

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



ITEM: 3.29
(ID # 16925)

MEETING DATE:

Tuesday, December 07, 2021

FROM : HUMAN RESOURCES:

SUBJECT: HUMAN RESOURCES: Amend and Restate the County of Riverside Part-Time and Temporary Employees' Retirement Plan Document, All Districts. [Total Cost \$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Ratify and approve the restated County of Riverside Part-Time and Temporary Employee's Retirement Plan Document (Attachment A);
2. Authorize the Chair to sign two (2) copies of the restated County of Riverside Part-Time and Temporary Employee's Retirement Plan Document; and
3. Instruct the Clerk of the Board to retain one (1) copy of the restated County of Riverside Part-Time and Temporary Employee's Retirement Plan Document and return one (1) copy of the document to Human Resources to file.

ACTION: Policy

ACTION:

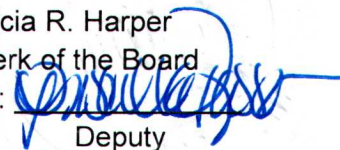


Brenda Diederichs, Assistant CEO / Human Resources Director 11/10/2021

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Perez, seconded by Supervisor Hewitt and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt
Nays: None
Absent: None
Date: December 7, 2021
xc: HR

Kecia R. Harper
Clerk of the Board
By: 
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA**

FINANCIAL DATA	Current Fiscal Year:	Next Fiscal Year:	Total Cost:	Ongoing Cost
COST	\$ 0	\$ 0	\$ 0	\$ 0
NET COUNTY COST	\$ 0	\$ 0	\$ 0	\$ 0
SOURCE OF FUNDS: N/A			Budget Adjustment: No	
			For Fiscal Year: 21/22	

C.E.O. RECOMMENDATION: Approve

BACKGROUND:

The County of Riverside Part-Time and Temporary Employees' Retirement Plan (Plan) was approved by the Board on August 10, 1999 and was last amended and restated on July 30, 2013.

The Plan is provided to eligible employees in lieu of participation in Social Security and the CalPERS retirement plan. It's a defined benefit retirement plan designed to pay benefits equivalent to Social Security in compliance with Internal Revenue Service (IRS) Code Section 3121(b)(7)(F) Safe Harbor regulations.

While participating in the Plan, eligible employees pay a contribution equal to 3.75% of their eligible compensation (up to the annual allowable Social Security limit), and the County pays a contribution that is determined periodically through an annual actuarial valuation.

The Plan document was reviewed in its entirety to ensure that it meets the applicable requirements of the Internal Revenue Code section for a qualified 401(a) defined benefit retirement plan. Sections throughout the plan document have been updated to comply with congressional legislation enactment of new laws that change existing qualification requirements, and to clarify intent and definition on sections of the document that were considered to be redundant or ambiguous.

There is other non-substantive clarifying language and formatting included. The Plan document has been reviewed and restated by legal counsel. There is no direct cost to the County for any of the recommended changes.

Impact on Residents and Businesses

There is no impact on residents or businesses.

Additional Fiscal Information

This request is an update to the Plan Document only. There is no fiscal impact from this action.

ATTACHMENT:

SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,
STATE OF CALIFORNIA

ATTACHMENT A: COUNTY OF RIVERSIDE PART-TIME AND TEMPORARY
EMPLOYEES' RETIREMENT PLAN as of July 1, 2021



Meghan Hahn, Senior Management Analyst 11/24/2021



Gregory V. Priaplos, Director County Counsel 11/22/2021

**COUNTY OF RIVERSIDE
PART-TIME AND TEMPORARY EMPLOYEES'
RETIREMENT PLAN
(Restated Effective July 1, 2021)**

DEC 07 2021 3.29

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**COUNTY OF RIVERSIDE PART-TIME AND TEMPORARY
EMPLOYEES' RETIREMENT PLAN**

INTRODUCTION

This Plan and the Trust Agreement have been adopted by the County of Riverside California for its Part-time and Temporary Employees. The Employer is the County of Riverside California and this is a "governmental plan" as such term is defined in the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986, as amended. Government plans are exempt from the following Code Sections: 401(a)(3), 401(a)(4), 401(a)(10)(B), 401(a)(11), 401(a)(12), 401(a)(13), 401(a)(14), 401(a)(15), 401(a)(19), 401(a)(26), 401(k), 401(m), and 410(a) and (b), 412 and 417.

**ARTICLE I.
ADOPTION – PURPOSE**

1.1 ADOPTION AND TITLE

The County of Riverside (the "Employer") hereby amends, restates, and adopts the County of Riverside Part-Time & Temporary Employees' Retirement Plan (the "Plan") effective July 1, 2021.

1.2 PURPOSE

The Employer adopted the Plan to be effective on and after April 1999 to substitute the benefits provided under this Plan for certain benefits that would otherwise be provided under the Federal Social Security Act. The Plan has been previously amended to comply with the applicable pension provisions of statutes including:

- the Omnibus Budget Reconciliation Act of 1990 (the "Act")
- the Uruguay Round Table Agreements Act, Pub. L. 103-464 ("GATT"),
- the Uniformed Services Employment and Reemployment Rights Act of 1994, Pub. L. 103-353 ("USERRA"),
- the Small Business Job Protection Act of 1996, Pub. L. 104-188 ("SBJPA"),
- the Taxpayer Relief Act of 1997, Pub. L. 105-34 ("TRA 97"),
- the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105-206 ("RRA"), collectively known as "GUST", and
- the Community Renewal Tax Relief Act of 2000, Pub. L. 106-554 ("CRA")

- the Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”)
- the Pension Protection Act of 2006 (“PPA”)
- the Worker, Retiree and Employer Recovery Act of 2008 (“WRERA”)
- the Heroes Earnings Assistance and Relief Tax Act (“HEART”).

The effective dates of amendments under PPA, WRERA and HEART are provided herein with those provisions.

The Employer now wishes to amend the Plan to comply with more recent regulatory and legislative changes including the IRS 2019 Required Amendments List (Notice 2019-64), the Setting Every Community Up for Retirement Enhancement Act (“SECURE”) and the Coronavirus Aid, Relief, and Economic Security Act (“CARES”).

To accomplish these purposes, the Employer has adopted this amended and restated Plan to cover Employees in an eligible group. The Trust established under this Plan (incorporated by this reference) and the assets thereunder will not be used for, or diverted to, purposes other than the exclusive benefit of Participants or their Beneficiaries, as prescribed in Code Sections 401(a) and 501(a) and Proposition 162 that amended the California Constitution.

1.3 RIGHTS

The Employer, by maintaining this Plan, does not give any Employee or any other person any legal or equitable right against the Employer, the Trustee, or the corpus or income of the Trust unless the right is specifically provided for in this Plan, nor does it give any Employee the right to be retained in the Employer’s service.

ARTICLE II. DEFINITIONS

2.1 ACCRUED BENEFIT

A Participant's monthly benefit under Section 5.3 to which the Participant is entitled at Normal Retirement Date, or Late Retirement Date, based on years of Benefit Accrual Service and Career Compensation at the date determination.

2.2 ACTUARIAL EQUIVALENT (EQUIVALENCE)

A benefit having the same value as another stated benefit on the date payment commences or on any other date calculated on the basis of the factors as applicable below.

- (a) **Adjustment for Form and Date of Payment:** If a Participant's Accrued Benefit is payable in a form other than the Normal Form of Retirement Benefit it will be adjusted to reflect the Actuarial Equivalent thereof. If a Participant's Accrued Benefit is payable at any time after the Participant's Normal Retirement Date, it will be determined in accordance with Section 5.4. If a Participant's Accrued Benefit is payable at any time prior to the Participant's Normal Retirement Date, it will be adjusted to reflect the Actuarial Equivalent of the Normal Form of Retirement Benefit commencing at Normal Retirement Date.
- (b) **Age on Applicable Date:** The Actuarial Equivalent of an Accrued Benefit will be determined as of the applicable date on the basis of the payee's actual Age (or nearest age in years, or age in years and months, consistently determined by the Administrator). If a benefit is initially determined and thereafter there is an administrative delay in the actual payment of benefits, the Administrator shall determine in a manner consistently applied on a nondiscriminatory basis whether the benefit will be adjusted. Any such adjustment may either add interest to the date of actual distribution or the benefit may be revalued based on the payee's then current actual Age (or nearest age in years, or age in years and months, consistently determined by the Administrator) as of the date benefits are paid.
- (c) **Amendment of Actuarial Equivalence:** Except as may otherwise be permitted by the Code and by the regulations issued thereunder, if the definition of Actuarial Equivalence is amended, in no event will the lump sum Actuarial Equivalent of an Accrued Benefit determined on the date a benefit commences be less than the Actuarially Equivalent value of the Accrued Benefit as determined one day prior to the date of change, based on the terms of the Plan as in effect on such day.
- (d) **Actuarial Equivalence Factors:** The Plan's actuarial assumptions use a 6% Pre-retirement interest rate, a 6% Post-retirement interest rate and the Unisex Projected (UP) 1984 Mortality Table. Notwithstanding the preceding, for purposes of determining the amount of a distribution payable under either (1), (2), or (3) following, if it produces a greater benefit, then Actuarial Equivalence will be

determined on the basis of the applicable mortality table and applicable interest rate under Code Section § 417(e) as provided in subsection (e) below:

- (1) as a cash-out under Section 5.1(d);
 - (2) in the form of a lump sum as described in Section 5.2 and Section 6.1(a);
or,
 - (3) in a form other than an annual benefit that is non-decreasing for the life of the Participant
- (e) The “applicable mortality table” is the mortality table described under Code section 417(e)(3)(B) and determined under applicable regulatory guidance as of the distribution or determination date (or other date permitted under applicable Treasury Regulations or related guidance).

The “applicable interest rate” is the interest rate described under Code section 417(e)(3)(C) that is determined under applicable regulatory guidance using a weighted average based on the following table of the 30-year Treasury rate, and the first, second and third segment rates (together referred to as the segment rates) that are described under Code section 430(h)(2)(C) (without regard to the 24-month average described under Code section 430(h)(2)(D)). The “applicable interest rate” is determined as of the second month preceding the Plan Year in which the distribution or determination date occurs. The weighted average is determined as follows:

Plan Year That Includes the Annuity Starting Date	Weighting of 30-Year Treasury and Segment Rates
July 1, 2009	60% 30-year Treasury; 40% segment rates
July 1, 2010	40% 30-year Treasury; 60% segment rates
July 1, 2011	20% 30-year Treasury; 80% segment rates
2012 and after	100% segment rates

2.3 ALTERNATE PAYEE

Any spouse or former spouse, child or other dependent of a Participant, who is an alternate payee within the meaning of Code section 414(p)(8), and who is recognized by a Qualified Domestic Relations Order as having the right to receive all or a portion of the benefit payable under the Plan with respect to the Participant.

2.4 ADMINISTRATOR

The Employer unless another Administrator is appointed by the Employer.

2.5 ANNIVERSARY DATE

June 30th of each year.

2.6 ANNUITY STARTING DATE

The first day of the first period for which an amount is paid as an annuity, or, in the case of a benefit not payable as an annuity, the first day all events have occurred which entitle the Participant to such benefit.

2.7 BENEFICIARY

The person or person designated by a Participant, in writing in the manner at the time specified by the Administrator, on a Beneficiary designation form filed with the Administrator; in the absence of this designation and filing, the person or persons designated herein.

2.8 BENEFIT ACCRUAL SERVICE

All periods of employment as an active Participant. Benefit Accrual Service shall be determined on an elapsed-time basis and measured in whole years. If a Participant received credit for a year of service during a Plan Year as an active Participant under the Plan, the Participant shall receive credit for one year of Benefit Accrual Service. Benefit Accrual Service shall not include years of employment with the Employer during which the Participant is not an Employee, as defined in this Plan, for any portion of the Plan Year.

2.9 CODE

The Internal Revenue Code of 1986, as amended, and the regulations and rulings promulgated thereunder by the Internal Revenue Service.

2.10 COMPENSATION

Base pay actually received by an active Participant from the Employer, while covered by the Plan with the following exceptions: Annual Compensation shall be limited to lesser of (a) \$150,000 for Plan Years beginning prior to January 1, 2002 and \$200,000 for plan years beginning after December 31, 2001 (or such other amount as provided under Code Section 401(a)(17) determined as of the first day of a calendar year by the Secretary of the Treasury) and (b) the applicable Taxable Wage Base for old age/survivor pensions in effect on the first day of each calendar year period. Base pay shall be determined under standard and established practices of the Employer (W-2 wages). The following items are examples of what is excluded from base pay (and are not intended to be the only items that are excluded):

- (1) overtime pay
- (2) bonuses or,

- (3) single-sum amounts received on account of death or separation from service under a bona fide vacation, compensatory time or sick pay plan, or under severance pay plans.

For purposes of this Plan, Compensation shall include Employer Code Section 414(h) Contributions. Under no circumstances shall pay earned for periods before April 1, 1999 be included as Compensation.

2.11 CAREER COMPENSATION

The total amount of Compensation for the period of the Participant's Benefit Accrual Service.

2.12 EFFECTIVE DATE

April 1, 1999, and is applicable to the first payroll period that includes April 1, 1999, and not before.

2.13 EMPLOYEE

Any person employed within the meaning of Code Section 3121(b) and Treasury Regulations 31.3121(b)(7)-2(d)(2) as a part-time, seasonal or temporary employee by the Employer for whom Social Security contributions would be made but for the Employee's coverage under this Plan and who is not covered under any other retirement system as defined in Code Section 3121(b)(7)(F) maintained by the Employer. Employee shall not include any of the following: (i) a Rehired Annuitant to the extent that he/she is deemed to be a qualified participant under Treasury Regulation 31.3121(b)(7)-2(d)(4); (ii) persons employed in more than one position with the Employer, if such person is a member of a retirement system as defined in Code Section 3121(b) with respect to services performed in one of those positions and is a qualified participant in such system under Treasury Regulations 31.3121(b)(7)-2; (iii) persons employed in a position that, based on the job classification system, is in an ineligible group for purposes of participation in the Plan. Specifically, but without limiting the generality of item (iii) in the previous sentence, persons employed in the following job classifications shall not be considered Employees and shall not be eligible for participation in this plan: Service Aide I, Service Aide II, Program Assistant, and Supervising Program Assistant, whose compensation is paid through the Employer's Older American Community Service Employment Program.

2.14 EMPLOYEE CONTRIBUTION ACCOUNT

A book account maintained for each Participant that records the amount of his/her Employee Contributions plus the Employee Crediting Rate on those contributions. This Account shall be valued once a year, as of the Valuation Date.

2.15 EMPLOYEE CONTRIBUTIONS

Employee contributions shall be made at a rate of 3.75% of Compensation per pay period. Such contributions shall be “picked up” pursuant to Code section 414(h)(2) and therefore shall be Employer Code 414(h)(2) contributions.

2.16 EMPLOYEE CREDITING RATE

Employee contributions shall be credited with earnings at the rate of 5% per annum, compounded annually, on the last day of each plan year. The crediting will apply to each Employee Contribution Account as of the end of the previous Plan Year and contributions made during the first half of the current Plan Year. The Employer reserves the right to amend the Plan to change the amount of the Employee Crediting Rate credited on Employee Contributions; any new such rate shall apply on and after the effective date on such rate to all Employee Contributions, whether made prior to or after the date of the change in the Employee Crediting Rate.

2.17 EMPLOYER

The County of Riverside, State of California, which is also the Sponsor of the Plan.

2.18 EMPLOYMENT DATE

The first day on which a person is an Employee of the Employer.

2.19 ENTRY DATE

The Effective Date, the Employment Date, or the first day the person becomes an Employee, whichever occurs later.

2.20 FIDUCIARY

Any individual or entity which exercises any discretionary authority or control over the management of the Plan or over the disposition of the assets of the Plan; renders investment advice for a fee or other compensation (direct or indirect); or has any discretionary authority or responsibility over Plan administration; or acts to carry out a fiduciary responsibility, when designated by a named Fiduciary pursuant to authority granted by the Plan.

2.21 INACTIVE PARTICIPANT

Any Participant who has become ineligible to participate in the Plan due to his/her becoming covered under another plan that meets the definition of a retirement system as defined in Code Section 3121(b)(7)(F) and regulations thereunder, or to the extent that the Employer is paying tax under Code Section 3111(a) with respect to such individual, or while employed in an ineligible group or classification.

2.22 LATE RETIREMENT DATE

The date as of which a Participant who has postponed retirement after his Normal Retirement Date actually retires. A Participant who elects to postpone his retirement shall receive full credit for Benefit Accrual Service and Compensation after age 65.

2.23 LEAVE OF ABSENCE

Any absence of an Employee from active service with the Employer that is not treated by the Employer as a Termination of Employment. Determinations of approved Leaves of Absence will be nondiscriminatory for all Employees.

2.24 LIMITATION YEAR

The Plan Year.

2.25 NORMAL FORM OF RETIREMENT BENEFIT

A monthly straight life annuity payable in equal installments for the life of the Participant that terminates upon the Participant's death.

2.26 NORMAL RETIREMENT AGE

A Participant's sixty-fifth birthday.

2.27 NORMAL RETIREMENT DATE

The first day of the month coinciding with or immediately preceding a Participant's Normal Retirement Age.

2.28 PARTICIPANT

Any Employee who has met the eligibility and participation requirements of the Plan including former Employees whose benefit has not been fully paid.

2.29 PERIOD OF SEVERANCE

The period beginning with the Severance from Service Date and ending with the date immediately preceding the Employee's Reemployment Date with the Employer.

2.30 PLAN

The County of Riverside Part-Time & Temporary Employees Retirement Plan, as set forth herein, and as it is amended from time to time.

2.31 PLAN YEAR

The accounting period of this Plan and the Trust is the 12-consecutive-month period beginning July 1 and ending the following June 30. The Plan Year will also be the limitation year for purposes of Code Section 415.

2.32 QUALIFIED DOMESTIC RELATIONS ORDER

A qualified domestic relations order, within the meaning of Code section 414(p), which creates or recognizes the existence of an Alternate Payee's right to, or assigns to an Alternate Payee the right to, receive all or a portion of the benefits payable to a Participant.

2.33 QUALIFIED MILITARY SERVICE UNDER USERRA

The Uniformed Services Employment and Reemployment Rights Act of 1994. Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with the mandatory provisions of Section 414(u) of the Code.

2.34 REEMPLOYMENT DATE

The first date following a Period of Severance.

2.35 REHIRED ANNUITANT

Any person employed by the Employer who is a former participant in a retirement system (as defined in Code Section 3121(b)) maintained by the Employer, who has previously retired and who is either in pay status or has reached normal retirement age under that system, as provided in Treasury Regulations Section 31.3121(b)(7)-2(d)(4).

2.36 REQUIRED BEGINNING DATE

A Participant's Required Beginning Date is April 1st of the calendar year following the calendar year in which the Participant reaches age 70½ (for Participants born before July 1, 1949) or age 72 (Participants born on or after July 1, 1949) or, if later, the calendar year in which the Participant actually retires.

A Participant's Accrued Benefit shall be actuarially increased to take into account the period after age 70½ in which the Participant does not receive any benefits under the Plan. The Participant shall be entitled to a minimum of the Actuarial Equivalent of the Participant's Accrued Benefit as determined as of the April 1 following the calendar year in which the Participant attains age 70½ (January 1, 1997 in the case of a Participant who attained age 70½ prior to 1996), and ending on the date on which benefits commence after retirement in an amount sufficient to satisfy Code § 401(a)(9).

The amount of actuarial increase payable as of the end of the period for actuarial increases must be no less than the Actuarial Equivalent of the Participant's retirement benefit that would have been payable as of the date the actuarial increase must commence plus the

Actuarial Equivalent of additional benefits accrued after that date, reduced by the Actuarial Equivalent of distributions made after that date. The actuarial increase is generally the same as, and not in addition to, the actuarial increase required for that same period under Code § 411 to reflect the delay in payments after normal retirement, except that the actuarial increase required under Code § 401(a)(9)(C) must be provided even in the period during which an employee is in service as defined in § 203(a)(3)(B) of the Employee Retirement Income Security Act of 1974.

For purposes of Code § 411(b)(1)(H), the actuarial increase will be treated as an adjustment attributable to the delay in distribution of benefits after the attainment of Normal Retirement Age. Accordingly, to the extent permitted under Code § 411(b)(1)(H), the actuarial increase required under Code § 401(a)(9)(C)(iii) may reduce the benefit accrual otherwise required under Code § 411(b)(1)(H)(i), except that the rules on the suspension of benefits are not applicable.

2.37 ROLLOVER CONTRIBUTION

Amounts transferable to this Plan (a) in a trustee to trustee transfer from another qualified plan; (b) from another qualified plan as a distribution eligible for tax free rollover treatment and which is transferred by a Participant to this Plan within 60 days following his or her receipt thereof; (c) from a conduit individual retirement account if the only assets therein were previously distributed to the Participant by another qualified plan as a lump sum distribution eligible for a tax free rollover within 60 days of receipt thereof and earnings on said assets; or (d) from a conduit individual retirement account meeting the requirements of (a) above and transferred to this Plan within 60 days of receipt thereof. The Plan does not permit any Rollover Contributions to this Plan.

2.38 SEVERANCE FROM SERVICE

The later of the date the Employee retires, dies, or otherwise separates from service; or fails to return to active work within three working days following the expiration of an approved Leave of Absence.

2.39 SPONSOR

The County of Riverside.

2.40 SPOUSE

The person to whom a Participant is legally married under applicable state law.

2.41 TERMINATION OF EMPLOYMENT

Any of the following events:

- (a) Dismissal for any reason;
- (b) Refusal or failure to return to work within three working days after date requested by the Employer;

- (c) Failure to return to work within three working days of the conclusion of an approved Leave of Absence;
- (d) Voluntary termination, including retirement; or
- (e) Death

2.42 TERMINATED PARTICIPANT

A Participant who has ceased to be an Employee for reasons other than retirement, death or disability.

2.43 TRUST

The fund established under the Trust Agreement from contributions made by the Employer or Employee Contributions and from which any distributions under the Plan are made.

2.44 TRUST AGREEMENT

The agreement between the Trustee and the Employer which provides for the investment and administration of the Trust.

2.45 TRUSTEE

The U.S. Bank National Association and any successor to such Trustee.

2.46 VALUATION DATE

Except as otherwise provided regarding the Top Heavy Ratio, the date on which the Trustee determines the value of the assets of the Trust Fund, which must occur annually on the last day of the Plan Year and such other date or dates as deemed necessary by the Administrator in a manner that does not discriminate in favor of Highly Compensated Employees. The Valuation Date need not necessarily be the same as the date for actuarially determining the required Employer contributions to fund Plan benefits under Section 3.1.

**ARTICLE III
PLAN PARTICIPATION**

3.1 ELIGIBILITY

Each person who is an Employee on or after Effective Date shall become a Participant under this Plan on his Entry Date. If, after becoming a Participant, such Participant becomes a qualified participant covered by another retirement system as provided in Code Section 3121(b)(7)(F) and Treasury Regulations 31.3121(b)(7)-2, such Employee shall be an Inactive Participant under this plan while covered by such other plan. Furthermore, a person shall be an Inactive Participant under this Plan during any periods of service that are treated as employment under Code Section 3121(b), to the extent that the Employer is paying tax under Code Section 3111(a) with respect to such individual.

If a person providing services to the Employer is in an ineligible group of employees and thereafter transfers to an eligible group of Employees as described in Section 2.13 herein, he/she shall be eligible to participate in the Plan upon such date of transfer. If an Employee who is in an eligible group of Employees thereafter transfers to an ineligible group of employees as described in Section 2.13 herein, he/she shall become an Inactive Participant. Such person's Accrued Benefit will be fixed and shall remain in the Plan. No further contributions shall be made to the Plan on his/her behalf.

3.2 REEMPLOYMENT

An Employee who has incurred a Termination of Employment, and is later re-employed, becomes a Participant as of the date of reemployment as an Employee. If a Participant receives a distribution upon termination and then resumes employment covered under the Plan, such Participants Accrued Benefit shall be reduced to reflect an appropriate actuarial offset for the prior distribution.

3.3 QUALIFIED MILITARY SERVICE UNDER USERRA

Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit required with respect to Qualified Military Service under USERRA will be provided in accordance with the mandatory provisions of Code section 414(u). In addition, notwithstanding any Plan provision to the contrary and in compliance with HEART, the following provisions shall apply:

- (a) Effective July 1, 2007, if the Participant dies while on qualified military service, the Participant's Beneficiary shall be entitled to any benefit under the Plan (other than additional benefit accruals related to the period of qualified military service) to the same extent that the Participant would have been entitled to such benefit had the Participant resumed employment and then incurred a Termination of Employment on account of death.

- (b) Effective July 1, 2009, Differential Wages shall be treated as “compensation,” for purposes of Code section 415 and Plan section 8.1 (related to maximum benefit limitations), paid to an Employee by the employer making the payment. For this purpose, Differential Wages means any payment made by the Employer with respect to any period during which the Employee is performing qualified military service and represents all or a portion of the wages the Employee would have received from the Employer if the Employee were performing service for the Employer.

**ARTICLE IV.
CONTRIBUTIONS**

4.1 EMPLOYER CONTRIBUTIONS

Employer contributions will be made to the Plan in accordance with the following provisions:

- (a) **Payment of Employer Contributions:** The Employer intends to pay contributions for a particular Plan Year in such amounts as are actuarially required to fund Plan benefits and at such times as the Employer may decide.
- (b) **Determining Employer Contributions:** The Administrator may retain an enrolled actuary for the purpose of providing an actuarial valuation to determine the amount of required Employer contributions under Code § 412. Such actuarial valuation will be based on the method of funding and actuarial assumptions as deemed reasonable by the enrolled actuary and, if applicable, the period of amortization of any unfunded actuarial liability; and as determined by the enrolled actuary may reflect the adjustment for experience realized from various factors such as the investment of the Trust Fund, mortality, turnover, forfeitures, and any dividends resulting from insurance, if applicable.

**ARTICLE V.
PLAN BENEFITS**

5.1 TIME OF BENEFIT DISTRIBUTION

- (a) Normal and late Retirement benefits will begin not later than 60 days after the close of the Plan year during which Normal Retirement Date, or Late Retirement Date occurs, whichever is later.
- (b) Death benefits will commence no later than 1 year after the date that notice is received of death.
- (c) In the case of any other Termination of Employment, the payments will begin not later than 60 days after the close of the Plan Year in which Normal Retirement Date would have occurred if the Participant had remained in the employ of the Employer. Payment may occur no sooner than as provided in Section 5.2 below.
- (d) Notwithstanding any other provision in this Plan, if the Actuarial Equivalent of the Accrued Benefit is no greater than \$1,000 on an Employee's Termination of Employment (except in the case of death), the Trustee shall distribute in a single sum (within a reasonable time after such Termination) to the Participant the Actuarial Equivalent of his or her entire vested benefit earned under this Plan, subject to the Employee's right to have such monies transferred as otherwise provided herein.

5.2 BENEFITS EXCEEDING \$1,000

- (a) If the Actuarial Equivalent of the Accrued Benefit exceeds \$1,000 and is less than \$5,000, the Participant may request immediate distribution of such amount.
- (b) If the Actuarial Equivalent of the Accrued Benefit is at least \$5,000, the Participant's benefit is not distributable before the Participant reaches his or her Normal Retirement Age.
- (c) The consent of the Participant to any benefit distribution must be obtained in writing prior to distribution. The Participant will not be required to consent to a distribution that is required by Code § 401(a)(9) or § 415.
- (d) The Administrator must notify the Participant of the right to defer any distribution until Normal Retirement Age. Notification will include a general explanation of the material features and relative values of the optional forms of benefit available under the Plan and will be provided no less than 30 days or more than 180 days prior to the Annuity Starting Date.
- (e) Distributions of the Participant's benefit may begin less than 30 days after the notice described in paragraph (d) is given if (1) the Administrator clearly informs the Participant that the Participant has a right to a period of at least 30 days after receiving notice to consider the decision of whether or not to elect a distribution; (2)

the Participant, after receiving the notice, affirmatively elects a distribution (or a particular distribution option); and (3) the Participant does not revoke the election at any time prior to the expiration of the 7-day period that begins on the date the notice is given.

5.3 BENEFIT UPON NORMAL RETIREMENT

Subject to the provisions of Articles 7 and 8 with respect to the limitations under Code Section 415, each Participant will be entitled to retire at his Normal Retirement Date and to receive an Accrued Benefit payable as a Normal Form of Retirement Benefit equal to the amount determined in accordance with the provisions of this Section. Each Participant's monthly Accrued Benefit will be an amount equal to 1/12th of the following:

Benefit Formula: 2% of the Participant's Career Compensation.

5.4 BENEFIT UPON LATE RETIREMENT

If a Participant continues employment with the County beyond Normal Retirement Age, subject to the provisions of Code Section 415, the Participant may elect to receive an enhanced benefit payable in the Normal Form of Retirement Benefit calculated in the same manner as if the Participant had not attained Normal Retirement Age. The Participant will receive the full Accrued Benefit after age 65, such payment being subject to the minimum benefit rules of 401(a)(9).

5.5 BENEFIT UPON DEATH

In the event of the death of a Participant or Beneficiary whose benefits under the Plan have fully commenced, no other benefits shall be payable other than the remaining value of benefits under the Standard Form of Distribution in effect. The Administrator's determination that a Participant has died and that a particular person has a right to receive a death benefit will be final. Upon the death of a Participant prior to the full commencement of benefits, distribution will be in accordance with Section 6.2.

5.6 BENEFIT UPON TERMINATION

A Participant who incurs a Termination of Employment prior to eligibility for other benefits under the Plan will be entitled to the Actuarial Equivalent of his Accrued Benefit. Distribution of such benefit will be made in accordance with Section 5.2.

5.7 DETERMINATION OF VESTED INTEREST

A Participant is 100% Vested in the Actuarial Equivalent of his Accrued Benefit at all times.

**ARTICLE VI.
DISTRIBUTION OF BENEFITS**

6.1 FORM OF BENEFIT DISTRIBUTION

Unless a cash-out has occurred pursuant to Section 5.1(d), the benefit of a Participant will be distributed in accordance with the following:

- (a) Standard Form of Distribution: If the Actuarial Equivalent of the Participant's Accrued Benefit is \$5,000 or less, the Accrued Benefit shall be distributed as a single lump sum. If the Actuarial Equivalent of the Participant's Accrued Benefit is more than \$5,000, then the Accrued Benefit shall be distributed as a straight life annuity payable in equal installments for the life of the Participant that terminates upon his or her death.

6.2 BENEFIT UPON DEATH

Unless a cash-out has occurred pursuant to Section 5.1(d), a deceased Participant's death benefit will be distributed in accordance with the following:

- (a) If the Participant dies before retirement benefits begin, his or her Beneficiary will be entitled to a lump sum payment equal to the value at the date of death of his Employee Contribution Account. This benefit is the only benefit provided by the Plan on the death of the Participant.
- (b) Participants have the right to name and or change Beneficiary in the manner specified by the Administrator.
- (c) If the Participant fails to designate a Beneficiary or if the designated Beneficiary does not survive the Participant's death, the death benefit described in subsection (a) above will be paid in the following order: (1) to the Participant's Spouse or domestic partner; (2) if none, to the Participant's children (including stepchildren) in equal shares; (3) if none, to the Participant's parents in equal shares; (4) if none, to the Participant's estate; and (5) if none, payment will be made to next of kin as provided by law.

6.3 MINIMUM REQUIRED DISTRIBUTIONS—CODE SECTION 401(a)(9)

This section applies for purposes of determining required minimum distributions for distribution Plan Years beginning on or after January 1, 2003. In other words, this section provides the latest time for distributions to be made or commenced. Other Plan provisions may specify earlier dates for distributions and such provisions shall govern to the extent they are consistent with this section. This section, however, takes precedence over any inconsistent Plan provision. All distributions required under this section shall be determined and made in accordance with Code section 401(a)(9) and the Treasury Regulations thereunder, including the minimum distribution incidental benefit requirements, which are incorporated herein by this reference.

- (a) Death benefits. Death benefits (as described in Section 6.2) will be paid as soon as administratively practicable but in no event later than December 31 of the calendar year that includes the 5th anniversary of the Participant's death.
- (b) Lump Sum Distribution. A distribution in the form of a lump sum (as described in Section 6.1) will be paid no later than the Participant's Required Beginning Date.
- (c) Single Life Annuity. The annuity form of benefit (as described in Section 6.1) will be paid in a series of monthly payments of a uniform amount over the period that begins no later than the Participant's Required Beginning Date and ends with the Participant's death.

6.4 STATUTORY COMMENCEMENT OF BENEFITS

Unless the Participant otherwise elects, distribution of a Participant's benefit must begin no later than the 60th day after the latest of the close of the Plan Year in which the Participant (1) reaches Normal Retirement Age; (2) reaches the 10th anniversary of the year the Participant commenced Plan participation; or (3) terminates service with the Employer. The failure of a Participant to consent to a distribution while a benefit is immediately distributable will be deemed to be an election to defer payment of any benefit sufficient to satisfy this Section.

6.5 DISTRIBUTION IN EVENT OF LEGAL INCAPACITY

If any person who is entitled to receive a distribution of benefits (the "Payee") suffers from a legal incapacity, payments may be made in one or more of the following ways as directed by the Administrator: (a) to the guardian or legal representative of the Payee's person or estate; (b) to a relative of the Payee, to be expended for the Payee's benefit; or (c) to the custodian of the Payee under any Uniform Transfers to Minors Act or under any Uniform Gifts To Minors Act. The Administrator's determination of the minority or incapacity of any Payee will be final.

6.6 DIRECT ROLLOVERS

A distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover, which is a payment by the Plan to the eligible retirement plan specified by the distributee.

- (a) Eligible Rollover Distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or for the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code § 401(a)(9); and (prior to January 1, 2002) the portion of any

distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

Effective for distributions made after December 31, 2001, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax contributions, which are not includable in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Code section 408(a) or (b), to a qualified plan described in Code sections 401(a) or 403(a) or to an account or annuity described in Code section 403(b) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable.

- (b) **Eligible Retirement Plan:** An eligible retirement plan is an individual retirement account described in Code § 408(a), an individual retirement annuity described in Code § 408(b), an annuity plan described in Code § 403(a), an annuity contract described in Code § 403(b), or a qualified trust described in Code § 401(a), that accepts the distributee's eligible rollover distribution. In addition, an eligible retirement Plan shall also mean an eligible Plan under Code § 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such Plan from this Plan. In the case of an eligible rollover distribution to the surviving spouse or to a spouse or former spouse who is the alternate payee under qualified domestic relation order, as defined in Code § 414(p) and § 414(p)(11), an eligible retirement plan is an individual retirement account or individual retirement annuity.
- (c) **Definition of Distributee:** For purposes of this Section, a distributee includes an Employee or former Employee. In addition, an Employee's or former Employee's surviving spouse and an Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order as defined in Code § 414(p), are distributees with regard to the interest of the spouse or former spouse. In the case of an eligible rollover distribution to a Beneficiary other than a spouse or former spouse, see the paragraph below.

Effective for distributions made after December 31, 2009 on behalf of a deceased Employee to a Beneficiary who is neither the Employee's surviving spouse or the Employee's former spouse and alternate payee, the nonspouse Beneficiary shall be a "distributee" and the distribution will be treated as an "eligible rollover distribution" if the following requirements are met. The distribution must be made on behalf of the nonspouse Beneficiary in a direct transfer to an individual retirement account, described in Code section 408(a), or an individual retirement annuity, described in Code section 408(b) that is treated as an inherited individual retirement account or annuity for purposes of Code section 408(d)(3)(C). In addition, Code section 401(a)(9)(B), other than clause (iv) thereof relating to

required minimum distributions to the Beneficiary, shall apply to the inherited individual retirement account or annuity.

- (d) Effective for distributions made on or after January 1, 2008, a distributee, other than a nonspouse Beneficiary, may make a direct rollover of an eligible rollover distribution from the Plan to a Roth IRA, within the meaning of Code section 408A. The amount rolled over is included in the gross income of the distributee to the same extent that such amount would have been included in gross income if not rolled over. A direct rollover to a Roth IRA is not subject to mandatory income tax withholding under Code section 3405. The determination of eligibility to make a direct rollover to a Roth IRA is solely the responsibility of the distributee.

ARTICLE VII.
PRE 2007 CODE § 415 LIMITATIONS

7.1 LIMITATION ON ACCRUED BENEFIT PAYABLE FROM THE PLAN

- (a) Notwithstanding any contrary provision of the Plan, the Accrued Benefit payable from this Plan for any one Participant shall not exceed the lesser of the defined benefit dollar limit or 100% of the Participant's highest average compensation.
- (b) The defined benefit dollar limitation is \$160,000, as adjusted, effective January 1 of each year, under Code § 415(d) in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under Code § 415(d) will apply to Limitation Years ending with or within the calendar year for which the adjustment applies.
- (c) The term Highest Average Compensation means a Participant's average Code § 415 Compensation for the three consecutive Years of Service or 1-Year Periods of Service with the Employer that produces the highest average. If a Participant has separated from service, the Participant's Highest Average Compensation will be automatically adjusted by multiplying such Compensation by the cost of living adjustment factor prescribed by the Secretary of the Treasury under Code § 415(d) in such manner as the Secretary may prescribe. The adjusted compensation amount will apply to Limitation Years ending with or within the calendar year of the date of the adjustment.
- (d) The maximum permissible benefit for a non-multi-Employer plan is the lesser of the defined benefit dollar limitation or the defined benefit compensation limitation (both adjusted where required, as provided in (1) and, if applicable, in (3) or (4) below). The "maximum permissible benefit" for a multi-Employer plan is the defined benefit dollar limitation (adjusted where required, as provided in (1) and, if applicable, in (3) or (4) below).
 - (1) If the Participant has fewer than 10 years of participation in the Plan, the defined benefit dollar limitation shall be multiplied by a fraction, (i) the numerator of which is the number of years (or part thereof) of participation in the Plan and (ii) the denominator of which is 10. In the case of a Participant in a non-multi-Employer plan who has fewer than 10 years of service with the Employer, the defined benefit compensation limitation shall be multiplied by a fraction, (i) the numerator of which is the number of years (or part thereof) of service with the Employer and (ii) the denominator of which is 10.
 - (2) If a Participant's Annual Benefit commences before the Participant's Social Security Retirement Age, but on or after Age 62, the Defined Benefit Dollar Limitation, as reduced under subparagraph (1) above, if necessary, will be determined as follows: (A) if a Participant's Social Security Retirement Age

is 65, the dollar limitation for benefits commencing on or after Age 62 is determined by reducing the Defined Benefit Dollar Limitation by 5/9 of 1% for each month by which benefits commence before the month in which the Participant attains Age 65; (B) if a Participant's Social Security Retirement Age is greater than 65, the dollar limitation for benefits commencing on or after Age 62 is determined by reducing the Defined Benefit Dollar Limitation by 5/9 of 1% for each of the first 36 months and 5/12 of 1% for each of the additional months (up to 24 months) by which benefits commence before the month in which the Participant attains Social Security Retirement Age.

- (3) If the benefit of a Participant begins prior to age 62, the defined benefit dollar limitation applicable to the Participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the Actuarial Equivalent of the defined benefit dollar limitation applicable to the Participant at age 62 (adjusted under (1) above, if required). The defined benefit dollar limitation applicable at an age prior to age 62 is determined as the lesser of (i) the Actuarial Equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in the Plan and (ii) the Actuarial Equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate and the applicable mortality table as defined for purposes of benefits payable in a form subject to Code § 417(e). Any decrease in the defined benefit dollar limitation determined in accordance with this paragraph (3) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the Participant.
- (4) If the benefit of a Participant begins after the Participant attains age 65, the defined benefit dollar limitation applicable to the Participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is Actuarially Equivalent to the defined benefit dollar limitation applicable to the Participant at age 65 (adjusted under (1) above, if required). The Actuarial Equivalent of the defined benefit dollar limitation applicable at an age after age 65 is determined as the lesser of (i) the Actuarial Equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in the Plan and (ii) the Actuarial Equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate assumption and the applicable mortality table as defined for purposes of benefits payable in a form subject to Code § 417(e). For these purposes, mortality between age 65 and the age at which benefits commence shall be ignored.
- (5) If a Participant's Annual Benefit commences after the Participant's Social Security Retirement Age, the Defined Benefit Dollar Limitation applicable to the Participant as reduced under subparagraph (1), if necessary, will be

adjusted so that it is the Actuarial Equivalent of an Annual Benefit of such dollar limitation beginning at the Participant's Social Security Retirement Age. Effective for Limitation Years beginning on or after January 1, 1995, the Actuarial Equivalent of the Defined Benefit Dollar Limitation at the Participant's Social Security Retirement Age will be determined as the lesser of the Actuarial Equivalent of the Defined Benefit Dollar Limitation at the Participant's Social Security Retirement Age computed using the interest rate and mortality table (or other tabular factor) specified in the Plan for determining Actuarial Equivalence as defined in Section 2.2(d), and the Actuarial Equivalent of the Defined Benefit Dollar Limitation at the Participant's Social Security Retirement Age computed using a 5% interest rate assumption and the applicable mortality table as set forth in Section 2.2(e). For these purposes, mortality between a Participant's Social Security Retirement Age and the Age at which benefits commence must be ignored.

- (6) Notwithstanding anything else in this Section to the contrary, the benefit otherwise accrued or payable to a Participant under this Plan shall be deemed not to exceed the Defined Benefit Compensation Limitation if the retirement benefits payable for a Plan Year under any form of benefit with respect to such Participant under this Plan and under all other defined benefit plans (regardless of whether terminated) ever maintained by the Employer do not exceed \$1,000 multiplied by the Participant's number of Years of Service or 1-Year Periods of Service or parts thereof (not to exceed 10) with the Employer; and the Employer has not at any time maintained a defined contribution plan, a welfare benefit fund under which amounts attributable to post-retirement medical benefits are allocated to separate accounts of key employees (as defined in Code § 419A(d)(3)), or an individual medical account in which the Participant participated (for these purposes, voluntary or involuntary employee contributions under a defined benefit plan are treated as a separate defined contribution plan).
- (7) If the Annual Benefit payable to a Terminated Participant who has not received a complete distribution of his or her nonforfeitable Accrued Benefit is limited by either the Defined Benefit Dollar Limitation or by the Defined Benefit Compensation Limitation, such benefit may, at the discretion of the Sponsor and applied in a uniform manner, be increased in accordance with cost of living adjustments under Code § 415(d).
- (e) The term Projected Annual Benefit means the Annual Benefit to which the Participant would be entitled assuming (1) the Participant will continue employment until Normal Retirement Age (or current Age, if later), and (2) the Participant's Compensation for the current Limitation Year and all other relevant factors used to determine benefits will remain constant for all future Limitation Years.
- (f) A Participant will be credited with a Year of Participation (computed to fractional parts of a year) for each accrual computation period in which the following

conditions are met: (1) the Participant is credited with at least the number of Hours of Service (or Period of Service if the elapsed time method is used) for benefit accrual purposes, required under the Plan to accrue a benefit for the accrual computation period, and (2) the Participant is included as a Participant under the eligibility provisions of the Plan for at least one day of the accrual computation period. If these two conditions are met, the portion of a Year of Participation credited to the Participant will equal the amount of benefit accrual service credited to the Participant for such accrual computation period. A Participant who is permanently and totally disabled within the meaning of Code § 415(c)(3)(C)(i) for an accrual computation period will receive a Year of Participation with respect to that period. In addition, for a Participant to receive a Year of Participation (or part thereof) for an accrual computation period, the Plan must be established no later than the last day of such computation period. In no event will more than one Year of Participation be credited for any 12-month period.

- (g) This Article 7 shall apply except as modified or changed by the provisions of Article 8 below.

ARTICLE VIII.
POST 2007 CODE § 415 LIMITATIONS

8.1 FINAL SECTION 415 REGULATIONS

- (a) Effective date. The limitations of this Article 8 shall apply in Limitation Years beginning on or after July 1, 2007 to override any inconsistent provisions of Article 7, except as otherwise provided herein.
- (b) Grandfather provision. The application of the provisions of this Article 8 shall not cause the maximum permissible benefit for any Participant to be less than the Participant's accrued benefit under all the defined benefit plans of the employer or a predecessor employer as of the end of the last Limitation Year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to Code Section 415 in effect as of the end of the last Limitation Year beginning before July 1, 2007, as described in section 1.415(a)-1(g)(4) of the Treasury regulations.
- (c) Incorporation by reference. Notwithstanding anything contained in the Plan to the contrary, the limitations, adjustments, and other requirements prescribed in the Plan shall comply with the provisions of Code Section 415 and the final regulations promulgated thereunder, the terms of which are specifically incorporated herein by reference as of the effective date of this Article VIII, except where an earlier effective date is otherwise provided in the final regulations or in this Amendment. However, where the final regulations permit the Plan to specify an alternative option to a default option set forth in the regulations, and the alternative option was available under statutory provisions, regulations, and other published guidance relating to Code Section 415 as in effect prior to April 5, 2007, and the Plan provisions in effect as of April 5, 2007 incorporated the alternative option, said alternative option shall remain in effect as a plan provision for Limitation Years beginning on or after July 1, 2007 unless another permissible option is selected in this Article 8.
- (d) High three-year average compensation. For purposes of the Plan's provisions reflecting Section 415(b)(3) (i.e., limiting the annual benefit payable to no more than 100% of the Participant's average annual compensation), a Participant's average compensation shall be the average compensation for the three consecutive years of service during which the Participant had the highest aggregate compensation as an Employee, except that a Participant's compensation for a year of service shall not include compensation in excess of the limitation under Code Section 401(a)(17) that is in effect for the calendar year in which such year of service begins. If the Participant has less than three consecutive years of service, compensation shall be averaged over the Participant's longest consecutive period of service, including fractions of years, but not less than one year. In the case of a Participant who is

rehired by the Employer after a severance of employment, the Participant's high three-year average compensation shall be calculated by excluding all years for which the Participant performs no services for and receives no compensation from the Employer (the "break period"), and by treating the years immediately preceding and following the break period as consecutive.

- (e) Adjustment to dollar limit after date of severance. In the case of a Participant who has had a severance from employment with the Employer, the defined benefit dollar limitation applicable to the Participant in any Limitation Year beginning after the date of severance shall be automatically adjusted under Code Section 415(d).
- (f) Compensation paid after severance from employment. For Limitation Years beginning on or after July 1, 2007, compensation for a Limitation Year, within the meaning of Code Section 415(c)(3), shall also include the type of compensation described in subsection (g) when such compensation is paid by the later of 2½ months after a Participant's severance from employment with the Employer or the end of the Limitation Year that includes the date of the Participant's severance from employment with the Employer. Any other payment of compensation paid after severance of employment is not considered compensation within the meaning of Code Section 415(c)(3), even if payment is made within the time period specified above.
- (g) Regular pay after severance from employment. Compensation shall include regular pay after severance of employment if:
 - (1) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and
 - (2) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer.
- (h) Administrative delay. Compensation for a Limitation Year shall include amounts earned but not paid during the Limitation Year solely because of the timing of pay periods and pay dates, provided the amounts are paid during the first few weeks of the next Limitation Year, the amounts are included on a uniform and consistent basis with respect to all similarly situated Participants, and no compensation is included in more than one Limitation Year.

**ARTICLE IX.
DUTIES OF THE ADMINISTRATOR**

9.1 PLAN ADMINISTRATOR

- (a) The Administrator has the duty and full power and authority to administer this Plan; the Trustee does not have this duty.
- (b) In addition to other powers and duties granted to it under the Plan; the Administrator has the following powers and duties; these are only examples of the powers of the Administrator and are not to be construed as limiting his/her ability to administer the Plan:
 - (1) Construing the terms of the Plan;
 - (2) Construing and interpreting eligibility for membership and for benefits;
 - (3) Crediting contributions and similar matters;
 - (4) Deciding how and when benefits will be paid;
 - (5) Acting on applications for benefits or other claims and hearing appeals from adverse determinations;
 - (6) Enforcing the Plan according to its terms and to the rules and regulations adopted by the Administrator from time to time;
 - (7) Determining questions submitted by the Trustee to the Administrator in connection with administration of the Plan and the Trust.
 - (8) Implement in the County payroll system the employer contribution rate in accordance with actuarial valuation;
- (c) Investing and/or reinvesting all or any part of the Trust.
- (d) Administrator's Decisions are Final: To the maximum extent allowed by law, any decisions of the Administrator shall be conclusive and final.

9.2 CLAIMS FOR BENEFITS

The provisions of this section describe the benefit claims procedures of the Plan. No lawsuit may be initiated by any person before fully pursuing the procedures set forth in this section and Section 9.3.

- (a) The right to a benefit of a Participant, Beneficiary, Alternate Payee, or any other person entitled to claim a benefit under the Plan shall be determined by the Human Resources Director, provided, however, that such Director may delegate his/her responsibility to any person. All persons entitled to claim a benefit under the Plan

shall be referred to as a "Claimant" for purposes of Sections 9.2 and 9.3. The term "Claimant" shall also include, where appropriate to the context, any person authorized to represent the Claimant under procedures established by the Human Resources Director.

- (1) The Claimant may file a claim for benefits by notice to the Human Resources Director. The notice must be in writing and be delivered by hand or via post to the County Office of the Director.
 - (2) Any claim for benefits under the Plan, pursuant to this section, shall be filed with the Human Resources Director no later than 12 months after the date that a transaction occurred, or should have occurred, with respect to a Claimant's Account (e.g., one year after benefits were credited, or should have been credited, to a Claimant's Account, or 12 months after any withdrawal or distribution occurred or should have occurred). The Human Resources Director in its sole discretion shall determine whether this limitation period has been exceeded.
- (b) Notwithstanding anything to the contrary in this Plan, the following shall not be a claim for purposes of this section.
- (A) A request for determination of eligibility, enrollment, or participation under the Plan without an accompanying claim for benefits under the Plan. The determination of eligibility, enrollment, or participation under the Plan may be necessary to resolve a claim, in which case such determination shall be made in accordance with the claims' procedures set forth in this section.
 - (B) Any casual inquiry relating to the Plan, including an inquiry about benefits of the circumstances under which benefits might be paid under the plan.
 - (C) A claim that is defective or otherwise fails to follow the procedures of the Plan (e.g., a claim that is addressed to a party, other than the Human Resources Director, or an oral claim).
 - (D) An application or request for benefits under the Plan.
- (c) If a claim for benefits is wholly or partially denied, the Human Resources Director shall, within a reasonable period of time, but no later than 90 business days (excluding weekends and County holidays) after receipt of the claim, notify the Claimant of the denial of benefits. If special circumstances justify extending the period up to an additional 90 days, the Claimant shall be given written notice of this extension within the initial 90-day period, and such notice shall set forth the special circumstances and the date on which a decision is expected.
- (d) A notice of denial:

- (1) Shall be written in a manner calculated to be understood by the Claimant; and
 - (2) Shall contain:
 - (A) The specific reasons for denial of the claim;
 - (B) Specific reference to the Plan provisions on which the denial is based;
 - (C) A description of any additional material or information necessary for the Claimant to perfect the claim, along with an explanation as to why such material or information is necessary; and
 - (D) An explanation of the Plan's claim review procedures and the time limits applicable to such procedures.
- (e) To the extent that no action is taken by the Human Resources Director with respect to a Claimant's claim, such claim shall be deemed to be denied as of the date that is 90 days after the date the claim was filed and the Claimant shall have the right to pursue an appeal pursuant to Section 9.3.

9.3 APPEALS PROCEDURE

The provisions of this section describe the appeals procedures of the Plan. All decisions made under the appeals procedures described in this section shall be final and there shall be no further right of appeal. No lawsuit may be initiated by any person before fully pursuing the procedures set forth in this section.

- (a) A Claimant's appeal of a determination made under Section 9.2 must be filed within 60 business days of the date that the notice was issued (pursuant to Section 9.2(c)) or the denial was deemed to occur (pursuant to Section 9.2(e)). The appeal must be in writing and be delivered by hand or via post to the County Office of the Director.
- (b) Upon receipt of the Claimant's written request for appeal, the Administrator will provide a written response to the appeal within 60 business days of the Administrator's final determination. If special circumstances justify extending the appeal period, the Administrator shall give written notice of such extension within the initial 60-day period, and such notice shall set forth the special circumstances and the date on which a decision is expected.
- (d) In connection with the Claimant's appeal, upon request, the Claimant may review and obtain copies of all documents, records and other information relevant to the Claimant's claim for benefits, but not including any document, record or information that is subject to any attorney-client or work-product privilege or whose disclosure would violate the privacy rights or expectations of any person other than the Claimant. The Claimant may submit concerns and comments in

writing and may submit written comments, documents, records, and other information relating to the claim for benefits. All comments, documents, records, and other information submitted by the Claimant shall be taken into account in the appeal without regard to whether such information was submitted or considered in the initial benefit determination.

- (e) The decision on review of the claim appeal:
 - (1) Shall be written in a manner calculated to be understood by the Claimant;
 - (2) Shall include specific reasons for the decision;
 - (3) Shall contain specific references to the Plan provisions on which the decision is based;
 - (4) Shall contain a statement that the Claimant is entitled to receive, upon request and free of charge, reasonable access to, and other information relevant to the Claimant's claim for benefits.
- (f) No legal action may be commenced after the later of:
 - (1) 180 days after receiving the written response of the Administrator to an appeal, or
 - (2) 365 days after the Claimant's original claim for benefits.

9.4 ADMINISTRATIVE COSTS

The cost of administration of this Plan shall be paid by the Trustee from Plan assets, on the direction of the Administrator. If there are insufficient assets to pay the cost of administration, the cost shall be paid by the Plan.

**ARTICLE X.
AMENDMENT AND TERMINATION**

10.1 RIGHT TO AMEND

The Employer expects to continue this Plan indefinitely, but nevertheless the Employer has the right at any time or times to amend this Plan in any manner for any reason whatsoever. The right to amend includes but is not limited to the right to discontinue Employer and Employee contributions to any extent and in any manner deemed necessary or appropriate. (Failure to contribute to the Trust in any Plan Year will not discontinue this Plan.)

- (a) Notwithstanding the foregoing the retirement benefits set forth in this Plan for a Participant who is an Employee upon or after retirement at age 65 may not be reduced by amendment or termination. Further, the benefits owed under this Plan to any person whose retirement benefits have commenced under this Plan shall not be reduced by amendment or termination. The benefits of any and all other persons may be reduced as set out in this Article 10.
- (b) No transfers shall be made to the Employer of any interest in Plan assets before satisfaction of all liabilities under the Plan. Further, no amendment to this Plan shall cause any of the Plan assets to be diverted to purposes other than the exclusive benefit of present or future Participants or their Beneficiaries except that when all liabilities under this Plan have been satisfied, then any assets remaining shall be transferred to the Employer or to whatever entity the Employer designates, without limit.
- (c) The Trustee's written consent is required if its rights, duties, responsibilities are increased by the Plan amendment.
- (d) No Plan amendment shall reduce the accrued benefit of any Participant.

10.2 TERMINATION OF PLAN BY SPONSOR

The Sponsor at any time can terminate the Plan and Trust in whole or in part in accordance with, and subject to, the following provisions:

- (a) Termination of Plan: The Sponsor can terminate the Plan and Trust by filing written notice of any such termination with the Administrator and with the Trustee. If required by law or by any Internal Revenue Service such written notice will be provided notice for a minimum of period as required by law or regulation prior to the date of termination.
- (b) Vesting Requirement: Upon complete termination of the Plan, any Participant who is affected by such termination as determined by the Administrator subject to the Internal Revenue Service will have a 100% Vested Interest in his or her unpaid Accrued Benefit with respect to Years of Benefit Service to the date of complete termination, to the extent that Trust Fund assets are sufficient. Upon partial

termination of the Plan only those Participants who have incurred a Termination of Employment on account of the event which caused the partial termination but have not incurred a five (5) year Break in Service shall automatically have a 100% Vested Interest in his or her unpaid Accrued Benefit with respect to Years of Benefit Service to the date of partial termination.

- (c) Continued Administration of Plan Pending Distribution: Upon complete or partial termination of the Plan the Trustee will continue to administer the Trust until distribution has been made to the Participants (which distribution must occur within a reasonable time after the termination of the Plan) with full settlement of all such benefits made by lump sum payments of the Actuarial Equivalent of benefits and/or through the purchase of a group annuity contract or individual annuity contracts to the extent of Trust Fund assets. Effective March 28, 2005, if the amount of any lump sum to be distributed to the Participant under this paragraph exceeds \$1,000 and the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly, then, the Administrator will pay the distribution in a direct rollover to an individual retirement account designated by the Administrator in accordance Code § 401(a)(31)(B).
- (d) If the value of Trust Fund assets is less than the Actuarial Equivalent of all unpaid Accrued Benefits upon Plan termination the benefits of all Participants will be paid prorate to the extent of available assets.

**ARTICLE XI.
MISCELLANEOUS PROVISIONS**

11.1 NO CONTRACT WITH EMPLOYEE

This Plan is not in any way to be deemed a contract between the Employer and any Employees, benefits payable under this Plan are solely from Plan assets, and the Employer assumes no liability or responsibility, therefore.

11.2 GOVERNING LAW

Subject to the provisions of the Code, and other applicable federal statutes, this Plan will be governed in all respects by the laws of the State of California.

11.3 INVALIDITY

If any provision of the Plan or the Trust is invalid or unenforceable, this will not affect any other provision of this Plan of the Trust.

11.4 CORRECTION OF BENEFITS

If a Participant in an application for a benefit, or in response to any request of the Employer or the Administrator for information, makes any erroneous statement, omits any material fact, or fails to correct any information previously furnished incorrectly to the Employer or the Administrator for its records, the amount of benefit will be adjusted on the basis of the correct facts. The amount of any overpayment or underpayment will be deducted from or added to the next succeeding payments as the Administrator directs. The Administrator has the right to maintain an action to recover any amounts improperly paid to any person.

11.5 MISSING PARTICIPANTS

If the Administrator is unable to locate a Participant or Beneficiary for payment of a Plan benefit for a period of one year or longer, then the amount of such benefit will be forfeited and used to reduce the Employer contributions in subsequent Plan Years. However, if such Participant or Beneficiary subsequently makes a claim for such benefit, the forfeited amount will be restored and paid to such Participant or Beneficiary within a reasonable period of time after the claim. In no event will such benefit escheat under California law.

11.6 ANTI-ALIENATION

No benefit or interest available under the Plan will be subject to assignment or alienation, either voluntary or involuntary, except in the case of:

- (a) A Qualified Domestic Relations Order;
- (b) A federal tax levy made pursuant to Code section 6331 or by the United States' collection of a judgment resulting from an unpaid federal tax assessment; or

- (c) Offsets to payments described in a judgment, order, decree, or settlement agreement relating to a breach of fiduciary duty or criminal act against the Plan, as further described in Code section 401(a)(13).


The preceding sentence shall also apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a Participant under a domestic relations order, unless the order is determined to be a Qualified Domestic Relations Order.

IN WITNESS WHEREOF, the Employer has caused this Restatement of the Plan to be executed as of the date set forth below.

DATE: December 7, 2021

ATTEST:

COUNTY OF RIVERSIDE

By: 
Clerk of the Board

By: _____

By: Karen S. Spiegel
Chair, Board of Supervisors
KAREN SPIEGEL

FORM APPROVED COUNTY COUNSEL
BY: MCT 19 NOV 21
MICHAEL C. THOMAS DATE