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Agenda Item #: '7 '!'+'

5; 9B85 '+9A. ADOPTION OF RESOLUTION NO. 22-11, 'A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, AMENDING THE VILLAGE OF ROYAL PALM BEACH PENSION PLAN ("401(A) PLAN") AND THE DEFERRED COMPENSATION PLAN ("457 PLAN") TO PROVIDE FOR CERTAIN STATUTORY AND REGULATORY REQUIREMENTS, INCLUDING BUT NOT LIMITED TO SATISFYING THOSE REQUIREMENTS SET FORTH IN THE SETTING EVERY COMMUNITY UP FOR RETIREMENT ENHANCEMENT ACT ("SECURE ACT"), THE CORONAVIRUS AID RELIEF AND ECONOMIC SECURITY ACT ("CARES ACT"), AND THE CONSOLIDATED APPROPRIATIONS ACT OF 2021 ("CCC ACT"); PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

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The amendment to the Village's Pension Plan (401(a) Plan) and Deferred Compensations Plan (457 Plan), effective immediately, is in response to enactment of the SECURE Act, CARES Act and CCC Act and corresponding requirements under each. The Amendments simply memorialize the defaults that Prudential / Empower established in connection with their operation of the 401(a) Plan and 457 Plan from enactment of the relevant federal rules to present. Since the statutory changes imposed by the SECURE and CARES Acts differ based on plan type (401(a) versus 457), some changes required in connection with the 401(a) Plan are not required in connection with the 457 Plan. A summary of the changes to each plan is provided below:

401(a) Plan:

- The rules requiring that participants receive "Required Minimum Distributions" ("RMDs") changed as follows:
 - The RMD requirement was eliminated but only with respect to the 2020 calendar year under the CARES Act in response to the COVID-19 pandemic. Thus, the 401(a) Plan was amended to default to no 2020 RMD unless a participant affirmatively requested it.
 - The time that RMDs generally must begin was changed from when a participant attains age 70-1/2 to when a participant attains age 72 under the SECURE Act. This is a mandatory change so the 401(a) Plan was amended to reflect it.
- The SECURE Act eases the ability of plan sponsors to allow participants to invest in certain insurance products such as individual annuities and guaranteed investment contracts by increasing the portability of such investments for participants (e.g., rollover insurance contract to IRA). The 401(a) Plan was amended to grant the discretion to the Village to allow for the portability of these types of investments should they ever exist in the 401(a) Plan. This amendment does not obligate the Village to offer any specific investment in relation to the 401(a) Plan or take any affirmative action; rather it allows for the portability of such investments if they ever do make their way into the 401(a) Plan.

- The SECURE Act eliminated “stretch payments” to non-spousal beneficiaries. The old rule allowed a beneficiary to take periodic distributions of an inherited account over the beneficiary’s lifetime. The new rule requires almost all non-spousal beneficiaries of a participant who dies after 12/31/21 to receive a full distribution of the inherited account by the 10th year after the year that the participant dies. This is a mandatory change so that is how Prudential / Empower is operating and the 401(a) Plan was amended to reflect it.
- The Internal Revenue Service issued final regulations impacting hardship withdrawals that the 401(a) Plan was amended to reflect:
 - The permissible reasons to receive a hardship withdrawal were extended to include Federal Emergency Management Agency declared disasters. Prudential / Empower operates in accordance with this expanded definition so the 401(a) Plan was amended to allow for it.
 - The regulations established that a participant is not required to try to obtain all non-taxable loans before applying to receive a hardship withdrawal. Prudential / Empower operates in accordance with this so the 401(a) Plan was amended to reflect it.
 - The regulations affirmatively require that a participant’s deferrals no longer be suspended for any time period after receiving a hardship withdrawal. Thus, the 401(a) Plan was amended to reflect this change.

457 Plan:

- The rules requiring that participants receive RMDs changed as follows:
 - The RMD requirement was eliminated but only with respect to the 2020 calendar year under the CARES Act in response to the COVID pandemic. Thus, the 401(a) Plan was amended to default to no 2020 RMD unless a participant affirmatively requested it.
 - The time that RMDs generally must begin was changed from when a participant attains age 70-1/2 to when a participant attains age 72 under the SECURE Act. This is a mandatory change so the 401(a) Plan was amended to reflect it.
- The SECURE Act eases the ability of plan sponsors to allow participants to invest in certain insurance products such as individual annuities and guaranteed investment contracts by increasing the portability of such investments for participants (e.g., rollover insurance contract to IRA). The 401(a) Plan was amended to grant the discretion to the Village to allow for the portability of these types of investments should they ever exist in the 401(a) Plan. This amendment does not obligate the Village to offer any specific investment in relation to the 401(a) Plan or take any affirmative action; rather it allows for the portability of such investments if they ever do make their way into the 401(a) Plan.
- The SECURE Act eliminated “stretch payments” to non-spousal beneficiaries. The old rule allowed a beneficiary to take periodic distributions of an inherited account over the beneficiary’s lifetime. The new rule requires almost all non-spousal beneficiaries of a participant who dies after 12/31/21 to receive a full distribution of the inherited account by the 10th year after the year that the participant dies. This is a mandatory change so that is how Prudential / Empower is operating and the 401(a) Plan was amended to reflect it.

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Staff recommends adoption of Resolution 22-11 to provide for amendments to the existing Village Pension Plan (401(a) Plan) and Deferred Compensation Plan (457 Plan) to implement the provisions of the SECURE, CARES and CCC Acts.

Initiator	Village Manager Approval	Agenda Date	Village Council Action
Stanley G. Hochman Finance Director		5/19/22	

RESOLUTION NO. 22-11

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, AMENDING THE VILLAGE OF ROYAL PALM BEACH PENSION PLAN AND VILLAGE OF ROYAL PALM BEACH DEFERRED COMPENSATION PLAN TO PROVIDE FOR MANDATORY FEDERAL AMENDMENTS IMPOSED BY CONGRESS PURSUANT TO THE SETTING EVERY COMMUNITY UP FOR RETIREMENT ENHANCEMENT (“SECURE”) ACT, THE CORONAVIRUS AID RELIEF AND ECONOMIC SECURITY (“CARES”) ACT, AND THE CONSOLIDATED APPROPRIATIONS ACT OF 2021 (“CAA”); PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Village Council adopted the Pension Plan (401(a) Plan) on October 1, 1978 and the Deferred Compensation Plan (457 Plan) on October 10, 1996 each for the exclusive benefit of the employees of the Village of Royal Palm Beach, Florida; and

WHEREAS, the Village Council wishes to amend the Plans, as appropriate, in order to revise and update such documents for certain statutory and regulatory requirements including but not limited to those set forth under the Setting Every Community Up for Retirement Enhancement (“SECURE”) Act, the Coronavirus Aid Relief and Economic Security (“CARES”) Act, and the Consolidated Appropriations Act of 2021 (“CAA”) and the final hardship withdrawal regulations; and

WHEREAS, Article 12 of the 401(a) Plan and Article 8 of the 457 Plan authorize the Village Council to amend the plans; and

WHEREAS, the Village Council met on May 19, 2022 for the purpose of authorizing the amendment of the Village of Royal Palm Beach Pension Plan (401(a) Plan) and the Village of Royal Palm Beach Deferred Compensation Plan (457 Plan).

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF ROYAL PALM BEACH, FLORIDA, THAT:

Section 1: The Village Council hereby adopts the amendments to the Village of Royal Palm Beach Pension Plan (401(a) Plan) and the Village of Royal Palm Beach Deferred Compensation Plan (457 Plan) in the form attached hereto and incorporated herein as Exhibit “A”. Accordingly, the appropriate officers of the Village Council are authorized and directed to execute such documents, and to take such other action as they may deem necessary or appropriate to effectuate the intent of the foregoing resolution.

Section 2: The amended Village of Royal Palm Beach Pension Plan and Village of Royal Palm Beach Deferred Compensations Plan shall be available at the Village Hall for inspection by the public during normal business hours.

Section 3: This Resolution shall take effect immediately upon its adoption by Council.

PASSED AND ADOPTED this 19th day of May, 2022.

VILLAGE OF ROYAL PALM BEACH

MAYOR FRED PINTO

ATTEST:

(SEAL)

DIANE DISANTO, VILLAGE CLERK

Exhibit A

**Amendment to the
Village of Royal Palm Beach Pension Plan
for SECURE, CARES and Other Requirements**

Pursuant to the authority vested in the Village of Royal Palm Beach (“Employer”), the following amends the Village of Royal Palm Beach Pension Plan (“Plan”) in order to adopt certain statutory and regulatory requirements. Such amendment includes but is not limited to satisfying those requirements set forth under the Setting Every Community Up for Retirement Enhancement (“SECURE”) Act, the Coronavirus Aid Relief and Economic Security (“CARES”) Act, the Consolidated Appropriations Act of 2021 (“CAA”) and the final hardship withdrawal regulations (collectively referred to as the “Applicable Law”).

This amendment (“Amendment”) is intended to constitute “good faith” compliance with the requirements of the Applicable Law. As such, the Amendment is to be construed in accordance with the Applicable Law and both the Amendment and the Applicable Law shall supersede any inconsistent provisions of the Plan.

Required Minimum Distributions:

Effective January 1, 2020, with respect to the definition of Required Beginning Date or determining required minimum distributions (“RMD(s)”) under the terms of the Plan, any references to age 70-1/2 are replaced with age 72 for Participants born after June 30, 1949. However, age 70-1/2 shall be retained for purposes of the definition of Required Beginning Date or determining RMDs under the Plan with respect to Participants born before July 1, 1949.

Notwithstanding any other provisions of the Plan to the contrary and in accordance with the enactment of section 401(a)(9)(l) of the Code, a Participant or beneficiary who would have been required to receive an RMD for the 2020 calendar year (which includes an RMD paid in

2021 for the 2020 calendar year in relation to a Participant with a required beginning date of April 1, 2021) ("2020 RMD(s)") and who would have satisfied that requirement by receiving distributions that are either: (1) equal to the 2020 RMDs, or (2) one or more payments that include the 2020 RMDs in a series of substantially equal periodic payments made at least annually and expected to last for the life or life expectancy of the Participant, the joint lives or joint life expectancies of the Participant and the Participant's designated beneficiary, or for a period of at least 10 years ("Extended 2020 RMDs"), shall not receive such distribution unless it is affirmatively requested by the Participant or beneficiary.

Distributions on Account of Death:

Notwithstanding any other provisions of the Plan to the contrary, effective January 1, 2022, whether before or after distribution has begun, a Participant's entire interest will be distributed to the Designated Beneficiary by December 31 of the calendar year containing the tenth anniversary of the Participant's death unless the Designated Beneficiary meets the requirements of an "eligible designated beneficiary". An "eligible designated beneficiary" may receive distributions over the life of such Designated Beneficiary. If there is no Designated beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

An "eligible designated beneficiary" is defined as any Designated Beneficiary who is: (i) the surviving spouse of the Participant; (ii) a minor child of the Participant; (iii) disabled; (iv) a chronically ill individual; or (v) an individual who is not more than 10 years younger than the Participant. The determination of whether a Designated Beneficiary is an "eligible designated beneficiary" is made as of the date of death of the Participant. If an "eligible designated beneficiary" dies before the portion of the Participant's interest is entirely distributed, the remainder of such portion must be distributed within 10 years after the death of such "eligible designated beneficiary".

Portability of Lifetime Income Investments:

Effective October 1, 2020, any amounts invested in a "lifetime income investment" may be distributed through either "qualified distributions" or "qualified plan distribution annuity contracts" no earlier than 90 days prior to the date that such "lifetime income investment" may no longer be held as an investment option under the Plan.

For purposes of this section of the Amendment, the defined terms above mean:

"Qualified distribution" means a direct trustee-to-trustee transfer described in Code section 401(a)(31)(A) to an eligible retirement plan (as defined in Code section 402(c)(8)(B)).

"Qualified plan distribution annuity contract" means an annuity contract purchased for a Participant and distributed to the Participant by a plan or contract described in subparagraph (B) of Code section 402(c)(8) (without regard to clauses (i) and (ii) thereof).

"Lifetime income investment" means an investment option which is designed to provide an employee with election rights which: (a) are not uniformly available with respect to other investment options under the plan, and (b) are to a "lifetime income feature" available through a contract or other arrangement offered under the plan (or under another eligible retirement plan (as so defined), if paid by means of a direct trustee-to-trustee transfer described in Code section 401(a)(31)(A) to such other eligible retirement plan).

"Lifetime income feature" means: (a) a feature which guarantees a minimum level of income annually (or more frequently) for at least the remainder of the life of the employee or the joint lives of the employee and the employee's designated beneficiary, or (b) an annuity payable on behalf of the employee under which payments are made in substantially equal periodic payments (not less frequently than annually) over the life of the employee or the joint lives of the employee

and the employee's designated beneficiary.

Hardship Withdrawals:

Effective October 1, 2019, the Plan is hereby amended in the following particulars:

Section 10.1(a)(F) of the Plan is hereby amended in order to delete the word “or” at the end of such section.

Section 10.1(a)(G) of the Plan is hereby renamed as Section 10.1(a)(H) of the Plan.

A new Section 10.1(a)(G) is hereby inserted into the Plan and shall read as follows:

Expenses and losses (including loss of income) incurred by the Employee on account of a disaster declared by the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, provided that the Employee's principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual assistance with respect to the disaster; or

Section 10.1(c) of the Plan is hereby amended in order to delete the phrase “, and all non-taxable loans,” in its entirety from such section.

Section 10.1(c)(3) of the Plan is hereby amended in order to add the following language at the end of such section:

Notwithstanding the foregoing, effective October 1, 2019, the suspension of and limitations on any and all forms of contributions considered within this section 10.1(c)(3) shall no longer apply. However, any suspension established under this section 10.1(c)(3) prior to October 1, 2019 shall continue to apply until its expiration as otherwise determined under this section.

IN WITNESS WHEREOF, the Employer caused this amendment to the Plan to be executed this _____ day of _____, 2022.

Attest:

By: _____

[SEAL]

VILLAGE OF ROYAL PALM BEACH DEFERRED COMPENSATION PLAN

SECURE/CARES/CAA AMENDMENT

This Amendment is intended as a good faith effort to comply with the requirements of the Further Consolidated Appropriations Act, 2020, including the SECURE Act provisions, the Coronavirus, Aid, Relief and Economic Security (CARES) Act, and the Consolidated Appropriations Act, 2021 (CAA), and corresponding guidance (the "Applicable Law"). This Amendment is to be construed in accordance with the Applicable Law and both the Amendment and the Applicable Law will supersede any inconsistent Plan provisions.

OPTIONAL PROVISIONS:

For each item below, if the check boxes are empty, the *italicized* provision will apply.

1. Treatment of 2020 RMDs (see Section A. below)
*Effective 01/01/2020, unless the Participant or beneficiary chooses otherwise, a Participant or beneficiary who would have been required to receive a 2020 RMD will **not** receive this distribution.*

Effective _____ (no earlier than 01/01/2020):

- Unless the Participant or beneficiary chooses otherwise, a Participant or beneficiary who would have been required to receive a 2020 RMD will **not** receive this distribution.
 - Unless the Participant or beneficiary chooses otherwise, a Participant or beneficiary who would have been required to receive a 2020 RMD will receive this distribution.
2. 2020 RMDs as Direct Rollovers (see Section A. below)
A direct rollover is not offered for 2020 RMDs or Extended 2020 RMDs.

For purposes of the direct rollover provisions of the Plan, the following will be treated as eligible rollover distributions in 2020:

- 2020 RMDs.
- 2020 RMDs and Extended 2020 RMDs.
- 2020 RMDs, but only if paid with an additional amount that is an eligible rollover distribution without regard to Code section 401(a)(9)(l).

3. Qualified Birth or Adoption Distributions (see Section C. below)

The Plan does not permit qualified birth or adoption distributions as a separate distribution event.

Effective _____ (no earlier than 01/01/2020), the Plan permits qualified birth or adoption distributions as a separate distribution event.

The following limitations and conditions apply: _____.

4. Portability of Lifetime Income Options (see Section D. below)

The Plan does not permit "qualified distributions" or "qualified plan distribution annuity contracts" of lifetime income investment options.

The Plan permits "qualified distributions" or "qualified plan distribution annuity contracts" of lifetime income investment options when such investment options are no longer authorized to be held as an investment option under the Plan effective: 10/1/2020 (no earlier than the plan year beginning after 12/31/2019).

The following limitations and conditions apply: _____.

5. Time of Payment for Reasons other than Death

The existing Plan provisions, if any, remain in effect for distributions to a Participant who has not separated from employment (e.g., benefits may not commence until Required Beginning Date).

Effective _____ (no earlier than 01/01/2020), the Plan permits distributions to a Participant who has not separated from employment if the Participant attains: _____ (age cannot be less than 59-1/2).

STANDARD PROVISIONS:

A. Required Minimum Distributions

In defining Required Beginning Date or determining required minimum distributions, any references to age 70-1/2 are replaced with: age 70-1/2 (for Participants born before 07/01/1949) or age 72 (for Participants born after 06/30/1949).

Notwithstanding other provisions of the Plan to the contrary and if selected above, a Participant or beneficiary who would have been required to receive required minimum distributions in 2020 (or paid in 2021 for the 2020 calendar year for a Participant with a required beginning date of 04/01/2021) but for the enactment of section 401(a)(9)(1) of the Code ("2020 RMDs"), and who would have satisfied that requirement by receiving distributions that are either: (1) equal to the 2020 RMDs, or (2) one or more payments (that include the 2020 RMDs) in a series of substantially equal periodic payments made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancies) of the Participant

and the Participant's designated beneficiary, or for a period of at least 10 years ("Extended 2020 RMDs"), may receive those distributions.

B. Distribution on Account of Death for Certain Eligible Retirement Plans

Whether before or after distribution has begun, a Participant's entire interest will be distributed to the designated beneficiary by 12/31 of the calendar year containing the tenth anniversary of the Participant's death unless the designated beneficiary meets the requirements of an "eligible designated beneficiary". An "eligible designated beneficiary" may receive distributions over the life of such designated beneficiary. If there is no designated beneficiary as of 09/30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by 12/31 of the calendar year containing the fifth anniversary of the Participant's death.

An "eligible designated beneficiary" is defined as any designated beneficiary who is: (i) the surviving spouse of the Participant; (ii) a minor child of the Participant; (iii) disabled; (iv) a chronically ill individual; or (v) an individual who is not more than 10 years younger than the Participant. The determination of whether a designated beneficiary is an "eligible designated beneficiary" is made as of the date of death of the Participant. If an "eligible designated beneficiary" dies before the portion of the Participant's interest is entirely distributed, the remainder of such portion must be distributed within 10 years after the death of such "eligible designated beneficiary".

C. Qualified Birth or Adoption Distributions

To the extent provided above, a Participant may receive a distribution up to \$5,000 during the 1-year period beginning on the date on which the Participant's child is born or on which the legal adoption by the Participant of an eligible adoptee is finalized. An eligible adoptee is any individual (other than a child of the Participant's spouse) who has not attained age 18 or is physically or mentally incapable of self-support. The \$5,000 maximum is an aggregate amount of such distributions from all plans maintained by the Employer.

D. Portability of Lifetime Income Investments

To the extent provided above, any amounts invested in a "lifetime income investment" may be distributed through either "qualified distributions" or "qualified plan distribution annuity contracts" no earlier than 90 days prior to the date that such "lifetime income investment" may no longer be held as an investment option under the Plan.

The following terms are used in this section:

"Qualified distribution" means a direct trustee-to-trustee transfer described in Code section 401(31)(A) to an eligible retirement plan (as defined in Code section 402(c)(8)(B)).

"Qualified plan distribution annuity contract" means an annuity contract purchased for a Participant and distributed to the Participant by a plan or contract described in subparagraph (B) of Code section 402(c)(8) (without regard to clauses (i) and (ii) thereof).

"Lifetime income investment" means an investment option which is designed to provide an employee with election rights which: (a) are not uniformly available with respect to other investment options under the plan, and (b) are to a "lifetime income feature" available through a contract or other arrangement offered under the plan (or under another eligible retirement plan (as so defined), if paid by means of a direct trustee-to-trustee transfer described in Code section 401(31)(A) to such other eligible retirement plan).

"Lifetime income feature" means: (a) a feature which guarantees a minimum level of income annually (or more frequently) for at least the remainder of the life of the employee or the joint lives of the employee and the employee's designated beneficiary, or (b) an annuity payable on behalf of the employee under which payments are made in substantially equal periodic payments (not less frequently than annually) over the life of the employee or the joint lives of the employee and the employee's designated beneficiary.

E. Disaster or Coronavirus-Related Relief

Notwithstanding any provision of the Plan to the contrary, the Plan may grant temporary disaster or coronavirus-related relief in compliance with Code sections 1400M and 1400Q, section 15345 of the Food, Conservation, and Energy Act of 2008, section 702 of the Heartland Disaster Tax Relief Act of 2008, section 502 of the Disaster Tax Relief and Airport and Airway Extension Act of 2017, section 11028 of the Tax Cuts and Jobs Act of 2017, section 20102 of the Bipartisan Budget Act of 2018, subtitle II of Division Q of the Further Consolidated Appropriations Act, 2020, section 2202 of the Coronavirus, Aid, Relief and Economic Security Act, and Title III of Division EE of the Consolidated Appropriations Act, 2021 ("Applicable Law"). This Section only applies to the extent the Plan has provided some or all of the relief listed below in compliance with Applicable Law.

A. Qualified Distributions

I. "Qualified Distribution" means a distribution to a qualified individual within the applicable time periods as defined in the relevant sections of Applicable Law which may not exceed \$100,000 in aggregate from all plans maintained by the Employer.

II. If the Plan permits rollover contributions, at any time during the 3-year period beginning on the day after the Qualified Distribution was received, an individual may contribute as a rollover to the Plan an aggregate amount that does not exceed the amount of the Qualified Distribution.

III. If the Plan permits rollover contributions, an individual who received a withdrawal for the purchase of a home, but could not use the withdrawal amount due to the disaster, may contribute as a rollover to the Plan an aggregate amount that does not exceed the amount of the withdrawal amount within the applicable time periods as defined in the relevant sections of Applicable Law.

B. Expanded Loan Provisions

I. The maximum loan limit under Code section 72(p)(2)(A) may be applied by substituting "\$100,000" for "\$50,000" and substituting "the present value" for "one-half the present value" under the Loan Procedures for a qualified individual within the applicable time periods as defined in the relevant sections of Applicable Law.

II. The loan repayment may be delayed for 1 year for a qualified individual within the applicable time periods as defined in the relevant sections of Applicable Law.

III. Subsequent repayments will be adjusted to reflect the 1-year delay and any interest accrued during such delay.

IV. The 1-year delay will be disregarded in determining the 5-year maximum term of loans under Code section 72(p)(2)(B) and (C).

IN WITNESS WHEREOF, the Employer has caused this Amendment to be executed this _____ day of _____, 2022.

VILLAGE OF ROYAL PALM BEACH:

Signature:

Print Name:

Title/Position:
