

November, 2011

AGENDA ITEM 24A



EDWARDS, KENT M
Fort Bend County
4520 READING ROAD
ROSENBERG, TX 77471

Re: FORT BEND COUNTY, TEXAS 457 DEFERRED COMPENSATION PLAN, 612768, 612050

DOCUMENT UPDATE – TIMELY RESPONSE REQUIRED

Dear PLAN ADMINISTRATOR:

I am writing in regards to the status of your 457(b) plan documents. Congress and the Internal Revenue Service ("IRS") have issued new regulations that impact the plan. Adoption of this Amendment enables an employer to comply in form with the: (1) Pension Protection Act of 2006 (PPA); (2) Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act); (3) Worker, Retiree and Employer Recovery Act of 2008 (WREERA) and the Final 415 Regulations.

Please note that a similar document may have been provided to you last winter. However, additional guidance has indicated that each employer must individually adopt the amendments.

As your document service provider, Security Benefit has selected a default provision on behalf of all employers utilizing our plan documents. If you do not wish to make any changes to the default provisions, you only need to sign and date the amendment where indicated. A copy of the signature page should be retained with your important plan documents.

If you would like to select a different provision, please indicate your selection in Article II, sign and date the amendment and return a copy to us. We will update our records to indicate your election. **You only need to make a selection in Article II if you wish to elect a provision other than the default.**

If you are required to get authorization from a Board of Directors or other governing body, we have included a sample resolution for your use. Please feel free to modify the sample as needed. Please return signed copies of all documents faxed to **785-438-4993** or emailed to **SBRetirementCompliance@SecurityBenefit.com**.

Plans are required to be updated for these changes by **December 31, 2011**. Please note that these amendments are **IRS mandated** and if your Plan is ever audited, the IRS will request a copy of the signed document.

If you have any questions or need additional assistance, contact Security Benefit at 1-866-747-3419.

Sincerely,

Retirement Plan Services

cc: Countryman, Mark A.

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12-14-11 copy received

**AMENDMENT FOR
PENSION PROTECTION ACT ("PPA")
HEROES EARNINGS ASSISTANCE AND RELIEF TAX ACT OF 2008 ("HEART")
WORKER, RETIREE AND EMPLOYER RECOVERY ACT OF 2008 ("WRERA")**

GOVERNMENTAL 457(b) Plan

**ARTICLE I
PREAMBLE**

- 1.1 Effective date of Amendment.** The Employer adopts this Amendment to the Plan to reflect recent law changes. This Amendment is effective as indicated below for the respective provisions.
- 1.2 Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.3 Employer's election.** The Employer adopts all the default provisions of this Amendment except as otherwise elected in Article II.
- 1.4 Construction.** Except as otherwise provided in this Amendment, any reference to "Section" in this Amendment refers only to sections within this Amendment, and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to any Plan article, section or other numbering designations.
- 1.5 Effect of restatement of Plan.** If the Employer restates the Plan, then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (*e.g.*, if the Plan is restated onto a plan document which incorporates these HEART and WRERA provisions).

**ARTICLE II
EMPLOYER ELECTIONS**

The Employer only needs to complete the questions in Sections 2.2 through 2.6 below in order to override the default provisions set forth below.

- 2.1 Default Provisions.** Unless the Employer elects otherwise in this Article, the following defaults will apply:
- a. Unforeseeable emergency distributions to a Participant's beneficiary are not allowed.
 - b. The Plan permits any deferral contributions from any amount a Participant receives following Severance from Employment
 - c. Effective for Plan Years beginning after December 31, 2009, non-spouse beneficiary rollovers are allowed on distributions.
 - d. Continued benefit accruals pursuant to the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act) are not provided.
 - e. Differential wage payments are treated as Compensation for all Plan benefit purposes.
 - f. The Plan permits distributions pursuant to the HEART Act on account of "deemed" severance of employment.

- g. Requirement Minimum Distributions (RMDs) for 2009 were suspended unless a Participant or Beneficiary elected to receive such distributions.

2.2 Unforeseeable emergency distributions

- a. Distributions to a Participant's beneficiary are allowed.

2.3 Deferrals from Post-Severance Compensation

(a) **Regular pay.** Post-Severance Compensation *includes* (unless the Employer elects either in (a)(1) or in (a)(2) below not to include some or all of the amounts described in this (a)) regular pay after Severance of Employment if: (i) the payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and (ii) the payment would have been paid to the Participant prior to a Severance from Employment if the Participant had continued in employment with the Employer. (*Choose only one of (1) or (2), if applicable*).

(1) **Election not to include regular pay.** The Employer elects not to include any of the amounts described in this Section 2.3(a) as Post-Severance Compensation.

(2) **Election to include last paycheck ONLY.** Of the amounts described in this Section 2.3(a), the Employer elects to include only such amounts that are included in the final paycheck paid to the Participant at the end of the pay period that includes the Participant's date of severance from employment.

(b) **Leave cashouts and deferred compensation.** Post-Severance Compensation *includes* (unless the Employer elects in (b)(1) below not to include all of the amounts described in this (b)) leave cashouts if those amounts would have been included in the definition of Compensation if they were paid prior to the Participant's Severance from Employment, and the amounts are payment for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued. In addition, Post-Severance Compensation includes payments of deferred compensation if the compensation would have been included in the definition of Compensation if it had been paid prior to the Participant's Severance from Employment, and the compensation is received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid at the same time if the Participant had continued in employment with the Employer and only to the extent that the payment is includible in the Participant's gross income.

(1) **Election not to include leave cashouts and deferred compensation.** The Employer elects not to include any of the amounts described in this (b) as Post-Severance Compensation.

(c) **Salary continuation payments for military service Participants.** Post-Severance Compensation does *not* include (unless the Employer elects (c)(1) below to include all of the amounts described in this (c)) payments to an individual who does not currently perform services for the Employer by reason of Qualified Military Service (as described in Code §414(u)(1)) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering Qualified Military Service.

(1) **Election to include salary continuation payments for military service Participants.** The Employer elects to *include* all of the amounts described in this (c) as Post-Severance Compensation.

(d) **Salary continuation payments for disabled Participants.** Post-Severance does *not* include Compensation paid to a Participant who is permanently and totally disabled (as defined in Code §22(e)(3)) (unless the Employer elects to include all of the amounts described in this (d)). If elected, this provision will apply either only to non-highly compensated Participants or to all Participants for the fixed or determinable period specified in Section 2.3(d)(1)(ii) below.

(1) **Election to include salary continuation payments for disabled Participants.** The Employer elects to *include* all of the amounts described in this (d) as Post-Severance Compensation. In addition, this provision will apply as follows (*Choose only one of (i) or (ii)*):

(i) **Non-highly compensated only.** This provision applies only to disabled employees who are non-highly compensated employees immediately before becoming disabled.

(ii) **Fixed or determinable period.** This provision applies to all employees who are permanently and totally disabled, for the following period: _____
(*e.g., for a period of two years from the date of the disability*). [Note: The election in this Section 2.3(d)(1)(ii) applies only if the Employer's disability plan actually provides disability payments to all permanently and totally disabled Participants.]

2.4 Non-spouse beneficiary rollover right. For distributions in plan years beginning after December 31, 2009, and unless otherwise elected in Section 2.4a below, for distributions after December 31, 2006, a non-spouse beneficiary who is a "designated beneficiary" under Code §401(a)(9)(E) and the regulations thereunder, by a direct trustee-to-trustee transfer ("direct rollover"), may roll over all or any portion of his or her distribution to an individual retirement account ("IRA") the beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over the distribution, the distribution otherwise must satisfy the definition of an eligible rollover distribution.

a. For distributions after December 31, 2006, and prior to the first day of the first plan year beginning after December 31, 2009 (select one):

1. Non-spousal rollovers are not allowed.

2. Non-spousal rollovers are allowed effective _____ (not earlier than January 1, 2007 and not later than January 1, 2010).

2.5 HEART ACT provisions (Article X).

Continued benefit accruals. Amendment Section 10.2 will not apply unless elected below:

a. The provisions of Amendment Section 10.2 apply effective as of: (select one)

1. the first day of the 2007 Plan Year

2. _____ (may not be earlier than the first day of the 2007 Plan Year).

However, the provisions no longer apply effective as of: (select if applicable)

3. _____.

Differential pay. Differential wage payments (as described in Amendment Section 10.3) will be treated, for Plan Years beginning after December 31, 2008, as compensation for all Plan benefit purposes unless b. is elected below:

b. In lieu of the above default provision, the employer elects the following (select all that apply; these selections do not affect the operation of Amendment Section 10.3(ii)):

1. the inclusion is effective for Plan Years beginning after _____
(may not be earlier than December 31, 2008).

2. the inclusion only applies to Compensation for purposes of Elective Deferrals.

Distributions for deemed severance of employment. The Plan permits distributions pursuant to Amendment Section 10.4 unless otherwise elected below:

- c. The Plan does not permit such distributions.
- d. The Plan permits such distributions effective as of _____ (may not be earlier than January 1, 2007).

2.6 WRERA (RMD waivers for 2009). The provisions of Amendment Section 11.1 apply (RMDs are suspended unless a Participant or Beneficiary elects otherwise) unless otherwise elected below:

- a. The provisions of Amendment Section 11.2 apply (RMDs continued unless otherwise elected by a Participant or Beneficiary).
- b. RMDs continued in accordance with the terms of the Plan without regard to this Amendment (i.e., no election available to Participants or Beneficiaries).
- c. Other: _____

For purposes of Amendment Section 11.3, the Plan will also treat the following as eligible rollover distributions in 2009: (If no election is made, then a direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code §401(a)(9)(H)):

- d. 2009 RMDs and Extended 2009 RMDs (both as defined in Article XI of this Amendment).
- e. 2009 RMDs (as defined in Article XI of this Amendment) but only if paid with an additional amount that is an eligible rollover distribution without regard to Code §401(a)(9)(H).

ARTICLE III DEFINITION OF UNFORESEEABLE EMERGENCY

3.1 Application. Effective for taxable years beginning after December 31, 2001, this Article III applies only if the Plan permits a distribution to a Participant on account of an unforeseeable emergency.

3.2 Definition of unforeseeable emergency. An unforeseeable emergency is a severe financial hardship of a Participant or Beneficiary resulting from: (1) illness or accident of the Participant, the Participant's Beneficiary, or the Participant's or Beneficiary's spouse or 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)); (2) loss of the Participant's or Beneficiary's property due to casualty; (3) the need to pay for the funeral expenses of the Participant's or Beneficiary's spouse or 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)); or (4) other similar extraordinary and unforeseeable circumstances arising from events beyond the Participant's or Beneficiary's control.

3.1 Definition of Beneficiary. The Participant's Beneficiary is a person who a Participant designates and who is or may become entitled to a Participant's Plan account upon the Participant's death.

ARTICLE IV DEFERRALS FROM POST-SEVERANCE COMPENSATION

4.1 Post-severance deferrals limited to Post-Severance Compensation. For taxable years beginning after December 31, 2001, deferrals are permitted from an amount received following Severance from Employment only if the amount is Post-Severance Compensation as defined in Section 2.3.

4.2 Post-Severance Compensation defined. Post-Severance Compensation for purposes of this

Article IV includes the amounts described in 2.3 (a) and (b), paid after a Participant's Severance from Employment with the Employer, but only to the extent such amounts are paid by the later of 2½ months after Severance from Employment or the end of the calendar year that includes the date of such Severance from Employment. The Employer, by its election in this Amendment, may elect to *exclude* from the definition of Post-Severance Compensation the amounts described in 2.3(a) or (b). The Employer, by its election in this Amendment, also may elect to *include* in the definition of Post-Severance Compensation the amounts described in 2.3 (c) or (d), or both.

- 4.3 Limitation on Post-Severance Compensation.** Any payment of Compensation paid after Severance of Employment that is not described in Section 2.3 (a), (b), (c) or (d) is not Post-Severance Compensation, even if payment is made by the later of 2½ months after Severance from Employment or by the end of the calendar year that includes the date of such Severance of Employment.

ARTICLE V QUALIFIED DOMESTIC RELATIONS ORDERS

- 5.1 Permissible QDROs.** Effective April 6, 2007, a domestic relations order that otherwise satisfies the requirements for a qualified domestic relations order ("QDRO") will not fail to be a QDRO: (i) solely because the order is issued after, or revises, another domestic relations order or QDRO; or (ii) solely because of the time at which the order is issued, including issuance after the annuity starting date or after the Participant's death.
- 5.2 Other QDRO requirements apply.** A domestic relations order described in Section 5.1 is subject to the same requirements and protections that apply to QDROs.

ARTICLE VI PARTICIPANT DISTRIBUTION NOTIFICATION

- 6.1 180-day notification period.** For any distribution notice issued in plan years beginning after December 31, 2006, any reference to the 90-day maximum notice period prior to distribution in applying the notice requirements of Code §402(f) (the rollover notice relating to an eligible rollover distribution), means 180 days.

ARTICLE VII DIRECT ROLLOVER OF NON-SPOUSE BENEFICIARY DISTRIBUTION

- 7.1 Certain requirements not applicable.** Although a non-spouse beneficiary may roll over directly a distribution as provided in Section 7.1, any distribution made prior to the first day of the first plan year beginning after December 31, 2009, is not subject to the direct rollover requirements of Code §401(a)(31) (including Code §401(a)(31)(B), the notice requirements of Code §402(f) or the mandatory withholding requirements of Code §3405(c)). If a non-spouse beneficiary receives a distribution from the Plan, the distribution is not eligible for a "60-day" rollover.
- 7.2 Trust beneficiary.** If the Participant's named beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Code §401(a)(9)(E).
- 7.3 Required minimum distributions not eligible for rollover.** A non-spouse beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable Treasury regulations and other Revenue Service guidance. If the Participant dies before his or her required beginning date and the non-spouse beneficiary rolls over to an IRA the maximum amount eligible for rollover, the beneficiary may elect to use either the 5-year rule or the life expectancy

rule, pursuant to Treas. Reg. §1.401(a)(9)-3, A-4(c), in determining the required minimum distributions from the IRA that receives the non-spouse beneficiary's distribution.

ARTICLE VIII HEALTH AND LONG-TERM CARE INSURANCE DISTRIBUTIONS

- 8.1 Election to deduct from distribution.** For distributions in taxable years beginning after December 31, 2006, an Eligible Retired Public Safety Officer may elect annually for that taxable year to have the Plan deduct an amount from a distribution which the Eligible Retired Public Safety Officer otherwise would receive and include in income. The plan will pay such deducted amounts directly to the provider as described in Section 8.2, to pay qualified health insurance premiums.
- 8.2 Direct payment.** The Plan will pay directly to the provider of the accident or health plan or qualified long-term care insurance contract the amounts the Eligible Retired Public Safety Officer has elected to have deducted from the distribution. Such amounts may not exceed the lesser of \$3,000 or the amount the Participant paid for such taxable year for qualified health insurance premiums, and which otherwise complies with Code §402(l).
- 8.3 Definitions.**
- (a) **Eligible retired public safety officer.** An "Eligible Retired Public Safety Officer" is an individual who, by reason of disability or attainment of normal retirement age, is separated from service as a Public Safety Officer with the Employer.
 - (b) **Public safety officer.** A "Public Safety Officer" has the same meaning as in Section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(9)(A)).
 - (c) **Qualified health insurance premiums.** The term "qualified health insurance premiums" means premiums for coverage for the Eligible Retired Public Safety Officer, his/her spouse, and dependents (as defined in Code §152), by an accident or health plan or qualified long-term care insurance contract (as defined in Code §7702B(b)).

ARTICLE IX DIRECT ROLLOVER TO ROTH

- 9.1 Roth IRA rollover.** For distributions made after December 31, 2007, a Participant may elect to roll over directly an eligible rollover distribution to a Roth IRA described in Code §408A(b).

ARTICLE X HEART ACT PROVISIONS

- 10.1 Death benefits.** In the case of a death occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Code §414(u)), the Participant's Beneficiary is entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Participant had resumed employment and then terminated employment on account of death. Moreover, the Plan will credit the Participant's qualified military service as service for vesting purposes, as though the Participant had resumed employment under USERRA immediately prior to the Participant's death.
- 10.2 Benefit accrual.** If the Employer elects in Amendment Section 2.5 to apply this Section 10.2, then effective as of the date specified in Amendment Section 2.5, for benefit accrual purposes, the

Plan treats an individual who dies or becomes disabled (as defined under the terms of the Plan) while performing qualified military service with respect to the Employer as if the individual had resumed employment in accordance with the individual's reemployment rights under USERRA, on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability.

- a. **Determination of benefits.** The Plan will determine the amount of employee contributions and the amount of elective deferrals of an individual treated as reemployed under this Section 10.2 for purposes of applying paragraph Code §414(u)(8)(C) on the basis of the individual's average actual employee contributions or elective deferrals for the lesser of: (i) the 12-month period of service with the Employer immediately prior to qualified military service; or (ii) the actual length of continuous service with the Employer.

- 10.3 Differential wage payments.** For years beginning after December 31, 2008: (i) an individual receiving a differential wage payment, as defined by Code §3401(h)(2), is treated as an employee of the employer making the payment; (ii) the differential wage payment is treated as compensation for purposes of Code §415(c)(3) and Treas. Reg. §1.415(c)-2 (*e.g.*, for purposes of Code §415, including the definition of post-severance compensation for deferral purposes under Treas. Reg. §1.457-4(d)(1)); and (iii) the Plan is not treated as failing to meet the requirements of any provision described in Code §414(u)(1)(C) (or corresponding plan provisions) by reason of any contribution or benefit which is based on the differential wage payment. Differential wage payments (as described herein) will also be considered compensation for all Plan purposes unless otherwise elected at Amendment 2.5.

Section 10.3(iii) above applies only if all employees of the Employer performing service in the uniformed services described in Code §3401(h)(2)(A) are entitled to receive differential wage payments (as defined in Code §3401(h)(2)) on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the Employer, to make contributions based on the payments on reasonably equivalent terms (taking into account Code §§410(b)(3), (4), and (5)).

- 10.4 Deemed Severance.** Notwithstanding Section 10.3(i), if a Participant performs service in the uniformed services (as defined in Code §414(u)(12)(B)) on active duty for a period of more than 30 days, the Participant will be deemed to have a severance from employment solely for purposes of eligibility for distribution of amounts not subject to Code §412. However, the Plan will not distribute such a Participant's account on account of this deemed severance unless the Participant specifically elects to receive a benefit distribution hereunder. If a Participant elects to receive a distribution on account of this deemed severance, then the individual may not make an elective deferral or employee contribution during the 6-month period beginning on the date of the distribution. If a Participant would be entitled to a distribution on account of a deemed severance, and a distribution on account of another Plan provision (such as a qualified reservist distribution), then the other Plan provision will control and the 6-month suspension will not apply.

ARTICLE XI WAIVER OF 2009 REQUIRED DISTRIBUTIONS

- 11.1 Suspension of RMDs unless otherwise elected by Participant.** This paragraph does not apply if the Employer elected Amendment Section 2.6a, b, or c. Notwithstanding the provisions of the Plan relating to required minimum distributions under Code §401(a)(9), a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Code §401(a)(9)(H) ("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, the joint lives (or joint life expectancy) of the Participant and the Participant's designated Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will not receive those distributions for 2009

unless the Participant or Beneficiary chooses to receive such distributions. Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the distributions described in the preceding sentence.

11.2 Continuation of RMDs unless otherwise elected by Participant. This paragraph applies if Amendment Section 2.6a is selected. Notwithstanding the provisions of the Plan relating to required minimum distributions under Code §401(a)(9), a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Code §401(a)(9)(H) (“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, the joint lives (or joint life expectancy) of the Participant and 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.

11.3 Direct Rollovers. Notwithstanding the provisions of the Plan relating to required minimum distributions under Code §401(a)(9), and solely for purposes of applying the direct rollover provisions of the Plan, certain additional distributions in 2009, as elected by the Employer in Amendment Section 2.6, will be treated as eligible rollover distributions. If no election is made by the Employer in Amendment Section 2.6 then a direct rollover will be offered only for distributions that would be eligible rollover distributions without regard to Code §401(a)(9)(H).

* * * * *

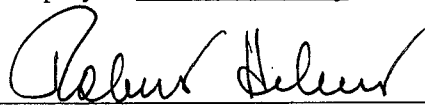
EXECUTION PAGE

This Amendment has been executed this 13 day of December, 2011.

Name of Plan: FORT BEND COUNTY, TEXAS 457 DEFERRED COMPENSATION PLAN

Plan Number: 612768, 012050

Name of Employer: Fort Bend County

By: 

EMPLOYER

Robert Hebert, County Judge

SAMPLE CERTIFICATE OF ADOPTING RESOLUTION

The undersigned authorized representative of Fort Bend County (the Employer) hereby certifies that the following resolutions were duly adopted by Employer on _____, _____, and that such resolutions have not been modified or rescinded as of the date hereof;

RESOLVED, the PPA/HEART/WRERA Amendment to the FORT BEND COUNTY, TEXAS 457 DEFERRED COMPENSATION PLAN Plan (the Amendment) is hereby approved and adopted and that an authorized representative of the Employer is hereby authorized and directed to execute and deliver to the Administrator of the Plan one or more counterparts of the amendment.

The undersigned further certifies that attached hereto is a copy of the Amendment approved and adopted in the foregoing resolution.

Date: _____

Signed: _____

[print name/title]

Specimen Plan Document Preparation Service Election Form

457(b) Governmental Plan, including Public Education



Note: If you elect our document preparation service, any hand-written changes to any of the standard items in this election form are considered a modification to the specimen plan document. You will need to edit the specimen plan document provided to you by The Hartford to incorporate those changes.

To be signed by Plan Sponsor

1. Plan Information

Legal Name of Plan Sponsor:
Fort Bend County

Legal Plan Name: (this is not the employer's name)
Fort Bend County 457 Deferred Compensation Plan

Original Effective Date of Plan: 10/06/2006	Group Number: 150323	Sponsor E-mail Address: edwarcken@co.fort-bend.tx.us
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Is this a FICA alternative "OBRA" Plan? Yes No
OBRA plans must provide a benefit of at least 7.5% of compensation, contributions must be credited with a reasonable rate of interest (invested in the General Account Only - no variable investments). Loans and certain distributions are not allowed.

2. Document Services

Do you have a Plan document? Yes No

Who will be providing you Plan document preparation services? (select one)

The Hartford. The Hartford will provide you with a specimen plan document in a Word format, which you may modify.

*Other document provider: (name of provider) _____

*** If you do not elect The Hartford's document preparation service, please skip sections 3-15, complete section 16 and return the form along with a copy of your current plan document.**

The specimen Plan will provide the following:

- Plan Year is 1/1 - 12/31.
- Deferrals (pre-tax and, if applicable, Roth contributions) up to the maximum Code §457(e)(15) limit.
- Age 50 catch-up deferrals and pre-retirement catch-up deferrals allowed.
- Participants will direct the investment of all contributions.
- Participants may make a transfer to a governmental defined benefit plan for the purchase of permissive service credits.
- Distributions permitted on account of:
 - Severance from employment and death
 - Attainment of age 70 ½
 - Unforeseeable emergency (not permitted for OBRA plans)
 - Employed Participants may take a in-service withdrawal if their account balance is \$5,000 or less, have not made or received an allocation of any elective deferral contributions under the Plan during the two year period ending on the date of distribution and have not received a prior distribution under this provision (not permitted for OBRA plans)
 - If the plan permits rollover contributions, withdrawals of these contributions (excluding Roth rollovers) are allowed at any time

3. Classes of Covered Employees

(OBRA Plans only – Part-time, seasonal and temporary employees are covered. You do not need to complete this section unless you want to cover other classes of employees, a modification you will need to add to the specimen plan document.)

The Plan will cover common law full-time employees of the employer, but will not cover leased or union employees. The plan will also include the following employees, if applicable: (check all that apply)

Part-time employees Employees in an elected or appointed position Independent Contractors

Other employees (specify by position or job class): _____

Note: An age or service requirement to participate in the Plan is a modification you will need to add to the specimen plan document.

Does the Plan have an automatic enrollment program?

Yes (must also complete and sign the *Automatic Enrollment Plan Feature* election form) No (default if no selection is made)

GPLANLEVEL – PLAN SPEC

4. Sources

Optional contributions applicable to the Plan: (check all that may apply)

- 112 (9) **Rollovers** from another 457(b) plan
130 (U) **Miscellaneous Rollovers** from 401(a) and 403(b) plans, or 408(a) and 408(b) IRAs
(Note: The Plan will not accept the direct rollover of after-tax contributions)
132 (S) **Employer** that will be 100% immediately vested and counts towards the 457 deferral limit
154 (B) **Roth** (includes 155 (L) **Roth Rollover**)

5. Compensation

The Plan will use W-2 Wages, including military differential pay, which shall be determined over the Plan Year.

For contribution purposes, post-severance amounts that would have been paid to the Participant in the course of employment had she or he not terminated (e.g., salary, commissions, bonuses, other similar compensation), made before the later of: (1) the end of the Plan Year in which the Participant's severance of employment occurred or (2) within 2 ½ months of severance, and **any payments selected below**, will be included in the Plan's definition of Compensation.

- Payments received by the Participant for accrued sick, vacation, or other leave, but only if the Participant would have been able to use such leave if his employment had continued.
 Payments received by the Participant pursuant to a non-qualified, unfunded deferred compensation plan, but only to the extent such amounts are includible in income and only if the Participant would have received the payments at the same time if his employment had continued.

6. Deferral of Sick Pay, Vacation Pay, or Back Pay

Will the plan allow employed Participants to make a separate deferral election of accumulated sick pay, vacation pay, or back pay? Yes No (default if no selection is made)

7. Contributions to Participants Who Die or Become Disabled During Military Leave

Complete this section only if you make employer contributions to the Plan.

Will the Employer make a contribution to a Participant if the employee:

- dies while on military leave? (select one) Yes No (default if no election is made)
- becomes disabled while on military leave? (select one) Yes No (default if no election is made)

8. Normal Retirement Age

The Plan's normal retirement age for the application of the 457 special catch-up contribution is: (select one)

- Uniform age for all Participants: (select one)
 65 (default if no selection is made)
 *Other age _____ (other than 65 but not later than age 70 ½)
 *Other age _____ (not later than age 70 ½) and _____ years of employment

* **Note: If you selected an "Other Age" or "Other age and years of employment" above, the plan's uniform normal retirement age cannot be earlier than 65 unless you have a defined benefit plan where the earliest age participants can get an unreduced immediate retirement benefit or money purchase pension plan where that plan's normal retirement age is the same or earlier than the age you entered above.**

- Age designated by the Participant.

Note: The age designated by the Participant may be any age that is on or after the earlier of such age or the age at which the Participant has the right to retire and receive, under the basic defined benefit pension plan of the Employer (or a money purchase pension plan in which the Participant also participates if the Participant is not eligible to participate in the defined benefit plan), immediate retirement benefits without actuarial or similar reduction because of retirement before some later specified age, and that is not later than age 70 ½. (Hartford's recordkeeping system will reflect age 70 ½, but the Participant may select an earlier age.)

Does your Plan include Firemen or Policemen Yes No (default if no election is made)

If you elected "Yes", complete only if your Plan has a different retirement age for the Firemen or Policemen:(select one)

- Uniform age for all Participants: (select one)
 Age _____ (no earlier than 40)
 Age _____ (no earlier than 40 and not later than age 70 ½) and _____ years of employment

- Age designated by the Participant. (The same rules in the Age designated by the Participant. Note above applies, except the Participant cannot select a retirement age that is earlier than age 40.)

9. Rollover Contributions

Employees eligible to make rollover contributions include: (select one)

- N/A, rollovers not permitted.
 Participants who are employees. (default if no selection is made if the plan permits rollover contributions)
 Participants who are employees and terminated employees with an account balance.

10. Methods of Distribution

Lump sum and installment forms of distribution are allowed.

Annuity forms of distribution permitted? Yes No (default if no selection is made)

11. Qualified Distributions for Retired Public Safety Officers

Are qualified distributions permitted for direct payment of health insurance premiums for eligible retired public safety officers?

- Yes No (default if no selection is made)

12. Withdrawal Due to Qualified Military Service

- Allow "deemed severance distributions" for employees absent due to qualified military service between 30-179 days (deferrals suspended for 6 months). Yes No (default if no selection is made)
- Allow "qualified reservist distributions" for employees absent due to qualified military service for 180 days or more (deferrals not suspended for 6 months). Yes (default if "Yes" is selected above) No (default if "No" is selected above)

13. Involuntary Cashout Distributions

The Employer may initiate the following Involuntary Cashout Provisions without participant consent: (select both A and B)

- A. Employed Participant Involuntary Cashouts (not permitted for OBRA plans) – The Employer may cashout account balances of Participants who (1) have not made or received an allocation of elective deferral contributions under the Plan during the two year period ending on the date of the distribution, (2) have an account balance of \$5,000 or less (not including the Rollover Account), and (3) have not received a prior distribution under this rule, of amounts equal to or less than: (select one)
- \$1,000 \$5,000* NA, the Employer will not initiate involuntary cashouts (default if no selection is made)
- B. Terminated Participant Involuntary Cashouts – Employer may cashout separated from service Participants' account balances of amounts equal to or less than: (select one)
- \$1,000 \$5,000* NA, the Employer will not initiate involuntary cashouts (default if no selection is made)

* Note: Under the Code, plans that include an involuntary cashout provision for benefits of \$5,000 or less are required to roll over to an IRA any involuntary cashout in excess of \$1,000 when the Participant makes no election to directly roll over or receive cash payment.

14. 2009 Required Minimum Distributions (RMD)

You do not need to complete this section if:

- Your Plan was originally effective on or after 1/1/2010; or
- Your Plan's installation date with The Hartford was before 1/1/2009. Per our February 2009 communication, affected Participants received their "would be" 2009 RMD unless they submitted a suspension form. If they received their "would be" 2009 RMD it was treated as an eligible rollover distribution.

If your Plan was originally effective before 1/1/2010 and your Hartford installation date was after 1/1/2009, did you allow Participants age 70 ½ or older who separated from service to suspend their 2009 RMD? Yes No

If you elected "Yes", the "would be" RMDs that were paid to affected Participants were:

- not treated as an eligible rollover distribution
 treated as an eligible rollover distribution
 treated as an eligible rollover distribution, but only if paid with an additional amount

15. Loans

(Note: Loans are not permitted for OBRA plans.)

Are Participant loans available? Yes No (default if no selection is made)

Number of outstanding loans allowed per Participant at a time? 1 (one "1" is the default if no selection is made)

Loans are available for any reason.

Minimum loan amount is \$1,000.

Minimum loan term is 12 Months.

Repayment method is payroll deduction.

Interest Rate: (select one) Prime Prime plus 1% Prime plus 2% (default if no selection is made)

The maximum loan repayment period for general purpose loans will be 60 months (i.e., 5 years), principal residence loans will be 360 months (i.e., 30 years) unless otherwise specified:

Loans will be pro-rated across all sources and investment options unless otherwise specified:

16. Plan Sponsor Signature

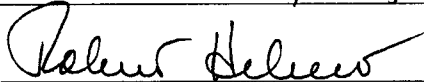
I acknowledge that if I elect The Hartford's document preparation service, the effective date of the specimen plan document will generally be the 1st day of the month following the date The Hartford receives the form and it is found to be in good order, unless you specify otherwise (must be a future date): _____

If I elect The Hartford's document preparation service, The Hartford will provide me with a specimen document in a Word format. I understand that if I make any hand-written changes to any of the standard elections presented on this form, that The Hartford will not customize the specimen document to incorporate those modifications. I am responsible for editing the specimen plan document to incorporate the modifications, and also to bring forward any modifications to future specimen documents prepared by The Hartford to the extent required by changes in the law, regulations, or other official guidance.

Name: (please print)

Robert Hebert, County Judge, Fort Bend County

Signature:



Date:

December 13, 2011

Fax your request to 860-843-3280 or mail it to:

Mail Address:

Retirement Plan Service Center
Hartford Life Insurance Company
P.O. Box 1583, Hartford, CT 06144-1583

Overnight Mail Address:

Retirement Plan Service Center
Hartford Life Insurance Company
1 Griffin Road North, Windsor, CT 06095-1512

GOVERNMENT PLAN LEVEL DOCUMENTS

GROUP # 150323

GROUP NAME Fort Bend County

PLAN MANAGER P Smith

OF BARCODES 1

SPECIMEN

GOVERNMENTAL EMPLOYER SPONSORED

ELIGIBLE DEFERRED COMPENSATION PLAN

This specimen deferred compensation plan document is for illustrative purposes only.
A plan sponsor must rely on the advice of its own legal adviser.

The following Sections of this specimen plan document are based upon the text of the IRS model amendments found in Revenue Procedure 2004-56:

<u>Document Section</u>	<u>IRS Model Amendment #</u>
1	1
2	2
3	3
5	5
6	6
10	7
11.1 - 11.6	8

Note that this specimen plan includes changes to the model amendment text. A version of this plan which illustrates these changes is available. For example, based upon Model Amendment #5, Section 5.1 provides for the default distribution to be made in monthly rather than quarterly installments, 5.2 provides the Administrator 30 days to arrange for distributions and Section 5.9 provides for the in-service distribution of a participant's rollover account.

Note that this specimen plan *requires additional information* at:

- the Preamble - the applicable resolution under which the plan is adopted; and
- Section 1.1 - the identification of the Administrator, the Employer, the Plan name.

Note that this specimen plan *also provides for optional elections* at:

- Section 1.1 - elections to include part time and elected or appointed employees, an election to provide a uniform Normal Retirement Age for all participants;
- Section 5.3 - an election to provide various annuity distribution options in addition to the lump sum and installment payment options, and
- Section 5.5 and 5.11 - Elections to provide for Administrator directed involuntary cash outs. Note that an involuntary cash out provision for amounts greater than \$1,000 may require the plan sponsor to establish individual retirement accounts to receive amounts for participants that do not elect payments or make their own rollover arrangements. Sections 5.5(b) and 5.11(b) include IRS Notice 2005-5 model amendment text to address the automatic rollover requirements of Code §401(a)(31)(B)

ELIGIBLE 457 GOVERNMENTAL DEFERRED COMPENSATION PLAN

PREAMBLE

This Plan has been established by the Employer and adopted pursuant to COMMISSIONERS' COURT RESOLUTION 12-14-1991

[refer to appropriate resolution or ordinance including date of passage] and is effective as of such date. However, if either Section 5.6(b) or 5.11(b) or both is elected, the requirement to pay a distribution in a direct rollover to an individual retirement plan designated by the Administrator is effective with respect to distributions made on or after the end of the first regular legislative session of the body with authority to amend the plan that begins on or after January 1, 2006, or, if elected below, an earlier date

The _____ of _____, 200_____.

The primary purpose of this Plan is to permit Employees of the Employer to enter into an agreement which will provide for deferral of payment of a portion of their current compensation until death, retirement, severance from employment, or other event, in accordance with the provisions of Section 457 of the Internal Revenue Code of 1986, with other applicable provisions of such Code, and in accordance with the General Statutes of the State.

It is intended that the Plan shall qualify as an eligible deferred compensation plan within the meaning of Section 457(b) of the Code sponsored by an eligible employer within the meaning of Section 457(e)(1)(A) of the Code, i.e., a State, political subdivision of a State, agency or instrumentality of a State or political subdivision of a State.

The Employer does not and cannot represent or guarantee that any particular federal or state income, payroll or other tax consequence will occur by reason of participation in this Plan. A Participant should consult with his or her own attorney or other representative regarding all tax or other consequences of participation in this Plan.

SECTION 1 - DEFINITIONS

1.1 Plan Definitions. For purposes of this Plan, the following words and phrases shall have the meaning set forth below, unless a different meaning is plainly required by the context:

"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, the earnings or loss of the Trust Fund (net of Trust 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 a separate Account Balance shall be maintained for each Beneficiary. The Account Balance includes any account established under Section 6 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 section 414(p)(8) of the Code)

"Administrator": The Employer. The term Administrator shall include any person or persons, committee or organization appointed by the Employer to administer the Plan.

"Annual Deferral": The amount of Compensation deferred in any year.

"Beneficiary": The designated person (or, if none, the Participant's estate) who is entitled to receive benefits under the Plan after the death of a Participant

"Code": The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

"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 section 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including an election to defer compensation under Section 3).

"Employer" FORT BEND COUNTY

"Employee": Each natural person who is employed by the Employer as a common law employee on a full time basis and, if elected below, on a part time basis and/or in an elected or appointed position, excluding 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.

- The term "Employee" shall include employees employed on a part time basis.
- The term "Employee" shall include employees in an elected or appointed position.

"Includible Compensation": An Employee'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 section 401(a)(17) of the Code) and increased (up to the dollar maximum) by any compensation reduction election under section 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including an election to defer Compensation under Section 2).

"Normal Retirement Age": Age _____ (if blank, age 65) or, unless elected otherwise below, the age designated by the Participant which is any age that is on or after the earlier of such age or the age at which the participant has the right to retire and receive, under the basic defined benefit pension plan of the Employer (or a money purchase pension plan in which the participant also participates if the participant is not eligible to participate in a defined benefit plan), immediate retirement benefits without actuarial or similar reduction because of retirement before some later specified age, and that is not later than age 70½. Notwithstanding the foregoing, a participant who is also a qualified police or firefighter (as defined under §416(b)(2)(H)(ii)(I) of the Code) may designate a normal retirement age that is between age 40 and age 70½. A Participant's Normal Retirement Age must be the same as his or her normal retirement age under any other eligible deferred compensation plan(s) sponsored by the Employer. The designation of a normal retirement age under the Plan does not compel retirement with the Employer.

- The Normal Retirement Age shall be uniform for all Participants, the age identified above.

"Participant": An individual who is currently deferring Compensation, or who has previously deferred Compensation under the Plan by salary reduction and who has not received a distribution of his or her entire benefit under the Plan. Only individuals who perform services for the Employer as an Employee may defer Compensation under the Plan.

"Plan" means 457b Deferred Compensation Plan for Ft. Bend County
an eligible deferred compensation plan within the meaning of Section 457(b) of the Code.

"Severance from Employment": The term Severance from Employment means the date that 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).

"State": The State which is the Employer or of which the Employer is a political subdivision, agency or instrumentality, including any agency or instrumentality of a political subdivision of the State.

"Trust Agreement": The written agreement (or declaration) made by and between the Employer and the Trustee under which the Trust Fund is maintained

"Trust Fund": The trust fund created under and subject to the Trust Agreement or a custodial account or contract described in Code Section 401(f) held on behalf of the Plan by the Employer or Trustee.

"Trustee": The Trustee duly appointed and currently serving under the Trust Agreement

"Valuation Date": Each business day.

SECTION 2 - PARTICIPATION AND CONTRIBUTIONS

2.1 Eligibility. Each Employee shall be eligible to participate in the Plan and defer Compensation hereunder immediately upon becoming employed by the Employer.

2.2 Election Required for Participation. An Employee may elect to become a Participant by executing an election 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 with the Administrator. This participation election shall be made on the deferral agreement provided by the Administrator under which the Employee agrees to be bound by all the terms and conditions of the Plan. The Administrator may establish a minimum deferral amount, and may change such minimums from time to time. The participation election shall also include designation of investment funds and a designation of Beneficiary. Any such election shall remain in effect until a new election is filed.

2.3 Commencement of Participation. An Employee shall become a Participant as soon as administratively practicable following the date the Employee files a participation election pursuant to Section 2.2. 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 entered into on or before the first day on which the Participant performs services for the Employer

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

2.5 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 Balance. 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.

2.6 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, his or her investment direction and his or her designated Beneficiary. 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 change in the investment direction shall take effect as of the date provided by the Administrator on a uniform basis for all Employees. A change in the Beneficiary designation shall take effect when the election is accepted by the Administrator.

2.7 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.

2.8 Disability. A disabled Participant may elect 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.

2.9 Deferral of Sick, Vacation and Back Pay. Unless otherwise elected below, notwithstanding the foregoing, in the case of accumulated sick pay, vacation pay, or back pay that is payable before the Participant has a Severance from Employment, a Participant may elect to defer all or a portion of such pay if the agreement providing for the deferral is entered into before the amount would otherwise be paid or made available.

Elections to defer accumulated sick pay, vacation pay, or back pay shall be subject to terms of Section 2.3 and 2.6.

2.10 Employer Contributions. Annual Deferrals may be made by the Employer to the Account Balance of an Employee on a non-elective basis.

SECTION 3 - LIMITATIONS ON AMOUNTS DEFERRED

3.1 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 section 457(e)(15) of the Code applicable as set forth below:

For the following years:	The Applicable Dollar Amount is:
2002	\$ 11,000
2003	\$ 12,000
2004	\$ 13,000
2005	\$ 14,000
2006 or thereafter	\$ 15,000, adjusted for cost-of-living after 2006 to the extent provided under section 415(d) of the Code.

3.2 Age 50 Catch-up Annual Deferral Contributions. A Participant who will attain age 50 or more 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:

For the following years.	The maximum age 50 catch-up dollar amount is.
2002	\$ 1,000
2003	\$ 2,000
2004	\$ 3,000
2005	\$ 4,000
2006 or thereafter	\$ 5,000, adjusted for cost-of-living after 2006 to the extent provided under the Code.

3.3 Special Section 457 Catch-up Limitation. If the applicable year is one of a Participant's last 3 calendar years ending before the year in which the Participant attains Normal Retirement Age and the amount determined under this Section 3.3 exceeds the amount computed under Sections 3.1 and 3.2, then the Annual Deferral limit under this Section 3 shall be the lesser of:

(a) An amount equal to 2 times the Section 3.1 Applicable Dollar Amount for such year; or

(b) The sum of:

(1) An amount equal to (A) the aggregate Section 3.1 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, minus (B) the aggregate amount of Compensation that the Participant deferred under the Plan during such years, plus

(2) An amount equal to (A) the aggregate limit referred to in section 457(b)(2) of the Code 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 3.2 and 3.3), minus (B) 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 the year

3.4 Special Rules. For purposes of this Section 3, 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 section 457(b) of the Code, then this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of this Section 3. 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 3.3, a year shall be taken into account only if (i) the Participant was eligible to participate in the Plan during all or a portion of the year and (ii) Compensation deferred, if any, under the Plan during the year was subject to the Basic Annual Limitation described in Section 3.1 or any other plan ceiling required by section 457(b) of the Code.

(c) **Pre-2002 Coordination Years.** For purposes of Section 3.3(b)(2)(B), "contributions to Pre-2002 Coordination Plans" means any employer contribution, salary reduction or elective contribution under any other eligible Code section 457(b) plan, or a salary reduction or elective contribution under any Code section 401(k) qualified cash or deferred arrangement, Code section 402(h)(1)(B) simplified employee pension (SARSEP), Code section 403(b) annuity contract, and Code section 408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in section 501(c)(18) of the Code, 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 3.3(b)(2)(B) to the extent that the total of such contributions does not exceed the aggregate limit referred to in section 457(b)(2) of the Code for that year.

(d) **Disregard Excess Deferral.** For purposes of Sections 3.1, 3.2 and 3.3, 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 3.5. 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.

3.5 Correction of Excess Deferrals. If the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described above, or the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described above when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under section 457(b) of the Code 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), shall be distributed to the Participant.

3.6 Protection of Persons Who Serve in a Uniformed Service. An Employee whose employment is interrupted by qualified military service under Code section 414(u) or who is on a leave of absence for qualified military service under Code section 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).

SECTION 4 - INVESTMENT RESPONSIBILITIES

4.1 Investment of the Deferred Amount. Each Participant shall direct the investment of amounts held in his or her Account Balance under the Plan among the investment options of the Trust Fund. The investment of amounts segregated on behalf of an alternate payee pursuant to a Plan Approved Domestic Relations Order may be directed by such alternate payee to the extent provided in such order. In the absence of such direction, such amounts shall be invested in the same manner as they were immediately before such segregation was made on account of such order. Each Account Balance shall share in any gains or losses of the investment(s) in which such account is invested.

4.2 Amendment of Investment Election. A Participant may amend his or her statement of investment election at such times and by such manner and form as prescribed by the Administrator. Such amendment will, unless specifically stated otherwise, apply only to future amounts deferred under the Plan.

4.3 Investment Changes. A Participant may elect to transfer amounts in his or her Account Balance among and between those investments available under the Trust Fund at such times and by such manner and form prescribed by the Administrator, subject further to any restrictions or limitations placed on any investment by the Administrator to be uniformly applied to all Participants.

4.4 Investment Responsibility. To the extent that a Participant exercises control over the investment of amounts credited to his or her Account Balance, the Employer, the Administrator, and any other fiduciary of the Plan shall not be liable for any loss which results from such Participant's exercise of control.

4.5 Statements. The Administrator will cause to be issued statements periodically to reflect the actual earnings, gains, contributions and losses posted to the Account Balances.

SECTION 5 - DISTRIBUTIONS

5.1 Benefit Distributions At Retirement or Other Severance from Employment. Upon attainment of age 70½, retirement or other Severance from Employment (other than due to death), a Participant is entitled to receive a distribution of his or her Account Balance under any form of distribution permitted under Section 5.3 commencing at the date elected under Section 5.2. If a Participant does not elect otherwise, the distribution shall be paid as soon as practicable following Normal Retirement Age or, if later, following retirement or other Severance from Employment and payment shall be made in monthly installments of the minimum annual payments described in paragraph (b) of Section 5.3.

5.2 Election of Benefit Commencement Date. A Participant may elect to commence distribution of benefits at any time after retirement or other Severance from Employment by a notice filed at least 30 days before the date on which benefits are to commence. However, in no event may distribution of benefits commence later than the date described in Section 5.8.

5.3 Forms of Distribution. In an election to commence benefits under Section 5.2, a Participant entitled to a distribution of benefits under this Section 5 may elect to receive payment in any of the forms of distribution selected below:

- (a) a lump sum payment of the total Account Balance;
- (b) annual installment payments through the year of the Participant's death, the amount payable each year equal to a fraction of the Account Balance equal to one divided by the distribution period set forth in the Uniform Lifetime Table at section 1.401(a)(9)-9, A-2, of the Income Tax Regulations for the Participant's age on the Participant's birthday for that year. If the Participant's age is less than age 70, the distribution period is 27.4 plus the number of years that the Participant's age is less than age 70. At the Participant's election, this annual payment can be made in monthly or quarterly installments. 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. Payments shall commence on the date elected under Section 5.2. For any year, the Participant can

elect distribution of a greater amount (not to exceed the amount of the remaining Account Balance) in lieu of the amount calculated using this formula;

- (c) a life annuity payable during the lifetime of the Participant or his/her Beneficiary;
- (d) a life annuity with period certain guaranteed payable during the lifetime of the Participant or his/her Beneficiary with the guarantee that if at his/her death payments have not been made for the guaranteed period as elected, payments will continue to the Beneficiary. The guaranteed period to be elected must be either 10, 15 or 20 years; or
- (e) a joint and survivor annuity payable during the lifetime of the Participant and a secondary payee named by the Participant.

Payments made under (c), (d) or (e) above shall be made in the form of an irrevocable annuity which provides payments each calendar year of amounts not less than the amount required under Section 401(a)(9) of the Code.

5.4 Death Benefit Distributions. Commencing in the calendar year following the calendar year of the Participant's death, the Participant's Account Balance shall be paid to the Beneficiary in a lump sum.

Alternatively, if the Beneficiary with respect to the Participant's Account Balance is a natural person, at the Beneficiary's election, distribution can be made in annual installments (calculated in a manner that is similar to installments under Section 5.3) or, if selected under Section 5.3, in the form of an irrevocable annuity with the distribution period not longer than that which is determined under this paragraph. If the Beneficiary is the Participant's surviving spouse, the distribution period is equal to the Beneficiary's life expectancy using the single life table in section 1.401(a)(9)-9, A-1, of the Income Tax Regulations for the spouse's age on the spouse's birthday for that year. If the Beneficiary is not the Participant's surviving spouse, the distribution period is the Beneficiary's life expectancy determined in the year following the year of the Participant's death using the single life table in section 1.401(a)(9)-9, A-1, of the Income Tax Regulations for the Beneficiary's age on the Beneficiary's birthday for that year, reduced by one for each year that has elapsed after that year. For any year, a Beneficiary can elect distribution of a greater amount (not to exceed the amount of the remaining Account Balance) in lieu of the amount calculated using this formula.

5.5 Account Balances of \$5,000 or Less. If and to the extent elected below, notwithstanding Sections 5.2, 5.3 and 5.4, if the amount of a Participant's Account Balance is not in excess of \$ 5,000 (or the dollar limit under section 411(a)(11) of the Code, if greater) on the date that payments commence under Section 5.3 or on the date of the Participant's death, then payment shall be made to the Participant (or to the Beneficiary if the Participant is deceased) in a lump sum equal to the Participant's Account Balance as soon as practicable following the Participant's retirement, death, or other Severance from Employment.

- (a) **Mandatory Distribution of \$1,000 or Less.** The Administrator may direct payments under the terms of this Section 5.5 if the Participant's total Account Balance is \$1,000 or less.
- (b) **Mandatory Distribution of \$5,000 or Less.** The Administrator may direct payments under the terms of this Section 5.5 if the Participant's total Account Balance does not exceed \$5,000 (or the dollar limit under section 411(a)(11) of the Code, if greater). In the event of a mandatory distribution greater than \$1,000 made in accordance with the provisions of this Section 5.5 before the Participant attains the later of age 82 or Normal Retirement Age other than a distribution for a surviving spouse or alternate payee, if the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly in accordance with this Sections 5.0, then the Administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the Administrator.

5.6 Amount of Account Balance. Except as provided in Section 5.3, the amount of any payment under this Section 5 shall be based on the amount of the Account Balance on the preceding Valuation Date.

5.7 Revocation of Prior Election. Any election made under this Section 5 may be revoked at any time

5.8 Latest Distribution Date. In no event shall any distribution under this Section 5 begin later than the later of (a) April 1 of the year following the calendar year in which the Participant attains age 70½ or (b) April 1 of the year following the year in which the Participant retires or otherwise has a Severance from Employment. If distributions commence in the calendar year following the later of the calendar year in which the Participant attains age 70½ or the calendar year in which the Severance from Employment occurs, the distribution on the date that distribution commences must be equal to the annual installment payment for the year that the Participant has a Severance from Employment determined under paragraph (b) of Section 5.3 and an amount equal to the annual installment payment for the year after Severance from Employment determined under paragraph (b) of Section 5.3 must also be paid before the end of the calendar year of commencement.

5.9 In-Service Distributions From Rollover Account. 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.

5.10 Unforeseeable Emergency Distribution.

(a) **Distribution.** If the Participant has an unforeseeable emergency before retirement or other Severance from Employment, 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 5.10.

(b) **Unforeseeable emergency defined.** An unforeseeable emergency is defined as a severe financial hardship of the Participant resulting from: an illness or accident of the Participant, the Participant's spouse, or the Participant's dependent (as defined in section 152(a)); loss of the Participant's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, e.g., as a result of a natural disaster); the need to pay for the funeral expenses of the Participant's spouse or dependent (as defined in section 152(a) of the Code); or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant. For example, the imminent foreclosure of or eviction from the Participant'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. Except as otherwise specifically provided in this Section 5.10, neither the purchase of a home nor the payment of college tuition is an unforeseeable emergency.

(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).

5.11 Distributions for Certain Account Balances of \$ 5,000 or Less. At the direction of the Participant, or, if elected below, the Administrator, a Participant's total Account Balance shall be paid in a lump sum as soon as practical following the direction if (a) the total Account Balance does not exceed \$ 5,000 (or the dollar limit under section 411(a)(11) of the Code, if greater), (b) the Participant has not previously received a distribution of the total amount payable to the Participant under this Section 5.11 and (c) no Annual Deferral has been made with respect to the Participant during the two-year period ending immediately before the date of the distribution.

(a) **Mandatory Distribution of \$1,000 or Less.** The Administrator may direct payments under the terms of this Section 5.11 if the Participant's total Account Balance is \$1,000 or less.

- (b) **Mandatory Distribution of \$5,000 or Less.** The Administrator may direct payments under the terms of this Section 5.11 if the Participant's total Account Balance does not exceed \$5,000 (or the dollar limit under section 411(a)(11) of the Code, if greater). In the event of a mandatory distribution greater than \$1,000 made in accordance with the provisions of this Section 5.11 before the Participant attains the later of age 62 or Normal Retirement Age other than a distribution for a surviving spouse or alternate payee, if the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly in accordance with this Sections 5.0, then the Administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the Administrator.

5.12 Rollover Distributions.

(a) A Participant or the surviving spouse of a Participant (or a Participant's former spouse who is the alternate payee under a domestic relations order, as defined in section 414(p) of the Code) who is entitled to an eligible rollover distribution may elect, at the time and in the manner prescribed by the Administrator, to have all or any portion of the distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover.

(b) For purposes of this Section 5.12, an eligible rollover distribution means any distribution of all or any portion of a Participant's Account Balance, except that an eligible rollover distribution does not include (a) any installment payment under Section 5.3 for a period of 10 years or more (b) any distribution made under Section 5.10 as a result of an unforeseeable emergency, or (c) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under section 401(a)(9). In addition, an eligible retirement plan means an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a qualified trust described in section 401(e) of the Code, an annuity plan described in section 403(a) or 403(b) of the Code, or an eligible governmental plan described in section 457(b) of the Code, that accepts the eligible rollover distribution.

SECTION 6 - ROLLOVERS AND PLAN TRANSFERS

6.1 Eligible Rollover Contributions to the 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 section 402 of the Code and to confirm that such plan is an eligible retirement plan within the meaning of section 402(c)(8)(B) of the Code.

(b) For purposes of Section 6.1(a), 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, or (3) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under section 401(a)(9) of the Code. In addition, an eligible retirement plan means an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a qualified trust described in section 401(e) of the Code, an annuity plan described in section 403(a) or 403(b) of the Code, or an eligible governmental plan described in section 457(b) of the Code, that accepts the eligible rollover distribution.

(c) 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 section 457(b) of the Code. In addition, 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 an eligible governmental plan under section 457(b) of the Code.

6.2 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 section 457(b) of the Code to transfer assets to the Plan as provided in this Section 6.2. 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 section 457(e)(10) of the Code and section 1.457-10(b) of the Income Tax Regulations and to confirm that the other plan is an eligible governmental plan as defined in section 1.457-2(f) of the Income Tax Regulations. The amount so transferred shall be credited to the Participant's Account Balance 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 Section 3.

6.3 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 section 457(b) of the Code and section 1.457-2(f) of the Income Tax Regulations. A transfer is permitted under this Section 6.3(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 6.3(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 6.3, 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 6.3 (for example, to confirm that the receiving plan is an eligible governmental plan under paragraph (a) of this Section 6.3, and to assure that the transfer is permitted under the receiving plan) or to effectuate the transfer pursuant to section 1.457-10(b) of the Income Tax Regulations.

6.4 Permissive Service Credit Transfers.

(a) If a Participant is also a participant in a tax-qualified defined benefit governmental plan (as defined in section 414(d) of the Code) 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 6.4(a) may be made before the Participant has had a Severance from Employment.

(b) A transfer may be made under Section 6.4(a) only if the transfer is either for the purchase of permissive service credit (as defined in section 415(n)(3)(A) of the Code) under the receiving defined benefit governmental plan or a repayment to which section 415 of the Code does not apply by reason of section 415(k)(3) of the Code.

SECTION 7 - BENEFICIARY

7.1 Designation. Each Participant has the right, by written notice filed with the Administrator, to designate one or more beneficiaries to receive any benefits payable under this Plan in the event of the Participant's death prior to the complete distribution of benefits. The Participant accepts and acknowledges that he or she has the burden for executing and filing, with the Administrator, a proper Beneficiary designation form.

The form for this purpose shall be provided by the Administrator. It is not binding on the Administrator until it is signed, filed with the Administrator by the Participant, and accepted by the Administrator.

If no such designation is in effect upon the Participant's death, or if no designated Beneficiary survives the Participant, the Beneficiary shall be the Participant's estate. If no estate executor or Administrator is appointed and qualified within one hundred twenty (120) days after the Participant's death, the payment may be made first, to a surviving spouse, second, to a surviving child or children, and third, to a surviving parent or parents.

SECTION 8 - ADMINISTRATION AND ACCOUNTING

8.1 Administrator. This Plan shall be administered by the Administrator, which shall prescribe such forms, and adopt such rules and regulations as are necessary to carry out the purposes of the Plan.

The Administrator may contract with a financially responsible independent contractor to administer and coordinate the Plan under the direction of the Administrator. The Administrator shall have the right to designate a Plan Coordinator or other party of its choice to perform such services under this agreement as may be mutually agreed to between the Administrator and the Plan Coordinator or other party. Notwithstanding any other provisions to the contrary, the Administrator agrees that it shall be solely responsible to the Employer for any and all services performed by a subcontractor, assignee, or designee under this agreement.

The Administrator has full and complete discretionary authority to determine all questions of Plan interpretation, policy, participation, or benefit eligibility in a manner consistent with the Plan's documents, such determinations shall be conclusive and binding on all persons except as otherwise provided by law.

8.2 Administrative Costs. The Administrator shall determine, in a manner deemed fair and equitable, the administrative costs associated with the withholding of Deferred Compensation amounts pursuant to this plan or in making investments or otherwise administering or implementing the Plan. The Administrator may withhold or collect, or have withheld or collected, such costs, in such manner as he or she deems equitable either (1) from the compensation deferred pursuant to the Plan, the income produced from the compensation deferred pursuant to the Plan, the income produced from any investment, whether or not augmented, or (2) from the organization receiving such investment where required by law to collect therefrom or, if not so required, where mutually satisfactory to such organization and the Administrator.

SECTION 9 - AMENDMENTS

9.1 Right to Amend, Modify and Terminate. The Employer may at any time modify or terminate the Plan by notifying Participants of such action. The Employer shall not have the right to reduce or affect the value of any Participant's account or any rights accrued under the Plan prior to modification or termination.

9.2 Conformation. The Employer shall amend and interpret the Plan to the extent necessary to conform to the requirements of Code Section 457 and any other applicable law, regulation or ruling, including amendments that are retroactive. In the event the Plan is deemed by the Internal Revenue Service to be administered in a manner inconsistent with Code Section 457, the Employer shall correct such inconsistency within the period provided in Code Section 457(b).

9.3 Plan Termination. In the event of the termination of the Plan, distribution of benefits shall be made to Participants and Beneficiaries pursuant to the distribution guidelines in section 5 or the rollover/transfer provisions of section 8.

SECTION 10 - TRUST FUND

10.1 Trust Fund. All amounts of Annual Deferrals, all property and rights purchased with such amounts, and all income attributable to such amounts, property, or rights shall be held and invested in the Trust Fund in accordance with this Plan and the Trust Agreement. The Trust Fund, and any subtrust established under the Plan, shall be established pursuant to a written agreement that constitutes a valid trust under the laws of the State. The Trustee shall ensure that all investments, amounts, property, and rights held under the Trust Fund are held for the exclusive benefit of Participants and their Beneficiaries. The Trust Fund shall be held in trust pursuant to the Trust Agreement for the exclusive benefit of Participants and their Beneficiaries and defraying

reasonable expenses of the Plan and of the Trust Fund. It shall be impossible, prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the assets and income of the Trust Fund to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.

SECTION 11 - MISCELLANEOUS

11.1 Non-Assignability. Except as provided in Section 11.2 and 11.3, 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.

11.2 Domestic Relation Orders. Notwithstanding Section 11.1, if a judgment, decree or order (including approval of a property settlement agreement) that relates 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 is made pursuant to the domestic relations law of any State ("domestic relations order"), then the amount of the Participant's Account Balance shall be paid in the manner and to the person or persons so directed in the domestic relations order. Such payment 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 domestic relations order.

11.3 IRS Levy. Notwithstanding Section 11.1, the Administrator may pay from a Participant's or Beneficiary's Account Balance 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.

11.4 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 contribution (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.

11.5 Payments to Minors and Incompetents. 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, or is deemed so by the Administrator, benefits will be paid to such person as the Administrator or a court of competent jurisdiction 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.

11.6 Procedure When Distributees 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 the Administrator's records, (b) notification sent to the Social Security Administration or the Pension Benefit Guaranty Corporation (under their program to identify payees under retirement plans) or notification sent to an address obtained by use of one or more individual locator services, and (c) the payee has not responded within 6 months. For payments not subject to state escheat laws, 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.

11.7 Employment. Neither the establishment of the Plan nor any modification thereof, nor the establishment of any account, nor the payment of any benefits, shall be construed as giving to any Participant or other person any legal or equitable right against the Employer except as herein provided; and, in no event, shall the terms or employment of any Employee be modified or in any way affected hereby.

11.8 Successors and Assigns. The Plan shall be binding upon and shall inure to the benefit of the Employer, its successors and assigns, all Participants and Beneficiaries and their heirs and legal representatives.

11.9 Written Notice. Any notice or other communication required or permitted under the Plan shall be in writing, and if directed to the Administrator shall be sent to the designated office of the Administrator, and, if directed to a Participant or to a Beneficiary, shall be sent to such Participant or Beneficiary at his or her last known address as it appears on the Administrator's record. To the extent permitted by law, regulation or other guidance from an appropriate regulatory agency, the Administrator, Trustee, Employer or any other party may provide any notice or disclosure, obtain any authorization or consent, or satisfy any other obligation under this Plan through the use of any other medium acceptable to the Administrator. Such other medium may include, but is not necessarily limited to, electronic or telephonic medium

11.10 Total Agreement. This Plan and deferral election, and any subsequently adopted amendment thereof, shall constitute the total agreement or contract between the Employer and the Participant regarding the Plan. No oral statement regarding the Plan may be relied upon by the Participant.

11.11 Gender. As used herein the masculine shall include the neuter and the feminine where appropriate.

11.12 Controlling Law. This Plan is created and shall be construed, administered and interpreted in accordance with Section 457 of the Code and the regulations thereunder and under the laws of the State as the same shall be at the time any dispute or issue is raised. If any portion of this Plan is held illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder shall be unaffected.

IN WITNESS WHEREOF, the Employer has executed this Plan document this 20th day of

October, 2006

SEAL

by [Signature]
its HR Generalist
(Title)

Attest: [Signature]
Title _____

(Witness)