

RESOLUTION 23-05 – AUTHORIZING AMENDMENTS TO THE DELAWARE RIVER AND BAY AUTHORITY EMPLOYEES’ SECTION 457(b) DEFERRED COMPENSATION PLAN

WHEREAS, the Delaware River and Bay Authority (the “Authority”) maintains the Delaware River and Bay Authority Employees’ Section 457(b) Deferred Compensation Plan (the “457(b) Plan”); and

WHEREAS, pursuant to Section 7.1 of the 457(b) Plan, the Authority has the right to, at any time, amend the Plan; and

WHEREAS, the Authority now desires to amend the Plan for certain provisions of The Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”); and

WHEREAS, the Authority now desires to amend the Plan to comply with certain provisions of The Setting Every Community Up for Retirement Enhancement Act of 2019 (the “SECURE Act”).

WHEREAS, Plan Amendments 2022-1 and 2022-2 attached hereto reflect those required changes.

NOW, THEREFORE, BE IT RESOLVED, that the proper officers and employees of the Authority are hereby authorized to execute the necessary amendments to the 457(b) Plan and to take whatever action to execute whatever instruments with the advice and consent of General Counsel that may be necessary or convenient to carry out the foregoing resolution.

Resolution 23-05 Executive Summary

Resolution: Authorizing the Amendment of the Delaware River and Bay Authority Employees' Section 457(b) Deferred Compensation Plan (the "457(b) Plan") for certain provisions of the Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act") and to comply with certain provisions of The Setting Every Community Up for Retirement Enhancement Act of 2019 (the "SECURE Act").

Committee: Personnel Committee

Committee/Board Date: February 22, 2023

Purpose of Resolution: To add certain provisions of the CARES Act and the SECURE Act to comply with changes in the Required Minimum Distribution (RMD) requirements under each Act.

Background for Resolution:

Voya, DRBA HR Administration and General Legal Counsel have reviewed the changes required under the CARES Act and the SECURE Act and agree that the attached Amendments, No. 2022-1 and 2022-2 are correct.

DELAWARE RIVER AND BAY AUTHORITY

EMPLOYEES' SECTION 457(b) PLAN

CARES ACT AMENDMENT

AMENDMENT NO. 2022-1

WHEREAS, the Delaware River and Bay Authority (the "Authority") currently maintains the Delaware River and Bay Authority Employees' Section 457(b) Plan (the "Plan"); and

WHEREAS, Section 7.1 of the Plan grants to the Authority the right at any time to amend the Plan; and

WHEREAS, the Authority now desires to amend the Plan for certain provisions of The Coronavirus Aid, Relief, and Economic Security Act (the "CARES Act").

NOW, THEREFORE, the Plan document is amended as follows, effective January 1, 2020:

FIRST: The following language shall be added to the end of Section 6.5 of the Plan:

Notwithstanding the provisions of Section 6.5(e) of the Plan, 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 April 1, 2021) but for the enactment of section 401(a)(9)(I) of the Code (the "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 (the "Extended 2020 RMDs"), will not receive this Required Minimum Distribution unless the Participant or Beneficiary chooses to receive the Required Minimum Distribution.

SECOND: The following language shall be added to the end of Section 6.12 of the Plan:

Notwithstanding the provisions of Section 6.12(b)(1) of the Plan, for purposes of the direct rollover provisions of the Plan, 2020 RMDs and Extended 2020 RMDs will also be treated as eligible rollover distributions in 2020.

THIRD: Except as modified above, the Plan is otherwise ratified and confirmed.

IN WITNESS WHEREOF, the undersigned has executed this Amendment this _____ day of _____, 2023.

**THE DELAWARE RIVER AND
BAY AUTHORITY**

By: _____

Thomas J. Cook, Executive Director

DELAWARE RIVER AND BAY AUTHORITY

EMPLOYEES' SECTION 457(b) PLAN

SECURE ACT AMENDMENT

AMENDMENT NO. 2022-2

WHEREAS, the Delaware River and Bay Authority (the "Authority") currently maintains the Delaware River and Bay Authority Employees' Section 457(b) Plan (the "Plan"); and

WHEREAS, Section 7.1 of the Plan grants to the Authority the right at any time to amend the Plan; and

WHEREAS, the Authority now desires to amend the Plan to comply with certain provisions of The Setting Every Community Up for Retirement Enhancement Act of 2019 (the "SECURE Act").

NOW, THEREFORE, the Plan document is hereby amended as follows. The effective dates of such amendments shall be as set forth in the provisions below:

FIRST: The following language shall be added to the end of Section 6.5(e) of the Plan which incorporates by reference the provisions of Code Section 409(a):

Effective for Plan Years beginning after December 31, 2019, the Required Beginning Date shall be the later of the April 1 following the calendar year in which the participant attains age 72; or the calendar year in which the Participant retires, except that benefit distributions to a 5-percent owner must commence by the April 1 following the calendar year in which the 5-percent owner attains age 72. This provision shall be effective for those participants born after June 30, 1949, *i.e.*, those participants who attain age 70 ½ after December 31, 2019.

SECOND: The following language shall also be added to the end of Section 6.5(e) of the Plan:

Distributions to non-spousal beneficiaries made after the death of a participant to other than a beneficiary who is (i) disabled or chronically (or certain trusts for such disabled or chronically ill individual); (ii) a minor child of the participant (until the child reaches the age of majority); and (iii) no more than ten (10) years younger than the participant must be made by the end of the tenth calendar year following the year of the death of the Participant. This provision shall provision shall be effective for those participants who die after December 31, 2021.

THIRD: Except as modified above, the Plan is otherwise ratified and confirmed.

IN WITNESS WHEREOF, the undersigned has executed this Amendment this ____ day of _____, 2023.

**THE DELAWARE RIVER AND
BAY AUTHORITY**

By: _____

Thomas J. Cook, Executive Director