

**COUNTY OF SACRAMENTO  
401(a) PLAN**

**Amended and Restated Effective January 1, 2019**

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## **INTRODUCTION AND PURPOSE**

Effective June 24, 2007, the County of Sacramento (the "County"), as authorized by California Government Code section 53212 *et seq.*, has adopted this 401(a) Plan (the "Plan") to provide supplemental retirement income for employees who are eligible hereunder. The Plan is hereby amended and restated in its entirety, effective as of January 1, 2019. The County intends that this Plan shall be tax qualified under section 401(a) of the Internal Revenue Code (the "Code"). In accordance with California Government Code section 20894, the County intends to obtain a determination letter from the Internal Revenue Service (the "IRS") that the Plan meets the requirements for being a tax qualified plan. If the IRS does not issue a favorable determination letter, then in accordance with Section 3.06 of the Plan, the Plan shall be terminated and all County Matching Contributions (as defined in Article I) to the Plan shall be returned to the County plus or minus any investment gains or losses.

The County intends that this Plan, together with the Trust Agreement, shall meet all the pertinent requirements for qualification under the Code and all requirements under applicable California law, and the Plan shall be interpreted, wherever possible, to comply with the terms of said Code and all applicable regulations and rulings issued thereunder.

## ARTICLE I

### DEFINITIONS

- 1.01** Account means the account and subaccounts maintained to record the interest of each Participant (or, if applicable, Beneficiary) under the Plan.
- 1.02** Adjustment means the net increases and decreases in the market value of the Trust Fund and of Accounts during a Plan Year or other period exclusive of any Contribution during such year or other period. Such increases and decreases shall include such items as realized or unrealized investment gains and losses and investment income, and may include expenses of administering the Plan and the Trust Fund.
- 1.03** Administrator or Plan Administrator means the County or its designated agent.
- 1.04** Alternate Payee has the meaning set forth in Code section 414(p).
- 1.05** Annual Additions means for any Participant in any Plan Year, the sum of all County Matching Contributions and Pick Up Contributions allocated to his/her Account.
- 1.06** Beneficiary means any person designated 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.
- 1.07** Board means the Board of Supervisors of the County.
- 1.08** Code means the Internal Revenue Code of 1986, as amended from time to time, and all applicable rules and regulations issued thereunder pertinent to the tax qualification of this Plan and the tax-exempt status of the Trust Fund.
- 1.09** 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 the County or an affiliate, including, but not limited to, elective deferrals under section 402(g)(3) of the Code, and amounts contributed or deferred under section 125, 132(f), 403(b) or section 457 of the Code, to the extent that such contributions are not included in the gross income of the Participant for

the taxable year in which they are made. Compensation includes differential wage payments as defined in Code section 3401(h)(2). Compensation does not include: (a) contributions made to a plan of deferred compensation except as otherwise stated in this paragraph, or (b) other amounts which receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includible in the gross income of the Participant). 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 or Elected Official taken into account under the Plan shall not exceed the annual limit established under Code section 401(a)(17) as adjusted.

- 1.10** Contributions means any contributions made to the Trust Fund pursuant to Article III. Contributions shall either be County Matching Contributions or Pick Up Contributions.
- 1.11** 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.
- 1.12** County Matching Contributions means Contributions made pursuant to Section 3.02 of the Plan.
- 1.13** County Matching Contributions Account means the Account established pursuant to Section 4.02(a) of the Plan.
- 1.14** Defined Contribution Plan means a plan which is established and qualified under section 401 of the Code, which provides for an individual account for each participant therein and for benefits based solely on the amount contributed to each participant's account and any income and expenses or gains or losses (both realized and unrealized) which may be allocated to such accounts. The term Defined Contribution Plan includes, without limitation, money purchase pension plans.
- 1.15** Direct Rollover has the meaning set forth in Section 6.02(d).
- 1.16** Disability means total and permanent disability as defined under SCERS with respect to benefits provided thereunder for the applicable Participant in this Plan, and as applied by the Administrator of this Plan.
- 1.17** Effective Date for this Plan, means June 24, 2007.

- 1.18** Elected Official means a member of the Board of Supervisors, the district attorney, the sheriff, and the assessor of the County.
- 1.19** Eligible 457(b) Plan means the Plan established and maintained by the County for its employees under Code section 457(b).
- 1.20** Eligible Distributee has the meaning set forth in Section 6.02(c).
- 1.21** Eligible Retirement Plan has the meaning set forth in Section 6.02(b).
- 1.22** Eligible Rollover Distribution has the meaning set forth in Section 6.02(a).
- 1.23** Employee means any person who is currently employed by the County who is an active member of SCERS, other than: (i) part-time employees; (ii) seasonal employees; (iii) temporary employees; (iv) retired annuitants (employees who are employed on a temporary basis and are receiving a retirement allowance from SCERS); (v) leased employees (as defined in section 414(n) of the Code); (vi) contract employees; (vii) independent contractors; or (viii) reclassified employees (individuals who are not initially classified by the County as common-law employees, but who are reclassified as common law employees by a governmental agency, court or other third party).

Only individuals treated by the County as common-law employees are Employees for purposes of the Plan. If, during any period, the County 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 County and such determination shall be conclusive and binding on all persons.

- 1.24** Fiduciary means any organization, individual, corporation, firm or other entity which assumes or exercises fiduciary responsibilities respecting management of the Plan or the disposition of its assets.
- 1.25** Investment Funds means the investment options (if any) selected by the Plan Administrator for investment of the assets in each Account. The Plan Administrator may select the number of Investment Funds (if any) and may change the number and composition of Investment Funds

from time to time (adding and/or deleting Investment Funds) without the necessity of amending this Plan or obtaining any Participant's or Beneficiary's approval.

- 1.26** Normal Retirement Age means a Participant's normal retirement age under SCERS.
- 1.27** Normal Retirement Date means the first day of the month coincident with or immediately following the date the Participant reaches Normal Retirement Age. Each Participant's Account will be fully vested upon his or her attainment of "Normal Retirement Age" for purposes of the Plan. This paragraph is included in order to comply with IRS Revenue Ruling 66-11. Nothing in this paragraph is intended to contradict Section 3.04 of the Plan, which provides that Participants' Accounts shall be fully and immediately 100% vested. In addition, "Normal Retirement Age" will be relevant for this paragraph only, and is not intended to have any force or effect for any other purpose.
- 1.28** Participant means any Employee or former Employee, or Elected Official, who has met the eligibility requirements for participation in the Plan in accordance with Article II.
- 1.29** Pick Up Contributions means Contributions made pursuant to Section 3.03 of the Plan and Code section 414(h)(2).
- 1.30** Pick Up Contributions Account means the Account established pursuant to Section 4.02(b) of the Plan.
- 1.31** Plan means this County of Sacramento 401(a) Plan.
- 1.32** Plan Year means the calendar year; *provided, however* that the first Plan Year shall be the period June 24, 2007 through December 31, 2007.
- 1.33** Retirement means termination of employment or service as an Elected Official with the County.
- 1.34** SCERS means the Sacramento County Employees' Retirement System.
- 1.35** Trust Agreement means the agreement entered into between the County and the Trustee pursuant to Article VIII hereof.
- 1.36** Trust Fund means all monies, securities, and properties of whatever character held by the Trustee pursuant to the Trust Agreement.

**1.37** Trustee means such individual(s) or financial institution(s) as shall be designated in the Trust Agreement 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.

**1.38** 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**

**2.01** Participation

- (a) Coverage. Each Employee or Elected Official who is a member of a group or occupies a position that is listed in Appendix A to this Plan is a Participant in this Plan.
- (b) Period of Participation. An individual who becomes a Participant shall remain a Participant until the earlier of his/her death or the complete payment of the balance in his/her Account.

**2.02** Plan is Binding

Upon becoming a Participant, each Employee or Elected Official shall be bound by the terms of this Plan and the Trust Agreement including all amendments to the Plan and the Trust Agreement made in the manner authorized by the Plan or Trust. No amendment to this Plan or to the Trust Agreement shall reduce the amount credited to the Account of any Participant prior to the time of amendment.

**2.03** 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.

**2.04** 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**

**3.01 Contributions, In General**

- (a) As determined by the County, Contributions may be made to the Trust Fund to be allocated to the Accounts of the Participants on whose behalf Contributions are made in accordance with this Article. Contributions shall be County Matching Contributions or Pick Up Contributions as provided in this Article.
- (b) All Contributions shall be made as soon as practicable, as determined by the Administrator, but in no event later than two and one half (2 1/2) months after the close of the applicable Plan Year.
- (c) No Contributions shall be made to or under this Plan except in accordance with this Article.

**3.02 County Matching Contributions**

Subject to the provisions of this Section 3.02 and Section 4.04, the County shall contribute a County Matching Contribution to the Account of each Participant as follows:

- (a) Eligibility for County Matching Contribution. In order to be eligible for a County Matching Contribution, a Participant must:
  - (i) on any day of the payroll period for which County Matching Contributions are made, be a current Employee or Elected Official and member of a group or occupy a position listed in Appendix A of this Plan; and
  - (ii) have deferred Compensation under the Eligible 457(b) Plan as required in Section 3.02(b).

If either of these conditions is not met by a Participant at the end of any payroll period, then no County Matching Contributions shall be made for such Participant for that period.

- (b) Requirement for Deferral Under Eligible 457(b) Plan. The requirement for deferring Compensation under the Eligible 457(b) Plan is as follows:

- (i) For the first Plan Year (extending from June 24, 2007 through December 31, 2007), the Participant must have deferred under the Eligible 457(b) Plan at least one percent (1%) of his/her Compensation earned prior to the end of each applicable payroll period for the 2007 calendar year. Such deferral must have been made by the end of each applicable payroll period. For example, if the Participant deferred the maximum possible amount under the Eligible 457(b) Plan prior to the Effective Date and that amount was always at least one percent (1%) of his or her Compensation earned by the end of each payroll period in the 2007 calendar year (up until such time as the maximum deferral limit was reached), then the Participant shall have met this requirement.
- (ii) For each Plan Year beginning on and after January 1, 2008, the Participant must have deferred under the Eligible 457(b) Plan in each applicable payroll period at least one percent (1%) of his or her Compensation earned during that payroll period.
- (iii) Changes in the amount that a Participant defers under the Eligible 457(b) shall affect the Participant's ability to receive a County Matching Contribution and the amount, if any of such County Matching Contribution as follows:
  - (A) Participants currently receiving County Matching Contributions.
    - (i) Reduction in Eligible 457(b) Plan Deferral Due to Hardship. If a Participant who is an Employee or Elected Official and otherwise eligible for and currently receiving a County Matching Contribution under this Plan and who qualifies for an emergency hardship withdrawal under the Eligible 457(b) Plan due to an unforeseeable emergency reduces his or her deferral under the Eligible 457(b) Plan to less than one percent (1%) of Compensation during the Plan Year, then any County Matching Contributions for such Plan Year made prior to that date shall not be affected, but the Participant shall not be eligible to receive any additional County Matching Contributions for the remainder of the

Plan Year. If the Participant subsequently elects to defer at least one percent (1%) of Compensation under the Eligible 457(b) Plan, then such election shall not be taken into account for purposes of eligibility to receive a County Matching Contribution under this Plan for the remainder of the Plan Year during which the hardship withdrawal was made.

(ii) Voluntary Reduction (Non-Hardship) in Eligible 457(b) Plan Deferral. If a Participant who is an Employee or Elected Official and otherwise eligible for and currently receiving a County Matching Contribution under this Plan reduces his or her deferral under the Eligible 457(b) Plan to less than one percent (1%) of Compensation without an emergency hardship withdrawal under the Eligible 457(b) Plan and to be effective at any time other than the beginning of the Plan Year and subsequently increases his or her contribution to at least one percent (1%), then any County Matching Contributions for such Plan Year made prior to that date shall not be affected, but the Participant shall not be eligible to receive any additional County Matching Contributions for 12 months from the date of the reduction.

(B) Participants not currently receiving County Matching Contributions. If a Participant who is an Employee or Elected Official but not currently receiving a County Matching Contribution under this Plan elects during a Plan Year to increase his or her deferrals of Compensation under the Eligible 457(b) Plan to at least one percent (1%) of Compensation, such election shall be taken into account for purposes for eligibility to receive a County Matching Contribution under this Plan during the remainder of such Plan Year.

(c) County Matching Contributions

- (i) Except as provided in paragraph 2 of this Section 3.02, the County shall make a County Matching Contribution of one percent (1%) of Compensation for each payroll period for each Participant who meets the requirements of Sections 3.02(a) and (b).
- (ii) Effective from August 14, 2011 to January 23, 2016, for each Participant listed on Appendix C hereof who meets the requirements of Sections 3.02(a) and (b), the County shall make a County Matching Contribution in the amount and at the time set forth in Appendix C.
- (iii) Each Matching Contribution shall be allocated to the County Matching Contribution Account of each affected Participant in accordance with the terms of this Plan.
- (d) If a Participant meets the requirements of this Section 3.02, the County Matching Contribution set forth in (c) above shall be made at the time determined by the County but in no event later than two and one half (2 1/2) months after the close of the applicable Plan Year.

**3.03 Pick Up Contributions under Code Section 414(h)(2)**

- (a) Each Participant who is an Employee or Elected Official and who meets the coverage requirements of Section 2.01(a) may elect to make contributions to the Plan under this Section 3.03. All Contributions under this Section 3.03 shall be picked up by the County in accordance with Code section 414(h)(2) and the governing resolution enacted by the Boards and (to the extent provided by governing law) shall be treated as County Contributions for federal income tax purposes. No Participant shall have a choice as to whether his or her elective Contributions shall be made on a pick up basis. Participants may elect to make Contributions under this Section from Compensation. All Contributions under this Section shall be made in accordance with the rules governing pick-ups under Code section 414(h)(2), including the following:
  - (i) They shall be paid by the County directly to the Plan in lieu of Contributions by the Participant and shall be paid from the same source as Compensation is paid.
  - (ii) They shall be made pursuant to a binding and irrevocable payroll deduction authorization executed by the Participant.

No modification to this payroll deduction shall be allowed after it is received by the Administrator and each payroll deduction shall remain in effect during the remaining employment or service as an Elected Official of the Participant with the County. Payroll deductions shall continue even if the Employee or Elected Official ceases to be in a group or position listed in Appendix A, shall continue even if the Participant is no longer an Employee or Elected Official but still remains employed by the County, and shall continue regardless of any change in circumstance including but not limited to the occurrence of a financial hardship by the Participant. Payroll deductions shall cease only when the Participant has terminated service with the County or is no longer an Elected Official. If a Participant goes on an unpaid leave of absence from the County, on his or her return to work the payroll deduction shall resume.

- (iii) The percentage of Compensation or the dollar amount of the payroll deductions shall be designated on the form on which the binding and irrevocable deduction authorization is made.
- (iv) The Participant shall agree on such form that the Plan will only accept payment from the County and not directly from the Participant.
- (v) The Participant shall agree on such form that there shall be no prepayment of any amounts designated on such form, and the Plan and Trustee shall in no circumstance accept such prepayment. The Participant shall agree on such form that there shall be no modification of any payroll deduction that is authorized by such form, regardless of circumstances, during the entire period that the Participant is employed in any capacity by the County.
- (vi) The effective date of the pick-up is the later of the date the Board adopts a resolution authorizing Pick Up Contributions under this Plan and the date of execution of the binding irrevocable election by both the County and the Participant. The pick-up does not apply to a Contribution made before the effective date of the pick-up.
- (vii) The Board shall specifically approve the form and the administration of it by the Administrator.

- (b) Additional Contributions provided under this Section 3.03 with Pick Up Contributions shall be evidenced by allocations to the Participant's Account of amounts equal to the dollar amount of such Pick Up Contributions.
- (c) A pick up election to have contributions deducted from a Participant's Compensation may be in multiples of 1% of such Compensation up to a maximum of 20%.
- (d) No Pick Up Contributions or Participant elections shall be made under this Section 3.03 until and unless the Internal Revenue Service issues a favorable determination letter on the Plan in accordance with Section 3.06 and Pick Up Contributions and Participant elections as set forth in this Section 3.03 are allowed under the terms of the letter.

### **3.04** Vesting

The value of all Accounts under the Plan shall be fully and immediately 100% vested.

### **3.05** Mistake of Fact

If due to a mistake of fact, a County Matching Contribution to the Trust Fund for any Plan Year exceeds the amount intended to be contributed in accordance with the terms of the Plan, as soon as such mistake of fact is discovered the Administrator shall notify the Trustee of the mistake. The Administrator shall direct that the funds be held by the Trustee and allocated to other Account(s) in lieu of the next County Matching Contribution. Earnings attributable to the excess County Matching Contribution shall not be returned to the County but shall be allocated to all Accounts, in proportion to the value of such Accounts; and losses attributable thereto must reduce the amount to be so allocated.

### **3.06** Contributions Conditioned on Initial Tax Qualification

All Contributions to this Plan are expressly conditioned on the initial qualification of the Plan under section 401(a) of the Code. If the Plan is submitted to the Internal Revenue Service within the period prescribed by section 401(b) of the Code or under applicable guidance issued by the Internal Revenue Service for a determination as to its initial qualification, and the Internal Revenue Service determines that the Plan is not so qualified, all such County Matching Contributions, together with all earnings and/or losses thereon, shall be returned to the County within

one (1) year following such determination by the Internal Revenue Service.

### **3.07** Investment of Accounts

The County, in its sole discretion, shall determine, from time to time, the Investment Funds available for the investment of Participants' Accounts. The County may contract with a third-party provider to provide Investment Funds and for administration thereof. The Trustee or the third-party provider shall make available to Participants information concerning the various Investment Funds available for the investment of Participants' Accounts.

Any investment election made by a Participant shall continue in effect until changed by the Participant.

If no election is effectively made by a Participant, 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 section 2550.404c-5(e). Pursuant to Section 53213.5 of the California Government Code, no fiduciary of the Plan shall be liable for any loss that results from any individual investment by a Participant in the Plan to the extent the Administrator complies with communication and education requirements similar to those prescribed in section 404(c) of the Employee Retirement Income Security Act of 1974, as amended.

## **ARTICLE IV**

### **ALLOCATIONS TO ACCOUNTS**

#### **4.01** 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 two subaccounts: a County Matching Contributions Account and a Pick Up Contributions Account.

#### **4.02** Allocation of Contributions

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

- (a) County Matching Contributions shall be allocated to the County Matching Contributions Accounts of the Participants on whose behalf they are made.
- (b) Pick Up Contributions shall be allocated to the Pick Up Contributions Accounts of the Participants on whose behalf they are made.

#### **4.03** Allocation of Adjustments

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 Fund.

#### **4.04** Maximum Additions

Anything herein to the contrary notwithstanding, the total Annual Additions made to the Account of a Participant for any Plan Year, when combined with any similar Annual Additions credited to the Participant for the same period under another qualified Defined Contribution Plan

maintained by the County or an affiliate (including any Annual Addition credited to the Participant under SCERS to the extent treated as an Annual Addition under Code section 415(c) and the applicable regulations), shall not exceed the lesser of:

- (a) the dollar amount provided under section 415(c) of the Code, including but not limited to adjustments for inflation pursuant to section 415(d)(1) of the Code, with respect to the first day of the limitation year for which the annual limit is being calculated; or
- (b) 100% of the Participant's Section 415 Compensation for such Plan Year.

The Plan Year shall be the "limitation year," as defined in section 415 of the Code and applicable regulations thereunder.

For purposes of this Section 4.04, "Section 415 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 the County or an affiliate, including, but not limited to, elective deferrals under section 402(g)(3) of the Code, and amounts contributed or deferred under section 125, 132(f), 403(b) or section 457 of the Code, to the extent that such contributions are not included in the gross income of the Participant for the taxable year in which they are made. Section 415 Compensation does not include: (a) contributions made to a plan of deferred compensation except as otherwise stated in this paragraph, or (b) other amounts which receive special tax benefits, such as premiums for group term life insurance (but only to the extent that the premiums are not includible in the gross income of the Participant).

Section 415 Compensation shall also include any leave cash outs and deferred compensation as defined in Treas. Reg. section 1.415(c)-2(e)(3)(iii), provided that such amounts: (i) are paid by the later of two and one-half (2 1/2) months after severance from employment or service as an Elected Official with the County or the end of the limitation year that includes the date of severance from employment or service as an Elected Official with the County; and, (ii) would have been included in the definition of Section 415 Compensation if they were paid prior to the Participant's severance of employment or service as an Elected Official with the County.

In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provisions of the Plan to the contrary, the

annual Section 415 Compensation of each Participant taken into account under the Plan shall not exceed the annual limit established under Code section 401(a)(17) as adjusted.

**4.05 Trustee's and Administrator's Judgment Controls**

In determining the fair market value of the assets of the Plan and of Accounts, the Trustee shall exercise its best judgment, and all such determinations of value (in the absence of bad faith) shall be binding upon all Participants and their Beneficiaries. All allocations shall be deemed to have been made as of the applicable date specified by the Administrator regardless of when actual allocations were undertaken.

**ARTICLE V**  
**DISTRIBUTIONS**

**5.01** Normal Retirement

Upon the Retirement of a Participant, the Administrator shall direct the Trustee to distribute (or begin to distribute) to such Participant or Beneficiary the amount credited to his/her Account in accordance with Section 5.05 hereof, unless the Participant elects a different time in accordance with Section 5.04 hereof.

**5.02** Disability Retirement

Upon Disability Retirement, the Administrator shall direct the Trustee to distribute (or begin to distribute) to such Participant or Beneficiary the amount credited to his/her Account in accordance with Section 5.05 hereof unless the Participant elects a different time of payment in accordance with Section 5.04 hereof.

**5.03** 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 5.05 hereof unless the Beneficiary elects a different time of payment in accordance with Section 5.04 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.

**5.04** Time of Payment

Instead of the normal time for payment set forth in Section 5.01 hereof, a Participant (or Beneficiary) may elect to receive (or to begin receiving) payment of the amount credited to his/her Account at any time after his/her Retirement, (or the Participant's death, if applicable), but no later than the date required under the minimum distribution requirements as set forth in Section 5.08(b) and Appendix B hereof. To the extent administratively and reasonably practicable, all distributions shall

commence or be paid immediately after the Valuation Date that follows the application for distribution made by the Participant or Beneficiary, as relevant. No benefit shall be paid under the Plan until an application is filed at the time and in the manner specified by the Administrator.

#### **5.05 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 at the time and in the manner established by the Administrator.

The alternative forms of distribution available are as follows:

- (a) Payment to the Participant or his/her Beneficiary in periodic installments, but in no event over a period longer than the life expectancy of the Participant or the joint life expectancies of the Participant and his/her Beneficiary.
- (b) A lump sum distribution of all or a portion of the Participant's or Beneficiary's Account.

#### **5.06 Cash Out of Small Benefits**

Notwithstanding any other provisions of the Plan to the contrary, if the vested value of a terminating, deceased or retiring Participant's Account determined as of the Valuation Date coincident with or immediately preceding his date of Retirement, Disability, death or termination of employment or service as an Elected Official does not exceed \$1,000, the Administrator may direct that the vested value of such Account shall be paid in a lump sum to the Participant (or Beneficiary, if applicable) without his/her written consent (or that of the Beneficiary, if applicable). No benefits of any other type shall then be payable to such Participant or Beneficiary.

#### **5.07 Rollover of Small Benefits between \$1,000 and \$5,000**

Notwithstanding any other provisions of the Plan to the contrary, if the vested value of a terminating, deceased or retiring Participant's Account determined as of the Valuation Date coincident with or immediately preceding his date of Retirement, Disability, death, or termination of employment or service as an Elected Official exceeds \$1,000 but does not exceed \$5,000, the Administrator may direct that the vested value of 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.

#### **5.08 General Distribution Rules**

- (a) In no event, unless the Participant elects otherwise in such manner as established by the Administrator, shall benefit commencement be later than 60 days after the last day of the Plan Year in which occurs the latest of (i) the Participant's reaching age 65; (ii) the tenth (10th) anniversary of the date the Employee or Elected Official became a Participant; or (iii) termination of the Participant's employment or service as an Elected Official with the County.
- (b) 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.

#### **5.09 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.

#### **5.10 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 proper 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 such forfeiture shall be applied to reduce County Matching Contributions otherwise made to this Plan. In the event that the Participant (or

Beneficiary, if applicable) requests a distribution after a forfeiture has occurred, the amount of such forfeiture shall be restored to his/her Account through a special County Matching Contribution that is made solely to pay for this restoration.

## **ARTICLE VI**

### **ELIGIBLE ROLLOVER DISTRIBUTIONS**

#### **6.01 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.

#### **6.02 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.
  
- (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

#### 7.01 Loans to Participants.

Effective January 1, 2019, loans to Participants are not permitted under the Plan. Prior to January 1, 2019, 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, subject to the following:

- (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 County 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 record-keeper 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 County. If a Participant's termination of employment or service as an Elected Official with the County 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.
  - (vii) Loans may only be made from the Pick Up Contributions Account, if any, of a Participant. No loans shall be made from a Participant's County Matching Contributions Account.
- (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 County. 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. Loan payments may be suspended by a Participant on an approved non-military leave of absence subject to any applicable Internal Revenue Service limitations.
- (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 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.

## **7.02 Purchase of Service Credit under Defined Benefit Plan**

Notwithstanding any provision of the Plan to the contrary, the County may permit a Participant whose Retirement has not occurred to transfer as a direct plan to plan transfer, any portion of the Participant's Account to SCERS, or any other defined benefit plan in which the Participant is eligible

to participate and which accepts the transfer, for the purpose of purchasing service credits; *provided, however*, that prior to permitting such transfer, the County shall reasonably determine that SCERS or such other 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.

**7.03 Hardship Withdrawals; Other Voluntary In-Service Withdrawals**

The Plan does not permit hardship withdrawals or any other voluntary in-service withdrawals.

## **ARTICLE VIII**

### **FUNDING**

#### **8.01** Contributions

Contributions as provided for herein shall be paid to the Trustee. All Contributions shall be irrevocable, except as otherwise herein provided or as is provided in the Trust Agreement, and may be used only for the exclusive benefit of the Participants and their Beneficiaries, except to the extent that they may be returned to the County or to the Participant pursuant to Section 3.06 herein, the Trust Agreement and the Code.

#### **8.02** Trustee

The County shall enter into a Trust Agreement with the Trustee under which the Trustee shall receive, invest and hold Contributions made under the Plan. The Trust Agreement may specifically provide, among other things, for the investment and reinvestment of the Trust Fund and the income thereof, the management of the Trust Fund, the responsibilities of the Trustee, removal of the Trustee and appointment of a successor, accounting by the Trustee and the disbursement of the Trust Fund.

Such Trust Agreement is incorporated by reference as a part of the Plan, and the rights of all persons under the Trust Agreement are subject to the terms of the Plan.

The Trustee shall, in accordance with the terms of such Trust Agreement, accept and receive all sums of money paid to it from time to time by the County, and shall hold, invest, reinvest and manage such moneys and the increment, increase, earnings and income thereof for the exclusive benefit of the Participants and their Beneficiaries or for the payment of reasonable expenses of administering the Plan.

## **ARTICLE IX**

### **PLAN ADMINISTRATION**

#### **9.01 Fiduciaries**

Each Fiduciary shall discharge his/her duties solely in the interest of the Participants and Beneficiaries and for the exclusive purpose of providing such benefits as are provided herein to such persons, or defraying reasonable expenses of administering the Plan. Each Fiduciary, in carrying out such duties and responsibilities, shall act with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use.

A Fiduciary may serve in more than one Fiduciary capacity and may employ one or more persons to render advice with regard to his Fiduciary responsibilities.

A Fiduciary may allocate and delegate any of his responsibilities for the operation and administration of the Plan to the extent consistent with the California Constitution.

#### **9.02 Plan Information**

The County shall supply such full and timely information for all matters relating to the Plan as the Administrator and the Trustee may reasonably require for the effective discharge of their respective duties.

#### **9.03 Administrator**

The Administrator shall have plenary authority to administer the Plan.

The Administrator shall have power to construe the Plan and to determine all questions that may arise thereunder relating to (a) the eligibility of individuals to participate in the Plan and (b) the amount of Contributions to which any Participant or Beneficiary may become entitled hereunder, and (c) any other issues that may arise under the Plan. All disbursements by the Trustee, except for the ordinary expenses of administration of the Trust Fund or the reimbursement of reasonable expenses at the direction of the County, as provided herein, shall be made upon, and in accordance with, the written directions of the Administrator.

The Administrator shall establish rules and procedures to be followed by the Participants and Beneficiaries in filing applications for benefits and for furnishing and verifying proofs necessary to establish age, service and

any other matters required in order to establish their rights to benefits in accordance with the Plan. Additionally, the Administrator shall establish or direct the Trustee to establish accounting procedures for the purpose of making the allocations, valuations and adjustments to Participants' Accounts.

The 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. The Administrator may employ such counsel, accountants, and other agents as it shall deem advisable.

If the Administrator is a County officer or employee, the County shall indemnify the Administrator to the same extent that the County indemnifies any other County officer or employee acting in the course of County business.

#### **9.04** 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.

#### **9.05** 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. 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

#### 10.01 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 Fund (except as otherwise provided in the Plan or the Trust Agreement); (B) directly or indirectly decreasing the vested 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 Fund 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 County).
- (c) 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 qualification of the Plan.
- (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 or Elected Official of the County 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 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.

### **10.02 Termination of the Plan**

In accordance with the requirements of a tax qualified 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 County or Elected Official 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 Fund 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 Fund or distributed in a lump sum to such Participants or Beneficiaries, as deemed appropriate by the Administrator in its sole discretion.

## **ARTICLE XI**

### **MISCELLANEOUS**

#### **11.01 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 tax qualified.

#### **11.02 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.

#### **11.03 No Employment Rights; Limit on County's Obligations**

No Participant in the Plan shall acquire any right to be retained in the County'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 Fund other than as specifically provided herein. Except as otherwise specifically provided herein, the County shall not be liable for the payment of any benefit provided for herein; all benefits hereunder shall be payable only from the Trust Fund. The County's only obligation is to make the Contributions, if any, provided under Article III.

#### **11.04 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.

#### **11.05 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.

#### **11.06 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.

#### **11.07 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.

#### **11.08 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.

#### **11.09 Plan Expenses**

The reasonable costs of administering the Plan shall be paid by the Trust Fund by an assessment of Participant fees unless paid by the County.

**11.10** Type of Plan for Federal Tax Purposes

Solely for purposes of complying with section 401(a)(27) of the Code and other tax qualification rules, this Plan is a “money purchase pension 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 401(a) PLAN**

### **Appendix A**

#### **Participants**

1. All Employees in the following groups shall be Participants in this Plan:
  - (a) Rep. Unit 50,
  - (b) Rep. Unit 32,
  - (c) Rep. Unit 33,
  - (d) Rep. Unit 20,
  - (e) Rep. Unit 21,
  - (f) Rep. Unit 24, and
  - (g) Rep. Unit 29.
2. The following elected officials of the County shall be Participants in this Plan:
  - (a) members of the Board of Supervisors,
  - (b) the District Attorney,
  - (c) the Sheriff, and
  - (d) the Assessor.
3. Effective January 24, 2016, the following employees shall be Participants in this Plan:
  - (a) The County Executive, if any.
  - (b) The Interim County Executive, if any.

# COUNTY OF SACRAMENTO SECTION 401(a) 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 in accordance with Section 5.03 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 in accordance with Section 5.03 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 in accordance with Section 5.03 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)-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.

## **COUNTY OF SACRAMENTO SECTION 401(a) PLAN**

### **Appendix C**

#### **Section 3.02(C)(2) Matching Contributions**

##### **C.1 Covered Participants**

C.1.1 County Executive -- The County Executive shall be covered by this Appendix C and shall receive Matching Contributions under the Plan only in accordance with this Appendix.

##### **C.2 Amount and Time of Contributions**

C.2.1 County Executive -- For each dollar that the County Executive contributes to the Eligible 457(b) Plan during a calendar year, the County shall contribute one dollar to the Plan as a Matching Contribution. The maximum Matching Contribution contributed under this Plan for the County Executive shall be nine thousand dollars (\$9,000) in any calendar year, or, if lower, the maximum amount that can be contributed under the Plan (such as provided by section 4.04 hereof). These Matching Contributions shall be made at the same time and in the same manner as Matching Contributions are made for all other Plan Participants.

##### **C.3 Effective Date**

C.3.1. County Executive -- This Appendix C shall be effective for the County Executive from August 14, 2011 to January 23, 2016.

##### **C.4 Amendment**

This Appendix may be amended or terminated by the County in accordance with the terms of the Plan including but not limited to Section 10.01 that provides there are no vested rights to any benefit under the Plan.