participant is able to take a loan or refinance a current loan from your ICMA-RC 457 plan or any other plan you sponsor, the participant has resources available to meet, or partially meet, the financial need. Therefore, a participant will be required to take or refinance a loan before taking an emergency withdrawal.

Many emergency withdrawals are not approved because the financial need, while serious, may not meet the conditions itemized in the 457 regulations. The ability to take a loan allows participants to have access to money that is not otherwise available. And the repayment process for loans ensures that participants replenish their accounts, thereby preserving their retirement savings.

### **Qualified Joint and Survivor Annuity (Applies to Some 401 Plans Only)**

If your plan uses the Qualified Joint and Survivor Annuity as the default form of payment, married participants must obtain spousal consent prior to obtaining a loan. The employee’s spouse must consent, in writing, to the loan and the consent must be witnessed by a plan representative or notary public. Such consent must be received in writing by ICMA-RC no more than ninety (90) days before the loan request is submitted through Account Access. In the case of the Direct Loan Application, spousal consent should be sent along with the application.

*Please be advised, that some states recognize a status, such as a civil union or registered domestic partnership, to carry the same rights and obligations as marriage under state law.*

### **Multiple Plans/Providers**

If you have more than one retirement plan which offers loans, including “co-administered” or “co-provider” plans, ICMA-RC will administer your loan program in your plan(s) with ICMA-RC, but you will have to perform some loan verification activities. You will need to perform these activities if loans are available to your employees from several like retirement plans, such as two separate qualified plans, or if you have different types of retirement plans (e.g. Section 457 deferred compensation and section 401 qualified plan). The degree of your involvement will depend on your situation.

#### **1. MULTIPLE PLANS**

The Code sets a maximum on the aggregate of all loans from all retirement plans in which the employee participates. If you offer retirement plans through multiple plan providers, no provider will be able to calculate, by

itself, the maximum amount that a participant may borrow at any point in time. Since only you, the employer, can determine the current outstanding loan balance and the highest outstanding loan balance in the past 12 months from all loans from any retirement plans, you will have to calculate the maximum amount that may be borrowed. This will involve obtaining all loan amounts currently outstanding and repaid in the last 12 months. Please refer to the Maximum Loan Amount Worksheet for instructions you can use to calculate the maximum loan amount for a participant.

If you elect online loans, participants are asked to input all outstanding loan balances in their online worksheet so that the program can properly calculate the maximum amount. Participants are on the “honor system” when they enter other loan amounts; ICMA-RC is unable to verify any loan amounts associated with plans administered by other providers. However, if there are any outstanding loans in other plans administered by ICMA-RC, our online program will take them into account.

#### **2. SINGLE RETIREMENT PLAN/MULTIPLE PROVIDERS**

If you have adopted a single retirement plan with one master plan document under which ICMA-RC and your other administrator(s) must operate, then you may ultimately have to self-administer your loan program, unless you require:

- that the maximum that may be borrowed from any provider is 50 percent of the balance with that provider and
- that the loan must be repaid only to the provider from which the loan was made.

#### **3. MULTIPLE TYPES OF RETIREMENT PLANS/MULTIPLE PROVIDERS**

If you make loans available to your employees from all of your retirement plans (e.g. Section 457 deferred compensation plan and Section 401 qualified plan), no administrator will be able to calculate, by itself, the maximum amount that a participant may borrow at any point in time. This is because the Code sets a maximum on the aggregate of all loans from all 401 and 457 plans in which the participant participates. Since only you, the employer, can determine the current outstanding loan balance and the highest outstanding loan balance in the past 12 months from all loans from any 401 or 457 plans, you will have to calculate the maximum amount that may be borrowed. This will involve obtaining all loan amounts currently outstanding and repaid in the last 12 months. Please refer to the Maximum Loan Amount Worksheet for instructions you can use to calculate the maximum loan amount for a participant.



# LOAN GUIDELINES AGREEMENT

The purpose of this agreement is to establish the terms and conditions under which the Employer will grant loans to participants. You should consider each option carefully before making your selections because your selections will apply to all loans made while the selection is in effect. If you later change any provision, the changes will apply only to loans made after the change is adopted. Loans in existence at the time of any future changes will continue to operate under the guidelines that were in effect at the time the loan was originally made.

*Please read the instructions and carefully complete all sections of this agreement.*

- New Loan Program       Amendment to Loan Program

## I. EMPLOYER PLAN INFORMATION

Name of Plan (Enter the complete Employer name, including state): City of Marietta

Plan Type:     457 Deferred Compensation Plan     401(a) Money Purchase Plan     401 Profit-Sharing Plan

ICMA-RC Plan Number: 302900

## II. ELIGIBILITY & LOAN SOURCE

Loans are available to all active employees, except those with an existing loan in default.

**401 Plans** — If your 401 plan is funded by a combination of Employer and Employee contributions, you must specify whether one or both of the following can be used as a source for participant loans. (Select one or both options below)

- Employer Contribution Account (vested balances only)  
 Participant Contribution Accounts (pre- and post-tax, if applicable, including Employee Mandatory, Employee Voluntary, Employer Rollover, and Portable Benefits Accounts, but excluding the Deductible Employee Contributions/Qualified Voluntary Employee Contribution Accounts)

**Roth Assets** (if applicable) — If your 457 or 401(k) plan allows Roth contributions, a participant's Designated Roth Account balance will be included when calculating the amount a participant is eligible to borrow. However, you must specify whether or not a participant's Designated Roth Account can be used as a source for participant loans. (Select one option below)

- A participant's Designated Roth Account will not be available as a source for loans under the plan (default option)  
 A participant's Designated Roth Account will be available as a source for loans under the Plan.

*Note: If Roth assets are available as a source for loans, a loan that is deemed distributed will not satisfy the requirements for a qualified (tax-free) distribution of Roth assets. This may result in participants paying taxes on assets that would otherwise be available tax-free.*

## III. LOAN PURPOSE

Loans are available for the following purposes and must be requested in the corresponding method (select one):

- All Purposes** — With this option, participants can request a loan for any reason. Participants will be able to request new loans or refinance existing loans using the Online Loans option.  
 **Hardship Only** — With this option, loans shall only be granted in the event of a participant's hardship or for the purpose of enabling a participant to meet certain specified financial situations. Participants will need to complete the loan application form for your plan and obtain your approval (Online Loans is not available).

The employer shall approve the participant's loan application after determining, based on all relevant facts and circumstances that the amount of the loan is not in excess of the amount required to relieve the financial need, as defined by the employer. For this purpose, financial need shall include, but not be limited to: unreimbursed medical expenses of the participant or members of the participant's immediate family, establishing or substantially rehabilitating the principal residence of the participant, or paying for a college education (including graduate studies) for the participant or his/her dependents.

# LOAN GUIDELINES AGREEMENT

## IV. APPLICATION PROCESS

The loan application process will vary depending on the option you selected in Section III above (Loan Purpose).

### (A) ALL PURPOSES

- **Online Loans** — Participants can request a new loan or to refinance an existing loan using the ICMA-RC website at [www.icmarc.org](http://www.icmarc.org) (*Online Loans*).
- **Direct Check Issuance** — ICMA-RC sends loan documents with the loan check to the participant. When the participant endorses the check, that endorsement signifies acceptance of loan terms.

### (B) HARDSHIP ONLY

- **Paper Application** — A loan application must be completed, signed by the participant and approved by you, the employer.
- **Check Issuance** — Upon receipt of an approved loan application, ICMA-RC will prepare the required loan documents (i.e., the promissory note and loan disclosure statement), and send them to the employer with the loan check.
  - The loan check may not be given to the participant until the loan documents have been signed by the participant. Because the promissory note is considered a plan asset, all loan documents must be completed and preserved for at least the life of the loan. The employer should retain the original loan documents and send copies of all documents to ICMA-RC

The loan amount will generally be redeemed from the employee's account on the same day as either ICMA-RC receipt of a loan request/application (complete and in good order), if it is submitted prior to 4:00 p.m. ET on a business day. If not, the loan amount will be redeemed on the next business day following submission. The loan check for an all purpose loan is generally issued on the next business day following redemption, and will be mailed directly to the employee. The loan check for a hardship loan will be sent to the employer. The employee's presentment of the loan check for payment constitutes an acknowledgment that the employee has received and read the loan disclosure information provided by ICMA-RC and agrees to the terms therein.

## V. MAXIMUM NUMBER OF LOANS (SELECT ONE)

Participants may receive one loan per calendar year. Please specify whether participants may have only one (1) or up to five (5) loans outstanding at one time.

- One (1). Participants may have only one (1) outstanding loan at a time.
- Five (5). Participants may have up to five (5) loans outstanding at one time.
- Other. Participants may have up to \_\_\_\_\_ (enter 2, 3, or 4) loans outstanding at one time.

## VI. LOAN AMOUNT

**Maximum:** The maximum amount of all loans to a participant from the Plan *and all other plans of the Employer* that are either eligible deferred compensation plans described in section 457(b) of the Code or qualified employer plans under Section 72(p)(4) of the Code (e.g., 401(a) plans) shall not exceed *the lesser of:*

- (1) \$50,000, or
- (2) One-half of the value of the Participant's interest in all of his or her Accounts under this Plan.

When calculating the maximum amount a participant is eligible to borrow from his/her account, the lesser value of (1) or (2) above must be reduced by the participant's highest outstanding loan balance over the past 12 months.

**Minimum:** The minimum loan amount is \$1,000.

A loan cannot be issued for more than the maximum amount. The participant's requested loan amount is subject to downward adjustment without notice due to market fluctuation between the time of application and the time the loan is issued.

Loan amounts will be taken pro-rata from all of a participant's investments.

# LOAN GUIDELINES AGREEMENT

## VII. LENGTH OF LOAN

Loans must be repaid in substantially equal installments of principal and interest over a period that does not exceed five (5) years.

### Principal Residence Loans

If the participant will be using the loan to purchase a principal residence, the five (5) year time limit may not apply. Participants can repay a principal residence loan over a period of up to 30 years. Please specify the maximum repayment period for principal residence loans from your plan below.

Maximum repayment period for principal residence loans = 30 (Enter a number of years, up to 30)

## VIII. LOAN REPAYMENT PROCESS

Specify the repayment method(s) and repayment frequency your plan will use. Note that loan amounts plus interest, minus applicable fees paid to ICMA-RC, are repaid to participant accounts and not to ICMA-RC. You can allow repayments to be made via payroll deduction and/or ACH payments from a participant's bank account. Loan repayments must be made at least monthly (457) or quarterly (401).

### Repayment Method (Select One)

- Payroll deduction only.
- ACH debit only.\*
- Employee may choose either payroll deduction or ACH debit.\*

*\*ACH Payments Rejected Fee — If a loan repayment scheduled to be paid via ACH debit is rejected due to insufficient funds, invalid bank account information, or account closure, a fee will be charged to the participant's account. The fee is \$20 for the first occurrence and \$50 for each subsequent occurrence.*

### Repayment Frequency (Select One)

Repayments through payroll deduction will be sent via check or wire by the Employer to ICMA-RC on the following cycle (choose one):

- Weekly (52 per year)
- Bi-weekly (26 per year)
- Semi-monthly (24 per year)
- Monthly (12 per year)

### Initiating Repayments:

- ACH debits from the employee's designated bank account will begin approximately one month following the date the employee's signed ACH authorization form is received and processed by ICMA-RC, or, in the case of online loans, approximately one month following the date the loan check has been cleared for payment. Debits will normally be made on a monthly basis.
- Payroll deduction should begin within two payroll cycles following the employee's receipt of the loan. Employees using this method must notify the Employer immediately so that repayments will begin as soon as practicable, on a date determined by the Employer's payroll cycle. Failure to begin payroll deduction in a timely manner could lead to the employee's loan entering delinquency status.

### Investment of Loan Repayments

All loan repayments are invested according to the instructions the participant has on file for the investment of contributions to his/her account.

### Additional Loan Repayments and Early Pay-Off

A participant may pay off all or a portion of the principal and interest early without penalty or additional fee. Extra payments are applied forward to both principal and interest as specified in the original repayment schedule, unless the additional payment is for the full balance due. Please note that no payment date may be "skipped" even if the employee has made a large payment or submitted multiple payments.

# LOAN GUIDELINES AGREEMENT

## VIII. LOAN REPAYMENT PROCESS *(continued)*

### Loans in Default

Participants using the ACH repayment option may default on their loans for lack of repayment more frequently than those using the payroll deduction method. For this reason, you may choose to require that certain participants use the payroll deduction repayment method.

### Multiple Loans

If a participant has multiple loans outstanding from the plan, each loan repayment must be separately reported to ICMA-RC.

### Former Employees and Leave of Absence

Former employees and employees on a leave of absence must repay their loans on the same schedule that would have applied had they continued employment.

Your plan may allow terminated employees to continue to repay their loans either through ACH, or by giving/sending you a check each repayment period (see the Acceleration section). If you allow terminated employees to repay loans by giving/sending you a check, you will include the repayment amounts in your next regular employee contribution remittance to ICMA-RC.

In certain situations, employers may suspend loan repayments for a period of time for employees on a leave of absence or military leave. Please refer to Treasury Regulation section 1.72(p)-1, Q&A-9 for more information.

### Repayments Must Continue

In implementing a loan program you should be aware that some employers have had to contend with the inability of some participants to repay their loan(s). You should be aware that you may not stop taking loan repayments from the employee's paycheck — even if the employee asks that repayments be stopped. Failure to payroll-deduct loan repayments on schedule could both jeopardize the eligibility or qualification of the entire plan as well as create a taxable event for the participant. Likewise, if an employee is repaying the loan through ACH debit of his/her bank account, and the employee fails to make payments, this could jeopardize the eligibility of your retirement plan. Employers are ultimately responsible for ensuring that loans are repaid according to the loan terms.

ICMA-RC will notify both you and the employee if a payment has not been received.

## IX. LOAN INTEREST RATE

The loan interest rates are set for non-residential loans at the prime rate plus 0.5%, and for principal residence loans at the FHA/VA rate. The interest rate for new loans fluctuates from month-to-month. The rates for the following month are determined on the last business day of the month using [www.moneycafe.com/library/primerate.htm](http://www.moneycafe.com/library/primerate.htm) (prime rate) and [www.citimortgage.com](http://www.citimortgage.com) (principal residence rate).

When a new loan is approved, the interest rate is locked in and remains constant throughout the life of the loan.

## X. SECURITY/COLLATERAL

At the time a loan is taken, 50 percent of the participant's account balance or the amount of the loan, whichever is less, will be used as collateral for the loan.

## XI. ACCELERATION *(Select One)*

Please specify whether participants who have separated from service will be able to continue loan repayments until they have withdrawn their entire account balance from the plan, or if outstanding loans will be due and payable at the time the participant separates from service.

All outstanding loans shall be due and payable by a participant upon:

- Separation from service. All loan repayments must stop following an employee separating from service.
- Distribution of his/her entire account balance. Employees can continue making loan repayments until they have withdrawn their entire account balance.

Outstanding loan balances that are not repaid will be reported as distributions to the participant. See the Deemed Distributions section for additional information.

# LOAN GUIDELINES AGREEMENT

## XII. REAMORTIZATION

Reamortization changes the terms of an outstanding loan (e.g., repayment period, interest rate, frequency of repayments). Any outstanding loan may be reamortized.

Reamortization cannot extend the repayment period beyond five (5) years from the date the loan was originally issued. Or, in the case of Principal Residence Loans, beyond [the number of years specified in Section VII] years from the date the loan was originally issued.

Participants can use a loan amortization form to request that an outstanding loan be reamortized. Upon processing the request, a new disclosure statement will be sent to the employer for endorsement by the participant and approval by the employer. The executed disclosure statement must be returned to the plan administrator within 10 calendar days from the date it is signed. The new disclosure statement is considered an amendment to the original promissory note; therefore a new promissory note will not be required.

*Note: A loan reamortization will not be considered a new loan for purposes of calculating the number of loans outstanding or the one loan per calendar year limits.*

## XIII. REFINANCE

Refinancing involves a new loan replacing an employee's outstanding loan. The refinanced loan must be repaid over a period that does not exceed five (5) years from the date when the original loan was issued.

Actively employed participants with one (1) outstanding loan may elect to refinance the outstanding loan for an additional amount, subject to the loan amount limitations outlined in Section VI, provided that the participant has not yet taken out a loan during the calendar year. Participants with multiple outstanding loans, and those who are no longer employed, are not eligible to refinance an existing loan.

*Note: Principal residence loans are not eligible for refinance.*

## XIV. REDUCTION OF LOAN

If a participant dies prior to full repayment of the outstanding loan(s), the outstanding loan balance(s) will be deducted from the account prior to distribution to the beneficiary(ies). The unpaid loan amount is a taxable distribution and may be subject to early withdrawal penalties. The participant's estate is responsible for taxes and penalties on the unpaid loan amount, if any. A beneficiary is responsible for taxes due on the amount he or she receives. A Form 1099 will be issued to both the beneficiary and the estate for tax reporting purposes.

## XV. DEEMED DISTRIBUTIONS

A loan will be deemed distributed when a scheduled payment is still unpaid at the end of the calendar quarter following the calendar quarter in which the payment was due. When a loan is deemed distributed, the principal balance and any accrued interest is reported to the IRS as a taxable distribution. However, since the participant received the loan amount previously, no money is actually paid to the participant as part of a deemed distribution.

The loan is deemed distributed for tax purposes, but it is not an actual distribution and therefore remains an asset of the participant's account. Interest continues to accrue. The outstanding loan balance and accrued interest are reported on the participant's account statements.

Repayment of a deemed distribution will not change or reverse the taxable event.

The loan continues to be outstanding, and to accrue interest, until it is repaid or offset using the participant's account balance. An offset can occur only if the participant is eligible to receive a distribution from the plan as outlined in the plan document. Participants are required to repay any outstanding loan which has been deemed distributed before they can be eligible for a new loan. The deemed distribution and any interest accrued since the date it became a taxable event is taken into account when determining the maximum amount available for a new loan. New loans must be repaid through payroll deduction.

*Important Note: The employer is obligated by federal regulation to comply with the loan guideline requirements applicable to participants loans, and to ensure against deemed distribution by monitoring loan repayments, regardless of the method of repayments, and by advising employees if loans are in danger of being deemed distributed. The tax-qualified status or eligibility of the entire plan may be revoked in cases of frequent repayments delinquency or deemed distribution.*

To assist plan sponsors whose plan options include loans, ICMA-RC will provide reports of participants with payments delinquent by 30 to 89 days, 90 or more days but not yet deemed, and those whose loans have been deemed distributed. ICMA-RC is committed to supporting employers who request assistance with their loan programs in order to reduce the number of delinquent loans and decrease the occurrence of deemed distributions.

# LOAN GUIDELINES AGREEMENT

## XVI. FEES

Fees may be charged for various services associated with the application for and issuance of loans. All applicable fees will be debited from the participant's account balance and/or from the participant's loan repayments prior to crediting the repayment of principal and interest to the participant's account.

## XVII. SIGNATURES

The Employer has the right to set other terms and conditions as it deems necessary for loans from the plan in order to comply with any legal requirements. Employer certifies that all terms and conditions will be administered in a uniform and non-discriminatory manner.

In Witness Whereof, the employer hereby caused these Guidelines to be executed

this 9<sup>th</sup> day of July, 2015.  
Day of the Month Month Year

### EMPLOYER

By: \_\_\_\_\_

Title: \_\_\_\_\_

Attest: \_\_\_\_\_



# Maximum Loan Amount Worksheet

The maximum amount a participant can borrow from his or her account is \$50,000 or 50% of the account balance, whichever is less. However, the amount must be reduced by a participant's highest outstanding loan balance over the past 12 months (which, obviously, only impacts participants who have previously taken a loan from a 457 or qualified 401 plan). The minimum amount a participant can borrow is \$1,000.

## EXAMPLE 1

Michael has never taken a loan from his account before and his 457 plan account balance at the close of business yesterday was \$84,000. To calculate the maximum loan amount he is eligible to receive, we need to determine if 50% of his account balance ( $\$84,000 \times 50\% = \$42,000$ ) is greater than or less than \$50,000. In this case, 50% of his account balance is less than \$50,000, so the maximum loan amount Michael is eligible to receive is \$42,000.

## EXAMPLE 2

Kathy has never taken a loan from her account before and her 401 plan account balance at the close of business yesterday was \$240,000. In this case, 50% of Kathy's balance ( $\$240,000 \times 50\% = \$120,000$ ) is greater than \$50,000, so the maximum loan amount Kathy is eligible to receive is \$50,000 (the lesser of the two amounts).

## EXAMPLE 3

Pam took a \$15,000 loan from her account eight months ago (in the previous calendar year) and her 457 plan account balance at the close of business yesterday was \$130,000. In this case, 50% of Pam's balance ( $\$130,000 \times 50\% = \$65,000$ ) is greater than \$50,000, but that amount must also be reduced by her highest outstanding loan balance over the past 12 months, so the maximum loan amount Pam is eligible to receive is \$35,000. ( $\$50,000 - \$15,000 = \$35,000$ )

### MAXIMUM LOAN AMOUNT WORKSHEET

Worksheet Template	Example (using numbers from Example 3 above)	
1) Enter 50% of the participant's total plan account balance.	1) \$ _____	1) \$65,000
2) Enter the answer to #1 or \$50,000, whichever is less.	2) \$ _____	2) \$50,000
3) Enter the participant's highest outstanding loan balance over the past 12 months (from all of your plans combined), if applicable.	3) - \$ _____	3) - \$15,000
4) Subtract #3 from #2 and you have the maximum amount the participant is eligible to receive as a new loan.	4) \$ _____ (maximum loan amount)	4) \$35,000



# SUGGESTED RESOLUTION FOR A LEGISLATIVE BODY RELATING TO AMENDING A RETIREMENT PLAN TO PERMIT LOANS

401 Money Purchase Plan # 10 \_\_\_\_\_  
401 Profit-Sharing Plan # 10 \_\_\_\_\_  
457 Deferred Compensation Plan # 30 2900

Name of Employer: City of Marietta State: GA

Resolution of the above named Employer ("Employer")

WHEREAS, the Employer has employees rendering valuable services; and

WHEREAS, the Employer has established a retirement plan (the "Plan") for such employees which serves the interest of the Employer by enabling it to provide reasonable retirement security for its employees, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel; and

WHEREAS, the Employer has determined that permitting participants in the retirement plan to take loans from the Plan will serve these objectives;

NOW THEREFORE BE IT RESOLVED that the Plan will permit loans.

I, Stephanie Guy, Clerk of the (City, County, etc.) of Marietta, do hereby certify that the foregoing <sup>motion</sup> ~~resolution~~, proposed by (Council Member, Trustee, etc.) Personnel Committee, was duly passed and adopted in the (Council, Board, etc.) of the (City, County, etc.) of Marietta at a regular meeting thereof assembled this August -day-of- 13, 2014, by the following vote:

AYES: 7  
NAYS: 0  
ABSENT: 0

Stephanie Guy  
Clerk of the (CITY, COUNTY, etc.)



Mail or fax copies of all completed documents to ICMA-RC.

Fax to: **OR**  
Workflow Management Team  
202-682-6439

Mail to:  
ICMA-RC  
ATTN: Workflow Management Team  
P.O. Box 96220  
Washington, DC 20090-6220



# 457 PLAN LOAN ADMINISTRATION AGREEMENT

This Agreement is not required if you have 1) only one 457 plan provider or 2) more than one plan provider each with its own plan document and provisions unique to each provider. The Agreement only applies if you have adopted a single 457 plan document under which ICMA-RC and one or more other provider(s) must operate. Please refer to the Multiple Plans/Providers section of the Loan Guidelines Agreement Instructions for more details.

This Agreement shall serve as an Addendum to the Loan Guidelines established by the Employer identified below and as an Addendum to the Administrative Services Agreement (ASA) made by and between the ICMA Retirement Corporation (ICMA-RC) and the Employer.

The Employer currently sponsors a section 457 deferred compensation plan administered by two or more providers (co-provider plan). In order to ensure the efficient administration of the loan program established by the Employer, the Employer hereby agrees and declares that

- (1) For purposes of issuing loans from the plan, that portion of the plan's assets administered by ICMA-RC will be treated as though it were a separate and distinct plan.
- (2) The Employer shall calculate the amount a participant may borrow from the ICMA-RC administered portion of the plan. No loan amount may exceed the lesser of (a) the maximum loan amount specified in Internal Revenue Code section 72(p)(2)(A) or (b) 50% of the participant's ICMA-RC-administered account balance.
- (3) All loan repayments must be made to the participant's ICMA-RC-administered account for the life of the loan.

AGREED as of the 9th day of July, 2015:

Name of Employer: City of Marietta

State: GA

Employer Plan Number: 30 2900

Authorized Official (Print Name): William F. Burton Jr.

Signature of Authorized Official: 

Mail or fax copies of all completed documents to ICMA-RC.

Fax to:  
Workflow Management Team  
202-682-6439

OR

Mail to:  
ICMA-RC  
ATTN: Workflow Management Team  
P.O. Box 96220  
Washington, DC 20090-6220

# City of Marietta



205 Lawrence Street  
Post Office Box 609  
Marietta, Georgia 30061

## Motion Signature

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**File Number:** 20150664

### City/BLW Deferred Compensation Plans

Motion approving updated agreements for City/BLW deferred compensation plans with addition of Roth contribution option.

**Date** August 12, 2015

A handwritten signature in cursive that reads "R. Steve Tumlin, Jr." written over a horizontal line.

R. Steve Tumlin, Jr., Mayor

A handwritten signature in cursive that reads "Stephanie Guy" written over a horizontal line.

Stephanie Guy, City Clerk



August 12, 2015

Attn: City of Marietta

**RE: ICMA Retirement Corporation  
Vantagepoint Payroll Deduct IRA Program**

Dear Davy Godfrey

This letter agreement will serve to amend the existing Administrative Services Agreement (“Agreement”) between the Employer and ICMA Retirement Corporation (“ICMA-RC”) to address Individual Retirement Accounts (“IRAs”) for Employer’s employees (“IRA accountholders”).

The existing Agreement between Employer and ICMA-RC is hereby amended as follows:

1. Employer desires to allow IRAs for its employees to be administered by ICMA-RC. Employer agrees to send checks or wire the assets to ICMA-RC representing contributions for IRA Accountholders. The details of the submission of IRA contributions shall be as mutually agreed between Employer and ICMA-RC, but in general shall be as set forth in the IRA program materials developed by ICMA-RC and provided to Employer.
2. Absent an explicit provision to the contrary, account fees and expenses payable by IRA Accountholders shall be as set forth in the IRA program materials.
3. Each IRA Accountholder will receive a consolidated quarterly statement providing information for any deferred compensation plan, qualified plan or IRA maintained by each IRA Accountholder and administered by ICMA-RC.
4. ICMA-RC will provide tax withholding and reporting for each IRA account administered by ICMA-RC.
5. Unless ICMA-RC and Employer agree otherwise, the details of ICMA-RC’s administration of the IRA program, as well as other features of the IRA program, shall be as set forth in ICMA-RC’s IRA program materials. The most current IRA program materials are hereby incorporated by reference and made a part of this Agreement, except that Employer and ICMA-RC may, from time to time, mutually agree in writing to terms that vary from the IRA program materials.

AC: 22351-1014-7467



6. To help ensure confidentiality of IRA Accountholder information, ICMA-RC will provide Employers with only such account information as is necessary to reconcile Employer's payroll deduction submittals.
7. It is agreed that ICMA-RC will not be responsible for ensuring that annual IRA contributions by each IRA Accountholder are within applicable annual contribution limits, and it will be solely the responsibility of the IRA Accountholder to adhere to applicable contribution limits and other IRS requirements applicable to IRAs.
8. It is understood that the year in which the payroll deduction occurs shall constitute the tax year in which the contribution is considered to be made to the IRA Accountholder's IRA.

If Employer finds these terms agreeable, please so indicate by having the appropriate person sign and date this letter agreement in the space indicated below.

Very truly yours,

Erica McFarquhar  
Assistant Corporate Secretary  
ICMA-RC

Agreed: \_\_\_\_\_

Signature of Authorized Official

Date: 08/12/2015

AC: 22351-0000-0000

STATEMENT OF INTENT: PLAN ADMINISTRATION – ROTH PROVISIONS

Plan Number: 30 2900

Name of Employer: City of Marietta State: GA

I. Employer Instructions Regarding Plan Administration

The employer instructs ICMA-RC to administer the Plan in accordance with the below elections as of the effective date specified in Section III below.

II. Roth Provisions

a. The Plan will offer Designated Roth Accounts as described in Article X.

Yes (default option)  No

[Note: If you want to offer In-Plan Roth Conversions and/or Roth Elective Deferrals, you must check "Yes" above. If No is selected, skip the remainder of this section.]

b. The Plan will allow In-Plan Roth Conversions as provided in Section 10.05.

Yes (default option)  No

c. Designated Roth Accounts will be available as a source for loans under the Plan (only applicable to plans that offer loans):

Yes  No or N/A (default option)

III. Effective Date

This statement of intent shall be effective as of the following date: 10, 26, 2015  
Month Day Year

IV. Employer Signature

NAME OF OFFICIAL PLAN COORDINATOR (PLEASE PRINT): William F. Bruton, Jr.

SIGNATURE: 

TITLE: City Manager

TELEPHONE NUMBER: 770-794-5504

DATE: 10-26-2015

EMAIL ADDRESS: bbruton@mariettaga.gov

A copy of the completed statement of intent should be returned to ICMA-RC (retain the original for your records):

**Fax to:**  
202-962-4601  
ATTN: NBS Analyst

OR

**Mail to:**  
ICMA-RC  
ATTN: NBS Analyst  
777 North Capitol Street, NE  
Washington, DC 20002-4240