

ALAMEDA COUNTY
401(a) EMPLOYEE RETIREMENT PLAN

Originally Effective as of December 24, 2000

Restated as of January 1, 2009
Amended as of September 18, 2012

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ALAMEDA COUNTY

401(a) EMPLOYEE RETIREMENT PLAN

PREAMBLE

THE COUNTY OF ALAMEDA (the “County of Alameda”) hereby establishes the Alameda County 401(a) Employee Retirement Plan (the “Plan”) effective as of December 24, 2000, for the benefit of Eligible Employees of the County of Alameda. The Plan is designed to constitute a qualified defined contribution (money purchase) pension plan, as described in Section 401(a) of the Code. The Plan is hereby amended and restated, effective as of January 1, 2009.

SECTION 1 **DEFINITIONS**

The following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

- 1.1 “ACERA” means the Alameda County Employees’ Retirement Association.
- 1.2 “Administrator” means the third party service provider or providers with whom the Employer contracts either investments management, recordkeeping, or other management services for the Plan.
- 1.3 “Beneficiary” means the person or legal entity entitled to receive benefits under the Plan after the death of a Participant in accordance with Section 7.6, and “Designated Beneficiary” means any person or legal entity who is designated as a Participant’s Beneficiary in accordance with Section 7.6.
- 1.4 “Code” means the Internal Revenue Code of 1986, as amended. Reference to a specific section of the Code shall include such section, any valid regulation promulgated thereunder, and any comparable provision of any future legislation amending, supplementing, or superseding such section.
- 1.5 “Deferred Compensation Officer” means the Treasurer of Alameda County.
- 1.6 “Eligible Employee” means:
 - (a) employees (as determined on the payroll records of the Employer) who were members of ACERA on March 7, 1973, who have 30 years of continuous service with the Employer, and who, upon reaching 30 years of service, are no longer required to make contributions to ACERA. Such Eligible Employees shall participate solely in Employer Contributions hereunder; and

- (b) individuals holding the positions with the Employer that are identified in Appendix B to the Plan. Appendix B shall also set forth the type(s) of contribution(s) in which such Eligible Employees shall participate hereunder.
- 1.7 “Employer” means the County of Alameda.
- 1.8 “Employer Contributions” means the amounts contributed under the Plan by the Employer in accordance with Section 3.2.
- 1.9 “ERISA” means the Employee Retirement Income Security Act of 1974, as amended. Although ERISA does not apply to governmental plans (such as the Plan), ERISA concepts are relied upon for certain purposes under the Plan. Reference to a specific section of ERISA shall include such section, any valid regulation promulgated thereunder, and any comparable provision of any future legislation amending, supplementing or superseding such section.
- 1.10 “Investment Option” means any investment vehicle described in Section 5.3.
- 1.11 “Investment Manager” means any investment manager appointed by the Deferred Compensation Officer, in accordance with Section 9.4.
- 1.12 “Normal Retirement Age” means age 50 for a safety employee, and age 57 for a non-safety employee.
- 1.13 “Participant” means an Eligible Employee who has become a Participant in the Plan pursuant to Section 2.1 and has not ceased to be a Participant pursuant to Section 2.4.
- 1.14 “Participant’s Account” or “Account” means as to any Participant the separate account maintained in order to reflect his or her interest in the Plan.
- 1.15 “Plan” means the Alameda County 401(a) Employee Retirement Plan as set forth in this instrument and as hereafter amended from time to time.
- 1.16 “Plan Year” means the calendar year, except that the initial Plan Year shall begin on December 24, 2000 and end on December 31, 2000.
- 1.17 “Rollover Account” is the subaccount maintained to record any amounts transferred to the Trust Fund by or on behalf of the Participant in accordance with Section 10.4 and the adjustments relating thereto.
- 1.18 “Salary” means “compensation” as defined by ACERA. Notwithstanding the foregoing, no portion of Salary of any Participant for a Plan Year that exceeds the dollar limit described in Section 401(a)(17) of the Code, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code, shall be taken into account for any purpose under the Plan for such Plan Year.

1.19 “Spousal Consent” means the consent of the spouse of a Participant that:

- (a) is set forth in writing;
- (b) acknowledges the effect of the election, consent, waiver or designation made or other action taken by the Participant; and
- (c) is signed by the spouse and witnessed by a third party.

However, if the Participant establishes to the satisfaction of the Employer that Spousal Consent may not be obtained or is not required, either because the Participant has no spouse, the spouse cannot be located or because of other circumstances specified under Section 417(a)(2) of the Code, the Participant’s election or other action shall be effective without Spousal Consent. Any Spousal Consent required under the Plan shall be valid only (1) with respect to the spouse who signs the Spousal Consent, and (2) as to the particular choice made by the Participant in the election or other action requiring Spousal Consent. A Participant (without Spousal Consent) may revoke a prior election or other action at any time before its effective date. The number of such revocations shall not be limited.

1.20 “Trust Fund” means the trust fund established by and maintained under the trust agreement entered into by and between the Employer and the Trustee, as amended from time to time (the “Trust Agreement”), for the purpose of funding the benefits provided by the Plan as provided in Section 11.

1.21 “Trustee” means The Prudential Trust Company and any additional or substituted trustee or trustees from time to time designated by the Employer to serve as Trustee of the Trust Fund.

1.22 “Valuation Date” means each business day; *provided, however*, that the Employer may adopt such procedures as it deems necessary or appropriate to allow for the orderly transition from a predecessor trustee to a successor trustee, including (but not limited to) temporarily suspending Participants’ rights to change their investment instructions and to receive distributions from the Plan.

1.23 “Voluntary Employee Contributions” means the amounts contributed under the Plan by the Employee in accordance with Section 3.1.

SECTION 2

ELIGIBILITY AND PARTICIPATION

2.1 Eligibility. Each Eligible Employee shall become a Participant in the Plan, provided, however, that an Eligible Employee with respect to Voluntary Employee Contributions only shall become a Participant upon making a valid election under Section 3.1.1.

2.2 Suspended Participation. If a Participant:

- (a) ceases to be an Eligible Employee because he or she ceases to meet the requirements of an “Eligible Employee”,
- (b) is granted a leave of absence without pay, or
- (c) is placed on layoff or furlough status,

his or her participation (1) shall be suspended for the duration of the ineligible status, and (2) shall resume as of the date he or she returns to active employment as an Eligible Employee.

2.3 Effects of Suspension. For the period in which a Participant’s participation is suspended, neither the Employee nor the Employer shall make contributions into the Participant’s Account with respect to the period of suspended participation; and his or her Account shall continue to share in the allocations of the earnings and gains (or losses) of the Trust Fund as provided in Section 5.5.

2.4 Termination of Participation. An individual who has become a Participant shall remain a Participant until his or her employment with the Employer terminates, or, if later, until his or her entire Account balance is distributed or forfeited.

SECTION 3

EMPLOYEE AND EMPLOYER CONTRIBUTIONS

3.1 Voluntary Employee Contributions.

3.1.1 Election to Make Voluntary Employee Contributions. Subject to Appendix A, each Participant who is an Eligible Employee with respect to Voluntary Employee Contributions may elect Voluntary Employee Contributions on his or her own behalf in whole percentages from one percent (1%) to twenty-five percent (25%) of the Participant’s Salary for each payroll period. A Participant may make such an election by filing an election with the Deferred Compensation Officer in the form and in the manner required by it. A Participant’s Voluntary Employee Contributions shall be credited to his or her Account, and shall be made in accordance with rules established by the Deferred Compensation Officer.

3.1.2 Change in Percentage or Suspension of Voluntary Employee Contributions. A Participant’s Voluntary Employee Contribution percentage will remain in effect, notwithstanding any change in Salary, until the Participant elects to change the percentage. A Participant may elect at any time to suspend all Voluntary Employee Contributions, provided that he or she files an election with the Deferred Compensation Officer in writing. After the Deferred Compensation Officer receives a Participant’s written election to suspend Voluntary Employee Contributions, such election shall be effective as soon as administratively feasible. Upon at least 30 days written notice to the Deferred Compensation Officer, a

Participant may elect to change or to resume his Voluntary Employee Contributions as of the first day of the first payroll period following 30 days after it receives such written notice.

- 3.1.3 Status of Voluntary Employee Contributions. To make Voluntary Employee Contributions under Section 3.1, the Employer will deduct from the Participant's Salary the amount authorized by the Participant, and shall withhold income taxes on such amount from the Participant's remaining Salary. The Employer will then contribute the amount authorized by the Participant to the Trustee as of the earliest date on which such amount can reasonably be segregated from the Employer's general assets, but in no event later than the 15th business day of the month following the month in which such amount would otherwise have been payable to the Participant in cash.
- 3.2 Employer Contributions. Subject to the provisions of Section 11 and Appendix B, the Employer shall contribute to the Trust Fund on behalf of each Participant who is an Eligible Employee with respect to Employer Contributions an amount equal to three percent (3%) of Salary for the applicable pay period.
- 3.3 Timing of Employer Contributions. Subject to the provisions of Sections 11.1 through 11.3, Employer Contributions to be made each bi-weekly pay period shall be paid to the Trust Fund as soon as practicable after pay date, and in no event later than 30 days following such date. Although the Employer intends the Plan to be permanent,
- (a) the Employer reserves the right, in its absolute and unlimited discretion (subject to its collective bargaining obligations), to amend the Plan to reduce or eliminate prospectively its obligation to make Employer Contributions with respect to future Salary payments; and
 - (b) no Participant shall have any vested contractual right under the Plan or applicable California or Federal law to continue to have Employer Contributions made to his or her Account at the rate in effect prior to the effective date of any such change, nor to have the ability to make Voluntary Employee Contributions.
- 3.4 Reinstatements. The Employer shall also contribute to the Trust Fund the amount necessary to reinstate previously forfeited Employer Contribution Account balances in accordance with Section 7.9, but only to the extent that funds from current forfeitures are insufficient to cover such reinstatements.
- 3.5 No Other Employer Contributions. Notwithstanding any contrary Plan provision, no Employer Contributions shall be made under the Plan except in accordance with the explicit terms of this Section 3, Appendix B or any amendment to the Plan that is duly adopted in accordance with Section 11.2.

SECTION 4
ALLOCATION OF CONTRIBUTIONS

- 4.1 Voluntary Employee Contributions. A Participant's Voluntary Employee Contributions shall be allocated as of the Valuation Date on which the contributions are received by the Trustee, or as soon as administratively practicable thereafter, to the Participant's Account.
- 4.2 Employer Contributions. The Employer Contributions shall be allocated as of the Valuation Date on which the Contributions are received by the Trustee, or as soon as administratively practicable thereafter, to the Account of each Participant, in an amount equal to the portion of such Employer Contribution that is calculated by reference to such Participant's Salary.
- 4.3 Limitations on Allocations. Notwithstanding any contrary Plan provision, in no event shall the Annual Addition, as defined in Appendix A.2(b), to any Participant's Account for any Plan Year exceed the limits prescribed in Appendix A.

SECTION 5
ACCOUNTS AND INVESTMENTS

- 5.1 Participants' Accounts. The Employer shall establish and maintain for each Participant:
- (a) an Account, to which shall be credited his or her share of the Voluntary Employee Contributions or Employer Contributions, whichever is applicable, made pursuant to Sections 3 and 4; and
 - (b) a Rollover Account, to which shall be credited amounts transferred to the Trust Fund by or on behalf of the Participant pursuant to Section 10.4.

Each Participant's Account shall also reflect the total value of its proportionate interest in each of the Investment Options as of each Valuation Date. The maintenance of a separate Account for each Participant shall not be deemed to segregate for the Participant, nor to give the Participant any ownership interest in, any specific assets of the Trust Fund. In the event that a Participant who is eligible to make Voluntary Employee Contributions is or becomes eligible for Employer Contributions, the Employer shall establish and maintain a second Account for such Participant so that the two types of contributions (and earnings thereon) may be segregated, and such an individual shall be eligible for both types of contributions.

- 5.2 Trust Fund Assets. The Trust Fund shall consist of Voluntary Employee Contributions, Employer Contributions, amounts transferred in accordance with Section 10.4, all investments and reinvestments made therewith, and all earnings and gains (less any losses) thereon. The Trustee shall hold and administer all assets of the Trust Fund in the Investment Options, and each Participant and his or her Account shall have only an undivided interest in any of the Investment Options.

- 5.3 Investment Options. The Trustee, at the direction of the Deferred Compensation Officer, shall establish one (1) or more Investment Options which shall be maintained for the purpose of investing such portions of Participants' Accounts as are properly allocable to each such Fund pursuant to Section 5.4. Such Investment Options shall be the same funds as are offered to participants in the County of Alameda 457(b) Deferred Compensation Plan, and shall change as necessary from time to time.
- 5.3.1 Changes. The Deferred Compensation Officer may, from time to time, change the number, identity or composition of the Investment Options made available under this Section 5.3. The Deferred Compensation Office may transfer such investment responsibility to the Trustee or an Investment Manager in accordance with Section 9.4.
- 5.3.2 Reinvestment and Cash. All interest, dividends or other income realized from the investments of any of the Investment Options shall be reinvested in the Investment Option that realized such income. Temporary cash balances arising in the Trust Fund shall be invested in a manner which produces a reasonable rate of return and is consistent with the liquidity needs of the Trust Fund.
- 5.4 Investment Directions. The Trustee shall invest a Participant's Account pursuant to the Participant's investment directions made under this Section 5.4. Each Participant shall indicate the percentages of all amounts allocated to his or her Account that are to be invested in each of the established Investment Options. The Participant may specify as to any Investment Option any percentage that is a whole multiple of one percent (1%), provided that the total of the percentages elected shall equal one hundred percent (100%).
- 5.4.1 Changes. The instructions of a Participant, including a Participant whose employment has terminated but whose entire Account balance has not yet been distributed, concerning the investment of the amounts allocated to his or her Account may be changed in accordance with such procedures as the Deferred Compensation Officer may designate from time to time. The designated procedures at all times shall permit Participants to make investment changes, effective as of any Valuation Date, by making a new investment election in such manner and within such advance notice period as the Deferred Compensation Officer shall specify.
- 5.4.2 Default Rule. If a Participant fails to direct the manner in which the amounts allocated to his or her Account are to be invested, such amounts shall be invested in the Investment Option designated by the Deferred Compensation Officer for such purpose.
- 5.5 Valuation of Participants' Accounts. The Trustee shall determine the fair market values of the assets of the Investment Options, and the Employer shall determine or cause to be determined the fair market value of each Participant's Account, as of each Valuation Date. In making such determinations and in crediting net earnings and gains (or losses) in the Investment Options to the Participants' Accounts, the Employer may employ, and may direct the Trustee to employ, such accounting methods as the Employer deems

appropriate in order fairly to reflect the fair market values of the Investment Options and each Participant's Account. For this purpose the Employer (as appropriate) may rely upon information provided by the Deferred Compensation Officer, the Trustee, any Investment Manager or other persons believed by the Employer to be competent. Likewise, the Trustee (as appropriate) may rely upon information provided by the Employer, and the Deferred Compensation Officer, any Investment Manager or other persons believed by the Trustee to be competent.

- 5.6 Statements of Participants' Accounts. Each Participant shall be furnished with periodic statements reflecting his or her interest in the Plan, at least quarterly.

SECTION 6

VESTING

- 6.1 Vesting. Participants shall be 100% vested at all times in their Accounts.

SECTION 7

DISTRIBUTIONS AND WITHDRAWALS

- 7.1 Events Permitting Distribution. The balance credited to a Participant's Account shall become distributable only in the following circumstances:
- (a) upon termination of the Participant's employment with the Employer; or
 - (b) upon the creation or recognition of an Alternate Payee's (as defined in Section 8.1) right to all or a portion of a Participant's Account under a domestic relations order which the Employer determines is a Qualified Domestic Relations Order (QDRO) (as defined in Section 8.1), but only as to the portion of the Participant's Account that the QDRO states is payable to the Alternate Payee.
- 7.2 Times for Distribution. Subject to Sections 7.5 and 7.12, distributions from a Participant's Account shall be made as soon as practicable after the Valuation Date that next follows the date of the event permitting the distribution.
- 7.3 Death After Benefit Commencement. If a Participant dies after the distribution of his or her Account has been made or commenced under this Section 7, payment of the remainder of such scheduled payments shall be suspended for a period of sixty (60) days after the Participant's death. During such sixty (60)-day suspension period, the Beneficiary of such Participant may elect to receive the balance then credited to the Participant's Account in a single lump sum payment or in installment payments as specified in Section 7.5.1, provided that the Participant's Account will be distributed to the Beneficiary at least as rapidly as under the method of distribution being used prior to the Participant's death. If no such election is made by the Beneficiary by the end of the sixty (60)-day suspension period, the remaining installment payments selected by the Participant shall be made to the Beneficiary.

7.4 Death Prior to Benefit Commencement. If the Participant dies before distribution of his Account commences, his Beneficiary shall receive distribution of such Participant's Account as provided under Section 7.5 and Section 7.5.1, treating the Beneficiary as if he were the Participant; provided however:

- (a) If the Beneficiary is the Participant's surviving spouse, the surviving spouse may elect a lump sum payment or installments payable over a period not extending beyond the life expectancy of the surviving spouse. Distributions to the surviving spouse must commence on or before the later of the calendar year immediately following the calendar year in which the Participant died or the year the Participant would have attained age 70 ½. If the surviving spouse dies before his or her payments begin, subsequent distributions shall be made as if the surviving spouse had been the Participant. For purposes of this Subparagraph, payments will be calculated by use of the return multiples specified in Treasury Regulations Section 1.72-9, without recalculation of life expectancies.
- (b) If the Beneficiary is not the Participant's surviving spouse, the Beneficiary must either elect a distribution payable over a period not extending beyond the life expectancy of the Beneficiary, commencing no later than the end of the calendar year following the calendar year in which the Participant died, or elect a lump sum to be made no later than the end of the calendar year which contains the fifth (5th) anniversary of the date of death of the Participant and in the event no election is made, a lump sum payment of the Account balance shall be made by the end of such calendar year.

7.5 Distribution Method. Upon termination of Participant's employment with the Employer, distribution of the balance credited to a Participant's Account shall be made by the Trustee, in the following manner:

- (a) The entire amount credited to his Account (less any federal, state or local income tax required to be withheld therefrom) shall be paid to him in a single lump sum as soon as practicable; provided, however, that in the event that the Participant's Account balance exceeds \$1,000 (exclusive of any Rollover Contributions and earnings thereon) such Account shall be retained in the Plan until the Participant elects in a manner prescribed by the Deferred Compensation Officer a later date for first receiving payment under the Plan. In addition, a Participant may elect a different method of payment as provided in Section 7.5.1 by filing the appropriate form with the Employer no later than thirty (30) days prior to the Participant's elected payment date.
- (b) If a Participant elects to further defer the commencement of distributions beyond the first elected payout date, then the Participant may elect a later date, provided that any later commencement date meets the required distribution commencement date provisions of Section 7.12 of the Plan and Section 401(a)(9) of the Code. In addition, a Participant with an Account balance who is receiving distributions may elect to revoke any previous election regarding his form of benefit, and receive such balance in a lump sum or other form permitted under the Plan. A

Participant may not make more than one election described in this Subparagraph (b) in each calendar quarter.

- 7.5.1 Optional Forms of Benefit Payment. Subject to the provisions of Section 7.12, as an alternative to (or in combination with) payment in a lump sum, a Participant whose Account balance exceeds \$1,000 (exclusive of any Rollover Contributions and earnings thereon) may elect to receive payment under the Plan in the form of substantially equal monthly, quarterly, or semiannual or annual installments for a period not to exceed the life expectancy of the Participant or the joint life expectancy of the Participant and his Beneficiary; provided that no single payment (other than the last scheduled payment) is less than \$250.00. Any amount remaining in the Participant's Account at the end of the elected payout period shall be paid to the Participant in a single lump sum payment. Alternatively, such a Participant may elect an annuity under any one of the settlement options offered in a commercial annuity contract purchased by the custodian using the Participant's Account balance for the purpose of providing benefit payments for the life of the Participant or the joint lives of the Participant and his Beneficiary.
- 7.6 Beneficiary Designation. Each Participant may designate one or more primary Beneficiaries and contingent Beneficiaries in a signed writing delivered to the Deferred Compensation Officer on such form as he shall specify.
- 7.6.1 Spousal Consent. If a Participant designates anyone other than or in addition to his or her spouse as a primary Beneficiary, the designation shall be ineffective in the absence of a Spousal Consent.
- 7.6.2 Designation Changes. A Participant may designate different Beneficiaries (or may revoke a prior designation) at any time by delivering a new designation (or revocation of a prior designation) to the Deferred Compensation Officer. Any designation shall become effective only upon its receipt by the Deferred Compensation Officer before the Participant's death, but when the designation is received, it shall be operative as of the date it was executed (whether or not the Participant is alive), but without prejudice to the Employer, the Deferred Compensation Officer or the Plan on account of any payment made before the change is recorded. Any designation shall cease to be effective if a Participant's revocation of the designation is received by the Deferred Compensation Officer before his or her death. The last effective designation received by the Deferred Compensation Officer before the Participant's death shall supersede all prior designations.
- 7.6.3 Failed Designations. If a Participant dies without having effectively designated a Beneficiary, or if no Beneficiary survives the Participant, (a) his or her Account shall be payable to his or her surviving spouse, or (b) if the Participant is not survived by his or her spouse, the balance credited to the Account shall be paid to the legal representative of his or her estate in one lump sum payment.

7.7 Direct Rollovers. Notwithstanding any contrary Plan provision, if the Distributee of an Eligible Rollover Distribution from this Plan, (1) elects to have all or any portion of such distribution paid directly to an Eligible Retirement Plan (and (2) specifies such Eligible Retirement Plan on such form, at such time and subject to such permissible restrictions as the Employer may specify, such distribution or elected portion thereof shall be made in the form of a direct rollover to such plan, in accordance with and subject to the conditions and limitations of Section 401(a)(31) and related provisions of the Code.

- (a) “Distributee” means a Participant, a Beneficiary (if the surviving spouse of a Participant), or an Alternate Payee (as defined in Section 8.1) (if the surviving spouse of a Participant under a QDRO (as defined in Section 8.1)). Effective January 1, 2010, a Distributee also includes a non-spouse designated Beneficiary but solely for purposes of making a direct rollover to an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code or a Roth individual retirement account described in Section 408A of the Code established as an inherited individual retirement account on behalf of the non-spouse designated Beneficiary.
- (b) “Eligible Retirement Plan” means an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, a Roth individual retirement account described in Section 408A of the Code, a qualified trust described in Section 401(a) of the Code, an annuity plan described in Section 403(a) of the Code, an eligible deferred compensation plan described in Section 457(b) of the Code which is maintained by an eligible employer described in Section 457(e)(1)(A) of the Code, or an annuity contract described in Section 403(b) that accepts the Distributee's Eligible Rollover Distribution and agrees to separately account for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible.
- (c) “Eligible Rollover Distribution” means 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 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; and any distribution to the extent such distribution is required under Section 401(a)(9) of the Code.

7.8 Payments to Minors and Incapacitated Individuals. If any individual to whom a benefit is payable under the Plan is a minor, or if the Employer determines that any individual to whom a benefit is payable under the Plan is physically or mentally incompetent to receive such payment or to give a valid release therefore, payment shall be made to the guardian, committee or other representative of the estate of the minor or incompetent which has been duly appointed by a court of competent jurisdiction. If no guardian, committee, or other representative has been appointed, payment may be made to any person or custodian for the minor or incompetent under the California Uniform Transfers to Minors

Act (or comparable law of another state) or may be made to or applied to or for the benefit of the minor or incompetent, his or her spouse, children or other dependents, the persons or institution maintaining him or her, or any of them, in such proportions as the Employer shall determine, and the release of the person or institution receiving the payment shall be a valid and complete discharge of any liability of the Plan with respect to any benefit so paid.

- 7.9 Undistributable Accounts. Each Participant and (in the event of death) his or her Beneficiary shall keep the Employer advised of his or her current address. If the Employer is unable to locate the Participant or Beneficiary to whom a Participant's Account is payable under this Section 7, (a) the Account shall be closed 35 months after the date the Account first became distributable to the Participant or Beneficiary, and (b) the balance credited to the Account shall be forfeited and applied to reduce the amount otherwise to be paid by the Employer as Employer Contributions pursuant to Section 3.1 for the Plan Year in which the forfeiture occurs. If the Participant or Beneficiary whose Account was forfeited under the preceding sentence later files a claim for distribution of his or her Account, and if the Employer determines that the claim is valid, then the balance previously forfeited, unadjusted for earnings and losses, shall be restored to the Account by means of a special Employer Contribution pursuant to Section 3.3.
- 7.10 Withdrawals. Subject to such conditions as the Deferred Compensation Officer may impose on a uniform basis, a Participant may withdraw any portion of his or her Account attributable to Voluntary Employee Contributions by making a written application to the Deferred Compensation Officer. Withdrawn amounts may not be repaid to the Plan.
- 7.11 Participant Loans. Loans shall be available to Participants in accordance with the written requirements set forth in a separate Loan Policy which shall comply with the provisions of Section 72(p) of the Code.
- 7.11.1 Amount. The amount of the loan shall be neither less than \$1,000 nor more than the excess of fifty percent (50%) of the Participant's Account, determined as of the Valuation Date preceding the date the loan is approved.
- 7.11.2 Additional Limits. No loan shall be granted under the Plan to the extent that it would cause the aggregate balance of all loans which a Participant has outstanding under the Plan and under any other qualified plan maintained by the Employer to exceed an amount equal to the lesser of: (i) \$50,000, less the amount by which the highest aggregate balance has been reduced by repayments during the 12-month period ending on the day before the day on which the new loan is to be made, or (ii) fifty percent (50%) of the vested value of all of the Participant's Accounts under the Plan and accounts under any other qualified plan maintained by the Employer.
- 7.11.3 Number of Loans. A Participant shall have no more than two loans outstanding under the Plan at any time subject to the terms of the Loan Policy.

- 7.11.4 Spousal Consent. No loan may be made to a Participant who is married at the time the loan is to be made without Spousal Consent (as defined in Section 1.19), in which the Participant's spouse consents in writing to the loan and to the possible reduction of the total balance of the Participant's Account in the event the loan is in default. The same Spousal Consent requirement shall apply with respect to any renegotiation, renewal or other revision of the loan.
- 7.11.4 Term. The term of the loan shall not exceed five (5) years, except that, if the loan is used to acquire a dwelling unit which is to be used as the principal residence of the Participant within a reasonable time after acquisition, then the term of the loan shall not exceed fifteen years.
- 7.11.5 Interest Rate. Each loan shall bear a reasonable rate of interest as determined by the Employer in accordance with the Loan Policy.
- 7.11.6 Default. In the event a default occurs and is not cured within any grace period established by the Employer, the full amount due under the note shall become due and payable at the time and in the manner set forth in the Loan Policy.
- 7.12 Provisions Required Pursuant to Code Section 401(a)(9)
- (a) Timing and Amount Required Distributions.
- (i) Notwithstanding any provision of the Plan to the contrary, to the extent required by Section 401(a)(9) of the Code, and the regulations thereunder (collectively, "Code Section 401(a)(9)") distribution of a Participant's entire Account shall commence not later than April 1 following the calendar year in which he attains age 70½, provided the Participant has separated from service with the Employer. Unless the form of distribution is a single lump sum payment, distributions shall be made over a period not exceeding the life expectancy of the Participant, or the joint life expectancy of the Participant and his Beneficiary.
- (ii) If the Participant's entire Account is to be distributed in a form other than a single lump sum payment, then the amount to be distributed each year must be at least an amount equal to the quotient obtained by dividing the Participant's entire Account balance (determined as of the last valuation date of the preceding calendar year) by the life expectancy of the Participant or (if applicable) the joint life expectancy of the Participant and his designated Beneficiary. Life expectancy and joint life expectancy shall be computed by the use of the return multiples contained in Treasury Regulations Section 1.72-9. For purposes of this computation, life expectancies may not be recalculated.
- (b) Interpretation. To the extent required by Code Section 401(a)(9), the provisions of this Section 7.12 shall override any distribution options in the Plan that are inconsistent with this Section. All distributions under the Plan shall be made in accordance with Regulations issued under Section 401(a)(9) of the Code.

SECTION 8
QUALIFIED DOMESTIC RELATIONS ORDERS

- 8.1 Qualified Domestic Relations Orders. The Employer shall determine whether a domestic relations order purporting to dispose of any portion of a Participant's Account is a qualified domestic relations order (within the meaning of Section 414(p) of the Code) and otherwise complies with the requirements of applicable law (a "QDRO"). No payment shall be made to any person designated in a domestic relations order (an "Alternate Payee") until the Employer (or a court of competent jurisdiction reversing an initial adverse determination by the Employer) determines that the order is a QDRO. Payment shall be made to each Alternate Payee as specified in the QDRO. If the QDRO does not provide for an immediate payment to an Alternate Payee, the Employer shall establish a subaccount to record the Alternate Payee's interest in the Participant's Account. All investment decisions with respect to amounts credited to such subaccount shall be made by the Alternate Payee in the manner provided in Section 5.4.

SECTION 9
ADMINISTRATION OF THE PLAN

- 9.1 Plan Administration. The Plan shall be administered by the Deferred Compensation Officer. The Deferred Compensation Officer shall have the authority to control and manage the operation and administration of the Plan in the same manner as a named fiduciary under Section 402(a)(1) of ERISA.
- 9.2 Powers of Deferred Compensation Officer. The Deferred Compensation Officer shall have all powers necessary to supervise the administration of the Plan and to control its operations in accordance with its terms, including, but not by way of limitation, the following discretionary powers:
- (a) to interpret the provisions of the Plan and to determine any question arising under, or in connection with the administration or operation of, the Plan;
 - (b) to determine any questions concerning the eligibility of any Employee to become a Participant or remain a Participant of the Plan;
 - (c) to cause one or more separate Accounts to be maintained for each Participant;
 - (d) to establish and revise accounting methods for the Plan, as provided in Section 5.5;
 - (e) to determine the manner and form, and to notify the Trustee, of any distribution to be made under the Plan;
 - (f) to determine the status and rights of Participants and their spouses, Beneficiaries, or estates;

- (g) to employ such counsel, agents and advisers, and to obtain such legal, clerical and other services, as it may deem necessary or appropriate in carrying out the provisions of the Plan;
- (h) to prescribe the form and manner in which any Participant, or his or her spouse or other Beneficiary, shall make any election, claim or designation required for any purpose under the Plan;
- (i) to establish rules for the performance of all powers and duties regarding the administration of the Plan;
- (j) to provide to each terminated Participant notice of his or her vested interest under the Plan and the written explanation described in Section 402(f) of the Code;
- (k) to determine the liabilities of the Plan, and to establish and communicate a funding policy to the Trustee and any Investment Manager having responsibility for Plan investments, which funding policy shall contain such information as is necessary or helpful to coordinate the Plan's investment policy with the Plan's requirements for funds to pay expenses and benefits as they become due;
- (l) to keep all Plan records and to prepare all reports and disclosures necessary for purpose of complying with any reporting and disclosure requirements of the Code or applicable California law;
- (m) to purchase or to arrange for the purchase of any bond required for Employees involved in the administration of the Plan, the Deferred Compensation Officer or others under applicable California law;
- (n) to purchase or to arrange for the purchase of insurance in order to relieve Employees involved in the administration of the Plan or Deferred Compensation Officer from liability for any act or omission to act or any error in judgment made in good faith in the administration of the Plan or the Trust fund and any responsibility, obligation or duty imposed by applicable California law; and
- (o) to delegate to any person or persons, severally or jointly, the authority to perform for and on behalf of the Employer one or more of its fiduciary and/or ministerial functions under the Plan.

9.3 Fiduciary Responsibilities. To the extent permissible under applicable California law, any person may serve in more than one fiduciary capacity with respect to the Plan. Except as required by specific provisions of applicable California law, no person who is a fiduciary with respect to the Plan shall be under any obligation to perform any duty or responsibility with respect to the Plan which has been specifically allocated to another fiduciary.

9.4 Investment Responsibilities. The Deferred Compensation Officer (in his discretion) may transfer investment responsibility for any designated portions of the Trust fund to the Trustee, or, in accordance with this Section 9.4, to one or more Investment Managers.

Subject to the provisions of this Section 9.4 and any contrary provision of the Plan and Trust Agreement, exclusive authority and discretion to manage and control the assets of the Trust Fund shall be vested in the Deferred Compensation Officer, who shall review the assets from time to time and make determinations as to the investments of the Trust Fund.

- 9.4.1 Investment Manager Appointment. The Deferred Compensation Officer in his discretion may appoint, and thereafter may discharge, one or more Investment Managers to manage the investment of the Trust Fund. In the event of any such appointment, the Trustee shall follow the instructions of the Investment Manager in investing and administering Trust Fund assets managed by the Investment Manager. Alternatively, the Deferred Compensation Officer may delegate investment authority and responsibility with respect to any Investment Option directly to any Investment Manager which has investment management responsibility for any collective investment fund in which the Investment Option is invested.
- 9.5 Decisions of Employer and Deferred Compensation Officer. All decisions of the Employer and the Deferred Compensation Officer, any action taken by the Employer or the Deferred Compensation Officer in respect of the Plan and within the powers granted to them under the Plan, and any interpretation of provisions of the Plan by the Employer and the Deferred Compensation Officer, shall be conclusive and binding on all persons, and shall be given the maximum possible deference allowed by law.
- 9.6 Administrative Expenses. All expenses reasonably, prudently and actually incurred in connection with the administration of the Plan by the Employer or the Deferred Compensation Officer (including reasonable amounts for recordkeeping charges; Investment Manager fees and expenses; costs of defending against Plan-related claims against the Employer, the Deferred Compensation Officer, and the Plan or the Trust; legal fees and costs; and premiums for any bonds or insurance purchased pursuant to Sections 9.2(m) or (n)) shall be paid by the Trustee from the Trust Fund at the direction of the Deferred Compensation Officer and deducted from all Participant's Accounts in a uniform manner as determined from time to time by the Deferred Compensation Officer.
- 9.7 Eligibility to Participate. The Deferred Compensation Officer who is also an Employee shall be permitted to participate in the Plan if otherwise eligible, but he or she shall not be entitled to act or pass upon any matters pertaining specifically to his or her own Account under the Plan.
- 9.8 Indemnification. The Employer shall, and hereby does, indemnify and hold harmless the Deferred Compensation Officer and any other Employees of the Employer who may be deemed to be fiduciaries of the Plan, from and against any and all losses, claims, damages or liabilities (including attorneys' fees and amounts paid, with the approval of the Employer, in settlement of any claim) arising out of or resulting from the implementation of a duty, act or decision with respect to the Plan, so long as such duty, act or decision does not involve gross negligence or willful misconduct on the part of any such individual. Any individual so indemnified shall, within 60 days after receipt of notice of

any action, suit or proceeding, notify the Employer and offer in writing to the Employer the opportunity (at its own expense) to handle and defend the action, suit or proceeding, and the Employer shall have the obligation to conduct the defense in the action, suit or proceeding. Failure to give the Employer such notice shall relieve the Employer of any liability under this Section 9.8. The Employer may satisfy its obligations under this provision (in whole or in part) by the purchase of one or more insurance policies.

9.9 Claims Procedure. Any person who believes that he or she is entitled to a benefit under the Plan may file with the Employer a written notice of claim for the benefit. Within 90 days after it receives the written notice of claim, the Employer shall either grant or deny the claim, unless circumstances beyond the control of the Employer require an extension of time for processing, in which case a decision shall be made within 180 days after receipt of the claim. The Employer shall provide to each claimant a statement setting forth:

- (a) The specific reasons for the denial;
- (b) Specific reference to the pertinent Plan provisions on which the denial is based; and
- (c) A description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why the material or information is necessary.

SECTION 10

FUNDING AND CONTRIBUTIONS

10.1 Funding. Subject to the provisions of Section 11.1, all contributions made pursuant to Section 3 shall be deposited in the Trust Fund for the purposes provided in the Plan. All assets of the Plan shall be held in the Trust Fund and administered in trust by the Trustee under and subject to the terms of the Plan and the Trust Agreement under which the Trust Fund is maintained from time to time. The Trust Agreement shall be deemed a part of the Plan. All obligations and liabilities of the Trustee shall be governed solely by the provisions of the Trust Agreement.

10.2 No Diversion of Assets. Each Employee, Participant, Beneficiary and other person receiving or entitled to receive benefits under the Plan shall look solely to the assets of the Trust Fund for distributions under the Plan. Notwithstanding any contrary Plan provision, at no time shall any assets of the Plan be used for, or diverted to, purposes other than for the exclusive benefit of Employees, Participants, Beneficiaries and other persons receiving or entitled to receive benefits or payments under the Plan. Except to the limited extent permitted by Section 10.3, no assets of the Plan shall ever revert to or become the property of the Employer.

10.3 Continuing Conditions. Any obligation to make Employer Contributions under the Plan after initial qualification is hereby conditioned upon the continued qualification of the Plan under Section 401(a) of the Code and the exempt status of the Trust Fund under

Section 501(a) of the Code. That portion of any Employer Contribution which is contributed or made by reason of a good faith mistake of fact shall be returned to the Employer as promptly as practicable, but not later than one year after the contribution was made. The amount returned pursuant to the preceding sentence shall be an amount equal to the excess of the amount actually contributed over the amount that would have been contributed if the mistake had not been made; *provided, however*, that gains attributable to the returnable portion shall be retained in the Trust Fund; and *provided further*, that the returnable portion shall be reduced (a) by any losses attributable thereto, and (b) to avoid a reduction in the balance of any Participant's Account below, the balance that would have resulted if the mistake had not been made.

- 10.4 Rollover Contributions. Notwithstanding any contrary Plan provision, the Employer may direct the Trustee to accept a transfer of cash to the Trust Fund, but only if the transfer (a) is made by or at the direction of a Participant, and (b) qualifies as a rollover under Section 402(c) or 408(d)(3)(A)(ii) of the Code.

10.4.1 Rollover Account. Any amount transferred to the Trust Fund pursuant to this Section 10.4 shall be credited to the Participant's Rollover Account. The Participant shall indicate, in such manner as the Employer shall specify, the percentage of his or her Rollover Account that is to be invested in each of the Investment Options. In all other respects Rollover Account investments shall be subject to the provisions of Section 5.4. A Participant's interest in his or her Rollover Account at all times shall be 100% vested and nonforfeitable.

10.4.2 Nonqualifying Rollovers. If it is later determined that a transfer to the Trust fund made pursuant to this Section 10.4 did not in fact qualify as a rollover under Section 402(c) or 408(d)(3)(A)(ii) of the Code, then the balance credited to the Participant's Rollover Account shall immediately be (a) segregated from all other Plan assets, (b) treated as a nonqualified trust established by and for the benefit of the Participant, and (c) distributed to the Participant. Any such nonqualifying rollover shall be deemed never to have been a part of the Trust Fund.

SECTION 11

MODIFICATION OR TERMINATION OF PLAN

- 11.1 Employer's Obligations Limited. The Plan is voluntary on the part of the Employer, and the Employer shall not have any responsibility to satisfy any liabilities under the Plan. Furthermore, the Employer does not guarantee to continue the Plan, and the Employer may, by appropriate amendment of the Plan, suspend or discontinue Employer Contributions, for any reason at any time. Complete discontinuance of all Voluntary Employee Contributions and Employer Contributions shall be deemed a termination of the Plan. If Employer Contributions are suspended, each Participant shall be notified of the suspension.

- 11.2 Right to Amend or Terminate. The Employer reserves the right, by resolution adopted by the Board of Supervisors of Alameda County, to alter, amend or terminate the Plan, or any part thereof, in such manner as it may determine. Any such alteration, amendment or termination shall take effect upon the date indicated in the document embodying such alteration, amendment or termination, *provided* that (a) no such alteration or amendment shall divest any portion of an Account that is then vested under the Plan, and (b) any alteration, amendment or termination of the Plan or any part thereof shall be subject to Section 12.2 with respect to the restriction against diversion of the assets of the Plan.
- 11.3 Effect of Termination. If the Plan is terminated or partially terminated, the balances credited to Participants' Accounts shall be distributed, after payment of all costs and expenses properly chargeable against the Plan assets, to the Participants in the manner set forth in Section 7.

SECTION 12

GENERAL PROVISIONS

- 12.1 Plan Information. Each Participant shall be advised of the general provisions of the Plan and, upon written request addressed to the Deferred Compensation Officer, shall be furnished with any information requested, to the extent required by applicable law, regarding his or her status, rights and privileges under the Plan.
- 12.2 Inalienability. Except to the extent otherwise directed by a domestic relations order which the Employer has determined is a QDRO (as defined in Section 8.1) or as mandated by applicable law, in no event may any Participant, former Participant or his or her spouse, Beneficiary or estate sell, transfer, anticipate, assign, hypothecate, or otherwise dispose of any right or interest under the Plan; and such rights and interests shall not at any time be subject to the claims of creditors nor be liable to attachment, execution or other legal process.
- 12.3 Rights and Duties. No person shall have any rights in or to the Trust Fund or other assets of the Plan, or under the Plan, except as, and only to the extent, expressly provided for in the Plan. To the maximum extent permissible under applicable California law, neither the Employer, the Trustee, nor the Deferred Compensation Officer shall be subject to any liability or duty under the Plan except as expressly provided in the Plan, or for any action taken, omitted or suffered in good faith.
- 12.4 No Enlargement of Employment Rights. Neither the establishment or maintenance of the Plan, the making of any Voluntary Employee Contributions or Employer Contributions, nor any action of the Employer, the Trustee nor the Deferred Compensation Officer, shall be held or construed to confer upon any individual any right to be continued as an Employee nor, upon dismissal, any right or interest in the Trust Fund or other assets of the Plan other than as provided in the Plan. The Employer expressly reserves the right to discharge any Employee at any time.
- 12.5 Apportionment of Costs and Duties. The costs of the Plan may be equitably apportioned by the Employer among its budgetary units or other subdivisions. Whenever the

Employer is permitted or required under the terms of the Plan to do or perform any act, matter or thing, it shall be done and performed by any Employee who is thereunto duly authorized by the Employer.

- 12.6 Applicable Law. The provisions of the Plan shall be construed, administered and enforced in accordance with applicable laws of the State of California and in a manner consistent with the intention that the Plan qualify for favorable tax treatment under Section 401(a) of the Code.
- 12.7 Severability. If any provision of the Plan is held invalid or unenforceable, its invalidity or unenforceability shall not affect any other provisions of the Plan, and the Plan shall be construed and enforced as if such provision had not been included.
- 12.8 Captions. The captions contained in and the Table of Contents prefixed to the Plan are inserted only as a matter of convenience and for reference and in no way define, limit, enlarge or describe the scope or intent of the Plan, nor in any way shall affect the construction of any provision of the Plan.
- 12.9 Plan Document Controls. In the event of any conflict between the terms of this Plan Document (as amended) and any administrative services agreement with respect to the duties and responsibilities of the Administrator, the terms of this Plan document (as amended) shall control.
- 12.10 USERRA. Notwithstanding any provision of the Plan to the contrary, from and after December 12, 1994, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Code. Effective January 1, 2007, if a Participant dies on or after January 1, 2007, while performing qualified military service (as defined in Code section 414(u)), the Beneficiaries of that Participant are entitled, to the extent required by Code section 401(a)(37) or any Treasury regulations or other guidance promulgated thereunder, to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan (if any) as if the Participant had resumed employment on the day immediately before the Participant's death and then terminated employment on account of death.

SECTION 13
EXECUTION

IN WITNESS WHEREOF, the Employer, by its duly authorized officer, has executed this Plan on the date indicated below.

THE COUNTY OF ALAMEDA

By: _____
President of the Board of Supervisors
of Alameda County, California

Dated: _____

Approved as to Form
DONNA R. ZIEGLER, County Counsel
By: [Signature]
Print Name John T. Sayman

APPENDIX A
LIMITATIONS ON ALLOCATIONS

A.1 Annual Addition Limitation. In no event shall the Annual Addition to any Participant's Account for any Plan year exceed the lesser of (a) \$40,000 (as adjusted annually for cost of living increases in accordance with Section 415(d) of the Code), or (b) one-hundred percent (100%) of the Participant's Total Compensation for the Limitation Year.

A.2 Definitions. For purposes of this Appendix A, the following definitions shall apply:

(a) "Aggregated Plan" means any defined contribution plan which is aggregated with this Plan pursuant to Section A.3.

(b) "Annual Addition" means the sum credited to a Participant's Account for a Limitation Year of the following amounts: (1) Voluntary Contributions; (2) Employer Contributions; (3) forfeitures, if any, in accordance with Treasury Regulation Section 1.415(c)-1(b). Annual Addition does not include restorative payments (as defined in Treasury Regulation section 1.415(c)-1(b)(2)(ii)(C)), Rollover Contributions, and the reinstatement of forfeited amounts (as described in Section 3.4 above) for the Limitation Year in which the reinstatement occurs.

(c) "Limitation Year" means the Plan Year.

(d) "Total Compensation" means a Participant's:

(1) Wages (within the meaning of Section 3401(a) of the Code) and all other payments of compensation which the Employer is required to report in Box 1 ("wages, tips, other compensation") of the IRS Form W-2;

(A) including any amounts that are (i) contributed by the Employer on his or her behalf to an employee benefit plan pursuant to a salary reduction agreement and (ii) not includible in gross income under Section 125, 132(f)(4), 401(k), 402(e)(3), 402(h) or 403(b) of the Code;

(B) excluding amounts paid or reimbursed by the Employer for moving expenses incurred by the Participant to the extent that at the time of payment it is reasonable to believe that such amounts will qualify as a qualified moving expense reimbursement under Section 132(a)(6) of the Code; and

(C) determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the agricultural labor exception); or

- (2) Compensation calculated by the Employer in a manner which satisfies applicable requirements of Treas. Reg. Section 1.415(c)-2.
- (3) Effective January 1, 2008, for purposes of this Appendix A and Code section 415, Total Compensation shall not include compensation paid after severance from employment (including severance pay and distributions from a nonqualified deferred compensation plan) unless such compensation is paid within the later of 2-1/2 months after the severance from employment date or the last day of the calendar year in which severance from employment occurs and such compensation (i) is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments and (ii) would have been paid to the Participant in the absence of a severance from employment.

A.3 Other Defined Contribution Plans. All defined contribution plans (terminated or not) maintained by the Employer shall be considered as one plan in applying the limitations of Appendix A.

A.4 Adjustments. If, as a result of a reasonable error in estimating a Participant's Total Compensation or other circumstances which the Internal Revenue Service finds justify the availability of the rule stated in this Section A.4, any of the limitations of Section A.1 otherwise would be exceeded with respect to any Participant for any Plan Year, then the following actions, but only to the extent necessary to avoid exceeding such limitations, shall be taken in the following order:

- (a) any Voluntary Employee Contributions made by the Participant for the Plan Year under the Plan, and any after-tax employee contributions made by the Participant for the Plan Year under any Aggregated Plan, shall be returned to him or her;
- (b) the amount allocated to the Participant's Employer Contribution Account, or to his or her Account from contributions made by the Employer under any Aggregated Plan, shall be reallocated to a suspense account, and the balance credited to that account shall be applied to reduce the contributions (of the same class) otherwise to be made for and allocated to all eligible Participants or Participants in the Aggregated Plan for succeeding Plan Years in order of time; and
- (c) any suspense account created under paragraph (b) above shall not share in the allocations of income and realized or unrealized gains and/or losses of the Trust Fund. In the event the Plan is terminated, any amounts credited to any such suspense account shall be returned to the Employer.

The above rules of this Section A.4 apply to any Limitation Year beginning before July 1, 2007. Effective for Limitation Years beginning on or after July 1, 2007, if the Annual Additions exceed the Section 415 limitations the Employer shall use any reasonable method to correct the excess Annual Additions including, but not limited to, the methods approved by the Internal Revenue Service in Revenue Procedure 2008-50 or in any subsequent guidance.

APPENDIX B
ADDITIONAL ELIGIBLE EMPLOYEES

The following Appendix B provides for additional groups of Eligible Employees and contributions available to them. In the event that an individual would be an Eligible Employee under the provisions of this Appendix B and Section 1.7(a) of the Plan, he or she shall be deemed an Eligible Employee solely under this Appendix B.

B.1 Eligible Employees: The following employees of the Employer are eligible to participate in the Plan:

- (a) Members of the Board of Supervisors;
- (b) Appointed Department Heads, as follows:

- Chief Probation Officer
- County Administrator
- County Counsel
- County Librarian
- Director, Community Development Agency
- Director, Department of Child Support Services
- Director, General Services Agency
- Director, Health Care Services Agency
- Director, Human Resource Services
- Director, Information Technology Dept.
- Director, Public Works Agency
- Director, Social Services Agency
- Public Defender
- Registrar of Voters

- (c) Elected Department Heads, as follows:

- County Assessor
- County Auditor-Controller
- County District Attorney
- County Sheriff
- County Treasurer-Tax Collector

B.2 Employer Contributions:

- (a) The Employer will contribute an amount equal to seven percent (7%) of Salary to the Plan for:

- Members of the Board of Supervisor; and
- Appointed Department Heads.

- (b) The Employer will contribute an amount equal to nine percent (9%) of Salary to the Plan for:

Elected Departments Heads.

- (c) The Employer will contribute an amount equal to ten percent (10%) of Salary to the Plan for the employees in Job Code 0035SE.

B.3 Employee Contributions:

- (a) **Pre-tax Contributions** – Eligible Employees have a one-time irrevocable option to contribute 10% of Salary on a pre-tax basis into the Plan by submitting a valid election agreement to the Deferred Compensation Officer on or before September 15, 2001. Eligible Employees hired or designated as Eligible Employees thereafter must submit a valid election agreement within sixty days from date of hire or designation, whichever occurs later. Such contributions shall be “picked up” and deemed to be employer contributions in accordance with Section 414(h)(2) of the Code.
- (b) **After-tax Contributions** – In addition, Eligible Employees may elect to make after-tax Voluntary Employee Contributions to the Plan in accordance with Section 3.1 of the Plan. Such after-tax contributions may be modified at any time in accordance with Section 3.1.2 of the Plan.
- (c) **Contribution limit** – Aggregated pre-tax and after-tax contributions from the Employer and employee are subject to the limits set forth in Appendix A.

B.4 Withdrawal Provisions: Pre-tax contributions may not be withdrawn prior to a termination of an Eligible Employee’s employment with the Employer. After-tax Voluntary Employee Contributions are subject to Section 7.10. Employer Contributions may not be withdrawn prior to termination of employment.

B.5 Other Provisions: As stated in Section 1.18 of the Plan, no portion of Salary of any Participant for a Plan Year that exceeds the dollar limit described in Section 401(a)(17) of the Code, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code, shall be taken into account for any purpose under the Plan for such Plan Year. All other terms and conditions of the Plan are applicable to Participants covered by this Appendix B.