

**COUNTY OF SACRAMENTO
457(b) DEFERRED COMPENSATION PLAN**

Amended and Restated Effective January 1, 2019

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INTRODUCTION AND PURPOSE

Effective September 26, 2008, the County of Sacramento (the "County"), as authorized by California Government Code section 53212 *et seq.*, adopted an amended and restated County of Sacramento Section 457(b) Deferred Compensation Plan (the "Plan") to provide supplemental retirement income for employees who are eligible hereunder. The County intends that the Plan shall be an Eligible Deferred Compensation Plan under section 457(b) of the Internal Revenue Code (the "Code"), and shall comply with all pertinent requirements under the Code and all requirements under applicable California law.

The Plan is hereby amended and restated in its entirety effective as of January 1, 2019. The Plan shall be interpreted, wherever possible, to comply with the terms of the Code and all applicable regulations and rulings issued thereunder.

ARTICLE I

DEFINITIONS

As used in this Plan:

1.1 Account means the account and subaccounts maintained to record the interest of each Participant (or, if applicable, Beneficiary) under the Plan.

1.2 Accounting Date means each date that the value of the amounts in a Participant's Account is adjusted for Contributions, withdrawals, distributions, earnings, gains or losses.

1.3 Administrator or Plan Administrator means the County or its designated agent.

1.4 Advisory Committee means the County of Sacramento Deferred Compensation Advisory Committee established pursuant to Section 9.4 of the Plan.

1.5 Age Fifty Deferrals mean the Age Fifty Deferrals that a Participant elects to contribute to the Plan pursuant to Article III.

1.6 Alternate Payee has the meaning set forth in Code section 414(p).

1.7 Beneficiary means any person designated in writing in a manner established by the Administrator by a Participant to receive benefits that may become payable hereunder after the death of such Participant, provided such designation has been made in accordance with the terms of the Plan and at the time and manner established by the Administrator. In order to be valid, any Beneficiary designation must be received by the Administrator prior to the date of the Participant's death.

1.8 Board means the Board of Supervisors of the County.

1.9 Code means the Internal Revenue Code of 1986, as amended from time, and Treasury regulations issued thereunder.

1.10 Compensation means a Participant's wages, within the meaning of section 3401(a) of the Code (for the purposes of income tax withholding at the source) for services performed for an Employer, plus all other payments of compensation to a Employee by the Employer for which the Employer is required to furnish the Employee

with a Form W-2. Compensation also includes amounts that would be included in wages but for an election under Code section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k) or 457(b). In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provisions of the Plan to the contrary, the annual Compensation of each Employee taken into account under the Plan shall not exceed the annual limit established under Code section 401(a)(17) as adjusted for increases in the cost of living in accordance with Code section 401(a)(17)(B).

1.11 Contributions means all contributions made to the Plan on behalf of a Participant, including contributions from the following money sources: Normal Deferrals, Age Fifty Deferrals, Traditional Catch-Up Deferrals, Roth Elective Deferrals, Rollover Contributions, and Plan-to-Plan Transfers.

1.12 County means the County of Sacramento or any other governmental entity of which the Sacramento County Board of Supervisors is the governing body. The County is the Plan sponsor.

1.13 Director of Finance means the Director of Finance of the County of Sacramento.

1.14 Direct Rollover has the meaning set forth in Section 6.2(d).

1.15 Effective Date for this restated Plan, means January 1, 2019.

1.16 Elected Official means a member of the Board of Supervisors, the district attorney, the sheriff, and the assessor of the County.

1.17 Eligible Deferred Compensation Plan means a plan established under section 457(b) of the Code that is maintained by a state, a political subdivision of a state, any agency or instrumentality of a state or political subdivision of a state, or any other organization that is exempt from taxation under the Code.

1.18 Eligible Distributee has the meaning set forth in Section 6.2(c).

1.19 Eligible Employee means an Employee who is an active member of SCERS other than:

- (a) a part-time employee;
- (b) a seasonal employee;
- (c) a temporary employee;

(d) a retired annuitant (Employees who are employed on a temporary basis and are receiving a retirement allowance from SCERS); or

(e) a contract employee.

1.20 Eligible Governmental Plan means a plan established under section 457(b) of the Code that is maintained by a state, a political subdivision of a state, or an agency or instrumentally of a state or political subdivision of a state.

1.21 Eligible Retirement Plan has the meaning set forth in Section 6.2(b).

1.22 Eligible Rollover Distribution has the meaning set forth in Section 6.2(a).

1.23 Employee means any person who is employed as a common law employee by an Employer and with respect to whom the Employer withholds employment taxes. The term Employee does not include: (a) leased employees (as defined in section 414(n) of the Code); (b) independent contractors; or (c) reclassified employees (individuals who are not initially classified by the Employer as common-law employees, but who are reclassified as common law employees by a governmental agency, court or other third party).

Only individuals who are Employees in accordance with the prior paragraph and who are treated by the Employer as common-law employees are Employees for purposes of the Plan. If, during any period, the Employer does not treat an individual as a common-law employee and, for that reason, does not withhold employment taxes with respect to that individual, then that individual shall not be an Employee and shall not be eligible to participate in the Plan during that period, even in the event that the individual is determined, retroactively, by a court or in any other proceeding or process, to have been a common law employee during all or any portion of that period.

An individual's status as an Employee shall be determined by the Employer in its sole discretion and such determination shall be conclusive and binding on all persons.

1.24 Employer means the County and any other public agency that has adopted this Plan with the Board's approval.

1.25 Investment Options means the investment options (if any) selected in accordance with Section 9.3.

1.26 Leave of Absence means an absence from work that is either:
(a) not treated by the Employer as a termination of employment; or
(b) required by law to be treated as a leave of absence.

1.27 Normal Deferrals means the Normal Deferrals that a Participant elects to contribute to the Plan pursuant to Article III.

1.28 Normal Retirement Age means the Normal Retirement Age determined in accordance with Section 3.8(c).

1.29 Participant means any Eligible Employee or Elected Official who, with the consent of the Employer, has elected to defer a portion of his or her Compensation payable by the Employer in accordance with the provisions of the Plan. Participant also includes any person who previously was an Eligible Employee or Elected Official who participated in the Plan, who has a Severance from Employment from the Employer or service as an Elected Official terminated and whose Account has not been completely paid out.

1.30 Participation Agreement means the agreement by which an Eligible Employee or Elected Official, with the consent of the Employer, elects to become a Participant under the Plan and to defer a portion of the Compensation payable to such person by the Employer.

1.31 Plan means the County of Sacramento Section 457(b) Deferred Compensation Plan.

1.32 Plan-to-Plan Transfer is a non-taxable, in-service transfer made from the Plan to either an Eligible Government Plan or a government sponsored defined benefit plan in accordance with Sections 7.3 or 7.4. "Plan to Plan Transfer" also includes a non-taxable, in-service transfer made from an Eligible Government Plan to the Plan in accordance with Section 3.11.

1.33 Plan Year means the calendar year.

1.34 Registered Domestic Partner means a domestic partner as defined in California Family Code sections 297 et seq.

1.35 Rollover Contributions means an Eligible Rollover Distribution contributed to the Plan on a Participant or Eligible Employee's or Elected Official's behalf in accordance with Section 3.12.

1.36 Rollover Contributions Account means the subaccount of a Participant's Account established to track the money source of Rollover Contributions (if any) made by the Participant to the Plan and earnings and losses on such subaccount. A separate Roth Rollover Subaccount will be established for each Participant who makes a direct rollover contribution to the Plan from a designated Roth account under another plan.

1.37 Roth Conversion Account means the subaccount (if any) of a Participant's Account established pursuant to Section 3.6.

1.38 Roth Elective Deferral Account means the subaccount (if any) of a Participant's Account established pursuant to Section 3.5.

1.39 Roth Elective Deferral means a Normal Deferral or Age Fifty Deferral that is designated irrevocably by the Eligible Employee or Elected Official at the time of the cash or deferred election as a Roth Elective Deferral that is being made in lieu of all or a portion of the pre-tax Normal Deferral or Age Fifty Deferral the Eligible Employee or Elected Official is otherwise eligible to make under the Plan and treated by the Administrator as includible in the Eligible Employee's or Elected Official's income at the time the Eligible Employee or Elected Official would have received that amount in cash if the Eligible Employee or Elected Official had not made a cash or deferred election.

1.40 SCERS means the Sacramento County Employees' Retirement System.

1.41 Section 457 Deferral Account means the subaccount of a Participant's Account established to track the money source of Section 457 Deferrals (if any) made by the Participant to the Plan and earnings and losses on such subaccount.

1.42 Section 457 Deferrals means the Normal Deferrals, Age Fifty Deferrals, Traditional Catch-Up Deferrals, and Roth Elective Deferrals that a Participant elects to defer under the Plan pursuant to Article III.

1.43 Severance from Employment means the date that the Employee dies, retires, or otherwise has a severance from employment with the Employer, as determined by the Administrator (and taking into account guidance issued under the Code).

1.44 Traditional Catch-Up Deferrals means the Traditional Catch-Up Deferrals that a Participant elects to contribute to the Plan pursuant to Article III.

1.45 Trust means all monies, securities, and properties of whatever character held by the Trustee pursuant to the applicable Trust Agreement with the County.

1.46 Trust Agreement means the separate agreement entered into by and between the County and the Trustee pursuant to Article VIII.

1.47 Trustee means such individual(s) or financial institution(s) as shall be designated in the applicable Trust Agreement with the County to hold in trust any assets of the Plan for the purpose of providing benefits under the Plan, and shall include any successor to the Trustee initially designated thereunder.

1.48 Valuation Date means the last business day of the Plan Year; *provided, however,* that the Administrator may direct the Trustee from time to time to value the assets of the Plan as of any other date or dates as it deems desirable, in which case Valuation Date shall mean such date or dates.

ARTICLE II

PARTICIPATION AND ELECTION TO PARTICIPATE

2.1 Participation in General

An Eligible Employee or Elected Official who receives Compensation from the Employer and who desires to become a Participant in the Plan shall file a written election, in a manner established by the Administrator, with the Employer to defer a portion of the Compensation otherwise payable to such person by the Employer pursuant to the provisions of the Plan. The election, if consented to by the Employer, shall become effective with respect to Compensation payable within a period that is not longer than is reasonable for the proper administration of the Plan, but no earlier than the first day of the calendar month immediately following the month in which such election is made. With such consent, a Participation Agreement shall have been entered into between the Employer and the Eligible Employee or Elected Official. The Eligible Employee or Elected Official shall become a Participant as soon as reasonably practical after the Employer and the Eligible Employee or Elected Official have entered into a Participation Agreement.

- (a) Participation in the Plan by Eligible Employees and Elected Officials is wholly voluntary.
- (b) Participation in the Plan shall cease upon payment of the entire value of a Participant's Account or, upon the Participant's death prior to such payment.

2.2 Timing of Deferral Election

The election to defer Compensation pursuant to Section 2.1 may be made only during enrollment periods established by the Employer. No portion of Compensation received during a calendar month may be deferred unless a Participation Agreement for such deferral has been entered into and received by the Employer before the first day of the month in which the Compensation to be deferred is paid or made available.

2.3 Deferral Election is “Evergreen”

Each election under this Plan shall continue in full force and effect until modified or revoked by the Employer or the Participant in accordance with the provisions of Section 2.5.

2.4 Dollar Amount of Deferral Election

The election shall specify the dollar amount or percent of Compensation which is to be deferred pursuant to the Plan out of the Compensation otherwise payable to the Participant by the Employer and as otherwise provided herein. Such deferred amount shall not be less than \$25.00 per bi-weekly pay period or less than such percent of Compensation as may be established by the Administrator. The Administrator also may establish the increments of percentages of Compensation that may be deferred under the Plan.

2.5 Revocation or Modification of Deferral Election

Revocation or modification of a deferral election by a Participant may be accomplished by a written notice to the Employer in a manner established by the Administrator and shall be effective as soon as reasonably practical and no later than 60 days after such notice is filed with the Employer. The Plan Administrator may allow a Participant to revoke or modify a deferral with the Plan’s third party administrator via any manner established by the Administrator. In addition, the Employer may revoke or modify a deferral election in order to comply with governing law (including but not limited to the Code). If a Participant ceases being an Eligible Employee or Elected Official but remains or becomes an Employee, his or her deferral election shall be deemed revoked upon that change in status.

2.6 Procedure for Change in Deferral Election

Modification of the amount of Compensation deferrable under a previous election may be made only in writing, in a manner established by the administrator, during periods established by the Employer and shall be effective as soon as reasonably practical and no later than 60 days after such modification is filed with the Employer.

2.7 Leave of Absence

A Leave of Absence shall not interrupt continuity of service or an Employee's status as a Participant in the Plan. Leaves of Absence shall be granted under rules established by the Employer and applied uniformly to all similarly situated employees.

2.8 Qualified Military Service

Notwithstanding any provision of the Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Code.

2.9 Re-Employment or Re-Election

If a Participant should terminate employment with the Employer and subsequently be reemployed by the Employer, the individual shall again become eligible to elect to defer Compensation in accordance with Section 2.2 as of the first day of the individual's reemployment with the Employer as an Eligible Employee. If an Eligible Employee who was not a Participant should terminate employment with the Employer and subsequently be reemployed by the Employer as an Eligible Employee, the Eligible Employee shall become a Participant in the Plan in accordance with Section 2.1 and may thereafter elect to defer Compensation in accordance with Section 2.2. If an Elected Official whose service with the County terminates is subsequently re-elected as an Elected Official or employed as an Eligible Employee by the Employer, the individual shall again become eligible to elect to defer Compensation in accordance with Section 2.2 as of the first day of the individual's return to status as an Elected Official or employment as an Eligible Employee.

2.10 Plan is Binding

Upon becoming a Participant, each Employee shall be bound by the terms of this Plan including all amendments to the Plan. No amendment to this Plan shall reduce the amount credited to the Account of any Participant prior to the time of amendment.

2.11 Beneficiary Designation

Upon commencing participation in the Plan, each Participant shall designate one or more Beneficiaries and contingent Beneficiaries in the manner and at the time required by the Administrator.

2.12 Notification of Account Balance

At the time and in the manner determined by the Administrator, but no less frequently than once per Plan Year, the Administrator shall notify each Participant of the amount of his/her Account, taking into account any appropriate Contributions and adjustments to such Account.

ARTICLE III
CONTRIBUTIONS

3.1 Section 457 Deferrals

Subject to the conditions and limitations of the Plan, including the limit on Section 457 Deferrals set forth in Section 3.8 and the rules set out in Article II, each Eligible Employee or Elected Official may elect to make certain Section 457 Deferrals to the Plan for each Plan Year in the form of:

- (a) Normal Deferrals;
- (b) Traditional Catch-Up Deferrals (if eligible); and
- (c) Age Fifty Deferrals (if eligible).

The amount to be deferred shall be withheld from the Participant's Compensation and contributed to the Plan on the Participant's behalf by the Employer to the Trustees in cash within a period as soon as is reasonably practical.

3.2 Election to Defer Compensation

An Eligible Employee or Elected Official may elect to make Section 457 Deferrals to the Plan, in accordance with procedures and time requirements established by the Employer and Article II. An Eligible Employee's or Elected Official's election shall also irrevocably designate the type (either Roth Elective Deferral, pre-tax deferral, or a specific combination) of Normal Deferrals, Traditional Catch-Up Deferrals, and Age Fifty Deferrals to be withheld. Section 457 Deferrals made to the plan as Roth Elective Deferrals may not later be reclassified pre-tax deferrals.

3.3 Initial Deferral Election

An existing Eligible Employee or Elected Official may make an initial election to make Section 457 Deferrals to the Plan by entering into an agreement with the Employer to defer Compensation before the first day of the month in which the Compensation to be deferred is paid or made available. A newly hired Eligible Employee or new Elected Official may make an election to make Section 457 Deferrals by entering into an agreement to defer Compensation within the same month that the Compensation is paid or made available so long as the

agreement is made on or prior to the first day that the Eligible Employee or Elected Official performs any service for the Employer.

3.4 Change of Election

A Participant may make a written election, in a manner established by the administrator, to change, discontinue or resume making Section 457 Deferrals within limits, during periods established by the Employer. Any such election must be made before the first day of the month in which the Compensation to be affected is paid or made available.

3.5 Roth Elective Deferrals

- (a) Application of Section. This section 3.5 will apply to contributions beginning on or after January 1, 2018.
- (b) Roth Elective Deferrals Accepted. As of the effective date of this Section, an Eligible Employee or Elected Official may elect to irrevocably designate, at the time of the Eligible Employee's or Elected Official's election to make a Section 457 Deferral, all or a portion of his/her Normal Deferrals, Age Fifty Deferrals, or Traditional Catch-Up Deferrals as Roth Elective Deferrals in lieu of being treated as pre-tax deferrals. An Eligible Employee's or Elected Official's Roth Elective Deferrals will be allocated to a separate Roth Elective Deferral Account maintained for such deferrals.
- (c) Elections. An Eligible Employee or Elected Official may elect to designate all or any portion of future Normal Deferrals or Age Fifty Deferrals or Traditional Catch-up Deferrals as either Roth Elective Deferrals or to change or revoke any previous contribution election to designate future Normal Deferrals, Age Fifty Deferrals, and Traditional Catch-Up Deferrals as either Roth Elective Deferrals or pre-tax deferrals at the same time and in the same manner as the Eligible Employee or Elected Official may elect to make, change, or revoke contribution elections pursuant to Section 3.4. In the absence of a specific election to treat Normal Deferrals, Age Fifty Deferrals, or Traditional Catch-Up Deferrals as Roth Elective Deferrals, such deferrals shall be treated as pre-tax deferrals.

- (d) Roth Elective Deferrals Treated as Normal Deferrals, Age Fifty Deferrals, and Traditional Catch-Up Deferrals. Unless specifically stated otherwise, Roth Elective Deferrals will be treated as Normal Deferrals and Age Fifty Deferrals for all purposes under the Plan, including, but not limited to, for purposes of the individual annual limitation on Normal Deferrals and Age Fifty Deferrals under Code Section 402(g) and on Traditional Catch-Up Deferrals under Code Section 457(b)(3).
- (e) Separate Accounting. Contributions and withdrawals of Roth Elective Deferrals will be credited and debited to the Roth Elective Deferral Account maintained for each Participant.
 - (i) Records. The Plan will maintain a record of the amount of Roth Elective Deferrals in each Participant's Roth Elective Deferral Account.
 - (ii) Gains or Losses. Gains, losses, and other credits or charges shall be separately allocated on a reasonable and consistent basis to each Participant's Roth Elective Deferral Account and the Participant's other Accounts under the Plan.
 - (iii) Only Roth Elective Deferral Credits. No contributions other than Roth Elective Deferrals and properly attributable earnings will be credited to each Participant's Roth Elective Deferral Account.
- (f) Re-employed Veterans. To the extent required by the Code, re-employed veterans may designate the year for which a Roth contribution is made. If no such designation is made, the Roth contribution will be treated as having been made in the first year of military service for which the veteran could have made the contributions but not earlier than January 1, 2018. This designation shall be made solely for the purpose of the 5 taxable year requirement of Code section 402A(d)(2).

3.6 In-Plan Roth Conversion

Effective January 1, 2018, a Participant may elect to transfer all or any portion of the Participant's Account balance (other than the Participant's Roth Elective Deferral Account balance, if any)

to a Roth Conversion Account. A Participant's surviving spouse may elect to transfer all or any portion of the Participant's Account balance (other than the Participant's Roth Elective Deferral Account balance, if any) to a Roth Conversion Account. Participants' non-spouse Beneficiaries are not permitted to make transfers pursuant to this Section. Any amount that a Participant or surviving spouse elects to transfer from the Participant's Account to a Roth Conversion Account pursuant to this Section 3.6 shall be irrevocable and irreversible and treated by the Administrator as includible in the Participant's or surviving spouse's income in the year of the transfer in the same manner as if the amount had been distributed and directly rolled over into a Roth IRA.

3.7 Election to Defer Vacation and Leave Pay

A Participant may elect to defer accrued but unused vacation pay, sick pay (the payout of which the Participant is otherwise entitled to under the County's Administration and Personnel Code or a collective bargaining agreement) and all leave pay paid or made available at the time of separation from service only if he or she enters into an agreement with the Employer providing for the deferral before the beginning of the month in which the amounts would otherwise be paid or made available and the Participant is an Employee on the date the amounts would otherwise be paid or made available and within the time frame specified by the Employer and applicable laws and regulations, including, but not limited to, the Code and Treasury regulations.

3.8 Section 457 Deferral Limitations

- (a) General Limit. The maximum amount of Section 457 Deferrals that can be contributed to this Plan, whether designated as Normal Deferrals or Roth Elective Deferrals, and any other Eligible Deferred Compensation Plan in which the Participant participates for any taxable year shall not exceed the greater of:
 - (i) the combined limits in Sections 3.8(b) and 3.8(d), or
 - (ii) the limit in Section 3.8(c).
- (b) Normal Deferral Limit. Eligible Employees and Elected Officials who are Participants may elect to contribute

Normal Deferrals to the Plan up to the following limit unless the Eligible Employee or Elected Official is eligible to make a Traditional Catch-Up Deferral in accordance with Section 3.8(c) and the limit for the Traditional Catch-Up Deferral exceeds the Participant's combined Normal Deferral limit and Age Fifty Deferral limit (set forth in Section 3.8(d)). The determination of whether an elective deferral is a Normal Deferral shall be made as of the last day of the Plan Year in accordance with section 3.9 below. The Normal Deferral limit is the lesser of:

- (i) 100% of the Participant's Compensation; or
 - (ii) the limit described in Code section 457(b)(2)(A) in effect for such calendar year, as adjusted for cost-of-living increases in accordance with Code sections 457(e)(15)(B) and 415(d).
- (c) Traditional Catch-Up Deferral Limit. For one or more of the last three (3) taxable years of the Eligible Employee or Elected Official who is a Participant ending before the year the Participant attains Normal Retirement Age, the Participant may make Traditional Catch-Up Deferrals up to the Traditional Catch-Up Deferral limit if the Participant's Traditional Catch-Up Deferral limit exceeds the sum of the Participant's Age Fifty Deferral limit in Section 3.8(d) (if eligible) and the Participant's Normal Deferral limit in Section 3.8(b). The determination of whether an elective deferral is a Traditional Catch-Up Deferral shall be made as of the last day of the Plan Year in accordance with Section 3.9 below. The maximum Traditional Catch-Up Deferral limit is the lesser of:
- (i) twice the dollar amount provided under Section 3.8(b)(ii) above; or
 - (ii) The underutilized limitation which is the sum of:
 - (A) the Normal Deferral limit determined in accordance with Section 3.8(b); and
 - (B) the amount obtained by subtracting the aggregate amount of annual deferrals (not including any Age Fifty Deferrals) that the Participant contributed to the Plan for prior

taxable years from the aggregate amount of annual deferrals (not including any amount permitted as an Age Fifty Deferral) that the Participant was eligible to contribute to the Plan in prior taxable years, determined in accordance with the terms of the Plan and the requirements of the Code as in effect for the prior taxable year. A prior taxable year may be taken into account for a Participant under this Section 3.8(c) only if the taxable year began on or after January 1, 1979, the Participant was eligible to participate in the Plan for such taxable year, and the Section 457 Deferrals for such prior taxable year were subject to the limitation contained in Code section 457(b)(2) of the Code.

For purposes of this Section 3.8(c), a Participant may elect his or her Normal Retirement Age, in accordance with procedures established by the Employer, that is between (i) the age at which the Participant has the right to retire and receive immediate retirement benefits under the applicable SCERS Tier without actuarial or similar reduction because of retirement before some later specified age, and (ii) age 70½. Such elected Normal Retirement Age for safety members may be no younger than age 50 and no older than age 70½, except that safety members with at least 20 years of eligible County service may elect any age. The elected Normal Retirement Age for general members who are subject to the provisions of the California Public Employees' Pension Reform Act of 2013 ("PEPRA") may be no younger than age 62 and no older than age 70½. The elected Normal Retirement Age for general members who are not subject to the provisions of PEPRA may be no younger than age 55 and no older than age 70½, except that general members with at least 30 years of eligible County service may elect any age. If a Participant does not elect a different Normal Retirement Age, the Participant's Normal Retirement Age for purposes of this Section 3.8(c) shall be 70½. A Participant may make the Traditional Catch-Up Deferral contained in this Section only if the Participant has not previously made a Traditional Catch-Up Deferral with respect to a different

Normal Retirement Age under this or any other Eligible Deferred Compensation Plan sponsored by the Employer.

- (d) Age Fifty Deferral Limit. All Eligible Employees and Elected Officials who are Participants who will be age 50 (or older) before the close of the Plan Year shall be eligible to make an Age Fifty Deferral in addition to the Normal Deferral provided in Section 3.8(b) unless the Participant is eligible to make a Traditional Catch-Up Deferral in Section 3.8(c). The determination of whether an elective deferral is an Age Fifty Deferral shall be made as of the last day of the Plan Year, in accordance with Section 3.9 below, and only amounts deferred in excess of the Normal Deferral limit set forth above shall be allocated as an Age Fifty Deferral. The Age Fifty Deferral limit is the lesser of:
- (i) 100% of the Participant's Compensation for the Plan Year minus all elective deferrals that the Participant has already made to all employee benefit plans sponsored by the Employer for the Plan Year; or
 - (ii) the dollar limit described in Code section 414(v) of the Code in effect for such calendar year, as adjusted for cost-of-living increases in accordance with Code sections 414(v) and 415(d).

3.9 Designation of Deferrals

As of each December 31, the Administrator shall determine the total Section 457 Deferrals made to the Plan for each Participant for that calendar year. The Section 457 Deferrals shall be designated as either Normal Deferrals, Traditional Catch-Up Deferrals or Age Fifty Deferrals as follows.

- (a) Traditional Catch-Up Deferrals. If the Participant is eligible to contribute Traditional Catch-Up Deferrals, the Section 457 Deferrals shall be designated as Traditional Catch-Up Deferrals up to the maximum amount that the Participant is eligible to defer as Traditional Catch-Up Deferrals for that Plan Year.
- (b) Normal Deferrals. If the Participant is ineligible for Traditional Catch-Up Deferrals under Section 3.8(c), the Participant's Section 457 Deferrals shall be designated as

Normal Deferrals to the maximum amount permitted in Section 3.8(b).

- (c) Age Fifty Deferrals. If the Participant is ineligible for Traditional Catch-Up Deferrals and the Participant is eligible to make Age Fifty Deferrals, any Section 457 Deferrals that have not been designated as Normal Deferrals shall be designated as Age Fifty Deferrals to the extent permitted by Section 3.8(d).

If undesignated Section 457 Deferrals remain after designating Section 457 Deferrals to the maximum extent permitted above, such undesignated Section 457 Deferrals (and any income thereon) shall be excess deferrals.

3.10 Excess Deferrals

If a Participant has contributed excess deferrals to the Plan for any calendar year due to combined deferrals to the Plan and to any other Eligible Governmental Plan sponsored by the Employer, such excess deferrals and any allocable income shall be paid from the Plan to the Participant by the first April 15 following the end of the taxable year in which the excess deferrals were made.

If a Participant's total Section 457 Deferrals for any calendar year exceed the maximum annual deferral limits described in Sections 3.8(a), (b), (c) and (d) above for any calendar year, due to a combination of Section 457 Deferrals made under this Plan and any other Eligible Deferred Compensation Plan sponsored by an entity other than the Employer, the Participant may notify the Plan Administrator in a manner established by the Administrator (on or before March 1 of the next following calendar year) of the Participant's election to have all or a portion of the Participant's Section 457 Deferrals (and the income allocated to such Section 457 Deferrals) made under this Plan distributed from the Plan to the Participant in accordance with this Section 3.8 as soon as administratively practicable after the Plan Administrator is notified by the Participant that the amount is an excess deferral. The income allocable to a distribution to a Participant of excess deferrals for a Plan Year shall be determined under any reasonable method selected by the Administrator that is authorized by the Code, provided such method is used consistently for all Participants and for all

corrective distributions for the Plan Year and is based on the method for allocating income to Participants' Accounts.

3.11 Plan-to-Plan Transfers from an Eligible Governmental Plan

If an Eligible Employee or Elected Official who is a Participant participates in an Eligible Governmental Plan that provides for a transfer of plan benefits by a Plan-to-Plan Transfer (the "Transferor Plan"), the Participant may elect to transfer to the Trust all or any portion of the Participant's account balance under the Transferor Plan to the Plan after meeting all requirements for transfers into the Plan as the Administrator may establish. These requirements may include (but are not limited to) the following (i) the transfer is in cash or the equivalent, (ii) the Participant demonstrates to the satisfaction of the Administrator that the transferring plan is an Eligible Governmental Plan and that such plan provides for such transfer, and (iii) the transfer meets all of the requirements of the Code. The Participant must have a benefit from the amounts deferred immediately after the transfer at least equal to the benefit from the amounts deferred with respect to that Participant immediately before the transfer.

3.12 Rollover Contributions

An Eligible Employee or Elected Official who is a Participant may elect to transfer to the Trust a Rollover Contribution of all or any portion of an Eligible Rollover Distribution from an Eligible Retirement Plan subject to all requirements for rollovers into the Plan as the Administrator may establish. These requirements may include (but are not limited to) the following: (i) the transfer is in cash or the equivalent, (ii) the Participant demonstrates to the satisfaction of the Administrator that the rollover is an Eligible Rollover Distribution, and (iii) the rollover meets all of the requirements of the Code. Rollover Contributions are subject to the rules regarding distributions from this Plan set forth in Article V and Article VI.

- (a) As of each Accounting Date, each Participant's Rollover Contributions (if any) since the preceding Accounting Date shall be credited to the Participant's Rollover Subaccount under the Participant's Account. All Rollover Contributions shall be accounted for separately from all other Contributions made to the Plan from all other money sources.

- (b) If the Administrator learns that all or part of a Rollover Contribution did not meet the requirements for a rollover, including but not limited to the requirements of the Code, as soon as reasonably possible the Plan shall distribute to the Participant the nonqualified portion of the Rollover Contribution (and earnings thereon) that was credited to the Participant's Rollover Subaccount.

3.13 Contributions Made Promptly

Section 457 Deferrals by the Participant under the Plan shall be transferred to the Trust within a period that is no longer than is reasonable for the proper administration of the Participant Account. For this purpose, Section 457 Deferrals shall be treated as contributed within a period that is not longer than is reasonable for the proper administration if the transfer is made to the Trust within 15 business days following the end of the month in which the amount would otherwise have been paid to the Participant.

3.14 Non-Forfeitable

The value of all Accounts shall be non-forfeitable; however the value of any Account may change depending on the investments in the Account.

ARTICLE IV

ACCOUNTS; INVESTMENT OF ACCOUNTS

4.1 Accounts

The Administrator shall establish and maintain an Account in the name of each Participant (or Beneficiary, if applicable) to which the Administrator shall credit all amounts allocated to each such Participant pursuant to Article III and this Article IV. A Participant's (or Beneficiary's, if applicable) Account may consist of four (4) or more subaccounts: a Section 457 Deferral Account, a Roth Elective Deferral Account, a Roth Conversion Account and a Rollover Contributions Account and a subaccount for all other money sources.

4.2 Allocation of Contributions

Contributions shall be allocated to the Accounts of the Participants on whose behalf they are made.

- (a) Section 457 Deferrals shall be allocated to the Section 457 Deferral Accounts of the Participants on whose behalf they are made.
- (b) Roth Elective Deferrals shall be allocated to the Roth Elective Deferral Accounts of the Participants on whose behalf they are made.
- (c) Amounts elected for transfer as an in-Plan Roth conversion to a Participant's Roth Conversion Account shall be allocated to the Participant's Roth Conversion Account.
- (d) Rollover Contributions shall be allocated to the Rollover Contributions Accounts of the Participants on whose behalf they are made.
- (c) All other sources of money (such as Plan-to-Plan Transfers) shall be allocated to the appropriate subaccounts established by the Administrator of the Participants on whose behalf they are contributed.

4.3 Valuation of Account

As of each Valuation Date, the Administrator shall revalue each Account at fair market value, before adjustment for Contributions and other items that took place between the preceding Valuation Date and the current Valuation Date to reflect the share of any realized or unrealized investment income, gains, losses and expenses of the Investment Fund in which such Account was invested which have accrued since the preceding Valuation Date. A share shall be proportionate to the ratio which the balance in the Account as of the preceding Valuation Date bears to the total balances as of the preceding Valuation Date in all Accounts invested in the Investment Options.

After such revaluation, each Account shall be valued to reflect adjustments for Contributions and other items that took place between the preceding Valuation Date and the current Valuation Date to properly reflect the value of the Account. Also, as of each Valuation Date, each Investment Option shall be valued either in units or in dollars, or in a combination of both. As of each Valuation Date, each Investment Option shall be valued pursuant to the terms of any applicable agreement between the Plan and the Trustees to reflect the effect of income received and accrued, realized and unrealized profits and losses, and all other transactions of the preceding period.

- (a) The Administrator may offer Participants a variety of Investment Options. If the Administrator offers more than one Investment Option, a Participant (or Beneficiary, if applicable after the death of a Participant) may elect to have amounts of the Participant's Account directed or transferred, totally or partially, to any of the approved Investment Options. However, any such election, or change of election, shall be subject to the requirements and limitations established by the Administrator.
- (b) All amounts of Compensation deferred under the Plan shall be credited to one or more of the approved Investment Options under the Plan and credited to each Participant's Account in accordance with any applicable agreement entered into by the Plan with respect to such Investment Option.
- (c) A Participant may, in conjunction with the initial election to become a Participant, by filing a direction in a form and

manner provided by the Plan Administrator, specify the amount of his or her Compensation being deferred that shall be credited to each approved Investment Option. No less than \$25.00 per pay period shall be credited to any single Investment Option. Participants shall elect their deferrals to be credited to Accounts in accordance with rules established by the Administrator.

- (d) Any investment direction given by a Participant (or Beneficiary) shall be deemed to be a continuing direction until changed. A Participant (or Beneficiary) may change an investment direction as to existing Account balances and/or as to future deferrals at the time and in the method, and in accordance with the requirements and limitations, established by the Plan Administrator.
- (e) Pending investment, any cash balances (from deferrals or other operations of the Plan) shall be invested in a short term interest bearing vehicle selected by the Administrator. The County and the Administrator shall not be not responsible for any losses associated with share price changes for any delay associated with the crediting of a Participant's Account with deferrals withheld from Compensation and paid over to the Plan's Trustees.
- (f) If no election as to Investment Options is made by a Participant or Beneficiary, the Administrator shall direct the Trustee to invest the Participant's Account in a qualified default investment alternative as defined in Department of Labor regulations.

ARTICLE V

DISTRIBUTIONS

5.1 Distribution at Severance from Employment or Termination of Service as Elected Official

Upon Severance from Employment or termination of service as an Elected Official (other than due to death) by a Participant, the Administrator may direct the Trustee to distribute (or begin to distribute) to such Participant the amount credited to his/her Account in accordance with Section 5.4 hereof, unless the Participant elects a different time in accordance with Section 5.3 hereof.

5.2 Death

Upon a Participant's death, the amount credited to his/her Account shall become payable to his/her Beneficiary. The Administrator shall thereupon direct the Trustee to distribute (or begin to distribute) to such Participant's Beneficiary such amount in accordance with Section 5.4 hereof unless the Beneficiary elects a different time of payment in accordance with Section 5.3 hereof. If a deceased Participant is not survived by a named Beneficiary (or if no Beneficiary was effectively named), the benefits shall be paid in a single sum to the deceased Participant's estate. If the named Beneficiary is living at the death of the Participant, but such person dies prior to receiving the entire death benefit, the remaining portion of such death benefit shall be paid in a single sum to the estate of such deceased Beneficiary.

5.3 Time of Payment

Distributions shall occur (or begin to occur) on the events stated in Section 5.1 or 5.2, as applicable. However, a Participant (or Beneficiary if applicable) may elect to receive (or to begin receiving) payment of the amount credited to his/her Account at any time after the applicable event, but no later than the date required under the minimum distribution requirements as set forth in Section 5.7 and Appendix B hereof.

5.4 Methods of Payment

A Participant (or Beneficiary, if applicable) shall elect a manner of distribution of any benefits under the Plan as provided hereinafter. The election by the Participant or the Beneficiary shall be made in the manner and at such time as established by the Administrator.

The alternative forms of distribution available are as follows:

- (a) Payment to the Participant or his/her Beneficiary of the balance credited to the Account at the time of distribution in periodic installments, but in no event over a period no longer than the life expectancy of the Participant or the joint life expectancies of the Participant and his/her Beneficiary. Distributions shall be made in this form unless a lump sum distribution is elected in accordance with paragraph (b) below.
- (b) A lump sum distribution of all or a portion of the balance credited to the Participant's or Beneficiary's Account. In accordance with rules established by the Administrator, a Participant or Beneficiary may elect to have a portion of the balance credited to his/her Account paid as a lump sum and a portion paid in periodic installments in accordance with paragraph (a) above.

To the extent administratively and reasonably practicable, all distributions made under this Article V shall commence or be paid immediately after the Valuation Date that follows the application for distribution made by the Participant or Beneficiary, if applicable). An application is deemed not made, and is not valid, until it is received by the Administrator. No benefit shall be paid under the Plan until an application is filed at the time and in the manner specified by the Administrator.

5.5 Cash Out of Small Benefits

Notwithstanding any other provisions of the Plan to the contrary, if the nonforfeitable balance credited to a terminating, deceased or retiring Participant's Account determined as of the Valuation Date coincident with or immediately preceding his or her date of Severance from Employment or termination of service as an Elected Official does not exceed \$1,000, the Administrator may direct that the nonforfeitable balance credited to such Account

will be paid in a lump sum to the Participant (or Beneficiary, if applicable) without his/her written consent. No benefits of any other type shall then be payable to such Participant or Beneficiary.

5.6 Rollover of Small Benefits between \$1,000 and \$5,000

Notwithstanding any other provisions of the Plan to the contrary, if the nonforfeitable balance credited to a terminating, deceased or retiring Participant's Account determined as of the Valuation Date coincident with or immediately preceding his or her date of Severance from Employment or termination of service as an Elected Official exceeds \$1,000 but does not exceed \$5,000, the Administrator may direct that the nonforfeitable balance credited to such Account be directly rolled over to an individual retirement plan in accordance with Code section 401(a)(31). No benefits of any other type shall then be payable to such Participant or Beneficiary.

5.7 General Distribution Rules

Notwithstanding any other provisions of the Plan to the contrary, all distributions under this Plan shall comply with the minimum distribution requirements of Code section 401(a)(9) and the applicable regulations as set forth in Appendix B hereof.

5.8 Benefits to Incompetents

If, in the opinion of the Administrator, any individual is, or becomes, unable to properly handle property distributable to him or her under the Plan and, on advice of counsel, the Administrator does not determine that any person has been given a valid power of attorney or other legal instructions for distribution of such property, the Administrator may apply to a court of competent jurisdiction for instructions for distribution on such individual's behalf that the court determines shall be beneficial to such individual, including, without limitation, distribution to such individual's guardian, conservator, spouse, Registered Domestic Partner, or dependent.

5.9 Unclaimed Benefits

If the Administrator is unable to ascertain the whereabouts or identity of a Participant, or Beneficiary or legal representative thereof, who is entitled to a distribution which is due or required

to commence under this Article V, after having sent notification by registered mail to such person's last known address and when no claim for such benefits has been filed with the Administrator before the end of three (3) years following the date distribution is due or required to commence, then, unless otherwise prohibited by law, the distribution otherwise payable shall be forfeited and applied to pay Plan expenses. In the event that the Participant or Beneficiary, if applicable, requests a distribution, in accordance with the requirements of the Plan, after a forfeiture occurred, the amount of such forfeiture (without interest or other earnings) shall be restored to his/her Account through a special Employer Contribution that is made solely to pay for this restoration and distribution shall be made under the terms of the Plan.

ARTICLE VI

ELIGIBLE ROLLOVER DISTRIBUTIONS

6.1 Eligible Rollover Distributions

An Eligible Distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Eligible Distributee in a Direct Rollover.

6.2 Definitions

The following terms shall have the meanings as indicated below:

- (a) Eligible Rollover Distribution. An "Eligible Rollover Distribution" means any distribution under the Plan to an Eligible Distributee or any amount contributed to the Plan on behalf of a Participant other than: (i) a distribution that is one of a series of substantially equal periodic payments made annually or more frequently either over the life (or life expectancy) of the Participant or the joint lives (or life expectancies) of the Participant and the Participant's Beneficiary or over a specified period of 10 years or more; (ii) a distribution required to meet the minimum distribution requirements of section 401(a)(9) of the Code; (iii) a hardship withdrawal; or, (iv) a distribution excluded from the definition of an "eligible rollover distribution" under applicable provisions of the Code and/or income tax regulations.
- (b) Eligible Retirement Plan. An "Eligible Retirement Plan" includes: (i) an individual retirement account described in section 408(a) of the Code; (ii) an individual retirement annuity described in section 408(b) of the Code (other than an endowment contract); (iii) an annuity plan described in section 403(a) of the Code; (iv) a plan qualified under section 401(a) of the Code that by its terms permits the acceptance of such rollover contributions; (v) an eligible 457(b) plan which agrees to separately account for such rollover contributions; and, (vi) an annuity contract described in section 403(b) of the Code. In addition, effective January 1, 2008, a Roth individual retirement plan described in section 408A(b) of

the Code may be an Eligible Retirement Plan subject to applicable provisions of the Code and regulations thereunder.

- (c) Eligible Distributee. An "Eligible Distributee" is: (i) a Participant; (ii) a Participant's surviving spouse who is entitled to receive payment of the balance of the Participant's Account after the Participant's death; (iii) the spouse or former spouse of a Participant who is an Alternate Payee. In addition, a nonspouse beneficiary may be an Eligible Distributee provided he/she elects a direct trustee to trustee transfer to an individual retirement plan ("IRA") that is established for the purpose of receiving the distribution on behalf of a designated Beneficiary who is a nonspouse Beneficiary. The IRA must be established in a manner that identifies it as an IRA with respect to a deceased Participant and also identifies the deceased Participant and the Beneficiary. Any such transfer shall also comply with the rules of Code section 402(c)(11) and with all other applicable rules and regulations governing such transfers that are issued by the Internal Revenue Service.
- (d) Direct Rollover. A "Direct Rollover" is a payment by the Plan to the Eligible Retirement Plan specified by the Eligible Distributee.

ARTICLE VII

PARTICIPANT LOANS AND IN-SERVICE WITHDRAWALS

7.1 Loans to Participants

The Administrator may (pursuant to such rules as the County may establish, which rules are hereby incorporated into and made a part of the Plan) approve a loan to a Participant (but not to an Appendix-A Participant or a Beneficiary), subject to the following requirements:

- (a) Terms and Conditions of Loans. All loans shall be subject to the following terms and conditions:
 - (i) Each loan shall be in the form of a primary residence loan or a general purpose loan. A "primary residence loan" is a loan that is to be used to purchase a dwelling unit that, within a reasonable time (as determined at the time the loan is made), is to be used as the Participant's principal residence. A "general purpose loan" is a loan that is not a primary residence loan.
 - (ii) Each loan shall be evidenced by a note in a form furnished by the Administrator and shall bear a reasonable rate of interest that is in effect on the date of the loan. Each loan shall require substantially level amortization (on a monthly basis) over the term of the loan.
 - (iii) A one-time loan origination fee in such amount as may be determined by the Administrator shall be deducted from each loan. Fees attributable to the cost to the recordkeeper administering the loan program to operate the loan program may also be charged to, and deducted from, the Participant's Account.
 - (iv) A loan may not be made to a Participant after the Participant's termination of employment or service as an Elected Official with the Employer. If a Participant's termination of employment or service as an Elected Official with the Employer occurs after requesting a loan but before the loan is actually

made to the Participant, the Participant's request for a loan shall automatically be cancelled. No loans may be made to Beneficiaries or to Alternate Payees.

- (v) Each loan to a Participant shall be secured by a portion of the Participant's Account balance under the Plan. As of the effective date of a loan, no more than 50% of the Participant's Account may be used as security for that loan.
 - (vi) A Participant may not have more than two (2) loans outstanding under the Plan at any time.
- (b) Amount of Loans. The principal amount of any loan made to a Participant, when added to the outstanding balance of all other loans made under the Plan to the Participant, shall not exceed the lesser of (i) or (ii) below:
- (i) \$50,000, reduced by the excess (if any) of:
 - (A) the highest outstanding balance of loans from the Plan during the one-year period ending on the day before the date on which such loan was made, minus
 - (B) the current outstanding loan balance of all loans from the Plan on the date such loan was made.
 - (ii) 50% of the present value of the Participant's Account under the Plan as of the effective date of the loan.

The principal amount of any loan made to a Participant shall not be less than \$1,000.

- (c) Repayment of Loans.
- (i) Each loan that is a general purpose loan shall specify a repayment period that shall not exceed five (5) years. Each loan that is a primary residence loan shall specify a repayment period that shall not exceed 15 years.
 - (ii) Payments must be made by the Automated Clearing House. Each payment may be subject to processing

fees that will not affect the amount of the Participant's loan or Account balance.

- (iii) As principal payments are made with respect to a loan, the unpaid balance of the principal of the loan shall be reduced accordingly. Payments of principal and interest shall be credited to the Participant's Account and invested in accordance with the Participant's current investment election.
- (iv) Payments must be made in accordance with the level amortization requirement of Code section 72(p)(2)(C), unless payments are suspended in accordance with the following. A Participant on an approved leave of absence must make loan payments by certified check or such other means approved by the Administrator. Loan payments shall be suspended for Participants on military leaves of absence qualifying under the Uniformed Services Employment and Reemployment Rights Act as required by section 414(u)(4) of the Code.
- (v) Participants may repay without penalty the entire outstanding balance of a loan and accrued interest thereon at any time. Partial repayments are not permitted.
- (vi) A Participant whose termination of employment or service as an Elected Official with the County occurs after the Participant has received a loan, and who has an outstanding loan balance as of his or her severance from employment or termination or service as an Elected Official, may repay the loan in full in accordance with procedures established by Administrator.
- (vii) If a loan payment is not paid when required, taking into account any cure period established by the Administrator, the loan shall be considered in default and treated as a deemed distribution in accordance with Code section 72(p), and Treasury regulations promulgated thereunder.

7.2 Unforeseen Emergency Withdrawals

Upon revocation of deferrals, submission of an unforeseen emergency withdrawal request and presentation of evidence satisfactory to the Plan Administrator that the revoking Participant requires funds to prevent a severe financial hardship to the Participant or Beneficiary resulting from an illness or accident of the Participant or Beneficiary, the Participant or Beneficiary's spouse, or the Participant's or Beneficiary's dependent, as defined in Code section 152(a) (without regard to Code sections 152(b)(1), (b)(2), and (d)(1)(B)), the loss of the Participant's or Beneficiary's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, such as damage that is the result of a natural disaster) or other similar extraordinary unforeseeable circumstances arising as a result of events beyond the Participant's control, a Participant is eligible for consideration of an in-service distribution. The Plan Administrator may, in his or her sole discretion, permit a payment to be made to the Participant in an amount which does not exceed the lesser of: (i) the amount reasonably needed to meet the financial need created by such unforeseeable emergency; and (ii) an amount which, together with any prior distribution or withdrawal, does not exceed the amount deferred with respect to the Participant's Account. The decision made by the Plan Administrator in the approval process of emergency withdrawals is final, there is no further appeal. Any such payment shall be charged to the Account of the Participant and shall be made in one lump cash sum. Such payment shall have added to it an amount determined by the Participant and approved by the Plan Administrator allowing for any applicable federal and state taxes to be withheld, providing that such addition does not exceed the amount as determined in (ii) above. In accordance with Treasury Regulations promulgated under Code section 457, the need to send a Participant's child to college, the desire to purchase a home, and relief from the over extension of consumer credit do not constitute an unforeseeable emergency. An amount will not be considered to be reasonably needed to meet the financial need created by an unforeseeable emergency to the extent that such need is or may be relieved: (i) through reimbursement or compensation by insurance or otherwise; (ii) by liquidation of Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship; or (iii) by cessation of deferrals under the

Plan. Upon revocation of deferrals and submission of an unforeseen emergency withdrawal request pursuant to this Section, a Participant will be prohibited from making elective deferrals under the Plan for six (6) months after receipt of such distributions. There are no waivers permitted or granted for the reentry provision.

7.3 Purchase of Service Credit under Defined Benefit Plan

Notwithstanding any provisions of the Plan to the contrary, the Administrator may permit a Participant whose Severance from Employment or termination of service as an Elected Official has not occurred to transfer as a direct Plan-to-Plan Transfer, any portion of the Participant's Account to SCERS, or any other governmental defined benefit plan in which the Participant is eligible to participate and which accepts the transfer, for the purpose of purchasing service credits under Code Section 414(n) or of repaying member contributions (including interest thereon) under Code Section 414(k). However, prior to permitting such transfer, the Administrator shall reasonably determine that SCERS or such other governmental defined benefit plan shall: (a) accept such a transfer; (b) subject such transferred amounts to withdrawal and distribution restrictions so that the Participant may not withdraw such transferred amounts prior to retirement, death, disability, or separation from service; and, (c) hold such transferred amounts for the benefit of the Participant as elective contributions on a fully vested and nonforfeitable basis and credit applicable interest to such transferred amounts. Additionally, any transfer made under this Section shall comply with Section 457(e)(17) of the Code.

7.4 Plan-to-Plan Transfer to an Eligible Governmental Plan

If a Participant participates in a Eligible Governmental Plan which allows for the receipt of contributions through a Plan-to-Plan Transfer (the "Transferee Plan"), the Participant may elect to transfer the Participant's Account balance under the Plan to the Transferee Plan after meeting any guidelines for transfers from the Plan as the Plan Administrator may set forth. The Participant must have an amount deferred immediately after the transfer at least equal to the amount deferred with respect to that Participant immediately before the transfer. Additionally, all of the following conditions must be met:

- (a) All of the assets attributable to the Participant being held by

the Plan are being transferred;

- (b) The Participant must be performing services for the entity maintaining the Transferee Plan and the State; and
- (c) The Transferee Plan is an Eligible Governmental Plan maintained by an entity of the State that provides for the receipt of transfers.

7.5 Uniformed Service Withdrawals

Notwithstanding any provision of the Plan to the contrary, with respect to a Participant who has not reached Normal Retirement Age, as defined in Section 3.8, during any period that such participant is performing service in the uniformed services (as defined in Chapter 43 of Title 38, the United States Code) while on active duty for a period of more than 30 days, the Participant may withdraw all, or any portion, of the Participant's Account. If the Participant elects to receive a withdrawal under this Section 7.5, the Participant may not make any Section 457 Deferrals to the Plan during the six-month period beginning on the date of distribution.

ARTICLE VIII

FUNDING

8.1 Establishment of the Trust

The County shall enter into a Trust Agreement with the Trustee establishing the Trust that constitutes a valid trust under the laws of the State of California. All amounts deferred under the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property or rights shall at all times be held in the Trust for the exclusive benefit of Participants and their Beneficiaries. The Trust assets are comprised of the aggregate of Participants' Accounts, held by the Trustees. The Participants or Beneficiaries, as the case may be, shall at all times be the beneficial owners of all assets of the Trust.

8.2 Compliance with California Government Code Section 53609

The Trust established under this Article is intended to be a public pension or retirement fund within the meaning of California Government Code section 53609 and all money therein not invested pursuant to instructions of Participants as provided in the Article IV shall be invested in securities authorized for pension or retirement funds under Government Code Section 53609.

8.3 Exclusive Purpose of Trust

The terms of the Trust Agreement must make it impossible, prior to the satisfaction of all liabilities with respect to Participants or their Beneficiaries, for any part of the assets and income of the Trust to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.

8.4 Custodial Accounts and Annuity Contracts

The County may hold or cause to be held, all or a portion of the Participant Accounts in custodial accounts and annuity contracts in accordance with this Section 8.4. For purposes of this Section 8.4, "annuity contract" means an annuity contract as defined in Code section 401(g) that does not include a life, health or accident, property, casualty, or liability insurance contract.

Custodial accounts and annuity contracts described in Code section 402(f) will be treated as part of the trust described Plan Sections 8.1 and 8.3 if the following requirements are met:

- (a) The custodial account or annuity contract would, except for the fact that it is not a trust, satisfy the requirements of Plan Sections 8.1 and 8.3. Thus, for example, a custodial account must be created pursuant to a written instrument that constitutes a valid contract under California law;
- (b) In the case of a custodial account, the custodian is either (i) a bank (as described in Code section 408(n)), or (ii) a person other than a bank who demonstrates to the Commissioner of the Internal Revenue Service in the manner prescribed by Treasury Regulations section 1.408-2(e) that the person will administer the custodial account in a manner consistent with Code sections 457(g)(1) and (3), including the requirements for nonbank trustees in Treasury Regulations section 1.408-2(e)(2) through (2)(e)(6); and
- (c) An annuity contract must be issued by an insurance company qualified to do business in California.

ARTICLE IX

PLAN ADMINISTRATION

9.1 Administration, In General

The County or its designated agent is the Plan Administrator.

9.2 Responsibilities and Authority of Plan Administrator

The responsibilities and authority of the Plan Administrator shall include, but not be limited to the following:

(a) General Duties and Day-to-Day Administration.

(i) Plan Administrator shall have the responsibility of general administration of the Plan including, but not limited to, entering into agreements with Eligible Employees and Elected Officials to defer Compensation, processing requests for termination of deferred compensation, determining method for payment of Accounts, maintenance of Participant files and records, Investment Option accounting, providing staff assistance to the Advisory Committee, and coordination with the various County departments and agencies.

(ii) The Plan Administrator may delegate his or her general duties and the day-to-day administration of the Plan to a third party administrator, vendor, service provider or another person or entity.

(b) Contracting with Third Party Providers.

(i) The Plan Administrator shall also have the responsibility and authority, on behalf of the Plan, to contract with third party administrators, custodians, trustees, investment providers, recordkeepers, investment education service providers and other contract relationships necessary for the general administration of the Plan.

(ii) The Plan Administrator may delegate in writing his or her authority to contract with agents on behalf of the Plan.

(c) Annual Reports. The Plan Administrator shall annually report to the Board regarding the earnings or losses

experienced on investment accounts, the number of Participants in the Plan, deferral amounts, withdrawal amounts, transfers and listing of investment providers and other outside service providers. The annual report shall also include a description of administrative charges to Participants for third party administration, the total amount of general fund expenditures for County administrative operations and a description and the amount of any expenditure reimbursement or revenue credited to general fund administration of the Plan.

- (d) Elections. All elections, designations and other actions required or authorized under this Plan by Participants, Beneficiaries and Employees shall be made at the time and in the manner established by the Administrator.
- (e) Plan Amendments. The Plan Administrator is authorized to adopt Plan amendments in accordance with Section 10.1(d) and 10.1(e).

9.3 Investments

- (a) Investment Consultant and Selection of Investment Options. Subject to paragraph (b) below, the Administrator shall engage on behalf of the Plan an investment consultant to periodically advise him/her and the Advisory Committee with respect to investment options, investment performance and related matters. The Investment Options shall be selected and periodically reviewed by the Administrator, who shall consult with the Advisory Committee and the investment consultant on such selection and review.
- (b) The Administrator shall select the Investment Options (if any) and may change the number and composition of Investment Options from time to time (including adding and/or deleting Investment Options) without the necessity of amending the Plan or obtaining any Participant's or Beneficiary's approval or the approval of the Advisory Committee.
- (c) Contracts to Implement Investment Options. The Administrator shall enter into any contracts required to engage an investment consultant and to implement the

Investment Options. All such contracts shall be subject to review and approval by County Counsel.

- (d) Plan Investments. The Administrator is not required to follow the Advisory Committee recommendations on the selection of Investment Options.
- (e) The Administrator may delegate any or all of his/her duties and responsibilities with respect to Investment Options to the Director of Finance. Notwithstanding any such delegation, the Administrator shall retain final responsibility for any or all duties in connection with Investment Options. Therefore, for example, the Administrator may delegate to the Director of Finance the initial responsibility to evaluate and recommend Investment Options but the Administrator shall have final responsibility for selecting these Options.

9.4 Advisory Committee

The Advisory Committee shall assist, consult and advise the Administrator in the selection of Plan Investment Options and any other investment related matters pertaining to the Plan. The Advisory Committee shall also assist, consult and advise the Plan Administrator in the selection of trustees, custodians, financial and other matters of general Plan administration. The Advisory Committee shall be established by the County Executive in consultation with the Plan Administrator and operate as follows:

- (a) The Advisory Committee shall advise, consult and make recommendations to the Plan Administrator concerning categories of investments, investment policies and guidelines and general plan administrative matters. The Plan Administrator shall give consideration to the advice and recommendations of the Advisory Committee but shall not be bound by such advice or recommendations.
- (b) The Plan Administrator shall be the ex-officio chair of the Advisory Committee and the Director of Finance shall be an ex-officio member of the Advisory Committee.
- (c) The Advisory Committee shall consist of between seven (7) and nine (9) Participants, and the ex-officio chair and ex-officio member for a total committee membership between

nine (9) and eleven (11). The Participant members of the Advisory Committee shall be appointed by the County Executive at his or her discretion, in consultation with the Plan Administrator and the Director of Finance.

- (d) Terms of office for the Participant members of the Advisory Committee shall not be less than two (2) consecutive years and shall not exceed six (6) consecutive years at the sole discretion of the County Executive, in consultation with the Plan Administrator and the Director of Finance. A Participant may be appointed and serve on the Advisory Committee more than once, with at least a one (1) year absence from the Advisory Committee between appointments. The ex-officio chair and the ex-officio member (the Director of Finance) are permanent positions on the Advisory Committee. The County Executive may remove any member of the Advisory Committee, except for the ex-officio chair and ex-officio member, at his/her discretion.
- (e) The Advisory Committee shall meet no less than semiannually. More frequent meetings may be called as required by the ex-officio chair.
- (f) No compensation shall be paid to any member of the Advisory Committee for performing his or her duties thereof.

9.5 Claims Procedures

The Administrator shall receive all claims filed for benefits under the Plan. A written claim for benefits must be made with the Administrator at the time and in the form and manner determined by the Administrator. The Plan Administrator shall provide notice in writing to any person whose claim for benefits under the Plan is denied. The Plan Administrator shall provide any person whose claim for benefits is denied a review of its decision with respect to such claim, if review is requested in writing by the person who has made the claim within 60 days of the notice of the denial. The decision of the Plan Administrator shall be final and binding on all parties.

Any action for benefits under this Plan can only be brought in a court or an administrative proceeding after (i) a claim is filed and denied under this Section, and (ii) a request for review of such

claim and denial is made and the decision on review is adverse to the claimant. Additionally, no action with respect to a claim can be filed in any court or administrative proceeding more than 180 days after receipt by the claimant of such adverse decision on review. Any action filed thereafter shall be null and void.

9.6 Records

All acts and determination of the Administrator shall be duly recorded and all such records together with such other documents as may be necessary in exercising its duties under the Plan shall be preserved for no less than six (6) years. Such records and documents shall at all times be open for inspection and for the purpose of making copies by any person designated by the County, or to the extent otherwise provided by California law. Records regarding any individual shall only be open for public inspection to the extent that this is required by California law. The Administrator shall provide such timely information, resulting from the application of its responsibilities under the Plan, as needed by the County for the effective discharge of its duties.

ARTICLE X

AMENDMENT AND TERMINATION OF THE PLAN

10.1 Amendment of the Plan

- (a) The County shall have the right at any time to modify, alter or amend the Plan in whole or in part, subject to the following limitations:
 - (i) the duties, powers and liability of the Trustee hereunder shall not be increased without its written consent;
 - (ii) the amount credited to the Account of a Participant or Beneficiary at the time of any such modification, alteration, or amendment, shall not be reduced thereby;
 - (iii) no such modification, alteration or amendment shall have the effect of:
 - (A) reverting to the County any part of the principal or income of the Trust (except as otherwise provided in the Plan or the applicable agreement);
 - (B) directly or indirectly decreasing the nonforfeitable percentage of amounts credited to Accounts at the time of such modification, alteration, or amendment;
 - (C) permitting any part of the corpus or income of the Trust to be used for, or diverted to, purposes other than the exclusive benefit of the Participants and their Beneficiaries and defraying the reasonable expenses of administering the Plan.
- (b) The County's right to modify, alter or amend the Plan includes but is not limited to eliminating groups, positions or individuals, from participation in the Plan, and reducing any Contributions to the Plan for any, and all Participants from and after the effective date of the amendment (including but not limited to making any such modifications and/or reductions, applicable to current Employees of the

Employer).

- (c) The Plan Administrator may adopt Plan amendments that are necessary for the Plan's compliance with applicable state or federal laws (including any regulations or guidance issued thereunder) or to obtain or maintain the tax-favored status of the Plan and the tax exempt status of the Trust, including but not limited to its status as an eligible deferred compensation plan under Code Section 457(b), but only to the extent such amendments do not have an adverse fiscal impact or represent any change in policy for the County. In any event and without limitation of any type, the County shall have the right to make any modifications, alterations or amendments necessary or appropriate to maintain the tax status of the Plan including but not limited to its status as an eligible deferred compensation plan under Code Section 457(f).
- (d) To the extent that the County has the right, under this Article or under any other provision of law, to modify, alter or amend the Plan, no Employee of the Employer shall have any "vested right" to any benefit under the Plan, and the County may make such modifications, alterations or amendments for any reason whatsoever without providing any alternative benefit in lieu of what has been changed or reduced.
- (e) The Plan Administrator may, on behalf of the County, execute a written amendment to or restatement of the Plan as necessary to effectuate action by the Board to modify, alter or amend any provision of the Plan.

10.2 Termination of the Plan

The County has established this Plan with the expectation that it will be continued, but continuance is not a contractual or other obligation of the County and no employee of the Employer shall have any "vested right" to continuance of the Plan or to continuance of Contributions thereto. The County reserves the right at any time to terminate the Plan for any reason whatsoever and to do so without providing any other benefits in place of the Plan.

In the event of termination of the Plan, the Administrator shall direct the Trustee to compute the value of the Trust as of the

date of termination. The Accounts of the Participants and Beneficiaries affected by the termination, as determined by the Administrator, shall continue to be administered as a part of the Trust or distributed in a lump sum to such Participants or Beneficiaries, as deemed appropriate by the Administrator in its sole discretion.

ARTICLE XI

MISCELLANEOUS

11.1 Governing Law

The Plan shall be construed, regulated and administered according to the laws of the State of California, and shall also be construed to the maximum extent possible in accordance with the Code in order for the Plan to be an eligible deferred compensation plan.

11.2 Construction

The headings and subheadings in the Plan have been inserted for convenience of reference only and shall not affect the construction of the provisions hereof. In any necessary construction the masculine shall include the feminine and the singular the plural, and vice versa.

11.3 No Employment Rights; Limit on County's Obligations

No Participant in the Plan shall acquire any right to be retained in the Employer's employment by virtue of the Plan, nor, upon his/her dismissal, or upon his/her voluntary termination of employment, shall he/she have any right or interest in and to the Trust other than as specifically provided herein. Except as otherwise specifically provided herein, the Employer shall not be liable for the payment of any benefit provided for herein; all benefits hereunder shall be payable only from the Trust.

11.4 Prohibition Against Assignment and Alienation of Benefits

No right or claim to, or interest in, any part of any payment from this Plan shall be subject to anticipation, alienation, sale, transfer, assignment, mortgage, pledge, garnishment, encumbrance, hypothecation, commutation, garnishment, charge, or any other process of any court except to such extent required by law. No benefit payable from this Plan to any person shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, except to such extent required by law. Any attempt to anticipate, alienate, sell, transfer, assign, mortgage, pledge, garnish, encumber, charge, or levy against any benefit

under this Plan shall be void, except as required by law. No portion of the benefits payable under this Plan shall be subject to the bankruptcy estate of any Participant or Beneficiary in the Plan, except as required by law.

In the event that the Plan receives a domestic relations order and for any period during which it is being determined whether a domestic relations order is qualified through procedures determined by the Administrator, the Administrator or its designee shall follow the procedures set forth in section 414(p) of the Code.

11.5 Merger, Consolidation or Transfer

In the event of the merger or consolidation of the Plan with another plan or transfer of assets or liabilities from the Plan to another plan, each then Participant or Beneficiary shall not, as a result of such event, be entitled on the day following such merger, consolidation or transfer under the termination of the Plan provisions to a lesser benefit than the benefit he/she was entitled to on the date prior to the merger, consolidation or transfer if the Plan had then terminated.

11.6 Counterparts

The Plan and the Trust Agreement may be executed in any number of counterparts, each of which shall constitute but one and the same instrument and may be sufficiently evidenced by any one counterpart.

11.7 Provisions Applicable During Periods of Military Service

Notwithstanding any provision of this Plan to the contrary, Contributions, benefits, and service credit with respect to qualified military service shall be provided as required by section 414(u) of the Code.

11.8 Overpayments; Correction of Errors

If a Participant or Beneficiary receives benefits hereunder for any period in excess of the amount of benefits to which he/she is entitled under the terms of the Plan as in effect for such period, the Administrator shall take any action it deems appropriate to correct such overpayment, including, without limitation, reducing current and/or future benefit payments, as applicable, until such

time as the overpayment is entirely recouped by the Plan and/or bringing suit to collect such overpayment.

11.9 Plan Expenses

- (a) The reasonable costs of administering the Plan shall be paid by the Trust by an assessment of Participant fees unless paid by the Employer. The reasonable expenses of the Plan include, but are not limited to, the following:
 - (i) fees and expenses of third party administrative providers, Trustees and custodians and any other Plan service providers, in accordance with provisions of their agreements with the Plan, for the performance of their duties under the Plan;
 - (ii) the expenses incurred by the Advisory Committee or any of its members in the performance of their duties under the Plan;
 - (iii) the expenses incurred by the Plan Administrator and Director of Finance and their respective staff in the performance of their duties under the Plan, including, but not limited to, reasonable compensation for any legal counsel, certified public accountants, consultants, and agents and cost of services rendered in respect of the Plan; and
 - (iv) all other proper charges and disbursement of the custodians, trustees, Plan Administrator, third party administrators, the Board or its members (including settlement of claims or legal actions approved by counsel to the Plan).
- (b) The County may establish an account under the Plan to which it will credit settlement proceeds that the Plan receives resulting from Securities and Exchange Commission (SEC) late trading and market timing activity enforcement proceedings, and which are not otherwise directly allocable to Participants under the applicable mutual fund distribution plan as ordered by the SEC (the "Settlement Proceeds Account"). Funds in the Settlement Proceeds Account may be used to pay reasonable costs of administering the Plan that would otherwise be paid by

Participants through the assessment of Participant fees. In no event will funds in the Settlement Proceeds Account be used for, or diverted to, any purposes other than for the exclusive benefit of Participants and their Beneficiaries, and defraying the reasonable expenses of administering the Plan.

ARTICLE XII

ADOPTION OF THE PLAN

The County has caused this instrument to be executed this _____ day of _____, 2018 to be effective on the date provided herein above.

COUNTY OF SACRAMENTO

By: _____

Its: _____

**COUNTY OF SACRAMENTO SECTION 457(b) DEFERRED
COMPENSATION PLAN**

APPENDIX A

**PROVISIONS APPLICABLE TO PART-TIME, SEASONAL AND
TEMPORARY EMPLOYEES**

A.1 Purpose

This Appendix A to the County of Sacramento Section 457(b) Plan is designed to provide for retirement, and death benefits for certain County Employees who are not members of SCERS, and to avoid the imposition of taxes under the Federal Insurance Contribution Act ("FICA") by qualifying for the exception provided by Code section 3121(b)(7)(F). The provisions of this Appendix A shall apply to Covered Employees as if set forth in the Plan. Only the following provisions of the Plan apply to Covered Employees: Article I as applicable, Sections 2.8, and 2.10 through 2.12, Section 3.14, Article IV, Sections 5.7 through 5.9, Article VI, and Articles VIII through XII.

A.2 Definitions

A.2.1 Appendix A Participant means a Covered Employee who meets the requirements of Section A.2.3 and A.3 of this Appendix A.

A.2.2 County Matching Contribution has the meaning set forth in Section A.5 of this Appendix A.

A.2.3 Covered Employee for purposes of Appendix A means an Employee of the County who is not a member of, or currently earning benefits under SCERS and is not otherwise exempt from taxes under FICA.

A.2.4 FICA means the Federal Insurance Contribution Act.

A.2.5 Retirement Date means a Covered Employees' Severance from Employment on or after age 62.

A.3 Participation in Plan

A.3.1 Each Covered Employee authorized by the Board shall agree to be an Appendix A Participant in the Plan and to defer a portion of his or her Compensation pursuant to the Plan. Participation shall become effective with respect to all Compensation payable for any service performed for the County as a Covered Employee after December 31, 1991, or the last day of employment with the County after July 1, 1991 and prior to January 1, 1992, if it is not reasonable to believe, on that day, that the individual will be re-employed by the County.

A.3.2 Each person shall remain an Appendix A Participant until his or her benefits earned under this Appendix A to the Plan are paid in full or are transferred pursuant to Section A.9 of this Appendix A. However, deferrals or credits under this Appendix A shall only be made for an Appendix A Participant with respect to a Compensation payable for service performed by the Appendix A Participant as a Covered Employee.

A.4 Deferral of Compensation

Each Appendix A Participant shall defer a percentage of his or her Compensation that is authorized by the Board and payable for any period of service performed for the County as a Covered Employee.

A.5 County Matching Contribution

When any amount of an Appendix A Participant's Compensation is deferred pursuant to this Appendix A, the County also shall credit an amount to the Account maintained for the Appendix A Participant under Section A of this Appendix. This credit shall equal a percentage of the Appendix A Participant's Compensation that is authorized by the Board.

A.6 Total Amount Deferred Under This Plan

The total amount deferred for each Appendix A Participant for each calendar year shall be 7 1/2% of his or her Compensation for that year.

A.7 Maximum Amount Deferrable

The maximum total amount a Participant may defer under this Appendix A (including the County Matching Contribution) and

under Article III of this Plan, for any calendar year, shall not exceed the maximum amount that may be deferred pursuant to Code section 457(b)(2) and as authorized by the California Revenue and Taxation Code section 17551.

A.8 Benefits

A.8.1 Retirement Date. Upon the Retirement Date, the County shall pay to the Appendix A Participant the balance credited to the Appendix A Participant's Account.

A.8.2 Other Termination of Employment. If an Appendix A Participant has a Severance from Employment with the County prior to age 62, the County shall pay benefits to the Appendix A Participant under this Plan as follows:

A.8.2.1 If the balance credited to the Appendix A Participant's Account is \$1,000 or less, such balance shall be paid to the Appendix A Participant in a lump sum.

A.8.2.2 If the balance credited to the Appendix A Participant's Account is more than \$1,000, the Appendix A Participant may elect, in writing, in a manner established by the Administrator, and prior to Severance from Employment, to receive such balance on Severance from Employment. If such an election is not made, the balance credited to the Appendix A Participant's Account shall be paid when the Appendix A Participant reaches age 62.

A.8.3 Death before Payment of Benefits. If the Appendix A Participant dies before payment of his or her benefits under this Plan, the County shall pay to the Appendix A Participant's Beneficiary the balance credited to the Participant's Account as of the Valuation Date. If a deceased Appendix A Participant is not survived by a named Beneficiary (or if no Beneficiary was effectively named), the benefits shall be paid in a single sum to the deceased Appendix A Participant's estate. If the named Beneficiary is living at the death of the Appendix A Participant, but such person dies prior to receiving the entire death benefit, the remaining portion of such death benefit shall be paid in a single sum to the estate of such deceased Beneficiary.

A.8.4 Form and Time of Payment. All payments of benefits under this Appendix A shall be in a single sum, and shall be made as soon as practicable after Severance from Employment,

death, or reaching age 62, as applicable. In any event, payments shall be made no later than April 1 of the calendar year following the calendar year in which the Appendix A Participant reaches age 70-1/2 or has a Severance from Employment with the County, whichever is later. All distributions shall comply with the minimum distribution requirements of Code section 401(a)(9) and the applicable regulations as set forth in Appendix B.

A.9 Transfer To Plan

When an Appendix A Participant ceases being a Covered Employee as defined in A.2.3 and becomes eligible for participation in the Plan under Article II, then all benefits earned and amounts owed under this Appendix A may be transferred at the request of the Participant directly to an account maintained for Eligible Employees or Elected Officials under the Plan. No amounts shall thereafter be due or owing under this Appendix A to the affected Appendix A Participant and any amounts so transferred to such account shall be due and owing from, and subject to the rules of the Plan. Upon such transfer, any Account maintained under this Appendix A for the affected Appendix A Participant shall be canceled.

**COUNTY OF SACRAMENTO SECTION 457(b) DEFERRED
COMPENSATION PLAN**

APPENDIX B

MINIMUM DISTRIBUTION REQUIREMENTS

B.1 General Rules

B.1.1 Effective Date. The provisions of this Appendix B shall apply for purposes of determining required minimum distributions.

B.1.2 Precedence. The requirements of this Appendix shall take precedence over any inconsistent provisions of the Plan.

B.1.3 Requirements of Treasury Regulations Incorporated. All distributions required Appendix B shall be determined and made in accordance with the Treasury regulations under section 401(a)(9) of the Code.

B.1.4 TEFRA Section 242(b)(2) Elections. Notwithstanding the other provisions of this Section, distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act ("TEFRA") and the provisions of the Plan that relate to section 242(b)(2) of TEFRA.

B.2 Time and Manner of Distribution.

B.2.1 Required Beginning Date. The Participant's entire interest shall be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.

B.2.2 Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest shall be distributed, or begin to be distributed, no later than as follows:

B.2.2.1 If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then, except as provided in B.4.3 below, distributions to the surviving spouse shall begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.

B.2.2.2 If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then, except as provided in B.4.3 below, distributions to the Designated Beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

B.2.2.3 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 shall be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

B.2.2.4 If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section B.2.2 other than Section B.2.1 shall apply as if the surviving spouse were the Participant.

For purposes of this Section B.2.2 and Section B.4, unless Section B.2.2.4 applies, distributions are considered to begin on the Participant's Required Beginning Date. If Section B.2.2.4 applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section B.2.2.1. If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section B.2.2.1) the date distributions are considered to begin is the date distributions actually commence.

B.2.3 Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first Distribution Calendar Year distributions shall be made in accordance with Sections B.3 and B.4 of this Appendix B. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder shall be made in accordance with the requirements of section 401(a)(9) of the Code and the Treasury regulations.

B.3 Required Minimum Distributions During Participant's Lifetime.

B.3.1 Amount of Required Minimum Distribution For Each Distribution Calendar Year. During the Participant's lifetime, the

minimum amount that shall be distributed for each Distribution Calendar Year is the lesser of:

B.3.1.1 The quotient obtained by dividing the Participant's Account Balance by the distribution period in the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's age as of Participant's birthday in the Distribution Calendar Year; or

B.3.1.2 If the Participant's sole Designated Beneficiary for the Distribution Calendar Year is the Participant's spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the Distribution Calendar Year.

B.3.2 Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distribution shall be determined under this Section B.3 beginning with the first Distribution Calendar Year and up to and including the Distribution Calendar Year that includes the Participant's date of death.

B.4 Required Minimum Distribution After Participant's Death.

B.4.1 Death On or After Date Distributions Begin.

B.4.1.1 Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a Designated Beneficiary, the minimum amount that shall be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining Life Expectancy of the Participant or the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as follows:

B.4.1.1.1 The Participant's remaining Life Expectancy is calculated using the age of the Participant in the year of death, reduced by one (1) for each subsequent year.

B.4.1.1.2 If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, the remaining Life Expectancy of the surviving spouse is calculated for each Distribution Calendar Year after the year of the Participant's death using the surviving spouse's age as of

the spouse's birthday in that year. For Distribution Calendar Years after the year of the surviving spouse's death, the remaining Life Expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

B.4.1.1.3 If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining Life Expectancy is calculated using the age of the Designated Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

B.4.1.2 No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no Designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that shall be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the Participant's remaining Life Expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

B.4.2 Death Before Date Distributions Begin.

B.4.2.1 Participant Survived by Designated Beneficiary. Except as provided in Section B.4.3 below, if the Participant dies before the date distributions begin and there is a Designated Beneficiary, the minimum amount that shall be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as provided in Section B.4.1.

B.4.2.2 No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest shall be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

B.4.2.3 Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole Designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section B.2.2.1, this Section B.4.2 shall apply as if the surviving spouse were the Participant.

B.4.3 Participants or Beneficiaries May Elect the 5-Year Rule. Participants or Designated Beneficiaries may elect in writing, in a manner established by the Administrator, on an individual basis whether the 5-year rule or the life expectancy rule in Sections B.2.1 and B.2.2 and B.4.2.1 applies to distributions after the death of a Participant who has a Designated Beneficiary. The election must be made at the time and in the manner designated by the Plan Administrator in its sole discretion and must be made no later than the earlier of (A) September 30 of the calendar year in which the distribution would be required to begin under Sections B.2.1 or B.2.2, or (B) by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death. If neither the Participant nor the Designated Beneficiary makes an election under this Section B.4.3, distributions shall be made in accordance with Sections B.2.1 and B.2.2 above.

B.5 Definitions.

B.5.1 Designated Beneficiary. The individual who is designated as the Beneficiary under Section 1.07 of the Plan and is the Designated Beneficiary under section 401(a)(9) of the Code and section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations. If a Participant's Beneficiary is a trust, any beneficiary of the trust shall be treated as a Designated Beneficiary under this Appendix B, to the extent the requirements of section 1.401(a)(9)-4 of the Treasury regulations are met for such beneficiary of the trust.

B.5.2 Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under Section B.2. The required minimum distribution for the Participant's first Distribution Calendar Year shall be made on or before the Participant's Required

Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, shall be made on or before December 31 of that Distribution Calendar Year.

B.5.3 Life Expectancy. Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.

B.5.4 Participant's Account Balance. The Account balance as of the last valuation date in the calendar year immediately preceding the Distribution Calendar Year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Account as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The Account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the Distribution Calendar Year if distributed or transferred in the valuation calendar year.

B.5.5 Required Beginning Date. The April 1 of the calendar year following the later of the calendar year in which the Participant attains age 70 1/2 or the calendar year in which the Participant retires.