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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 2. The 457(b) Plan is a deferred compensation plan created under authority of Section 457(b) of the Internal Revenue Code (Title 26 U.S.C.) that exists for the purpose of providing certain deferred compensation benefits to eligible participants. The 457(b) Plan shall be maintained in accord with Section 457(b) and applicable Treasury Department regulations, shall provide suitable investment options for participant contributions, and may provide for both elective and nonelective contributions.

PART 3. The City's Director of Financial Services or their designee shall serve as the Administrator of the 457(b) Plan and shall have the responsibility and authority to direct all activities related to the administration of the 457(b) Plan as provided in this Ordinance and other ordinances approved by Council, including the following:

- (A) The Administrator shall secure contracts for and oversee such investment, recordkeeping, and other administrative services as may be necessary for the effective administration of the 457(b) Plan.
- (B) The Administrator shall ensure that the 457(b) Plan is at all times administered pursuant to a written plan document (the “457(b) Plan Document”) that conforms to the requirements of 29 C.F.R. Section 1.457-3, this Ordinance, and any other ordinances approved by Council.
- (C) The Administrator shall amend the 457(b) Plan Document as required to maintain the 457(b) Plan in compliance with Section 457(b) and applicable Treasury Department regulations, or to comply with approved Council ordinances.
- (D) Upon approval of the DC Plan Committee described in Part 4 below, the Administrator may further amend the 457(b) Plan Document, beyond such amendments necessary to comply with section (C) above, as may be in the best interests of the 457(b) Plan participants.

- 35 (E) Upon approval of the DC Plan Committee, the Administrator may add or
36 delete specific investment options from the 457(b) Plan consistent with the
37 approved investment policy statement.

38 **PART 4.** The 457(b) Plan shall have a Deferred Compensation Committee (the “DC
39 Plan Committee”) comprised of nine members who are selected and serve terms as
40 follows:

- 41 (A) The Director of the Financial Services Department or their designee;
42 (B) The Director of the Human Resources Department or their designee;
43 (C) Six active employee participants who are contributing funds or having funds
44 contributed by the City to the 457(b) or 401(a) Plan; and
45 (D) One retiree participant who shall be a retired City employee who is currently
46 receiving a pension from the City defined benefit retirement system and has
47 a current balance in the 457(b) or 401(a) Plan.

48 **PART 5.** DC Plan Committee members occupying the places designated in Parts 4(C)
49 and 4(D) of this Ordinance shall be elected by a vote of all 457(b) and 401(a) Plan
50 participants to serve a term of four years. Provided, that the current DC Plan Committee
51 members occupying those places shall continue as DC Plan Committee members for the
52 remainder of their current terms.

53 **PART 6.** Active employee members of the DC Plan Committee shall be subject to the
54 provisions of Article 4 of Chapter 2-7 of the City Code. Any vacancy created by the
55 resignation or ineligibility of a DC Plan Committee member shall be appointed by the
56 City Manager for the remainder of the term.

57 **PART 7.** The DC Plan Committee shall have the following powers and duties:

- 58 (A) To approve or deny appeals by participants of decisions concerning
59 unforeseeable emergency withdrawals;
60 (B) To hear appeals by participants concerning the resolution of fact questions
61 necessary to decide participants’ rights under the 457(b) Plan;
62 (C) To approve an investment policy statement for the 457(b) Plan;
63 (D) To review all proposals and contracts for investment or administrative
64 services and to make recommendations to the Administrator for award of
65 contracts for investment or administrative services;

- 66 (E) To review the performance of the various investment options, approve the
67 addition or deletion of specific investment options from the 457(b) Plan, and
68 make recommendations to the Administrator; and
- 69 (F) To approve any amendments to the 457(b) Plan that are subject to Part 3(D)
70 of this Ordinance and make recommendations to the Administrator related to
71 amendments to the 457(b) Plan not inconsistent with this Ordinance, other
72 approved Council ordinances, or Section 457(b) and applicable Treasury
73 Department regulations as may be in the best interests of the 457(b) Plan
74 participants.

75 **PART 8.** The Defined Contribution Retirement Plan for City Employees (the “401(a)
76 Plan”) is hereby created. The 401(a) Plan is a qualified defined contribution retirement
77 plan established under the authority of Section 401(a) of the Internal Revenue Code (Title
78 26 U.S.C.) and applicable regulations for the purpose of providing retirement and other
79 benefits to eligible participants. The 401(a) Plan shall be maintained in compliance with
80 Section 401(a) and applicable regulations, may provide for elective and nonelective
81 contributions, shall provide suitable investment options for participant contributions, and
82 may provide for different contribution levels for different participant groups as permitted
83 by law.

84 **PART 9.** The City’s Director of Financial Services is designated as the Administrator
85 of the 401(a) Plan and shall have the same responsibilities and authority to direct all
86 activities related to the administration of the 401(a) Plan as provided in Part 3 of this
87 Ordinance for the 457(b) Plan.

88 **PART 10.** The 401(a) Plan shall have a Defined Contribution Retirement Plan
89 Committee (the “Retirement Plan Committee”) comprised of the same persons who
90 comprise the DC Plan Committee as established in Part 4 of this Ordinance.

91 **PART 11.** The Retirement Plan Committee shall have the same powers and duties
92 concerning the 401(a) Plan as established in Part 7 of this Ordinance for the DC Plan
93 Committee concerning the 457(b) Plan.

PART 12. Ordinance No. 860814-J and Ordinance No. 950323-D are repealed.

PART 13. This ordinance takes effect on _____, 2022.

PASSED AND APPROVED:

_____, 2022 § _____
 § _____
 § _____
Steve Adler
Mayor

APPROVED: _____
Anne L. Morgan
City Attorney

ATTEST: _____
Myrna Rios
City Clerk