

SMUD 401(k) SAVINGS PLAN

**Amended and Restated
Effective December 31, 2019**

SMUD 401(k) SAVINGS PLAN

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SMUD 401(k) SAVINGS PLAN

Sacramento Municipal Utility District (SMUD) hereby amends and restates the SMUD 401(k) Savings Plan (Plan), effective as of December 31, 2019, except as otherwise indicated, for the exclusive benefit of its eligible employees and their beneficiaries.

RECITALS

Whereas:

- A. SMUD is a rural cooperative as defined in section 401(k)(7)(b) of the Internal Revenue Code of 1986, as amended (Code).
- B. Effective as of December 28, 1992, SMUD established a deferred compensation plan that is an income tax qualified plan, under which its eligible employees may defer a portion of their compensation pursuant to a cash or deferred arrangement under Code section 401(k).
- C. On or about June 21, 2002, the Plan was amended to reflect certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA).
- D. Effective as of January 1, 2003, SMUD adopted an amendment and restatement of the Plan to (i) remove the one thousand (1,000) hour eligibility requirement for limited Employees, (ii) revise the hardship provisions under the Plan, and (iii) consolidate and clarify the various definitions of compensation under the Plan.
- E. On December 29, 2003, SMUD amended the Plan to adopt the model plan amendment under Internal Revenue Code (Code) section 401(a)(9) published by the Internal Revenue Service in Rev. Proc 2002-29.
- F. On May 3, 2004, SMUD amended the Plan to clarify that Participants may transfer funds from the Plan to buy back permissive service credit from CalPERS or another authorized reciprocal retirement system using both actual service credit and nonqualified service credit as defined in Code section 415(n).
- G. On December 28, 2006, SMUD amended the Plan to permit SMUD to make matching and direct contributions on behalf of all eligible Employees who are Unit 2 Employees, who, as of December 31, 2005, had permanent Civil Service Status.

- H. On May 8, 2007, SMUD amended the Plan to provide for salary deferrals under Code section 402A, which was adopted pursuant to section 617(a) of EGTRRA, which contributions are commonly referred to as Roth 401(k) contributions.
- I. Effective as of January 1, 2008, SMUD amended and restated the Plan to conform to the changes in the law including (i) the provisions of the Pension Protection Act of 2006, (ii) the final Treasury regulations under Code section 415 published on April 5, 2007, and (iii) the provisions of the Heroes Earnings Assistance and Relief Tax Act of 2008.
- J. The Internal Revenue Service issued a favorable determination letter with respect to the Plan's tax qualified status on January 9, 2013.
- K. Effective as of January 1, 2008, SMUD adopted certain technical amendments to the provisions of the Plan as requested by the Internal Revenue Service in connection with the Plan's application for a favorable determination letter on the Plan's tax qualified status upon restatement.
- L. On December 31, 2012, SMUD amended the Plan to (i) comply with the applicable provisions of the California Public Employees' Pension Reform Act of 2013, (ii) provide for the cashout of accounts of less than five thousand dollars (\$5,000); and (iii) comply with the applicable provisions of the Worker, Retiree, and Employer Recovery Act of 2008.
- M. Effective April 15, 2013, SMUD amended the Plan to (i) limit the number of loans a Participant may obtain during a Plan Year, (ii) replace the Wall Street Journal prime interest rate with the Reuters prime interest rate, (iii) allow participants to defer a dollar amount or a percentage of compensation; and (iv) expand the forms of distributions under the Plan.
- N. On September 30, 2013, SMUD amended and restated the Plan to (i) incorporate the amendments adopted since the most recent restatement, and (ii) submit the Plan to the Internal Revenue Service for a favorable determination letter reflecting the required provisions listed on the 2012 Cumulative List of Changes in Plan Qualification Requirements as set forth in IRS Notice 2012-76.
- O. The Internal Revenue Service issued a favorable determination letter with respect to the Plan's tax qualified status on February 26, 2014.
- P. On May 2, 2014, SMUD amended the Plan to adopt certain technical amendments to the Plan as requested by the Internal Revenue Service in connection with the Plan's application for a favorable determination letter on the Plan's tax qualified status upon restatement.

- Q. Effective as of January 1, 2015, SMUD amended the Plan to provide for employer nonelective contributions for certain unrepresented employees.
- R. Effective as of October 1, 2017, SMUD amended the Plan to allow In-Plan Roth conversions.
- S. Effective as of April 5, 2018, SMUD amended the Plan to clarify the conditions for obtaining a hardship distribution.
- T. Effective October 11, 2018, SMUD amended the Plan to incorporate by reference the Declaration of Trust for the American Century Strategic Allocation Certified Investment Trust and the declaration of the Conestoga Capital Advisors Small Cap Growth Collective Fund to make those funds available to participants in the plan should they elect to invest in such.
- U. Whereas SMUD now wishes to (1) restate its Plan, and (2) amend the Plan to permit a hardship distribution for a Qualified Reservist, (3) amend Appendix A of the Plan to reflect updated contributions to represented participants per newly agreed upon terms in the applicable Memorandum of Understanding, (4) amend the Plan to permit hardship distributions for losses incurred by those in an area declared a federal disaster area, (5) remove the provision prohibiting contributions to a plan for six months after obtaining a hardship distribution, (6) amend the plan to remove any of the amendments made to the plan on October 11, 2018 effective the date Russel Investment Trust Company begins to operate as the investment advisor for this Plan and its participants, and (7) to simplify and remove unnecessary terms related to "enhancement" contributions.

OPERATIVE PROVISIONS

Now, therefore, SMUD hereby amends and restates the Plan upon the following terms and conditions:

ARTICLE 1. GENERAL

1.01. Plan Name.

The name of this Plan is the "SMUD 401(k) Savings Plan."

1.02. Effective Date.

Except as otherwise indicated, the effective date of this amended and restated Plan is the date set forth above.

1.03. Exclusive Benefit.

It is the intention of SMUD that the Plan and the Trust are created and maintained for the exclusive benefit of SMUD's eligible Employees and their Beneficiaries.

1.04. Income Tax And ERISA Status.

This Plan and the Trust are intended to qualify under Code sections 401(a) and 501(a). The Plan is intended to be a governmental plan that is exempt from the provisions of the Employee Retirement Income Security Act of 1974, as amended (ERISA). However, the Plan is subject to the fiduciary standards set forth in Article 16 of the California Constitution and in the California Government Code applicable to Code section 401(a) plans.

1.05. Administrator.

SMUD's board of directors delegated the administration of the Plan to SMUD's General Manager. The deferred compensation committee appointed by the General Manager 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.

1.06. Assets Held In Trust.

In accordance with the Code, all contributions under this Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights, shall be held in trust for the exclusive benefit of the participating Employees and their Beneficiaries.

1.07. Defined Terms.

All initially capitalized terms (other than headings) are defined terms and will be defined in the General Definitions article.

ARTICLE 2. GENERAL DEFINITIONS

For purposes of this Plan, the following definitions shall apply:

2.01. Account.

"Account" means the following separate accounts maintained by the Administrator on behalf of a Participant:

A. Elective Account.

"Elective Account" means the Participant's Pre-Tax Elective Account and the Participant's Roth Account as defined below:

1. Pre-Tax Elective Account.

"Pre-Tax Elective Account" means the account maintained by the Administrator for each Participant representing Pre-Tax Elective Contributions by SMUD, adjusted for withdrawals, income, expenses, and realized and unrealized gains and losses attributable thereto.

2. Roth Account.

"Roth Account" means the account maintained by the Administrator for each Participant representing Roth Contributions by the Participant, if any, as described in the SMUD Contributions – Elective Contributions section, adjusted for withdrawals, income, expenses, and realized and unrealized gains and losses attributable thereto.

B. Nonelective Account.

"Nonelective Account" means the account maintained by the Administrator for each Participant representing Nonelective Contributions, if any, Nonelective Discretionary Contributions, if any, adjusted for withdrawals, income, expenses, and realized and unrealized gains and losses attributable thereto.

C. Matching Account.

"Matching Account" means the account maintained by the Administrator for each Participant representing Matching Contributions, if any, and Matching Discretionary Contributions, if any, adjusted for withdrawals, income, expenses, and realized and unrealized gains and losses attributable thereto.

D. Rollover Account.

"Rollover Account" means the account maintained by the Administrator for each Participant representing the rollover of distributions received by the Participant from another plan, if any, or the direct transfer of an Eligible Rollover Distribution (excluding rollover contributions from a Roth elective account) from another

plan, if any, adjusted for withdrawals, income, expenses and realized and unrealized gains and losses attributable thereto.

E. Roth Rollover Account.

"Roth Rollover Account" means the account maintained by the Administrator for each Participant representing rollover contributions from a Roth elective account of another plan in accordance with the Rollover Contributions section, adjusted for withdrawals, income, expenses, and realized and unrealized gains and losses attributable thereto.

F. New Member Nonelective Account.

"New Member Nonelective Account" means the account maintained by the Administrator for a Participant's New Member Nonelective Contributions, if any, adjusted for withdrawals, income, expenses, and realized and unrealized gains and losses attributable thereto.

G. In-Plan Roth Conversion Account.

"In-Plan Roth Conversion Account" means the account maintained by the Administrator for each Participant representing the amounts, if any, that the Participant has converted to Roth contributions described in Code section 402A pursuant to the In-Plan Roth Conversions section, below, adjusted for withdrawals, income, expenses, and realized and unrealized gains and losses attributable thereto.

2.02. Account Balance.

"Account Balance" means the balance of the Participant's Account as of the last Valuation Date in the Valuation Calendar Year increased by the amount of any contributions made and allocated to the balance of the Participant's Account as of dates in the Valuation Calendar Year after the Valuation Date and decreased by distributions made in the Valuation Calendar Year after the Valuation Date. The Account Balance for the Valuation Calendar Year includes any amounts rolled over or transferred to the Plan either in the Valuation Calendar Year or in the Distribution Calendar Year if distributed or transferred in the Valuation Calendar Year.

2.03. Administrator.

"Administrator" means the deferred compensation committee appointed by the General Manager from time to time with authority and responsibility to manage and direct the operation and administration of the Plan. If the General Manager does not appoint an Administrator, the General Manager shall be the Administrator.

2.04. Beneficiary.

"Beneficiary" means any one or more person(s) entitled under the provisions of this Plan to receive benefits after the death of a Participant.

2.05. Board Member.

"Board Member" means any Employee who is a member of the board of directors of SMUD.

2.06. Civil Service Employee.

"Civil Service Employee" means an Employee who either is (i) a permanent, full-time Employee hired pursuant to SMUD's Civil Service Rules, or (ii) a permanent, part-time employee hired prior to July 1, 1991.

2.07. Code.

"Code" means the Internal Revenue Code of 1986, as it may be amended from time to time.

2.08. Compensation And 415 Compensation.

The terms "Compensation" and "415 Compensation" are defined in this section.

A. Compensation.

Except as otherwise provided, "Compensation" means:

1. Form W-2 Compensation.

"Compensation" means wages within the meaning of Code section 3401(a) and all other payments of compensation to an Employee by SMUD (in the course of SMUD's trade or business) for which SMUD is required to furnish the Employee a written statement under Code sections 6041(d),

6051(a)(3), and 6052. Compensation must be determined without regard to any rules under Code section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code section 3401(a)(2)).

2. Additions To Compensation.

"Compensation" shall also include any amount which is contributed by SMUD pursuant to a salary reduction agreement and which is not includible in the gross income of the Employee under Code section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k) or 457(b).

3. Inclusion Of Differential Wage Payments.

"Compensation" shall include differential wage payments to Participants on active duty to the extent required by the provisions of Code section 414(u)(12)(A)(ii), the Treasury regulations thereunder and any subsequent guidance issued under Code section 414(u)(12)(A)(ii).

4. Payments After Severance From Employment.

"Compensation" shall not include any amounts paid after the Employee has a Severance From Employment, as described in Treasury regulations section 1.415(c)-2(e)(3) except for payments to an individual who does not currently perform services for SMUD by reason of qualified military service (within the meaning of Code section 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for SMUD rather than entering qualified military service.

B. 415 Compensation.

Except as otherwise provided, "415 Compensation" means:

1. 415 Compensation In General.

"415 Compensation" means wages as defined in Code section 3401(a) and all other payments of compensation paid to an Employee by SMUD (in the course of or SMUD's

trade or business) for which SMUD is required to furnish the Employee a written statement under Code sections 6041(d), 6051(a)(3) and 6052. "415 Compensation" is determined without regard to any rules under Code section 3401(a) that would otherwise limit the remuneration included in wages based on the nature or location of the employment or the services performed. However, "415 Compensation" shall not include amounts paid or reimbursed by SMUD for moving expenses incurred by the Employee to the extent that at the time of payment it is reasonable to believe that these amounts are deductible by the Employee under Code section 217. "415 Compensation" shall include elective deferrals as defined in Code section 402(g)(3) and any amount that is not includible in an Employee's gross income by reason of Code section 125(a), Code section 132(f)(4), or Code section 457(b).

2. Differential Wage Payments.

"415 Compensation" shall include differential wage payments to Participants on active duty to the extent required by the provisions of Code section 414(u)(12)(A)(ii), the Treasury regulations thereunder and any subsequent guidance issued under Code section 414(u)(12)(A)(ii).

3. Payments After Severance From Employment.

"415 Compensation" includes amounts paid after the Employee's Severance From Employment if paid by the later of (i) two and one-half (2-1/2) months after the Employee's Severance From Employment, or (ii) the end of the Limitation Year that includes the date of the Employee's Severance From Employment subject to the following requirements:

- a. The payment is regular compensation for services during the Employee's regular working hours, or compensation for services outside the Employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments and the payment would have been made to the Employee prior to a Severance From Employment if the Employee had continued in employment with SMUD.

- b. Notwithstanding the provisions of this Payments After Severance From Employment paragraph, 415 Compensation shall include all payments to an individual who does not currently perform services for SMUD by reason of qualified military service (within the meaning of Code section 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for SMUD rather than entering qualified military service.

4. Disability 415 Compensation.

In addition, "415 Compensation" shall also include, in the case of a Participant who (i) is permanently and totally disabled, as defined in Code section 22(e)(3) and (ii) unless the Plan provides for the continuation of contributions on behalf of all such disabled Participants for a fixed or determinable period, is not a highly compensated employee as defined in Code section 414(q), the 415 Compensation that the Participant would have received for the Limitation Year if the Participant was paid at the rate of compensation paid immediately before becoming permanently and totally disabled, but if and only if contributions made with respect to amounts treated as compensation under this provision are nonforfeitable when made.

C. Compensation Limit.

1. The annual compensation of each Employee taken into account under the Plan for any year shall not exceed two hundred fifty-five thousand dollars (\$255,000) as such amount may be adjusted by the Commissioner of Internal Revenue for increases in the cost of living in accordance with Code section 401(a)(17)(B). The cost of living adjustment in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which compensation is determined (a "determination period") beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the applicable compensation limit determined under this subsection will be multiplied by a fraction, the numerator of which is the number of months in the determination period and the denominator of which is twelve (12).

2. Notwithstanding the provisions of the preceding paragraph, the annual compensation of an Employee, who first became a Participant prior to the first day of the first Plan Year beginning after December 31, 1995, shall not be less than the amount that was allowed to be taken into account under the Plan as in effect on July 1, 1993 (i.e., two hundred thousand dollars (\$200,000)) as such amount may be adjusted by the Commissioner of Internal Revenue for increases in the cost of living in accordance with Code section 401(a)(17) (e.g., three hundred eighty thousand dollars (\$380,000) for the 2013 Plan Year.

D. USERRA Compensation.

For purposes of determining SMUD's liability under section 4318(b)(1) of chapter 43 of title 38, United States Code, as enacted by USERRA, an Employee's Compensation during the period of qualified military service shall be computed at the rate the Employee would have received but for the period of qualified military service.

2.09. Designated Beneficiary.

"Designated Beneficiary" means the individual who is designated as the Participant's Beneficiary and is the designated beneficiary under Code section 401(a)(9) and Treasury regulations section 1.401(a)(9)-4.

2.10. Disability.

"Disability" means the Participant has a physical or mental condition resulting from bodily injury, disease or mental disorder which renders the Participant incapable of continuing any gainful occupation as evidenced by presentation of medical evidence satisfactory to the Administrator.

2.11. Distributee.

"Distributee" means an Employee or former Employee who receives a distribution from the Plan. "Distributee" also means the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code section 414(p), with regard to the interest of the spouse or former spouse. "Distributee" also means the Employee's Designated Beneficiary who is not the Employee's spouse.

2.12. Distribution Calendar Year.

"Distribution Calendar Year" means a calendar year for which a minimum distribution is required under Code section 401(a)(9), the Treasury regulations promulgated thereunder, and the provisions of this Plan that implement these requirements. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year that contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under the Payment Of Death Benefits section, below.

2.13. Elective Contributions.

"Elective Contributions" means those contributions made to the Plan by SMUD that were subject to the cash or deferred election under the SMUD Contributions – Elective Contributions section, below. Elective Contributions may consist of Pre-Tax Elective Contributions and Roth Contributions.

2.14. Elective Deferrals.

"Elective Deferrals" means with respect to any taxable year, the sum of:

- A. Any employer contribution under a qualified cash or deferred arrangement (as defined in Code section 401(k)) to the extent not includible in gross income for the taxable year under Code section 402(e)(3) (determined without regard to Code section 402(g)(3)(A));
- B. Any Roth contribution as described in Code section 402A;
- C. Any employer contribution to the extent not includible in gross income for the taxable year under Code section 402(h)(1)(B) (determined without regard to Code section 402(g)(3)(B));
- D. Any employer contribution to any plan as described under Code section 501(c)(18);
- E. Any employer contribution to purchase an annuity contract under Code section 403(b) under a salary reduction agreement (within the meaning of Code section 3121(a)(5)(D)); and
- F. Any employer contribution under Code section 408(p)(2)(A)(i).

2.15. Eligible Retirement Plan.

"Eligible Retirement Plan" means a qualified trust described in Code section 401(a), an annuity plan described in Code section 403(a), an annuity contract described in Code section 403(b), an individual retirement account described in Code section 408(a), a Roth individual retirement account described in Code section 408A, an individual retirement annuity described in Code section 408(b) other than an endowment contract, or an eligible deferred compensation plan described in Code section 457(b) that is maintained by a State, political subdivision of a State, or any agency or instrumentality of a State or political subdivision of a State and that agrees to separately account for amounts transferred into such plan from this Plan, that accepts the Distributee's Eligible Rollover Distribution; provided, however, that in the case of an Eligible Rollover Distribution to a designated Beneficiary who is not the Employee's surviving spouse, (i) an Eligible Retirement Plan shall be either an individual retirement account described in Code section 408(a), a Roth individual retirement account described in Code section 408A, or an individual retirement annuity described in Code section 408(b) other than an endowment contract and (ii) a direct trustee-to-trustee transfer is made to such an account or annuity.

2.16. Eligible Rollover Distribution.

"Eligible Rollover Distribution" means any distribution of all or any portion of the balance to the credit of the Distributee; provided, however, that an Eligible Rollover Distribution does not include:

- A. Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated Beneficiary, or for a specified period of ten (10) years or more;
- B. Any distribution to the extent such distribution is required under Code section 401(a)(9);
- C. The portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); provided, however, that:

1. A portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax Employee contributions that are not includible in gross income; and
2. Notwithstanding the preceding clause, such portion may be transferred in a direct trustee-to-trustee transfer only to:
 - a. An individual retirement account described in Code section 408(a);
 - b. A Roth individual retirement account described in Code section 408A;
 - c. An individual retirement annuity described in Code section 408(b); or
 - d. A qualified plan described in Code section 401(a) (whether or not a defined contribution plan) or an annuity contract or custodial account described in Code section 403(b) that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible; or

D. Any distribution that is made upon hardship of the Employee.

2.17. Employee.

"Employee" means an individual who is employed by SMUD as a common law employee of SMUD.

2.18. Employment Commencement Date.

"Employment Commencement Date" means the date on which the Employee first performs service for SMUD.

2.19. ERISA.

"ERISA" means the Employee Retirement Income Security Act of 1974, as it may be amended from time to time.

2.20. Excess Elective Deferrals.

"Excess Elective Deferrals" means Elective Deferrals of a Participant that are made during a calendar year and exceed the dollar limitation under Code section 402(g) (including, if applicable, the dollar limitation on catch-up contributions as defined in Code section 414(v) for such year) counting Elective Deferrals made under this Plan and any other plan, contract or arrangement maintained by SMUD or any other employer.

2.21. General Manager.

"General Manager" means SMUD's General Manager.

2.22. IBEW Employee.

"IBEW Employee" means a permanent full-time and permanent part-time (working at least twenty (20) hours per week) Employee of SMUD who is covered by a collective bargaining agreement between SMUD and the International Brotherhood of Electrical Workers.

2.23. Leased Employee.

"Leased Employee" means any person who is not an Employee of SMUD and who provides services to SMUD if:

- A. Such services are provided pursuant to an agreement between SMUD and the leasing organization;
- B. Such person has performed such services for SMUD or related persons on a substantially full-time basis for a period of at least one (1) year; and
- C. Such services are performed under primary direction or control by SMUD.

2.24. Limitation Year.

"Limitation Year" means the Plan Year.

2.25. Matching Contributions.

"Matching Contributions" means those contributions made to the Plan by SMUD under SMUD Contributions – Matching Contributions section, below, and which were subject to the cash or deferred election under SMUD Contributions – Elective Contributions section, below.

2.26. Matching Discretionary Contributions.

"Matching Discretionary Contributions" means those contributions made to the Plan by SMUD under SMUD Contributions – Matching Discretionary Contributions section, below, and which were subject to the cash or deferred election under SMUD Contributions – Elective Contributions section, below.

2.27. Nonelective Contributions.

"Nonelective Contributions" means those contributions made to the Plan by SMUD under the SMUD Contributions – Nonelective Contributions section and which were not subject to the cash or deferred election under the SMUD Contributions – Elective Contributions section, below.

2.28. Nonelective Discretionary Contributions.

"Nonelective Discretionary Contributions" means those contributions made to the Plan by SMUD under the SMUD Contributions – Nonelective Discretionary Contributions section and which were not subject to the cash or deferred election under the SMUD Contributions – Elective Contributions section, below.

2.29. Normal Retirement Age.

"Normal Retirement Age" means age fifty-five (55).

2.30. Participant.

"Participant" means any Employee or former Employee who has met the Plan's eligibility requirements, commenced participation in the Plan, and is or may become eligible to receive a benefit under the Plan, or whose Beneficiary(ies) may be eligible to receive any such benefit.

2.31. Plan.

"Plan" means the defined contribution plan as set forth herein and any amendments hereto. "Plan" also means any plan that has been merged into this Plan when the context requires such an interpretation.

2.32. Plan Year.

"Plan Year" means the twelve (12) consecutive month period ending on the last day of December each year.

2.33. Pre-Tax Elective Contributions.

"Pre-Tax Elective Contributions" means Elective Contributions that are not Roth Contributions and are made on a pre-tax basis pursuant to the SMUD Contributions – Elective Contributions section, below.

2.34. Probationary Period.

"Probationary Period" means the probationary requirement as defined in the SMUD's Civil Service Rules, Rule 10, and shall consist of an initial six (6) month or twelve (12) month period (depending on the Employee's classification) commencing after an Employee's date of hire and ending on the six (6) month or twelve (12) month anniversary, as applicable, of such Employee's date of hire.

2.35. Reemployment Commencement Date.

"Reemployment Commencement Date" means the date on which a former Employee first performs service for SMUD after the Employee's reemployment.

2.36. Required Beginning Date.

"Required Beginning Date" means April 1 of the calendar year following the later of (i) the calendar year in which the Participant attains age seventy and one-half (70 1/2) or (ii) the calendar year in which the Participant retires.

2.37. Roth Contributions.

"Roth Contributions" means Elective Contributions that are not Pre-Tax Elective Contributions made in accordance with the SMUD Contributions – Elective Contributions section and designated by a Participant in the manner specified by the Administrator as being made on an after-tax basis in lieu of all or a portion of the Pre-Tax Elective Contributions that the Participant is otherwise eligible to make under the Plan.

2.38. Severance From Employment.

"Severance From Employment" means the Employee ceases to be an Employee of SMUD.

2.39. SMUD.

"SMUD" means the Sacramento Municipal Utility District, any predecessor employer or any successor assuming the Plan.

2.40. Trust.

"Trust" means the retirement trust created by SMUD, which trust shall be a part of this Plan, as described in a separate trust agreement. "Trust" shall include any custodial accounts and contracts established under Code section 401(f) for the purpose of holding funds under the Plan.

2.41. Trustee.

"Trustee" means the trustee(s) signing the Trust and any duly appointed successor trustee(s). "Trustee" shall also include any custodian or insurance company holding the Trust assets in a custodial account or contract established under Code section 401(f).

2.42. Trust Fund.

"Trust Fund" means all property and income held by the Trustee pursuant to the terms of the Trust and for the purpose of this Plan.

2.43. Unit 2 Employee.

"Unit 2 Employee" means a permanent full-time and permanent part-time (working at least twenty (20) hours per week) Employee who is in a monthly rated classification that is essentially clerical, technical or customer-contact in nature, but not including an Employee with supervisory or managerial responsibilities, as defined in the collective bargaining agreement between SMUD and the Organization of SMUD Employees.

2.44. USERRA.

"USERRA" means the Uniformed Services Employment And Reemployment Rights Act of 1994, as it may be amended from time to time.

2.45. Valuation Calendar Year.

"Valuation Calendar Year" means the calendar year immediately preceding the Participant's Distribution Calendar Year.

2.46. Valuation Date.

"Valuation Date" means:

- A. With respect to each segregated Account, every day that the Trustee, any transfer agent appointed by the Trustee or SMUD, and any stock exchange used by such agent are open for business (daily valuation).
- B. With respect to each non-segregated Account, if any, the last day of the Plan Year and any such other date(s) selected by the Trustee or the Administrator, in its sole and absolute discretion.

2.47. CalPERS.

"CalPERS" means the California Public Employees' Retirement System.

2.48. Classic Member.

"Classic Member" means an Employee who participates in CalPERS and who is not a New Member.

2.49. Contribution And Benefit Base.

"Contribution And Benefit Base" means the contribution and benefit base for a Plan Year determined under sections 7522.10(c) and 7522.10(d) of the California Public Employees' Pension Reform Act of 2013 as adjusted by CalPERS.

2.50. Forfeiture.

"Forfeiture" means a nonvested amount forfeited from a Participant's New Member Nonelective Account pursuant to the provisions of the Vesting article, below.

2.51. New Member.

"New Member" means any Employee who participates in CalPERS and who is treated as a new member under CalPERS as defined in section 7522.04(f) of the California Government Code.

2.52. New Member Nonelective Contributions.

"New Member Nonelective Contributions" means those contributions made to the Plan by SMUD under the SMUD Contributions – New Member

Nonelective Contributions section, below, and which were not subject to the cash or deferred election under the SMUD Contributions – Elective Contributions section, below.

2.53. Pensionable Compensation.

In accordance with California Government Code section 7522.34, "Pensionable Compensation" of a New Member means the New Member's normal monthly rate of pay or base pay under CalPERS.

2.54. Vested.

"Vested" means that portion of a Participant's Accounts in which the Participant or the Participant's Beneficiary has an unconditional, nonforfeitable right that is legally enforceable against the Plan.

2.55. Year Of Service.

"Year Of Service" for purposes of becoming Vested in a Participant's New Member Nonelective Account means each twelve (12) month period of employment beginning as of the date a New Member is employed as an unrepresented, full-time, permanent part-time, or limited term Employee, or each anniversary thereof. Any period during which a New Member is not employed as described in the preceding sentence shall not be counted towards the New Member's Years Of Service.

ARTICLE 3. ELIGIBILITY AND PARTICIPATION

3.01. Eligible Employees; Excluded Employees.

All Employees of SMUD, including Board Members, who are not otherwise excluded from participation in the Plan are eligible to participate in the Plan as set forth in the Commencement Of Participation section, below. This Plan excludes the following Employees (even if they might otherwise satisfy the eligibility criteria specified in the Plan):

- A. Employees whose employment is governed by the terms of a collective bargaining agreement between Employee representatives (within the meaning of Code section 7701(a)(46)) and SMUD under which retirement benefits were the subject of good faith bargaining, unless the collective bargaining agreement specifically requires participation in this Plan, but only to the extent provided for in the collective bargaining agreement and only to the extent such participation is not inconsistent with the requirements of the Code;

- B. Employees who are nonresident aliens and who receive no earned income (within the meaning of Code section 911(d)(2)) from SMUD that constitutes income from sources within the United States (within the meaning of Code section 861(a)(3));
- C. Leased Employees;
- D. A worker whom SMUD did not treat as an Employee even if either (i) the individual might otherwise satisfy certain legal tests or criteria to be considered a common law employee of SMUD or (ii) the individual is subsequently determined to be a common law employee of SMUD by a local State or federal governmental entity or by a court of competent jurisdiction; and
- E. Casual Employees who are temporary at-will non-Civil Service Employees who are scheduled to work less than twenty (20) hours per week and not more than nine hundred and sixty (960) hours (including overtime) during the Plan Year as described in SMUD's benefit guides.

3.02. Commencement Of Participation.

Each Employee who is not otherwise excluded from participation in the Plan shall become a Participant in the Plan on the Employee's Employment Commencement Date.

3.03. Participation.

The Administrator, using employment dates certified by SMUD, shall determine which Employees are eligible to participate, and the Administrator shall furnish such information and attendant data to the Trustee. The Administrator shall notify each eligible Employee of the Employee's eligibility and of any application or other requirements for participation. By becoming a Participant, the Employee agrees to be bound by all terms, conditions and covenants of this Plan as then in effect or as thereafter amended.

3.04. Beneficiary Designation.

- A. Each Participant shall have the right to designate, in writing, on forms provided by the Administrator, or online a Beneficiary or Beneficiaries to receive the Participant's death benefits, and shall have the right, at any time, to revoke such designation or to substitute another such Beneficiary or Beneficiaries without the

consent of any Beneficiary; provided, however, that a married Participant and spouse shall both designate any non-spouse Beneficiary or Beneficiaries, unless the spouse cannot be located or unless otherwise permitted by law. Any designation by a married Participant and spouse of a non-spouse Beneficiary must be made by the Participant in writing and be consented to in writing by the Participant's spouse. Such spouse's written consent must designate a Beneficiary who may not be changed without spousal consent (unless the spousal consent expressly permits designations by the Participant without any requirement of further spousal consent), acknowledge the effect of such election, and be witnessed by a Plan representative or a notary public. Such consent shall not be required if it is established to the satisfaction of the Administrator that the required consent cannot be obtained because there is no spouse, the spouse cannot be located, or other circumstances that may be prescribed by Treasury regulations. The election made by the Participant and consented to by the Participant's spouse may be revoked by the Participant in writing without the consent of the spouse at any time prior to the Participant's death. Any new election must comply with the requirements of this subsection. A former spouse's waiver shall not be binding on a new spouse.

- B. If a Participant has designated the Participant's spouse as the Participant's Beneficiary under this Plan, such designation shall be deemed to have been revoked in the event of a judgment, decree, order, or approval of a settlement agreement, issued either (i) by a court of competent jurisdiction, or (ii) through the administrative process established under State law having the force and effect of law under applicable State law, dissolving such marriage, unless the Participant designates the Participant's ex-spouse as the Participant's Beneficiary by a new designation signed by the Participant and delivered to the Administrator after the entry of such judgment, decree, order or approval of a settlement agreement and prior to the Participant's death.
- C. If, upon the death of a Participant, there is no valid designation of Beneficiary on file with the Administrator, or the Participant's Beneficiary is not alive, the Administrator shall designate as the Beneficiary, in order of priority:
 - 1. The surviving spouse;
 - 2. The surviving children, including adopted children, in equal shares, or their issue by right of representation;

3. Surviving parents, in equal shares; or
4. The Participant's heirs at law.

The determination of the Administrator as to which persons, if any, qualify within the aforementioned categories shall be final and conclusive upon all persons, but the Administrator may seek a declaratory judgment of a court of competent jurisdiction to determine the identity of Beneficiaries and their respective shares at the expense of the Participant's Account.

3.05. Leaves Of Absence.

Service with SMUD shall not be deemed to have been interrupted by the fact that an Employee has been on leave of absence with the consent of SMUD, provided that the Employee returns to the employ of SMUD at the expiration of such leave. Leaves of absence shall mean leaves granted by SMUD, in accordance with rules uniformly applied to all Employees, for reasons determined by SMUD to be in its best interests.

3.06. Military Leaves.

- A. Each period served by a person in the uniformed services shall, upon reemployment under USERRA, be deemed to constitute service with SMUD for the purpose of determining the accrual of benefits under the Plan, all to the extent required by and as provided under USERRA. Notwithstanding any provision in the Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code section 414(u).
- B. The Plan specifically incorporates herein by reference the requirements of Code section 401(a)(37), the Treasury regulations thereunder and any subsequent guidance under Code section 401(a)(37) requiring that if a Participant dies while performing qualified military service (as defined in Code section 414(u)), the Beneficiary(ies) of the Participant shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan had the Participant resumed employment on the date before the Participant's date of death and then had a Severance From Employment on account of death.

- C. For purposes of the Restrictions On Distributions subsection of the Commencement Of Payment Of Benefits section, below, a Participant shall be treated as having a Severance From Employment during any period the Participant is performing service in the uniformed services described in Code section 3401(h)(2)(A). If a Participant elects to receive a distribution from the Plan as result of the application of this subsection, the Participant may not make an Elective Contribution to the Plan during the six (6) month period beginning on the date of the distribution.

3.07. Eligibility Of Reemployed Employees.

If a Participant who has had a Severance From Employment is reemployed by SMUD in a category of employment that is not excluded under the Eligible Employee; Excluded Employee section, above, shall resume participation in the Plan on the Participant's Reemployment Commencement Date.

3.08. Eligibility Of Excluded Employees.

If a Participant becomes ineligible to continue to participate because the Participant is no longer a member of an eligible class of Employees, such Employee shall participate immediately upon return to an eligible class of Employees. If an Employee who is not a member of the eligible class of Employees becomes a member of the eligible class, such Employee shall participate immediately.

3.09. Treatment Of Leased Employees.

To the extent required by Code section 414(n), any Leased Employee shall be treated as an Employee of SMUD for purposes of this Plan; provided, however, that a Leased Employee shall not participate in this Plan unless specifically permitted to do so by SMUD, pursuant to the terms of this Plan, and by the leasing organization.

3.10. Omission Of Eligible Employee.

If an Employee who should have been included as a Participant for a Plan Year is erroneously omitted and discovery of the omission is made after the contribution by SMUD is made and allocated, SMUD and the Administrator may correct the erroneous omission of the Employee in accordance with the requirements of the Employee Plans Compliance Resolution System as described in Rev. Proc. 2013-12 and any subsequent guidance.

3.11. Inclusion Of Ineligible Individual.

If any individual is erroneously included as a Participant in the Plan and discovery of the erroneous inclusion is made after the contribution by SMUD is made and allocated, SMUD and the Administrator may correct the erroneous inclusion of the individual in accordance with the requirements of the Employee Plans Compliance Resolution System as described in Rev. Proc. 2013-12 and any subsequent guidance.

ARTICLE 4. CONTRIBUTIONS

4.01. SMUD Contributions – Elective Contributions.

A. Elective Contributions In General.

1. Each Plan Year, SMUD shall make contributions to this Plan in an amount equal to the total compensation reduction elections of all Participants made pursuant to this SMUD Contributions – Elective Contributions section, and shall be allocated to Participants' Elective Accounts. Except as provided in paragraph 2, below, Elective Contributions shall be allocated to the Participant's Pre-Tax Elective Account.
2. A Participant may specify that any portion of the Participant's compensation that the Participant elects to defer under this SMUD Contributions – Elective Contributions section may be classified as Roth Contributions. Roth Contributions are included in the Participant's gross income at the time deferred and must be irrevocably designated as Roth Contributions by the Participant in the Participant's compensation reduction agreement. Roth Contributions will be deposited in the Participant's Roth Account under the Plan. No contributions other than Roth Contributions and earnings will be credited to this account and gains, losses, and other credits or charges will be allocated on a reasonable and consistent basis to this account. The Plan will maintain a record of the amount of Roth Contributions in each Participant's Roth Account. Roth Elective Contributions shall be taken into account for the provisions of this Plan implementing the requirements of Code section 402(g) and Code section 415.

B. Compensation Reduction Agreements In General.

A Participant may elect to enter into a written compensation reduction agreement with SMUD or the Administrator whereby the Participant agrees to accept a reduction in cash compensation from SMUD and to have SMUD contribute such amount to this Plan and the Trust. Such amount shall be equal to either (i) any percentage of such Participant's compensation per payroll period or (ii) a fixed dollar amount per payroll period as specified on the Participant's compensation reduction agreement. A Participant must agree to defer a minimum of ten dollars (\$10) of compensation in each biweekly pay period. In addition, if any extraordinary compensation is payable to a Participant (such as a year-end bonus), the Participant may elect to enter into a separate written compensation reduction agreement with SMUD or the Administrator whereby the Participant agrees to accept a reduction in cash compensation from SMUD with respect to such extraordinary compensation equal to either (i) any percentage of such extraordinary compensation or (ii) a fixed dollar amount of such extraordinary compensation.

C. Compensation Reduction Agreements Requirements.

Compensation reduction agreements shall be subject to the following:

1. A Participant's compensation reduction agreement shall become effective on the first day of the first payroll period for which SMUD can reasonably process the request.
2. Thereafter, a compensation reduction agreement shall apply to each payroll period during which an effective compensation reduction agreement is on file with SMUD or the Administrator; provided, however, that a compensation reduction agreement with respect to any extraordinary compensation shall apply only to that extraordinary compensation and shall not affect the Participant's compensation reduction agreement then in effect with respect to each payroll period.
3. Except as provided below, a Participant's compensation reduction agreement with respect to each payroll period (i.e., not a compensation reduction agreement with respect to any extraordinary Compensation) may be entered into or

amended by a Participant at such times as SMUD shall prescribe for the purpose of:

- a. Decreasing the amount of such Participant's compensation which is subject to compensation reduction during the remainder of such Plan Year; or
 - b. Increasing the amount of such Participant's compensation that is subject to compensation reduction during the remainder of such Plan Year.
4. A Participant may revoke the Participant's compensation reduction agreement then in effect with respect to each payroll period at any time, thereby ceasing Elective Contributions as of the effective date of the revocation.
 5. Compensation reduction agreements and changes to compensation reduction agreements shall be effective only as to amounts that are not "currently available" as provided in Treasury regulations section 1.401(k)-1(a)(3). In order to become effective on the date requested by the Participant, compensation reduction agreements and changes to compensation reduction agreements with respect to amounts that are not currently available must be duly executed by the Participant and SMUD or the Administrator on or before the deadline established by SMUD or the Administrator from time to time.
 6. The aggregate amount of a Participant's Elective Contributions during a calendar year shall not exceed the amount that would cause the Plan to violate the provisions of the Limitation On Contributions And Benefits article, below. SMUD may modify or revoke its compensation reduction agreement with any Participant at any time if SMUD determines that such revocation or amendment is necessary to ensure that the Plan will not exceed this limitation.
 7. Pursuant to Treasury regulations section 1.401(k)-1(e)(8), compensation reduction agreements and changes to compensation reduction agreements can only be made with respect to amounts that are "compensation" within the meaning of Code section 415(c)(3) and Treasury regulations section 1.415(c)-2.

8. Except as provided above, a compensation reduction agreement applicable to any given Plan Year, once made, may not be revoked or amended by the Participant or SMUD.

D. Catch-Up Contributions.

1. Each Participant who would attain age fifty (50) by the end of the calendar year shall be eligible to make catch-up contributions in accordance with, and subject to the limitations of, Code section 414(v).
2. Catch-up contributions shall not be taken into account for purposes of the provisions of this Plan implementing the requirements of Code section 402(g) or Code section 415. The Plan shall not be treated as failing to satisfy the provisions of the Plan implementing the requirements of Code section 401(k)(3), 401(k)(11), or 401(k)(12), as applicable, by reason of making such catch-up contributions.
3. In accordance with the provisions of Code section 414(v)(2)(D) and the regulations thereunder, a Participant who also participates in the SMUD 457(b) Deferred Compensation Plan may make catch-up contributions in accordance with this Catch-Up Contributions section under this Plan and also under the SMUD 457(b) Deferred Compensation Plan.

4.02. SMUD Contributions – Nonelective Contributions.

Each year SMUD shall contribute to this Plan and the Trust as Nonelective Contributions the amount specified in Appendix A which amount shall not be subject to the election provided in the SMUD Contributions – Elective Contributions section, above.

4.03. SMUD Contributions – Matching Contributions.

- A. Each year SMUD shall contribute to this Plan and the Trust as Matching Contributions the amount specified in Appendix A.
- B. If SMUD announces the amount of the Matching Contribution on a prospective basis, SMUD may change the percentage matching rate or the percentage of considered pay to any other percentages, including zero percent, generally by notifying eligible Participants

in sufficient time to adjust their compensation reduction agreements prior to the start of the period for which the new percentages apply.

4.04. SMUD Contributions – Nonelective Discretionary Contributions.

Each year, SMUD shall determine the amount, if any, to be contributed to this Plan and the Trust as a Nonelective Discretionary Contribution, which amount shall not be subject to the election provided in the SMUD Contributions – Elective Contributions section, above. For each such year, SMUD shall designate the allocation of such Nonelective Discretionary Contributions to certain designated eligible Employees in writing. Such designation shall indicate the Participants eligible to share in the contribution and the amount to be allocated to each such eligible Participant.

4.05. Rollover Contributions.

A. There may be transferred to the Trustee, subject to the approval of the Administrator and the Trustee, and, if deemed advisable by the Administrator by means of an Eligible Rollover Distribution, all or any of the assets held (whether by a trustee, custodian or otherwise) on behalf of an Eligible Retirement Plan that is maintained for the benefit of any person who is or is about to become a Participant in this Plan. Prior to accepting any such rollover contribution, the Administrator may require that the Participant or Employee establish to the satisfaction of the Administrator that the amount to be rolled over to the Plan is an Eligible Rollover Distribution from an Eligible Retirement Plan.

B. Notwithstanding the preceding provision, the Plan will accept an Eligible Rollover Contribution to a Roth Rollover Account only if it is a direct rollover from another Roth elective deferral account under an applicable retirement plan described in Code section 402A(e)(1) and only to the extent the rollover is permitted under the rules of Code section 402(c).

4.06. SMUD Determination.

SMUD shall determine the amount of any contributions to be made by it to the Plan, except as otherwise provided herein. Such determination shall be final and conclusive, and shall not be subject to change as a result of a subsequent adjustment of SMUD's records. The determination by SMUD of such contribution, or the earnings on which such contribution is based, shall be binding on the Administrator, the Trustee and all Participants, and shall not be subject to review in any manner. Neither

the Trustee, Participants nor any person interested in the Trust Fund shall have any right to question that action, the judgment of SMUD, the accuracy of the books of account or other data or the method of accounting upon which SMUD might rely. The Trustee shall have no right or duty to inquire into the amount of SMUD's contribution, but shall be accountable only for funds actually received.

4.07. Form Of Contribution.

SMUD contributions shall be made to the Trustee in cash or cash equivalent.

4.08. Time Of Contributions.

- A. Except as otherwise provided under the Plan, Nonelective Contributions, Matching Contributions, Nonelective Discretionary Contributions, and Matching Discretionary Contributions, to the Plan for a Plan Year shall be credited to the Participant's Account as soon as administratively feasible after the last day of such year or at such other times as SMUD or the Administrator may direct in its sole and absolute discretion. If the contribution is accrued for the preceding calendar year, and is actually made after the close of the Plan Year, SMUD shall make such designation and such contributions shall be allocated to Participants' Accounts as of the last day of the preceding Plan Year.
- B. Elective Contributions accumulated through payroll deductions shall be paid to the Trustee as of the earliest date on which such contributions can reasonably be segregated from SMUD's general assets, but in any event within fifteen (15) business days following the end of the month in which such amounts would otherwise have been payable to the Participant in cash. Furthermore, any additional SMUD contributions that are allocable to the Participant's Elective Account for a Plan Year shall be paid to the Plan no later than the twelve (12) month period immediately following the close of such Plan Year.

4.09. Nondiscrimination Limits On SMUD Contributions.

- A. In accordance with, but only to the extent required by, California Government Code section 7522.10(g) as in effect on January 1, 2013 or as subsequently amended, and the lawful guidance published thereunder, any SMUD contributions to any defined contribution plan, including this Plan, based on Pensionable Compensation above the "applicable percentage of the

contribution and benefit base" (set forth below) specified in section 430(b) of title 42 of the United States Code on January 1, 2013 (as such contribution and benefit base shall be adjusted in accordance with subsection B, below) shall not exceed the SMUD's contribution rate, as a percentage of pay, required to fund SMUD's defined benefit plan for income not in excess of the amount specified in Code section 401(a)(17) as such amount may be adjusted by the Commissioner of Internal Revenue for increases in the cost of living in accordance with Code section 401(a)(17)(B). The "applicable percentage of the contribution and benefit base" shall be:

1. One hundred percent (100%) for an Employee whose service is included in the Social Security system; or
 2. One hundred twenty percent (120%) for an Employee whose service is not included in the Social Security system.
- B. For purposes of this section, the contribution and benefit base specified in section 430(b) of title 42 of the United States Code on January 1, 2013 shall be adjusted based on the annual changes to the Consumer Price Index for All Urban Consumers: U.S. City Average, calculated by dividing the Consumer Price Index for All Urban Consumers: U.S. City Average, for the month of September in the calendar year preceding the adjustment by the Consumer Price Index for All Urban Consumers: U.S. City Average, for the month of September of the previous year rounded to the nearest thousandth. The adjustment shall be effective annually on January 1, beginning in 2014.
- C. This provision shall apply only to SMUD contributions for a New Member who is a member of both this Plan and a defined benefit pension plan sponsored by SMUD.

4.10. SMUD Contributions – New Member Nonelective Contributions.

For each pay period SMUD shall contribute to this Plan and the Trust a New Member Nonelective Contribution on behalf of unrepresented New Members in the amount specified in Appendix A which amount shall not be subject to the election provided in the SMUD Contributions – Elective Contributions section, above.

ARTICLE 5. ALLOCATIONS OF CONTRIBUTIONS AND VALUATION

5.01. Valuation Of The Trust.

The Trustee, as of the close of business on each Valuation Date, shall determine the net worth of the assets of the Trust at their fair market value (using criteria and sources of information that the Trustee, in the Trustee's sole and absolute discretion, deems appropriate), and, except as provided in the Allocation Of Investment Results And Plan Expenses section, below, shall deduct all fees and expenses for which the Trustee has not yet obtained reimbursement from SMUD or from the Trust. Such valuation shall not include any segregated accounts (which shall be valued separately) or subsequent contributions for the current Plan Year made by SMUD or any Employee as of such Valuation Date or thereafter, which shall be valued separately.

5.02. Order Of Adjustment.

Subject to the provisions of this Allocations Of Contributions And Valuation article, the Administrator shall adjust the Participants' Accounts as follows, in the order stated:

- A. First, as of each Valuation Date, reflect proportionately any adjustment of fair market value of assets in the manner as provided in the Allocation Of Investment Results And Plan Expenses section, below;
- B. Second, as of each Valuation Date, allocate proportionately any income or loss in the manner provided in the Allocation Of Investment Results And Plan Expenses section, below; and
- C. Third, allocate SMUD contributions in the manner provided in the Allocation Of Nonelective Contributions, Allocation Of Matching Contributions, Allocation Of Nonelective Discretionary Contributions, Allocation Of Matching Discretionary Contributions, Allocation Of Elective Contributions, and Allocation Of New Member Nonelective Contributions sections, below.

5.03. Allocation Of Investment Results And Plan Expenses.

- A. Income or loss generated since the immediately preceding Valuation Date by a segregated account described in the Participant-Directed Individual Account article, or the Participant Loans article, less a prorated portion of the Plan's administrative cost/less the portion of the Plan's investment-related cost

attributable thereto, shall be allocated solely to the account or investment involved. As of any Valuation Date, the income or loss attributable to the remaining assets of the Plan, reduced by expenses as described below incurred since the preceding Valuation Date, shall be allocated to the non-segregated Accounts of the Participants and Beneficiaries who had unpaid balances in their non-segregated Accounts as of such Valuation Date in proportion to the balances in such non-segregated Accounts as of the prior Valuation Date, taking into account amounts withdrawn or distributed since such Valuation Date, if any.

- B. Expenses incurred by the Administrator or the Trustee for the services of third party vendors provided to the Plan may be paid by the Plan. Fees incurred as a result of recordkeeping and compliance reporting for the Plan may be assessed directly to Participant Accounts on a pro rata basis based on Account balances as of the Plan's most recent Valuation Date, or on a per capita basis based on the number of Participant Account balances in the Plan at the time the fees are paid. Notwithstanding the foregoing, expenses incurred by the Plan as a result of legal judgments issued against the Plan relating to competing claims to a Participant's Account, or as a result of a separated Participant's failure to provide the Administrator or Trustee with current contact information, shall be assessed directly against the Participant's Account. These expenses shall include but not be limited to fees incurred by the Plan as a result of a domestic relations order involving the Participant, and fees incurred by the Plan while conducting a search for a lost Participant or Beneficiary. A Participant or Beneficiary shall be considered "lost" when correspondence sent to such person via first-class mail is returned as undeliverable. SMUD reserves the right to pay any fees for Participants who are currently employed.

5.04. Allocation Of Nonelective Contributions.

SMUD's Nonelective Contributions for the Plan Year shall be allocated among the Nonelective Accounts of Participants eligible to receive an allocation as described in the SMUD Contributions – Nonelective Contributions section, above, and Appendix A, below.

5.05. Allocation Of Matching Contributions.

SMUD's Matching Contributions for the Plan Year shall be allocated among the Matching Accounts of Participants eligible to receive an

allocation as described in the SMUD Contributions – Matching Contributions section, above, and Appendix A, below.

5.06. Allocation Of Nonelective Discretionary Contributions.

SMUD's Nonelective Discretionary Contributions for the Plan Year shall be allocated among the Nonelective Accounts of Participants eligible to receive an allocation as described in the SMUD Contributions – Nonelective Discretionary Contributions section, above, and Appendix A, below.

5.07. Allocation Of Matching Discretionary Contributions.

SMUD's Matching Discretionary Contributions for the Plan Year shall be allocated among the Matching Accounts of Participants eligible to receive an allocation as described in the SMUD Contributions – Matching Discretionary Contributions section, above, and Appendix A, below.

5.08. Allocation Of Elective Contributions.

- A. Pre-Tax Elective Contributions shall be allocated among the Pre-Tax Elective Accounts of those Participants electing to make Pre-Tax Elective Contributions to this Plan under the SMUD Contributions – Elective Contributions section, above, in the amount so elected by each Participant.
- B. Roth Contributions shall be allocated to the Roth Accounts of those Participants electing to make Roth Contributions to this Plan under the SMUD Contributions – Elective Contributions section, above, in the amount so elected by each Participant.
- C. Elective Contributions, if any, will be allocated as soon as administratively feasible following the last day of each payroll period during the Plan Year.

5.09. Permitted Reallocations.

In the event that any amount of any Participant's Compensation for a Plan Year has been found by the Internal Revenue Service, the California Franchise Tax Board, or a court of competent jurisdiction in a final decision, to be unreasonable, contributions for the affected Plan Year shall be applied to reduce SMUD's contributions the following Plan Year to such a Participant based upon the reasonable Compensation in accordance with the Contributions and Allocation Of Contributions And Valuation articles. The Participant's Accounts and the allocation of investment results shall be adjusted to reflect the results of such allocation in each subsequent Plan Year.

5.10. Correction Of Allocation.

If a Participant's Account was improperly included or excluded in any Plan Year from an allocation of SMUD's contributions, the Administrator shall correct the error in accordance with the requirements of the Employee Plans Compliance Resolution System as described in Revenue Procedure 2013-12, and any subsequent guidance issued by the Internal Revenue Service.

5.11. No Vested Right To Future SMUD Contributions.

In accordance with, but only to the extent required by, California Government Code section 7522.10(f)(2) as in effect on January 1, 2013 or as subsequently amended, and the lawful guidance published thereunder, an employee who receives a SMUD contribution to the Plan shall not have a vested right to continue receiving any SMUD contributions in the future.

5.12. Allocation Of New Member Nonelective Contributions.

SMUD's New Member Nonelective Contributions for the Plan Year shall be allocated among the New Member Nonelective Contributions Account of Participants eligible to receive an allocation as described in the SMUD Contributions – New Member Nonelective Contributions section, above, and Appendix A, below.

5.13. Application Of Forfeitures.

Each Plan Year, Forfeitures (including earnings) arising during that Plan Year shall be used to pay Plan administrative expenses for the Plan Year in which the Forfeitures would otherwise be applied and then any

remaining Forfeitures shall be used to reduce the New Member Nonelective Contributions to the extent not yet made.

ARTICLE 6. LIMITATION ON CONTRIBUTIONS AND BENEFITS

6.01. Limitations In General.

- A. This Plan specifically incorporates herein by this reference the limitations under Code section 415, and the Treasury regulations thereunder, as in effect from time to time. Notwithstanding any other provision of this Plan to the contrary, Annual Additions, (as defined below) under this Plan and all other defined contribution plans maintained by SMUD for any Limitation Year shall not exceed the limitations under Code section 415.
- B. The limitations under Code section 415 for a Limitation Year shall be applied using 415 Compensation.
- C. "Annual Additions" are defined in Treasury regulations section 1.415(c)-1(b).

6.02. Limitation On Allocations – More Than One Plan.

If SMUD contributes to more than one defined contribution plan for a Participant, allocations shall first be made to any defined contribution pension plan maintained by SMUD and then to any other defined contribution plan maintained by SMUD. If SMUD makes contributions for a Participant to more than one non pension defined contribution plan, allocations shall first be made to this Plan and then to such other defined contribution plan maintained by SMUD.

6.03. Disposition Of Excess Annual Additions.

If there are any excess Annual Additions, SMUD and the Administrator shall correct the excess Annual Addition in accordance with the requirements of the Employee Plans Compliance Resolution System as described in Rev. Proc. 2013-12 and any subsequent guidance.

6.04. Maximum Amount Of Elective Deferrals.

- A. No Employee shall be permitted to have Elective Deferrals during any calendar year, under this Plan or any other plan, contract or arrangement maintained by SMUD and any employer described in Code section 414(b) or 414(c) in excess of the dollar limitation contained in Code section 402(g) in effect for such year.

- B. Notwithstanding the preceding provision, catch-up contributions under Code section 414(v), described in the Catch-Up Contributions subsection, above, shall not be taken into account for purposes of the provisions of this Plan implementing the required limitations of Code section 402(g). In addition, Elective Deferrals to any Code section 457(b) plans maintained by SMUD or any other employer shall not be taken into account for purposes of this section.
- C. If an Employee has any Excess Elective Deferrals, the following shall apply:
1. Any direction for such Excess Elective Deferral shall be invalid and the directed deferral shall not be made.
 2. A Participant may withdraw all or part of any Excess Elective Deferral by notice in accordance with rules established by the Administrator. A Participant's withdrawal shall be reduced by the amount of any Excess Contributions previously distributed.
 3. If an Excess Elective Deferral occurs because of combined Elective Deferrals under this Plan or any other plan of SMUD or any other plan of another employer, the Participant may withdraw the excess only if the following conditions are satisfied:
 - a. The Participant notifies the Administrator of the Excess Elective Deferral by March 1 following the close of the year, unless the Administrator waives the deadline.
 - b. The notice specifies how much of the Excess Elective Deferral is to be withdrawn from this Plan.
 - c. Other applicable rules of the Administrator are followed.
 4. Notwithstanding the preceding, if a Participant has Excess Elective Deferrals solely from this Plan and any other plans, contracts or arrangements maintained by SMUD described in Code section 414(b) or 414(c), then the requirements of the preceding subsection shall be deemed to be satisfied

and the Administrator shall distribute the Excess Elective Deferrals in accordance with the rules of this subsection.

5. Notwithstanding any other provision of the Plan, Excess Elective Deferrals, plus any income and minus any loss also allocable thereto, shall be distributed no later than April 15 to any Participant to whose account Excess Elective Deferrals were assigned for the preceding year and who claims Excess Elective Deferrals for such taxable year.
6. Excess Elective Deferrals shall be treated as SMUD contributions for all purposes under the Code; provided, however, that Excess Elective Deferrals shall not be treated as annual additions under the Plan to the extent distributed in accordance with this section.
7. The amount of Excess Elective Deferrals that may be distributed with respect to a Participant for a taxable year shall be reduced by any Excess Contributions, above, previously distributed to the Participant for the Plan Year beginning with or within the taxable year.
8. Excess Elective Deferrals that are distributed to the Participant for a taxable year shall be adjusted for any income or loss up to the end of such taxable year. The income or loss allocable to Excess Elective Deferrals is determined as follows:
 - a. Income or loss allocable to the Participant's Elective Account for the taxable year shall be multiplied by a fraction, the numerator of which is such Participant's Excess Elective Deferrals for the taxable year and the denominator of which is the sum of (i) the Participant's Account balance(s) attributable to Elective Deferrals as of the beginning of the taxable year, plus (ii) any additional Elective Deferrals for the taxable year; and
 - b. Income or loss allocable to the period between the end of the taxable year and the date of distribution shall be disregarded in determining income or loss.
9. A Participant may designate the extent to which the Excess Elective Deferrals are composed of Pre-Tax Elective Contributions and/or Roth Contributions, but only to the

extent that both types of Elective Contributions were made during the Plan Year. If the Participant does not designate which type of Elective Contributions are to be distributed, the Participant's Pre-Tax Elective Contributions shall be distributed first.

ARTICLE 7. PARTICIPANT-DIRECTED INDIVIDUAL ACCOUNTS

7.01. Directed Individual Accounts Permitted.

The Administrator may, in its sole and absolute discretion, permit each Participant or Beneficiary to direct the Trustee as to the investment of all or a portion of the Participant's Accounts in any one or more of the investment options made available under the Plan by the Administrator. If such authorization is given by the Administrator, each Participant and Beneficiary may, subject to a procedure established by the Administrator, in a uniform, nondiscriminatory manner, direct the Trustee in writing to invest all or any portion of the Participant's Accounts in the one or more of the investment options made available by the Administrator.

7.02. Separate Account Established.

A separate participant-directed individual account shall be established for each Participant (or Beneficiary) who has directed an investment. Transfers between the Participant's other accounts and the Participant's participant-directed individual account shall be charged and credited as the case may be to each account. The participant-directed individual account shall not share in the Trust Fund investment results, but it shall be charged or credited as appropriate with the net earnings, gains, losses, expenses, taxes and unrealized appreciation or depreciation in market value, during each Plan Year attributable to such account, and it shall be subject to all of the other provisions of the Plan and the Trust. Neither shall the investment results of the participant-directed individual accounts be included in the calculation of the Trust Fund investment results generally. Participant Account values shall be maintained on a daily valuation basis using the most recent values provided by the Trustee.

7.03. Fiduciary Duty.

The Administrator, the Trustee and any other Plan fiduciary are relieved of liability for any losses which are the direct and necessary result of the investment instructions given by a Participant or Beneficiary. However, such relief shall be conditioned upon the Administrator's or the Trustee's compliance with communication and education requirements similar to those prescribed in ERISA section 404(c), as well as any such

requirements under applicable State law. Neither the Trustee nor any other person shall be under any duty to question any direction from any Participant or Beneficiary or to review any investment or to make any investment suggestion to any Participant or Beneficiary, except as otherwise required by applicable State law.

ARTICLE 8. PARTICIPANT LOANS

Loans to Participants shall be permitted pursuant to the following provisions.

8.01. Authorization For Participant Loans; Participant Loan Rules.

Loans to Participants, who are actively employed by SMUD and eligible to participate in the Plan as of the date of funding of the Participant's loan, shall be permitted only pursuant to the terms and conditions set forth in this article and any other nondiscriminatory rules established by the Administrator. All loan limits are determined as of the date the Trustee reserves funds for the loan. The funds will be disbursed to the Participant as soon as is administratively feasible after all required documents have been completed and sufficient Trust Fund assets have been liquidated, if necessary.

8.02. Loan Funding And Repayments.

The loan amount must meet the following criteria:

A. Minimum Loan Amount.

The minimum amount for any loan is one thousand dollars (\$1,000).

B. Maximum Loan Amount.

The maximum amount that a Participant may borrow, including the outstanding balance of existing loans, is based upon such Participant's vested interest in this Plan and all other qualified plans maintained by SMUD (Vested Interest). The maximum amount is equal to fifty percent (50%) of the Vested Interest, not to exceed fifty thousand dollars (\$50,000). However, the fifty thousand dollars (\$50,000) amount is reduced by the Participant's highest outstanding balance of all loans from SMUD's qualified plans and any Code section 457(b) plans maintained by SMUD during the twelve (12) month period ending on the date before the date on which the loan is made.

C. Maximum Number Of Loans.

A Participant may have no more than two (2) loans outstanding from the Plan at any given time and a Participant may not obtain more than two (2) loans during a Plan Year.

D. Source Of Loan Funding.

A loan to a Participant shall be made solely from the assets of such Participant's own Account(s) and all interest paid shall be credited to said Account(s). Any loan from the Participant's Elective Account shall be treated as coming first from the Participant's Pre-Tax Elective Account and then from the Participant's Roth Account, to the extent that funds are available.

E. Interest Rate.

Each loan shall bear a reasonable rate of interest. The interest rate charged on each Participant loan shall bear interest at the lesser of (i) the Reuters Prime Rate as determined on the first day of the calendar month preceding the date the loan is made, plus one percent (1%) or (ii) the maximum legal rate.

F. Repayment.

1. The loan repayment period shall be as mutually agreed upon by the Participant and the Administrator, not to exceed five (5) years. However, the term may be for any period not to exceed fifteen (15) years if the purpose of the loan is to acquire the Participant's principal residence.
2. Each loan shall require substantially level amortization over the term of the loan with payments made at least monthly, through payroll deduction; provided, however, that payment can be made by check for advance loan payments. Loans may be prepaid in full or in part at any time.
3. Loan principal payments shall be credited to the Participant's Accounts in the same order used to fund the loan. Loan interest shall be credited to the Participant's Accounts in direct proportion to the principal payment. Loan repayments are credited to the Participant's Account in accordance with the Participant's current investment election for new contributions.

8.03. Loan Application, Note And Security.

A Participant shall apply for any loan in accordance with the procedures established by the Administrator. The Administrator shall administer Participant loans and shall specify the time frame for approving loan applications. All loans shall be evidenced by a promissory note and secured only by a Participant's Account balance. The Plan shall have a lien on fifty percent (50%) of a Participant's Account to the extent of any outstanding loan balance.

8.04. Default, Suspension And Call Feature.

- A. A loan is treated as in default if any scheduled loan payment is not made when due in accordance with the terms of the loan; provided, however, that a Participant shall have a cure period in which to make the loan payment, which cure period shall not extend beyond the end of the calendar quarter following the calendar quarter that includes the due date for such payment. The Administrator may agree to a suspension of loan payments for up to twelve (12) months for a Participant who is on a leave of absence. In the event of default, the Administrator may direct the Trustee to execute upon its security interest in the Participant's Account by deducting the unpaid loan balance from the Participant's Account, including interest to the date of default and report the default as a taxable distribution; provided, however, that:
1. The Trustee shall neither act nor fail to act in such a manner that would adversely affect the qualified status of the Plan; and
 2. The Trustee shall not execute upon its security interest in the Participant's Account until such time as the Plan may make a distribution to the Participant.
- B. As soon as a Plan distribution to such Participant would otherwise be permitted, the Administrator may instruct the Trustee to distribute the note to the Participant.
- C. The Administrator shall have the right to call any Participant loan once the Participant's employment with SMUD terminates.

ARTICLE 9. VESTING

9.01. Vesting.

- A. A Participant shall at all times be one hundred percent (100%) Vested in the Participant's Account except the Participant's New Member Nonelective Account, if any.
- B. Prior to the time that a Participant's New Member Nonelective Account becomes one hundred percent (100%) Vested pursuant to subsection C, below, the Participant's New Member Nonelective Account shall become Vested as follows:

Years Of Service	Percent Vested
Less than 1	0%
1	20%
2	40%
3	60%
4	80%
At least 5	100%

- C. A Participant shall become one hundred percent (100%) Vested in the full amount credited to the Participant's Account when the Participant attains Normal Retirement Age while employed by SMUD or upon the Participant's Severance From Employment by reason of death or Disability.

9.02. No Divestment For Cause.

Except as provided in the Lost Participant Or Beneficiary section, below, this Plan does not permit divestment for cause and no benefit provided hereunder to a Participant or Beneficiary shall be forfeited or divested for any reason or cause whatsoever.

9.03. Lost Participant Or Beneficiary.

- A. If, according to the records of the Plan, a Participant who had a Severance From Employment or the Beneficiary of a deceased Participant has not made a claim for benefits, and the Participant

or Beneficiary cannot be located after (i) mailing a letter to the last known mailing address of the Participant or Beneficiary according to the records of the Plan and (ii) further diligent efforts to locate the missing Participant or Beneficiary, the Participant's Account balance shall be held in the Plan until the earliest to occur of the following:

1. The Participant or Beneficiary is located, in which case the Administrator shall follow the Plan's normal distribution provisions;
2. The Plan is terminated, in which case the Administrator shall follow subsections B and C, below; or
3. A distribution is required by the Plan (e.g., pursuant to the Commencement Of Payments Of Benefits section or the Cash Outs subsection), in which case the Administrator shall transfer the Participant's Account to the unclaimed property fund of the State in which the last known mailing address of the Participant or Beneficiary was located according to the records of the Plan.

B. Upon Plan termination, prior to taking any action to distribute the Account of a missing Participant or Beneficiary, the Administrator shall take the following steps to locate the missing Participant or Beneficiary:

1. Mail a letter to the last known mailing address of the Participant or Beneficiary according to the records of the Plan;
2. Check related plan records, if any, to determine if one or more of the related plans may have more up-to-date information with respect to the Participant or Beneficiary;
3. Attempt to identify and contact the individual(s) who the Participant has designated as a Beneficiary;
4. Use the Social Security Administration letter-forwarding service; and
5. Use any other search method or methods, including Internet search tools, commercial locator services and credit reporting agencies that the Administrator determines is a

prudent method to use to locate the Participant or Beneficiary based on the particular facts and circumstances.

- C. If, after Plan termination and use of the search methods specified in the previous subsection, the Administrator is still unable to locate a missing Participant or Beneficiary, then the Administrator shall transfer the Participant's Account to the unclaimed property fund of the State in which the last known mailing address of the Participant or Beneficiary was located according to the records of the Plan provided that SMUD does not maintain another defined contribution plan. If SMUD maintains another defined contribution plan, then the Administrator shall transfer the Account of the missing Participant or Beneficiary to the other defined contribution plan.

9.04. Timing Of Forfeitures.

- A. The Forfeiture of that portion of a Participant's New Member Nonelective Account in which the Participant is not Vested shall occur on the date the Participant has a Severance From Employment.
- B. Any amount previously forfeited shall not be reinstated if a Participant is reemployed.

9.05. Vesting Of Reemployed Former Employees.

If a Participant is reemployed by SMUD, the Participant shall not receive credit for any Years Of Service before the Participant's Severance From Employment.

ARTICLE 10. PAYMENT OF BENEFITS

10.01. Measure Of Benefits.

Except as otherwise indicated, the benefit distributable to a Participant upon Severance From Employment, or to the Participant's Beneficiary or Beneficiaries in the event of the Participant's death, shall be the Participant's Vested Account.

10.02. Method Of Payment Of Benefits.

The Administrator shall determine the amount of the Participant's Vested Account and the time when benefit payments commence. The Administrator shall distribute the Participant's Vested Account in

accordance with the method of payment of benefits selected by the Participant (or the Beneficiary of a deceased Participant) in accordance with the provisions of the Plan from among the following:

A. Form Of Distribution.

The Participant or the Participant's Beneficiary shall receive the Participant's Vested Account in the following form:

1. A single sum distribution, in whole or in part;
2. Installment payments (payable on a monthly, quarterly, semi-annual, or annual basis);
3. Combination of single sum and installment payments; or
4. Annuity payments (payable on a monthly, quarterly, or annual basis) for the life of the Participant or for the life of the Participant and the Participant's Beneficiary.

B. Cash Outs.

1. If the value of the Participant's Account does not exceed five thousand dollars (\$5,000), the Administrator may distribute such benefit as soon as is administratively feasible after the Participant's Severance From Employment without such Participant's consent. If the value of the Participant's Vested Account exceeds one thousand dollars (\$1,000), but does not exceed five thousand dollars (\$5,000), the Administrator shall pay the distribution in a direct rollover to an individual retirement plan designated by the Administrator unless the Participant elects to have the distribution paid directly to an Eligible Retirement Plan or consents to receive the distribution directly.
2. If the value of the Participant's Vested Account exceeds five thousand dollars (\$5,000), the Administrator shall not distribute such benefit without the written consent of the Participant; provided, however, that if the value of a Participant's Vested Account exceeds five thousand dollars (\$5,000) and the Participant has a Severance From Employment and has attained the later of (i) age sixty-two (62) or (ii) Normal Retirement Age, the Administrator may distribute the benefit in the normal form of distribution without the Participant's consent.

3. For purposes of determining the one thousand dollars (\$1,000) amount under this Cash Outs subsection, the value of a Participant's Vested Account shall be determined by including that portion of the Participant's Vested Account that is attributable to rollover contributions (and earnings allocable thereto) within the meaning of Code sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16) including rollover contributions (and earnings allocable thereto) from a Participant's Roth Rollover Vested Account. However, for purposes of determining the five thousand dollars (\$5,000) amount under this Cash Outs subsection, the value of the Participant's Vested Account shall exclude rollover contributions (and earnings allocable thereto).

C. Incidental Benefits.

Death and other nonretirement benefits payable under the Plan shall be incidental to the primary purpose of the Plan. Thus, distributions to the Participant under the Plan shall be in sufficient amounts so that the relationship of a Participant's total benefits under the Plan to the deferred compensation payable to the Participant under the Plan is such that the primary purpose of the Plan is to provide deferred compensation to the Participant, all as required by Code section 401(a)(9)(G) and the Treasury regulations promulgated thereunder.

D. Eligible Rollover Distributions.

1. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Method Of Payment Of Benefits section, a Distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.
2. If the Participant or the Participant's Beneficiary elects, in the manner set forth above, a distribution that constitutes an Eligible Rollover Distribution, and if the Distributee of the Eligible Rollover Distribution (i) elects to have such distribution paid directly to an Eligible Retirement Plan and (ii) specifies the Eligible Retirement Plan to which such

distribution is to be paid, in such form and at such time as the Administrator may prescribe, then such distribution shall be made in the form of a direct trustee-to-trustee transfer to the Eligible Retirement Plan so specified.

3. Notwithstanding any of the provisions of the Eligible Rollover Distributions subsection, a direct rollover of a distribution from a Roth Account, Roth Rollover Account, or In-Plan Roth Conversion Account under the Plan will be made only to another Roth account under an applicable retirement plan described in Code section 402A(e)(1) or to a Roth IRA (as defined below) and only to the extent the rollover is permitted under the rules of Code section 402(c). For purposes of this subsection, a "Roth IRA" is defined as an individual retirement plan described in Code section 7701(a)(37) which is designated as a Roth IRA at the time of establishment in such manner as required by the Code and the regulations thereunder.
4. A Beneficiary other than a Participant's surviving spouse or a Participant's former spouse who is an "alternate payee" under a qualified domestic relations order is a person eligible to make a rollover with regard to the interest of the Participant or former Participant, subject to the limitation for such a Beneficiary that an Eligible Retirement Plan is an individual retirement account or individual retirement annuity that will be treated as an inherited individual retirement account or annuity under Code section 402(c)(11).

10.03. Commencement Of Payment Of Benefits.

A. Benefits Commencement In General.

1. Unless a Participant elects a later commencement date, distribution of the terminated Participant's Vested Account will be payable to such terminated Participant as soon as is administratively feasible after the Participant's Severance From Employment.
2. Notwithstanding the provisions of paragraph 1, above, a Participant who continues to be employed by SMUD and who has attained age fifty-nine and one-half (59-1/2) is permitted to withdraw upon request all or a portion of such Participant's Vested Account. The withdrawal amount shall come from the Participant's Account in the following order:

- a. Rollover Account;
 - b. Roth Rollover Account;
 - c. Nonelective Account;
 - d. Elective Account (excluding any income attributable to such Elective Contributions); and
 - e. Matching Account.
3. Notwithstanding the provisions of paragraph (1) above, a Participant who is (by reason of being a member of a reserve component (as defined in section 101 of title 37, United States Code)) ordered or called to active duty for a period in excess of 179 days or for an indefinite period may request a distribution from his or her Elective Account, provided that the distribution is made on or after the date of such order or call and not later than the last day of active duty (a "Qualified Reservist Distribution").

B. Latest Commencement Date.

1. Benefits shall begin to be paid to the Participant not later than the sixtieth (60th) day after the latest of the close of the Plan Year in which:
 - a. Occurs the date on which the Participant is the earlier of age sixty-five (65) or the Normal Retirement Age;
 - b. Occurs the tenth (10th) anniversary of the year in which the Participant commenced participation in the Plan; or
 - c. The Participant terminates service with SMUD.
2. Notwithstanding paragraph 1, above, except as provided in the Cash Outs subsection, above, or the Required Minimum Distributions subsection, below, a Participant must file a claim for benefits (which includes a consent to a distribution) before payment of benefits will commence.
3. Notwithstanding paragraph 1, above, except as provided in the Cash Outs subsection, above, or the Required Minimum

Distributions subsection, below, a Participant (or where the Participant has died, the Participant's Beneficiary) may request payment to be made or commenced at a later date; provided that the Participant or the Participant's Beneficiary must submit a written statement to the Administrator which describes the benefit and the date on which payment shall commence; and provided further that the then present value of the payments projected to be made over the Participant's then life expectancy is more than fifty percent (50%) of the then present value of the total payments projected to be made to the Participant and the Participant's Beneficiaries.

C. Required Minimum Distributions.

1. Notwithstanding anything contained in this Plan to the contrary, the Participant's entire interest either (i) will be distributed to the Participant not later than the Required Beginning Date or (ii) will begin to be distributed beginning not later than the Required Beginning Date over the life of the Participant or over the lives of the Participant and the Participant's Designated Beneficiary (or over a period not extending beyond the life expectancy of the Participant or the life expectancy of the Participant and the Participant's Designated Beneficiary).
2. The required minimum distribution for the Participant's first Distribution Calendar Year will be made on or before the Participant's Required Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.
3. Unless the Participant's interest is distributed in the form of a single sum on or before the Required Beginning Date, as of the first Distribution Calendar Year, distributions will be made in accordance with this Required Minimum Distributions subsection or the Payment Of Death Benefits section, below, if applicable.
4. All minimum distributions under this subsection will be made in accordance with the provisions of Code section 401(a)(9), the Treasury regulations promulgated under Code section 401(a)(9), and any other provisions reflecting Code section

401(a)(9) that are prescribed by the Commissioner of Internal Revenue in revenue rulings, notices and other guidance published in the Internal Revenue Bulletin.

5. The provisions of the Required Minimum Distributions subsection will override any distribution options in the Plan inconsistent with Code section 401(a)(9).
6. This Required Minimum Distributions subsection and the provisions under the Payment Of Death Benefits section set forth the minimum required distributions pursuant to Code section 401(a)(9) and the Treasury regulations promulgated thereunder and shall not be construed as creating any payment method under the Plan not otherwise provided under the Method Of Payment Of Benefits section, provided that the method or methods of payment under the Method Of Payment Of Benefits section meet or exceed the requirements of this Required Minimum Distributions subsection.
7. A Participant or a Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Code section 401(a)(9)(H) (2009 RMDs) and who would have satisfied that requirement by receiving distributions that are (i) equal to the 2009 RMDs or (ii) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's designated beneficiary, or for a period of at least ten (10) years will receive those distributions for 2009 unless the Participant or Beneficiary chooses not to receive such distributions. Such Participants and Beneficiaries will be given the opportunity to elect not to receive such distributions. Solely for purposes of applying the direct rollover provisions of the Plan, 2009 RMDs will be treated as Eligible Rollover Distributions.

D. Restrictions On Distributions.

A Participant's Elective Account, shall not be distributable earlier than upon the Participant's retirement, death, disability, Severance From Employment, attainment of age fifty-nine and one-half (59-1/2), hardship as provided below, or in the case of a Qualified Reservist Distribution permitted under section 10.03(A)(3), the date

a Participant is ordered or called to active duty; provided, however, that such amounts may be distributed, in the form of a single sum distribution only, upon the termination of the Plan without the establishment of another defined contribution plan other than, a simplified employee pension as defined in Code section 408(k), a SIMPLE IRA plan as defined in Code section 408(p), a plan or contract that satisfies the requirements of Code section 403(b), or a plan described in Code section 457(b) or (f).

10.04. Distributions To Rehired Employees.

- A. Distributions scheduled to be paid under this article based upon the Participant's Severance From Employment shall not commence if the Participant is reemployed by SMUD before distribution is otherwise required to be paid pursuant to this article.
- B. A Participant who is receiving benefit payments under this Plan, or who previously received a single sum distribution of the Participant's benefits under this Plan, based upon the Participant's Severance From Employment, and who is subsequently reemployed by SMUD, shall not have benefits suspended and shall receive an additional benefit equal to the benefit that the Participant accrues after the Participant's Reemployment Commencement Date. Such additional benefit shall commence upon the Participant's subsequent Severance From Employment, unless such additional benefit must commence at an earlier date as required by the provisions of Code section 401(a)(9). There shall be no duplication of benefits to such a Participant. Such additional benefit shall be paid to the Participant in the same form as the benefits that had already commenced.

10.05. Hardship Distributions.

- A. At any time, but not more frequently than twice during a Plan Year, a Participant may apply in writing to the Administrator for a hardship withdrawal in an amount equal to all or a portion of the Participant's Accounts in the following order:
 - 1. Rollover Account;
 - 2. Roth Rollover Account;
 - 3. Nonelective Account;

4. Elective Account (excluding any income attributable to such Elective Contributions); and

5. Matching Account;

reduced by the amount of previous distributions to the Participant on account of hardship. Notwithstanding the above, all educational withdrawals for the same person during a Plan Year shall be treated as a single withdrawal.

B. The Administrator shall determine, in its sole and absolute discretion, the amount of the distribution that is necessary to alleviate the hardship.

C. A distribution is on account of hardship only if the distribution is (i) made on account of an immediate and heavy financial need of the Participant and (ii) is necessary to satisfy such financial need. A financial need shall not fail to qualify as immediate and heavy merely because such need was reasonably foreseeable or voluntarily incurred by the Participant. The determination by the Administrator of the existence of an immediate and heavy financial need and of the amount necessary to meet the need shall be made in a nondiscriminatory and uniform manner. The determination of hardship by the Administrator shall be final and binding.

D. A distribution will be deemed to be made on account of an immediate and heavy financial need of the Participant only if the distribution is for:

1. Expenses for (or necessary to obtain) medical care that would be deductible under Code section 213(d) (determined without regard to whether the expenses exceed seven and five-tenths percent (7.5%) of adjusted gross income);

2. Costs directly related to the purchase of a principal residence for the Participant (excluding mortgage payments);

3. Payment of tuition, related educational fees, and room and board expenses, for the next twelve (12) months of post-secondary education for the Participant, the Participant's spouse, children, or dependents of the Participant (as defined in Code section 152 without regard to Code sections 152(b)(1), (b)(2) and (d)(1)(B));

4. Payments necessary to prevent the eviction of the Participant from the Participant's principal residence or foreclosure on the mortgage on that residence;
 5. Payments for burial or funeral expenses for the Participant's deceased parent, spouse, children or dependents (as defined in Code section 152 without regard to Code sections 152(b)(1), (b)(2) and (d)(1)(B)); or
 6. Expenses for repair of damage to the Participant's principal residence that would qualify for the casualty deduction under Code section 165 (determined without regard to whether the loss exceeds ten percent (10%) of adjusted gross income).
 7. Expenses and losses (including loss of income) incurred by a participant on account of a disaster declared by the Federal Emergency Management Agency (FEMA), provided that the employee's principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster
- E. A distribution will be deemed to be made on account of an immediate and heavy financial need of the Participant only if the need cannot be relieved through:
1. Reimbursement or compensation by insurance or otherwise;
 2. Reasonable liquidation of the assets of the Participant and the Participant's spouse to the extent that such liquidation would not itself cause an immediate and heavy financial need;
 3. Cessation of Elective Contributions under the Plan; or
 4. Other distributions or nontaxable loans (at the time of the loan) from this Plan or any other plan maintained by the District or by any other employer, or by borrowing from commercial sources on reasonable commercial terms.
- F. A distribution will be deemed to be necessary to satisfy an immediate and heavy financial need of a Participant only if all of the following requirements are satisfied:
1. The distribution is not in excess of the amount of the immediate and heavy financial need of the Participant. The amount of an immediate and heavy financial need may include any amounts

necessary to pay any federal, State, or local income taxes or penalties reasonably anticipated to result from the distribution.

2. The Participant has obtained all distributions, other than hardship distributions, and all nontaxable (at the time of the loan) loans currently available under this Plan and all other plans maintained by SMUD.
- G. For purposes of determining that the Employee has no alternative means available to relieve the immediate and heavy financial need, the District may rely upon the Employee's representation (made in writing or such other form as may be prescribed under the Code, regulations or other guidance published thereunder), unless the District has actual knowledge to the contrary.
 - H. Notwithstanding anything in this section to the contrary, a Participant will be required to obtain a hardship distribution under this Plan, to the extent available, before the Participant is able to obtain a distribution upon an unforeseeable emergency pursuant to the Employer's 457(b), to the extent available.

10.06. Payment Of Death Benefits.

- A. Upon the death of a Participant, the Participant's Accounts shall be payable to the Participant's Beneficiary or Beneficiaries.
- B. Notwithstanding anything contained in this Plan to the contrary:
 1. If distribution of the Participant's Account has been commenced to the Participant and the Participant dies before receiving the Participant's entire Account, then the balance of the Participant's undistributed Account shall continue to be distributed at least as rapidly as the method used at the Participant's death subject to the following.
 - a. If the Participant dies on or after the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's Designated Beneficiary, determined as follows:

- (1) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
 - (2) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each Distribution Calendar Year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For Distribution Calendar Years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.
 - (3) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.
- b. If the Participant dies on or after the date distributions begin and there is no Designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
2. If the Participant dies before the distribution of the Participant's interest has begun pursuant to the Required Minimum Distributions subsection, above, the Participant's

entire interest will be distributed, or begin to be distributed, no later than as follows:

- a. If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age seventy and one-half (70-1/2), if later. The minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining life expectancy of the Participant's surviving spouse.
 - b. If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died. The minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining life expectancy of the Participant's Designated Beneficiary.
 - c. If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth (5th) anniversary of the Participant's death.
 - d. If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this subsection will apply as if the surviving spouse were the Participant.
3. For purposes of this subsection, distributions are considered to begin on the Participant's Required Beginning Date;

provided, however, that if the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under subparagraph a of paragraph 2, above.

4. If the Participant dies before the distribution of the Participant's interest has begun pursuant to the Required Minimum Distributions subsection, above, and there is a Designated Beneficiary, the Participant or the Participant's Beneficiaries may elect, on an individual basis, whether the five (5)-year rule or the life expectancy rule set forth above applies to distributions after the death of a Participant who has a Designated Beneficiary. The election must be made no later than the earlier of (i) September 30 of the calendar year in which distribution would be required to begin or (ii) September 30 of the calendar year which contains the fifth (5th) anniversary of the Participant's (or, if applicable, surviving spouse's) death. If neither the Participant nor the Participant's Beneficiary makes an election under this section, distributions will be made in accordance with either the five (5)-year rule or the life expectancy rule, as required by the preceding provisions of the Plan.
5. For purposes of this section, any amount paid to a child shall be treated as if it had been paid to the surviving spouse if such amount will become payable to the surviving spouse upon such child reaching majority or such other designated event all as prescribed by the Secretary of the Treasury.

10.07. Distributions To Incapacitated Individuals.

If the Administrator determines that a Participant or Beneficiary who is entitled to a payment under the Plan is not able to care for his or her affairs due to a mental condition, a physical condition, or by reason of age, the Administrator may make all benefit distributions to the Participant's or Beneficiary's parent, guardian, conservator, trustee, custodian (including a custodian under the Uniform Transfers to Minors Act or the Uniform Gifts to Minors Act) or to his or her attorney-in-fact or other legal representative upon receiving evidence of such status satisfactory to the Administrator, in its sole discretion. Payments made pursuant to the terms of this Distributions To Incapacitated Individuals section shall constitute a distribution to the Participant or Beneficiary entitled thereto, and shall

immediately discharge SMUD, Administrator, Trustee, the Plan and the Trust of any further liability therefor. Neither the Administrator nor the Trustee has a duty to inquire or investigate the competence of any Participant or Beneficiary entitled to receive payments under the Plan.

10.08. Repayment Of Overpayment Of Benefits.

By accepting payment of benefits under this Plan, the Participant or Beneficiary receiving the payment agrees that, in the event of overpayment, the Participant or Beneficiary will promptly repay the amount of overpayment without interest upon notice by the Administrator; provided that, if the Participant or Beneficiary has not repaid the overpayment within thirty (30) days after notice:

- A. The Participant or Beneficiary will also pay an amount equal to simple interest at the rate of ten percent (10%) per annum (or the highest rate allowable, 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 Trustee, Administrator or SMUD, or any of their employees or agents, related to the collection of such overpayment; and
- B. The Administrator may deduct all or any portion of the overpayment, with interest, that is not timely repaid from any amount that would otherwise then be payable, or that may become payable, to the Participant or Beneficiary under the Plan.

10.09. Qualified Domestic Relations Order Payments.

- A. All rights and benefits, including elections, provided to a Participant shall be subject to the rights afforded to any "alternate payee" under a "qualified domestic relations order" as those terms are defined in Code section 414(p). A domestic relations order will not fail to be a qualified domestic relations order (i) because the order is issued after, or revises another domestic relations order or qualified domestic relations order, or (ii) because of the time at which the order is issued, including the issuance after the Participant's death.
- B. The Administrator may segregate assets for an alternate payee in accordance with a qualified domestic relations order. All rights and benefits, including elections, provided to a Participant shall be subject to the rights afforded to any alternate payee under a qualified domestic relations order.

- C. A distribution may be made to an alternate payee pursuant to a qualified domestic relations order prior to the times otherwise specified in this Plan, if the qualified domestic relations order requires such a distribution, even if the Participant is not yet entitled to receive a distribution; provided, however, that nothing contained in this provision nor such qualified domestic relations order shall entitle a Participant to a distribution prior to the time as otherwise determined under the Plan.
- D. The Administrator shall establish reasonable procedures to determine whether a domestic relations order is a qualified domestic relations order and to administer distributions under such an order. If any domestic relations order is received by the Plan, the Administrator shall:
 - 1. Promptly notify the Participant and any alternate payee that the order has been received and of the Plan's procedures for determining whether the order is a qualified domestic relations order; and
 - 2. Determine within a reasonable period after receipt of the order whether it is a qualified domestic relations order and notify the Participant and each alternate payee of the Administrator's determination.
- E. During any period when the issue of whether a domestic relations order is a qualified domestic relations order is being determined by the Administrator, a court of competent jurisdiction or otherwise, the Administrator shall segregate the amounts which would have been payable to the alternate payee during such period if the order had been determined to be a qualified domestic relations order. If the order, or a modification of the order, is determined within eighteen (18) months to be a qualified domestic relations order, the Administrator shall segregate the amounts (as adjusted by attributable investment income or loss), in accordance with the Plan's provisions, for the entitled individual(s). If, within eighteen (18) months, the order is determined not to be a qualified domestic relations order or its status as a qualified domestic relations order is not resolved, the Administrator may pay the segregated amounts (as adjusted by attributable investment income or loss) to the individual(s) entitled to receive such amounts absent such order. Any determination that an order is a qualified domestic relations order made after the close of the eighteen (18) month period shall be applied prospectively only.

10.10. Nonliability.

SMUD does not guarantee the Trust, the Participants or their Beneficiaries against loss of or depreciation in value of any right or benefit that any of them may acquire under the terms of this Plan. All of the benefits payable hereunder shall be paid or provided for solely from the Trust.

10.11. Mechanics Of Payment.

The Trustee, with respect to any benefit, is authorized to pay benefits directly from the Trust to such person and in such amounts as authorized and specified by the Administrator.

10.12. Withholding.

The Administrator hereby specifically delegates to the Trustee the responsibility and liability for income tax withholding and to withhold the appropriate amount from any payment made from the Trust to a Participant or Beneficiary under the provisions of applicable law and Treasury regulations. The Administrator shall furnish the Trustee with all information necessary to accomplish such withholding function, as set forth in the Treasury regulations, or, if such information is not provided to the Trustee, the Administrator shall assume all relevant liability.

10.13. Purchase Of Defined Benefit Plan Service Credit.

- A. Until December 31, 2012, if a Participant is also a participant in the California Public Employee Retirement System (CalPERS) or another tax-qualified defined benefit governmental plan as defined in Code section 414(d) (Recipient Plan) that provides for the acceptance of plan-to-plan transfers with respect to the Participant, then the Participant may elect to have a portion of the Participant's Plan account transferred to the Recipient Plan in accordance with this section.
- B. A transfer to a Recipient Plan may be made under subsection A, above, only if the transfer is either for the purchase of permissive service credit, as defined in Code section 415(n)(3)(A) (other than nonqualified service credit), under the Recipient Plan, or is a repayment to which Code section 415 does not apply by reason of Code section 415(k)(3).
- C. Permissive service credit as defined in Code section 415(n)(3)(A) includes actual service credit as well as service credit for periods during which there is no performance of service and which is

defined as nonqualified service credit in Code section 415(n)(3)(C). A Participant may also purchase service credit for an increased benefit under the Recipient Plan even if the credit applies to service already earned under such plan.

- D. Subject to the provisions of the Recipient Plan, the limitations on the amount of nonqualified service credit that may be taken into account under Code section 415(n)(3)(B) shall not apply to a trustee-to-trustee transfer from this Plan to such Recipient Plan.
- E. In accordance with Code section 415(n)(3)(D), amounts transferred to a Recipient Plan under subsection B, above, shall be subject to the distribution rules that apply to such Recipient Plan.
- F. A Participant's request to transfer assets from the Plan to a Recipient Plan on a trustee-to-trustee basis shall be approved in the sole discretion of the Administrator. Once approved, such transfer shall be made directly from the Trustee to the trustee or custodian of the Recipient Plan.
- G. Transfers that are made pursuant to this section may be made while the Participant is an Employee or after the Participant's Severance From Employment with SMUD.
- H. Effective as of January 1, 2013, a Participant will no longer have the ability to make an election to transfer funds to purchase nonqualified service credits in a defined benefit plan pursuant to Code section 415(n)(3)(C).

10.14. Distribution From Roth Accounts.

Any "qualified distribution" as defined below, from an Employee's Roth Account, In-Plan Roth Conversion Account, or Roth Rollover Account, other than a distribution of any Excess Elective Deferrals under Code section 402(g)(2) and any income on the Excess Elective Deferrals, shall not be includible in such Participant's gross income. A "qualified distribution" is a distribution in accordance with Code Section 408A(d)(2)(A) (without regard to clause (iv) thereof). Furthermore, a distribution from an Employee's Roth Account, In-Plan Roth Conversion Account, or Roth Rollover Account shall not be treated as a qualified distribution if such distribution is made within the five (5) taxable year period beginning with the earlier of:

- A. The first taxable year for which the individual made Roth Contributions to this Plan;

- B. The first taxable year for which the Participant converted a portion of the Participant's Account in an In-Plan Roth Conversion as described in the In-Plan Roth Conversions section, below, or
- C. If a rollover contribution was made to a Roth Rollover Account from a designated Roth elective deferral account previously established for such individual under another applicable retirement plan, the first taxable year for which the individual made a designated Roth elective deferral to such previously established account.

10.15 In-Plan Roth Conversions.

A Participant may convert, in an "In-Plan Roth Conversion," any Vested portion of the Participant's Account other than a Roth Account or a Roth Rollover Account to an In-Plan Roth Conversion Account pursuant to Code section 402A(c)(4) and the following:

- A. This section shall apply to a deceased Participant's Beneficiary if the Beneficiary is the Participant's surviving spouse and to an alternate payee who is a spouse or a former spouse of the Participant, as if such an individual were the Participant.
- B. A Participant loan may not be distributed as part of an In-Plan Roth Conversion.
- C. A Participant must include in gross income the taxable amount of an In-Plan Roth Conversion in the taxable year when the conversion occurs.
- D. Any distribution restrictions that otherwise apply with respect to a specific contribution source will continue to apply if such contribution source is converted as part of an In-Plan Roth Conversion.
- E. Any election to make an In-Plan Roth Conversion may not be changed after the In-Plan Roth Conversion is completed.

ARTICLE 11. PLAN ADMINISTRATION

11.01. Employment Records.

SMUD shall maintain sufficient employment records to calculate benefits under this Plan for each Employee. SMUD shall make such records available to the Administrator, in a timely manner, and SMUD shall be responsible for the accuracy of such information, upon which the Administrator is entitled to rely.

11.02. Reports And Disclosure.

The Administrator shall prepare, file and distribute, in a timely manner, all reports and information to be disclosed to Participants as may be required by the Code or California Law. The Administrator shall prepare such reports from records kept by it and information furnished by SMUD and the Trustee.

11.03. Retention Of Records.

Every person subject to a requirement to file any description or report or to certify any information thereof, or who would be subject to such a requirement but for an exemption or simplified reporting requirement under the Code or California Law, shall maintain records on the matters of which disclosure is required which will provide in sufficient detail the necessary basic information and data from which the documents thus required may be verified, explained or clarified and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts and applicable resolutions, and shall keep such records available for examination for a period of not less than six (6) years after the filing date of the documents based on the information which they contain, or six (6) years after the date on which such documents would have been filed but for an exemption or simplified reporting requirement under the Code or California law.

11.04. Powers And Responsibilities.

A. SMUD shall be empowered to appoint and remove the Administrator from time to time as it deems necessary for the proper administration of the Plan and to assure that the Plan is being operated for the exclusive benefit of the Participants and their Beneficiaries in accordance with the terms of the Plan and the Code.

- B. SMUD or its delegate shall establish an investment policy or guidelines to ensure the prudent selection and monitoring of Plan investments or investment options. Such investment policy or guidelines shall be consistent with the objectives of this Plan and with the requirements of California Law.
- C. SMUD shall periodically review the performance of any fiduciary or other person to whom duties have been delegated or allocated by it under the provisions of this Plan, or pursuant to procedures established hereunder, or under the provisions of the Trust. This requirement may be satisfied by formal periodic review by SMUD or by a qualified person specifically designated by SMUD, through day-to-day conduct and evaluation, or through other appropriate means.

11.05. Designation Of Administrative Authority.

- A. SMUD has delegated to the General Manager the authority to exercise administrative oversight, make decisions, and enter into administrative service agreements for the Plan.
- B. The General Manager shall appoint a committee to be the Administrator. Any person, including, but not limited to, the Employees of SMUD, shall be eligible to serve as an Administrator. Any person so appointed shall signify such appointee's acceptance by filing written acceptance with the General Manager. An Administrator may resign by delivering a written resignation to the General Manager or may be removed by the General Manager with or without cause by delivery of written notice of removal, to take effect at a date specified therein, or upon delivery to the Administrator if no date is specified.
- C. The General Manager, upon the resignation or removal of an Administrator, shall promptly designate, in writing, a successor to this position. If the General Manager does not appoint a successor Administrator, the General Manager will function as the Administrator.

11.06. Allocation And Delegation Of Responsibilities.

If more than one person is appointed as the Administrator, the responsibilities of each appointed person may be specified by the General Manager and accepted in writing by each Administrator, with written notice to the Trustee. In the event that the General Manager makes no such delegation, the Administrators may allocate the responsibilities among

themselves, in which event the Administrators shall notify the General Manager and the Trustee in writing of such action and specify the responsibilities of each Administrator. The Trustee thereafter shall accept and rely upon any documents executed by the appropriate Administrator until such time as the General Manager or the Administrator files with the Trustee a written revocation of such designation. Except where there has been an allocation and delegation of administrative authority pursuant to this section, if there shall be more than one Administrator, they shall act by a majority of their number, but may authorize one or more of them to sign all papers on their behalf. The Administrators may act with or without a meeting being called or held and shall keep minutes of all meetings held and a record of all actions taken by written consent. No Administrator may participate in any decision that involves solely the Administrator's interest as a Participant in the Plan.

11.07. Powers And Duties Of The Administrator.

The primary responsibility of the Administrator is to administer the Plan for the exclusive benefit of the Participants and their Beneficiaries, subject to the specific terms of the Plan. The Administrator shall administer the Plan in accordance with its terms and shall have the power and discretion to interpret and construe the terms of the Plan, to decide any disputes and resolve any ambiguities which may arise relative to the rights of the Employees, past and present, and their Beneficiaries, under 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 be deemed a qualified plan under the terms of Code section 401(a) and all regulations issued pursuant thereto. The Administrator shall have all powers necessary or appropriate to accomplish its duties under this Plan.

11.08. Administrative Functions.

The Administrator shall:

- A. Determine Participant eligibility;
- B. Compute and allocate Plan contributions;

- C. Compute and allocate Trust Fund gains and losses;
- D. Calculate distributable benefits and instruct the Trustee as to the amount and frequency of payments to the distributee;
- E. Process claims and appeals from claims denied; and
- F. Make recommendations to SMUD, the General Manager and the Trustee concerning any phase of Plan management or administration.

11.09. Interpretation Of Trust Document.

The Administrator or its designee shall, in its discretion, interpret and construe the provisions of the Trust document, shall resolve any ambiguities in the Trust document, and shall resolve any conflicts between the Plan and the Trust document. The Administrator or its designee shall give instructions and directions to the Trustee as necessary and, in general, shall direct the administration of the Plan. The Administrator shall not, through interpretation of the Plan or the Trust document or action under the Plan, increase the burden imposed upon the Trustee without the consent of the Trustee.

11.10. Settlement Of Disputes.

If any dispute arises between the Trustee and any other person, including, without limitation, the Administrator, SMUD or any Participant or Beneficiary under the Plan, with respect to the interpretation of this Plan or the Trust document, or the duties of the Trustee, the Administrator or any other fiduciary, then neither the Trustee nor the Administrator shall be obligated to take any other action in connection with the matter involved in the controversy until such time as the controversy is resolved, unless this would clearly be imprudent or not in the best interest of the Participants and Beneficiaries. In addition, the Trustee may deposit (or the Administrator may direct the deposit) of the affected assets of the Trust in an interpleader action with the court of jurisdiction under applicable State law.

11.11. Appointment And Responsibility Of Representatives.

- A. With the consent of SMUD or its designee, the Administrator shall have the right and 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 Plan, in whole by SMUD (if SMUD agrees to do so in advance), or in part by the Plan and in part by SMUD (if SMUD agrees to do so in advance).

- B. 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, SMUD 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 Plan shall not be the responsibility of the designated representatives.

11.12. Appointment Of Fiduciaries And Agents.

SMUD or its designee shall have the right to hire and fire any fiduciary or agent, including the Trustee, the Administrator, or any agent designated pursuant to the Appointment And Responsibility Of Representatives section, above.

11.13. Compensation Of Administrator.

The Administrator(s) shall receive no compensation from the Trust for acting as such, but the Trust shall reimburse the Administrator(s) for all necessary and proper expenses incurred in carrying out its duties under the Plan.

11.14. Use Of Electronic Media.

In accordance with Treasury regulation section 1.401(a)-21, the Administrator may use telephonic or electronic media to satisfy the notice requirements under this Plan and to make appropriate administrative pronouncements.

ARTICLE 12. CLAIMS PROCEDURES

The Administrator shall have sole and absolute discretion to determine Participants' and Beneficiaries' rights to benefits under the Plan. All benefit claim decisions will be made in accordance with the terms of the Plan documents and the Plan terms will be applied consistently to all claimants.

12.01. Request For Information.

A Participant or Beneficiary may request such information concerning the Participant's or Beneficiary's rights or benefits under this Plan and the Trust as is required to be disclosed under part 1, title I of ERISA if ERISA applied to the Plan. The Administrator shall respond, in writing, within a reasonable time, not to exceed thirty (30) days, unless the failure to respond results from matters reasonably beyond the Administrator's control.

12.02. Claims For Benefits.

In order to receive benefits under this Plan, a Participant must submit satisfactory proof of entitlement to such a benefit as set forth in this Claims Procedures article.

12.03. Filing Claims.

A Participant, Beneficiary, or duly authorized representative of a Participant or Beneficiary (Claimant) may file a claim for benefits to which such Claimant believes he or she is entitled. Claims must be made in writing and delivered to the Administrator in accordance with this Claims Procedures article. 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. A Claimant can initiate the claim process by submitting to the Administrator fully completed distribution election forms, if needed, or a letter clearly stating that a claim is being filed. However, a claim shall not be considered to be "filed" for the purposes of these claim and appeals procedures until all necessary and applicable forms are completed and submitted to the Administrator. A claim will be considered submitted if delivered to the Administrator directly or in care of the office of SMUD that handles personnel and human resources matters.

12.04. Initial Determination Of Claim.

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

- B. The Administrator will notify the Claimant, in writing, of the granting or denying, in whole or in part, of such claim, within ninety (90) days after receipt of such claim, unless special circumstances require an extension of time for processing the claim. In no event may the extension exceed ninety (90) days from the end of the initial ninety (90) 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 ninety (90) day period and the notice must indicate the special circumstances requiring the extension and the date by which a decision will be made.
- 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 section, below.

12.05. Claims Appeals.

- 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 (determined in accordance with Department of Labor regulations section 2560.503-1(m)(8) as if it applied to this Plan) to the Claimant's claim for benefits.
- B. The written request for review must be received by the Administrator no later than sixty (60) days after the Claimant receives notice that the Claimant's claim for Plan benefits has been denied.
- C. The decision on the review shall be made by the Administrator, who may, in its discretion, hold a hearing on the denied claim.
- D. The Administrator shall make its decision promptly, and not later than sixty (60) days after the Administrator's receipt of the request for a review, unless the Administrator determines that special circumstances require an extension of time for processing the claim. If the Administrator determines that an extension of time for processing is required, this period may be extended no more than sixty (60) days from the end of the initial sixty (60) day period, in which case the Administrator shall give the Claimant a written notice to this effect prior to the expiration of the initial sixty (60) day period and the notice shall indicate the special circumstances requiring the extension of time and the date by which a decision will be made on review.
- E. 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:
1. The specific reason or reasons for the denial;
 2. Specific reference to pertinent Plan provisions on which the denial is based; and
 3. 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 (determined in accordance with Department of Labor

regulations section 2560.503-1(m)(8) as if it applied to this Plan) to the Claimant's claim for benefits.

- F. If the decision on review is not furnished to the Claimant within the time required in this section, the claim shall be deemed denied on review and the Claimant shall be permitted to exercise the Claimant's right to legal remedy pursuant to the remaining sections of this Claims Procedures article.

12.06. Resolution Of Disputes.

Any claim under this Plan that has not been resolved under the preceding provisions of this Plan shall be resolved pursuant to the provisions of this Resolution Of Disputes section. A Claimant may not commence resolution of a claim pursuant to this section more than three (3) years after the final decision denying the claim.

A. Negotiation/Mediation.

To commence the dispute resolution process, any party may serve written notice on the other parties specifically identifying the dispute and requesting negotiation. For a period of thirty (30) days, the parties shall use their best efforts to resolve the dispute by negotiation. If the parties are unable to agree after reasonable negotiations among them, any party may initiate mediation by making a written request to the other parties. The parties shall select a retired judge of the California Superior Court (or above) or United States courts to conduct the mediation. The parties shall select a mediator as soon as reasonably possible but in no event later than thirty (30) days following service of the written request to initiate mediation. If the parties are unable to agree upon a mediator during this time period, the matter shall be submitted to Judicial Arbitration and Mediation Services, Inc. (JAMS) for selection of a JAMS panel mediator (Mediator). If practical, the Mediator shall have expertise in employee benefits.

B. Binding Arbitration.

If the parties' good faith efforts at resolving the dispute pursuant to the Negotiation/Mediation subsection are unsuccessful, such dispute shall be submitted to, and conclusively determined by, binding arbitration in accordance with this Binding Arbitration subsection. Any party may initiate arbitration by making a written request to the other parties. The parties must request arbitration

within thirty (30) days of the completion of the negotiation/mediation process.

1. An Arbitrator shall be selected by the parties from the list of individuals affiliated with JAMS (Arbitrator). If practical, the Arbitrator shall have expertise in employee benefits. If the parties are unable to agree upon an Arbitrator, each party shall select an Arbitrator and the Arbitrators so selected shall select a third Arbitrator.
2. Any arbitration hearing shall be conducted in Sacramento County. The law applicable to the arbitration of any dispute shall be the applicable federal or California State law if this matter was tried in Federal court in California. Except as otherwise provided in this Plan, the arbitration shall be governed by the applicable JAMS arbitration rules.
3. In no event shall the Arbitrator's award include any component of punitive or exemplary damages. The parties shall equally bear all costs of arbitration.

12.07. 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. If a dispute arises as to the proper amount or recipient of any payment of benefits, the Administrator, in the Administrator's sole and absolute discretion, may withhold or cause to be withheld such payment until the dispute has been settled by the parties concerned, or the Administrator may deposit such funds or property with the court in an interpleader action brought under the law of the State having jurisdiction.

ARTICLE 13. AMENDMENT AND TERMINATION

13.01. Amendments.

- A. SMUD reserves the right to amend this Plan and the Trust at any time without the consent of the Administrator, any Trustee or any fiduciary, or any Participant or Beneficiary; provided, however, that except in accordance with the provisions of the Plan or as otherwise specifically permitted by law, no such amendment shall:

1. Cause any of the assets of the Trust Fund to be used for or diverted to purposes other than for the exclusive benefit of Participants and their Beneficiaries;
 2. Have any retroactive effect so as to deprive any Participant or Beneficiary of any benefit already vested, except that such changes may be made as may be required to permit the Plan and the Trust to meet the requirements of the Code with respect to the qualification of the Plan and the exemption of the Trust under Code sections 401(a) and 501(a), or any similar statutes enacted in lieu thereof; or
 3. Increase the duties or liabilities of the Trustee without the Trustee's consent.
- B. Any such Plan amendment shall be made by means of a written instrument identified as an amendment of the Plan effective as of a specified date.
- C. Notwithstanding any other provision of the Plan to the contrary, if there is a scrivener's error in properly transcribing the provisions of this Plan, it shall not be a violation of the Plan terms to operate the Plan in accordance with its proper provisions, rather than in accordance with the term of the Plan, pending correction of the Plan through amendment. In addition, any provisions of the Plan improperly added as a result of scrivener's error shall be considered null and void as of the date such error occurred.
- D. SMUD has delegated to the General Manager the right to adopt future amendments to the Plan, consistent with regulatory requirements or by negotiations.

13.02. No Amendment To Reduce Prior Earned Benefits.

Except as otherwise specifically permitted by law, SMUD shall not have the right to modify or amend the Plan retroactively in such manner as to deprive any Participant or Beneficiary of any benefit to which such Participant or Beneficiary was entitled under the Plan by reason of contributions made prior thereto, unless such modification or amendment is necessary to conform the Plan to, or to satisfy the conditions of, any law, governmental regulations or rulings, and to permit the Plan and the Custodial Agreement to meet the requirements of Code sections 401(a) and 501(a), or any similar statutes enacted in lieu thereof.

13.03. Plan Termination.

SMUD expects to continue the Plan indefinitely, but reserves the right to terminate the Plan in part or in whole at any time by appropriate action. In the event of such termination or partial termination, as determined in accordance with the standards established by the Internal Revenue Service through Treasury regulations and Revenue Rulings, each affected Employee's Account shall become nonforfeitable as of the date of such termination or partial termination. SMUD shall thereupon give written directions to the Administrator and the Trustee to either:

- A. Terminate the Plan and the Trust and direct the Trustee to distribute to the Participants; or
- B. Cease future contributions under the Plan and continue the Trust, with distributions to be made to a Participant pursuant to the Plan upon the Participant's Severance From Employment.

13.04. Reversions.

Except as provided below and as otherwise specifically permitted by law, it shall be impossible by operation of the Plan or of the Trust, by termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by any other means, for any part of the corpus or income of any Trust Fund maintained pursuant to the Plan or any funds contributed thereto to be used for, or diverted to, purposes other than the exclusive benefit of Participants or their Beneficiaries; provided, however:

- A. In the case of a contribution that is made by SMUD by a mistake of fact, the Trustee may return such contribution to SMUD within one (1) year after the payment of the contribution.
- B. If, upon termination of the Plan, there is any balance remaining in the Trust after the satisfaction of all liabilities to the Participants and their Beneficiaries, SMUD and the Administrator shall correct the existence of the unallocated amounts in accordance with the requirements of the Employee Plans Compliance Resolution System as described in Rev. Proc. 2013-12 and any subsequent guidance.

13.05. Segregation Of Trust Assets.

If this Plan initially or subsequently does not qualify under Code section 401(a), or is terminated, and if the Trustee has commingled the

assets of the Trust with assets belonging to other exempt employees' trusts, or for tax purposes reports the income and distribution of the Trust as part of a single trust, the Administrator shall direct the Trustee to forthwith segregate the assets of the Trust for accounting and tax purposes and treat such Trust as a separate and distinct trust.

13.06. Transfer To New Plan.

If SMUD establishes another plan that is qualified under Code section 401(a) and SMUD intends to discontinue contributions under this Plan due to the liabilities created under the new plan, then SMUD may direct the Trustee to cause all Trust Funds to be transferred to such newly-created plan to the extent they are allocated to the Accounts maintained with respect to any Employee or former Employee of SMUD who is a Participant or Beneficiary. Thereafter, notwithstanding the provisions of the Plan Termination section, above, all further obligations of the Plan and Trust to such Participants, their Beneficiaries or SMUD under this Plan shall cease and shall instead be determined by the terms of the new plan. Neither SMUD nor the Trustee shall be required to ascertain the proper applicability of such funds after the transfer is made.

13.07. Plan Merger.

In the event of any merger or consolidation with, or the transfer of assets or liabilities to any other plan, each Participant in the Plan shall (if the Plan then terminated) receive a benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit that the Participant would have been entitled to receive immediately before the merger, consolidation or transfer (if the Plan then terminated).

13.08. Revoking Terms for Specific CIT Accounts

Effective the date Russell Investment Trust Company begins to operate as the new investment manager for this Plan and its participants, SMUD hereby rescinds the term added to the plan by amendment on October 11, 2018 that effectively:

“incorporate[d] by reference the Declaration of Trust for the American Century Strategic Allocation certified investment trust and the declarations of trust for the Conestoga Capital Advisors Small Cap Growth Collective Fund. By incorporating the terms of those declarations of trust and making that investment vehicle available to participants in the plan, SMUD [has been] enabling participants to invest in funds that SMUD believes offered similar market exposure as was being previously offered but with more reasonable fees. The incorporation by reference

will remain valid as long as SMUD continues to allow plan participants the opportunity to invest in the corresponding certified investment trusts, and this amendment will automatically expire when SMUD no longer offers these investments to participants in its standard investment lineup.”

ARTICLE 14. MISCELLANEOUS

14.01. Nonalienation Of Benefits.

- A. Subject to the exceptions provided below and as otherwise specifically permitted by law, no assets or benefits under this Plan and the Trust shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge. Any attempt to so anticipate, alienate, sell, transfer, assign, pledge, encumber or charge the same shall be void. Nor shall any such benefits in any manner be liable for or subject to the debts, contracts, liabilities or torts of the person entitled to such benefits; provided, however, that there shall not be taken into account any voluntary and revocable assignment of not to exceed ten percent (10%) of any benefit payment made by a Participant who is receiving benefits under the Plan unless the assignment or alienation is made for purposes of defraying plan administration costs as otherwise provided in the Plan. This section shall not apply to assignments that were irrevocable on September 2, 1974.
- B. The prohibitions contained in this Nonalienation Of Benefits section shall not apply to a "qualified domestic relations order" as defined in Code section 414(p), and those other domestic relations orders permitted to be so treated by the Administrator under the provisions of the Retirement Equity Act of 1984. The Administrator shall establish a written procedure to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders.
- C. The prohibitions contained in this Nonalienation Of Benefits section shall not apply to any arrangement for the recovery by the Plan of overpayments of benefits previously made to a Participant or Beneficiary.
- D. The prohibitions contained in this Nonalienation Of Benefits section shall not apply to any offset of a Participant's benefits provided under the Plan against the amount that the Participant is ordered or required to pay to the Plan; provided, however, that the following requirements are satisfied:

1. The order or requirement to pay arises under one of the following circumstances:
 - a. Under a judgment or conviction for a crime involving the Plan;
 - b. Under a civil judgment, including a consent order or decree, entered by a court; or
 - c. Pursuant to a settlement agreement between the Plan and the Participant; and
2. The judgment, order, decree or settlement agreement expressly provides for the offset of all or a part of the amount ordered or required to be paid to the Plan against the Participant's Plan benefits.

14.02. Employee Plans Compliance Resolution System.

In accordance with the requirements of the Employee Plans Compliance Resolution System as described in Rev. Proc. 2013-12 and any subsequent guidance, the Administrator has the authority to correct any Plan document, operational, demographic and employer eligibility failures through self correction (if applicable) or voluntary correction with Internal Revenue Service approval.

14.03. Limitation Of Rights; Employment Relationship.

Nothing contained in this Plan shall be construed as a contract of employment between SMUD and any Employee, or as a right of any Employee to be continued in the employment of SMUD, or as creating or modifying the terms of an Employee's employment, or as a limitation on the right of SMUD 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 SMUD (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 SMUD, unless that plan or the law explicitly provides otherwise.

14.04. Limitation Of Rights Of Participants And Others.

Neither the establishment of the Plan or the Trust, nor any modifications thereof, nor the creation of any fund or account, nor the payment of any

benefits, shall be construed as giving to any Participant or any other person any legal or equitable right against SMUD, the Administrator, or its designated representative, or the Trustee, except as expressly provided herein or as provided by law.

14.05. Release From Liability.

Any payment to any Participant, or to the Participant's legal guardian or Beneficiary, in accordance with the provisions of the Plan, shall to the extent thereof be in full satisfaction of all claims hereunder against the Plan, SMUD, the Administrator, the Trustee and any Plan fiduciary, any of whom may require such Participant, legal guardian or Beneficiary, as a condition precedent to such payment, to execute a receipt and release therefor in such form as shall be determined by SMUD, the Administrator or the Trustee, as the case may be.

14.06. Indemnity.

SMUD hereby agrees to indemnify and hold harmless each present and future Administrator and its employees, and all duly authorized agents, against all liabilities, costs and expenses, including, without limitation, attorneys' fees reasonably incurred by, or imposed upon, such person in connection with, or arising out of, any claims, demands, suits, actions or proceedings in which such indemnified party may be involved (other than in the capacity of Participant or Beneficiary), except in the case of the willful misconduct of any such indemnified party. Expenses shall include the cost of reasonable settlement made with the view to curtailment of costs of litigation. The foregoing right of indemnification shall not be exclusive of other rights to which such indemnified party may be entitled as a matter of law.

14.07. Expenses.

Upon written instructions from the Administrator, the Trustee shall pay from the Trust Fund the expenses necessary to carry out the administration of this Plan that are not paid by SMUD.

14.08. Construction.

No provision of this Plan shall be construed to conflict with any 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. If any provision is susceptible of more than one interpretation, such interpretation shall be given thereto as is consistent with the Plan being in conformity with Code section 401(a) and

administered in conformity with other federal or State laws that apply to the Plan.

14.09. 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.

14.10. Uniformity.

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

14.11. Gender And Number.

Any reference in the masculine gender herein shall be deemed to also include the feminine gender, unless expressly provided otherwise. Wherever appropriate, any reference in this document in the singular shall include the plural and any reference in the plural shall include the singular.

14.12. 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.

14.13. Amendment Of Laws.

All references to sections of the Code, or any Treasury regulations or rulings thereunder, shall be deemed to refer to such sections as they may subsequently be modified, amended, replaced or amplified by any federal statutes, regulations or rulings of similar application and importance.

14.14. Severability.

In the event that any provisions of this Plan 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 Plan 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, but only if the basic purposes hereof can be effected through the remaining valid and legal provisions.

14.15. 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.

14.16. Entire Document.

This document and 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 31 day of December, 2019.

SACRAMENTO MUNICIPAL
UTILITY DISTRICT

By: 

Title: CEO & GM

RJH
LEGAL

APPENDIX A

SMUD 401(k) SAVINGS PLAN

This Appendix to the SMUD 401(k) Savings Plan is a part of the Plan as if it were set forth in the body of the main Plan document. This Appendix sets forth the Nonelective Contributions, Matching Contributions, and Nonelective Discretionary Contributions, and Matching Discretionary Contributions, provisions of the Plan that are applicable to various Employee groups in the Plan and shall modify and, to the extent inconsistent, supersede the provisions of the Plan specified with respect to the Employees specified below.

I. SMUD Contributions – IBEW Employees.

SMUD shall make contributions for Participants who are IBEW Employees in accordance with Memoranda of Understanding (MOUs) in effect from time to time. The contributions set forth below are effective January 1, 2018, in accordance with the current MOU

A. Nonelective Contributions – IBEW Employees.

Each Participant who is an IBEW Employee shall receive a Nonelective Contribution for each one hundred seventy-three and thirty-three one-hundredths (173.33) regular equivalent hours worked based on years of service (each two thousand and eighty (2,080) hours worked) as follows:

Effective 1/1/2018:

1-5 years	\$175.00
6-10 years	\$200.00
11-15 years	\$225.00
16 years - retirement	\$250.00

Effective 1/1/2019 through 12/31/2020:

1-5 years	\$200.00
6-10 years	\$225.00
11-15 years	\$250.00
16 years - retirement	\$275.00

Effective 1/1/2021:

1-5 years	\$225.00
6-10 years	\$250.00
11-15 years	\$275.00
16 years - retirement	\$300.00

Nonelective Contributions for Participants who are IBEW employees shall be allocated as of last day of each payroll period.

B. Matching Contributions – IBEW Employees.

1. SMUD shall make the following amounts available to the Plan each Plan Year as Matching Contributions:
 - i. In 2018, \$400,000,
 - ii. In 2019, \$450,000,
 - iii. In 2020, \$475,000,
 - iv. In 2021, \$550,000.
2. The Matching Contributions shall be allocated after the end of each Plan Year on a dollar for dollar basis to the Matching Accounts of IBEW Employees who made Elective Contributions to the Plan for the Plan Year. The Matching Contributions shall be allocated equally to all eligible IBEW Employees up to the full amount of the Matching Contribution or the full amount of the Employees' Elective Contributions, if less. In the event that the Elective Contributions for a Plan Year total less than the amount available to be allocated as Matching Contributions, the balance will not be carried over into future Plan Years.
3. Matching Contributions are made on behalf of each IBEW Employee who:
 - i. Has completed a Probationary Period of employment depending on the Employee's classification, if on such date the Employee is an IBEW Employee;
 - ii. Has made Elective Contributions to the Plan for such Plan Year;
 - iii. Is an IBEW Employee on the last day of such Plan Year or retired from SMUD on or after age fifty (50) during such Plan Year; and

- iv. Has an active Account on the date on which such contributions are made.

II. SMUD Contributions – Unit 2 Employees (OSE Employees)

SMUD shall make contributions for Participants who are Unit 2 Employees in accordance with Memoranda of Understanding (MOUs) in effect from time to time.

A. Nonelective Contributions – Unit 2 Employees (OSE Employees).

Each Participant who is a Unit 2 Employee shall receive a Nonelective Contribution for each one hundred seventy-three and thirty-three one-hundredths (173.33) regular equivalent hours worked based on years of service (each two thousand and eighty (2,080) hours worked) as follows:

Effective 1/1/2018:

1-5 years	\$25.00
6-10 years	\$50.00
11-15 years	\$75.00
16 years - retirement	\$100.00

Effective 1/1/2019:

1-5 years	\$50.00
6-10 years	\$75.00
11-15 years	\$100.00
16 years - retirement	\$125.00

Effective 1/1/2021:

1-5 years	\$75.00
6-10 years	\$100.00
11-15 years	\$125.00
16 years - retirement	\$150.00

Nonelective Contributions shall be allocated as of last day of each payroll period. Unit 2 Employees must maintain an active Account on the date on which such contributions are made.

B. Matching Contributions – Unit 2 Employees (OSE Employees).

In accordance with the Memorandum of Understanding with the OSE, SMUD shall make the following Matching Contributions:

1. SMUD shall make the following amounts available to the Plan each Plan Year as Matching Contributions:
 - i. In 2018, \$125,000,
 - ii. In 2019, \$450,000,
 - iii. In 2020, \$475,000,
 - iv. In 2021, \$550,000.
2. The Matching Contributions shall be allocated after the end of each Plan Year on a dollar for dollar basis to the Matching Accounts of Unit 2 Employees who made Elective Contributions to the Plan for the Plan Year. The Matching Contributions shall be allocated to all eligible Unit 2 Employees up to the full amount of the Matching Contribution or the full amount of the Employees' Elective Contributions, if less. In the event that the Elective Contributions for a Plan Year total less than the amount available to be allocated as Matching Contributions, the balance will not be carried over into future Plan Years.
3. Matching Contributions are made on behalf of each Unit 2 Employee who:
 - i. Has completed a Probationary Period of employment depending on the Employee's classification, if on such date the Employee is a Unit 2 Employee;
 - ii. Has made Elective Contributions to the Plan for such Plan Year;
 - iii. Is a Unit 2 Employee on the last day of such Plan Year or retired from SMUD on or after age fifty (50) during such Plan Year; and
 - iv. Has an active Account on the date on which such contributions are made.

III. SMUD Contributions – PSOA Employees and Confidential Hourly Employees.

SMUD shall make contributions for Participants who are covered by a collective bargaining agreement between SMUD and the SMUD Public Safety Officers' Association (PSOA) (referred to below as "PSOA Employees") in accordance with SMUD's benefit guides and the Memoranda of Understanding with the PSOA in effect from time to time. SMUD shall make contributions for unrepresented hourly confidential employees in accordance with SMUD's benefit guides in effect from time to time.

SMUD shall contribute up to a \$2,000 annual maximum contribution to each eligible PSOA Employee and each eligible unrepresented hourly confidential employee, paid out monthly and based on the pro rata portion of the year in which they worked for SMUD in that capacity.

IV. SMUD Contributions –Discretionary Contributions.

Each year, SMUD shall determine the amount, if any, to be contributed to this Plan and the Trust as discretionary contributions. SMUD shall designate the eligible Employees and the allocations for discretionary contributions each year.

A. Nonelective Discretionary Contributions.

Nonelective Discretionary Contributions shall be in the amount(s) determined by SMUD each year and shall not be subject to the election provided in the SMUD Contributions – Elective Contributions section, above.

B. Matching Discretionary Contributions.

Matching Discretionary Contributions shall be in the amount(s) determined by SMUD each year and shall be based upon the amount of Elective Contributions made by each eligible Participant.

V. SMUD Contributions – New Member Nonelective Contributions.

For each pay period, SMUD shall contribute to this Plan and the Trust a New Member Nonelective Contribution on behalf of unrepresented New Members which shall be determined as follows:

- A. For a New Member whose Pensionable Compensation for the Plan Year has not yet reached or equals the Contribution And Benefit Base for New Members in effect for the Plan Year, an amount equal to the New Member's Pensionable Compensation for the pay period multiplied by the difference in the percentage between what a New

Member is required to contribute under CalPERS and what a Classic Member is required to contribute under CalPERS for the Plan Year;
or

- B. Subject to the provisions of the Nondiscrimination Limits On SMUD Contributions section, above, for a New Member whose Pensionable Compensation for the Plan Year has exceeded the Contribution And Benefit Base for New Members in effect for the Plan Year, an amount equal to the New Member's Pensionable Compensation for such pay period multiplied by SMUD's contribution rate, as a percentage of pay, required to fund CalPERS, for Pensionable Compensation for the Plan Year up to the Code section 401(a)(17) limit. A New Member's Pensionable Compensation shall be limited to the Code section 401(a)(17) limit.

Notwithstanding the provisions of this section or the Amendments elsewhere in this Plan, the General Manager of SMUD may amend this section at any time to eliminate or reduce the amount to be contributed by SMUD under this section before any pay period.