

ANALYSIS

This ordinance amends Title 5 – Personnel – of the Los Angeles County Code by deleting, adding, and restating in its entirety Chapter 5.25, the Deferred Compensation and Thrift Plan (Horizons) to conform the plan to current law and regulations. The restated plan, which was negotiated with and agreed to by County unions, also fully vests county matching contributions and enables the Plan Administrative Committee within specified limits to adjust administrative fees charged to participants to cover necessary plan expenses.

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By: _____
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RGF:gp
7/18/03

ORDINANCE NO. _____

An Ordinance amending Title 5 – Personnel of the Los Angeles County Code relating to the Deferred Compensation and Thrift Plan.

The Board of Supervisors of the County of Los Angeles Ordains as follows:

SECTION 1. Chapter 5.25, Deferred County of Los Deferred Compensation and Thrift Plan is hereby deleted in its entirety.

SECTION 2. Chapter 5.25, Deferred County of Los Deferred Compensation and Thrift Plan is hereby added and restated to read as follows:

Chapter 5.25

**COUNTY OF LOS ANGELES DEFERRED COMPENSATION AND
THRIFT PLAN**

Sections:

- 5.25.001 Restatement.
- 5.25.010 Purpose.
- 5.25.020 Definitions.
- 5.25.030 Election to Become a Participant.
- 5.25.040 Limits on Amounts Deferred.
- 5.25.050 Matching Contributions.
- 5.25.060 Participant Accounts.
- 5.25.070 Investment of the Trust Fund.
- 5.25.075 Trust Fund Allocation and Valuation.
- 5.25.080 Benefit Distributions, Withdrawals, Vesting and Loans.
- 5.25.085 Claims Procedures.
- 5.25.090 Administration of the Plan.
- 5.25.095 Fiduciary Responsibility.
- 5.25.100 Temporary Suspension of Plan Provisions.
- 5.25.105 Merger of Deferred Compensation and Thrift Plans.
- 5.25.108 Rollovers and Plan-to-Plan Transfers.
- 5.25.110 Amendment or Termination of Plan.
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- 5.25.125 Rights of Alternate Payees Under a CDRO.

5.25.130	Facility of Payment.
5.25.135	No Enlargement of Employment Rights.
5.25.140	Severability Provision.
5.25.145	Military Service.
5.25.150	Trial Court Entities
5.25.155	Construction.
5.25.160	EGTRRA Sunset Provision.

5.25.001 Restatement. This Deferred Compensation and Thrift Plan has been amended and restated effective January 1, 1999, to comply with and reflect certain changes made to the Code by the Small Business Job Protection Act of 1996, the Taxpayer Relief Act of 1997, the Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”) and the Job Creation and Worker Assistance Act of 2002.

5.25.010 Purpose. This Deferred Compensation and Thrift Plan (also known as the “Horizons Plan”) is designed to permit Eligible Employees of Los Angeles County to defer a portion of their compensation in order to provide for themselves and their Beneficiaries supplemental retirement and death benefits. The Horizons Plan is intended to meet the requirements for an eligible deferred compensation plan under Code Section 457. The Plan also provides matching contributions to active employees who make contributions to the Plan. Benefits under the Plan shall at all times be limited to those payable from each Participant’s Investment Accounts.

While the County intends to continue the Plan indefinitely, it reserves the right to amend or terminate the Plan in accordance with Section 5.25.110.

5.25.020 Definitions. The following terms when used herein with initial capital letters, unless the context clearly indicates otherwise, shall have the following

respective meanings:

A. “Administrative Committee” means the committee serving as administrator of the Plan, which may delegate all or part of its powers, duties and authority in such capacity (without ceasing to be the administrator of the Plan) as hereinafter provided.

1. The Administrative Committee shall consist of the following members: the Auditor-Controller, Treasurer and Tax Collector, Director of Personnel and Chief Administrative Officer of the County (collectively, the “County Representatives”), two members appointed by The Coalition of County Unions, AFL-CIO (the “Coalition”), two members appointed by Local 660, Los Angeles County Employees Association SEIU, AFL-CIO (“LACEA, Local 660, SEIU”) and one member who shall be a qualified elector of the County who is not connected with County government in any capacity, and shall be appointed by the Board for a three-year term (“Board Appointee”).

2. The Board Appointee shall have significant experience in institutional investing, either as investment officer of a bank, or trust company; or as investment officer of an insurance company, or in an active, or advisory, capacity as to investments of institutional or endowment funds. The Board may designate an alternate to serve in the Board Appointee’s place for a term that runs concurrently with the Board Appointee’s term. The alternate must satisfy the same qualifications as the Board Appointee. The Board Appointee or the alternate may resign from the Administrative Committee by giving the Board 30 days written notice, which notice may be waived by the Board, and the Board may remove the Board Appointee or the alternate for any

reason by giving the Board Appointee or alternate 15 days written notice, which notice may be waived by the Board Appointee or alternate. Notwithstanding the expiration of his or her term, the Board Appointee or alternate shall continue to serve as a voting member of the Administrative Committee until a successor has been duly appointed. The Board Appointee or alternate shall be compensated \$100 for each meeting attended by such Appointee or alternate.

3. The voting members for the Coalition and LACEA, Local 660, SEIU each may designate two named alternates either one of which shall serve as the voting member in the absence of their respective appointed members. The County Representatives also each may designate two named alternates either one of which shall serve as the voting member in the absence of their respective County Representative.

B. "Agent" shall mean any agent duly authorized to perform specified duties by its respective principal.

C. "Alternate Payee" means any spouse or former spouse of a Participant who is recognized under a CDRO as having a right to receive all, or a portion of, the benefits payable under the Plan with respect to such Participant.

D. "Beneficiary" means such person or persons as a Participant may designate to receive his or her interest under the Plan after the Participant's death. The designation may be made, and may be revoked or changed, only by a written instrument (in form acceptable to the Administrative Committee) signed by the

Participant and filed with the Administrative Committee before his or her death. In the absence of a designation and at any other time when there is no existing Beneficiary designated by the Participant, the Participant's Beneficiary shall be his or her spouse, if living 30 days after the date of the Participant's death, or, if not, his or her children (by blood or adoption) equally (with children of a deceased child to share equally the share of such deceased child). If a Beneficiary cannot be determined pursuant to the preceding sentence, the Beneficiary shall be the Participant's estate.

E. "Board" means the Los Angeles County Board of Supervisors.

F. "CAO" means the Chief Administrative Officer of the County appointed by the Board pursuant to the Los Angeles County Code.

G. "Catch-Up Contributions" means contributions made by the County on or after September 1, 2003, as specified in 5.25.040C.

H. "CDRO" means a "certified domestic relations order," which is a domestic relations order that the Administrative Committee has determined satisfies the requirements of a qualified domestic relations order, as defined in Code Section 414(p)(1), and is consistent with the terms of this Plan.

I. "Code" means the Internal Revenue Code of 1986, as amended.

J. "Compensation" means base rate, as established in Title 6 of the Los Angeles County Code, as amended, plus any monthly bonus established as a designated number of schedules and/or levels in the Standardized Salary Schedule contained in such Title 6. Compensation shall not include any of the following:

1. Overtime compensation;
2. Any lump-sum payoff or reimbursement for unused accumulated overtime, vacation, holiday time, or sick leave benefits;
3. Compensation pursuant to Section 6.16.010 of the Los Angeles County Code;
4. Any hourly bonus;
5. Any monthly bonus established as a flat dollar amount or as a percentage of base rate.

K. "County" means the County of Los Angeles and (i) any governmental entity of which the Board is the governing body, and (ii) any Trial Court Entity to the extent participation in the Plan by such Entity is authorized by state law or rules of court and provided such Entity has not elected not to participate in the Plan.

L. "Deferred Account" means an account established by the Trustee for a Participant to which any Deferred Compensation Contribution and, effective September 1, 2003, any Catch-Up Contributions, subject to any action taken by the Administrative Committee under Section 5.25.060 to establish a separate account or subaccount for such Catch-Up Contributions, made for each Participant, and any earnings and investment gains or losses allocable thereto, shall be credited.

M. "Deferred Compensation Contribution" means any amount of Eligible

Earnings deferred by a Participant pursuant to a Participation Agreement. Effective on or after September 1, 2003, such term shall also include any Catch-Up Contributions made to the Plan on behalf of a Participant as specified in Section 5.25.040C.

N. “Disability” means medically determinable physical or mental impairment of such a nature that the Participant is unable to engage in any substantial gainful activity, which impairment can be expected to result in death or to be of long-continued and indefinite duration, as determined by the County upon the basis of evidence satisfactory to it.

O. “Effective Date” means January 23, 1981, with respect to the Deferred Compensation Plan originally established in Chapter 5.24 of the County Code, September 1, 1984, with respect to the Thrift Plan originally established by this Chapter 5.25 of the County Code, and October 1, 1991 (also known as the “Merger Date”), with respect to this Plan, which resulted from the merger and continuation of both the Deferred Compensation Plan and the Thrift Plan as described in Section 5.25.105. The “Restatement Effective Date” for this Plan is January 1, 1999, unless a provision expressly states otherwise. Certain provisions of this amendment and restatement, however, are effective before or after the effective date. Provisions which are effective prior to the Effective Date shall be deemed to amend the corresponding provisions of the Plan as amended and in effect before this restatement. Events occurring before the applicable effective date of any provisions of this restatement shall be governed by the applicable provisions of the Plan in effect on the date of the event. Certain provisions of this amendment and restatement are intended as good faith compliance with the

requirements of EGTRRA and are to be construed in accordance with EGTRRA and guidance issued thereunder.

P. “Eligible Earnings” means any compensation for service performed for the County which is currently includible in gross income under the Code. Any monetary award received for recruitment of registered nurse employees shall not be included in Eligible Earnings. On or after January 1, 2003, Eligible Earnings shall have the same meaning as Includible Compensation.

Q. “Eligible Employee” means a full-time permanent Employee (i) who is within an employment classification established by the County, (ii) who is a member of the Los Angeles County Employees Retirement Association (“LACERA”) or the Judges Retirement System, and (iii) to whom eligibility to participate in this Plan has been extended pursuant to a memorandum of understanding or other authorization approved by the Board. For purposes hereof, “full-time permanent” means any Employee appointed to an “A,” “L,” or “N” item pursuant to Title 6 of the Los Angeles County Code. Any Employee who would otherwise cease to be an Eligible Employee because of a change in employment classification and/or withdrawal from a representation unit shall remain an Eligible Employee until the last day of the month following the month in which such change or withdrawal occurs or such later date as the CAO may provide.

R. “Eligible Rollover Distribution” means any distribution made on or after January 1, 2002 of all or part of the balance to the credit of the Participant in an Eligible Retirement Plan other than: (i) any distribution which is one of a series of substantially equal periodic payments made not less frequently than annually for the life (or life

expectancy) of a Participant or beneficiary or the joint lives (or joint life expectancies) of such individual and his designated beneficiary, or for a specified period of 10 years or more; (ii) any distribution to the extent such distribution is required by Code section 401(a)(9); (iii) any distribution which is made upon hardship or unforeseeable emergency of the employee; and (iv) any distribution which is (a) a return of elective deferrals described in Section 1.415-6(b)(6)(iv) of the Treasury Regulations which is returned due to the limitations under Code section 415, (b) a corrective distribution of excess contributions described in Section 1.401(k)-1(f)(4) of the Treasury Regulations, excess deferrals described in Section 1.402(g)-1(e)(3) of the Treasury Regulations or excess aggregate contributions described in Section 1.401(m)-1(e)(3) of the Treasury Regulations, together with the income allocable thereto, (c) a loan treated as a distribution under Code section 72(p) and not excepted from such treatment under Code section 72(p)(2), (d) a deemed distribution of a loan in default, (e) a dividend on employer securities described in Code section 404(k), (f) the P.S. 58 cost of life insurance coverage, and (g) any other similar item designated by the Commissioner of Internal Revenue.

S. "Eligible Retirement Plan" means: (i) an individual retirement account under Code section 408(a); (ii) a "conduit" individual retirement account described in Code section 408(d)(3)(A)(ii); (iii) an individual retirement annuity under Code section 408(b); (iv) an annuity plan described in Code section 403(a); (v) a plan which is qualified under Code section 401(a); (vi) a tax-sheltered annuity contract under Code section 403(b); and (vii) an eligible deferred compensation plan under Code section

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.

T. “Employee” means an individual who has been determined by the County (regardless of any determination made by any other person or entity) to be a common law employee of the County for federal income and/or employment tax purposes. If it is determined that an individual was erroneously categorized as not being an Employee, he or she shall be treated as an Employee under the Plan only prospectively from the date of such determination.

U. “Entry Date” means the first day of each month.

V. “Includible Compensation” means wages, within the meaning of Section 3401(a) of the Code (for purposes of income tax withholding) but 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, paid to an Employee by the County for services performed for the County. Includible Compensation also includes (i) any elective deferral (as defined in Code Section 402(g)(3)), such as Tax Deferred Contributions under the Savings Plan, (ii) any amount which is contributed to a plan sponsored by the County at the election of the Employee and which is not includible in gross income under Code Sections 125, 132(f)(4) or 457, and (iii) any amount that is not available in cash to an Employee under the Choices, Options, Flexible Benefit Plans or Mega-Flex Plans (or a successor plan) because the Employee is unable to certify that the Employee has other health coverage. Any item of taxable income that is excluded from this definition of Includible Compensation may not be deferred in accordance with

a Participant's Participation Agreement.

W. "Investment Accounts" means the accounts established by the Trustee for a Participant pursuant to Section 5.25.060, comprised of the Deferred Account, the Matching Account and, effective September 1, 2003, the Rollover Account. This term shall also include a Catch-Up Account if the Administrative Committee establishes a separate account for Catch-Up Contributions pursuant to its authority under Section 5.25.060.

X. "Investment Fund" means any investment alternative made available under the Plan, including the Participant Loan Fund. Any such Investment Fund shall be consistent with any limitations on forms of investment imposed under applicable State law.

Y. "Investment Manager" means a person or entity appointed by the Administrative Committee who, with respect to an Investment Fund, has the discretion to determine which assets in such Fund shall be sold (or exchanged) and what investments shall be acquired for such Fund or a person or entity that provides investment services to an investment company registered under the Investment Company Act of 1940. Any Investment Manager must be either registered as an investment adviser under the Investment Advisers Act of 1940, a bank as defined thereunder or an insurance company qualified to manage, acquire or dispose of Plan assets under the laws of more than one state, provided, however, that this requirement

shall not apply to the County Treasurer and, with respect to an Investment Fund that provides for investments in securities issued by an investment company registered under the Investment Company Act of 1940, the requirements of that act shall control. Any Investment Manager shall accept such appointment in writing and shall constitute a fiduciary with respect to the investment of Plan assets held in the particular Investment Fund for which the appointment applies, unless such person would not be treated as investing assets of the Plan if the Plan were covered by the Employee Retirement Income Security Act of 1974, as amended.

Z. “Matching Account” means an account established by the Trustee for a Participant to which any Matching Contribution, and any earnings and investment gains or losses allocable thereto, shall be credited.

AA. “Matching Contribution” means a portion of the Matching Fund determined pursuant to Section 5.25.050.

BB. “Matching Fund” means the aggregate amount designated by the County to be used during a period specified by the County to match Deferred Compensation Contributions pursuant to Section 5.25.050.

CC. “Normal Retirement Age” means age 70½, unless the Participant shall have designated an alternative normal retirement age. A Participant’s Normal Retirement Age shall not be earlier than age 65 or the earliest date at which the Participant will become eligible to retire and receive a full pension benefit pursuant to the provisions of the County Employees Retirement Law of 1937 or the Judges

Retirement Law, as amended, and shall not be later than age 70½. Notwithstanding the foregoing, a Participant who is a qualified police or firefighter, as defined in Code Section 415(b)(2)(H)(ii)(I), may designate a Normal Retirement Age that is not earlier than age 40 and shall not be later than age 70½. If a Participant uses the increased deferral limit set forth in Section 5.25.040B.2, such Participant shall be deemed to have selected as his or her Normal Retirement Age the third Plan Year following the first Plan Year in which such increased limit is utilized or such earlier year as is necessary to comply with the limitations set forth above. Once a Participant has utilized the increased deferral limit to any extent, his or her Normal Retirement Age may not thereafter be changed for the purpose of utilizing the additional deferral limit provided under Section 5.25.040B.2. of this Plan.

DD. “Participant” means an Eligible Employee or a former Eligible Employee who has entered into a Participation Agreement and who has a balance in his or her Investment Accounts.

EE. “Participation Agreement” means the agreement with the County by which an Eligible Employee elects to become a Participant under the Plan as of an Entry Date and to defer irrevocably a portion of his or her Eligible Earnings.

FF. “Participant Loan Fund” means the Investment Fund provided for in Section 5.25.080I.

GG. “Plan” means the County of Los Angeles Deferred Compensation and Thrift Plan, the terms and provisions of which are herein set forth, as the same may be

amended, supplemented or restated from time to time.

HH. "Plan Year" means a calendar year.

II. "Represented Employee" means any Employee in a bargaining unit represented by an employee organization certified by the County Employee Relations Commission.

JJ. "Retirement" means Separation from Employment after having met or exceeded the minimum age and service requirements for a service retirement benefit under the County Employees Retirement Law of 1937 or the Judges Retirement Law.

KK. "Rollover Contributions" means contributions received by the Plan on or after September 1, 2003, pursuant to Section 5.25.108B.

LL. "Rollover Account" means a separate account to which the Rollover Contributions received on or after September 1, 2003, on behalf of each Participant, and any earnings and investment gains or losses allocable thereto, are credited. The Rollover Account may include additional record-keeping subaccounts (if necessary) for purposes of separately accounting for (i) Rollover Contributions from (a) an eligible deferred compensation plan under Code section 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 (b) a "conduit" individual retirement account described in Code section 408(d)(3)(A)(ii) provided that it only includes amounts rolled over from an eligible deferred compensation plan under Code section 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 (ii) Rollover Contributions from (a) an individual retirement account under Code section 408(a); (b) a “conduit” individual retirement account described in Code section 408(d)(3)(A)(ii) that includes amounts rolled over from Eligible Retirement Plans described in subsection (ii)(a), (c), (d), (e), and (f) of this section LL; (c) an individual retirement annuity under Code section 408(b); (d) an annuity plan described in Code section 403(a); (e) a plan which is qualified under Code section 401(a); (f) a tax-sheltered annuity contract under Code section 403(b), and (g) an eligible deferred compensation plan under Code section 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 that includes any amounts rolled over from an Eligible Retirement Plan described in subsection (ii) of this section LL.

MM. “Savings Plan” means the County of Los Angeles Savings Plan.

NN. “Separation from Employment” or “Separated from Employment” means any termination of a Participant’s relationship with the County as an Employee, including termination due to death or Retirement.

OO. “TPA” means the third-party administrator who has entered into a contract with the County to provide record-keeping and other administrative services for the Plan.

PP. “Trial Court Act” means the Trial Court Employment Protection and Governance Act, California Government Code Section 71600 et seq.

QQ. "Trial Court Employee" means a "trial court employee," as defined under the Trial Court Act, who is an Eligible Employee.

RR. "Trial Court Entity" means each Los Angeles County Municipal Court, Los Angeles County Superior Court, and each unified, successor trial court entity (or portion thereof) established in the County of Los Angeles pursuant to California Government Code Section 70200 et seq.

SS. "Trust Agreement" means an agreement(s) executed by the County and a Trustee which establishes either a trust fund or custodial account to provide for the investment, reinvestment, administration and distribution of contributions made under the Plan and the earnings thereon, as amended from time to time.

TT. "Trust Fund" means the assets of the Plan held by the Trustee pursuant to the Trust Agreement.

UU. "Trustee" means the one or more persons or entities who have entered into a Trust Agreement as a trustee or custodian, and any duly appointed successor. For these purposes, the custodian of any custodial account created for the purposes of holding Plan assets must be a bank, as described in Code Section 408(n), or a person who meets the nonbank trustee requirements of paragraphs (2)-(6) of section 1.408-2(e) of the Income Tax Regulations relating to the use of non-bank trustees.

VV. "Valuation Date" means the date with respect to which the value of the assets comprising the Trust Fund or any portion thereof is determined. Unless otherwise determined by the Administrative Committee, a Valuation Date occurs each

day.

WW. "Year of Service" for any Employee or former Employee means any Plan Year in which such Employee or former Employee was employed by the County and

was a Participant in the Plan or was a "Participant" in the Savings Plan sponsored by the County.

Unless the context otherwise indicates, the masculine wherever used shall include the feminine and neuter, and the singular shall include the plural.

5.25.030 Election to Become a Participant.

A. An Eligible Employee may become a Participant in the Plan by entering into a Participation Agreement with the County before an Entry Date. The Participant's election to defer Eligible Earnings shall become effective with respect to Eligible Earnings payable to the electing Eligible Employee for services rendered to the County on or after the next Entry Date following the execution of such Participation Agreement. Such Participation Agreement shall remain effective for a minimum of one calendar month and shall be effective thereafter for so long as the Participant remains an Employee unless revoked or modified by the Participant. The Participant may revoke or modify a Participation Agreement by providing notice, in accordance with procedures authorized by the County, prior to the commencement of the calendar month for which the revocation or modification is to be effective.

B. The Participation Agreement shall specify, as either a percentage or a

dollar amount, the portion of Eligible Earnings to be deferred each month pursuant to the Plan and contributed to the Plan; provided however, that, for any pay period, the Participant may not deduct from and defer any amount that: (i) would not be received as taxable cash but for the Participation Agreement; or (ii) would not constitute Eligible Earnings even if received as taxable cash. Moreover, the Participant's Eligible Earnings for each pay period will be reduced on a pre-tax basis in the following order: (i) first, any pre-tax contributions to the Los Angeles County Employee's Retirement Association; (ii) second, if the Participant participates in one of the flexible benefit plans under Chapters 5.27, 5.28, 5.33 or 5.37 of the County Code, by the amount of any contributions under such plans that otherwise would have constituted Eligible Earnings; (iii) third, if a Participant also participates in the Savings Plan, by the Tax Deferred Contributions to the Savings Plan; and (iv) fourth, by an amount to satisfy the Participant's Participation Agreement under Horizons Plan.

5.25.040 Limits on Amounts Deferred.

A. This subsection A. shall apply for calendar years beginning prior to January 1, 2002 and to Participants who are subject to the Combined Limit under the Savings Plan.

1. The amount that a Participant may defer under a Participation Agreement and the Plan for any Plan Year shall not exceed a ceiling which shall be the lesser of (a) \$7,500.00, adjusted for the calendar year to reflect increases in cost-of-living in accordance with Code sections 457(e)(15) and 415(d), or (b) 33 percent of the Participant's Eligible Earnings, provided, that the cumulative amount deferred shall not

exceed 33 percent of the Participant's cumulative Eligible Earnings for the current Plan Year. In applying this subsection A.1. to Participants who are subject to the Combined Limit under the Savings Plan, the limit determined under subsection A.1.(a) shall be \$8,500.00 and the term "33 percent of the Participant's Eligible Earnings" shall be replaced with the term "100 percent of the Participant's Includible Compensation."

2. The maximum amount that may be deferred in any of the last three Plan Years ending before the Plan Year in which the Participant attains Normal Retirement Age may be increased to the lesser of (a) \$15,000.00, or (b) the sum of the Plan ceiling for the Plan Year determined as above and any deferrals (subject to such ceiling) not utilized for prior taxable years after December 31, 1978 in which the Participant was eligible to participate in any "eligible deferred compensation plan" within the meaning of Section 457(b) of the Code.

3. Notwithstanding the foregoing, the amount that may be deferred under the Plan for any Plan Year shall be reduced (a) by the amount deferred for such Plan Year under any other "eligible deferred compensation plan," (b) by any amount excludable from the Participant's gross income for such Plan Year under Section 403(b) of the Code on account of contributions made by the County, (c) by any amount excludable from the Participant's gross income for such Plan Year under Section 402(e)(3) or 402(h)(1)(B) or (k) of the Code, and (d) by any amount with respect to which a deduction is allowable for such Plan Year by reason of a contribution to an organization described in Section 501(c)(18) of the Code.

4. Except as provided in subsection A.5., for purposes of this

subsection A., amounts deferred under the Plan include all Deferred Compensation Contributions for such Plan Year and the greater of (a) any Matching Contributions made during such Plan Year, or (b) the amount of any Matching Contributions and the earnings thereon which have vested pursuant to Section 5.25.080F during such Plan Year. Any Matching Contributions taken into account under this Subsection when made shall not be taken into account in a later Plan Year.

5. Notwithstanding subsection A.4. effective the 2003 Plan Year, for purposes of applying this subsection A. to Participants who are subject to the Combined Limit under the Savings Plan, Matching Contributions shall be treated as amounts deferred under the Plan in the Plan Year in which the Matching Contributions are made, and, in the 2003 Plan Year, amounts deferred under the Plan also shall include amounts that are treated as vesting in that Plan Year that were not previously taken into account under subsection A.4.

B. This subsection B. shall apply for calendar years beginning on or after January 1, 2002, unless a later effective date is provided.

1. The amount that a Participant may defer under a Participation Agreement and the Plan for any Plan Year shall not exceed a ceiling which shall be the lesser of (a) the Dollar Limit, as defined in this subsection, or (b) 100 percent of the Participant's Includible Compensation, provided, that the cumulative amount deferred shall not exceed 100 percent of the Participant's cumulative Includible Compensation for the current Plan Year. The "Dollar Limit" means the "applicable dollar limit" as defined in Code section 457(e)(15) or a successor provision. For Plan Years beginning

on or after January 1, 2007, the Dollar Limit shall be adjusted for the calendar year to reflect increases in cost-of-living in accordance with Code sections 457(e)(15) and 415(d).

2. The maximum amount under B.1. that may be deferred in any of the last three Plan Years ending before the Plan Year in which the Participant attains Normal Retirement Age may be increased to the lesser of (a) twice the Dollar Limit in effect for such Plan Year, or (b) the sum of the Plan ceiling for the Plan Year determined under 5.25.040B.1. *plus* the Plan ceiling for any prior taxable years (determined under the applicable Code section 457(b)(2) limits and coordination requirements) in which the Participant was eligible to participate in the Plan, *less* the amount of Deferred Compensation Contributions (other than Catch-Up Contributions) made to the Plan for such prior taxable years.

3. Except as provided in subsection B.4, for purposes of this subsection B., amounts deferred under the Plan include all Deferred Compensation Contributions (other than Catch-Up Contributions made pursuant to subsection C.) for such Plan Year and the greater of (a) any Matching Contributions made during such Plan Year, or (b) the amount of any Matching Contributions and the earnings thereon which have vested pursuant to Section 5.25.080F during such Plan Year. Any Matching Contributions taken into account under this Subsection when made shall not be taken into account in a later Plan Year.

4. Notwithstanding subsection B.3., effective the 2003 Plan Year, for purposes of determining the limitations under subsections B.1., B.2., D. and E. and

excess deferrals under subsection F., Matching Contributions shall be treated as amounts deferred under the Plan in the Plan Year in which the Matching Contribution is made, and, in the 2003 Plan Year, amounts deferred under the Plan also shall include amounts that are treated as vesting in that Plan Year that were not previously taken into account under subsection B.3.

5. This subsection shall not apply to any Participant who is subject to the Combined Limit as defined in the Savings Plan.

C. Beginning on or after September 1, 2003, the following provisions shall apply:

1. A Participant who has attained the age of 50 or older before the close of any Plan Year and is eligible to make Deferred Compensation Contributions under the Plan shall be eligible to have the County make Catch-Up Contributions to the Plan from his or her Eligible Earnings during such Plan Year in excess of the Code limitations set forth in Section 5.25.040B.1 or comparable limitations or restrictions contained in the terms of this Plan.

2. The amount of Deferred Compensation Contributions treated as Catch-Up Contributions for any calendar year shall not exceed the lesser of (a) the applicable dollar limits provided for in Code section 414(v)(2)(B); or (b) the excess, if any, of the Participant's Includible Compensation for the year over any other elective deferrals, as defined in Code section 414(u)(2)(C), made by the Participant for such year other than catch-up contributions made pursuant to Code section 414(v). For Plan

Years beginning on or after January 1, 2007, the applicable dollar limit shall be adjusted for the calendar year to reflect the increases in cost-of-living in accordance with Code sections 414(v) and 415(d).

3. This subsection shall not apply to any Participant who is subject to the Combined Limit as defined in the Savings Plan.

D. In any Plan Year in which a Participant meets the eligibility requirements both to defer the maximum amount permitted under subsection B.2. and to make a Catch-Up Contribution under subsection C., the Participant shall be eligible to defer under the Plan the greater of (i) the maximum amount that may be deferred under subsection B.1. as modified by subsection B.2., or (ii) the maximum amount that may be deferred under subsection B.1. plus the maximum Catch-up Contribution under subsection. C.

E. In any Plan Year in which the Participant participates in more than one “eligible deferred compensation plan,” within the meaning of Code section 457(b), maintained by any “eligible employer,” within the meaning of Code section 457(e)(1), the limitations on Deferred Compensation Contributions and Catch-up Contributions under subsection B.1, B.2 and C., shall apply to a Participant’s aggregate annual amounts deferred under all such eligible deferred compensation plans in accordance with the individual limitation under Code section 457(c). For purposes of applying the individual limitation under Code section 457(c), the Plan limitation set forth in subsection B.2. (special Code section 457 contribution for the three Plan Years prior to the Participant’s Normal Retirement Age) shall be taken into account only to the extent that

a Deferred Compensation Contribution is made for a Participant under the Plan as a result of such Plan limitation.

F. In any Plan Year in which the Participant participates in more than one “eligible deferred compensation plan,” within the meaning of Code section 457(b), maintained by the County, the limitations on Deferred Compensation Contributions (including Matching Contributions) and Catch-up Contributions as determined under subsections B.1, B.2, B.4 and C., shall apply to a Participant’s aggregate annual amounts deferred under all such eligible deferred compensation plans.

1. Amounts deferred under all such eligible deferred compensation plans in excess of the maximum amounts determined under subsections B.1, B.2, B.4 and C. shall be distributed to the Participant, with allocable net income, as soon as administratively practical after the amount of the excess deferral is determined. With respect to excess deferrals that are attributable to Deferred Compensation Contributions and Catch-Up Contributions, the excess deferrals shall be includible in gross income of the Participant in the taxable year in which the amounts were deferred under the Plan. With respect to excess deferrals that are attributable to Matching Contributions, the excess deferrals shall be includible in gross income of the Participant in the taxable year in which the contributions are made to the Plan or, if later, the taxable year in which the amounts (including the allocable net income on such amounts) are vested pursuant to Section 5.25.080F.

2. Excess deferrals will be distributed from contributions that, pursuant to this provision, are treated as having been made to the Plan last. To the extent administratively practical, in any taxable year in which it is determined that excess deferrals are made to the Plan, the Plan will treat the contributions to the Plan as being made in the following order: first, Matching Contributions (including the allocable net income on such amounts) that were made to the Plan in a prior year but became fully vested in the taxable year that excess deferrals are made; second, fully vested Matching Contributions that were made to the Plan in the taxable year that excess deferrals are made; third, Deferred Compensation Contributions; and, fourth, Catch-Up Contributions.

5.25.050 Matching Contributions.

A. Effective beginning January 1, 2001, unless another matching contribution rate is established in a memorandum of understanding affecting the fringe benefits of a Participant, for every dollar of a Participant's Deferred Compensation Contribution under the Plan, to a maximum of 4 percent of such Participant's Compensation in any month within the period from July 1st of a Plan Year to June 30th of the next Plan Year, the County shall contribute \$1 from the Matching Fund; provided, however, that for Participants who are Eligible Employees pursuant to a memorandum of understanding the aggregate amount of Matching Contributions under the Plan for such July 1st to June 30th period shall not exceed a dollar cap to be determined by the Board of Supervisors.

B. The Deferred Compensation Contribution under this Plan of each

Participant who is an Eligible Employee pursuant to a memorandum of understanding shall be matched on a monthly basis as provided herein until the Matching Fund is exhausted. In the event that amounts remaining in the Matching Fund are determined by the County to be insufficient to meet the Matching Contributions required herein for the next succeeding month, the County shall allocate the amount remaining in the Matching Fund to the Deferred Compensation Contributions of each such Participant for such month on a pro rata basis at a reduced ratio, and shall notify said Participants that the Matching Fund is about to be exhausted. The Board shall designate the amount, if any under such terms and conditions as it may establish, which is to be set aside as the Matching Fund for any succeeding period selected by the Board and the ratio for such period at which Deferred Compensation Contributions are to be matched on a monthly basis. Participants who are Eligible Employees not subject to a memorandum of understanding shall not be subject to an annual cap on Matching Contributions or permitted to receive Matching Contributions allocated for Participants who are eligible Employees subject to a memorandum of understanding.

5.25.060 Participant's Accounts. The Trustee shall maintain a Deferred Account, a Matching Account and, effective as of September 1, 2003, a Rollover Account (as needed) comprising the Investment Accounts, for each Participant. On or after September 1, 2003, the Administrative Committee in its discretion may establish a separate account or subaccount under the Plan for any Catch-Up Contributions for each Participant eligible to make such contributions. The Investment Accounts of each Participant shall be credited with earnings thereon, if any, and shall be credited or

debited, as the case may be, with the net amount of any gains or losses and applicable Plan charges which may result from the investment of the Investment Accounts in the Investment Funds pursuant to Section 5.25.070.

5.25.070 Investment of the Trust Fund.

A. Trust Fund. Notwithstanding any contrary provision of the Plan, in accordance with Section 457(g) of the Code, all contributions to the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property or rights shall be held in trust and/or in one or more custodial accounts for the exclusive benefit of Participants and Beneficiaries under the Plan. Any trust under the Plan shall be established pursuant to a written agreement that constitutes a valid trust under the law of the State of California, and any custodian of a custodial account under the Plan shall be a bank, as described in Code section 408(n), or a person who meets the nonbank trustee requirements of paragraphs (2)-(6) of section 1.408-2(e) of the Income Tax Regulations relating to the use of nonbank trustees. The Trustee shall invest the assets of the Trust Fund in accordance with the instructions of Participants and the Administrative Committee as provided in this Section.

B. Investment by Participants. Each Participant may instruct the Trustee or TPA, as applicable, to allocate his or her Deferred Compensation Contributions and the portion of his or her Matching Contributions that are 100 percent vested and nonforfeitable (collectively, "Contributions") among the Investment Funds. A Participant may change the allocation of future Contributions and may transfer past Contributions,

adjusted for earnings, gains and losses, and applicable Plan charges, if any, from one Investment Fund to another. A Participant may make investment elections at the time and manner prescribed by procedures established from time to time by the Administrative Committee.

C. Investment by Administrative Committee. Plan assets that are not invested pursuant to Participant instructions under Section 5.25.070B, including but not limited to Plan assets for which no Participant investment instructions are received, non-vested Matching Contributions that are not subject to Participant instructions under Section 5.25.070B, forfeiture accounts, accumulated fees and unallocated Plan earnings, shall be invested by the Trustee as instructed by the Administrative Committee in one or more Investment Funds as the Administrative Committee in its discretion may determine.

5.25.075 Trust Fund Allocation and Valuation.

A. Allocation.

1. Contributions made to the Plan on behalf of a Participant shall be deposited and credited to the Participant's Investment Accounts within a period that is not longer than is reasonable for the proper administration of the accounts of Participants, but in no event later than the 15th business day of the month following the month in which the Participant's Deferred Compensation Contributions otherwise would have been payable to such Participant in cash.

2. Except as may otherwise be provided by the Administrative Committee, the assets credited to each Participant's Investment Accounts shall be

allocated among the Investment Funds in accordance with the investment option or options chosen by such Participant or the Administrative Committee, as the case may be, effective no later than the first business day following the business day on which the Trustee or its Agent has received appropriate instructions, or such later date as is commercially reasonable under the circumstances.

3. As of each Valuation Date, the net gain or loss of each Investment Fund, determined in accordance with Section 5.25.075B. below, shall be allocated by the Trustee or its Agent in accordance with the instructions received by the Trustee from the TPA to the Investment Accounts of Participants in such Investment Funds in proportion to the amounts of such Investment Accounts invested in such Investment Fund on such Valuation Date, exclusive of amounts to be credited but including amounts (other than the net loss, if any, determined pursuant to Section 5.25.075B.) to be debited to such Investment Accounts as of such Valuation Date.

B. Valuation.

1. As of the close of business each Valuation Date, the TPA shall determine or cause to be determined the value of each Investment Fund. The TPA may rely on net asset value calculations, book values and other data with respect to the value of Plan assets held in the Investment Funds furnished to it by the Administrative Committee, Investment Managers, the County Treasurer, custodians or other entities authorized to provide valuation data. The transfer of funds to or from an Investment Fund, the allocation of Deferred Compensation Contributions, Rollover Contributions and Matching Contributions, and payments, distributions and withdrawals from an

Investment Fund to provide benefits under the Plan for Participants or Beneficiaries shall not be deemed to be income, expenses or losses of an Investment Fund. The TPA shall communicate such valuations to the Trustee.

2. One or more methods of valuation may be used in determining the value of the Investment Funds. Subject to the TPA's rights and duties under the contract between it and the County, the reasonable and equitable decision of the TPA as to the value of each Investment Fund as of each Valuation Date shall be conclusive and binding upon all Participants and Beneficiaries having any interest, direct or indirect, in such Investment Fund.

3. The TPA shall be responsible for monthly reconciliation of its records with the records of the third-parties from which it receives valuation data. Notwithstanding the foregoing, the Administrative Committee or its Agent may, in accordance with applicable requirements of the Code and California law, instruct the TPA to adopt such accounting procedures as the Administrative Committee or its Agent considers appropriate, reasonable and equitable to establish a proportionate crediting of net gain or loss of an Investment Fund and of contributions made to an Investment Fund as of each Valuation Date.

C. No Guarantee Against Loss. The County, the Board, the Administrative Committee, the TPA and the Trustee do not guarantee in any manner the Investment Funds or any part thereof against loss or depreciation. All persons having an interest in

the Investment Funds shall look solely to such Funds for payment with respect to such interest. The County, the Board, the Administrative Committee, the TPA and the Trustee are not authorized to advise a Participant as to that Participant's selection of Investment Funds, and the fact that designated Investment Funds are available to Participants for investment shall not be construed as a recommendation for the investment of contributions hereunder in all or any of such Funds. The selection of an Investment Fund by a Participant is his or her sole responsibility and shall constitute an exercise of control over the assets of his or her Investment Accounts. Each Participant who so exercises control shall, by such exercise, release and agree, on his or her behalf and on behalf of his or her heirs and beneficiaries, to indemnify and hold harmless the County, the Board, the Administrative Committee, the TPA, the Trustee and any Agent, officer or employee of any of them, from and against any claim, demand, loss, liability, costs or expense (including reasonable attorneys' fees) caused by or arising out of such exercise, including without limitation any diminution in value or losses incurred from such exercise. Further, it is the intent of the County and the Board that Section 53213.5 of the Government Code apply to the Plan.

5.25.080 Benefit Distributions, Withdrawals and Loans.

A. Application for Distribution, Withdrawal and Loan. Generally, in accordance with the terms of this Section 5.25.080 and subject to the minimum distribution rules of Code section 457(d)(2) and 401(a)(9) as described in Section 5.25.080C, a Participant or his or her Beneficiary is entitled to a distribution upon the Participant's Separation from Employment, due to an "unforeseeable emergency" and

under certain circumstances when the distribution from the Participant's Investment Account balance (determined without regard to a Participant's Rollover Contribution Account) does not exceed \$5,000. In addition, effective November 1, 2003, an active Participant may apply for a loan from the Plan. A Participant or Beneficiary who is eligible for and wants to receive a distribution, withdrawal or loan under this Section must file with the Administrative Committee an application that is satisfactory to the Administrative Committee. Applications may be obtained from the Administrative Committee.

B. Distributions Upon Separation from Employment Generally.

1. Distributions under the Plan to a Participant or his or her Beneficiary following Separation from Employment shall be made in cash in accordance with one of the following methods:

- a. A lump sum payment; or
- b. Substantially equal monthly, quarterly, semi-annual or annual installments not extending over more than twenty years; or
- c. Consecutive periodic payments for the life of the Participant or for the lives of the Participant and his or her designated Beneficiary, and the last survivor of them; or
- d. A combination of the methods of payment described in subdivisions a, b, and c of this subsection.

In the event that the vested balance of any Participant's Investment Account (determined without regard to the Participant's Rollover Account) is less than \$5,000.00 (or the dollar limit under Code section 411(a)(11), if greater) Trustee shall distribute such Participant's interest under the Plan in a lump sum.

2. Participants and Beneficiaries whose distributions under this Plan have already begun or who have elected to defer the commencement of distributions, may elect to change their previously irrevocable payment elections no more frequently than once in any Plan Year, which election shall be deemed to be made at the time that the benefit election becomes effective. The election shall be made on a form approved by the Administrative Committee and shall be subject to the minimum distribution requirements of Code section 401(a)(9) and the regulations thereunder. This subsection B.2. shall not apply to Participants and Beneficiaries whose benefits under the Plan are provided through an annuity purchased from an insurance carrier.

3. All distributions hereunder shall be made on or begun as soon as administratively practicable after the Participant's application is filed pursuant to 5.25.080A. and approved by the Administrative Committee. A Participant's election to begin distributions and selection of a payment method shall be irrevocable except as provided in subsection B.2. For the purpose of benefit distributions, the date that such Participant's interest in an Investment Fund is liquidated or redeemed, partially or in full, to satisfy the distribution application shall be the applicable Valuation Date. Any

amounts remaining in the Participant's Investment Accounts after the date that distribution commences shall continue to be credited with earnings and losses in accordance with Section 5.25.075.

4. If a Participant to whom benefit payments from his or her Investment Accounts have commenced pursuant to this subsection due to Separation from Employment should again become an Eligible Employee before completion of the distribution of his or her Investment Accounts, no further distribution shall be made on account of such prior Separation from Employment. Any amounts which the Participant was entitled to receive on his or her prior Separation from Employment shall be held in the Plan until the Participant or his or her Beneficiary is again entitled to a distribution under the terms of the Plan.

5. Notwithstanding any other provision in the Plan, if a Participant or Beneficiary elects a life annuity or joint and survivor annuity form of benefit, to provide such benefit the Administrative Committee may instruct the Trustee to purchase an annuity contract with the balance in the Participant's Investment Account, valued in accordance with subsection A.(ii) of this Section.

6. Distributions will begin in accordance with Code section 401(a)(9) and the regulations thereunder and Section 5.25.080C of the Plan. Such provisions will override any inconsistent distribution option.

C. Code section 401(a)(9) Minimum Distribution Requirements. The provisions of this subsection C. will apply for the purposes of determining required

minimum distributions for Distribution Calendar Years beginning with the 2003 calendar year and for required minimum distributions for the 2002 Distribution Calendar Year that are made on or after the action taken by the Board to pass the ordinance adopting this restated Plan. The requirements of this subsection C. will take precedence over any inconsistent provisions of the Plan.

1. Definitions. For the purposes of this subsection C, the following terms, when used with initial capital letters, shall have the following respective meanings:

a. "Designated Beneficiary": The person who is designated as the Beneficiary as defined in Section 5.25.020D of the Plan and is the designated beneficiary under section 401(a)(9) of the Code and section 1.401(a)(9)-4 of the Treasury Regulations.

b. "Distribution Calendar Year": A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under subsection C.3.b. of the Plan. The required minimum distribution for the Participant's first Distribution Calendar Year will be made on or before the Participant's Required Beginning Date.

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

c. "Life Expectancy": Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury Regulations.

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

e. "Required Beginning Date": The applicable date specified in subsection 3. below.

2. General Rules. Notwithstanding any provision of the Plan to the contrary, all distributions required under this Section 5.25.080 will be determined and made in accordance with the Treasury Regulations under section 401(a)(9) of the Code.

The only permissible distribution options under this Plan are a lump sum distribution, substantially equal monthly, quarterly, semi-annual or annual installments not extending over more than twenty years, consecutive periodic payments for the life of the Participant or for the lives of the Participant and his or her designated Beneficiary, a combination of such methods of payment to the extent permitted in subsection B, or minimum monthly distributions calculated in accordance with the rules provided in this subsection C.

3. Time of Distribution.

a. The Participant's entire interest will be distributed, or begin to be distributed no later than the Participant's Required Beginning Date. Except as described in subsection 3.b. below, the Required Beginning Date of any Participant shall be the April 1 of the calendar year following the later of (1) the calendar year he terminates employment or (2) the calendar year he attains age 70 1/2.

b. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(1) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then, unless the election described in subsection 3.d. below is made, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would

have attained age 70 1/2, if later.

(2) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then, unless the election described in subsection 3.d. below is made, distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(3) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(4) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this subsection 3.b., other than subsection 3.b.(1), will apply as if the surviving spouse were the Participant.

c. For purposes of this subsection C, unless subsection 3.b.(4) applies, distributions are considered to begin on the Participant's Required Beginning Date. If subsection 3.b.(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under subsection 3.b.(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the

Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection 3.b.(4)), the date distributions are considered to begin is the date distributions actually commence.

d. Notwithstanding the foregoing, if a Participant dies before distributions begin and there is a Designated Beneficiary, distribution to the Designated Beneficiary is not required to begin by the Required Beginning Date specified above if the Participant or the Beneficiary elects, on an individual basis, that the Participant's entire interest will be distributed to the Designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death; provided, however, that if the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to either the Participant or the surviving spouse begin, this election will apply as if the surviving spouse were the Participant. The election provided in this subsection 3.d. must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin, or by September 30 of the calendar year which contains the fifth anniversary of the Participant's (or, if applicable, surviving spouse's) death.

4. Required Minimum Distributions During Participant's Lifetime.

a. During the Participant's lifetime, the minimum amount that will be distributed for each Distribution Calendar Year is the lesser of:

(1) the quotient obtained by dividing the Participant's

Account Balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's age as of the Participant's birthday in the Distribution Calendar Year; or

(2) if the Participant's sole Designated Beneficiary for the Distribution Calendar Year is the Participant's spouse and the spouse is more than 10 years younger than the Participant, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the Distribution Calendar Year.

b. Required minimum distributions will be determined under this subsection C.4. beginning with the first Distribution Calendar Year and up to and including the Distribution Calendar Year that includes the Participant's date of death.

c. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code section 401(a)(9) and the Treasury Regulations.

5. Required Minimum Distributions if Participant Dies After Distributions Begin.

a. Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each Distribution Calendar

Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the longer of the remaining Life Expectancy of the Participant or the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as follows:

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

(2) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, the remaining Life Expectancy of the surviving spouse is calculated for each Distribution Calendar Year after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For Distribution Calendar Years after the year of the surviving spouse's death, the remaining Life Expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

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

b. No Designated Beneficiary. If the Participant dies on or after

the date distributions begin and there is no Designated Beneficiary (for example, if pursuant to the Plan, the Beneficiary is the Participant's estate) as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the Participant's remaining Life Expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

c. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code section 401(a)(9) and the Treasury Regulations.

6. Death Before Date Distributions Begin:

a. If the Participant dies before the date distributions begin and there is a Designated Beneficiary, then, unless the election described in subsection C.3.d. above is made, the minimum amount that will be distributed for each Distribution Calendar Year after the year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining Life Expectancy of the Participant's Designated Beneficiary, determined as provided in subsection C.5.a. above.

b. If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of

the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

c. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole Designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under subsection 3.b.(1), this subsection C. will apply as if the surviving spouse were the Participant.

d. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code section 401(a)(9) and the Treasury Regulations.

7. Coordination with Minimum Distribution Requirements Previously in Effect. If the total amount of 2002 required minimum distributions under the Plan made to the distributee prior to the effective date of this subsection C. equals or exceeds the required minimum distributions determined under this subsection C, then no additional distributions will be required to be made for 2002 on or after such date to the distributee. If the total amount of 2002 required minimum distributions under the Plan made to the distributee prior to the effective date of this subsection C. is less than the amount determined under this subsection C, then required minimum distributions for 2002 on

and after such date will be determined so that the total amount of required minimum distributions for 2002 made to the distributee will be the amount determined under this subsection C.

D. Voluntary In-Service Distribution. A Participant who is an active employee of the County shall receive a distribution of all or a portion of the amount payable to the Participant under the Plan if the following requirements are met:

1. the amount of the distribution payable to the Participant under the Plan (determined without regard to a Participant's Rollover Account) does not exceed \$5,000 (or the dollar limit under Code section 411(a)(11), if greater),
2. the participant has not previously received an in-service distribution under this section of the Plan,
3. no amount has been deferred under the Plan with respect to that Participant during the two-year period ending on the date of the in-service distribution, and
4. the Participant elects to receive the distribution.

Any distribution permitted pursuant to this subsection shall be paid from amounts held in the Participant's Investment Accounts in accordance with procedures established by the Administrative Committee or its Agent (provided that, to the extent possible to satisfy the Participant's distribution request, amounts attributable to Eligible Retirement Plans described in section 5.25.020LL(ii) and held in a separate Rollover Account (or subaccount) shall be used last to satisfy the distribution requested).

E. Emergency Withdrawals.

1. The Administrative Committee or its Agent, in its sole discretion, may permit a Participant upon written request to the County to make a withdrawal from the Plan to meet an unforeseeable emergency.

2. An “unforeseeable emergency” is a severe financial hardship to the Participant resulting from an illness or accident of the Participant or the Participant’s spouse or dependent (as defined in Code section 152(a)), loss of the Participant’s property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant. Whether a Participant is faced with an unforeseeable emergency is to be determined by the Administrative Committee or its Agent based on the relevant facts and circumstances of each case. The following events may constitute an unforeseeable emergency: imminent foreclosure of or eviction from the Participant’s primary residence, the need to pay for medical expenses, such as non-refundable deductibles and prescription drug medication, and the need to pay funeral expenses of the Participant’s spouse or a dependent (as defined in Code section 152(a)).

3. A withdrawal under this subsection may not be made to the extent the emergency is or can be relieved through compensation by insurance, by liquidation of the Participant’s other assets (to the extent the liquidation would not itself cause severe financial hardship), or ceasing further deferrals under the Plan.

4. Withdrawal of amounts based on an unforeseeable emergency will

be permitted by the Administrative Committee or its Agent only to the extent reasonably needed to satisfy the emergency (which may include any amounts necessary to pay any taxes or penalties reasonably anticipated to result from the distribution), and shall not exceed the vested amounts credited to such Participant's Investment Accounts. Any withdrawal permitted pursuant to this subsection shall be paid from amounts held in the Participant's Investment Accounts in accordance with procedures established by the Administrative Committee or its Agent (provided that, to the extent possible to satisfy the Participant's withdrawal request, amounts attributable to Eligible Retirement Plans described in section 5.25.020LL(ii) and held in a separate Rollover Account (or subaccount) shall be used last to satisfy the emergency withdrawal requested)

5. Any withdrawal permitted pursuant to this section shall be paid by the Trustee within 60 days of approval by the Administrative Committee or its Agent of the Participant's written request.

F. Vesting and Forfeitures.

1. Any amount credited to a Participant's Deferred Account and Rollover Account shall be nonforfeitable and fully vested. In Plan Years prior to 2003, (a) any amount credited to a Participant's Matching Account shall vest and become nonforfeitable at the rate of 10 percent for each of the first four Years of Service and shall be 100 percent vested after five Years of Service; and (b) notwithstanding any other provision of this Plan, any amount credited to a Participant's Matching Account shall become nonforfeitable and fully vested without regard to Years of Service upon his or her (i) Retirement, (ii) Separation from Employment due to his or her death or

Disability, or (iii) attainment of age 70. Unvested amounts held in a Participant's Matching Contribution Account on or after January 1, 2003 shall be nonforfeitable and fully vested regardless of when the amounts were credited to such account. Any amount credited to a Participant's Matching Contribution Account in the 2003 Plan Year and thereafter, shall be nonforfeitable and fully vested.

2. This subsection 2 applies only with respect to Plan Years prior to 2003. In the event of a Separation from Employment prior to Retirement which is not caused by the death or Disability of the Participant, on the date of Separation from Employment, such Participant shall irrevocably forfeit the portion of his or her Matching Account which has not vested as provided herein, and his or her Matching Account shall be debited an amount equal to such unvested portion. If such Participant (or former Participant to whom the vested amount credited to his or her Investment Account has been distributed in full) again becomes an Eligible Employee and subsequently becomes party to another Participation Agreement, any Matching Contributions previously forfeited shall not be restored. Any new Matching Contributions thereafter made by the County, and any earnings and investment gains or losses allocable thereto, shall be credited to a separate Matching Account maintained for such Participant and shall vest as provided herein without regard to any Year of Service prior to such Separation from Employment.

G. Lost Participants. If the Participant or his or her Beneficiary cannot be located within four years of the date the Participant's interest under the Plan is first payable, the entire balance in his or her Investment Accounts shall be forfeited to an

unallocated forfeiture account under the Plan; provided, however, that the amount so forfeited shall be reinstated as of the date of the subsequent filing of an application for benefits under the Plan, and payment of the lump sum benefit shall occur no later than 60 days after such application is filed.

H. Application of Forfeitures. The amount (if any) of Participant's Investment Accounts which is forfeited for a Plan Year in accordance with Section 5.25.080F. or G. shall be placed in one or more forfeiture accounts held in the Trust Fund and applied first, to restore the accounts of lost Participants who have filed an application for benefits, if any, and second, to offset future Matching Contributions to be made by the County. Earnings on the forfeiture accounts held in the Trust Fund shall be used to reduce administrative expenses of the Plan in accordance with Section 5.25.090G.3.

I. Loans to Participants.

1. Upon application by an active Participant, but subject to such uniform and nondiscriminatory rules as the Administrative Committee or its Agent may establish and to the provisions of this Section, the Administrative Committee may in its discretion direct the Trustee to make a loan or loans to a Participant from his separate account in the Participant Loan Fund in an amount not exceeding the excess of:

a. The lesser of:

(1) \$50,000.00, reduced by the excess (if any) of:

(i) The highest outstanding balance of loans to

such Participant from the Plan during the one-year period ending on the day before the

date on which such new loan was made,

(ii) Over the outstanding balance of loans to such Participant from the Plan on the date on which such new loan was made, or

(2) 50 percent of the vested portion of the Participant's Account balance;

b. Over the outstanding balance of any other loan or loans from the Plan to the Participant; provided, however, that if 50 percent of the vested portion of the Participant's Account balance is less than \$10,000.00, the amount in subsection I.I.a. of this section shall be the lesser of \$10,000.00 or 80 percent of the vested portion of the Participant's Account balance. The minimum loan that may be made from the Plan is \$2,000.00 (or such other amount determined by the Administrative Committee). All loans hereunder shall be subject to such loan processing fees charged by the Trustee, Investment Manager and TPA as are approved by the Administrative Committee, which fees shall be paid by borrowing Participants.

2. As soon as practicable after the receipt of all necessary information and directions from the Administrative Committee to make a loan and prior to making any loan pursuant to subsection 1. of this section, but in no event later than 30 days after the applicable Valuation Date, the Trustee or Investment Manager shall transfer, in accordance with procedures determined by the Administrative Committee, to the Participant Loan Fund from the assets invested in other Investment Funds allocated to the Account of each borrowing Participant an amount equal to the amount of such Participant's loan, which investment shall be allocated to such Participant's Account.

The Participant Loan Fund shall be invested solely in loans to Participants made pursuant to this section and shall at all times be at least equal to the total amount of such loans. All interest and principal payments made by such Participant shall be credited to the separate account within the Participant Loan Fund of each Participant who borrows money from the Plan. Except as otherwise provided by the Administrative Committee, as of each Valuation Date all cash in the Participant Loan Fund shall be transferred to the other Investment Funds in accordance with each borrowing Participant's investment choice under Section 5.25.070.

3. Loans made pursuant to subsection 1. of this section:

a. Shall be secured by the Participant's Investment Accounts (provided that, to the extent possible to satisfy the loan application, amounts attributable to Eligible Retirement Plans described in section 5.25.020LL(ii) and held in a separate Rollover Account (or subaccount) shall be used last to satisfy the loan amount requested) and such other collateral as the Administrative Committee may require or permit;

b. Shall be available to all active Participants on a reasonably equivalent basis that shall not result in discrimination in favor of Employees who are officers or highly compensated within the meaning of Code Section 401; and

c. Shall be evidenced by a promissory note executed by the

Participant which provides for:

- (1) A reasonable rate of interest determined by the Administrative Committee, and
- (2) For repayment:
 - (i) Within a specified period of time, which shall not extend beyond five years from the time the loan is made unless the loan proceeds are used to acquire a dwelling, which within a reasonable time is to be used as a principal residence (as determined at the time the loan is made) of the Participant, in which case the promissory note shall provide for repayment within 15 years of the time the loan is made, unless otherwise provided by the Administrative Committee at the time the loan is made, and
 - (ii) In substantially equal payments, at least quarterly, over the term of the loan, and
 - (iii) Upon such other terms and conditions as the Administrative Committee shall determine.

Notwithstanding any other provision of the Plan, including Section 5.25.120, such loan shall be a first lien against the portion of the Participant's Account by which it is secured and any amount of principal or interest due and unpaid thereof shall be deducted insofar as possible from the portion of such Account by which it is secured before the payment of any portion thereof to the Participant or his Beneficiary.

4. Notwithstanding the foregoing provisions of this section, loans made to Participants under the Plan shall be due and payable upon the Participant's

termination of employment with the County, whether by death, retirement or otherwise. Beneficiaries, Alternate Payees and Participants who are not Employees are not eligible for a loan.

5. To the extent required by law, including, without limitation, guidance issued by the Internal Revenue Service, Horizons, the Savings Plan and the Deferred Earnings Plan shall be treated as one plan for purposes of this subsection I.

5.25.085 Claims Procedures.

A. Initial Claim. Any Participant or Beneficiary who believes that he or she is entitled to receive a benefit under the Plan must file an application as provided in Section 5.25.080A.

B. Appeal. If an application for benefits is denied, the Participant or Beneficiary will be advised of his or her right to appeal the denial to the Administrative Committee. The Participant or Beneficiary may appeal the denial of his or her application by filing with the Administrative Committee a written request for review of such claim stating the specific facts supporting his or her claim and specifying the remedy sought. The appeal shall be reviewed by Agents of the Administrative Committee. If the Agents determine that the claim is valid, benefits shall be distributed as soon as administratively feasible in accordance with Section 5.25.080. If, however, such Agents recommend denial of the claim, such appeal shall be reviewed by the Administrative Committee at its next open meeting. The determination of the Administrative Committee as to the denial of a claim on appeal shall be final and binding to the extent permitted by law.

5.25.090 Administration of the Plan.

A. Responsibility for Administration. The Administrative Committee shall be responsible for the administration of the Plan, including but not limited to the preparation and delivery to the Board, Participants, Beneficiaries and governmental agencies of all information, descriptions and reports required by applicable law, except to the extent responsibility for administration of the Plan is expressly assigned to another person under the terms of the Plan or the Trust Agreement. For purposes of determining whether retirement eligibility is present, the Administrative Committee may rely on the determination of the Los Angeles County Employees Retirement Association. Each other fiduciary shall have such powers, duties and authorities as shall be specified in the Plan or Trust Agreement.

B. Administrative Committee procedure.

1. The chairman of the Administrative Committee shall be the Chief Administrative Officer of the County. The chairman of the Administrative Committee shall select a secretary and may select such other officers as are needed from time to time. The members of the Administrative Committee or their designated representatives may authorize one or more of their number or any Agent or County Employee to carry out action that may be taken by the Administrative Committee.

2. The Administrative Committee shall hold meetings at least quarterly or more often at the call of the chairman. A majority of the members of the

Administrative Committee shall constitute a quorum and all action taken by the Administrative Committee shall be by majority vote at a meeting at which a quorum is present. The Administrative Committee shall maintain written minutes of its meetings.

C. Authority.

1. In addition to responsibilities and powers set out elsewhere in the Plan, the Administrative Committee shall have the following powers, which may be delegated to one or more Agents or the County:

a. The Administrative Committee shall have sole and exclusive authority to interpret where necessary the provisions of the Plan and determine the rights and benefits of Participants and other persons under the Plan. Such authority and power shall include the following: (i) resolving all questions relating to the eligibility of Employees to become Participants; (ii) determining eligibility for and the amount of benefits payable to Participants or their Beneficiaries, and determining the time and manner in which such benefits are to be paid; (iii) authorizing and directing all disbursements by the Trustee from the Trust Fund; (iv) construing and interpreting the Plan and the Trust Agreement and adopting rules for administration of the Plan and the Trust Agreement which are not inconsistent with the terms of such documents; and (v) resolving all questions of fact with respect to any matter arising in connection with the administration of the Plan.

b. The Administrative Committee will establish rules and procedures to be followed by Participants and Beneficiaries in filing applications for

benefits, in furnishing and verifying proofs that are satisfactory to the Administrative Committee for the determination of age, marital status, termination of service, Beneficiary designation, and in any other matters required to administer the Plan.

c. The Administrative Committee may modify any notice period required by the Plan or designate any County officer to serve as the recipient of any form or notice that has to be filed under the Plan.

d. The Administrative Committee shall instruct the Trustee as to the benefits to be paid hereunder and shall furnish the Trustee with any further information reasonably required by it for the purpose of distributing such benefits and making investments in or withdrawals from one or more of the Investment Funds.

e. The Administrative Committee may contract with one or more Investment Managers, or enter one or more investment arrangements, with respect to the Investment Funds.

f. The Administrative Committee shall also have the authority to contract with one or more private firms for services related to the Plan, consistent with Section 44.7 of the Los Angeles County Charter, Part 3 of Chapter 2.104 of this Code, State and County contracting policies and Chapter 7 of Title 9 of the California Government Code (Section 87000, et seq.).

g. Subject to the provisions of Subsection D of this Section 5.25.090 and Subsection B. of 5.25.085, all decisions of the Administrative Committee as to the facts of any case and the application thereof to any case, as to the

interpretation of any provision of the Plan or its application to any case, and as to any other interpretive matter or other determination or question related to the Plan or its administration shall be final and conclusive, to the extent permitted by law, as to all interested persons for all purposes of the Plan.

2. The Administrative Committee may assign additional duties and responsibilities to its members, and, with the exception of those duties expressly reserved to the County under Subsection (xi) below, may from time to time reassign any of the duties and responsibilities set forth in this Section 5.25.090C as it deems appropriate.

3. The County, as Plan sponsor, shall be responsible for contracting with the Trustee(s) and the TPA.

4. The County Treasurer is responsible for recommending to the Administrative Committee contracts for the guaranteed investment contracts or bank deposit funds that comprise the fixed income Investment Funds, and for administering all investment contracts.

5. The CAO shall be responsible for recommendations to the Board on all matters involving the appointment or removal of the Trustee, the County budget, Employee relations and County policy relating to the Plan. The CAO also shall be responsible for recommendations to the Administrative Committee concerning Plan operations and for the conduct of certain business operations on the Administrative

Committee's behalf, including the review of Plan expenses to determine that they do not exceed approved limits, the purchase of liability and fiduciary insurance, and the administration of the Trust Agreement, TPA contracts and communication services contracts.

6. The Director of Human Resources for the County shall be responsible for all Participant contact and services associated with the Plan.

7. The County Counsel shall provide, or contract for, all legal advice or representation required by the Administrative Committee and/or the County and its officers and employees in connection with their administration of the Plan.

8. The County Auditor-Controller shall be responsible for recommending a Plan auditor, administering auditor contracts, writing the specifications for Plan audits, supervising Plan audits, processing of payroll deferrals and County contributions, maintaining appropriate County accounting records, transferring of funds and account allocation information to the TPA, Trustees or Investment Managers, and periodic reviews of the financial integrity of the Plan.

9. Each of the above County officers may discharge any duty required by this Section through any designated deputy or assistant or contractor.

10. The Trustee has only those limited duties set forth in the Trust Agreement.

11. The County expressly reserves to itself the duties set forth in

subsection 3, the first sentence of subsection 5 and subsections 7 and 8 of this Section 5.25.090C.

D. Revocability of action. Any action taken by the Administrative Committee with respect to the rights or benefits under the Plan of any Participant or Beneficiary shall be revocable by the Administrative Committee as to payments, distributions or deliveries not theretofore made hereunder pursuant to such action. Appropriate adjustments may be made in future payments or distributions to a Participant or Beneficiary to offset any excess payment or underpayment theretofore made hereunder to such Participant or Beneficiary.

E. Employment of assistance. The Administrative Committee may employ such expert communication and enrollment, auditing, investment, or other assistance as it deems necessary or advisable for the proper administration of the Plan and Investment Funds.

F. Uniform administration of Plan. All action taken by the Administrative Committee under the Plan shall treat all persons similarly situated in a uniform and consistent manner.

G. Expense charges to Plan.

1. Until such time as a different fee is approved by the Administrative Committee, Participants shall be charged a fee of \$2.20 per month for Plan administrative expenses covered by this subsection G.1. Prior to the beginning of each County fiscal year, the Administrative Committee shall determine the amount of annual

fees that it reasonably estimates will be necessary to properly administer the Plan during such fiscal year. For purposes of its determination, the Administrative Committee shall take into account (i) direct, additional County costs expected to be incurred as a result of County employees performing the functions defined in this Section 5.25.090 and (ii) the cost of contractors that provide services to the Plan, including, without limitation, fiduciary and liability insurance coverage, communication consultants, investment advisors, auditors and legal services, pursuant to contracts that are approved by the Board or the Administrative Committee. The expenses subject to this subsection G.1. shall not include the cost of TPA fees, Trustee fees and investment management and custodial fees incident to the Investment Funds. The expenses incurred as a result of County employees performing the functions defined in this Section 5.25.090 shall not exceed the amount approved by the Board of Supervisors in the County budget. Expenses incurred as a result of contractors performing the Plan functions described in this Section 5.25.090, and the cost of fiduciary and liability insurance, are limited by the contract or contracts approved by the Administrative Committee or the Board. Effective the fiscal year beginning July 1, 2003, the annual fees determined under this subsection G.1. (including any emergency surcharge assessed by the Administrative Committee pursuant to the last sentence of this subsection) shall not exceed 0.15 percent of the assets of the Plan as of the last day of the month prior to the beginning of the fiscal year for which the estimated fees are being determined. The annual fees approved by the Administrative Committee may be charged through the Trustee or reimbursed from Plan assets and paid to the County.

The estimated annual fees for the Plan approved by the Administrative Committee pursuant to this subsection G.1. will be charged to each Participant's account on a per-capita basis. The per-Participant, annual charge will be determined by dividing the estimated annual fees for the Plan by the number of Participants on the last day of the month prior to the beginning of the fiscal year for which the fees are being determined. The per-Participant annual charge will be divided by 12 and billed monthly to each Participant's account during the fiscal year. A Participant will be billed only for months in which he or she has an account balance in the Plan. The monthly charges will appear on the Participant's quarterly statement. Employees who become Participants in the Plan during the fiscal year will be charged the same monthly per-Participant charge determined prior to the beginning of the fiscal year by the Administrative Committee. Until such time as the Administrative Committee approves a new annual fee, Participants will be charged the same monthly per-Participant charge as previously set by the Administrative Committee. The Administrative Committee may assess an emergency surcharge to Participant's accounts if it reasonably determines that actual Plan expenses authorized by the subsection will exceed the estimated annual fees determined prior to the beginning of the fiscal year.

2. TPA, Trustee fees, and investment management and custodial fees incident to the Investment Funds are limited by the contract or contracts approved by the Administrative Committee or the Board. TPA and Trustee fees will be charged through the Trustee or reimbursed from Plan assets and will be allocated to the individual Participants' accounts and reflected on quarterly statements. Investment

management and custodial fees incident to the Investment Funds shall be periodically charged to the appropriate Investment Fund.

3. In the event that the Plan accumulates (i) fees in excess of actual administrative expenses, or (ii) unallocated earnings from Plan operations, the Administrative Committee shall allocate excess fees and earnings first by establishing a reserve for contingencies and payment of planned obligations not to exceed 1/2 of the total annual County fees charged to Participants, and then by allocating any remainder by reducing TPA fees charged to Participants by a method determined by the Administrative Committee.

5.25.095 Fiduciary Responsibility.

A. Responsibilities Generally. The Plan fiduciaries shall have only such powers, duties, responsibilities and authorities as are specified in the Plan or the Trust Agreement. The Board has the responsibility for appointing, employing or removing any Plan Trustee and the Board Appointee to the Administrative Committee, for approving certain expenses charged to the Plan in accordance with Section 5.25.090G, and for other duties as set forth in the Plan. The Administrative Committee, as Plan Administrator, is a Plan fiduciary with the responsibility and discretionary authority for interpreting the terms of the Plan, for administering the Plan in accordance with its terms, for appointing or removing any Investment Manager, for entering into investment arrangements with respect to the Investment Funds, for incurring or approving certain

expenses and charging them to the Plan in accordance with Section 5.25.090G, and for other duties as set forth in the Plan. The Administrative Committee and all other persons with discretionary control respecting the operation, administration, control or management of the Plan or the Trust Fund: (i) will perform their duties under the Plan and the Trust Agreement for the exclusive benefit, and solely in the interest, of Participants and their Beneficiaries; (ii) shall be governed by, and adhere to, Chapter 7 of Title 9 of the California Government Code (Section 87000, et seq.), including but not limited to the disclosure and disqualification requirements and the limitations on gifts and honorariums set forth therein; and (iii) shall act in accordance with the Uniform Prudent Investor Act and the other provisions of California Trust Law. Provisions (ii) and (iii) in the previous sentence shall not apply to a Plan fiduciary to the extent such provisions conflict with, or another standard of fiduciary conduct is expressly provided in, the terms of the applicable Trust Agreement, TPA contract or Investment Manager contract negotiated with such fiduciary.

B. Immunities. Except as otherwise provided by the Trust Agreement:

1. No fiduciary shall be liable for any action taken or not taken with respect to the Plan or the Trust Agreement except for his or her own negligence or willful misconduct except as otherwise provided in subsection 2. of this Section 5.25.095B;

2. A fiduciary shall be liable for a breach of duty committed by another fiduciary (a “co-fiduciary”) only under the following circumstances: (i) where the fiduciary participates in the breach of duty committed by a co-fiduciary, (ii) where the fiduciary

improperly delegates its duties to a co-fiduciary, (iii) where the fiduciary approves, knowingly acquiesces in, or conceals a breach of duty committed by a co-fiduciary, (iv) where the fiduciary negligently enables a co-fiduciary to commit a breach of duty, or (v) where the fiduciary fails to take reasonable steps to compel a co-fiduciary to redress a breach of duty if the fiduciary knows of, or has information from which he or she reasonably should have known of, the breach of duty.

3. The County and each officer and Employee thereof, the Administrative Committee and each member thereof, and any other person to whom the County or Administrative Committee delegates (or the Plan or Trust Agreement assigns) any duty with respect to the Plan or the Trust Agreement, may rely and shall be fully protected in acting in good faith upon the advice of counsel, who may be counsel for the County, upon the records of the County, upon the opinion, certificate, valuation, report, recommendation, or determination of the TPA, the Trustee, and Investment Manager, the County Treasurer or of the County Auditor-Controller, or upon any certificate, statement or other representation made by or any information furnished by an Employee, a Participant, a Beneficiary or the Trustee concerning any fact required to be determined under any of the provisions of the Plan;

4. If any responsibility of a fiduciary is allocated to another person, then, except to the extent provided in subsection 2. of this Section 5.25.095B, such fiduciary shall not be responsible for any act or omission of such person in carrying out such responsibility; and

5. No fiduciary shall have the duty to discharge any duty, function or

responsibility which is assigned by the terms of the Plan or Trust Agreement or delegated pursuant to the provisions of Section 5.25.090 to another person.

5.25.100 Temporary Suspension of Plan Provisions. Notwithstanding any provision of the Plan to the contrary, during any conversion period (including but not limited to a change of Trustee, TPA or Investment Funds or a plan merger or spin-off), in accordance with procedures established by the Administrative Committee, the Administrative Committee may temporarily suspend, in whole or in part, certain provisions of the Plan, which may include, but are not limited to, a Participant's right to change his contribution election, a Participant's right to change his investment direction and a Participant's right to borrow or withdraw from his Account or obtain a distribution from his Account.

5.25.105 Merger of Deferred Compensation and Thrift Plans. Effective on October 1, 1991 (the "Merger Date"), the County Deferred Compensation Plan originally established in Chapter 5.24 of the County Code was merged into the County Thrift Plan originally established by this Chapter 5.25, and the merged plan was retitled the "Deferred Compensation and Thrift Plan" (the "Merged Plan"). The resultant Merged Plan is a continuation of both plans and shall not be construed as a termination of either plan. Notwithstanding any other provisions of Chapters 5.24 and 5.25, the following provisions shall apply to the plan merger:

A. Any person who was a Participant in the Deferred Compensation Plan as of the Merger Date is deemed to be an Eligible Employee for purposes of participation

in the Merged Plan and shall become a Participant in the Merged Plan as of the Merger Date. Likewise, any person designated as a Beneficiary of a Participant in the Deferred Compensation Plan shall be a Beneficiary in the Merged Plan unless such designation is rescinded by the Participant.

B. Subject to the deferral limits required by Section 5.25.040 and until later modified or terminated by the Participant, (i) Participation Agreements of a Participant in the Deferred Compensation or Thrift Plans that are in effect on the Merger Date shall remain in effect in the Merged Plan, and (ii) the Deferred Compensation Contributions of a Participant on and after the Merger Date shall be the sum of the deferrals elected by the Participant in the Deferred Compensation Plan, the Thrift Plan and the Merged Plan.

C. The account balance credited to the Deferred Account of each Participant of the Deferred Compensation Plan as of midnight on September 30, 1991, shall be transferred to the Participant's Deferred Account in the Merged Plan as of the Merger Date.

D. The assets credited to the Deferred Compensation Plan shall be transferred and credited to the Merged Plan on the Merger Date.

E. All Deferred Compensation Plan Deferred Compensation Contributions earned by any Participant of that plan in September, 1991, and due to be contributed for the Participant to the Deferred Compensation Plan in October, 1991, shall instead be contributed to the Merged Plan.

F. Distributions from the Deferred Compensation Plan which commence or

are approved to commence before the Merger Date shall continue or commence, as the case may be, pursuant to the distribution provisions and procedures of the Deferred Compensation Plan. Distributions from the Merged Plan which are approved on or after the Merger Date shall be made pursuant to the provisions of Section 5.25.080 of the Merged Plan.

G. Effective on the Merger Date, the Deferred Compensation and Thrift Plan Administrative Committee shall assume the authority, responsibilities and contractual obligations of the Deferred Compensation Plan Administrative Committee.

5.25.108 Rollovers and Plan-to-Plan Transfers.

A. Transfers from the Pension Savings Plan. As provided by the County Pension Savings Plan, the County Pension Savings Plan membership and Investment Account of any full-time permanent County employee, who becomes a member of the Los Angeles County Employees' Retirement Association ("LACERA"), meets the eligibility requirements of this Plan and then elects to become a Participant of this Plan by entering into a Participation Agreement and agreeing to make Deferred Compensation Contributions to this Plan, shall be transferred to this Plan (the "Transfer"). Furthermore, as provided by the County Pension Savings Plan, the administrative committee of that plan at its sole discretion may transfer the County

Pension Savings Plan membership and Investment Account of any full-time permanent County employee, who becomes a member of the Los Angeles County Employees' Retirement Association (LACERA), to this Plan (the "Nonelective Participant"). Notwithstanding any other provisions of Chapter 5.25, the following provisions shall apply to the employees affected by the Transfer:

1. The account balance credited to the Investment Account of each Participant of the Pension Savings Plan shall be transferred to the Participant's Deferred Account in this Plan effective on the Entry Date into this Plan. Investments in the Participant's "Investment Account" under the Pension Savings Plan shall be liquidated and then the cash shall be transferred to this Plan within a commercially reasonable period of time, unless the Administrative Committee otherwise makes arrangements for an in-kind transfer of assets. The Participant's account balance under this Plan immediately after the transfer shall be at least equal to the total amount of the Participant's accounts under the Pension Savings Plan immediately before the transfer. Each Participant may instruct the Trustee or TPA, as applicable, to allocate the transferred cash among the Investment Funds in accordance with the terms of this Plan. The Administrative Committee shall invest Plan assets for Nonelective Participants and for which no Participant investment instructions are received.

2. All County Pension Savings Plan Deferred Compensation Contributions and Matching Contributions earned by any Participant of that plan in the month preceding the Transfer due to be contributed for the Participant to the County Pension Savings Plan on or after the Entry Date into this Plan shall instead be

contributed to this Plan.

3. Distributions of amounts transferred to this Plan shall be made pursuant to the provisions of Section 5.25.080 of this Plan.

4. A Nonelective Participant shall be a Participant of the Plan in every sense, except that no Deferred Compensation Contributions or Matching Contributions shall be made under this Plan for a Nonelective Participant until such Participant enters into a Participation Agreement to make contributions to this Plan.

B. Rollovers into Horizons from Other Eligible Retirement Plans.

1. Effective on or after September 1, 2003, the Trustee or its authorized agent shall, at the direction of the Administrative Committee, receive and thereafter hold and administer as part of the Accounts for a Participant all cash and other property that constitute an Eligible Rollover Distribution if such Eligible Rollover Distribution is either (i) received in a direct trustee-to-trustee transfer, or (ii) transferred by the Participant to the Trustee or its authorized agent on or before the 60th day after he received such Eligible Rollover Distribution (a "Rollover Contribution"). The Plan will accept an Eligible Rollover Distribution that is attributable to the Participant's status as a surviving spouse.

2. The Administrative Committee may take any action and may require the Participant to provide any information or documentation necessary to permit the Administrative Committee to satisfy any obligation imposed on the Administrative Committee by the Code and the regulations thereunder to make a reasonable

determination that the Eligible Rollover Distribution satisfies the requirements of the Code and the terms of the Plan. The Committee may instruct the Trustee or its authorized agent not to accept the contribution if it does not satisfy such requirements or if it would otherwise jeopardize the eligible status of the Plan.

3. An Eligible Rollover Distribution received by the Plan shall be held in the Participant's Rollover Account, including any record-keeping subaccounts established under 5.25.020LL, and invested in accordance with the Participant's instructions in accordance with Sections 5.25.070.

C. Rollovers from Horizons.

1. Effective for any distribution made on or after January 1, 2002, a Participant who is entitled to receive an Eligible Rollover Distribution from the Plan, may direct the Administrative Committee to have the distribution transferred in a lump sum directly to the trustee of an Eligible Retirement Plans, as defined in 5.25.020S, that permits the acceptance of rollover contributions.

2. In order for a transfer to be made with respect to a Participant under this subsection C, (a) the Participant must designate in writing the Eligible Retirement Plan to receive the transferred amounts; (b) the Participant must timely provide the Administrative Committee with adequate information to enable the Administrative Committee to determine that the transferee plan is an Eligible Retirement Plan; (c) the entire amount to be transferred must be an Eligible Rollover Distribution; (d) the Participant must have received proper notice in accordance with Code section

402(f); and (e) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed.

3. A Participant's surviving spouse who becomes eligible to receive a distribution on the Participant's death under Section 5.25.080B of the Plan or an Alternate Payee who is a Participant's spouse or former spouse who becomes eligible to receive a distribution under Section 5.25.125 of the Plan shall be treated as the Participant for purposes of this subsection C.

D. Trustee-to-trustee Transfers to Purchase Permissive Service Credit and as Repayment of Contributions and Interest.

1. Effective on or after January 1, 2002, a Participant may direct the Administrative Committee to make a direct trustee-to-trustee transfer of all or part of the Participant's Investment Accounts to a defined benefit governmental plan (as defined in Code section 414(d)) in California if such transfer is (a) for the purchase of permissive service credit (as defined in section 415(n)(3)(A)) under such defined benefit governmental plan, or (b) a repayment of contributions (including interest thereon) to such defined benefit governmental plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or under another governmental plan maintained by a State or local government employer to which Code section 415 does not apply by reason of Code section 415(k)(3).

2. The Administrative Committee may take any action and may require the Participant to provide any information or documentation necessary to permit

the Administrative Committee to satisfy any obligation imposed on the Administrative Committee by the Code and the regulations thereunder to make a reasonable determination that the trustee-to-trustee transfer satisfies the requirements of the Code and the terms of the Plan and will be accepted by the transferee plan.

E. Transfers to or from Comparable Plans.

1. If a Participant undergoes a Separation from Employment in order to accept employment with another eligible governmental employer (within the meaning of Section 457(e)(1)(A) of the Code) which sponsors an “eligible deferred compensation plan” within the meaning of Section 457(b) of the Code, then that Participant may make an election not to have the vested amounts credited to such Participant’s Investment Accounts distributed, but instead to have such amounts transferred to the “eligible deferred compensation plan” of the new employer of such Participant, provided that (a) the transferee plan specifically authorizes the acceptance of such transferred amounts, (b) the Participant’s account balance under the transferee plan immediately after the transfer is at least equal to the total amount of the Participant’s Investment Accounts immediately before the transfer, and (c) the Participant is performing services for the eligible governmental employer maintaining the transferee plan.

2. In the event that a Participant has entered County service after having been a Participant in another “eligible deferred compensation plan” maintained by another eligible governmental employer (within the meaning of Code section 457(e)(1)(A)), the Trustee will accept a transfer of funds from such other plan for credit to such Participant’s Deferred Account provided that the foregoing transfer requirements

are met.

3. The Administrative Committee may require such documentation from a predecessor or successor plan as it deems necessary to assure that such plan is sponsored by another eligible governmental employer and the transfer meets the other requirements of this section and the law. A Participant's Investment Accounts may not be transferred to and the Plan may not accept a transfer of amounts from an eligible deferred compensation plan that does not comply with Code section 457(g) or a successor provision (relating to holding the assets of the plan in trust for the exclusive benefit of participants and beneficiaries).

5.25.110 Amendment or Termination of Plan.

A. Generally. Except as provided in Section 5.25.110B, the Plan may be amended or terminated by the County at any time. No amendment or termination of the Plan shall reduce or impair the rights of any Participant or Beneficiary to the vested interest in their Investment Accounts. In the event that the Plan is terminated by the County and there is a successor plan, the Trustee shall transfer the Plan assets to the successor plan as provided by the successor plan document. Any such transfer shall be consistent with law and any successor plan must be sponsored by an eligible governmental employer (within the meaning of Section 457(e)(1)(A) of the Code) and be an "eligible deferred compensation plan" within the meaning of Section 457(b) of the Code. In the event that the Plan is terminated by the County and there is no successor plan, the Trustee shall distribute as soon as administratively practical to each Participant or his or her Beneficiary in a lump sum payment the vested balance in such

Participant's Investment Accounts in accordance with Section 5.25.080 of the Plan and Code section 457(d).

B. Represented Employees. Notwithstanding anything to the contrary in Section 5.25.110A above, with respect to Represented Employees, the termination of the Plan or the amendment of any Plan provisions that are subject to negotiation shall be negotiated with representatives of the Represented Employees.

C. Vested Contractual Rights. Because the Plan is subject to amendment and termination as set forth herein, neither participation in the Plan nor eligibility therefor shall entitle any employee to have the Plan or any specific terms thereof continued in the future.

5.25.115 Electronic Media. Notwithstanding any provision in this Plan to the contrary, including provisions requiring the use of a written instrument, the Administrative Committee may establish procedures for the use of electronic media in communications and transactions between the Plan or the Administrative Committee and Participants and Beneficiaries; provided, however, that any such procedures shall comply with applicable law. Electronic media may include, but are not limited to e-mail, the Internet, intranet systems and automated, telephonic voice-response systems.

5.25.120 Nonalienation. To the extent permitted by law and except as otherwise provided in the Plan, no right or interest of any kind of a Participant or Beneficiary hereunder shall be transferable or assignable by the Participant or Beneficiary, nor shall any such right or interest be subject to alienation, anticipation,

encumbrance, garnishment, attachment, execution or levy of any kind, voluntary or involuntary.

5.25.125 Rights of an Alternate Payee Under a CDRO.

A. Notwithstanding Section 5.25.120, an Alternate Payee shall have the right to make a claim for any benefits awarded to the Alternate Payee pursuant to a CDRO as provided in this section. If an Alternate Payee is awarded a specified interest in the Accounts of the Participant pursuant to a CDRO, such interest of the Alternate Payee shall be segregated and separately accounted for by the Trustee in the name and for the benefit of the Alternate Payee.

B. Upon receipt of a domestic relations order, or, if earlier, notice that a domestic relations order may be sought, the Administrative Committee shall suspend distributions from the Participant's Investment Accounts, and shall take steps to ensure that the Participant and each Alternate Payee is aware of the order or proposed order and the suspension of distributions from the Participant's Investment Accounts. Moreover, the Administrative Committee shall determine, within a reasonable period after receipt of such order, whether such order is a CDRO. If the order is determined to be a CDRO, the Alternate Payee's interest under such order shall be segregated and/or distributed in accordance with the CDRO and this Section 5.25.125. If the order is determined not to be a CDRO, and the domestic relations order is not modified as necessary to constitute a CDRO within a reasonable period of time after such determination, the suspension of distributions from the Participant's Investment Accounts shall be discontinued. If an order is not received within a reasonable period of

time after the County has been notified that such an order is being sought, the suspension of distributions from the Participant's Investment Accounts shall be discontinued.

C. Distributions to the Alternate Payee shall be made in accordance with the CDRO provided that the CDRO does not provide for distributions earlier than permitted by Code section 457(d) or otherwise conflict with the Plan's distribution provisions or the provisions of this Section. On or after September 1, 2003, regardless of whether the Participant is eligible to take a distribution under the Plan, the CDRO may provide (or may be amended to provide) for an immediate distribution of the Alternate Payee's interest thereunder to the Alternate Payee. If a CDRO does not provide the form of distribution of benefits payable to an Alternate Payee, the Alternate Payee shall have the right to elect distribution in any form provided under this Section. Pursuant to the CDRO or the Alternate Payee's election, the Alternate Payee's interest may be distributed in cash in a lump sum payment or in equal monthly, quarterly or annual installments not extending over more than fifteen years.

D. The Alternate Payee's interest specified in the CDRO shall be segregated and/or distributed from the Participant's Accounts, and the Investment Funds in which such Accounts are invested, on a pro rata basis.

E. Following the determination that a domestic relations order is a CDRO, and segregation of an Alternate Payee's interest, the Alternate Payee shall have the right to direct the investment of his or her interest in the same manner as provided under Section 5.25.070 with respect to the Participant. The Participant shall continue to

have the right to direct the investment of the portion of his or her Accounts that is not awarded to the Alternate Payee pursuant to the CDRO.

F. Unless the CDRO provides otherwise, an Alternate Payee shall have the right, in the same manner as a Participant, to designate a Beneficiary, who shall receive benefits payable to the Alternate Payee in the event that all of the Alternate Payee's benefits have not been distributed at the time of the Alternate Payee's death. If the Alternate Payee does not designate a Beneficiary, or if the Beneficiary predeceases the Alternate Payee, benefits payable to the Alternate Payee which have not been distributed shall be paid to the Alternate Payee's estate. Any death benefits payable under this section shall be paid in a lump sum as soon as administratively practicable after the Alternate Payee's death and as soon as permissible in accordance with Code section 457(d), with or without the Beneficiary's request.

G. Unless the CDRO provides otherwise, an Alternate Payee shall have the right, in the same manner as a Participant, to apply for an Emergency Withdrawal pursuant to 5.25.080E.

5.25.130 Facility of Payment. Whenever any Participant entitled to Benefits under the Plan shall be under a legal disability or, in the sole judgment of the Administrative Committee, shall otherwise be unable to apply Benefits to his own best interest and advantage, the Trustee, at the direction of the Administrative Committee, may make payments to the Participant's legal representative, and the decision of the Administrative Committee shall completely discharge the liability of the Plan, the Administrative Committee, the County and the Trustee with respect to such benefits.

5.25.135 No Enlargement of Employment Rights. By accepting benefits under the Plan, a Participant does not thereby agree to continue for any period in the employ of the County, and the County by adopting the Plan, making contributions thereto or taking any action with respect to the Plan does not obligate itself to continue the employment of any Participant for any period.

5.25.140 Severability Provision. If any provision of the Plan or the application thereof to any circumstance or person is invalid, the remainder of the Plan and the application of such provision to other circumstances or persons shall not be affected thereby.

5.25.145 Military Service. Notwithstanding any provision of this Plan to the contrary, effective on and after December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code.

5.25.150 Trial Court Entities. Generally effective January 1, 2001, the Trial Court Act recognizes the Trial Court Entities as separate, successor employers for certain purposes, and provides that, if permitted by federal law, Trial Court Employees shall continue to be eligible to receive deferred compensation benefits under the Plan unless otherwise elected by their respective Trial Court Entities. Accordingly, if Trial Court Employees participate in the Plan on and after January 1, 2001, then, on and after that date, the applicable Trial Court Entity shall be a participating employer in the Plan and any Participation Agreement in effect for such Trial Court Employees shall be deemed to be made under a separate agreement with the Trial Court Entity that

employs them, and any County contributions made to the Plan on behalf of such Trial Court Employees shall be paid out of the budget of their respective Trial Court Entity.

5.25.155 Construction. Except to the extent federal law controls, the Plan shall be governed, construed and administered according to the laws of the State of California. All persons accepting or claiming benefits under the Plan shall be bound by and deemed to consent to its provisions.

5.25.160 EGTRRA Sunset Provision. The changes made to this Plan in accordance with the terms of EGTRRA shall expire and no longer be effective upon the sunset of the applicable provisions of EGTRRA. Upon the sunset of the applicable EGTRRA provisions, the sections of the Plan intended to comply with EGTRRA and such other provisions that the Administrative Committee determines are no longer applicable due to the sunset of relevant EGTRRA provisions will no longer be effective and, notwithstanding anything in the Plan to the contrary, the Plan shall be construed in accordance with the terms of the Plan in effect as of December 31, 2001, except to the extent such terms are inconsistent with the applicable provisions of the Code and guidance issued thereunder, in which case, the Plan will be construed consistent with such applicable law.

Section 3. Pursuant to Government Code Section 25123(f), this ordinance shall take effect immediately upon final passage.

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