

**SUMMARY PLAN DESCRIPTION  
OF THE  
PORT OF HOUSTON AUTHORITY  
DEFINED CONTRIBUTION PLAN  
(Effective as of August 1, 2012)**

## TABLE OF CONTENTS

	<u>Page</u>
AN INTRODUCTION FOR PARTICIPANTS .....	1
GENERAL INFORMATION .....	2
DEFINITIONS.....	3
QUESTIONS AND ANSWERS.....	6
1. What does this Plan do for me? .....	6
2. How do I become a Participant of the Plan?.....	7
3. How does the Employer make contributions to the Plan and how do I share in those contributions?.....	7
4. What are the limitations on contributions under the Plan? .....	8
5. May I roll over a distribution from the Plan to another plan or IRA? .....	8
6. May I roll over a distribution from another plan or IRA to the Plan? .....	10
7. What becomes of the Employer Contributions made to the Trust? .....	10
8. May I borrow amounts from my Account?.....	12
9. May I withdraw amounts from my Account prior to my termination of employment with the Employer? .....	12
10. What happens when I retire?.....	12
11. What happens if I become disabled while employed by an Employer? .....	12
12. What happens if I die while employed by an Employer? .....	12
13. What happens if my employment is terminated prior to retirement? .....	13
14. What is vesting and how does it work? .....	13
15. How do I receive credit for Service under the Plan? .....	13
16. What happens to Forfeitures? .....	14
17. If I terminate employment and then I'm rehired, will my Account balance be reinstated? .....	14
18. How is my Account to be paid?.....	14
19. May I assign any of my Plan benefits? .....	16
20. Do I have to give up my IRA contribution? .....	16
21. May the Plan be amended or terminated?.....	16
22. What are the procedures for filing a claim or appealing a denied claim?.....	16
CLOSING .....	17

## AN INTRODUCTION FOR PARTICIPANTS

The “Port of Houston Authority Defined Contribution Plan” (the “**Plan**”) was established effective as of August 1, 2012. The Plan is sponsored by the Port of Houston Authority of Harris County, Texas (the “**Plan Sponsor**”) for the exclusive benefit of its eligible employees. The Plan Sponsor is a political subdivision of the State of Texas, operating as a navigation district under Article XVI, Section 59 of the Texas Constitution.

Your job performance is very important for our business. We want to encourage and reward you for your contributions to our shared success. The Plan is designed to help accomplish your goals by assisting you in providing for your retirement security.

The Plan is a lengthy, complex document which sets forth the terms and provisions of this retirement program. For your convenience, we have condensed the Plan into a series of questions and answers which summarize and explain the principal features of the Plan. We urge you to carefully review this Summary Plan Description (“**SPD**”). If you have additional questions, please contact the Plan Administrator.

Whenever the context so requires, words of the masculine gender will include the feminine gender. Also, “**you**” or “**your**”, as used in this SPD, refers to a “**Participant**” of the Plan, as defined in the definition section of this SPD.

This SPD is not meant to interpret, extend, or change the Plan in any way. In case of any conflict, express or implied, between this SPD and the terms and provisions of the actual Plan document, the Plan will govern and control.

The terms and provisions in this SPD apply effective as of August 1, 2012.

Terms with initial capital letters are defined in the Definitions Section. Terms with initial capital letters that are not defined in the Definitions Section, are defined in the Plan.

## GENERAL INFORMATION

Plan Name:	Port of Houston Authority Defined Contribution Plan
Plan Sponsor and Address:	Port of Houston Authority of Harris County, Texas 111 East Loop North Houston, Texas 77029 (713) 640-2400
Employer Identification Number:	74-6001217
Plan Number:	002
Plan Administrator:	Executive Director Port of Houston Authority 111 East Loop North Houston, Texas 77029 (713) 670-2400
Type of Plan and Plan Year:	The Plan is a governmental, defined contribution plan.  The Plan Year is the consecutive 12 month period from August 1 to July 31.
Type of Administration:	Administered by the Plan Administrator with third-party recordkeeping and other administrative services provided by Nationwide Retirement Solutions.
Funding Medium:	Trust Fund
Trustee and Address:	Thomas J. Heidt Port of Houston Authority 111 East Loop North Houston, Texas 77029 (713) 670-2400
Custodian and Address:	Nationwide Retirement Solutions Nationwide Retirement Plans Dept 0888 Columbus, Ohio 43271-0888
Agent for Services of Legal Process:	General Counsel Port of Houston Authority 111 East Loop North Houston, Texas 77029 (713) 670-2400

## DEFINITIONS

These terms have the following meanings when used in this SPD:

- (a) **Account** means your individual account under the Plan.
- (b) **Beneficiary** means each person or entity who is (i) named by you to receive the benefits payable under the Plan in the event of your death or (ii) otherwise designated as a beneficiary under the Plan if no beneficiary has been selected or otherwise does not exist. If you are married, your surviving spouse must be your designated beneficiary unless your spouse consents, in writing, to the designation of a different beneficiary. Your spouse's consent to the designation of a different beneficiary must be witnessed by the Plan Administrator or by a Notary Public. Please see Question 14 for more information regarding the spousal consent requirements.
- (c) **Benefit Commencement Date** means the first day of the first period in which an amount is payable as a distribution under the Plan.
- (d) **Code** means the Internal Revenue Code of 1986, as amended, and the regulations and other authority issued thereunder by the appropriate governmental authority.
- (e) **Compensation** generally means your wages for purposes of income tax withholding (wages, tips, and other compensation on your Form W-2) for the Plan Year, including as follows:
- your elective contributions to a cafeteria plan sponsored by your Employer which are not includible in your gross income by reason of Code Section 125 ("cafeteria plan");
  - amounts paid to you by the Employer while you are performing qualified military service while on active duty for a period of more than 30 days, provided that such amounts represent all or a portion of the compensation you would have received for the performance of services for the Employer but for the military service;
  - compensation which is not includible in your gross income because it qualifies as a "Qualified Transportation Fringe Benefit" under Code Section 132(f)(4); and
  - compensation which is not includible in your gross income under Code Section 402(e)(3), Code Section 402(h)(1)(B), Code Section 414(h), Code Section 403(b), or Code Section 457(b).

For purposes of the Plan, Compensation does not include:

- reimbursements, expense allowances, cash and non-cash fringe benefits, moving expenses, and deferred compensation (except as otherwise allowed above);
- compensation paid while you are not a Participant under the Plan;
- overtime, bonuses, and commissions;
- annual unused sick leave pay as defined in the PHA Employee Handbook; and
- compensation you receive during a year in excess of the dollar limit under Code Section 401(a)(17), as adjusted (*e.g.*, \$255,000 for 2013).

(f) **Employee** means an employee of the Employer on its U.S. payroll records, as determined by the Employer.

(g) **Employer** means, individually or collectively, PHA and any affiliate of PHA which adopts the Plan for the benefit of its eligible employees.

(h) **Employer Contributions** means the discretionary contributions, if any, which are made by the Employer to your Account for a Plan Year. Employer Contributions are subject to a vesting schedule.

(i) **Forfeiture** means any nonvested amount in your Account which you lose if you terminate employment before you are entitled to be 100% vested in the Account.

(j) **Hour of Service** means each hour for which you are, either directly or indirectly, paid or entitled to payment for the performance of duties for an Employer. Hours of Service are not credited if the payment is made or due under a plan maintained solely for the purpose of complying with applicable worker's compensation, unemployment compensation or disability insurance laws, or for a payment which solely reimburses you for medical or medical-related expenses.

(k) **Leased Employee** means an individual who is not an Employee and who provides services to an Employer if (1) such services are provided pursuant to an agreement between an Employer and a leasing organization, (2) such person has performed services for an Employer on a substantially full-time basis for a period of at least a year, and (3) the services are performed under the primary direction or control of an Employer. This definition will be construed in accordance with Code Section 414(n).

(l) **Nationwide** means Nationwide Retirement Solutions.

(m) **Normal Retirement Age** and **Normal Retirement Date** each mean the later of your 65<sup>th</sup> birthday or the 5th anniversary of the first day of the Plan Year in which your participation in the Plan began.

(n) **Participant** means an Employee who has satisfied the Plan's eligibility requirements and is participating in the Plan, and, if consistent with the context in which

such term is used, a former Employee or Beneficiary with a vested Account balance in the Plan.

(o) **Period of Severance** means a continuous period of time during which you are not employed by the Employer. Such period begins on the date you retire, quit or are discharged, or if earlier, the twelve (12) month anniversary of the date on which you were otherwise first absent from Service.

In the case of an individual who is absent from work for “maternity or paternity” reasons, the twelve (12) consecutive month period beginning on the first anniversary of the first day of such absence shall not constitute a one year Period of Severance. For purposes of this paragraph, an absence from work for “maternity or paternity” reasons means an absence (1) by reason of the pregnancy of the individual, (2) by reason of the birth of a child of the individual, (3) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (4) for purposes of caring for such child for a period beginning immediately following such birth or placement

(p) **PHA** means the Plan Sponsor (*i.e.*, Port of Houston Authority of Harris County, Texas) or its successor in interest.

(q) **Plan** means the Port of Houston Authority Defined Contribution Plan, as it may be amended from time to time.

(r) **Plan Administrator** means the individual who oversees the administration of the Plan. The Plan Administrator has the discretion to interpret the terms and provisions of the Plan and to make determinations concerning eligibility, benefits, and other matters arising under the Plan, including factual determinations. The Plan Administrator may adopt such policies and procedures as it deems appropriate for the proper and efficient administration of the Plan. Decisions of the Plan Administrator are final and binding on all persons, subject to the claims appeal procedures of the Plan.

(s) **Plan Year** means the 12 consecutive month period beginning August 1 and ending July 31, with the first Plan Year beginning on August 1, 2012.

(t) **QDRO** means a domestic relations order (as defined in Code Section 414(p)) issued by a court that obligates you to pay child support or alimony, or otherwise allocates a portion of your Account balance to your spouse, former spouse, child, or other dependent (referred to as an “**Alternate Payee**” under the QDRO).

(u) **Service** means the period of your employment with an Employer (or with an affiliated employer which is counted for this purpose). See Question 15 for a description of how Service is credited.

(v) **SPD** means this Summary Plan Description, as it may be amended from time to time.

(w) **Total and Permanent Disability** means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months. The disability of a Participant shall be determined by a licensed physician. However, if the condition constitutes total disability under the federal Social Security Act, the Plan Administrator may rely upon such determination that the Participant is Totally and Permanently Disabled.

(x) **Trust** means the trust created under the Plan to fund the Plan.

(y) **Trust Fund** means all of the assets and liabilities of the Trust.

(z) **Trustee** means the qualified and acting trustee(s) under the Trust.

(aa) **Valuation Date** means each date on which the fair market value of each Account is determined, including the investment earnings or losses allocated to the Account since the last Valuation Date. Generally, the Valuation Date will be daily. The last day of the Plan Year will always be a Valuation Date.

(bb) **Vesting** means the percentage of your Account which cannot be forfeited for any reason upon your termination of employment with an Employer. Your Account is subject to a vesting schedule as more fully discussed under Question 14.

(cc) **Year of Service** means such term as defined under Question 15.

## QUESTIONS AND ANSWERS

### 1. What does this Plan do for me?

The Plan is the type of retirement plan which is commonly referred to as a “defined contribution plan.” It is primarily designed to assist you in accumulating funds to supplement your retirement income. Additional benefits of Plan participation include the accumulation of funds for (a) the support of your Beneficiary in the event of your death prior to retirement or (b) your support if you become disabled and are no longer able to work, or if you are no longer employed by the Employer for any other reason.

The Plan Sponsor may make Employer Contributions to the Plan in its discretion.

You choose how your Account balance will be invested from among different, professionally managed investment funds. Your vested Account balance is portable, which means that, if you terminate employment, you can transfer your vested Account balance to another employer’s qualified retirement plan (provided your new employer will allow such transfer) or to your individual retirement account (“**IRA**”).



**2. How do I become a Participant of the Plan?**

There are no age or Service requirements to become a Participant in the Plan. You will become a Participant on the first day of the pay period (as defined in the PHA Employee Handbook) following one full pay period of Service.

You are *not* eligible to become a Participant if you are in one of the following categories:

(a) your retirement benefits are governed under the terms of a collective bargaining agreement as negotiated in good faith (unless participation in the Plan has been negotiated and stipulated under the collective bargaining agreement);

(b) you are a member of Local 24, 28 or 1351 of the International Longshoremen’s Association (“**ILA**”);

(c) you are a Part Time, Temporary, or Seasonal Employee (as defined in the Plan);

(d) you are classified as a Leased Employee or independent contractor on the Employer’s records;

(e) you are classified as a Casual Employee, Intern, Temporary Worker, or Co-Op Worker on the Employer’s records; or

(f) you are an Employee of Employer hired prior to August 1, 2012, eligible for benefits under the Plan Sponsor’s defined benefit plan (*i.e.*, Port of Houston Authority Restated Retirement Plan).

If you are classified by the Employer as a Leased Employee or an independent contractor, and your status is later determined to be that of a common-law Employee, you will be eligible to become a Participant. However, in such event, you will not retroactively become a Participant for any period during which you were classified in the Employer’s records as a Leased Employee or an independent contractor ( or any other non-Employee category) regardless of (i) whether your employment status is changed, including any retroactive reclassification, or (ii) why your classification was changed including, without limitation, as the result of any governmental action.

**3. How does the Employer make contributions to the Plan and how do I share in those contributions?**

The Employer may elect in its discretion, as of the end of a Plan Year, to make an Employer Contribution for that Plan Year on behalf of eligible Participants. The amount of the Employer Contribution, if any, will be based on your credited Years of Service and your Compensation:

<u>Years of Service</u>	<u>Contribution Rate</u>
0 to 5 years .....	3.50%

greater than 5 years up to 10 years.....	4.50%
greater than 10 years up to 15 years.....	5.50%
greater than 15 years up to 20 years.....	6.50%
greater than 20 years .....	7.50%

**4. What are the limitations on contributions under the Plan?**

The total amount of Employer Contributions and forfeitures allocated to your Account during any given Plan Year cannot exceed the lesser of (a) the Code Section 415 limit (\$51,000 for 2013, or such higher amount as may be adjusted by the IRS in future years) or (b) 100% of your considered compensation for the Plan Year. If you have participated in any other qualified defined contribution plan maintained by the Employer, the limitation on annual additions applies as if all contributions and forfeitures allocated under all such defined contribution plans were allocated to your Account under the Plan.

For this purpose, considered compensation includes amounts paid within the later of 2½ months of the date of (i) your termination of employment, or (ii) the end of the Plan Year which includes the date of your termination of employment if such amounts (A) would otherwise have been paid to you in the course of your employment and are regular compensation for services during your regular working hours, compensation for services outside your regular working hours (such as overtime or shift differential pay), commissions, bonuses, or other similar compensation, (B) are payments for accrued bona fide sick, vacation, or other leave, but only if you would have been able to use such leave if your employment had continued, or (C) are payments received by you pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would otherwise have been paid to you in the course of your employment and only to the extent the payments are includible in your gross income.

For purposes of determining this annual addition limitation, considered compensation also includes amounts paid by the Employer after your termination of employment (i) if you stopped performing services for the Employer by reason of qualified military service (as that term is used in Code Section 414(u)(1)), to the extent the payments do not exceed the amounts you would have received for that Plan Year if you had continued to perform services for the Employer rather than entering qualified military service, or (ii) if you have a Total and Permanent Disability.

**5. May I roll over a distribution from the Plan to another plan or IRA?**

If you are eligible for a distribution under the Plan, under certain circumstances, you may be able to roll over all or a portion of your distribution from the Plan into another qualified plan or into an individual retirement account or individual retirement annuity (“IRA”) and, by doing so, further defer income taxation as well as imposition of the 10% penalty tax if applicable. You should contact your personal tax advisor before, or as soon as possible after, your receipt of a distribution that you desire to roll over. There are time limits to effectuate a rollover.

The Employer generally will be required to withhold 20% of the taxable portion of a distribution from the Plan that is not rolled over directly to another qualified retirement plan or to an IRA (called a “**direct rollover**”). Under these rules, the taxable part of most Plan distributions may be transferred directly or “rolled over” tax-free to another qualified retirement plan that accepts rollovers or to an IRA, except for distributions below a specified dollar amount (\$200 or, if less than 100% of your eligible rollover distribution is to be a direct rollover, \$500).

In order to avoid the 20% mandatory withholding, it will be necessary for you (1) to establish an IRA and arrange for a direct rollover from the Plan to the IRA or (2) to arrange with your new employer for a direct rollover from the Plan to your new employer’s qualified retirement plan. In addition, you and the IRA (or other plan’s) trustee or custodian must provide certain information to the Plan Administrator about the direct rollover you wish to make.

If you do not elect to have your distribution made in the form of a direct rollover, the mandatory 20% will be withheld and the remaining 80% of your vested Account balance will be distributed to you. It will be necessary for you to roll over all (or the part you elect) of the portion of your vested Account balance which you receive within 60 days of your receipt of such distribution. In this case, if you want to roll over (and thus defer the taxation on) your entire vested Account balance, you must make up (from personal funds) an amount equal to the 20% which was withheld and then deposit that amount into an IRA or into another qualified retirement plan. The entire rollover must be completed within 60 days of the date you receive the distribution from this Plan. Otherwise, any portion of your distribution which is not rolled over will be subject to income taxes and, if applicable, a 10% penalty tax on early distributions.

You may elect to have any portion of your distribution transferred by direct rollover to a Roth IRA. In this case, the distribution will be taxable to you in the year distributed, but it will not be subject to the 10% excise tax for premature distribution. Special tax rules apply to distributions from a Roth IRA. You should contact your personal tax advisor before deciding whether to elect a direct rollover to another employer’s qualified plan, to an IRA, or to a Roth IRA.

A distribution check delivered to you but made payable to (1) the trustee or custodian of your IRA or (2) the trustee or custodian of your new employer’s qualified plan, should be treated as a direct rollover.

If you are entitled to receive benefits from the Plan as an Alternate Payee under a QDRO, or as the surviving spouse of a deceased Participant, you may be able to elect to have the amounts distributable to you in the form of a direct rollover to (1) another qualified retirement plan sponsored by your employer or (2) an IRA established in your name with a trustee or custodian of the IRA. A rollover to a qualified plan sponsored by your employer will require the employer’s consent to accept the rollover into the plan.

If you are entitled to receive benefits from the Plan as a Designated Beneficiary who is not the deceased Participant’s surviving spouse, you may elect to receive distribution in the form of a direct rollover to an IRA that is established in the deceased Participant’s name for your benefit. Special rules apply to distributions in the form of a direct rollover to a non-spouse beneficiary and thus you should consult a tax professional before making such election.

Required minimum distributions under the Code may not be rolled over (or transferred directly to another qualified retirement plan or IRA), but are subject to federal income tax withholding at rates other than the 20% mandatory withholding rate.

#### **6. May I roll over a distribution from another plan or IRA to the Plan?**

This Plan does *not* accept rollovers from other plans or IRAs.

*Note: This SPD is not intended to provide tax advice. You are strongly advised to contact your own personal tax advisor.*

#### **7. What becomes of the Employer Contributions made to the Trust?**

All Employer Contributions made on your behalf are allocated (or credited) to your Account which is held and invested as part of the Trust Fund for your exclusive benefit. The assets of the Plan are held by the Custodian on behalf of the Plan's Trustees. The Trustees have selected a variety of investment funds from which you may choose to direct the investment of your Account balance. You can obtain information regarding the available funds from Nationwide by calling (877) 588-6724 or through the Internet at <http://www.nationwide.com/login>.

As part of your enrollment package, you should have received the summary prospectus, or profile, and other information describing the various investment funds that are available under the Plan. Please review this information carefully before you decide where to invest your Plan Account balance. The Plan Administrator is the fiduciary responsible for providing you with certain additional information upon your request. In this regard, you can also request the following additional information by calling Nationwide at (877) 588-6724 or through the Internet at <http://www.nationwide.com/login>:

- A description of the annual operating expenses of each investment alternative, which expenses reduce your rate of return, and the overall amount of such expenses shown as a percentage of average net assets of the investment alternative;
- Copies of any prospectuses, financial statements and reports, and any other materials relating to the investment alternatives available under the Plan if such information is provided to the Plan Administrator;
- A list of actual investments comprising the portfolio of each investment alternative and the value of each of these individual investments (or the proportion of the investment alternative which it comprises);
- With respect to each individual investment fund which has a fixed rate of interest and is issued by a bank, savings and loan association, or insurance company, the name of the issuer of the investment and its term and rate of return;

- Information concerning the value of shares or units in investment alternatives available to you under the Plan, as well as the past and current investment performance of the investment alternatives; and
- Information concerning the value of shares or units in investment alternatives in which you have invested your Plan Account balance.

The Plan assets are invested in the available investment funds, and your Plan Account is updated each business day to reflect any contributions, transfers, investment earnings, or losses of each investment fund, as well as for any withdrawals. The Plan does not charge you a fee to process any of your investments when amounts are contributed to the Plan or when you transfer amounts between the available investment funds. However, the funds are subject to certain expenses, such as fund management fees that affect the total earnings that are allocable to your Account. As described above, you can request additional information regarding these expenses.

Your initial fund selection will be made at the time you enroll in the Plan. The earnings, losses, or other investment changes in the value of your Account will depend on the investment choices you have made. Most of the investment funds are “daily valued.” If the value of the assets in the fund you choose as an investment option increases, the portion of your Account invested in that fund will increase proportionately. Likewise, a decrease in the value of the assets in a fund you choose will result in a proportionate loss to your Account. If you do not make an affirmative election with respect to the investment of your Account, your Account will automatically be invested in the default investment funds, which are the Nationwide Target Destination Funds. The default investment funds are managed to take into account your target normal retirement date. For this purpose, the target normal retirement date is the date you will attain 65 years of age.

As a general rule, you may change your investment elections for your current Account balance and for future contributions on a daily basis, but certain restrictions may apply. For example, if you modify the manner in which your current Account balance is invested, you will not be able to modify that election again until the previous transactions have settled. Your elections can only be processed on a day when the New York Stock Exchange is open for business. At least quarterly, you will receive a personalized statement showing the value of your Account balance and the gain or loss for that period. You can modify your investment choices for current account balances and/or future contributions or check your balances by calling Nationwide at (877) 588-6724 or you can obtain your account information (and modify your investment choices for current balances and/or future contributions) through the internet at the <http://www.nationwide.com/login>. You will need your personal identification number (PIN) to access your Account through the voice response unit or through the website.

Benefits provided by the Plan are paid only from your Account. While it is hoped and expected that your Account (including each separate investment fund) will increase in value over time, neither the Employer, the Trustee, the Plan Administrator, investment manager, nor any other person can guarantee favorable investment results for any time period. Your Account will be credited with its proportionate share of any gain, or charged with its proportionate share of any loss, of each investment fund in which your Account is invested.

**8. May I borrow amounts from my Account?**

No. You are not permitted to borrow from your Account.

**9. May I withdraw amounts from my Account prior to my termination of employment with the Employer?**

No. You are not permitted to receive a distribution from your Account until you have terminated your employment with all Employers.

**10. What happens when I retire?**

If you retire on or after your Normal Retirement Date, you will be entitled to receive 100% of the amount credited to your Account as of your actual retirement date, as adjusted for any investment returns or other amounts credited or charged to your Account after that date. You may elect to receive the distribution as a lump sum payment. The distribution will be made as described under Question 18. If you continue working after your Normal Retirement Date, you can continue to participate in the Plan.

**11. What happens if I become disabled while employed by an Employer?**

If you incur a Total and Permanent Disability while employed by an Employer, you will become 100% vested in your Account balance and will be entitled to receive 100% of your Account balance after you have terminated employment, as adjusted for any investment returns or other amounts credited or charged to your Account after that date. Distribution will be made as described under Question 18.

**12. What happens if I die while employed by an Employer?**

If you die while employed by an Employer, your Beneficiary will be entitled to receive 100% of your Account balance as of your date of death, as adjusted for any investment returns or other amounts credited or charged to your Account after that date. Your death benefit will be paid to your designated Beneficiary in the form of the distribution described under Question 18.

If you are married on the date of your death, your surviving spouse *must* be your designated Beneficiary unless your spouse consents, in writing, to the designation of a different Beneficiary. Your spouse's consent will not be valid unless it (a) acknowledges the effect of such consent (*i.e.*, that your spouse will not receive any or all of the benefits which may become due as a result of your death), (b) names a specific non-spouse Beneficiary which cannot be changed without your spouse's further written consent (unless your spouse's consent expressly permits you to designate different Beneficiary(ies) without any requirement of further consent), and (c) is witnessed by a member of the Plan Administrator or a notary public. Any consent by your spouse will be effective only with respect to that spouse. Therefore, it is very important that you notify the Plan Administrator of any change in your marital status.

**13. What happens if my employment is terminated prior to retirement?**

If your employment is terminated for a reason other than your Total and Permanent Disability or death, or after your Normal Retirement Date, you will be entitled to receive only the vested portion of your Account balance as of the date of your termination, as adjusted for the vested portion of any investment returns or other amounts credited or charged to your Account after such date. For more information on vesting, see Question 14. Your benefit will be distributed as described under Question 18.

**14. What is vesting and how does it work?**

Vesting refers to the percentage of your Account balance that cannot be forfeited and will be paid to you when your Account is distributable. The vesting schedule for your Account is as follows:

<i>Years of Service</i>	<i>Vested Interest</i>
Less than Five Years of Service	0%
Five or More Years of Service	100%

You become 100% vested in your Account if:

- (i) you retire from Service after your Normal Retirement Age;
- (ii) you die while in Service;
- (iii) you incur a Total and Permanent Disability while in Service; or
- (iv) the Plan is terminated, or Employer contributions to the Plan are permanently discontinued.

If you terminate employment for any other reason when your Account balance is not fully vested, the nonvested portion of your Account will generally be forfeited on the date you terminate employment.

**15. How do I receive credit for Service under the Plan?**

You receive credit for a Year of Service for each twelve (12) month period starting with your first day of employment (*i.e.*, the first day you perform an Hour of Service) or reemployment, and ending on the first day of a Period of Severance.

If you are absent from work because of qualified military service, as defined in the Uniformed Services Employment and Reemployment Rights Act of 1994 (“**USERRA**”), your period of qualified military service will not count in determining toward your Period of

Severance if you return to employment with an Employer within the time frames set forth in USERRA without having been employed elsewhere following the end of your qualified military service. Further, in accordance with USERRA, your period of qualified military service may count towards your Years of Service for purposes of eligibility and vesting.

If you incur a five year Period of Severance, your Years of Service following your return to employment with an Employer will not count in determining the vested interest in the portion of your Account which accrued prior to your Period of Severance. However, if you return to employment with an Employer after a less than five year Period of Severance and did not receive a distribution of the entire amount of your vested interest in your Employer Account, your Years of Service following your reemployment will count in determining the vested interest in your Account which accrued prior to your Period of Severance.

**16. What happens to Forfeitures?**

All Forfeitures which occur during a Plan Year will be applied to reinstate any Accounts required to be reinstated (see Question 17). Any remaining Forfeitures will be applied to pay administrative expenses of the Plan and then, if any Forfeitures still remain, to offset future Employer Contributions.

**17. If I terminate employment and then I'm rehired, will my Account balance be reinstated?**

If you terminate employment and receive a distribution of your vested Account balance, and then return to employment with an Employer prior to incurring a five year Period of Severance, any amounts forfeited from your Account will be restored, but only if you repay the entire distribution you previously received before you incur a five year Period of Severance. If you do not return to employment with an Employer prior to incurring a five year Period of Severance, your previously forfeited Account balance cannot later be restored.

**18. How is my Account to be paid?**

(a) Distributable Account Balance Does Not Exceed \$1,000. If your distributable Account balance does not exceed \$1,000, it will be distributed in a lump sum cash payment. This distribution can be made without the necessity of obtaining your consent or the consent of your spouse or any Beneficiary. If your Account balance exceeds \$200, you will be given the opportunity to elect to receive your distribution in the form of a direct rollover to an IRA or to another qualified retirement plan; however, if you do not make that election within 30 days after receipt of the notice regarding this option, your Account balance, less the required 20% withholding for federal income taxes, will be automatically distributed to you in a lump-sum cash payment. If your Account balance is less than \$200, it will be distributed to you in the form of a lump sum distribution and you will not be entitled to elect to receive the distribution in the form of a direct rollover. However, you may be able to roll over the distribution within sixty (60) days after you receive it.



(b) Distributable Account Balance Exceeds \$1,000 But Does Not Exceed \$5,000.

If your distributable Account balance exceeds \$1,000 but does not exceed \$5,000 (disregarding the balance in your Rollover Account, if any), and you do not elect to receive a distribution, your Account balance will be distributed in the form of a direct rollover to an IRA established in your name.

(c) Distributable Account Balance Exceeds \$5,000. If your distributable Account balance exceeds \$5,000, and you provide written consent to the distribution in accordance with the terms of the Plan, your Account balance will be distributed in a cash lump sum, including a direct rollover to an IRA or other qualified retirement plan if you so elect, as soon as administratively practicable. However, no distribution will be made before the Mandatory Distribution Commencement Date (described below) without your written consent. Your written request to receive a distribution will be deemed to be your required consent to receive the distribution.

(d) Mandatory Distribution Commencement Date. In accordance with the Code, unless you otherwise elect, the Trustee must make full settlement or begin payments to you not later than the sixtieth (60<sup>th</sup>) day after the latest of the close of the Plan Year in which (i) you attain the Normal Retirement Age, (ii) occurs the tenth (10th) anniversary of the year in which you commenced participation in the Plan, or (iii) you terminate employment with the Employer. In any event, your distributable Account balance must be paid (or begin to be paid) to you not later than your Required Beginning Date. Your Required Beginning Date is April 1st of the calendar year following your attainment of age 70½, but only if you are a “5% owner” of any Employer. If you are not a “5% owner”, your Required Beginning Date is April 1st of the calendar year following the *later of* (i) your attainment of age 70½ or (ii) the date you terminate employment. If you do not elect to receive a distribution, you will be deemed to have elected to defer distribution until you affirmatively elect to receive a distribution or until your Required Beginning Date, whichever occurs first.

(e) Participant’s Death Prior to Payment. In the event you die prior to a complete distribution of your Account balance, your Account balance will be distributed on or as soon as administratively practicable following the date elected by your designated Beneficiary (but in any event not later than December 31<sup>st</sup> of the calendar year in which occurs the fifth (5th) anniversary of your date of death). However, if the Account balance which is distributable due to your death does not exceed \$5,000, it will be distributed to your Beneficiary, in a lump-sum cash payment, as soon as administratively practicable following your death.

If any portion of your distributable Account balance is payable to your surviving spouse, the payment does not have to be made until April 1<sup>st</sup> of the calendar year following the year in which you would have attained age 70½, and your surviving spouse may elect in writing to postpone the payment to any date within such period.

**19. May I assign any of my Plan benefits?**

The Plan may be required by law to recognize obligations you incur as the result of court ordered child support, alimony payments, or the division of marital property. In particular, the Plan is required to honor a QDRO.

If the Plan receives a QDRO that pertains to you, all or a portion of your Account balance may be used to satisfy the resulting obligation. The Plan Administrator will determine whether any domestic relations order received by the Plan is a QDRO and will notify you of its receipt of a domestic relations order that purports to apply to your Account balance, all in accordance with its established QDRO procedures. In the event that the Plan Administrator receives a domestic relations order, a temporary hold will be placed on your Account and you will not be able to receive distributions from your Account until the matter is resolved.

If your Account becomes subject to a QDRO, you may request a copy (free of charge) of the Plan's QDROs Policies and Procedures.

**20. Do I have to give up my IRA contribution?**

Your participation in the Plan can affect your ability to make a pre-tax IRA contribution. Generally, the tax rules provide that if you (or your spouse) actively participate in the Plan or another qualified retirement plan, your pre-tax IRA limit is progressively reduced depending on your adjusted gross income for federal income tax purposes. The rules are complex and you are strongly encouraged to seek the advice of a qualified tax advisor regarding the deductibility of contributions to an IRA. In any event, you can still make a non-deductible contribution to your IRA.

**21. May the Plan be amended or terminated?**

PHA has reserved the right to amend the Plan, at any time for any reason, in its discretion. However, no amendment will deprive you or your Beneficiary of benefits that have already been earned and vested at the time of such amendment.

The Plan was adopted for the exclusive benefit of eligible Employees and their Beneficiaries, and with the expectation that it would be continued indefinitely. However, PHA reserves the right to terminate the Plan, in whole or in part, at any time for any reason in its discretion. If the Plan is terminated, you will automatically be 100% vested in your Account balance.

**22. What are the procedures for filing a claim or appealing a denied claim?**

*The Plan Administrator reserves the full authority and discretion to interpret, construe and administer the Plan in its discretion, including reconciling any inconsistency, supplying any omission and resolving any conflict. The Plan Administrator will make all determinations that may impact eligibility or a claim for benefits under the Plan, including, without limitation, factual determinations.*

When a benefit is due under the Plan, a claim should be submitted to the Plan Administrator (or its delegate) on a form provided for such purpose. Normally, you will receive action on your claim within 90 days after it is submitted to the Plan Administrator (or its delegate).

If the claim is denied, you will receive a written explanation stating the reasons for the denial, relevant Plan provisions on which the decision was based, and the claim review procedures under the Plan. This explanation or, if an extension is necessary under special circumstances, written notification of the extension, will be furnished within 90 days. In any event, you will receive a written explanation of the decision within 180 days after submitting your claim.

If your claim is denied, or if no action is taken on the claim within the required time period, you are entitled to a review of your claim. You, or your authorized representative, should file a written request for a review with the Plan Administrator. This must be done no later than 90 days after the claim has been denied (or is deemed to have been denied). As a part of the review process, you or your representative may review pertinent documents and submit written comments supporting your claim.

The Plan Administrator will notify you in writing of its final decision, citing pertinent Plan provisions on which its decision was based. This will normally be done within 60 days after receiving your request for review. However, in special cases, this period may be extended up to an additional 60 days if written notice of the extension is provided during the initial 60-day period.

In any case where an extension of time for a decision upon a claim is required because of special circumstances, you will be provided with written notice of the extension which will indicate the special circumstances and the date by which the decision is expected to be made.

*No legal action may be commenced with respect to a claim for benefits later than one (1) year after the claimant originally requested payment of benefits under the Plan. In addition, the claimant must exhaust the claims review procedures set forth above prior to the commencement of any legal proceeding.*

## **Closing**

The Port of Houston Authority is pleased to sponsor the Plan for the benefit of you and your family. We hope that your participation in the Plan will enable you to look with continued confidence to your future with us.

\* \* \*