

**DEFERRED COMPENSATION PLAN  
ADMINISTRATION AGREEMENT**

**32531**

This Administration Agreement (hereinafter "Agreement") made as of the 23rd day of December 2011, by and between ICMA Retirement Corporation (hereinafter "ICMA-RC"), and the City of Long Beach (hereinafter "EMPLOYER") a California municipal corporation organized and existing under the laws of the State of California and located at 333 West Ocean Blvd. 6<sup>th</sup> Floor, Long Beach, California 90802.

**RECITALS**

WHEREAS, EMPLOYER, pursuant to and in compliance with Internal Revenue Code Section 457, has established a Deferred Compensation Plan (hereinafter referred to as PLAN), and has the responsibility to obtain investment alternatives and services for employees participating in that PLAN; and

WHEREAS, EMPLOYER desires to contract with ICMA-RC in connection with the administration of the PLAN; and

WHEREAS, ICMA-RC desires to provide such services subject to the terms and conditions set forth herein.

Now therefore, in consideration of the mutual promises contained herein the parties agree as follows:

**1. DESIGNATION**

EMPLOYER designates ICMA-RC as the exclusive recordkeeper for the PLAN to perform all non-discretionary functions necessary for the administration of the PLAN with respect to assets in the PLAN deposited with the Trust. The services to be performed by ICMA-RC shall be those set forth in sections 9 through 11 of this Agreement and the Exhibits hereto.

**2. ADOPTION OF TRUST**

EMPLOYER has adopted the Declaration of Trust of VantageTrust Company (and its predecessor, the ICMA Retirement Trust, which is incorporated therein by reference), intending it to be operative with respect to such assets of the PLAN as may be invested in funds made available through VantageTrust ("Trust"), a common trust fund within the meaning of Section 391:1 of Title 35 of the New Hampshire Revised Statutes Annotated, that is intended to meet the requirements of Revenue Ruling 81-100, 1981-1 C.B. 326, and provides for the commingled investment of retirement funds held by plans administered by ICMA-RC. EMPLOYER agrees that investment, management and disbursement of amounts deposited in the Trust shall be subject to the Declaration of Trust, as it may be amended from time to time and shall also be subject to terms and conditions set forth in disclosure documents, such as the "Making Sound Investment Decisions: A Retirement Investment Guide ("Retirement Investment Guide") or Employer Bulletins as those terms and conditions may be adjusted from time to time.

### **3. EXCLUSIVITY**

EMPLOYER agrees that for the initial or succeeding term of this Agreement specified in Section 7, so long as ICMA-RC continues to perform in all material respects the services to be performed by it under this Agreement, EMPLOYER shall not obtain plan administration and administration-related services from anyone other than ICMA-RC. EMPLOYER acknowledges that ICMA-RC has agreed to the compensation to be paid to ICMA-RC under this Agreement in the expectation that ICMA-RC will be able to offset costs allocable to performing this Agreement with revenues arising from EMPLOYER's exclusive use of ICMA-RC at the rates provided herein throughout the initial or succeeding term.

### **4. EMPLOYER DUTY TO FURNISH INFORMATION**

EMPLOYER agrees to furnish to ICMA-RC on a timely basis such information as is necessary for ICMA-RC to carry out its responsibilities as recordkeeper of the Plan, including information needed to allocate individual participant accounts to funds of the Trust or other investment options, and information as to the employment status of participants, and participant ages, addresses, and other identifying information (including tax identification numbers). ICMA-RC shall be entitled to rely upon the accuracy of any information that is furnished to it by a responsible official of the EMPLOYER (an official designated in writing by the EMPLOYER or any other person designated by such person) or any information relating to an individual participant or beneficiary that is furnished by such participant or beneficiary, and ICMA-RC shall not be responsible for any error arising from its reliance on such information.

### **5. CERTAIN REPRESENTATIONS AND WARRANTIES**

A. ICMA-RC represents and warrants to EMPLOYER that:

1. ICMA-RC is a non-profit corporation with full power and authority to enter into this Agreement and to perform its obligations under this Agreement.
2. ICMA-RC is an investment adviser registered as such with the Securities and Exchange Commission under the Investment Advisers Act of 1940, as amended. ICMA-RC Services, LLC (a wholly owned subsidiary of ICMA-RC) is registered as a broker-dealer with the Securities and Exchange Commission (SEC) and is a member in good standing of the Financial Industry Regulatory Authority ("FINRA") and the Securities Investor Protection Corporation ("SIPC").
3. ICMA-RC shall maintain and administer the PLAN in compliance with the requirements for eligible deferred compensation plans under Section 457 of the Internal Revenue Code; provided, however, ICMA-RC shall not be responsible for the eligible status of the PLAN in the event that the EMPLOYER directs ICMA-RC to administer the PLAN or distribute assets in a manner inconsistent with the requirements of Section 457 or otherwise causes the PLAN not to be carried out in accordance with its terms; provided, further, that if the plan document used by the EMPLOYER contains terms that differ from the terms of ICMA-RC's standard plan document, ICMA-RC shall not be responsible for the eligible status of the PLAN to the extent affected by the differing terms in the EMPLOYER's plan document. ICMA-RC shall not perform any service that ICMA-RC, in its sole judgment, might cause ICMA-RC to be treated as a "fiduciary" of the Plan under applicable law.

B. EMPLOYER represents and warrants to ICMA-RC that:

1. EMPLOYER is organized in the form and manner recited in the opening paragraph of this Agreement with full power and authority to enter into and perform its obligations under this Agreement and to act for the PLAN and participants in the manner contemplated in this Agreement. Execution, delivery, and performance of this Agreement will not conflict with any law, rule, regulation or contract by which the EMPLOYER is bound or to which it is a party.
2. EMPLOYER understands and agrees that ICMA-RC's sole function under this Agreement is to act as recordkeeper and to provide administrative, investment or other services at the direction of PLAN participants, the EMPLOYER, its agents or designees in accordance with the terms of this Agreement. Under the terms of this Agreement, ICMA-RC does not render investment advice, is not the Plan Administrator or Plan Sponsor as those terms are defined under applicable federal, state, or local law, and does not provide legal, tax or accounting advice with respect to the creation, adoption or operation of the PLAN and the Trust.
3. EMPLOYER acknowledges that certain such services to be performed by ICMA-RC under this Agreement may be performed by an affiliate or agent of ICMA-RC pursuant to one or more other contractual arrangements or relationships, and that ICMA-RC reserves the right to change vendors with which it has contracted to provide services in connection with this Agreement without prior notice to EMPLOYER. ICMA-RC will provide notice about the change in vendors for any service that is provided to the EMPLOYER that is specifically custom to the EMPLOYER only
4. EMPLOYER hereby authorizes ICMA-RC to act as agent, to appear on its behalf, and to join the EMPLOYER as a necessary party in all legal proceedings involving the garnishment of benefits or the transfer of benefits pursuant to the divorce or separation of participants in the PLAN. Unless EMPLOYER (or a responsible official of the EMPLOYER as determined by the EMPLOYER) notifies ICMA-RC otherwise, EMPLOYER consents to the disbursement by ICMA-RC of benefits that have been garnished or transferred to a former spouse, spouse or child pursuant to a domestic relations order.

6. **COMPLETE AGREEMENT**

This Agreement and its exhibits and attachments shall constitute the complete and full understanding and sole agreement between ICMA-RC and EMPLOYER relating to the object of this Agreement and correctly sets forth the complete rights, duties and obligations of each party to the other as of its date.

7. **TERM**

The term of this agreement will begin on October 1, 2012 and extend five (5) years from that date.

This Agreement will be renewed automatically for each succeeding year unless written notice of termination is provided by either party to the other no less than sixty (60) days before the end of such Agreement year. The EMPLOYER may terminate this Agreement

for cause prior to the end of the term in the event that the EMPLOYER determines that ICMA-RC has materially breached this Agreement by not providing the services or performing its obligations as agreed to in this Agreement. EMPLOYER agrees to provide ICMA-RC thirty (30) business days to cure such breach following written notice from EMPLOYER of such breach and the EMPLOYER's intention to terminate the Agreement. Following the end of the 5-year term of this Agreement set forth above, the Agreement may be terminated by either party on sixty (60) days advance notice in writing to the other.

## 8. **INVESTMENT OPTIONS**

- A. The following provisions will apply to the investment options under the PLAN:
1. The menu of investment options made available to PLAN participants may have additions, eliminations, and substitutions upon agreement by the parties during the term of the Agreement.
  2. Investment Management or other charges may be imposed on mutual fund investments by the mutual fund provider or other investment options in which PLAN assets are invested. These charges will be disclosed in the prospectus and along with any operating expenses of the investment option may be separate from any fees or charges described in this agreement.
  3. Redemption Fees. Redemption fees imposed by outside or underlying mutual funds or other investment options in which PLAN assets are invested are collected and paid to the investment option by ICMA-RC. ICMA-RC remits 100% of redemption fees back to the specific investment option to which redemption fees apply. These redemption fees and the individual investment option's policy with respect to redemption fees are specified in the prospectus or other appropriate disclosure document for the individual investment option. Since these fees are charged directly by the investment option, and not ICMA-RC, these fees are subject to change.
  4. Compensation for Management Services to the Trust, Compensation for Advisory and other Services to The Vantagepoint Funds and Payments from Third-Party Investment Options. EMPLOYER acknowledges that in addition to amounts payable under this Agreement, ICMA-RC receives fees from the Trust for investment management services furnished to the Trust. EMPLOYER further acknowledges that certain wholly owned subsidiaries of ICMA-RC receive compensation for advisory and other services furnished to The Vantagepoint Funds, which serve as the underlying portfolios of a number of Funds offered through the Trust. The fees referred to in this subsection are disclosed in the Retirement Investment Guide. These fees are not assessed against assets invested in the Trust's Trust Series. In addition, to the extent that third party investment options are included in the investment line-up for the Plans, ICMA-RC may receive payments from such third party investment options or their service providers, which may be in the form of 12b-1 fees, service fees, or compensation for sub-accounting or other services provided by ICMA-RC on behalf of the funds.
- B. Participants will be permitted to change their investment options as often as they wish subject to: applicable state and federal laws; and any applicable restriction (including frequent trading or market timing policies), penalty, fee, or charge imposed by the applicable investment option for such change.

- C. ICMA-RC will make available to EMPLOYER'S participants a VantageBroker self-directed brokerage account (SDBA) in the EMPLOYER'S PLAN, subject to applicable terms, restrictions, fees and charges set forth in Exhibit B to this Agreement. Fees and charges related to the SDBA are in addition to the compensation for administrative services as provided in Section 13. Participants who qualify to invest in the SDBA may transfer funds from the PLAN to an individual account created with VantageBroker. The SDBA will be implemented as mutually agreed by the parties.

## 9. PLAN ADMINISTRATION

### A. ENROLLMENT AND COMMUNICATION/EDUCATION SERVICES

ICMA-RC agrees to:

1. Establish an account for each participant.
2. Post and credit the amounts sent by EMPLOYER to the accounts of participants in accordance with the latest instructions on file with ICMA-RC, and post to such participant accounts, on an ongoing basis, any investment gains and losses thereon.
3. Provide participants educational and communication services to all participants in the PLAN as outlined under applicable Law. ICMA-RC shall present workshops to participants outlining programs and provide assistance in education and communication as outlined under applicable law. ICMA-RC shall report in writing, in a format approved by the EMPLOYER, an update on all funds and education and communicated materials related to participants, including attendance at on-site meetings, to the EMPLOYER. EMPLOYER shall retain the ultimate right of approval or disapproval of dissemination of the educational materials and communications described above, but agrees it will only do so after communication with ICMA-RC. EMPLOYER shall reserve the right to audit and verify all information supplied it by ICMA-RC; and
4. Process, or arrange to have processed, the enrollment of eligible employees who elect to participate in the PLAN. ICMA-RC agrees to provide personalized portions of informational and promotional material pursuant to the PLAN for distribution to employees of EMPLOYER, subject to approval of such material by EMPLOYER, such approval may not be unreasonably withheld. EMPLOYER agrees to allow and facilitate the periodic distribution of such material to employees in an electronic or web-based format. Participant enrollment will be made available through web-based or other electronic means to the extent possible and agreed upon.
5. Conduct group presentations periodically for employees of EMPLOYER, to explain the PLAN. EMPLOYER agrees to facilitate the scheduling of such presentations and to provide facilities at which satisfactory attendance can be expected. ICMA-RC agrees that qualified personnel will be made available periodically to discuss the PLAN with individual employees of EMPLOYER.
6. ICMA-RC commits to providing EMPLOYER and participant education and communications ongoing through the length of the contract. An ICMA-RC Education Manager will be assigned as a resource to the EMPLOYER. The Education Manager will meet with the EMPLOYER's designated Education &

Communications Committee via conference call ongoing and at least once a year in person. Ongoing, the Education Manager and ICMA-RC will lead and deliver on the strategy, development and implementation of educational communication campaigns that will play a key role in meeting objectives agreed to by the EMPLOYER and ICMA-RC.

7. The Assigned City of Long Beach Retirement Plans Specialist will be available 90% of his/her time or no less 220 days and may be supported by additional ICMA-RC professionals, if necessary. ICMA-RC will provide up to 100 one-hour group meetings and 3,200 half-hour individual meetings annually. A mutually agreed upon number of seminars to be provided by a financial planning professional certified by the Certified Financial Planning Board and are included in the number of one-hour group meetings noted above.
8. At the conclusion of each group workshop, ICMA-RC will provide surveys to assess the success of the educational workshops. In the event customization of these surveys is required by the EMPLOYER, cost for such customization if any shall be mutually agreed upon by the EMPLOYER and ICMA-RC.

#### B. CUSTOMIZED PRE-MIXED PORTFOLIOS

ICMA-RC agrees to administer, at the direction of EMPLOYER or its designee, a series of customized portfolios designed to meet different participant risk tolerances and composed of the investment options chosen by EMPLOYER. Such customized portfolios shall be administered in accordance with the terms set forth in Exhibit A.

#### C. DEFERRALS

ICMA-RC agrees to post funds on the same day on which the funds and the electronic receipt of the contribution detail through EZLink, its online administrative tool, are received in good order by ICMA-RC by 1:00 p.m. PT. ICMA-RC will not be liable for any delay in posting if EMPLOYER fails to send either the funds representing deferral amounts or deferral information in accordance with ICMA-RC's instructions, to the central processing site designated by ICMA-RC.

Definition of Good Order - For purposes of this Agreement, the term "good order" means the provision of required information by the EMPLOYER in a form reasonably acceptable to ICMA-RC with respect to the processing of a request or the completion of a task by ICMA-RC with such clarity and completeness that ICMA-RC is not required to exercise any discretion, and utilizing electronic contribution processing as ICMA-RC may require. Transactions under this Agreement are deemed in "good order" when the contribution detail or similar roster remitted by the EMPLOYER agrees with the related funding, and when the social security number and money type correspond to social security numbers and money types of participants previously enrolled on ICMA-RC's recordkeeping system.

Unclear Investment Instructions - If ICMA-RC determines that no proper investment directions are in effect, ICMA-RC will forward contributions, loan repayments and similar transaction receipts for investment into the investment fund designated in writing by the EMPLOYER as the PLAN's default investment option. Once proper instructions are received, ICMA-RC will allocate future contributions in accordance with such instructions, as of the day the instructions are received.

EMPLOYER agrees to:

1. Cause appropriate deductions to be made from such payroll(s) as may be applicable and send the funds representing the total participant deferrals to ICMA-RC.
2. Provide to ICMA-RC in a mutually agreed upon electronic media, a deferral listing with respect to participant accounts to include not less than the following:
  - Plan Number
  - Name of participant
  - Social security number of participant
  - Amount to be credited to participant's account(s)
  - Contribution Source

Funds may be sent by wire transfer, or through an automated clearinghouse in accordance with written instructions provided by ICMA-RC. Failure to follow the written instructions provided by ICMA-RC may result in delay of posting to participant accounts.

3. Furnish to ICMA-RC on a timely basis such other information as is necessary for ICMA-RC to carry out its responsibilities as recordkeeper of the PLAN, including information needed to allocate individual participant accounts to Funds in the Trust, and information as to the employment status of participants, and participant ages, addresses and other identifying information (including tax identification numbers). ICMA-RC shall be entitled to rely upon the accuracy of any information that is furnished to it by a responsible official of the EMPLOYER (as determined by the EMPLOYER) or any information relating to an individual participant or beneficiary that is furnished by such participant or beneficiary, and ICMA-RC shall not be responsible for any error arising from its reliance on such information. ICMA-RC will provide account information in reports, statements or accountings.

#### D. REPORTS

ICMA-RC agrees to provide to EMPLOYER the following reports:

EMPLOYER Statement of Account	Quarterly <sup>2</sup>
Activity Reports	Daily <sup>2</sup>
Summary by Investment	Daily <sup>2</sup>
Web Activity	Annually <sup>3</sup>
Automated Telephone Transactions Report	Annually <sup>3</sup>
Comprehensive Plan and Fund Review	Annually <sup>3</sup>
Admin Allowance Account Reconciliation	Quarterly <sup>1</sup>

<sup>1</sup>The Admin Allowance Account reconciliation report shows monthly average assets for each investment option multiplied by the participant fee [described in section 13(A) and 13(E)] to determine revenue. The sum of all investment option revenue is compared to the revenue requirement described in section 13(B). Any excess revenue is deposited into the admin allowance account.

<sup>2</sup>These reports are available through EZLink, the plan sponsor online tool. Quarterly statement of account will be provided through EZLink within 15 business days after quarter end.

<sup>3</sup>These reports are available in the Annual Service Plan which will be available within 45 business days of the end of the calendar year.

In addition, ICMA-RC will provide reports detailing all education and communication activity including the number of group and individual sessions conducted during the

year, and the number of participants attending sessions on each educational topic.

ICMA-RC agrees to maintain, for five (5) years the records necessary to produce the above mentioned reports, and agrees that all records shall be the property of EMPLOYER. EMPLOYER agrees that all related computer tapes, disks, and programs shall remain the property of ICMA-RC. ICMA-RC agrees to make said tapes, disks and programs available to EMPLOYER, at a reasonable cost, upon request.

#### E. ANNUAL BUSINESS PLAN

ICMA-RC will partner with EMPLOYER, if so desired by EMPLOYER, to develop an annual business plan to assist the EMPLOYER in meeting PLAN goals and benchmarks.

#### F. ADMINISTRATION OF LOANS

ICMA-RC agrees to administer a loan program as a function of the PLAN. The loan program may be subject to restrictions and fees, including a participant initiation fee and a subsequent annual service fee for each participant, and an ACH reject fee for ACH returns due to insufficient bank funds, invalid bank account, or closed account, if the EMPLOYER adopts ACH as a method of loan repayment. Fees and charges related to the administration of the loan program are in addition to the compensation for administrative services as provided in Section 13 of this Agreement.

ICMA-RC will provide an online participant loan application and administrative functions or a phone based participant loan application and administrative function. ICMA-RC will prepare the amortization schedules, review all loan requests, issue the loan checks to the participants, and issue 1099 tax forms upon loan default.

### 10. PARTICIPANT SERVICES

A. ICMA-RC will provide a toll free Voice Response System telephone number, which shall be operative 24 hours per day, 7 days per week (less normal maintenance time and time allotted for system upgrades). Investor Services Representatives will be available from 5:30 am to 6:00 pm Pacific Time each business day. Using the toll-free number, participants may obtain information and conduct transactions for participant accounts. EMPLOYER authorizes ICMA-RC to honor instructions, which may be submitted by participants pursuant to their personal identification number (PIN) using the toll-free number, either via the Voice Response System or through a live representative.

ICMA-RC will provide plan participants with access to Account Access, the online participant account tool. Account Access will be available 24 hours per day, 7 days a week except for scheduled routine maintenance on Sunday mornings, generally from 3:00 a.m. Pacific Time to 9:00 a.m. Pacific Time. ICMA-RC will use encryption and any other technology necessary to ensure the confidentiality and security of all Plan information.

B. ICMA-RC will provide Plan participants elections to increase or decrease deferral amounts, subject to the requirements of Code section 457 and the regulations thereunder. All requests to increase or decrease deferral amounts will be stored daily in ICMA-RC's systems and provided in a report to the EMPLOYER through EZLink. ICMA-RC agrees to permit Participants to increase or decrease deferral



amounts electronically subject to the ability of the EMPLOYER to facilitate such a service with ICMA-RC.

- C. ICMA-RC will provide PLAN participants opportunities to redirect future deferral amounts to any Investment Product offered by the PLAN. All requests received in good order will be processed within one business day of receipt and will be effective with the next following pay period deferral.
- D. ICMA-RC will provide participants the daily ability, without additional cost, to exchange existing account balances from one investment option offered by the PLAN to another, subject to fund restrictions and redemption fees that may be charged by mutual funds or other investment options.
- E. Upon request, ICMA-RC will provide participants a fund prospectus and an annual report for each investment option made available through the Trust. Prospectuses for specific third party mutual fund not made available through the Trust and other relevant information are to be provided by each respective mutual fund or other investment provider upon request by the EMPLOYER or by a participant.
- F. ICMA-RC will provide participants consolidated quarterly statements that may include participants' year-to-date deferral amounts, account balance information that includes changes in account value since the previous report date, a personal rate of return calculation, and any fees or charges assessed against the participant account. ICMA-RC may provide each participant a personal rate of return calculation quarterly within the participant statement and quarterly through Account Access, the online participant system, at no cost.
- G. ICMA-RC agrees to provide statements to participants within twelve (12) business days after the end of each calendar quarter. ICMA-RC will have no responsibility to report, or account for the accuracy of information applicable to periods prior to the effective date such PLAN was administered by ICMA-RC.

If, as a direct result of an error made by ICMA-RC, a loss is incurred by a PLAN participant (or a gain was not received), ICMA-RC will adjust the participant's account retroactively according to the following policy. ICMA-RC must be notified within 90 days following the receipt of the quarterly statement in which the transaction occurred, ICMA-RC will correct the transaction and the participant's account will be made whole at ICMA-RC's expense.

- H. On-line Advice. ICMA-RC shall make available to PLAN participants an online investment advice service through its arrangement with a third-party vendor.
- I. Financial Planning Seminars. The Certified Financial Planner ("CFP") will deliver in-depth financial planning seminars on a group basis, at a mutually agreed upon frequency, at no cost. ICMA-RC will offer PLAN participants comprehensive financial planning services, through a local Certified Financial Planner ("CFP") who is a salaried employee of ICMA-RC.
- J. Internet availability. ICMA-RC will provide participants with Internet access, available 24 hours a day, with the exception of the time necessary for the normal maintenance of the system and updating of information. Using the Internet, participants may obtain information and conduct transactions for participant accounts.

## 11. DISTRIBUTIONS

- A. ICMA-RC will assist participants in preparing the necessary forms to select distribution options. This would also include those distributions covered in the PLAN's de minimis provisions and those distributions required by law.
- B. Participants electing a payment of a lump sum amount will have their payment processed within two (2) business days if documentation is received in good order and the EMPLOYER has provided termination data.
- C. ICMA-RC shall administer the approval of all unforeseeable emergency requests upon receipt, and initiate the processing of all approved requests. ICMA-RC will administer the approval of unforeseeable emergency request in accordance with the unforeseeable emergency request guidelines and applicable provisions of Code section 457 and the regulations thereunder. ICMA-RC will provide a report on emergency withdrawal activity in EZLink, the online administrative tool. This information is updated daily. Participants may appeal denied emergency withdrawal requests to the EMPLOYER's Deferred Compensation Committee. If the EMPLOYER or its Deferred Compensation Committee, in the discretion of either, determines that an unforeseeable emergency request should be approved, the EMPLOYER must provide written documentation indicating that it (or its Deferred Compensation Committee) has reviewed and approved the participant request and provide direction to ICMA-RC to process the withdrawal. The EMPLOYER shall retain the final discretionary authority with respect to the approval or denial of an unforeseeable emergency withdrawal request.
- D. ICMA-RC shall offer to participants for distribution of their account a designated amount payment option. Payments shall be made on a monthly, quarterly, semi-annual or annual basis as specified by the participant, in equal installments until the amount applied, adjusted each business day for investment results, is exhausted. The final installment will be the sum remaining at the time such payment is due. Distribution selections may be changed by PLAN participants as permitted by the PLAN.
- E. ICMA-RC shall also offer to PLAN participants a designated period payment option with a variable payment. Payments shall be made monthly, quarterly, semi-annually, or annually for any specified number of years as permitted by the PLAN, at the discretion of the PLAN participant. The amount of each variable payment shall be determined by dividing the participant's current portfolio balance by the number of remaining payments.
- F. Participants selecting the options in B, D or E above shall be subject to the same fees and charges, and permitted the same exchange opportunities, as an active or inactive participant as defined by the PLAN. Processing of these options will be completed by ICMA-RC upon receipt of properly completed forms, in a time frame necessary to effectuate the "payment begin date" requested by the participant. Monthly Installments can be paid on an optional weekly cycle that is offered by ICMA-RC and which is selected by the participant. All distributions will be made pro rata from each of the participant's investment options, unless the participant selects a depletion order.
- G. ICMA-RC will be responsible for preparing and filing all reports required by federal and state taxing authorities through the effective date of the termination of the contract. EMPLOYER shall be responsible for all reporting requirements for periods prior to the effective date of this contract, or after the termination date of this contract. ICMA-RC will be responsible for the annual filing of individual 1099R forms. ICMA-RC shall withhold income taxes from distributions as required, and remit said taxes to appropriate

regulatory authorities. ICMA-RC shall also prepare and file periodic and annual tax returns for said amounts withheld.

- H. ICMA-RC agrees to provide PLAN participants anticipating retirement or other separation from service with illustrations indicating monthly benefit payments at an assumed interest rate for savings accounts or an assumed rate of earnings for mutual fund investments. Such assumed interest rate or rate of earnings shall be for illustration purposes only. The actual interest rate/yield paid on saving products during distribution shall change quarterly. For mutual funds, earnings will be those actually earned.

## 12. PERFORMANCE GUARANTEES

ICMA-RC agrees to provide EMPLOYER an annual report regarding ICMA-RC'S performance for the following services:

	<b>Standard</b>	<b>\$ at Risk</b>
<b>Participant Services Phone Response Time</b>	<p>Calls picked-up 45 seconds or less in aggregate for Call Center.</p> <p>Note: Measurement will not include days in which extraordinary events occur beyond the control of ICMA-RC that increase daily call volumes by 25% above the average daily call volume for the year</p>	\$2,500 per year in which this does not occur.
<b>Plan Sponsor Services Phone Response Time</b>	Return phone calls from Plan Sponsor contact designee within 24 hours.	\$2,500 per year in which less than 95% of phone calls in a years' time are returned within 1 business day either through phone call or email response.
<b>Quarterly Statement delivery</b>	Quarterly statements delivered within 12 business days, unless performance returns received late due to factors beyond ICMA-RC's control.	\$2,500 for each quarter in which less than 99% of statements for the plan meet deadline due to circumstances under ICMA-RC control.
<b>Payment of Plan Administrative Allowance</b>	Will occur within 45 business days after the quarter end.	\$2,500 per quarter in which the plan administrative allowance is not distributed within the timeframe.

<b>Participant Satisfaction (survey)</b>	If requested by the plan sponsor, provide a customized survey to all employees after on-site seminars and an annual survey to participants. Maintenance of an average score of "3" or better on a scale of 1 to 5.	\$5,000 per year if plan sponsor requests custom survey and the measurement of average score does not meet the standard.
<b>Withdrawals</b>	Mail lump sum payments within three business days when received in good order.	\$2,500 per year in which 95% or more are not processed within benchmark due to ICMA-RC error.
<b>Emergency Withdrawals</b>	Mail approved emergency withdrawal distributions within three business days after approval and receipt in good order.	\$5,000 per year in which more than 20 are processed and 95% or more are not processed within benchmark due to ICMA-RC error.
<b>Contribution posting</b>	Same day, upon receipt, if received in good order by 1:00 p.m. Pacific Time.	\$5,000 for each year in which less than 95% of those received in good order are not processed within benchmark due to ICMA-RC error.
<b>Rollovers out</b>	Rollovers processed within one week of receipt of all required paperwork in good order.	\$2,500 for each year in which more than 10 are processed and less than 80% are processed on time.
<b>Loan processing</b>	Loans processed within two business days of receipt on-line	\$5,000 for each year in which more than 10 are processed and less than 80% are processed on time.
<b>Plan Sponsor reports</b>	Plan Sponsor Reports made available in EZLink within 5 business days of month and quarter end based upon report frequency.	\$5,000 per year in which less than 90% of reports in EZLink are not available within standard.
<b>Number of on-site group seminars</b>	Up to 100 group meetings per year, unless otherwise reduced by plan sponsor.	\$5,000 per year in which target number of seminars is not met.
<b>Number of individual meetings</b>	Up to 3,200 ½ hour individual meetings each year of the contract term.	\$5,000 per year in which target commitment of time for individual consultations is not met.

Failure of ICMA-RC to meet the service standards listed above may result, at the discretion of the EMPLOYER, in the imposition of the monetary penalty; provided, however, that ICMA-RC shall not be deemed to have failed to meet the service standards in the event that such failure is beyond the control of ICMA-RC as in Section 20 including, but not limited to, Acts of God, severe weather, strikes, terrorist attacks, pandemic flu and war.

A report of the performances agreed upon above in Section 12 of this Agreement will be provided to the EMPLOYER on the 20<sup>th</sup> business day after the end of each calendar year.

### **13. COMPENSATION**

- A. **Participant Fees.** Plan participant accounts shall be assessed an asset-based fee to cover the costs of record-keeping and other services provided by ICMA-RC, and other costs associated with the Plans as directed by the EMPLOYER. The EMPLOYER shall work with ICMA-RC to determine the appropriate amount of the gross asset-based fee to be charged to participant accounts, which may be increased or decreased from time to time at the direction of the EMPLOYER. ICMA-RC's compensation under this Agreement shall be as set forth in subsection (B) below.
- B. **Revenue Requirement.** ICMA-RC shall receive total annual aggregate revenue of 0.0875% of Plan assets under ICMA-RC's administration for providing recordkeeping and other services to the Plans. Such revenue shall be deducted by ICMA-RC from amounts collected through the application of the asset-based fee described in section 13(A) above prior to allocation of any participant level asset-based fees to the Administrative Allowance Account described in section 13(D) below. At such time as total plan assets exceed \$525 million, the fee shall be reduced to 0.0825%.
- C. **Compensation for Management Services to the Trust, Compensation for Advisory and other Services to The Vantagepoint Funds and Payments from Third-Party Mutual Funds.** EMPLOYER acknowledges that in addition to amounts payable under this Agreement, ICMA-RC receives fees from the Trust for investment management services furnished to the Trust. EMPLOYER further acknowledges that certain wholly owned subsidiaries of ICMA-RC receive compensation for advisory and other services furnished to The Vantagepoint Funds, which serve as the underlying portfolios of a number of Funds offered through the Trust. The fees referred to in this subsection are disclosed in the Retirement Investment Guide. These fees are not assessed against assets invested in the Trust's Mutual Fund Series.
- D. **Administrative Allowance Account.** Amounts collected through the application of the asset-based fee described in section 13(A) above in excess of the revenue specified in subsection 13(B) above shall be deposited quarterly and held in an Administrative Allowance Account (that is maintained as a Plan asset by ICMA-RC). Each quarter ICMA-RC shall produce a report that shows: the amounts collected from participant accounts as asset-based fees; the methodology used in the calculation of the fees collected from participant accounts; the calculation used to determine the amount of revenue collected by ICMA-RC during the period prior to allocation of the remaining asset-based fees to the Administrative Allowance Account; and the amount allocated to the Administrative Allowance Account. EMPLOYER hereby agrees to instruct ICMA-RC how to allocate any and all such amounts maintained in the account. EMPLOYER understands that the Plan administrative allowance is to be used only to pay for reasonable plan administrative expenses of the PLAN or allocated to PLAN participants at the instruction of the EMPLOYER.
- E. **Revenue Received From Investment Options.** Neither ICMA-RC nor the EMPLOYER shall receive revenue directly from investment options made available under the Plans. ICMA-RC shall be compensated from fees collected from participant accounts through the application of the asset-based fee described in section (A) above. In the event that any Plan investment options do generate direct revenue to ICMA-RC, ICMA-RC shall first subtract the amount of revenue received from the participant fee described in 13(A).

If the revenue received is less than the amount of the participant fee, ICMA-RC shall add an asset-based fee to the amount of direct revenue from the investment option such that the net asset-based fee is equal to the amount described in subsection 13(A). In the event that the revenue received exceeds the amount of participant fee, ICMA-RC will credit amounts, at the EMPLOYER'S direction, to participant accounts or to the administrative allowance account described in 13(D).

F. **Redemption Fees.** Redemption fees imposed by outside mutual funds in which Plan assets are invested are collected and paid to the mutual fund by ICMA-RC. ICMA-RC remits 100% of redemption fees back to the specific mutual fund to which redemption fees apply. These redemption fees and the individual mutual fund's policy with respect to redemption fees are specified in the prospectus for the individual mutual fund and referenced in the Retirement Investment Guide.

G. **Managed Accounts.** ICMA-RC offers Managed Accounts to participants as part of the Guided Pathways™ program. The Managed Accounts Services Agreement is a separate Agreement entered into between ICMA-RC and the EMPLOYER that fully details the services and fees offered to PLAN participants. ICMA-RC agrees not to charge the Managed Accounts asset-based investment advisory fee to new participants who participate in Managed Accounts for their first three hundred sixty-five (365) days of participating in Managed Accounts. The 365 day period begins on each individual participant's enrollment in Managed Accounts.

After the initial 365 day period has expired, the following advisory fee schedule will be applied to Managed Accounts participants based on their account balance:

First \$25,000 – 0.60%  
 Next \$25,000 – 0.55%  
 Next \$50,000 – 0.45%  
 Next \$150,000 – 0.35%  
 Over \$250,000 – 0.25%

H. **Financial Plans.** ICMA-RC agrees to provide one free comprehensive financial plan during the term of this Agreement to the first 500 participants in the PLAN requesting such a plan after the effective date of this Agreement, regardless of age. After the initial plan, costs for financial plans range from \$160 - \$480 per plan.

The fee schedule for the comprehensive financial plans are;

<u>Account Balance</u>	<u>Fee</u>
First \$99,999	\$480
Next \$100,000	\$320
Over \$200,000	\$160

Employees with an account balance of \$200,000 are eligible for a comprehensive financial plan if they enroll in ICMA-RC Premier Services.

I. **Payment Procedures.** All payments to ICMA-RC pursuant to this Section 13 shall be paid out of Plan participant accounts pursuant to sections 13(A) and 13(B) above to the extent not paid by the EMPLOYER. In the event that the EMPLOYER agrees to pay amounts owed pursuant to this section 13 directly, any amounts unpaid and outstanding

after 30 days of invoice to the EMPLOYER shall be withdrawn from Plan assets held by the Trust.

The compensation and payment set forth in this is contingent upon the EMPLOYER'S use of ICMA-RC's EZLink system for contribution processing and the submitting contribution funds by ACH or wire transfer on a consistent basis over the term of this Agreement.

#### **14. MATERIAL BREACH AND CURE PERIOD**

Non-Compliance with the provisions of this Agreement can result in termination of this Agreement. In addition to any other remedies for termination set forth under this Agreement, either party may upon ninety (90) days written notice to the officials noted below, terminate this Agreement for non-compliance of the provisions of this agreement. Either Party may, given the opportunity, correct the non-compliance as directed in the notice, but must do so in a reasonable time as prescribed in the notice. The EMPLOYER may also extend the time of termination of this Agreement to a period of not more than six (6) months in order to find another provider or complete transition of the assets to another program.

#### **15. TERMINATION**

Upon the effective date of termination of this Agreement, the following shall occur:

- A. ICMA-RC will no longer accept deferrals.
- B. ICMA-RC will provide EMPLOYER a copy of all records relating to participant sub-accounts, in electronic format, within forty-five (45) days after the effective date of termination; and
- C. If termination is due to either party exercising the right of termination described in Section 7 of this Agreement, within 45 days of the effective date of termination, ICMA-RC will liquidate the funds and transfer to EMPLOYER or to such other entity as EMPLOYER may designate in writing; provided, however, that the EMPLOYER understands and agrees that, in the event the EMPLOYER terminates this Agreement.

ICMA-RC agrees to provide a final accounting of all PLAN assets for which ICMA-RC provides record keeping. Accounts in distribution will be transferred to EMPLOYER or its designee in accordance with the time frame described above.

#### **16. CONFIDENTIALITY**

ICMA-RC agrees that all information supplied to and all work processed or completed by ICMA-RC shall be kept confidential and will not be disclosed except as required or permitted by law.

## **17. ANCILLARY PRODUCTS**

This agreement governs the services pertaining to the PLAN only. The provider agrees that it shall not solicit ancillary products, not related to the servicing of the PLAN, to participants and employees, other than providing information about the Vantagepoint IRA.

## **18. PRIVACY OF CONTRACT**

ICMA-RC and PLAN participants shall have no privity of contract with each other.

## **19. TITLE AND OWNERSHIP**

In accordance with the provisions of Internal Revenue Code Section 457, all account(s) established under this Agreement shall be held in the name of EMPLOYER, or by a Trustee/Custodian with a multi-EMPLOYER "omnibus account" for the benefit of participants, in accordance with the PLAN.

## **20. CIRCUMSTANCES EXCUSING PERFORMANCE**

Neither party to the Contract shall be in default or have any liability to the other party by reason of failure to perform in accordance with its terms if such failure arises out of causes beyond reasonable control and without fault or negligence on their part. Such causes may include, but are not limited to, acts of God or public enemy, acts of the government in its sovereign or contractual capacity, fires, floods, epidemics, quarantine or restrictions, freight embargoes, pandemic flu and unusually severe weather.

## **21. INDEMNIFICATION**

Indemnification by the EMPLOYER - The EMPLOYER agrees to indemnify, defend and hold harmless ICMA-RC, its subsidiaries, affiliates, officers, directors, employees and agents from and against any and all loss, damage or liability assessed against ICMA-RC or incurred by ICMA-RC arising out of or in connection with any claim, action or suit brought or asserted against ICMA-RC alleging or involving the EMPLOYER's negligence or willful misconduct in the performance (or non-performance) of its services, duties and obligations under this Agreement and/or the Plan; provided that (i) ICMA-RC has notified the EMPLOYER promptly and in writing of the claim, action or suit; (ii) the EMPLOYER has the right to assume the defense of such claim, action or suit with counsel selected by the EMPLOYER and to compromise or settle such action, suit or claim (provided however, that any such compromise or settlement shall not require action or non-action by ICMA-RC without its prior written consent, which shall not be unreasonably withheld); and (iii) the EMPLOYER receives ICMA-RC's cooperation, at the EMPLOYER's sole cost, in such defense. The provisions of this Section shall survive any termination of this Agreement.

Indemnification by ICMA-RC. ICMA-RC agrees to indemnify, defend and hold harmless the EMPLOYER, its officers, directors, employees and agents from and against loss, damage or liability assessed against the EMPLOYER or incurred by the EMPLOYER arising out of or in connection with any claim, action or suit brought or asserted against the EMPLOYER alleging or involving ICMA-RC's negligence or willful misconduct in the performance (or non-performance) of its services, duties and obligations under this Agreement; provided that (i) the EMPLOYER has notified ICMA-RC promptly and in writing of the claim, action or



suit; (ii) ICMA-RC has the right to assume the defense of such claim, action or suit with counsel selected by ICMA-RC and to compromise or settle such action, suit or claim (provided however, that any such compromise or settlement shall not require action or non-action by the EMPLOYER without its prior written consent, which shall not be unreasonably withheld); and (iii) ICMA-RC receives the EMPLOYER's cooperation, at ICMA-RC's sole cost, in such defense. The provisions of this Section shall survive any termination of this Agreement.

Notwithstanding anything to the contrary contained herein, neither party nor their affiliates shall be liable for indirect, special or consequential damages.

## **22. ATTORNEYS' FEES**

Each party agrees that in the event of a claim, arbitration, or lawsuit filed by a party to this Agreement, each party shall be responsible for its own attorneys' fees and/or any costs or expenses related to the bringing or defense of any such claim, arbitration, or lawsuit.

## **23. ASSIGNABILITY**

No party to this Agreement shall assign the same without the express written consent of the other party, which consent shall not to be unreasonably withheld; provided, however, that ICMA-RC may assign its rights and obligations under this Agreement to an affiliate or subsidiary company without the written consent of EMPLOYER. Further, ICMA-RC agrees that participant information shall not be outsourced to any agency outside the U.S. without the consent of the EMPLOYER. EMPLOYER agrees that such approval will not be unreasonably withheld. Unless agreed to by the parties, no such assignment shall relieve any party to this Agreement of any duties or responsibilities herein.

## **24. PARTIES BOUND**

This Agreement and the provisions thereof shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties. The parties desire that this Agreement, with Exhibits, Addenda, and Amendments, as may be amended from time to time in writing upon agreement of the parties, shall be binding. In the event of conflict or inconsistency between the Agreement and Exhibits, language in this Agreement shall control.

## **25. APPLICABLE LAW**

ICMA-RC and EMPLOYER shall comply with any and all federal, state and local laws affecting the services covered by this Contract. This Agreement will be construed and enforced in accordance with and governed by the laws of the State of California.

## **26. UNLAWFUL PROVISIONS**

In the event any provisions of this Agreement shall be held illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining parts of the Agreement, but the same shall be construed and enforced as if said illegal or invalid provisions had never been inserted herein. Notwithstanding anything contained herein to the contrary, no party to this

Agreement will be required to perform or render any services hereunder, the performance or rendition of which would be in violation of any laws relating thereto.

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall be ineffective to the extent such provision is prohibited or unenforceable without invalidating the remaining provisions, and any such prohibition or unenforceable provision in any jurisdiction shall not invalidate nor render unenforceable such provision in any other jurisdiction.

#### **24. MODIFICATION**

This writing is intended both as the final expression of the Agreement between the parties and as a complete statement of the terms of the Agreement. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

#### **28. NO WAIVER**

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver of that provision or of any other provision in the Agreement and neither party may, at any time, enforce the provision previously waived, unless a modification to this Agreement has been executed.

#### **29. SEVERABILITY**

The provisions of this Contract are severable, and, if for any reason a clause, sentence, paragraph, or other part of this Contract shall be determined to be invalid by a court or federal, state or county, board, or commission having jurisdiction over the subject matter thereof, such invalidity shall not affect other provisions of this Contract which can be given effect without the invalid provision.

#### **30. INSURANCE**

ICMA-RC shall maintain a commercial general liability insurance policy in an amount of no less than one million dollars (\$1,000,000.00). Where the services to be provided under this Contract involve or require the use of any type of vehicle by ICMA-RC in order to perform said services, ICMA-RC shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of one million (\$1,000,000.00). Said policies shall remain in force through the life of this Contract and shall be payable on a "per occurrence" basis only. The EMPLOYER shall be an additional insured on the commercial general liability policy. The insurer shall supply a certificate of insurance evidencing such insurance to EMPLOYER prior to commencement of work, and said certificate shall provide for thirty (30) days advance notice to EMPLOYER of any cancellation in coverage.

In addition, ICMA-RC may be required to carry errors and omissions insurance or professional liability or malpractice insurance.

Nothing herein shall be construed as a limitation of Contractor's liability, and Contractor shall indemnify and hold the EMPLOYER harmless and defend the EMPLOYER against any and all claims, damages, losses and expense that may arise by reason of ICMA-RC's

negligent actions or omissions. EMPLOYER agrees to timely notify ICMA-RC of any negligence claim.

Failure to provide and maintain the insurance required by this contract will constitute a material breach of the agreement. In addition to any other available remedies, EMPLOYER may suspend payment to ICMA-RC for any services provided during any time that insurance was not in effect and until such time as ICMA-RC provides adequate evidence that ICMA-RC has obtained the required coverage.

### **31. WORKER'S COMPENSATION**

ICMA-RC acknowledges that it is aware of the provisions of the Labor Code of the State of California which require every EMPLOYER to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code, and it certifies that it will comply with such provisions before commencing the performance of the work of this Contract. If ICMA-RC has employees, a copy of the certificates evidencing such insurance shall be provided to EMPLOYER prior to commencement of work.

### **32. NONDISCRIMINATORY EMPLOYMENT**

ICMA-RC and/or any permitted subcontractor, shall not unlawfully discriminate against any individual based on race, color, religion, national origin, ancestry, physical or mental disability, medical condition (cancer related), marital status, , sexual orientation, age (over 18), veteran status, gender, pregnancy, or any other non-merit factor unrelated to job duties. ICMA-RC and/or any permitted subcontractor understands and agrees that ICMA-RC and/or any permitted subcontractor is bound by and will comply with the nondiscrimination mandates of all Federal, State and local statutes, regulations and ordinances.

### **33. GENERAL PROVISIONS**

The responsibility of ICMA-RC is limited to the terms of this Agreement. Nothing in this Agreement shall be construed to make ICMA-RC responsible for the Plan or Plan-level trust or to confer responsibilities upon ICMA-RC except for those expressly provided for in this Agreement. The EMPLOYER agrees and acknowledges that no discretionary responsibility is hereby conferred upon or assumed by ICMA-RC under this Agreement. The EMPLOYER hereby acknowledges that ICMA-RC does not agree, pursuant to this Agreement or otherwise, to provide tax, legal, or investment advice.

ICMA-RC shall perform its obligations hereunder as agent for the EMPLOYER and only in accordance with instructions received from those persons authorized to act on behalf of the EMPLOYER as specified to EMPLOYER in writing.

The EMPLOYER understands that all services performed and reports prepared pursuant to this Agreement will be based on information provided by the EMPLOYER and that ICMA-RC shall incur no liability and responsibility for the performance of such services and preparation of such reports until and unless such information as ICMA-RC shall request is provided. ICMA shall be entitled to rely on the information submitted as to accuracy and completeness and assume no obligation or duty to verify such information. The EMPLOYER understands that all services performed and reports prepared pursuant to this Agreement will be in satisfaction of this Agreement. Where the information provided to ICMA-RC by the EMPLOYER was incorrect, and where services previously provided, based on such incorrect information, must be performed again, ICMA-RC reserves the right to charge additional fees. ICMA-RC shall have no responsibility or liability for any error,

inadequacy, or omission, which results from inaccurate information, data documents or other records provided to ICMA-RC. The performance of obligations hereunder is subject to force majeure and is excused by fires, power failures, strikes, acts of God, restrictions imposed by government, or delays beyond the control of the delayed party.

EMPLOYER hereby agrees that ICMA-RC, its officers, employees, brokers, registered representatives, vendors and professional advisors (such as attorneys, accountants and actuaries) may use and disclose Plan and participant information only to enable or assist it in the performance of its duties hereunder and with other Plan related activities and expressly authorizes ICMA-RC to disclose Plan and participant information to the Plan's agent and/or broker of record on file with ICMA-RC. Plan and participant information may also be used or disclosed by ICMA-RC to other third parties pursuant to a written authorization signed by the EMPLOYER. Notwithstanding anything to the contrary contained herein, it is expressly understood that ICMA-RC retains the right to use any and all information in its possession in connection with its defense and/or prosecution of any litigation, which may arise in connection with this Agreement, the Trust Agreement funding the Plan, or the Plan.

Where information needed to perform services under this Agreement is not received in good order, the EMPLOYER authorizes ICMA-RC to contact any employee at his or her home or business address to obtain additional information.

#### **34. NOTICES**

All notices and demands to be given under this Agreement by one party to another shall be given by certified or United States mail, addressed to the party to be notified or upon whom a demand is being made, at the addresses set forth in this Agreement or such other place as either party may, from time to time, designate in writing to the other party. Notice shall be deemed received on the earlier of, 3 days from the date of mailing, or the day the notice is actually received by the party to whom the notice was sent.

If to ICMA-RC: ICMA-RC  
Attention: Legal Department  
777 North Capitol Street, NE  
Washington, DC 20002

If to EMPLOYER: City of Long Beach, California  
Attention: Debbie Mills  
333 W. Ocean Boulevard, 13<sup>th</sup> Floor  
Long Beach, CA 90802

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective on the date first written above.

APPROVED BY  
International City/County  
Management Association

By: *Angelica Monty*  
Title: Assistant Corporate Secretary

APPROVED BY

City of Long Beach EXECUTED PURSUANT  
TO SECTION 301 OF  
THE CITY CHARTER.  
Assistant City Manager

By: *Patrick H. West*  
Patrick H. West, City Manager

~~Approved as to form:  
By: \_\_\_\_\_  
Title: City of Long Beach, City Attorney~~

~~APPROVED AS TO FORM  
1/18, 2012  
ROBERT E. SALAMON, City Attorney  
By: \_\_\_\_\_  
CITY OF LONG BEACH  
CITY ATTORNEY~~

~~Approved as to insurances:  
By: \_\_\_\_\_  
City of Long Beach~~

~~ATTEST:~~

~~CLERK~~

**Exhibit A**  
**Target Aged Based Pre-Assembled Portfolios (Pre-Assembled Portfolios)**  
**OPERATING DOCUMENT**

ICMA-RC agrees to administer a series of Target Aged Based Pre-Assembled Portfolios, at the direction of the EMPLOYER, as follows:

1. The Target Aged Based Pre-Assembled Portfolios (Pre-Assembled Portfolios) shall be created, at the direction of the EMPLOYER or its consultant, using the investment options in the Plan and the allocation percentages designated by EMPLOYER or its consultant. The EMPLOYER/consultant may change the investment options and/or allocation subject to Paragraph 5 below. Investments options used to create the Pre-Assembled Portfolios shall not include mutual funds or other investment options that may charge and apply redemption fees or have other similar fund transfer or hold restrictions. In the event, that an existing investment option under the Pre-Assembled Portfolio adopts or institutes a redemption fee policy or other similar fund transfer restriction, without an exception or exemption for the Pre-Assembled Portfolio investments, then such investment option will be immediately removed as an available investment option for the Pre-Assembled Portfolio.

It is intended that an investment in a Pre-Assembled Portfolios will represent an investment in the constituent "stand alone" options, and not a separate security. "Stand alone" for the purposes of this document shall mean the investment options available for individual investment under the Plan.

2. Accounting for the Pre-Assembled Portfolios will be reported each day the New York Stock Exchange is open on a "unitized" basis by dividing the net assets of the Pre-Assembled Portfolio by the number of units, subject to the Procedural Requirements for the EMPLOYER Pre-Assembled Portfolio. The starting unit value for each Pre-Assembled Portfolio fund shall be \$10.00, or any unit value selected by EMPLOYER on the date such funds are established under this document.
3. The Pre-Assembled Portfolios shall be adjusted annually based on a provided glide path by the EMPLOYER or it's designated consultant and will be automatically rebalanced quarterly, pursuant to the standing direction of the EMPLOYER or its consultant, to bring the accounts back in line with the established percentages referred to in Paragraph 1 above. Such rebalancing will be accomplished by the sale and purchase of the appropriate underlying investment options. The automatic rebalancing will be effected during each calendar quarter on or about the first Business Day of each calendar quarter. Rebalancing is defined as the process required to maintain a predetermined allocation among the investment asset classes in each Pre-Assembled portfolio fund as described in Paragraph 1. During the quarter, underlying funds may perform differently, thus creating an "out of balance" according to the predetermined allocation among the individual investment funds that make up each Pre-Assembled Portfolio fund.
4. Participants will be able to monitor the unit value(s) on a day-to-day basis on the web-site and voice response unit. The composition of each of the Pre-Assembled Portfolios will be included in communications material distributed to participants.
5. The EMPLOYER shall notify ICMA-RC at least sixty (60) days prior to replacement of any of the underlying funds or should a new asset class be added to the Pre-Assembled Portfolio or the allocation percentages change among the underlying funds. Any request by the EMPLOYER to change the composition of the Pre-Assembled Portfolio must also be agreed to by ICMA-RC from an administrative, record keeping and accounting standpoint, in order to confirm that ICMA-RC can properly administer, account for and record keep any such

requested changes. Additions, deletions, or changes to the composition of the Pre-Assembled Portfolios may occur no more frequently than annually.

6. The standards set forth herein are based on the understanding of the views expressed by the staff of the Securities and Exchange Commission (hereafter called "SEC"). In the event the views of the SEC staff are later modified or superseded by the SEC or judicial interpretation, the provisions will be amended to comport with the appropriate applicable standards.
7. All written/printed communications distributed to participants will clearly indicate that these are Pre-Assembled Portfolios which participants who wish to diversify MAY choose but they may also select their own "customized" allocation from the "stand alone" investment options. Any "stand alone" investment option prospectuses and annual and semi-annual reports will be made available to participants by ICMA-RC.
8. At the EMPLOYER's request, ICMA-RC will assess an additional management fee in the calculation of the daily unit values of each Pre-Assembled Portfolio. Based upon the EMPLOYER's agreement with its consultant to manage the Pre-Assembled Portfolios, an asset-based fee that varies with total Pre-Assembled Portfolio balances may be applied to assets invested in the Portfolios. The proceeds from this management fee will be aggregated each calendar quarter and remitted to the EMPLOYER.
9. ICMA-RC's sole role with respect to the Pre-Assembled Portfolios is to act as administrator and recordkeeper. The EMPLOYER, or its consultant, is solely responsible for the design, composition and allocations of the Pre-Assembled Portfolios and for developing any disclosures to be provided to participants in connection with the Pre-Assembled Portfolios.

**Exhibit B**  
**VANTAGEBROKER ADDENDUM**

The EMPLOYER and ICMA-RC hereby agree as follows:

1. General. ICMA-RC will make available to participants in EMPLOYER'S Plan the VantageBroker self-directed brokerage account option through ICMA-RC's relationship with TD AMERITRADE ("TDA"), a broker-dealer registered with the Securities and Exchange Commission ("SEC"). TDA will hold in each self-directed brokerage account all securities, cash and other property transferred to the account on behalf of a participant, and will disburse the same in accordance with directions of each participant electing the self-directed brokerage account option. All securities are offered by TD Ameritrade.
2. Investment Options. Investments under the VantageBroker account option may be made in shares of available registered mutual funds.
3. Account and Transfer Minimums. The VantageBroker option will be made available to participants with a minimum \$10,000 in Core Funds, which is defined as a participant's account balance in ICMA-RC Funds outside of VantageBroker investments. A minimum \$5,000 initial transfer from Core Funds to VantageBroker is required. Participants must have a minimum Core Funds balance of \$5,000 to transfer additional funds to their brokerage account with a minimum \$1,000 transfer requirement.
4. Account Information and Transactions. Access to VantageBroker information and transactions can be made through ICMA-RC's website, by calling ICMA-RC, or by contacting TD Ameritrade directly.
5. Fees. For services provided in connection with the VantageBroker option, ICMA-RC will charge each participant who opens a VantageBroker account a one-time \$25 set-up fee. The fees charged by TDA are set forth in TDA's account documents.
6. Additional Compensation. TDA may from time to time, and from monies independent of Plan assets, compensate ICMA-RC for the administrative services provided for VantageBroker accounts. Such compensation, if any, shall be fully disclosed to EMPLOYER annually and included in the revenue requirement as described in section 13 of the Agreement.
7. Liability for Participant Directions. Notwithstanding any other provision in the Agreement or this Addendum, ICMA-RC shall not be liable in connection with any claim, loss, damages, or injury resulting from any participant VantageBroker account investment direction, unless RC, its officers, agents or employees have acted negligently in executing or failing to execute such direction.
8. Limitation of Liability. EMPLOYER has elected under this Addendum to make available to participants the option of using their VantageBroker accounts to buy, sell or hold shares of mutual funds, selected by Plan participants, that are not



among the investment options made available by ICMA-RC (“Other Investments.”) The investment options made available by ICMA-RC are limited to interests in the VantageTrust Funds and The Vantagepoint Funds. All Other Investments made by participants through their VantageBroker accounts will be selected by the participants in their sole discretion and bought or sold on an unsolicited basis. It is understood and acknowledged that ICMA-RC, ICMA-RC Services, LLC, Vantagepoint Investment Advisers, LLC, VantageTrust Company, Vantagepoint Transfer Agents, LLC or any of their respective officers, directors, employees or affiliates (“ICMA-RC Group”) will not make recommendations or give advice of any kind to EMPLOYER or participants with respect to such Other Investments or act in a fiduciary capacity for EMPLOYER, participants or the issuers of such Other Investments. Although the ICMA-RC Group may consult with EMPLOYER regarding fiduciary and other issues related to offering the VantageBroker program, the ICMA-RC Group also will not make recommendations or give advice to EMPLOYER with respect to the advisability of allowing participants to use their VantageBroker accounts to buy, sell or hold “Other Investments” or as to what, if any, specific Other Investments or categories of Other Investments participants should be permitted to invest in through their VantageBroker accounts. All investment decisions with respect to Other Investments will be the sole responsibility of each participant and his or her own financial or other advisors and the ICMA-RC Group is not in a position, nor undertakes any responsibility to give advice to a participant, or make suitability determinations with respect a participant’s investment in Other Investments, or oversee the handling of TDA’s responsibility in this regard. EMPLOYER acknowledges and agrees that no persons in the ICMA-RC Group will have any responsibility or liability whatsoever for any loss or damage that EMPLOYER or any participant may incur with respect to such Other Investments.

9. Arbitration. The parties hereto agree to settle by arbitration any controversy between or among ICMA-RC, its affiliates, officers, directors or employees, the EMPLOYER, the Plan or a Plan participant, which controversy relates to the VantageBroker option or participant directed transactions thereunder, a participant’s payment of fees, or ICMA-RC’s actions or omissions in connection with a VantageBroker account. Such arbitration will be conducted in accordance with the securities arbitration rules then in effect of the American Arbitration Association, the Financial Industry Regulatory Authority (“FINRA”), or any registered national securities exchange. Any award made by an arbitrator shall be final, and judgment on it may be entered by any court having jurisdiction.
10. Delivery of Documents. To the extent required by law, TDA shall forward to participants, or to the EMPLOYER for distribution to participants, documents received by TDA relating to voting rights or other rights accruing from investments purchased through a participant’s VantageBroker account, including, but not limited to, proxies, options, warrants, tenders, reports, and offering circulars. ICMA-RC will not receive such documents and therefore cannot be responsible for their delivery to participants.
11. Complaint, Correspondence, Participant Inquiries. ICMA-RC agrees to forward immediately to the EMPLOYER any complaint, correspondence, or inquiry, written or oral, from a participant, or any document, correspondence, complaint, or inquiry from any regulatory authority, including, but not limited to, the SEC, FINRA, state

securities departments, state insurance departments, or state banking departments that names or refers directly or indirectly to the EMPLOYER or its employees.

12. Confidential Information. All information provided to ICMA-RC by the EMPLOYER or Plan participants in connection with a VantageBroker account shall be regarded by ICMA-RC as confidential and shall not be used by ICMA-RC in connection with any matter other than Plan or VantageBroker account administration without prior written consent of the EMPLOYER, or participant, as appropriate.