



**SEDGWICK COUNTY, KANSAS
DIVISION OF FINANCE
PURCHASING DEPARTMENT**

525 N. Main, Suite 823 ~ Wichita, KS 67203

Phone: 316 660-7255 Fax: 316 383-7055

<http://sedgwickcountv.org/finance/purchasing.asp>

**REQUEST FOR PROPOSAL
#15-0085
457 DEFERRED COMPENSATION PLAN
Addendum #1**

August 24, 2015

The following is to ensure that vendors have complete information prior to submitting a proposal. Here are some clarifications regarding the proposal for 457 Deferred Compensation Plan, for the Human Resources Department.

Questions and/or statements of clarification are in **bold** font, and answers to specific questions are *italicized*.

1. Do you have an expected go-live date for the conversion to the new carrier?

Answer: If there is a transition, the initial timeline has the conversion occurring in April 2016, but the County has flexibility in this regard.

2. Are there any MVAs (market value adjustments) or surrender charges that will be expected to be paid by the new vendor?

Answer: There are no MVAs or surrender charges associated with any of the investment options.

3. Do you allow employer contributions/have a vesting schedule?

Answer: Currently there is no vesting schedule as there are no County contributions.

4. We have several retirement plans with assets over \$40 million each, however, many of these we have not been informed by the employer if we are the sole provider or not. Are you willing to accept our proposal if we are unable to confirm this part of the minimum requirement?

Answer: The minimum requirements would need to be satisfied as stipulated in the RFP document.

5. Are you working with a consultant to help you in your evaluation process?

Answer: The County and its Deferred Compensation Committee have retained Hyas Group to assist in the RFP process.

6. Are the Galliard fixed account assets subject to a put, MVA, or any other transfer restriction?

Answer: All restrictions around the Galliard Retirement Income Portfolio are explained on page 10 in the RFP document within the "EARLY WITHDRAWAL OR TERMINATION PROVISIONS" section.

7. When did auto enroll for new employees begin?

Answer: April 6, 2014.

8. Does the County want to include any 3(21) or 3(38) services?

Answer: Not at this time.

9. How many education days would the County prefer to have included in the pricing?

Answer: As part of this formal competitive process, the County and its Committee would like to see effective participant education strategies, solutions and/or campaigns that will drive results. In short, the County prefers to see what has worked with your firm and will rely on your experience in this regard. It is important to note that, at a minimum, the participant representative will need to meet with County employees as mentioned on page 1 of the RFP document.

10. Regarding Question F6 in the RFP document: "Will you offer the County a dedicated transition management team? (Yes/No) If yes, briefly describe the team members and their roles, including how many other transitions they might be working on coincident with the County's, and how many prior transitions they have worked on (include plan assets/number of plan participants) and the number of plans they transitioned away from ICMA-RC specifically." This plan is currently with Empower, did this question just not get changed to Empower or do they really want to know the number of plans transitioned from ICMA? Please clarify?

Answer: The question should have referenced transitions away from Empower Retirement.

11. What is driving the decision to go out for bid?

Answer: The current agreement with Empower Retirement is set to expire.

12. What, in your opinion, will it take for you to move from the incumbent?

Answer: The winning proposer will generally have the highest score, perform well in the interview stage (if necessary) and have great references. Specifically, they will have to prove they are the most appropriate business partner given the criteria outlined in the RFP document.

13. What would worry you about a move?

Answer: Generally a transition brings change and a conversion could be viewed as disruptive.

14. How would you describe your current relationship with your existing record-keeper?

Answer: The current relationship is a healthy one. However, as part of the fiduciary process, the County and its Committee are looking forward to seeing bids from other record-keeping organizations.

15. What services would you like to keep?

Answer: Web tools, auto-enrollment, auto-increase, designated representative, managed accounts, self-directed brokerage account.

16. What services would you like to see enhanced?

Answer: Enhanced website with additional modeling tools.

17. Are you working with a consultant to help you in your process? If so, please provide contact details?

Answer: The County and its Committee have retained Hvas Group to assist in the RFP process. We will not provide contact details as proposers should not contact the consultant directly per procurement rules.

18. Are you currently getting customized plan materials, web or digital plan communication tools?

Answer: Yes, we receive all of the above in customized form.

19. Do you prefer to have all fees represented as a percentage of assets or all per-capita or would you be interested in a blended fee schedule of both asset-based and per-capita fees?

Answer: The fees should be presented in the format asked within the RFP document and the County cannot offer guidance in terms of response(s).

20. Are you able to provide any details of your current fee schedule?

Answer: The current revenue requirement from Empower Retirement is 21 basis points (0.21%) on assets. There are other charges for self-directed brokerage, loans, managed accounts, etc.

21. Would you want to limit the SDBA (self-directed brokerage accounts) option to a single provider or allow participants to use an SDBA provider of their choice?

Answer: For fiduciary reasons, the County and its Committee would prefer to use a single SDBA provider.

22. Loans do not appear to be addressed in the Plan Assets and Participant History chart on page 9 of the RFP. Are loans available under the 457 Deferred Compensation Plan? If yes, please identify the number of outstanding loans at this time?

Answer: As of June 30, 172 loans were outstanding.

23. Please provide the total number of active SDBA accounts.

Answer: As of June 30, 12 participants had an SDBA.

24. Does the County currently offer a Managed Account Program? If yes, how many participants are participating in the Program and what are the total amount of assets invested in the Program?

Answer: As of June 30, 195 participants had managed accounts with \$3,979,138.00 in total assets.

25. Is there a preference in terms of a separate account stable value fund vs. a general account option?

Answer: Generally stable value funds would have a slight advantage over an insurance general account product but the County and its Committee are looking for effective solutions and cannot offer guidance in this area.

26. Please provide the current gross and net credited rates associated with the Galliard Retirement Income Portfolio.

Answer: The gross crediting rate as of June 30 was 2.12%.

27. Please provide a copy of the County's 457(b) Plan Document.

Answer: Please find attached.

28. Upon selection of a new provider, is it the County's intent to maintain their current fund lineup?

Answer: This RFP is for retirement plan record-keeping, administration, education, etc. The investment menu will be a different decision unless your firm requires any fund(s) for enhanced pricing.

29. Has the County exercised the 12-month put option on the Galliard Retirement Income Portfolio?

Answer: No.

30. Thank you very much for the opportunity to respond to your plan's RFP. Would you please let me know how you received my name and contact info?

Answer: The County and its Committee have retained Hyas Group to assist in the RFP process. The initial RFP document distribution list was created by them.

31. If proposing a general account product as the stable value option, is a payout over 5 years an acceptable provision upon contract termination at the plan level?

Answer: Although a five-year payout on an investment option for a plan sponsor initiated event is an acceptable provision, these longer restrictions will not be viewed or scored as favorably as a shorter restriction.

32. Can you please confirm that the current service representative is available 104 days?

Answer: The current participant representative is available to County participants 5 days per week and at least 104 days annually. Note that the 104 days may not be full days but are typically half-days. It is important to note that the County and its Committee are undertaking this formal competitive process in an effort to enhance the current service model and would like to see effective participant education strategies, solutions and/or campaigns that will drive results. In short, the County prefers to see what has worked with your firm and will rely on your experience in this regard. It is important to note that, at a minimum, the participant representative will need to meet with County employees as mentioned on page 1 of the RFP document.

Firms interested in submitting a proposal, must respond with complete information and **deliver on or before 1:45 p.m. CDT, Tuesday, September 15, 2015**. Late proposals will not be accepted and will not receive consideration for final award.

PLEASE ACKNOWLEDGE RECEIPT OF THIS ADDENDUM ON THE PROPOSAL RESPONSE PAGE

Joe Thomas

Joe Thomas, C.P.M.
Purchasing Director

4303-9

**SEDGWICK COUNTY, KANSAS
SECTION 457(b) DEFERRED COMPENSATION PLAN
AND
TRUST AGREEMENT**

December 21, 2011

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SEDGWICK COUNTY, KANSAS
SECTION 457(b) DEFERRED COMPENSATION PLAN
AND
TRUST AGREEMENT

INTRODUCTION

In accordance with the provisions of §457 of the Internal Revenue Code of 1986, as amended, Sedgwick County, Kansas (the "Employer") hereby amends and restates the Sedgwick County, Kansas §457(b) Deferred Compensation Plan and Trust Agreement (hereinafter referred to as the "Plan"). Nothing contained in this Plan shall be deemed to constitute an employment agreement between any Participant and the Employer and nothing contained herein shall be deemed to give a Participant any right to be retained in the employ of the Employer.

ARTICLE I
DEFINITIONS

1.01 "Account Balance." The bookkeeping account maintained with respect to each Participant which reflects the value of the deferred Compensation credited to the Participant, including the Participant's Annual Deferrals, Non-elective Employer Contribution, the Participant's Designated Roth Contributions, the earnings or loss of the Trust Fund (net of Fund expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to the Participant or the Participant's Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant's death, then each Beneficiary's share of the Account shall be treated as a separate account for each Beneficiary. The Account Balance includes any account established under Article VI for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant's death, and any account or accounts established for an Alternate Payee (as defined in Code § 414(p)(8)).

1.02 "Administrator." Administrator means the Board of County Commissioners of Sedgwick County, Kansas.

1.03 "Alternate Payee." Alternate Payee means the spouse, former spouse, child or other dependent of a Participant who has acquired an interest in the Participant's account pursuant to a Qualified Domestic Relations Order (QDRO) pursuant to section 13.02. Alternate Payees shall be treated as Beneficiaries for all purposes under the Plan except that Alternate Payees shall be allowed to request a distribution of all or a portion of their Account at any time, subject to the terms of the QDRO.

1.04 "Annual Deferral." The amount of Compensation deferred in any Plan Year as a pre-tax deferral, Roth contribution, or both.

1.05 "Beneficiary." The designated person (or, if none, the Participant's surviving spouse, if any, and then the Participant's estate) who is entitled to receive benefits under the Plan after the death of a Participant.

1.06 "Code." The sections of the Internal Revenue Code of 1986, as now in effect or as hereafter amended or recodified. References herein to specific section numbers of the Code shall be deemed to include Treasury regulations and Internal Revenue Service guidance thereunder as in

effect now, as amended or recodified in corresponding provisions of any future United States internal revenue law.

1.07 “Compensation.” All cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Employee's gross income for the calendar year but for a compensation reduction election under Code §§125, 132(f), 401(k), 403(b), or 457(b) (including an election to defer compensation under Article III). To the extent permitted by Treasury regulations or other similar guidance (including, without limitation, the requirements contained in Treasury Regulations §§1.457-4(d)(1) and 1.415-2(e)(3)(i)), accrued bona fide sick, vacation or other leave pay so long as the Participant would have been able to use the leave if employment had continued and it is paid within the longer of two and one-half months after the Participant's severance from employment or the end of the calendar year in which the Participant severs employment with the Employer. For Plan Years after December 31, 2008, to the extent permitted by the applicable Code provisions and Treasury regulations, Compensation shall include pay received by a Participant from the Employer while performing Qualified Military Service but only to the extent the pay does not exceed the amounts the Participant would have received if the Participant had continued to perform services for the employer rather than entering Qualified Military Service.

1.08 “Designated Roth Contributions.” A Designated Roth Contribution is an elective deferral that is (a) designated irrevocably by the Participant at the time of the deferral election as a Roth Contribution that is being made in lieu of all or a portion of the pre-tax deferrals the Participant is otherwise eligible to make under the Plan; and (b) treated by the Employer as includible in the Participant's income at the time the Participant would have received that amount in cash if the Participant had not made a deferral election

1.09 “Eligible Retirement Plan.” An eligible retirement plan is any plan described in Code § 402(c)(8), an individual retirement account described in Code § 408(a), an individual retirement annuity described in Code § 408(b) (other than an endowment contract), a Roth IRA described in Code §408A, an employee's trust described in Code § 401(a) which is exempt from tax under Code § 501(a), an annuity plan described in Code § 403(a), an annuity contract described in Code § 403(b), or another eligible deferred compensation plan described in Code § 457(b) which is maintained by an eligible employer described in Code § 457(e)(1)(A)) that accepts the distributee's eligible rollover distribution.

1.10 “Eligible Rollover Distribution.” An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee or the non-spousal Beneficiary, except that it does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under Code § 401(a)(9); any deemed distribution under the provisions of Code § 72(p); the portion of any distribution that is not includable in gross income; any distribution of excess deferrals; and any distribution on account of an Unforeseeable Emergency.

1.11 “Employee.” Each natural person, whether appointed or elected, who is employed by the Employer as a common law employee.

1.12 "Employer." Sedgwick County, Kansas, a political subdivision of the State of Kansas.

1.13 "Includible Compensation." A Participant's actual wages in box 1 of Form W-2 for a year for services to the Employer, but subject to a maximum of \$200,000 (or such higher maximum as may apply under Code §401(a)(17)) and increased (up to the applicable limit contained in Code §401(a)(17)) by any compensation reduction election under Code §§125, 132(f), 401(k), 403(b), or 457(b) (including an election to defer Compensation under Article III).

1.14 "Non-elective Employer Contribution." Non-elective Employer Contribution is a contribution made by an Employer for the Participant with respect to which the Participant does not have the choice to receive the contribution in cash or property. Such term may also include an employer matching contribution.

1.15 "Normal Retirement Age." Normal Retirement Age means age 70 1/2, unless the Participant has elected an alternate Normal Retirement Age and delivered such election to the Administrator prior to beginning special §457 Catch-up contributions as described in section 3.03 of the Plan. Once a Participant has begun making special §457 Catch-up contributions, his or her Normal Retirement Age may not be changed.

For Participants eligible to receive benefits under the Employer's basic defined benefit pension plan or a money purchase pension plan (herein collectively referred to as "pension plan"), a Participant's alternate Normal Retirement Age may not be earlier than the earliest date the Participant has the right to retire and receive immediate retirement benefits under such pension plan, without actuarial or similar reduction because of retirement before some later specified age, and the date selected may not be later than age 70 1/2.

If the Participant is not eligible to receive benefits under a pension plan, the Participant's alternate Normal Retirement Age may not be earlier than age 65 nor later than age 70 1/2.

1.16 "Participant." An individual who is currently deferring Compensation, or who has previously deferred Compensation under the Plan by salary reduction or received a Non-elective Employer Contribution and who has not received a distribution of his or her entire benefit under the Plan. Except for purposes of Article II, Article IV, Article IX, Article X, and Article XII, the term "Participant" shall include a former Participant.

1.17 "Participation Agreement." The agreement entered into and filed by an Employee with the Employer pursuant to Article II, in which the Employee elects to become a Participant.

1.18 "Plan." Sedgwick County, Kansas Section 457(b) Eligible Deferred Compensation Plan originally adopted January 1, 1980, as amended.

1.19 "Plan Year." The calendar year.

1.20 "Qualified Military Service." Any service in the uniformed service (as defined in Chapter 43 of Title 38 of the United States Code as in effect as of December 12, 1994) by any individual if such individual is entitled to reemployment rights under such Chapter with respect to such service.

1.21 "QDRO." A Qualified Domestic Relations Order referred to in section 13.02.

1.22 "Severance from Employment." The date the Employee dies, retires, or otherwise has a severance from employment with the Employer, as determined by the Administrator (and

taking into account guidance issued under the Code). An Employee whose employment is interrupted by Qualified Military Service under Code § 414(u) shall be deemed severed from employment until such time as he or she is reemployed following the term of duty. Effective for Plan Years after December 31, 2008, if a Participant called to Qualified Military Service receives a distribution from the Plan due to severance, the Participant's deferrals to the Plan shall be suspended for six-months following the date of the distribution. All other Participants shall be deemed to have severed his employment with the Employer for purposes of this Plan when both parties consider the employment relationship to have terminated and neither party anticipates any future employment of the Participant by the Employer.

1.23 "Trust Fund." The trust fund created under and subject to the provisions of Article VII.

1.24 "Trustee." The Employer.

1.25 "Valuation Date." Each business day.

ARTICLE II PARTICIPATION AND CONTRIBUTIONS

2.01 Eligibility. Employees who are full time, or permanent part time scheduled to work at least 1,000 hours of service annually for the Employer, shall be eligible to participate in the Plan upon becoming employed by the Employer. Any employee who is included in a unit of employees covered by a collective bargaining agreement that does not specifically provide for participation in the Plan shall be excluded.

2.02 Election Required for Participation. An Employee may elect to become a Participant by executing a Participation Agreement to defer a portion of his or her Compensation (and have that amount contributed as an Annual Deferral on his or her behalf) and filing it in good order with the Administrator. In entering into the Participation Agreement, the Participant elects to participate in this Plan and consents to the deferral by the Employer of the amount specified in the Participation Agreement from the Participant's gross compensation for each payroll period, and agrees to be bound by all the terms and conditions of the Plan. Such deferral shall continue in effect until modified, disallowed or revoked in accordance with the terms of this Plan, or until the Participant ceases employment with the Employer. Any prior Employee who was a Participant in the Plan and is rehired by Employer may resume participation in the Plan by entering into a Participation Agreement so long as any distributions being taken from this Plan are terminated prior to the resumption of deferrals under the Plan; provided, however, if distributions had not begun pursuant to a prior Severance from Employment, any deferred commencement date elected by such employee with respect to distribution of those prior Plan assets shall be null and void.

The Employer retains the right to establish minimum deferral amounts per payroll period, and to change such minimums from time to time and to limit the number and/or timing of enrollments into the Plan in the Participation Agreement. No adjustment in future deferrals shall be made if a periodic deferral is missed or is less than the amount elected. The Employer or Administrator shall have the right to modify or disallow the periodic deferral of Compensation elected by the Participant:

- (a) in excess of the limitations stated in Article III;
- (b) in excess of the Participant's net Compensation for any payroll period;

(c) upon any change in the length of the payroll period utilized by Employer. In such case the periodic deferral shall be adjusted so that approximately the same percentage of pay shall be deferred on an annual basis;

(d) in order to round periodic deferrals to the nearest whole dollar amount;

(e) to reduce the future deferrals in the event that the amount actually deferred for any payroll period exceeds, for any reason whatsoever, the amount elected by the Participant. In the alternative, such amount of excess deferral may be refunded to the Participant; or

(f) if the deferral elected for any payroll period is less than the minimum amount specified by the Employer or Administrator.

2.03 Designation of Investment Funds. The Participation Agreement, or such other form or method (including electronic instructions) as approved by the Administrator, shall include the Employee's designation of investment funds. Any such election shall remain in effect until a new election is filed. A change in the investment direction shall take effect as of the date provided by the Administrator on a uniform basis for all Employees.

2.04 Designation of Beneficiary. The Participant may designate a Beneficiary to receive any amounts that may be distributed in the event of death of the Participant prior to the complete distribution of benefits. A Participant may change the designated Beneficiary at any time by filing such change with the Administrator in a manner approved by the Administrator. A change in the Beneficiary designation shall take effect when the election is accepted by the Administrator. If no such designation is in effect on the Participant's death, the Beneficiary shall be the Participant's surviving spouse, if any, or if none, the Participant's estate.

2.05 Commencement of Participation.

(a) **Voluntary Enrollment.** An Employee shall become a Participant as soon as administratively practicable following the date the Employee files a Participation Agreement pursuant to section 2.02. Such election shall become effective no earlier than the calendar month following the month in which the election is made. A new Employee may defer compensation payable in the calendar month during which the Participant first becomes an Employee if an agreement providing for the deferral is filed on or before the first day on which the Participant performs services for the Employer.

(b) **Automatic Enrollment.** Notwithstanding section 2.01 and section 2.02, to the extent permitted by applicable law, the Administrator may establish procedures whereby, as a term or condition of employment, each employee is deemed to have elected to participate in the Plan and consents to the deferral by the Employer of a specified amount for any payroll period for which a Participation Agreement is not in effect. If such procedures are in place, a Participant may elect a different deferral amount per payroll period, including zero, by entering into a Participation Agreement.

2.06 Information Provided by the Participant. Each Employee enrolling in the Plan shall provide to the Administrator at the time of initial enrollment, and later if there are any changes, any information necessary or advisable, in the sole discretion of the Administrator, for the Administrator to administer the plan, including, without limitation, whether the Employee is a participant in any other eligible plan under Code §457(b).

2.07 Contributions Made Promptly. Annual Deferrals by the Participant under the Plan shall be transferred to the Trust Fund within a period that is not longer than is reasonable for the proper administration of the Participant's Account in a manner consistent with the requirements contained in Treasury Regulation § 1.457-8(a)(2)(ii). For this purpose, Annual Deferrals shall be treated as contributed within a period that is not longer than is reasonable for the proper administration if the contribution is made to the Trust Fund within 15 business days following the end of the month in which the amount would otherwise have been paid to the Participant.

2.08 Amendment of Annual Deferrals Election. Subject to other provisions of the Plan, a Participant may at any time revise his or her participation election, including a change of the amount of his or her Annual Deferrals. Unless the election specifies a later effective date, a change in the amount of the Annual Deferrals shall take effect as of the first day of the next following month or as soon as administratively practicable if later. A revocation of deferrals shall take effect as soon as administratively practicable under the Employer's payroll system. Notwithstanding the above, if a negative election procedure has been implemented pursuant to Section 2.05(b), a Participant may enter into or modify a Participation Agreement at any time to provide for no deferral.

2.09 Leave of Absence. Unless an election is otherwise revised, if a Participant is absent from work by leave of absence, Annual Deferrals under the Plan shall continue to the extent that Compensation continues.

2.10 Disability. A disabled Participant may elect to make Annual Deferrals during any portion of the period of his or her disability to the extent that he or she has actual Compensation (not imputed Compensation and not disability benefits) from which to make contributions to the Plan and has not had a Severance from Employment.

2.11 Revocation of Deferrals. In addition to a Participant's ability to change or revoke an election as described in section 2.08, a Participant's request for a distribution in the event of an Unforeseeable Emergency shall in addition be treated as a request for revocation of deferrals as of a date determined by the Administrator for the period of time determined under section 5.05(f). Revocation of deferrals is not a distributable event, however, and the Participant's Account may only be distributed as provided in Article V.

2.12 Re-Enrollment. A Participant who revokes the Participation Agreement may again become a Participant at the times and in the manner authorized by the Administrator, by entering into a new Participation Agreement to defer Compensation payable no earlier than the first payroll period after the first day of the month after such new Participation Agreement is entered into by the Participant and accepted by the Administrator.

2.13 Designated Roth Contributions.

(a) Beginning March 1, 2012, or as soon thereafter as administratively feasible, each Participant may make Designated Roth Contributions; provided, however, that a Participant shall not make a Roth Contribution to the Plan for any Plan Year to the extent such Roth Contribution would exceed the limitations of Article III.

(1) As of the effective date under paragraph (a) above, the Plan will accept elective deferrals designated as Roth Contributions made on behalf of Participants. A Participant's Designated Roth Contributions will be allocated to a separate Account maintained for such deferrals as described in subparagraph (b) below.

(2) Unless specifically stated otherwise, Designated Roth Contributions will be treated as elective deferrals for all purposes under the Plan.

(b) Contributions and withdrawals of Designated Roth Contributions will be credited and debited to the Roth Contribution Account maintained for each Participant.

(1) The Plan will maintain a record of the amount of designated Roth Contributions in each Participant's Roth Contribution Account.

(2) Gains, losses and other credits or charges must be separately allocated on a reasonable and consistent basis to each Participant's Roth Contribution Account and the Participant's other accounts under the Plan.

(3) No contributions other than Designated Roth Contributions and properly attributable earnings will be credited to each Participant's Roth Contribution Account.

ARTICLE III LIMITATIONS ON AMOUNTS DEFERRED

3.01 Basic Annual Limitation. The maximum amount of the Annual Deferral under the Plan for any calendar year shall not exceed the lesser of (i) the Applicable Dollar Amount or (ii) the Participant's Includible Compensation for the calendar year. The Applicable Dollar Amount is the amount established under Code § 457(e)(15) applicable as follows:

Year	Applicable Dollar Amount
2002	\$11,000
2003	12,000
2004	13,000
2005	14,000
2006	15,000
2007	15,500
2008	15,500
2009	16,500
2010	16,500
2011	16,500
2012	17,000

After 2012, the Applicable Dollar Amount is adjusted for cost-of-living under Code § 457(e)(15)(B). The Annual Deferral amount does not include any rollover amounts received by the Plan under Treasury Regulation § 1.457-10(e).

3.02 Age 50 Catch-up Annual Deferrals. A Participant who will attain age 50 or older by the end of the calendar year is permitted to elect an additional amount of Annual Deferrals, up to the maximum Age 50 Catch-up Annual Deferrals for the year. The maximum dollar amount of the age 50 catch-up Annual Deferrals for a year is as follows:

Year	Age 50 Catch-up Annual Deferrals
2002	\$1,000
2003	2,000
2004	3,000
2005	4,000
2006	5,000
2007	5,000
2008	5,000
2009	5,500
2010	5,500
2011	5,500
2012	5,500

After 2012, the \$5,500 amount is adjusted for cost-of-living under Code § 414(v)(2)(C). Age 50 catch-up contributions are subject to the requirements of Code § 414(v).

3.03 Special § 457 Catch-up Limitations. If the applicable year is one of a Participant's last three calendar years ending before the year in which the participant attains Normal Retirement Age and the amount determined under this section exceeds the amount computed under sections 3.01 and 3.02, then the Annual Deferral limit under this section shall be the lesser of (a) and (b), where

(a) equals an amount equal to two times the section 3.01 applicable dollar limit for such year; and

(b) equals the sum of (1) and (2), where

(1) equals (A) minus (B), where

(A) equals the aggregate section 3.01 limit for the current year plus each prior calendar year beginning after December 31, 2001, during which the Participant was an Employee under the Plan, and

(B) equals the aggregate amount of Compensation that the Participant deferred under the Plan during such years, and

(2) equals (A) minus (B), where

(A) equals the aggregate limit referred to in Code § 457(b)(2) for each prior calendar year beginning after December 31, 1978, and before January 1, 2002, during which the Participant was an Employee (determined without regard to sections 3.01, 3.02, and 3.03), and

(B) equals the aggregate contributions to Pre-2002 Coordination Plans for such years.

However, in no event can the deferred amount be more than the Participant's Compensation for such years unless the Employer is making non-elective Employer contributions.

3.04 Coordination of Age 50 Catch-up with Special §457 Catch-up. The Age 50 Catch-up does not apply for any taxable year for which a higher limitation applies under the Special §457 Catch-up described in section 3.03. A Participant who is eligible for the Age 50 Catch-up for a Plan Year and for whom the Plan Year is also one of the Participant's last three taxable years ending before the Participant attains Normal Retirement Age is eligible for the larger of:

(a) The basic annual limitation described in section 3.01 and the Age 50 Catch-up described in section 3.02, or

(b) The basic annual limitation described in section 3.01 and the Special §457 Catch-up described in section 3.03.

3.05 Special Rules. For purposes of this Article III, the following rules shall apply:

(a) **Participant Covered By More Than One Eligible Plan.** If the Participant is or has been a participant in one or more other eligible plans within the meaning of Code §457(b), then this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of this Article III. For this purpose, the Administrator shall take into account any other such eligible plan maintained by the Employer and shall also take into account any other such eligible plan for which the Administrator receives from the Participant sufficient information concerning his or her participation in such other plan.

(b) **Pre-Participation Years.** In applying section 3.03, a year shall be taken into account only if the Participant was eligible to participate in the Plan during all or a portion of the year, and Compensation deferred, if any, under the Plan during the year was subject to the Basic Annual Limitation described in section 3.01 or any other plan ceiling required by Code §457(b).

(c) **Pre-2002 Coordination Years.** For purposes of section 3.03(b)(2), "contributions to Pre-2002 Coordination Plans" means any employer contribution, salary reduction or elective contribution under any other eligible Code §457(b) plan, or a salary reduction or elective contribution under any Code §401(k) qualified cash or deferred arrangement, Code §402(h)(1)(B) simplified employee pension (SARSEP), Code §403(b) annuity contract, Code §408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in Code §501(c)(18), including plans, arrangements or accounts maintained by the Employer or any employer for whom the Participant performed services. However, the contributions for any calendar year are only taken into account for purposes of section 3.03(b)(2) to the extent that the total of such contributions does not exceed the aggregate limit referred to in Code §457(b)(2) for that year.

(d) **Disregard Excess Deferral.** For purposes of sections 3.01, 3.02, and 3.03, an individual is treated as not having deferred Compensation under a plan for a prior taxable year to the extent Excess Deferrals under the plan are distributed, as described in section 3.06. To the extent that the combined deferrals for pre-2002 years exceeded the maximum deferral limitations, the amount is treated as an Excess Deferral for those prior years.

3.06 Correction of Excess Deferrals. If the Annual Deferral on behalf of a Participant for any calendar year exceeds the other limitations of this Article III, or the Annual Deferral on behalf of a Participant for any calendar year exceeds the other limitations of this Article III when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under Code §457(b) for which the Participant provides information that is accepted by the Administrator, then the Annual Deferral, to the extent in excess of the applicable limitation (adjusted

for any income or loss in value, if any, allocable thereto in accordance with applicable guidance), shall be distributed to the Participant.

3.07 Protection of Persons Who Serve in a Uniformed Service. An Employee whose employment is interrupted by qualified military service under Code §414(u) may elect to make additional Annual Deferrals upon resumption of employment with the Employer equal to the maximum Annual Deferrals that the Employee could have elected during that period if the Employee's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the Annual Deferrals, if any, actually made for the Employee during the period of the interruption or leave. This right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

ARTICLE IV LOANS

4.01 Loans. A Participant may apply for and receive a loan from his or her Account as provided in this Article IV, except as modified pursuant to a loan policy executed by the Administrator. Any such loan may not be for an amount less than the minimum amount specified by the Administrator. If not specified by the Administrator, the minimum loan amount shall be \$1,000. Except as modified by the loan policy adopted by the Plan Administrator from time to time, the following rules shall apply to loans under the Plan. Any loans that are issued under the Plan shall be administered in a manner consistent with the requirements contained in Code §72(p), Treasury Regulation §1.72(p)-1 and any other applicable guidance issued thereunder.

4.02 Maximum Loan Amount. No loan to a Participant hereunder may exceed the lesser of (a) and (b), where

(a) equals \$50,000, reduced by the greater of (1) and (2), where

(1) equals the outstanding balance on any loan from the Plan to the Participant on the date the loan is made; and

(2) equals the highest outstanding balance on loans from the Plan to the Participant during the one-year period ending on the day before the date the loan is approved by the Administrator (not taking into account any payments made during such one-year period), and

(b) equals one-half of the value of the Participant's vested Account Balance.

For purposes of this section 4.02, any loan from any other plan maintained by the Employer shall be treated as if it were a loan made from this Plan, and the Participant's vested interest under any such other plan shall be considered a vested interest under this Plan; provided, however, that the provisions of this paragraph shall not be applied so as to allow the amount of a loan under this section 4.02 to exceed the amount that would otherwise be permitted in the absence of this paragraph.

4.03 Loan Provisions. The terms of the loan shall:

(a) require level amortization with payments not less frequently than quarterly throughout the repayment period, except that alternative arrangements for repayment may apply in the event that the borrower is on a bona fide unpaid leave of absence for a period not to exceed one

year for leaves other than a qualified military leave within the meaning of Code §414(u) or for the duration of an interruption of employment which is due to qualified military service;

(b) require that the loan be repaid within five years unless the Participant certifies in writing to the Administrator that the loan is to be used to acquire any dwelling unit which within a reasonable time is to be used (determined at the time the loan is made) as a principal residence of the Participant; and

(c) provide for a reasonable rate of interest. The Administrator shall not discriminate among Participants in the matter of interest rates, but loans granted at different times may bear different interest rates based upon prevailing rates at the time.

A loan to a Participant shall be considered a directed investment option for such Participant's Account.

4.04 Security for Loan; Default.

(a) Security. Any loan to a Participant under the Plan shall be secured by the pledge of the portion of the Participant's interest in the Plan which is invested in such loan.

(b) Default. In the event that a Participant fails to make a loan payment under this Article IV by the end of the calendar quarter following the calendar quarter in which such payment was due, the loan shall be considered in default. In the event of such default;

(1) all remaining payments on the loan shall be immediately due and payable,

(2) effective as of the first day of the calendar month next following the month in which any such loan default occurs, the interest rate for such loan shall be (if higher than the rate otherwise applicable) the rate being charged on loans from the Plan that are approved by the Administrator in the month in which such default occurs,

(3) no contributions shall be made on such Participant's behalf prior to the first payroll period that follows by 12 calendar months the date of repayment in full of such loan, and

(4) the Participant shall be permanently ineligible for any future loans from the Plan.

In the case of any default on a loan to a Participant, the Administrator shall apply the portion of the Participant's interest in the Plan held as security for the loan in satisfaction of the loan on the date of Severance from Employment. In addition, the Administrator shall take any legal action it considers necessary or appropriate to enforce collection of the unpaid loan, with the costs of any legal proceeding or collection to be charged to the Account of the Participant.

Notwithstanding anything elsewhere in the Plan to the contrary, in the event a loan is outstanding on the date of a Participant's death, his or her estate shall be his or her Beneficiary as to the portion of his or her interest in the Plan invested in such loan (with the Beneficiary as to the remainder of his or her interest in the Plan to be determined in accordance with otherwise applicable provisions of the Plan).

4.05 Repayment. The Participant shall be required, as a condition to receiving a loan, to enter into an irrevocable agreement authorizing the Employer to make payroll deductions from his or her Compensation as long as the Participant is an Employee and to transfer such payroll deduction amounts to the Trustee in payment of such loan plus interest. Repayments of a loan shall be made by

payroll deduction of equal amounts (comprised of both principal and interest) from each paycheck, with the first such deduction to be made as soon as practicable after the loan funds are disbursed; provided, however, a Participant may prepay the entire outstanding balance of his or her loan at any time; and provided, further, that if any payroll deductions cannot be made in full because a Participant is on an unpaid leave of absence or is no longer employed the Employer or the Participant's paycheck is insufficient for any other reason, the Participant shall pay directly to the Plan the full amount that would have been deducted from the Participant's paycheck, with such payment to be made by the last business day of the calendar month in which the amount would have been deducted. Loan repayments are, at the Employer's election, suspended for Qualified Military Service as permitted by Code § 414(u)(4).

**ARTICLE V
DISTRIBUTIONS OF BENEFITS**

5.01 Distributions from the Trust. The payment of benefits from the Trust in accordance with the terms of the Plan may be made by the Trustee, or by any custodian or other person so authorized by the Employer to make such distribution. Neither the Administrator, the Trustee, nor any other person shall be liable with respect to any distribution from the Trust made at the direction of the Employer or a person authorized by the Employer to give disbursement direction.

5.02 Conditions for Distributions.

(a) §457(b) Deferred Compensation. Payments from a Participant's §457(b) Deferred Compensation account shall not be made to the Participant or Beneficiary earlier than:

- (1) the Participant's Severance from Employment or death pursuant to Sections 5.03 and 5.06;
- (2) the Participant's account meets all of the requirements for an in-service de minimis distribution pursuant to Section 5.04(a);
- (3) the Participant incurs an approved Unforeseeable Emergency pursuant to Section 5.05;
- (4) the Participant at anytime elects to receive a distribution of all or any portion of the amount of rollover contributions held in the separate rollover account(s) pursuant to Section 5.04(c);
- (5) the calendar year in which an in-service Participant attains age 70 ½ pursuant to Section 5.04(d); or
- (6) Plan termination under Section 11.01.

(b) Latest Distribution Date. To comply with Code § 401(a)(9) and the Treasury regulations issued thereunder, in no event, shall any distribution to a Participant under this Article V begin later than the April 1 of the year following the calendar year in which the participant attains age 70 ½ or April 1 of the year following the year in which the Participant retires or otherwise has a Severance from Employment, whichever is later. If the Participant delays the distribution due in the calendar year he turns age 70 ½ or severs employment, as applicable, to the following calendar year, a second required minimum distribution must be taken by the end of that calendar year. Such distributions must be made in accordance with Section 5.06.

5.03 Severance from Employment for Any Reason, Including Retirement.

(a) Subject to Section 5.03(b), distributions to a Participant shall commence following Severance from Employment, on the regular distribution commencement date (as the Employer or Administrator may establish from time to time) elected by the Participant, in a form and manner determined pursuant to Sections 5.07, 5.08, and 5.09. If the Participant does not elect otherwise, the distribution shall be paid commencing on the Participant's Required Beginning Date under a payment method meeting the requirements of Code § 401(a)(9) and the regulations thereunder.

(b) (1) Account Balance less than \$1,000. If the Participant, whose Account Balance is \$1,000 or less, does not elect to have the distribution paid directly to an Eligible Retirement Plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Administrator will pay the distribution in a lump sum to the Participant at the Participant's last known mailing address.

(2) Account Balance between \$1,000 and \$5,000. If the Participant, whose Account Balance is more than \$1,000 and not greater than \$5,000, does not elect to have the distribution paid directly to an Eligible Retirement Plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Administrator will pay the distribution amount in a direct rollover to an individual retirement plan designated by the Administrator.

5.04 In-Service Distributions.

(a) Voluntary In-Service Distribution of De Minimis Accounts. A Participant who is an active Employee may elect to receive a distribution of the total amount payable to the Participant under the Plan if the following requirements are met:

(1) the portion of the total amount payable to the Participant under the Plan does not exceed \$5,000 (or the dollar limit under section 411(a)(11) of the Code, if greater);

(2) the Participant has not previously received an in-service distribution of the total amount payable to the Participant under the Plan; and

(3) no amount has been deferred under the Plan with respect to the Participant during the two-year period ending on the date of the in-service distribution.

(b) (1) Account Balance less than \$1,000. If the Participant, whose Account Balance is \$1,000 or less, does not elect to have the distribution paid directly to an Eligible Retirement Plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Administrator will pay the distribution in a lump sum to the Participant at the Participant's last known mailing address.

(2) Account Balance between \$1,000 and \$5,000. If the Participant, whose Account Balance is more than \$1,000 and not greater than \$5,000, does not elect to have the distribution paid directly to an Eligible Retirement Plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Administrator will pay the distribution amount in a direct rollover to an individual retirement plan designated by the Administrator.

(c) Rollovers. If a Participant has a separate account attributable to rollover contributions to the Plan, the Participant may, at any time, elect to receive a distribution of all or any portion of the amount held in the rollover account(s).

(d) Calendar Year Participant Attains Age 70 ½. The Participant may request an in-service distribution in the calendar year the Participant will/has attained age 70 ½ or older.

5.05 Unforeseeable Emergency Distributions.

(a) Distribution. If the Participant or Beneficiary has an Unforeseeable Emergency before retirement or other Severance from Employment by Participant, the Participant may elect to receive a lump sum distribution equal to the amount requested or, if less, the maximum amount determined by the Administrator to be permitted to be distributed under this Section 5.05 and Treasury Regulation § 1.457-6(c).

(b) Unforeseeable Emergency Defined. Pursuant to Treasury Regulation § 1.457-6(c)(2), An unforeseeable emergency is a severe financial hardship of the Participant or Beneficiary resulting from an illness or accident of the Participant or Beneficiary, the Participant's or Beneficiary's spouse, or the Participant's or Beneficiary's dependent (as defined in Code § 152, and, for taxable years beginning on or after January 1, 2005, without regard to Code § 152(b)(1), (b)(2), and (d)(1)(B)); loss of the Participant's or Beneficiary's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, such as damage that is the result of a natural disaster); or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant or the Beneficiary. For example, the imminent foreclosure of or eviction from the Participant's or Beneficiary's primary residence may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses, including non-refundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency. Finally, the need to pay for the funeral expenses of a spouse or a dependent (as defined in Code § 152, and, for taxable years beginning on or after January 1, 2005, without regard to Code § 152(b)(1), (b)(2), and (d)(1)(B)) of a participant or beneficiary may also constitute an unforeseeable emergency. Except as otherwise specifically provided in paragraph (c)(2)(i) of Treasury Regulation § 1.457-6, the purchase of a home and the payment of college tuition are not unforeseeable emergencies.

(c) Unforeseeable Emergency Distribution Standard. A distribution on account of Unforeseeable Emergency may not be made to the extent that such emergency is or may be relieved through reimbursement or compensation from insurance or otherwise, by liquidation of the Participant's assets, to the extent the liquidation of such assets would not itself cause severe financial hardship or by cessation of deferrals under the Plan.

(d) Distribution Necessary to Satisfy Emergency Need. Distributions because of an Unforeseeable Emergency may not exceed the amount reasonably necessary to satisfy the emergency need (which may include any amounts necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the distribution).

(e) The Administrator shall have the right to request and review all pertinent information necessary to assure that Unforeseeable Emergency withdrawal requests are consistent with the provisions of Code § 457.

(f) The Employer or Administrator may suspend the Participant's salary deferral election during the pendency of the Participant's request for an Unforeseeable Emergency distribution. Payment of an Unforeseeable Emergency distribution shall result in mandatory suspension of deferrals for a minimum of six months from the date of payment (or such other period as mandated in applicable Treasury regulations).

5.06 Death Benefit Distributions. Upon receipt of satisfactory proof of the Participant's death, the Participant's remaining Account Balance shall be paid under a method satisfying the required minimum distribution rules of Code § 401(a)(9) and the Treasury regulations thereunder. In the case of a Participant who dies while performing Qualified Military Service under Code § 414(u), the Beneficiaries of the Participant shall, to the extent required by Code § 401(a)(37), be entitled to any additional benefits (other than benefit accruals relating to the period of Qualified Military Service) that would be provided under the Plan had the Participant resumed and then terminated employment on account of death.

(a) **Death of Participant Before Participant's Required Beginning Date.** If the Participant dies before the required beginning date, 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, except as provided in Section 5.06(e) and unless the surviving spouse elects the five-year rule, 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 70½, if later. A Beneficiary is deemed to elect the five-year rule if distributions do not begin by the required beginning date provided in this Section.

(2) If the Participant's surviving spouse is not the Participant's sole designated Beneficiary, then, unless the Beneficiary elects the five-year rule, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died. A Beneficiary is deemed to elect the five-year rule if distributions do not begin by the required beginning date provided in this Section.

(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 Section 5.06(a), other than Section 5.06(a)(1), will apply as if the surviving spouse were the Participant.

For purposes of this Section 5.06(a) and Section 5.06(e) unless Section 5.06(a)(4) applies, distributions are considered to begin on the Participant's required beginning date. If Section 5.06(a)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 5.06(a)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 5.06(a)(1)), the date distributions are considered to begin is the date distributions actually commence.

(b) **Forms of Distribution.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Section 5.06. 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 § 401(a)(9) and the Treasury regulations.

(c) Amount of Required Minimum Distribution for Each Distribution Calendar Year During the Participant's Lifetime. 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 Treasury Regulation § 1.401(a)(9)-9, 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, the quotient obtained by dividing the Participant's Account Balance by the number in the Joint and Last Survivor Table set forth in Treasury Regulation § 1.401(a)(9)-9, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(d) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under Sections 5.06(d) and 5.06(e) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.

(e) Amount of Required Minimum Distribution Where Death Occurs On or After Participant's Required Beginning Date.

(1) Participant Survived by Designated Beneficiary. If the Participant dies on or after the Participant's required beginning date 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:

(A) 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.

(B) 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.

(C) 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.

(2) No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the calendar year following the calendar 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.

(f) Amount of Required Minimum Distribution Where Death Occurs Before Participant's Required Beginning Date.

(1) Participant Survived by Designated Beneficiary. If the Participant dies before the required beginning date and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the calendar year of the Participant's death is the quotient obtained by dividing the Participant's Account Balance by the remaining life expectancy of the Participant's designated Beneficiary, determined as provided in Section 5.06(e).

(2) No Designated Beneficiary. If the Participant dies before the required beginning date and there is no designated Beneficiary as of September 30 of the calendar year following the calendar 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.

(3) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the required beginning date, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 5.06(a)(1), this Section 5.06(f)(3) will apply as if the surviving spouse were the Participant.

(g) Designated Beneficiary. The individual who is designated as the Beneficiary under the Plan and is the designated Beneficiary under Code § 401(a)(9) and Treasury Regulation § 1.401(a)(9)-1, Q&A-4.

(h) Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 5.06(a). 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 Participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

(i) Life Expectancy. Life expectancy as computed by use of the Single Life Table in Treasury Regulation § 1.401(a)(9)-9.

(j) Participant's Account Balance. The Account Balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Account 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 Account Balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(k) **Required Beginning Date.** The date specified under Code § 401(a)(9) when distributions are required to begin, which, for a Participant, is April 1 following the year the Participant attains age 70 ½ or retires and severs service with the Employer, whichever is later.

5.07 Payment Options. A payee's election of a payment option must be made prior to the date that the payment of benefits is to commence or such earlier date as may be permitted by the Plan. If a timely election of a payment option is not made, benefits shall be paid in accordance with Section 5.08. Subject to applicable law and the other provisions of this Plan, distributions may be made in accordance with one of the following payment options.

(a) A single lump-sum payment of the entire Account Balance;

(b) Installment payments for a period of years (payable on a monthly, quarterly, semi-annual, or annual basis) which extends no longer than the life expectancy of the payee as permitted under Code § 401(a)(9) using the Tables in Treasury Regulation § 1.401(a)(9)-9. The Account Balance for this calculation (other than the final installment payment) is the Account Balance as of the end of the year prior to the year for which the distribution is being calculated;

(c) Partial lump-sum payment of a designated amount, with the balance payable in installment payments for a period of years, as described in subsection (b);

(d) Annuity payments (payable on a monthly, quarterly or annual basis) for the lifetime of the payee or for the lifetimes of the payee and Beneficiary in compliance with Code § 401(a)(9);

(e) Such other forms of installment payments as may be approved by the Employer consistent with the requirements of Code § 401(a)(9); or

5.08 Default Distribution Option. In the absence of an effective election by the Participant as to the commencement and/or form of benefits, distributions shall be made in accordance with the applicable requirements of Code §§ 401(a)(9) and 457(d), and final Treasury regulations thereunder. In the absence of an effective election by the Beneficiary or Alternate Payee as to the commencement and/or form of benefits, distribution shall be made in a lump sum.

5.09 Limitations on Distribution Options. Notwithstanding any other provision of this Article V, Plan distributions shall satisfy the requirements of this Section 5.09.

(a) No distribution option may be selected by a payee under this Article V unless it satisfies the applicable requirements of Code §§ 401(a)(9) and 457(d), and final Treasury regulations thereunder.

(b) The terms of this Article V shall be construed in accordance with all applicable Code sections.

5.10 Eligible Rollover Distributions.

(a) **General.** Notwithstanding any provision of the Plan to the contrary that would otherwise limit an election under this Section, a Participant, the surviving spouse of a Participant (or a Participant's former spouse who is the Alternate Payee under a qualified domestic relations order as defined in Code § 414(p)) (herein collectively called "distributee") may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan in a direct rollover or an in-plan Roth direct rollover. A non-spousal Beneficiary may elect, at the time and in the manner prescribed by the Administrator, to

have any portion of an Eligible Rollover Distribution paid in a direct rollover to an inherited IRA referred to in Code § 402(c)(11).

(b) **Distributee.** A distributee includes an Employee or former Employee, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the Alternate Payee under a Qualified Domestic Relations Order.

(c) **Direct Rollover.** A direct rollover is a payment by the Plan to the Eligible Retirement Plan specified by the distributee or to the inherited IRA specified by the non-spousal Beneficiary.

5.11 Elections. Elections under this Section shall be made in such form and manner as the Administrator may specify from time to time. To the extent permitted by and in accordance with the Code, any irrevocable elections as to the form or timing of distributions executed prior to January 1, 2002, are hereby revoked.

5.12 Practices and Procedures. The Employer or Plan Administrator may adopt practices and procedures applicable to existing and new distribution elections.

5.13 Taxation of Distributions. To the extent required by law, income and other taxes shall be withheld from each benefit payment and payments shall be reported to the appropriate governmental agency or agencies.

5.14 Required Minimum Distribution Waiver of 2009. Notwithstanding any other provisions of Article V of the Plan, a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of section 401(a)(9)(H) of the Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant's designated Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will receive those distributions for 2009 unless the Participant or Beneficiary chooses not to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence. If the Participant or Beneficiary has not elected to receive a 2009 RMD or Extended 2009 RMD then the Participant or Beneficiary will not receive a 2009 or Extended 2009 RMD unless the Participant elects to receive the distribution(s), notwithstanding section 6.01.

ARTICLE VI ROLLOVERS AND TRANSFERS

6.01 Eligible Rollover Contributions to Plan.

(a) A Participant who is an Employee and who is entitled to receive an Eligible Rollover Distribution from another Eligible Retirement Plan may request to have all or a portion of the Eligible Rollover Distribution paid to the Plan. The Administrator may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Code §402 and to confirm that such plan is an Eligible Retirement Plan within the meaning of Code §402(c)(8)(B).

(b) **In-Plan Roth Rollover.** Beginning March 1, 2012, or as soon thereafter as administratively feasible, a Participant, the surviving spouse of a Participant (or a Participant's former spouse who is the Alternate Payee under a qualified domestic relations order as defined in

Code § 414(p)) (herein collectively called "distributee") may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an Eligible Rollover Distribution paid to the Plan in an in-plan Roth rollover to the distributee's Designated Roth Contribution Account. A loan transferred in an in-plan Roth direct rollover without changing the repayment schedule is not treated as a new loan for purposes of Code § 72(p). The amount rolled over in an in-plan Roth direct rollover continues to be taken into consideration for mandatory distributions.

(c) For purposes of Sections 6.01(a) and 6.01(b), an Eligible Rollover Distribution means any distribution of all or any portion of a Participant's benefit under another Eligible Retirement Plan, except that an Eligible Rollover Distribution does not include:

- (1) any installment payment for a period of 10 years or more,
- (2) any distribution made as a result of an Unforeseeable Emergency or other distribution which is made upon hardship of the Employee,
- (3) any deemed distribution under the provisions of Code § 72(p),
- (4) the portion of any distribution that is not includable in gross income,
- (5) any distribution of excess deferrals, or
- (6) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Code § 401(a)(9).

(d) Notwithstanding any other provisions of this Section 6.01, and solely for purposes of applying the rollover provisions of the Plan, 2009 RMDs and Extended 2009 RMDs, will be treated as Eligible Rollover Distributions.

(e) The Plan shall establish and maintain for the Participant a separate Account for any Eligible Rollover Distribution paid to the Plan from any Eligible Retirement Plan that is not an eligible governmental plan under Code § 457(b). The Plan shall establish and maintain a separate Account for any Roth Contributions paid to the Plan from any Eligible Retirement Plan that is not an eligible governmental plan under Code §457(b). In addition, the Plan shall establish and maintain for the Participant a separate Account for any Eligible Rollover Distribution including amounts paid to the Plan from any eligible governmental plan under Code § 457(b). The Plan shall establish and maintain a separate Account for any Roth Contributions paid to the Plan from any Eligible Retirement Plan that is an eligible governmental plan under Code §457(b). The Plan shall establish and maintain for the Participant a separate Account for any in-plan Roth rollover made within the Plan.

(f) Notwithstanding the above, the Plan will accept a rollover contribution from another Roth Contribution Account under an applicable retirement plan described in Code § 402A(e)(1), only to the extent the rollover is permitted under the rules of Code § 402(c) and Treasury Regulation § 1.402A-2. The Administrator or other responsible party must provide the Plan with a statement indicating the first year of the five-taxable-year period and the portion of the rollover distribution that is attributable to investment in the contract under Code § 72 or a statement that the distribution is a qualified distribution.

6.02 Plan-to-Plan Transfers to the Plan. At the direction of the Employer, the Administrator may permit a class of Participants who are participants in another eligible governmental plan under Code §457(b) to transfer assets to the Plan as provided in this section 6.02. Such a transfer is permitted only if the other plan provides for the direct transfer of each Participant's

interest therein to the Plan. The Administrator may require in its sole discretion that the transfer be in cash or other property acceptable to the Administrator. The Administrator may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with Code §457(e)(10) and Treasury Reg. §1.457-10(b) and to confirm that the other plan is an eligible governmental plan as defined in Reg. §1.457-2(f). The amount so transferred shall be credited to the Participant's Account and shall be held, accounted for, administered and otherwise treated in the same manner as an Annual Deferral by the Participant under the Plan, except that the transferred amount shall not be considered an Annual Deferral under the Plan in determining the maximum deferral under Article III.

6.03 Plan-to-Plan Transfers from the Plan.

(a) At the direction of the Employer, the Administrator may permit a class of Participants and Beneficiaries to elect to have all or any portion of their Account Balance transferred to another eligible governmental plan within the meaning of Code §457(b) and Treasury Reg. §1.457-2(f). An in-service transfer is permitted under this section 6.03(a) only if the Participant is transferring to another eligible governmental plan maintained by Employer. In all other circumstances, a transfer is permitted under this section 6.03(a) for a Participant only if the Participant has had a Severance from Employment with the Employer and is an Employee of the entity that maintains the other eligible governmental plan. Further, a transfer is permitted under this section 6.03(a) only if the other eligible governmental plan provides for the acceptance of plan-to-plan transfers with respect to the Participants and Beneficiaries and for each Participant and Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred.

(b) Upon the transfer of assets under this section 6.03, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred for the Participant or Beneficiary. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this section 6.03 (for example, to confirm that the receiving plan is an eligible governmental plan under section 6.03(a), and to assure that the transfer is permitted under the receiving plan) or to effectuate the transfer pursuant to Reg. §1.457-10(b).

6.04 Permissive Service Credit Transfers.

(a) If a Participant is also a participant in a tax-qualified defined benefit governmental plan (as defined in Code §414(d)) that provides for the acceptance of plan-to-plan transfers with respect to the Participant, then the Participant may elect to have any portion of the Participant's Account Balance transferred to the defined benefit governmental plan. A transfer under this section 6.04(a) may be made before the Participant has had a Severance from Employment.

(b) A transfer may be made under section 6.04(a) if the transfer is either for the purchase of permissive service credit (as defined in Code §415(n)(3)(A)) under the receiving defined benefit governmental plan or a repayment to which Code §415 does not apply by reason of Code §415(k)(3), or as otherwise allowed by the Internal Revenue Service.

**ARTICLE VII
CREATION OF TRUST AND TRUST FUND**

7.01 Trust Fund. The Trust Fund shall consist of all contributions to the Plan and the earnings thereon less payments made under the terms of the Plan, including fees and expenses. The Trust Fund shall be held and invested in accordance with this Plan and Trust Agreement.

7.02 Establishment of Trust. The Employer shall serve as Trustee of the trust hereby created to hold all of the assets of the Trust Fund.

7.03 General Duties of the Trustee. The Trustee shall be responsible for the administration of investments held in the Plan. The Trustee's duties shall include:

- (a) receiving contributions under the terms of the Plan;
- (b) making distributions from Plan assets held in trust in accordance with written instructions received from an authorized representative of the Employer;
- (c) keeping accurate records reflecting its administration of the Trust Fund and making such records available for review and audit; and
- (d) employing such agents, attorneys, or other professionals as the Trustee may deem necessary or advisable in the performance of its duties.

The value of marketable investments shall be determined using the most recent price quoted on a national securities exchange or over the counter market. The value of non-marketable investments shall be determined in the sole judgment of the Trustee which determination shall be binding and conclusive.

7.04 Investment Powers of the Trustee. The Trustee shall implement an investment program based on the Employer's investment objectives. If either the Employer or the Employee fails to issue investment directions as provided in sections 6.01 and 6.02, the Trustee shall have authority to invest the Trust assets in its sole discretion. In addition to powers given by law, the Trustee may:

- (a) invest the trust assets in any form of property, including common and preferred stocks, exchange and trade put and call options, bonds, money market instruments, mutual funds (including trust assets for which the Trustee or its affiliates serve as investment advisor), Treasury bills, deposits at reasonable rates of interest at banking institutions including but not limited to savings accounts and certificates of deposit, and other forms of securities or investment of any kind, class, or character whatsoever, or in any other property, real or personal, having a ready market;
- (b) invest and reinvest all or any part of the trust assets in any insurance policies or other contracts (which contracts shall be held in the name of the Trustee) with insurance companies including but not limited to individual or group annuity, deposit administration, and guaranteed interest contracts;
- (c) transfer any assets of the Trust to any group, common, collective or commingled fund that is maintained by a bank or other institution that is established to permit the pooling of assets of separate Trusts so long as such fund is available to Code §457 plans;
- (d) hold cash uninvested and deposit same with any banking or savings institution at reasonable interest;

(e) deposit fees earned from revenue sharing, 12(b)(1) fees, any investment gains and any otherwise unallocated trust assets into an account to be invested in any employer-directed investment option available under the Plan;

(f) join in or oppose the reorganization, recapitalization, consolidation, sale, or merger of corporations or properties, including those in which it is interested as a Trustee, upon such terms as it deems proper;

(g) hold investments in nominee or bearer form;

(h) to vote or refrain from voting any stocks, bonds, or other securities held in the Trust, to exercise any other right appurtenant to any securities or other property held in the Trust, to vote or refrain from voting proxies;

(i) exercise all ownership rights with respect to assets held in the Trust; and

(j) do any and all other acts that may be deemed necessary in the performance of the Trustee's duties hereunder.

7.05 Trustee Fees and Expenses. All reasonable costs, charges and expenses incurred by the Trustee in connection with the administration of the Trust Fund (including fees for legal services rendered to the Trustee) may be paid by the Employer, but if not paid by the Employer when due, shall be paid from the Trust Fund.

7.06 Exclusive Benefit Rules. Prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, no part of the assets and income of the Trust Fund shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.

7.07 Delegation. Subject to any applicable laws and any approvals required by the Employer, the Trustee may delegate any or all powers and duties hereunder to another person, persons, or entity, and may pay reasonable compensation for such services as an administrative expense of the Plan, to the extent such compensation is not otherwise paid.

7.08 Division of Duties and Indemnification.

(a) The Trustee shall have the authority and discretion to manage and govern the trust assets to the extent provided in this instrument, but does not guarantee the trust in any manner against investment loss or depreciation in asset value, or guarantee the adequacy of the trust assets to meet and discharge all or any liabilities of the Plan.

(b) The Trustee shall not be liable for the making, retention or sale of any investment or reinvestment made by it, as herein provided, or for any loss to, or diminution of the trust assets or for any other loss or damage which may result from the discharge of its duties hereunder except to the extent it is determined that the Trustee has failed to exercise the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character with like aims.

(c) The Employer warrants that all directions issued to the Trustee by it or the Administrator shall be in accordance with the terms of the Plan and not contrary to the provisions of the Code.

(d) The Trustee shall not be answerable for any action taken pursuant to any direction, consent, certificate, or other paper or document on the belief that the same is genuine and signed by the proper person. All directions by the Employer or the Administrator shall be in writing from the authorized individual or individuals.

(e) The duties and obligations of the Trustee shall be limited to those expressly imposed upon it by this instrument or subsequently agreed upon by the parties. Responsibility for administrative duties required under the Plan or applicable law not expressly imposed upon or agreed to by the Trustee shall rest solely with the Employer.

(f) The Trustee shall be indemnified and held harmless by the Employer from and against any and all liability to which the Trustee may be subjected, including all expenses reasonably incurred in its defense, for any action or failure to act resulting from compliance with the instructions of the Employer, the employees or agents of the Employer, the Administrator, or any other fiduciary to the Plan, and for any liability arising from the actions or inactions of any predecessor Trustee, custodian or other fiduciaries of the Plan.

(g) The Trustee shall not be responsible in any way for the application of any payments it is directed to make or for the adequacy of the trust assets to meet and discharge any and all liabilities under the Plan.

ARTICLE VIII INVESTMENTS

8.01 Investment Options. Employer shall have the sole discretion to select one or more investment options to be offered under the Plan. These investment options may include specified life insurance policies, annuity contracts, or investment media issued by an insurance company. It shall be the sole responsibility of the Employer to ensure that all investment options offered under the Plan are appropriate and in compliance with any and all state and federal laws pertaining to such investments.

8.02 Participant Investment Direction. If the Employer chooses to designate one or more investment options in which Participants may direct investment of their Account(s), Participants shall have the option to direct the investment of their Account(s) from among the investment options designated by the Employer. The Participant's right to transfer among or out of any such investment options shall be subject to any timing or other restrictions imposed upon Participants by the providers of the investment options chosen by the Participant, including, but not limited to market-timing restrictions, excessive trading restrictions, and redemption fees. The Trustee, as applicable, shall hold title to such investment options. A Participant's right to direct the investment of Account Balances shall apply only to making selections among the options made available under the Plan and only to the extent specified by the Employer pursuant to uniform rules. The terms of this section 8.02, including any trading restrictions or fees, shall also apply to Beneficiary and Alternate Payee accounts.

(a) Each Participant shall designate on the form prescribed by the Administrator the one or more investment options in which he or she wishes to have his or her Account invested and may change such investment directions in accordance with and at the time or times specified under uniform rules established by the Administrator or the investment provider, as applicable. The Participant's Account shall be debited or credited as appropriate to reflect all gains or losses on such investments. If a Participant has the right to direct the investment of his or her Account but does not

provide such direction pursuant to uniform rules established by Employer, the Participant's Account shall be invested in the investment option or options selected by the Employer.

(b) Neither the Employer, the Administrator, the Trustee, nor any other person shall be liable for any loss incurred by virtue of following the Participant's directions or by reason of any reasonable administrative delay in implementing such directions.

(c) The Employer may change the investment options made available under the Plan pursuant to uniform rules established by the Administrator. If the Employer eliminates an investment option, all Participants who had chosen that investment option shall select another option. If the Participant does not select a new option, money remaining in the eliminated investment option shall be reinvested at the direction of the Employer. The Participants shall have no right to require the Employer to select or retain any investment option. Any change with respect to investment options made by the Employer or a Participant, however, shall be subject to the terms and conditions (including any rules or procedural requirements) of the affected investment options.

8.03 Employer Investment Direction.

(a) To the extent the Employer chooses not to allow Participant direction of the investment of his or her Account, the Employer shall have the right to direct the Trustee with respect to investment of the trust assets, may appoint an investment manager to direct investments or may give the Trustee sole investment management responsibility. The Employer or investment manager shall make any investment directive in writing. Such instructions regarding the delegation of investment responsibility shall remain in force until revoked or amended in writing. The Trustee shall not be responsible for the propriety of any investment made at the direction of the Employer or an investment manager and shall not be required to consult with or advise the Employer regarding the investment quality of any directed investment held hereunder. In the absence of such written directive, the Trustee shall automatically invest the available cash in its discretion in an appropriate interim investment until specific investment directions are received.

(b) If the Employer fails to direct the investment of Trust assets or name an investment manager and the Trustee or Custodian do not have investment authority, the Administrator shall have full investment authority.

8.04 Participant Accounts. The Administrator shall maintain or cause to be maintained one or more individual accounts for each Participant. Such Accounts shall include separate accounts, as necessary, for Code §457(b) Deferred Compensation, Code §457(b) rollovers, IRA rollovers, other qualified plan and Code §403(b) plan rollovers, and such other accounts as may be appropriate for plan administration. At regular intervals established by the Administrator, each Participant's Account(s) shall be credited with the amount of any Deferred Compensation paid into the trust; debited with any applicable administrative or investment expense, including, but not limited to, fees charged to Participants, allocated on a reasonable and consistent basis; credited or debited with investment gain or loss, as appropriate; and debited with the amount of any distribution. Each Participant shall be notified in writing of the balance in his or her Account at least once a year.

ARTICLE IX ADMINISTRATION

9.01 Duties of Administrator. Subject to any applicable laws and any approvals required by the Employer, the Administrator shall have full power and authority to adopt rules, regulations

and procedures for the administration of the Plan, and to interpret, alter, amend, or revoke any rules, regulations or procedures so adopted. The Administrator's duties shall include:

- (a) appointing the Plan's attorney, accountant, actuary, custodian, or any other party needed to administer the Plan or the Plan assets;
- (b) directing the Trustee with respect to payments from the Plan assets held in trust;
- (c) communicating with Employees regarding their participation and benefits under the Plan, including the administration of all claims procedures;
- (d) filing any returns and reports with the Internal Revenue Service or any other governmental agency;
- (e) reviewing and approving any financial reports, investment reviews, or other reports prepared by any party;
- (f) establishing a funding policy and investment objectives consistent with the purposes of the Plan; and
- (g) construing and resolving any question of Plan interpretation. The Administrator's interpretation of Plan provisions including eligibility and benefits under the Plan is final.

9.02 Administrative Fees and Expenses. All reasonable costs, charges, and expenses incurred by the Administrator in connection with the administration of the Plan (including fees for legal services rendered to the Administrator) may be paid by the Employer, but if not paid by the Employer when due, shall be paid from Plan assets.

9.03 Delegation. Subject to any applicable laws and any approvals required by the Employer, the Administrator may delegate any or all powers and duties hereunder to another person, persons, or entity, and may pay reasonable compensation for such services as an administrative expense of the Plan, to the extent such compensation is not otherwise paid.

9.04 Investment and Service Providers. Any company which issues policies, contracts, or investment media to the Employer or in respect of a Participant is not a party to this Plan and such company shall have no responsibility, accountability, or liability to the Employer, the Administrator, any Participant, or any Beneficiary with regard to the operation or adequacy of this Plan, including any future amendments made thereto.

ARTICLE X LEAVE OF ABSENCE

10.01 Paid Leave of Absence. If a Participant is on an approved leave of absence from the Employer with Compensation, or on approved leave of absence without Compensation that does not constitute a Severance from Employment, which under the Employer's current practices is generally a leave of absence without Compensation for a period of one year or less, said Participant's participation in the Plan may continue.

10.02 Unpaid Leave of Absence. If a Participant is on an approved leave of absence without Compensation and such leave of absence continues to such an extent that it becomes a Severance from Employment, said Participant shall have separated from service with the Employer

for purposes of this Plan. Upon termination of leave without pay and return to active status, the Participant may enter into a new Participation Agreement to be effective when permitted by section 2.12.

ARTICLE XI AMENDMENT OR TERMINATION OF PLAN

11.01 Termination. The Employer may at any time terminate this Plan; provided, however, that no termination shall affect the amount of benefits, which at the time of such termination shall have accrued for Participants or Beneficiaries. Such accrued benefit shall include any Compensation deferred before the time of the termination and income thereon accrued to the date of the termination. Such amount shall be calculated in accordance with section 8.04 and the terms and conditions of the affected investment option. Upon such termination, each Participant in the Plan shall be deemed to have revoked his or her agreement to defer future Compensation as provided in section 2.11 as of the date of such termination and section 2.05(b) shall no longer be in effect. Each Participant's full Compensation on a nondeferred basis shall be restored. Upon plan termination, all amounts deferred will be distributed to Participants or Beneficiaries as soon as administratively practicable after the termination date.

11.02 Amendment. The Employer may amend the provisions of this Plan at any time; provided, however, that no amendment shall affect the amount of benefits which at the time of such amendment shall have accrued for Participants or Beneficiaries, to the extent of Compensation deferred before the time of the amendment and income thereon accrued to the date of the amendment, calculated in accordance with section 8.04 and the terms and conditions of the investment options hereunder; and provided further, that no amendment shall affect the duties and responsibilities of the Trustee unless executed by the Trustee.

To the extent permitted by applicable law, the Employer delegates to the Administrator the authority to adopt rules, regulations or procedures as may be necessary or desirable to conform Plan provisions to, or to elaborate Plan provisions in light of, technical amendments to the Code, Treasury regulations or other guidance issued under the Code, and such rules, regulations or procedures are hereby ratified by the Employer as having the force and effect of Plan amendments.

11.03 Copies of Amendments. The Administrator shall provide a copy of any Plan amendment to any Trustee and to the issuers of any investment options selected pursuant to section 8.01.

ARTICLE XII TAX TREATMENT OF AMOUNTS CONTRIBUTED

It is intended that pursuant to Code § 457, the Amount Deferred shall not be considered current compensation for purposes of federal income taxation except to the extent that the Amount Deferred is Designated Roth Contributions. This rule shall also apply to state income taxation unless applicable state laws provide otherwise. Such amounts shall, however, be included as compensation to the extent required under the Federal Insurance Contributions Act (FICA). Payments under this Plan shall supplement retirement and death benefits payable under the Employer's group insurance and retirement plans, if any.

**ARTICLE XIII
NON-ASSIGNABILITY**

13.01 Non-Assignability. Except as provided in sections 13.02 and 13.03, the interests of each Participant or Beneficiary under the plan are not subject to the claims of the Participant's or Beneficiary's creditors, and neither the Participant nor any Beneficiary shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be non-assignable and non-transferable.

13.02 Qualified Domestic Relations Orders. Domestic relations orders approved by the Administrator shall be administered as follows.

(a) Notwithstanding section 13.01, if a final judgment, decree, or order (including approval of a property settlement) that is related to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant (herein called an Alternate Payee) is made pursuant to the domestic relations law of any State and meets the requirements of Code §414(p), then such order shall be referred to as a Qualified Domestic Relations Order. If a QDRO is duly filed upon the Employer, then the amount of the Participant's Account shall be paid to or set aside in a separate account for Alternate Payee(s) as elected by the Alternate Payee. Payments to the Alternate Payee shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Administrator shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the QDRO and may charge the Participant and Alternate Payee a fee as established.

Where necessary to carry out the terms of such a QDRO, a separate account shall be established with respect to the Alternate Payee(s) and such person shall be entitled to make investment selections with respect thereto in the same manner as the Participant, except to the extent restricted by the employer or a specific investment option under the plan. All costs and charges incurred in carrying out the investment selection shall be deducted from the account created for the spouse, former spouse, or child making the investment selection. The Alternate Payee may select from among the forms of payment available to Participants except a joint and survivor annuity naming the Alternate Payee and a subsequent spouse. Withholding and income tax reporting shall be done with respect to the Alternate Payee under the terms of the Code as amended.

(b) The Employer's liability to pay benefits to a Participant shall be reduced to the extent that amounts have been paid or set aside for payment to a spouse, former spouse, or child pursuant to this section. No amount shall be paid or set aside unless the Employer, or its agents or assigns, has been provided with satisfactory evidence releasing them from any further claim by the Participant with respect to these amounts. The Participant shall be deemed to have released the Employer from any claim with respect to such amounts in any case in which the Employer has been notified of or otherwise joined in a proceeding relating to a QDRO which sets aside a portion of the Participant's Account for a spouse, former spouse or child, and the Participant fails to obtain an order of the court in the proceeding relieving the Employer from the obligation to comply with the QDRO.

(c) The Employer shall not be obligated to comply with any judgment, decree, or order that attempts to require the Plan to violate any Plan provision or any provision of Code §457. Neither the Employer nor its agents or assigns shall be obligated to defend against or set aside any

judgment, decree, or order described herein or any legal order relating to the division of a Participant's benefits under the Plan unless the full expense of such legal action is borne by the Participant. In the event that the Participant's action (or inaction) nonetheless causes the Employer, its agents or assigns to incur such expense, the amount of the expense may be charged against the Participant's Account and thereby reduce Employer's obligation to pay benefits to the Participant. In the course of any proceeding relating to divorce, separation, or child support, the Employer, its agents and assigns shall be authorized to disclose information relating to Participant's individual Account to the Participant's spouse, former spouse, or child (including the legal representatives of the spouse, former spouse or child), or to a court.

13.03 IRS Levy. Notwithstanding section 13.01, the Administrator may pay from a Participant's or Beneficiary's Account the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

13.04 Mistaken Contributions. If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contributions (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Administrator, to the Employer.

13.05 Payments to Minors and Incompetents. To the extent the Employer or Administrator determines that the following procedure meets applicable state or local law, if a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, benefits will be paid to such person as the Administrator may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

13.06 Procedure When Distributee Cannot Be Located. The Administrator shall make all reasonable attempts to determine the identity and address of a participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means

- (a) the mailing by certified mail of a notice to the last known address shown on the Employer's or Administrator's records,
- (b) notification sent to the Social Security Administration, Internal Revenue Service or the Pension Benefit Guaranty Corporation (under their program to identify payees under retirement plans), and
- (c) the payee has not responded within six months.

If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the trust fund shall continue to hold the benefits due such person until in the Employer's or Administrator's sole discretion, the Plan is required to take other action under applicable law except that if the Account Balance is greater than \$1,000, then the Administrator will pay the distribution for such person in a direct rollover to an individual retirement plan designated by the Administrator.

ARTICLE XIV DISCLAIMER

The Employer and the Administrator make no endorsement, guarantee or any other representation and shall not be liable to the Plan or to any Participant, Beneficiary, or any other person with respect to

(a) the financial soundness, investment performance, fitness, or suitability (for meeting a Participant's objectives, future obligations under the Plan, or any other purpose) of any investment option offered pursuant to section 8.01 or any investment vehicle in which amounts deferred under the Plan are actually invested, or

(b) the tax consequences of the Plan to any Participant, Beneficiary or any other person.

ARTICLE XV EMPLOYER PARTICIPATION

15.01 Non-elective Employer Contributions. Notwithstanding any other provisions of this Plan, the Employer may make Non-elective Employer Contributions to the Plan on behalf of any Participant, so long as the total amount contributed by the Employer when added to the Annual Deferral made by the Participant does not exceed the maximum deferral permitted by Article III for the calendar year. Such contributions are vested at 100% upon contribution to the Plan.

15.02 Plan Amendment. The amount of such Employer contribution and the Employees or independent contractors eligible to receive such contributions shall be detailed in an amendment to the Plan which:

- (a) selects all Eligible Employees and the amount of the contribution;
- (b) selects only certain eligible classes of Eligible Employees and the amounts; or
- (c) selects certain Eligible Employees and the amount of the contribution.

15.03 Wages. Such Employer contributions shall be wages for services rendered by the Participant to the Employer during the payroll period contributed.

15.04 Enrollment. Employees designated as eligible to receive Non-elective Employer Contributions are required to complete enrollment forms in order to receive such contributions.

ARTICLE XVI INTERPRETATION

16.01 Governing Law. This Plan shall be construed under the laws of the State of Kansas.

16.02 Section 457. This Plan is intended to be an eligible deferred compensation plan within the meaning of Code §457, and shall be interpreted so as to be consistent with such section and all regulations promulgated thereunder.

16.03 Word Usage. Words used herein in the singular shall include the plural and the plural the singular where applicable, and one gender shall include the other genders where appropriate.

16.04 Headings. The headings of sections, sections or other subdivisions hereof are included solely for convenience of reference. If there is any conflict between such headings and the text of the Plan, the text shall control.

16.05 Entire Agreement. This Plan shall constitute the total agreement between the Employer and the Participants regarding the Plan. No oral statement regarding the Plan may be relied upon by the Participant. This Plan shall be binding on the parties hereto and their respective heirs, administrators, Trustees, successors, assigns and on all Beneficiaries of the Participant.


IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto the 21st day of December, 2011.

SEDGWICK COUNTY

By: *David M Unruh*
Dave Unruh, Chairman, First District
Sedgwick County Board of County
Commissioners

ATTEST:

By: *Kelly Arnold*
Kelly Arnold, Sedgwick County Clerk

The seal of Sedgwick County, Kansas, is circular with a double-line border. The outer ring contains the text "SEDGWICK COUNTY" at the top and "KANSAS" at the bottom. The inner circle features a central figure of a Native American man holding a bow and arrow, with a sunburst behind his head. The words "CLERK OF SEDGWICK COUNTY" are written around the inner circle.

APPROVED AS TO FORM:

By: *Jennifer Magana*
Jennifer Magana
Deputy County Counselor