

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time of any future changes will continue to operate under the guidelines that were in effect at the time the loan was originally made.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

☒ New Loan Program **OR** ☐ Amendment to Loan Program

1 EMPLOYER PLAN INFORMATION

Name of Plan (Enter the complete Employer name, including state): _____ City of Grass Valley

 Plan Type: ☒ 457(b) Deferred Compensation Plan ☐ 401(a) Money Purchase Plan ☐ 401(a) Profit-Sharing Plan ☐ 403(b) Retirement Plan

MissionSquare Plan Number(s): 302691

2 ELIGIBILITY & LOAN SOURCE

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

401(a)/403(b) Plans – If your 401(a)/403(b) plan is funded by a combination of Employer and Employee contributions, you must specify whether one or both of the following can be used as a source for participant loans. (Select one or both options below)

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

Roth Assets (if applicable) – If your 457(b), 403(b), or 401(a)(k) plan allows Roth contributions, a participant's Designated Roth Account balance will be included when calculating the amount a participant is eligible to borrow. However, you must specify whether or not a participant's Designated Roth Account can be used as a source for participant loans. (Select one option below)

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

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

3 LOAN PURPOSE

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

- ☒ **All Purposes** – With this option, participants can request a loan for any reason. Participants will be able to request new loans or refinance existing loans using the Online Loans option.
- ☐ **Other Purposes** – With this option, loans shall only be granted for reasons that are defined and approved by the plan. Participants will be able to request new loans or refinance existing loans using the Online Loans option. Please define purposes below and attach additional pages if needed.

4 APPLICATION PROCESS

The loan application process will vary depending on the option you selected in Section 3 above (Loan Purpose).

(A) All Purposes

- Participants can request a new loan or to refinance an existing loan using the MissionSquare website at: www.icmarc.org
- The participant agrees to the terms of the loan during the online loan request process.
- MissionSquare sends the loan documents and the loan proceeds (via check or ACH) to the participant.

(B) Other Purposes

- Participants can request a new loan or to refinance an existing loan using the MissionSquare website at: www.icmarc.org
- The participant agrees to the terms of the loan during the online loan request process.
- The Employer must review and approve the loan via EZLink.
- If approved, MissionSquare sends the loan documents and the loan proceeds (via check or ACH) to the participant.

The loan amount will generally be redeemed from the employee's account on the same day as either MissionSquare receipt of a loan request/application (complete and in good order), if it is submitted prior to market close on a business day. If not, the loan amount will be redeemed on the next business day following submission. The loan proceeds for an all purpose loan is generally issued on the next business day following redemption, and will be sent to the participant based on their option during the loan application process.

5 MAXIMUM NUMBER OF LOANS (SELECT ONE)

Participants may receive one loan per time period defined in the plan document (e.g., calendar or plan year). Please specify whether participants may have only one (1) or up to five (5) loans outstanding at one time. Maximum number of loans is one (1) by default. If you want to allow a different amount, enter a value of 1 through 5 in the Other Section.

- ☒ **One (1).** Participants may have only one (1) outstanding loan at a time (default).
- ☐ **Other.** Participants may have up to _____ (enter 2, 3, or 4) loans outstanding at one time.
- ☐ **Other 403(b) ONLY.** Participants with outstanding legacy loans may have one outstanding loan other than the legacy loans.

6 LOAN AMOUNT

Maximum: The maximum amount of all loans to a participant from the Plan and all other plans of the Employer that are either eligible deferred compensation plans described in section 457(b)(b) of the Code or qualified employer plans under Section 72(p)(4) of the Code (e.g., 401(a)/403(b) plans) shall not exceed the lesser of:

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

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

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

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

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

7 LENGTH OF LOAN

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

Principal Residence Loans

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

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

8 LOAN REPAYMENT PROCESS

Specify the repayment method(s) and repayment frequency your plan will use. Note that loan amounts plus interest, minus applicable fees paid to MissionSquare, are repaid to participant accounts and not to MissionSquare. You can allow repayments to be made via payroll deduction or ACH payments from a participant's bank account. Loan repayments must be made at least monthly [457(b)] or quarterly [401(a)/403(b)].

Repayment Method (Select One):

For 457(b) and 401(a) or (k) plans: ☒ ACH **OR** ☐ Payroll Deduction

403(b) plans loan repayments can only be paid by ACH.*

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

Repayment Frequency:

For Payroll Deduction: Repayments through payroll deduction will be sent via check, wire or ACH debit by the Employer to MissionSquare on the following cycle (Select One):

- ☐ Weekly (52 per year) ☐ Bi-weekly (26 per year) ☐ Semi-monthly (24 per year) ☐ Monthly (12 per year)
☐ Quarterly (4 per year) – Available to 401(a) only.

For ACH (Select One): ☒ Monthly (12 per year) ☐ Bi-weekly (26 per year)

Next two payroll dates: MM/DD/YYYY _____ and MM/DD/YYYY _____

Initiating Repayments: ACH debits from the employee's designated bank account will begin approximately one month following the date the loan is processed by MissionSquare.

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

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

Additional Loan Repayments and Early Pay-Off: A participant may pay off all of the principal and interest early without penalty or additional fee. If a loan is paid in full prior to the end of the term of the loan, no further interest will accrue. Please note that no payment date may be "skipped" even if the employee has made a large payment or submitted multiple payments.

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

Multiple Loans: If a participant has multiple loans outstanding from the plan, each loan repayment must be separately reported to MissionSquare.

8 LOAN REPAYMENT PROCESS (CONTINUED)

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

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

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

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

MissionSquare will notify both you and the employee if a payment has not been received.

9 LOAN INTEREST RATE

The loan interest rates are set for non-residential loans at the prime rate plus 0.5%, and for principal residence loans at the FHA/VA rate. The interest rate for new loans fluctuates from month-to-month. The rates for the following month are determined on the last business day of the month using Money Cafe (prime rate) and Citi Mortgage (principal residence rate).

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

10 SECURITY/COLLATERAL

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

11 ACCELERATION (SELECT ONE)

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

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

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

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

12 REAMORTIZATION

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

Reamortization cannot extend the repayment period beyond five (5) years from the date the loan was originally issued. Or, in the case of Principal Residence Loans, beyond (the number of years specified in Section 7) years from the date the loan was originally issued.

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

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

13 REFINANCE

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

Actively employed participants may elect to refinance an outstanding loan for an additional amount, subject to the loan amount limitations outlined in Section 6, provided that the participant has not yet taken out a loan during the calendar year. Participants no longer employed are not eligible to refinance an existing loan.

Note: Principal residence loans are not eligible for refinance.

14 REDUCTION OF LOAN

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

15 DEEMED DISTRIBUTIONS

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

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

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

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

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

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

16 FEES

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

17 SIGNATURES

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

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

this (Day of the Month) 25 day of (Month) October, 20 22 (Year).

EMPLOYER

By: Catrina Olson

Title: Deputy Administrative Services Director

Attest: _____