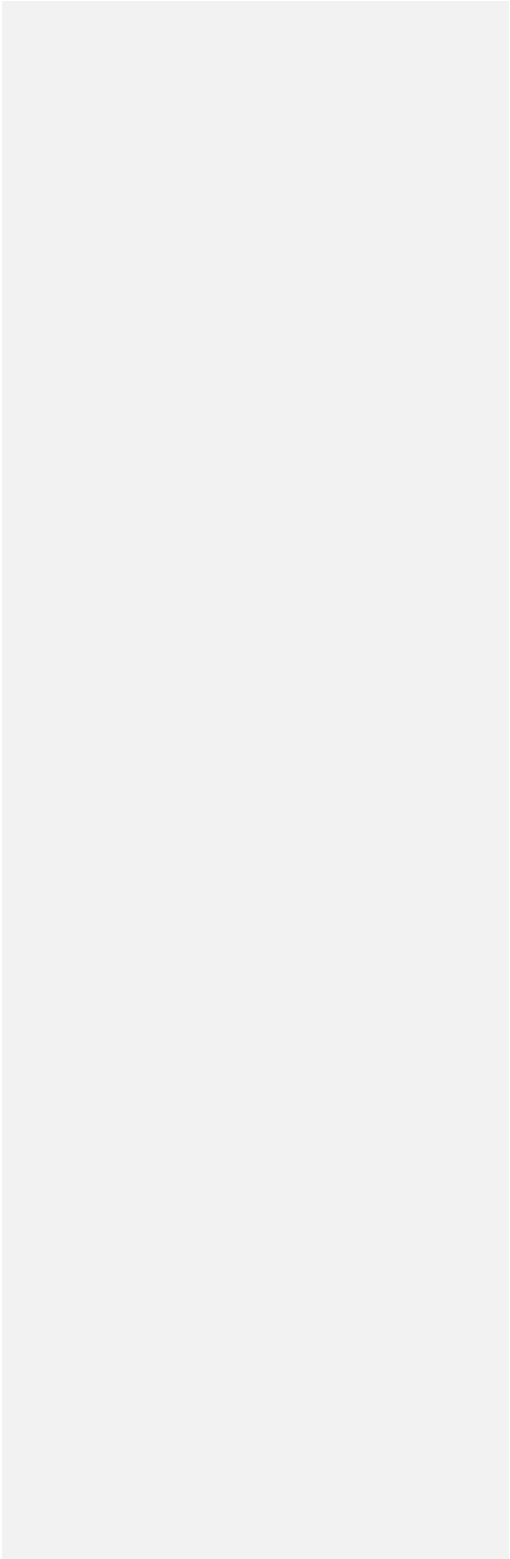


**BYLAWS OF THE
MONTEREY COUNTY
DEFERRED COMPENSATION
ADMINISTRATIVE COMMITTEE**

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1) PURPOSE

- a. This Deferred Compensation Plan (commonly referred to by Internal Revenue Code section 457(b) or as 457(b) Plan is designed to permit Eligible Employees of Monterey County to defer a portion of their compensation in order to provide for themselves and their Beneficiaries supplemental retirement and death benefits. The 457(b) Plan is intended to meet the requirements for an eligible deferred compensation plan under Code section 457(b). The benefit under the 457(b) Plan shall at all times be limited to those payable from each Participant's Investment Accounts.
- b. It is the intent of the County and the Committee that the Plan conform to the authority set forth in Section 53212-53214 of the Government Code of the State of California. In addition, pursuant to County Resolution 84-61 the Deferred Compensation Plan was first established on February 14, 1984, for Eligible Employees and Officers. The Plan is intended to qualify as an eligible State Deferred Compensation Plan within the meaning of Section 457(b) of the Internal Revenue Code of 1986 as amended.
- c. While the County intends to continue the plan indefinitely, it reserves the right to amend or terminate the Plan in accordance with Section 14 of these Bylaws.
- d. Except as provided in these Bylaws, limits on amounts deferred, trust fund allocation and valuation, benefit distributions and withdrawals, timing for minimum distribution requirements, voluntary in-service distributions, vesting and forfeitures, temporary suspension of plan provisions, rollovers and plan to plan transfers into and out of the 457 plan, electronic media, rights of an alternate payee under qualified domestic relations orders, facility of payment and military service shall be governed by the relevant provisions of the Internal Revenue Code and implementing regulations.
- e. To the fullest extent possible, these Bylaws shall be construed to be consistent with the Internal Revenue Code and implementing regulations, and nothing herein shall be interpreted or construed to be inconsistent with such Code or Regulations.

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2) DEFINITIONS

The following terms surrounded by quotes, when used in these Bylaws with initial capital letters, shall have the following respective meanings, unless the context clearly indicates otherwise:

- a. "**Administrative Committee**" or "**Committee**" means the Committee serving as the administrator of the plan, which may delegate all or part of its powers, duties, and authority in such capacity.
- b. "**Agent**" shall mean any agent duly authorized to perform specified duties by its respective principal.
- c. "**Alternate Payee**" means any spouse or former spouse of a Participant, or Child of the participant who is recognized under a QDRO as having a right to receive all, or a portion of, the benefits payable under the Plan with respect to such Participant.

d. **“Beneficiary”** means such person or persons as a Participant may designate to receive his or her interest under the Plan after the Participant’s death. The designation may be made, and may be revoked or changed, only by a written instrument (in form acceptable to the Committee) signed by the Participant and filed with the Recordkeeper of the plan before his or her death.

e. **“Board”** means the Monterey County Board of Supervisors.

~~f. “CAO” means County Administrative Officer of Monterey County appointed by the Board pursuant to the Monterey County Code. This may include any Human Resources Department Employee Benefits Division staff assigned to support the Deferred Compensation Plan.~~

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~~f.~~
g. **“Unforeseen Emergency”** means an emergency that meets the provisions in Code section 457(b) and Treasury Reg. 1.457-6(c)(2b) as specified in Section 19 of these Bylaws.

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h. **“Catch-up Contributions”** means contributions made into the employees’ account on or after February 14, 1984 as specified in Section 14 of these Bylaws.

i. **“QDRO”** means a Qualified Domestic Relations Order.

j. **“Chair”** means the ~~CAO, his/her designee, or other~~ Committee member duly voted by a majority of the Committee to serve as Chair of the Committee.

k. **“Code”** means the Internal Revenue Code of 1986, as amended.

l. **“Committee”** means the Administrative Committee

m. **“Compensation”** means any W-2 income for the employee as long as he or she is still an employee of the County.

n. **“Consultant”** means any outside party that assists the committee with their fiduciary responsibility.

o. **“County”** means the County of Monterey, a political subdivision of the State of California, or other governmental agency that has “opted into” the Monterey County 457(b) Plan and agrees to abide by the terms of the Plan as administered by the Committee.

p. **“Custodian”** means the party, agent, or organization responsible for the safeguarding of plan assets for participants.

q. **“Deferred Account”** means an account established by the Trustee for a Participant to which any Deferred Compensation Contribution and Catch-up Contribution is made for each participant, effective February 14, 1984. This includes any earnings, investment gains, or losses allocable thereto, shall be credited.

r. **“Deferred Compensation Administrative Committee”** means the Administrative Committee.

- s. **“Deferred Compensation Contribution”** means effective on or after February 14, 1984 any amount of Eligible Earnings deferred by a Participant pursuant to a Participation Agreement.
- t. **“Designated Beneficiary”** The person who is designated as the Beneficiary as defined in subsection d. of this Section and who is the designated beneficiary under Code Section 401(a) (9) and Treasury Regulations Section 1.401(a)(9)-4.
- u. **“Disability”** means medically determinable physical or mental impairment of such a nature that the Participant is unable to engage in any substantial gainful activity, which impairment can be expected to result in death or to be of long-continued and indefinite duration, as determined by the County upon the basis of evidence satisfactory to it. Must be able to meet the requirements of Code Section 72(m)(7).
- v. **“Distribution Calendar Year”** A calendar year for which a minimum distribution is required. For distributions beginning before the Participant’s death, the first distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant’s Required Beginning Date. For distributions beginning after the Participant’s death, the first Distribution Calendar Year in which a distribution is required to begin under Section 20 of the Plan. The required minimum distribution for the Participants first Distribution Calendar Year will be made on or before the Participant’s Required Beginning Date. The required minimum distribution for other Distribution Calendar Years, including the required minimum distribution for the Distribution Calendar Year in which the Participant’s Required Beginning Date occurs, will be made on or before December 31 of that Distribution Calendar Year.
- w. **“Dollar Limit”** means the maximum dollar amount based on age of Annual Deferrals under the Plan for any calendar year, established under Code 457(e)(15).
- x. **“Effective Date”** means February 14, 1984 with respect to the Deferred Compensation Plan, originally established pursuant in Resolution 84-61 of Monterey County’s Board of Supervisors. Since that date, this plan had been amended and restated to comply with Regulatory Code, including compliance with EGTRRA.
- y. **“Eligible Earnings”** means any compensation for service performed for the County which is currently includable in gross income under the Code. On or after February 14, 1984, eligible earnings shall have the same meaning as Includible Compensation.
- z. **“Eligible Employee”** means any full-time employee, any permanent part-time employee, or any elected or appointed official who performs services for and receives compensation from the County of Monterey.
- aa. **“Eligible Rollover Distribution”** means any distribution made on or after January 1, 2002 of all or part of the balance to the credit of the Participant in an Eligible Retirement Plan that is either pretax or Roth retirement plan under codes 457(b), 401(a), 401(k), 408, 408(a), 408(b), 408(d), 403(a) or 403(b).

- bb. **“Employee”** means an individual who has been determined by the County (regardless of any determination made by any other person or entity) to be a common law employee of the County for federal income and or employment tax purposes.
- cc. **“Human Resources Department Employee Benefits Division”** means any staff or personnel support to the Deferred Compensation Administrative Committee and the Deferred Compensation Plan assigned by the Director of Human Resources.
- dd. **“Entry Date”** means the first day of each month.
- ee. **“Fund”** means a mutual fund, variable annuity or commingled trust investment option that has the capacity to go up and down daily with the stock market. In addition, shall be consistent with any limitations on forms of investment imposed under applicable State law.
- ff. **“Includible Compensation”** means wages, within the meaning of Section 3401(a) of the Code (for purposes of income tax withholding) but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed, paid to an Employee by the County for services performed for the County. Includible Compensation also includes any elective deferral (as defined in Code Section 402(g)(3), such as Tax Deferred Contributions under the Deferred Compensation Plan, any amount which is contributed to a plan sponsored by the County at the election of the employee and which is not includible in gross income under Code Sections 125, 132(f)(4), or 457, and any amount that is not available in cash to an Employee under the Counties Health Benefit Plans (or successor plan). Any item of taxable income that is excluded from this definition of Includible Compensation may not be deferred in accordance with a Participant’s Participation Agreement.
- gg. **“Independent Auditor”** means an outside firm that can provide an independent opinion on the plan’s financial statements. Typically, a CPA, ~~is~~ is a qualified public accountant that prepares an audit report.
- hh. **“Investment Accounts”** means the accounts established by the Trustee for a Participant pursuant to Section 5, subsection a, comprised of the Deferred Account effective January 1, 2002. This term shall also include a Catch-up Account for Catch-up Contributions pursuant to its authority under Section 5, subsection a.
- ii. **“Investment Fund”** means any investment alternative made available under the Plan. Any such Investment Fund shall be consistent with any limitations on forms of investment imposed under applicable State law.
- jj. **“Investment Manager”** means a person or entity appointed by the Committee who, with respect to an Investment Fund, has the discretion to determine which assets in such Fund shall be sold (or exchanged) and what investments shall be acquired for such Fund or a person or entity that provides investment services to an investment company registered under the Investment Company Act of 1940. Any Investment Manager must be either registered as an investment advisor under the Investment Advisors Act of 1940, a bank as defined thereunder or an insurance company qualified to manage, acquire or dispose of plan assets under the laws of more than one state, provided, however, that this requirement shall not apply to the County Treasurer and, with respect to an

Investment fund that provides for investments in securities issued by an Investment company registered under the Investment Company Act of 1940, the requirements of that act shall control.

Any Investment Manager shall accept such appointment in writing and shall constitute a fiduciary with respect to investment of Plan assets held in the particular Investment Fund for which the appointment applies, unless such person would not be treated as investing assets of the Plan if the Plan were covered by the Employee Retirement Income Security Act of 1974 (ERISA), as amended.

- kk. **“Life Expectancy”** Life expectancy as computed by use of the Single Life Table & Joint & Last Survivor Table in Section 1.401(a)-9 of the Code.
- ll. **“Non-Elective Participant”** means a Participant entitled to a benefit through a Qualified Domestic Relations Order (QDRO) or as a Beneficiary.
- mm. **“Normal Retirement Age”** means the age at which CalPERS allows a Participant to start an unmodified retirement, as further defined in Section 13 of these Bylaws.
- nn. **“Participant”** means an Eligible Employee or a former Eligible Employee who has entered into a Participation Agreement and who has a balance in his or her Investment Accounts.
- oo. **“Participant’s Account Balance”** The Investment Accounts balance as of the last Valuation Date in the calendar year immediately preceding the Distribution Calendar Year (the Valuation Calendar Year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Investment Account balance as of dates in the Valuation Calendar year after the Valuation Date and decreased by distributions made in the Valuation Calendar Year after the Valuation Date. The Investment Account balances for the Valuation Calendar Year includes any amounts rolled over or transferred to the Plan either in the Valuation Calendar Year or in the Distribution Calendar Year if distributed or transferred in the Valuation Calendar Year.
- pp. **“Participation Agreement”** means the agreement with the County by which an Eligible Employee elects to become a Participant under the Plan as of an Entry Date and to defer a portion of his or her Eligible Earnings.
- qq. **“Plan”** means The Monterey County Deferred Compensation program as set forth in the Plan Document, Adoption Agreement, these Bylaws, Investment Policy, and Committee actions consistent therewith.
- rr. **“Plan Administrator”** means the Committee as defined above.
- ss. **“Plan Sponsor”** means a designated party—usually the employer—that sets up a retirement plan, for the benefit of the organization's employees. The responsibilities of the plan sponsor include determining membership parameters, investment choices, and other provisions.
- tt. **“Plan Year”** means a calendar year.

- uu. **“Proxy”** means a formal power of attorney document that may be signed and voted on by a representative of the Committee, which authorizes the vote on behalf of the shareholders.
- vv. **“Qualified Domestic Relations Order”** or **QDRO** means a domestic relations order that satisfies the requirements of Code Section 414(p) (1) and is consistent with the terms of this Plan.
- ww. **“Record Keeper”** means the administrator who has entered into a contract with the County to provide record-keeping and other administrative services for the Plan (see also TPA).
- xx. **“Retirement”** means Separation from Employment after having met or exceeded the minimum age and service requirements for an unmodified service retirement benefit under CalPERS.
- yy. **“Rollover Account”** means a separate account to which the Rollover Contributions received on or after January 1, 2002, on behalf of each Participant, and any earnings and investment gains or losses allocable thereto are credited. The Rollover Account may include additional record-keeping sub accounts for purposes of separately accounting for Rollover Contributions from different Eligible Retirement Plans.
- zz. **“Rollover Contributions”** means contributions received by the Plan on or after January 1, 2002, pursuant to Section 14 of these Bylaws.
- aaa. **“Separation from Employment”** or **“Separated from Employment”** means any termination of a Participant’s relationship with the County as an Employee, including termination due to death or retirement.
- bbb. **“TPA”** means the third-party administrator who has entered into a contract with the County to provide record-keeping and other administrative services for the Plan.
- ccc. **“Trust Agreement”** means an agreement(s) executed by the County and a Trustee which establishes either a trust fund or custodial account to provide for the investment, reinvestment, administration, and distribution of contributions made under the Plan and the earnings thereon.
- ddd. **“Trustee”** means the one or more persons or entities that have entered into a Trust Agreement as a trustee or custodian, and any duly appointed successor. For these purposes, the custodian of any custodial account created for the purposes of holding Plan assets must be a bank, as described in Code Section 408(n), or a person who meets the non-bank trustee requirements of paragraphs (2)-(6) of section 1.408-2(e) of the Income Tax Regulations relating to the use of non-bank trustees.
- eee. **“Trust Fund”** means the assets of the Plan held by the Trustee pursuant to the Trust Agreement.
- fff. **“Valuation Date”** means the date with respect to which the value of the assets comprising the Trust Fund or any portion thereof is determined. Unless otherwise determined by the Committee, a Valuation Date occurs each market day. If the day is not a market day in which a value is needed for accounting purposes, the previous market day shall be used.

ggg. “Year of Service” for any Employee or former Employee means any Plan Year in which such Employee or former Employee was employed by the County.

3) **ROLES AND RESPONSIBILITIES OF THE PLAN ADMINISTRATOR**

- a. Pursuant to the amended Monterey County Deferred Compensation Plan (the “Plan”), the Plan Administrator is the Monterey County Deferred Compensation Administrative Committee (the “Committee”). The Monterey County Board of Supervisors delegates to the Committee all duties and powers, identified as belonging to the Employer in Articles 7 through 9 of the Plan Document. As Plan Administrator, the Committee is a Plan fiduciary with the responsibility and discretionary authority for interpreting the terms of the Plan, for administering the Plan in accordance with its terms, for appointing or removing any Investment Manager, for entering into investment arrangements with respect to the Investment Funds, and for incurring or approving certain expenses and charging them to the Plan in accordance with the Plan Document.
- b. The Committee shall be bound by the Plan document and these Bylaws, including but not limited to those powers, responsibilities, and duties in the Plan Document, with respect to ongoing Plan administration, adoption of rules, regulations, procedures of the plan, and to interpret, alter, amend or revoke any rules, regulations or procedures so adopted. The Committee is also responsible for all information, descriptions, and reports required by applicable law, except to the extent responsibility for administration of the Plan is expressly assigned to another person under the terms of the Plan or the Trust Agreement. In addition to responsibilities and powers set out elsewhere in the Plan, the Committee shall have the powers set forth in this Section, which may be delegated to one or more Agents of the County. Each fiduciary shall have such powers, duties, and authorities as shall be specified in the Bylaws, Trust Agreement, and Plan Document.
- c. The Committee shall have sole and exclusive authority to interpret where necessary the provisions of the Plan and determine the rights and benefits of Participants and other persons under the Plan.
- d. The Committee shall coordinate with the ~~Monterey County Administration Office~~ Human Resources Department to ensure that Participant needs and services are provided through day-to-day administration of the plan, as described in Section 14 of these Bylaws.
- e. The Committee shall establish forms, rules, and procedures that assigned staff from the ~~Administration Office~~ Human Resources Department can use in connection with Participant Plan activities.
- f. The Committee shall instruct the Trustee as to the benefits to be paid hereunder and shall furnish the Trustee with any further information reasonably required by it for the purpose of distributing such benefits and making investments in or withdrawals from one or more of the Investment Funds.
- g. The Committee shall have the authority to contract with one or more Investment Managers or enter one or more investment arrangements, with respect to the investment funds. In addition, the Committee shall have the authority to contract with one or more private firms for services related to the plan. The Chair of the Committee at the recommendation of the Committee shall be able to sign all contracts related to the administration of the Plan.

- h. Subject to the provisions of subsection m of this Section and subsection b of Section 24, all decisions of the Committee as to the interpretation of any provision of the Plan or its application to any case, and as to any other interpretive matter or other determination or question related to the Plan or its administration, shall be final and conclusive, to the extent permitted by law, as to all interested persons for all purposes of the Plan.
- i. The Committee may assign additional duties and responsibilities to its members and, with the exception of those duties expressly reserved to the County under this Section, may reassign any of the duties and responsibilities set forth in these Bylaws as it deems appropriate.
- j. The Committee shall be responsible for selecting a Plan auditor, administering auditor contracts, writing the specifications for Plan audits, and supervising Plan audits. The Committee shall also be responsible for contracting with the Trustee, Consultant, TPA, and/or Record Keeper.
- k. The Committee Chair shall preside over the meetings, prepare agendas and execute all documents on behalf of the Committee.
- l. Any action taken by the Committee with respect to the rights or benefits of any participant or beneficiary shall be revocable by the Committee. Appropriate adjustments may be made in future payments or distributions to a participant or beneficiary to offset any excess payment or underpayment made to such participant or beneficiary.
- m. In accordance with the Plan Document, the Committee may temporarily or indefinitely delegate any of the particular powers, responsibilities, and duties it has under the Plan Document and these Bylaws.
- n. General Committee Guidelines

The Committee shall:

- Act solely in the interest of the plan's participants and beneficiaries
- Maintain the plan and its assets for the exclusive purpose of providing benefits
- Act with care, skill, prudence, and diligence as a prudent person would act in a similar circumstance
- Diversify 457 plan assets to minimize risk unless it is prudent to do otherwise
(This rule can be taken to mean that fiduciaries must provide sufficient investment choices to allow participants to diversify their account balance to minimize risk)
- Maintain the plan in accordance with governing laws and the plan document

o. Plan Document and Trust Provisions,

The Committee shall:

- Have a formal plan document that is in compliance with federal and state laws and reflects current plan operations
- Review the plan document at least every 12 months to reflect any changes in federal laws, regulations or plan operations that may have occurred, or shall delegate this responsibility to a competent professional
- Review the Trust Agreement if revisions have been made to it

p. Fiduciary Appointments, Training and Meetings

The Committee shall:

- Select plan fiduciaries according to the plan document and any governing statutes (state or local laws)
- Provide training opportunities to current or new committee members and/or staff at least annually to ensure they are aware of their fiduciary responsibilities to the plan and its participants
- Be aware of their potential liability for not meeting their fiduciary duties
- Have committee meetings held on a scheduled basis as defined within this document, to review the plan and make decisions as appropriate
- Keep meeting minutes and documentation of actions, with supporting rationale, for 10 years in a due diligence file
- Review at least annually, the plan as a whole, such as through a statistical analysis of participant activities (participant deferrals, asset mix, transaction history), examination of participant/employee satisfaction (surveys), etc., to ensure the plan continues to meet the needs of the plan participants

q. Investment Selection, Monitoring and Oversight

The Committee shall:

- Have an investment policy statement either established by the plan sponsor, the Plan Provider or the Committee

- Review the investment policy at least annually to ensure it reflects current policies and procedures for selecting and monitoring the plan's investments
- Offer a broad range of investments in at least three diverse asset classes
- Have a comprehensive review of the plan's investments to ensure they continue to meet the stated objectives in the investment policy statement as appropriate long-term investment vehicles for plan participants
- Have the performance of the plan's investment options and their volatility measured and compared to appropriate benchmarks
- Consider the fees and expenses, charged by the investment companies to ensure they are appropriate as compared to peer funds within the same asset class
- Have in-house experts or external resources to assist in the review of the plan's investment options
- Have appropriate action taken to remove, close or replace investment options, if warranted by the review of the plan's investment options
- Maintain documentation of the annual review process, rationale for fiduciary actions, and any other relevant notes or analysis in the plan's due diligence file

r. Operations and Monitoring Service Providers

The Committee shall:

- Have employee deferrals collected and invested in a timely manner
- Have fiduciaries evaluate the performance of the plan's outsourced service providers over the past 12 months
- Have fixed investment options standards and rates adhered to and deficiencies addressed appropriately
- Have all participant concerns and complaints over the past 12 months documented and resolved
- Have hardship withdrawals decided appropriately, consistently, and in accordance with the plan's policy and IRC

s. Participant Education, Advice and Disclosures

The Committee shall:

- Provide employees, at least annually, (non-participants included) with information about the benefits of participating in the program and how they can enroll
- Provide all participants with educational material to help them with their investment decisions; such as employee workshops, on-line tools and print material that explain investment basics, risk & return, and the importance of asset allocation/diversification
- Provide a simplified approach to investing; such as through profile, lifestyle, lifecycle, managed accounts, advice or through personal counseling
- Provide participants information about each of the plan's investment options, including the associated investment risk of each option
- Provide participants full disclosure about the fees and expenses that are charged to their accounts, including any costs that are deducted from their accounts net of investment returns
- Provide participants with a quarterly statement that identifies all transaction activity within their accounts (deferrals, withdrawals, exchanges, etc.) and illustrate the allocation of their account balance by asset class
- Provide participants written advance notice, in compliance with all State and IRS regulations of any changes to the plan's investment line-up and/or any blackout periods that may limit their ability to execute transactions in their account

4) ROLES AND RESPONSIBILITIES OF THE CAO

- a. The County Administrative Officer (CAO), or his/her designee, shall provide budgetary and administrative support under direction of the Committee.
- b. The CAO shall be responsible for recommendations to the Board of Supervisors on matters involving the Plan budget, employee relations and county policy relating to the Plan, and the CAO may make recommendations to the Committee concerning contractual relations, plan design, and funding arrangements.

5) ROLES AND RESPONSIBILITIES OF THE TRUSTEE OR RECORD KEEPER

- a. The Trustee shall maintain a Deferred Account and, effective as of January 1, 2002, a Rollover Account (as needed) comprising the Investment Accounts, for each Participant.
- b. **Investment of the Trust Fund.** Notwithstanding any contrary provision of the Plan, in accordance with Section 457(g) of the Code, all contributions to the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, shall be held in trust and/or in one or more custodial accounts for the exclusive benefit of participants and their beneficiaries under the Plan. Any trust under the Plan shall be established pursuant to a written agreement that constitutes a valid trust under the laws of the State of California, and any custodian of a custodial account under the Plan shall be a bank, as described in Code Section 408(n), or a person who meets the non-bank trustee requirements of paragraphs (2)-(6) of Section 1.408-2(e) of the Income Tax Regulations relating to the use of non-bank trustees. The Trustee shall invest the assets of the Trust Fund in accordance with the instructions of Participants and the Committee as provided in this Section.
- c. **Investment by Participants.** Each Participant may instruct the Trustee, as applicable; to allocate his or her deferred compensation contributions among the Investment Funds. A Participant may change the allocations of future contributions and may transfer past contributions, adjusted for earnings, gains, and losses and applicable plan charges, if any, from one investment fund to another. A Participant may make investment elections at the time and manner prescribed by procedures established by the Committee.
- d. It is the Trustee's responsibility to disclose all contract charges, fees, and commissions for each selected investment option within the Deferred Compensation Plan prior to them being available to plan participants. In addition, these fees, commissions, and charges will be disclosed to all participants at enrollment and at any other time deemed appropriate by Securities and Exchange Commission rules and regulations.
- e. The Committee shall be provided an annual report of each Fund's performance less all applicable fees, commissions and charges, and the resulting net return.
- f. The Record keeper shall provide an Annual Fund Review presentation, for the Committee explaining in detail the status and risk measurement of the Investment/Fixed options within the plan.
- g. The Trustee shall provide Information about each investment option with a minimum being a mini prospectus, given to Plan participants upon enrollment, to help them make informed investment decisions.
- h. The Trustee shall provide at least quarterly, statements of fund performance to each participant. The statement shall include a detailed listing of the dates and amounts of all participants deposits invested during the quarterly reporting period. H-07-06
- i. The Trustee shall provide both a quarterly and annual employer report to the Committee that includes a summary of plan transactions and balances, participant activity reported by fund in dollars and units/shares or shares, participant activity reported by money source and fund in dollars and units/shares or shares, participant investment account balances and activity, forfeiture and/or asset

holding account balances and activity, contributions, additional deposits (rollovers, conversions, forfeiture reallocations and mergers) and withdrawals.

- j. **Investment by Trustee.** Participant contributions or assets that are not invested pursuant to instructions due to, participant failure to fully complete the Participation Agreement or untimely processing of paperwork, will be invested in a default fund as approved by the Committee in which the year in the fund's name represents the approximate year that the participant will be age 65.

6) COMMITTEE MEMBERS

- a. Each member shall serve for an indefinite appointment as described herein.
- b. The Office of the County Counsel shall serve as legal counsel pursuant to Section 8.
- c. The Committee shall consist of nine (9) voting members as follows:
 - i. Auditor-Controller
 - ii. Director or Assistant Director of the Human Resources Department
 - iii. Treasurer-Tax Collector
 - iv. One representative ~~from the~~designated by the County Administrative Officer (shall be Plan Participant)
 - v. One Retiree (shall be Plan Participant)
 - vi. One representative from the Department Head Council (shall be Plan Participant)
 - ~~vii. One representative from the Management Council (shall be Plan Participant)~~
 - ~~viii.~~vii. Union representatives (~~32~~ appointees), one from each of the ~~two-three~~ largest unions by number of union members (each shall be Plan Participants). Union representatives shall be selected beginning with the group having the largest number of employees and moving through the employee groups in descending order (by number of employees) until representatives have been identified.
- d. Pursuant to this Section and Section 9, the Auditor-Controller shall serve by virtue of, and only so long as, he/she holds the identified position. Upon the appointment or election of a successor individual, the successor shall immediately and automatically replace the prior position holder as a Committee member.
- e. Pursuant to this Section, the Treasurer-Tax Collector shall serve by virtue of, and only so long as, he/she holds the identified position. Upon the appointment or election of a successor individual, the

successor shall immediately and automatically replace the prior position holder as a Committee member.

- f. All appointees with the exception of the Auditor-Controller, Treasurer-Tax Collector, and- the Director or Assistant Director of Human Resources shall be participants in the Plan.
- g. The CAO shall appoint the representative from the CAO's office who shall be plan participant.
- h. Upon appointment, each Committee Member shall have all the rights, powers, privileges, liabilities, and duties established by these Bylaws. A Committee Member may resign at any time upon giving written notice to either the CAO or the Committee or at such later time as may be designated in the notice of resignation. Appointed Committee Members may be removed from office by the Committee, with cause, with the exception of the Auditor-Controller, Treasurer-Tax Collector and Director or Assistant Director of Human Resources. Such removal, should it be necessary, shall be effective upon delivery of written notice to the member or at such later time as may be designated in such notice.
- i. Upon vacancy of the retiree representative, recruitment efforts shall be made to fill the vacancy. In the event of multiple retiree representative candidates, the representative shall be selected by majority vote of the committee.

7) COMMITTEE MEETINGS, AGENDAS, QUORUM, OFFICERS, AND VOTING

- a. The Committee shall hold regular meetings on the third Wednesday of the months of February, May, August and November. The agenda for each meeting will set forth the date, time, and place the meeting will be held. The agenda will be posted in a public place not less than 72 hours in advance of the meeting. The Committee shall maintain written minutes of its meetings. The Committee may hold special meetings at the call of the Chair and upon such notice as is required by law.
- b. All meetings of the Committee shall be called, held, and conducted in accordance with the provisions of the Ralph M. Brown Act, Sections 54950, et seq., of the Government Code, as said Act may be amended. No action or discussion shall be undertaken on any item not appearing on the posted agenda except that members of the Committee may briefly respond to statements made or questions posed by persons exercising their public comment rights or to ask a question for clarification, refer the matter to staff or to other resources for factual information, or request staff to report back at a subsequent meeting concerning any matter.
- c. If in his/her judgments there are insufficient matters to be discussed, the Chair of the Committee may cancel any of the regular quarterly meetings, not to exceed two consecutive meetings.
- d. A majority of all of the members of the Committee who are present constitute a quorum and have the power to act for the entire Committee. All actions taken shall be by majority vote of the members attending a meeting. The agreement or disagreement of any member may be by means of any form of written or oral communication to the Chair of the Committee.

- e. The Committee is authorized to adopt rules, regulations, or procedures consistent with these Bylaws, the Plan Document and Regulatory law. The Committee may also interpret, alter, amend, and revoke any rules regulations and procedures that are inconsistent with these Bylaws, the Plan Document, and Regulatory Law.
- f. The Officers of the Committee shall consist of a Chair and a Vice Chair elected by a majority of the Committee. The Chair shall act as the presiding officer at all meetings of the Committee. The Vice Chair shall preside and exercise all the duties of the Chair in the absence of the Chair. In the absence of both the Chair and Vice Chair, a Temporary Chair shall be elected by the quorum to act as Chair until the return of the Chair or Vice Chair.
- g. The Chair shall serve for a two-year term at the end of which the Vice Chair shall serve as the Chair. At the conclusion of the term of the existing Chair, a new Vice Chair shall be nominated and appointed by majority vote. Upon the appointment of the new Vice Chair, the outgoing Chair shall be eligible to be nominated to serve as Vice Chair. The term of the Chair and Vice Chair shall begin at the first regular quarterly meeting after the approval of these Bylaws by the Board of Supervisors.

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8) ROLES AND RESPONSIBILITIES OF COUNTY COUNSEL

- a. Unless legal services are otherwise contracted by the Plan, the Office of the County Counsel shall provide all legal services to the Committee in connection with their administration of the Plan.
- b. If the Committee or County Counsel, determine that outside legal counsel is required in connection with the administration of the Plan or any of its components, the Committee may contract with such legal counsel. The cost for such outside legal services shall be a proper charge against the County.

9) ROLES AND RESPONSIBILITIES OF THE AUDITOR-CONTROLLER

The County Auditor-Controller shall be responsible for processing of payroll deferrals and County contributions, maintaining appropriate County accounting records, transferring of funds and account allocation information to the TPA, Record keeper, Trustee(s) or Investment Manager(s) and periodic reviews of the financial integrity of the Plan.

10) SPECIAL ADVISOR UNDER 457(b) CODE

If, in the discretion of the Committee, an outside consultant with specialized knowledge of Section 457 of the Code is required in connection with the Administration of the Plan, the Committee may contract with such consultant. The cost for any such outside consultant shall be a proper charge against the County.

11) INDEMNIFICATION AND IMMUNITIES

The County shall indemnify and reimburse, to the fullest extent permitted by law, members of the Committee and other employees and former employees acting for and on behalf of the Plan for any and all expenses, liabilities, or losses arising out of any act or omission relating to membership on the Committee or for the management and administration of the Plan, except in instances of fraud, corruption, or actual malice.

- a. Except as otherwise provided by the Trust Agreement:
 - i. No fiduciary shall be liable for any action taken or not taken with respect to the Plan or the Trust Agreement except for his or her own acts or omissions to act except as otherwise provided in herein.
 - ii. A fiduciary shall be liable for a breach of duty committed by another fiduciary (a co-fiduciary) only under the following circumstances:
 1. Where the fiduciary participates in the breach of duty committed by a co-fiduciary.
 2. Where the fiduciary improperly delegates its duties to a co-fiduciary.
 3. Where the fiduciary approves, knowingly acquiesces in, or conceals a breach of duty committed by a co-fiduciary.
 4. Where the fiduciary knowingly allows a co-fiduciary to commit a breach of duty.
 5. Where the fiduciary fails to take reasonable steps to compel a fiduciary to redress a breach of duty if the fiduciary knows of or has information from which he or she reasonably should have known of, the breach of duty.
- b. The County and each officer and employee thereof, the Committee and each member thereof, and any other person to whom the County or Committee delegates (or the Plan or Trust Agreement assigns) any duty with respect to the Plan or the Trust Agreement, may rely and shall be fully protected when acting in good faith upon the advice of counsel, who may be counsel for the County, upon the records of the TPA, Trustee, and Investment Manager, the County Treasurer-Tax Collector, or the County Auditor-Controller, or upon any certificate, statement or other representation made by or any information furnished by an Employee, a Participant, a Beneficiary, or the Trustee concerning any fact required to be determined under any of the provisions of the Plan;
- c. If any responsibility of a fiduciary is allocated to another person, then except to the extent provided in Section 2 or 3, such fiduciary shall not be responsible for any act or omission of such person in carrying out such responsibility; and
- d. No fiduciary shall have the duty to discharge any duty, function, or responsibility which is assigned by the terms of the Plan or Trust Agreement or delegated pursuant to the provisions of Section 2 to another person.

12) PLAN PROVIDER PROCUREMENT PROCESS

- a. Unless events reasonably dictate otherwise, at least every five years the Committee, will issue a request for Proposal (RFP) for record keeping and investment management services. Following evaluation, the Committee will select a Plan Provider.
- b. If, in the opinion of the Committee circumstances, economic conditions, or timing exist that preclude the full RFP process, the Committee may extend to the same provider a one-time 2-year RFI extension in lieu of the full RFP process.

13- DAY-TO-DAY ADMINISTRATION OF THE PLAN

Human Resources Department Employee Benefits Division staff assigned to the Deferred Compensation Program shall provide day to day administration of the Plan, in accordance with IRS code. The Human Resources Department Employee Benefits Division staff shall be limited to instituting, signing, processing, and forwarding all new enrollment packets, including initial enrollment, initial or changes to beneficiary^{ies}²s, disclaimer²s, increase/decrease in salary contribution, age 50+ catch-up, regular catch-up, rollovers into or out of the plan, distributions, education, the request for emergency withdrawal forms, and any other day to day administration of the plan as applicable. In addition, staff support shall include all activities involved in Committee meeting preparation, taking of minutes, posting agendas, and preparing and distributing staff reports.

- a. The Committee has outsourced the decisions on all Qualified Domestic Relations Orders (QDRO's) and Emergency Withdrawals to the Record keeper.
- b. The Human Resources Department Employee Benefits Division staff assigned to the Deferred Compensation Program shall forward all new applications for participation in the Plan, increase or decrease in salary contribution, and catch-up contribution forms after being signed by the CAO's designated signor or Human Resources Department Employee Benefits Division staff, to the Auditors-Controller's Payroll Division.

14) AMENDMENTS TO BYLAWS, DELEGATIONS OR TERMINATION OF PLAN

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

to each Participant or his or her Beneficiary in a lump sum payment the vested balance in such Participant's Investment Accounts in accordance with the Plan Document and Code section 457(d). In the absence of a lump sum payment, a participant may designate vested balances be rolled over to another qualified retirement plan.

- b. Amendments to these Bylaws and delegations may be recommended to the Board of Supervisors by approval of a majority vote of the Committee.
- c. The Board of Supervisors is responsible for approval of these Bylaws and delegations and any subsequent amendments thereto.

15) LOAN PROVISIONS

The County plan does have a loan provision and the terms and conditions on loans requested is ruled by the loan policy statement.

16) SEVERABILITY PROVISION

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

Approved by Resolution No. _____ of the Board of Supervisors on ___/___/_____.