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RESOLUTION NO. 175

A RESOLUTION OF THE CITY OF SHORELINE, WASHINGTON APPROVING AN AMENDMENT TO THE §401 MONEY PURCHASE PLAN ESTABLISHED FOR ALL EMPLOYEES UNDER NATIONWIDE LIFE INSURANCE COMPANY CONTRACT NO. 013-06329 TO PROVIDE LOANS

WHEREAS, the City of Shoreline established a citywide §401(a) money purchase plan with Nationwide Life Insurance Company (the "Plan") as a retirement plan with mandatory contributions as a component of the City's Social Security replacement program (Ordinance No. 71); and

WHEREAS, an optional loan program is available to employees participating under §401(a) plans which was not selected by the City in establishing the Plan; and

WHEREAS, the City has determined that adding a loan option to the Plan will serve the interests of the City by enabling it to provide reasonable retirement security for its employees with increased flexibility;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON THAT

1. The City hereby amends the citywide §401(a) Plan (Nationwide Life Insurance Co. Contract No. 013-06329 to permit loans in accordance with Participant Loan Program for City of Shoreline Money Purchase Plan attached hereto as Exhibit A with interest set at the prime rate plus .5%, or the rate charged by the FHA for residential purchases.

ADOPTED BY THE CITY COUNCIL ON June 11, 2001.



Mayor Scott Jepsen

ATTEST:



Sharon Mattioli, CMC
City Clerk

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Exhibit A

PARTICIPANT LOAN PROGRAM
FOR
CITY OF SHORELINE
MONEY PURCHASE PLAN

There are many complex issues associated with participant loans, most of them stemming directly from federal regulations. Below we have summarized the restrictions on participant loans as defined by the Internal Revenue code, and Regulations issued by the Department of Labor. Loans from a qualified plan to participants are required to:

- a) be available to all participants or beneficiaries on a reasonably equivalent basis, including former employees who still have money in the plan;
- b) be made in accordance with specific provisions regarding such loans set forth in the plan;
- c) not be made available to highly compensated employees, including certain officers and shareholders in an amount that is greater than the amount made available to other employees;
- d) bear a reasonable rate of interest (which is generally interpreted to mean a rate not less than what the participant would pay for a similar-secured loan at a bank or other independent lending institution); and
- e) be adequately secured.

Under the new Department of Labor (DOL) regulations, no more than the lesser of \$50,000 or 50% of a participant's vested accrued benefit may be used to secure a participant loan. However, a participant loan program may, in limited circumstances, grant loans which exceed the limit provided that the plan receives additional collateral from outside sources. Because of risks associated with what will qualify as "adequate collateral", Pebco's program establishes that the loan amounts available to participants be limited to the lesser of \$50,000 or 50% of their vested account balance.

The Internal Revenue code also provides requirements for the repayment of loans. The following rules apply:

- a) Loans must be repaid within five years, unless the loan is made to acquire "the principal residence" of the participant.

- b) Loans must be repaid in level installments at least quarterly. "Balloon" payments are prohibited.
- c) Loans which default are deemed to be distributions and, therefore, taxable. They are also subject to the 10% early distribution tax applicable to most distributions to participants who have not attained age 59 1/2.

LOAN INTEREST RATE

The Trustees are required to establish a standard policy for setting the loan interest rate. Regulations indicate that a loan will be considered to bear a reasonable rate of interest if the loan provides the plan with a return commensurate with the interest rates charged on commercial loans by persons/lending institutions in the business of lending money under similar circumstances.

PebSCO recommends that the Trustees institute a policy whereby the interest rate is set on the first business day of each month in accordance with the prevailing rates for similar loans taken in the same geographic area. This rate is established by contacting at least one local lending institution to determine the current rate for a fully secured loan.

NEW LOAN FREQUENCY

The loan program will be established to allow plan participants to request one loan per plan year. A limit of one loan per year is necessary for ease of administration and to avoid excess loan withdrawals by participants which could adversely impact the plan. No more than one loan per participant will be allowed at any one time.

PARTICIPANTS' ELIGIBILITY FOR LOANS

The loan program will provide that all participants in the plan be eligible to apply for participant loans. The minimum loan amount shall be \$1,000.00

MAXIMUM LOAN AMOUNT

The approved loan amount may not exceed the lesser of \$50,000 or 50% of the participant's vested account balance. This is consistent with the DOL regulations and protects the participant from depleting his/her account balance and eliminating future retirement income. PebSCO will monitor maximum loan amounts for each participant. If a participant applies for a loan which will put his/her outstanding loan amount above plan and IRS limits, PebSCO will return the loan application to the Trustees and recommend that it be denied or amended.

REPAYMENT FREQUENCY

Except with respect to former employees or beneficiaries, the loan repayments will be made through payroll deduction with after-tax income to reduce incidents of default. The repayment frequency, whether weekly or bi-weekly, will be stated on the Loan Application Form. Each payroll period, the Trustees will remit to PebSCO the total amount withheld for loan payments, along with detail. The Trustees must assist PebSCO in ensuring timely

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set-up of payroll deduction loan repayments so that they commence on the date specified in the Amortization Schedule and Loan Agreement.

Loans made to former employees or beneficiaries shall be repaid in the manner prescribed by the Plan Administrator, but in no event shall payments be made less frequently than quarterly.

AMORTIZATION SCHEDULE

Pebasco will produce an Amortization Schedule and Loan Agreement after the Loan Application has been approved. Both the Amortization schedule and the Loan Agreement will be sent to the Trustees for final approval and to obtain the proper signatures.

LOAN DISTRIBUTION MIX

The loan amount will be withdrawn proportionately among the current investment options in which the participant's account is invested, excluding life insurance.

REPAYMENT MIX

The loan repayments will be invested on the same basis as the current deferral investment allocation, excluding life insurance, at the time of each repayment.

DEFAULT

Pebasco will notify the Trustees when loan repayments are not made by the participants. Upon default, the outstanding balance of the loan will be treated as a distribution to the participant and Pebasco will generate the appropriate tax reporting forms. A loan default will be deemed to have taken place upon the first missed loan repayment. Once a default has taken place, the loan cannot be reinstated.

LOAN FEES

Loan Application Fee: An application fee for every loan applied for will be assessed. This fee will be \$100 per loan application. This Loan Application Fee will be assessed regardless of whether or not the participant accepts and executes the Loan Agreement. If the Loan Application Fee is to be withdrawn from the participant's contract, a Contingent Deferred Sales Charge may be assessed.

Loan Administration Fee: An annual fee of \$25 per loan per year will be billed for each participant along with annual valuation charges.

Loan Default Fee: Due to the extra time and effort involved upon a loan default, a \$50.00 charge will be assessed to the participant at the time the loan default occurs. This charge will affect only the participants who fail to make the required loan repayment.

I agree to operate the Loan Program for the City of Shoreline Money Purchase Plan in accordance with the above stated provisions.

Plan Administrator

Date