

July 10, 2017

DEKALB COUNTY
457(b) DEFERRED COMPENSATION PLAN

Amended and Restated
Effective August 1, 2017

DEKALB 457(b) DEFERRED COMPENSATION PLAN

Introduction

DeKalb County (the County) adopted the DeKalb County 457(b) Eligible Deferred Compensation Plan (the Plan or the 457(b) Plan), effective October 10, 1980. From the Plan's inception, the County has intended for the Plan to have the status of a governmental eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code (the IRC) and the Treasury Regulations issued under IRC § 457(b). The Plan was a single plan that consisted of three separate written plan documents with three separate Service Providers, before this 2017 restatement. The Plan features described in the written Plan document supplied by each Service Provider was sometimes called a *Component Plan* that was an integral part of the single plan. Effective January 1, 2006, the County adopted an amended and restated plan document that coordinated the provisions in the Component Plans then in existence, and complied with the IRC § 457(b) requirements that applied to all the Component Plans under the Final Treasury Regulations issued under IRC § 457(b). The 2006 restated 457(b) Plan, which was sometimes called the *Wrap 457(b) Plan*, preempted any inconsistent provision that any Service Provider might have included in its Component Plan.

The County's Board of Commissioners has determined that it is in the best interest of the County to have the Plan's legal provisions written in a single document, to have the Plan's assets managed by single Investment Manager, and to accomplish these goals by adopting the amended and restated Plan set forth in this document, effective August 1, 2017. The restated 457(b) Plan is designed to continue to receive, administer, and manage employee contributions. Participation in this Plan is not conditioned on participation in any other plan maintained by the County.

The purpose of the 457(b) Plan is to provide all the County's eligible employees an opportunity to increase their retirement savings by making their own contributions on a before-tax basis and/or after-tax Roth basis, as they elect from time to time. Participants in the 457(b) Plan are permitted to defer before-tax and/or after-tax amounts up to the annual dollar limit in effect for each calendar year (Plan Year) under IRC § 457(e)(15). Participants who are or will be at least age 50 by the end of the year can contribute an additional amount under IRC §§ 414(v) and 457(b)(18), called the *age-50 catch-up amount*, as in effect each year. The annual dollar limits in effect for 2017 are \$18,000 for regular contributions, plus \$6,000 for catch-up contributions.

The County is a governmental entity. The Plan described in this document is a governmental plan within the meaning of IRC § 414(d). The Plan's qualification as a governmental plan exempts the Plan from Titles I and IV of the Employee Retirement Income Security Act (ERISA). However, the County has voluntarily included in the Plan certain employee protections that are not required to be included in governmental Plan. Notwithstanding any other provision in the Plan, the County's voluntary provision of such benefits and protections is not to be interpreted as a relinquishment of (1) any exemption available to the Plan under ERISA or the IRC, or (2) any of the discretion afforded to the sponsors of governmental Plan under ERISA or the IRC.

The 457(b) Plan described in this document, and as amended from time to time, is administered by the Administrative Committee, the membership of which is described in an Administrative Committee Charter adopted by the DeKalb County Governing Authority (the Board of Commissioners and the CEO of the County), The County intends for the restated 457(b) Plan to continue to meet the requirements for a governmental eligible deferred compensation plan within the meaning of IRC § 457(b). Every provision of this Plan document is to be construed accordingly. The Plan Fiduciaries will administer the Plan in accordance with its written terms and with applicable laws enacted from time to time, and will implement operational compliance between the effective dates of such laws and the corollary Plan amendment dates.

The Plan is designed to comply with all applicable requirements of the IRC, and with the Family and Medical Leave Act of 1993 (FMLA), the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), the Small Business Jobs Protection Act a/k/a the Pension Simplification Act of 1996 (SBJPA-1996), the Taxpayer Relief Act of 1997 (TRA), the Restructuring and Reform Act of 1998 (RRA), the Community Renewal Tax Relief Act of 2000 (CRTRA), the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), the Servicemembers Civil Relief Act of 2003 (SCRA), the Pension Protection Act of 2006 (PPA), the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART), the Worker, Retiree and Employer Recovery Act of 2008 (WRERA), the Small Business Jobs Act of 2010 (SBJA-2010), and all regulations, rulings and other official guidance published under each such law.

The rights of all employees who terminate employment, and their beneficiaries, will be governed by the Plan as in effect on the employee's termination date, except to the extent an amendment is expressly given retroactive application. However, the account balances of terminated

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Participants will be administered and distributed in compliance with Plan provisions and applicable law as in effect from time to time.

DEKALB COUNTY 457(b) DEFERRED COMPENSATION PLAN

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ARTICLE 1
Definitions

As used in this Plan, the following words and phrases and any derivatives thereof have the meanings set forth below unless the context clearly indicates otherwise. Definitions of other words and phrases are set forth throughout the Plan. Section references indicate sections of the Plan unless otherwise stated. The masculine pronoun includes the feminine, and the singular number includes the plural and the plural the singular, whenever applicable.

- 1.1 **Account (also called Employee Contribution Account)** means the record the Plan maintains of the Contributions, investment gains/ losses/expenses, withdrawals, and distributions allocated to each Participant's (Account(s)), for accounting purposes. The Plan does not segregate assets among Accounts. Each Participant's **Employee Contribution Account(s)** include one or more of the following Accounts, which are funded by Employee Contributions and are fully vested at all times:
- (a) **Elective Deferral Account** means an Account to record the deferrals a Participant makes on a before-tax basis under Section 3.1, including age 50 before-tax Catch-Up Deferrals.
 - (b) **Designated Roth Account** means an Account to record after-tax Contributions a Participant designates as Roth Contributions and makes in lieu of regular and/or age 50 Catch-Up Elective Deferrals, in compliance with IRC § 402A, and which are aggregated with his/her Elective Deferrals for purposes of the IRC § 457(e)(15) annual Dollar Limit (\$18,000.00 for 2017).
 - (c) **Roth In-Plan Conversion Account** means an Account to record amounts that a Participant converted from his/her non-Roth Accounts to Roth Contributions and included in his/her taxable earnings for the conversion year.
 - (d) **Roth Account(s)** is the term sometimes used to refer to the combination of a Participant's Designated Roth Account and/or Roth In-Plan Conversion Account.
 - (e) **Rollover Account** means an Account to record before-tax amounts that a Participant rolled over to this Plan from another eligible retirement plan (i.e., a plan that meets the requirements of either IRC § 401(a) or 403(b), or a governmental §

457(b) plan), or from a conduit Individual Retirement Account (IRA) under Section 3.4.

(f) **Roth Rollover Account** means an Account to record amounts a Participant rolled over directly from a Designated Roth Account in another employer's plan. The IRS does not permit rollovers to 457(b) plans from Roth IRAs.

1.2 **Age-50-Catch-Up Deferral or Contribution.** See the definition of **Contributions** and Subsection 3.1(d).

1.3 **Annual Dollar Limit (also called Applicable Dollar Amount)** means the maximum dollar amount that any Participant can defer or contribute for any Plan Year under IRC § 457(e)(15) (\$18,000 for 2017), which is indexed under IRC § 457(e)(15) annually in \$500 increments. Any Participant who is or will be at least age 50 by the last day of a Plan Year may also make Catch-Up Deferrals or Contributions up to the amount in effect under IRC § 414(v) (\$6,000 for 2017). No Participant may contribute an amount that exceeds 100% of his/her Includible Compensation for any Plan Year. The Annual Dollar Limit would include Employer Contributions if any were made.

1.4 **Catch-Up Deferral or Contribution.** See the definition of **Contributions**.

1.5 **Committee** means the Administrative Committee for the DeKalb County 457(b) and 401(a) Plans, the membership of which is defined in the Administrative Committee Charter adopted by the Governing Authority, and which has primary responsibility for administering the 457(b) Plan, including the selection and monitoring of the investment managers and investment alternatives for Account balances. The Committee serves as the Plan Administrator of the Plan. The Administrative Committee is described more fully in the Administrative Committee Charter, as adopted and amended from time to time by the DeKalb County Governing Authority.

1.6 **Compensation (or Includable Compensation).**

(a) **For Purposes of Contributions**, Compensation means the regular salary actually paid by the County to a Participant during any calendar month, excluding overtime pay, reimbursed expenses, bonuses, commissions, and any other remuneration,

and including contributions made under IRC §§ 125, 132, 402(g)(3), 457(b) and/or 414(h), to this Plan or any other plan maintained by the County.

- (b) **Statutory Limit.** Each Participant's Compensation taken into account for all purposes under the Plan is limited to the annual amount prescribed under IRC § 401(a)(17) for the Plan Year (\$265,000 for 2017), which is indexed annually in \$5,000 increments. The Plan does not apply the statutory limit on a payroll-period basis, but rather applies the limit on a Plan Year basis. The Plan will not prorate the statutory limit on Compensation for any Participant who participates in the Plan for less than a full Plan Year.

1.7 **Contributions (or Employee Contributions).** The Plan sometimes uses the term *Employee Contributions* to mean either or both Elective Deferrals and Roth Contributions. See Section 3.3 for the procedures Participants use to make their elections.

- (a) **Elective Deferral** means the amount each Participant elects to contribute on a before-tax basis under Subsection 3.1(b) from time to time, in a whole percentage between 1% and 100% of his/her Compensation, or in a dollar amount for each Plan Year when combined with any Roth Contributions he/she makes, subject to the annual Dollar Limit under IRC § 457(e)(15) (\$18,000 for 2017).
- (b) **Roth Contribution, also called Designated Roth Contribution,** means the amount a Participant elects to contribute on an after-tax basis under IRC § 402A and Subsection 3.1(c) from time to time, and irrevocably designates as Roth Contributions, in a whole percentage between 1% and 100% of his/her Compensation or a dollar amount for each Plan Year. Roth Contributions are combined with any Elective Deferrals the Participant makes for purposes of the Annual Dollar Limit under IRC § 457(e)(15) (\$18,000 for 2017). The County treats Roth Contributions as includible in a Participant's taxable income at the time he/she would have received that amount in cash if he/she had not made a Roth Contribution. The Plan distributes each Roth Account balance (including investment earnings) on an after-tax basis if it meets the requirements for a Qualified Roth Distribution, and for this purpose treats as Roth Contributions any

Roth Catch-Up Contributions, and any amounts distributed in-service and converted from non-Roth Account balances to his/her Roth Account balance.

- (c) **Catch-Up Contribution** means the before-tax and/or after-tax Roth Contribution elected by a Participant who is age 50 or older (or will be by the end of the Plan Year) and has met the eligibility requirements under Subsection 3.1(d), the amount of which is limited to the annual dollar amount specified in Subsection 3.1(d)(2) (\$6,000 for 2017), and which is excluded from the IRC § 457(e)(15) annual Dollar Limit (\$18,000 for 2017).
- (d) **Rollover Contribution** means an amount transferred to this Plan from another eligible retirement plan (including a Roth Rollover Contribution from a Designated Roth Account in another eligible retirement plan) or conduit Individual Retirement Account (IRA) other than a Roth IRA) under Section 3.4.

1.8 **County** means DeKalb County.

1.9 **Designated Roth Account.** See the definition of **Accounts**.

1.10 **Effective Date** of the Plan is October 10, 1980. The effective date of this amendment and restatement (which converts the Plan from having three Service Providers to having a single Service Provider and adds provisions for Roth Contributions) is August 1, 2017.

1.11 **Employee (or Eligible Employee)** means, for purposes of eligibility to participate in the 457(b) Plan, an individual who is compensated by the County as a common-law employee, officer or deputy and has FICA taxes deducted from his/her Compensation. The group of Eligible Employees excludes: (a) temporary employees; (b) leased employees as defined under IRC § 414(n); and (c) individuals designated as independent contractors (even if a court or administrative agency determines that such individuals are common-law employees). If the County or any governmental entity reclassifies an individual who had been classified as not being an Eligible Employee, such reclassification will be prospective only, except to the extent the County expressly applies the reclassification retroactively.

1.12 **Employee Contribution Account.** See the definition of **Account**.

- 1.13 **Employee Contributions.** See the definition of **Contributions** and Section 3.1.
- 1.14 **Employment** means the period during which an individual is an Employee compensated by the County.
- 1.15 **Employment Date** means the date on which an Employee first earns Compensation.
- 1.16 **Governing Authority** means the DeKalb County Governing Authority (currently the DeKalb County Board of Commissioners and Chief Executive Officer).
- 1.17 **Includable Compensation.** See the definition of **Compensation**.
- 1.18 **IRC** means the Internal Revenue Code of 1986 as amended from time to time, and regulations and rulings issued under the IRC.
- 1.19 **Participant** means an Employee or former Employee who has an Account balance in this Plan.
- 1.20 **Plan** means the DeKalb County 457(b) Deferred Compensation Plan, also called the 457(b) Plan, as set forth in this document and as amended from time to time.
- 1.21 **Plan Administrator** means the Committee.
- 1.22 **Plan Fiduciary** means any individual and/or entity that exercises any discretionary authority or discretionary control or responsibility in the administration of the Plan, or has any discretionary authority or control with respect to the management or disposition of Plan assets.
- 1.23 **Plan Year** means the calendar year.
- 1.24 **Qualified Military Service** means the period during which a Participant performs service (while on active or inactive duty or training, with the Army, Navy, Air Force, Marines, Coast Guard, Reserves, and/or the Army, and/or Air National Guard, Commissioned Corps of the Public Health Service, and any other service designated by Executive Order) that remains protected by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. § 4301 *et seq.* so that he/she retains statutory re-employment rights. To be eligible for USERRA rights, the Participant must resume Employment after his/her honorable discharge, within the time limits

prescribed by applicable law for the length of his/her leave, which range from immediately after termination of Qualified Military Service to 90 days. As described in specific provisions throughout this Plan document, the Plan will treat the Participant as if his/her Employment had not been interrupted by Qualified Military Service, for purposes of the opportunity for make-up retroactive Employee Contributions for the period of Qualified Military Service, in compliance with IRC § 414(u).

- 1.25 **Qualified Roth Distribution** means a non-taxable distribution from a Roth Account or Roth Rollover Account that is made (a) after the Participant has terminated Employment, or reached age 59-1/2 for an unforeseeable emergency hardship distribution under Section 5.2 (the *Qualified Purpose Rule*), and (b) at least five calendar years after the beginning of the earlier of: (1) the first year for which the Participant made a Roth Contribution under this Plan, or (2) if he/she made a direct Rollover Contribution to his/her Roth Rollover Account, the first year for which he/she made a Roth Contribution under the 403(b) Plan, 401(k) Plan, or governmental 457(b) plan from which the Rollover Contribution was made (the *Five-Year Rule*). The Plan will designate a Qualified Roth Distribution as such on the Participant's Form 1099-R or direct rollover documents.
- 1.26 **Rollover Contribution.** See the definition of **Contributions**.
- 1.27 **Service Provider** means the third party administrator that the County appoints from time to time to manage the investment of the Plan's assets and to perform all other Plan administration functions described in the service agreement executed between the parties and other functions the Committee delegates to the Service Provider from time to time.
- 1.28 **Surviving Spouse** means the individual to whom a Participant is lawfully married under the laws of any jurisdiction, without regard to the state of residence, on his/her date of death.
- 1.29 **Termination Date** means the date Employment ends for any reason.
- 1.30 **Trust (or Trust Fund)** means the fund maintained under a trust agreement executed between the County and a Trustee for the Plan, which constitutes a part of the Plan.

- 1.31 **Trustee** means the corporation(s), individual(s) or other entity(s) appointed by the County to administer the Trust or a portion thereof, as provided in Article 8.
- 1.32 **Unforeseeable Emergency Hardship.** See Section 5.2.
- 1.33 **Valuation Date** means each business day during the Plan Year when the New York Stock Exchange is open for trading, as of which the Trustee or Service Provider will determine the fair market value of the Trust Fund and of each Account, and will make allocations to Accounts as provided in Section 4.1. The County may establish different allocation and/or Valuation Dates from time to time as it considers appropriate.

ARTICLE 2
Eligibility

- 2.1 **Eligibility.** Each Employee who participated in the 457(b) Plan on July 31, 2017 will continue to participate in the restated Plan and will continue to make the same rate of Elective Deferrals as he/she had in effect on that date, until he/she elects to contribute a different percentage or dollar amount, or elects to make Roth Contributions, or elects not to contribute. Each other Employee, regardless of his/her Employment Date, may at any time submit an election to participate in the 457(b) Plan and make Employee Contributions in the form of Elective Deferrals and/or Roth Contributions and as a percentage of his/her Compensation or a dollar amount, beginning as of the first day of the next month. See Section 3.3 for the rules for making and changing elections for Employee Contributions. If an Employee does not elect to participate when he/she is first eligible, or if a Participant has elected to stop contributing, he/she may elect to begin or resume participating as of the first day of any month, by following the election procedures described in Section 3.3. To the extent consistent with online election capabilities available from time to time, Participants may make their Contribution elections via the Plan website, or may submit elections via the interactive telephone or paper elections, all of which elections are *salary reduction agreements* within the meaning of IRC § 457(b).
- 2.2 **Eligibility after Break in Service.** A rehired Participant will have the same rights as an active Participant who suspends and resumes his/her Contribution election, as described in Section 2.1.
- 2.3 **Repayment not Permitted.** A Participant who terminates Employment, withdraws his/her Account balance, and resumes Employment, will not be permitted to repay the amount withdrawn.
- 2.4 **Leased Employees and Independent Contractors.** A leased employee is an individual who is not employed by the County but has performed services for the County on a substantially full-time basis for at least one year, under the County's primary direction or control and pursuant to an agreement between the County and a leasing organization. Leased employees will be treated as Employees to the extent required

under IRC § 414(n), but will not be eligible to participate in this Plan unless and until they become Employees. If an individual who has worked for the County as an independent contractor becomes a common-law Employee, or if a court or administrative agency determines that an individual whom the County has designated as an independent contractor is in fact a common-law Employee, he/she will not receive credit for any purpose under the Plan until the date when the County designates him/her as an Eligible Employee under the Plan.

ARTICLE 3
Employee Contributions

- 3.1 **Employee Contributions.** Before-tax and/or after-tax Roth Contributions are treated the same for purposes of the annual limit on the dollar amount that each Employee can contribute, and are referred to in the aggregate as Employee Contributions. Each Participant's election to make Employee Contributions applies to all Includable Compensation received while the election remains in effect. Participants may make regular Employee Contributions, Catch-Up Contributions (if age 50 or older by the end of the Plan Year), and Rollover Contributions, according to the rules and limitations in this Article 3. Contributions under this Plan are not coordinated or aggregated with contributions the County makes under the DeKalb County 401(a) Plan for purposes of the annual limitations on Employee Contributions.
- (a) **Limitation on Amount.** The Plan limits the amount of each Participant's Employee Contributions (before-tax and after-tax combined) for any Plan Year to avoid exceeding the Dollar Limit in effect for the Plan Year under IRC § 457(e)(15) (\$18,000 for 2017).
- (b) **Before-Tax Elective Deferrals.** Each Participant may elect the whole percentage or dollar amount of his/her Compensation that he/she wishes to contribute to the Plan on a before-tax basis, not less than 1% nor more than 100%, subject to the statutory limitations described below.
- (c) **After-Tax Roth Contributions.** The County treats each Roth Contribution made in compliance with IRC § 402A as includible in the Participant's income at the time he/she would have received that amount in cash if he/she had not made a Roth Contribution. The Plan treats after-tax Roth Contributions the same as before-tax Contributions for purposes of the IRC § 457(e)(15) annual Dollar Limit. Elections to make Roth Contributions are irrevocable after the elected amount is withheld from Compensation. Participants may not elect to transfer amounts to their Roth Account(s) from their Elective Deferral Account, or vice versa, except as permitted in this Section.

- (1) **After-Tax Basis.** Each Participant must designate the amount of the Roth Contribution he/she elects to contribute on an after-tax basis for each Plan Year, in lieu of all or a portion of the before-tax Contribution he/she otherwise is eligible to make under Subsection 3.1(b), or in lieu of all or a portion of the before-tax Catch-Up Contribution that he/she otherwise is eligible to make under Subsection 3.1(d).
 - (2) **Separate Accounting for Roth Contributions.** The Plan will not credit any amounts to a Participant's Roth Contributions Account, other than his/her Roth Contributions and attributable earnings.
 - (3) **Roth Conversion.** The Plan will permit each eligible active Participant and each terminated Participant to elect to pay the current income taxes on all or part of his/her Elective Deferral Account and/or Rollover Account, and directly transfer the taxed amount to his/her Roth In-Plan Conversion Account as a Roth Contribution, to the extent permitted both by applicable law as in effect from time to time and by written procedures adopted by the County from time to time.
- (d) **Catch-Up Contributions.** After a Participant who is or will be at least age 50 by the end of a Plan Year, and who has elected to make Catch-Up Contributions, makes before-tax and/or after-tax Employee Contributions up to the IRC § 457(e)(15) Dollar Limit for that Plan Year (\$18,000 for 2017), the Plan automatically converts his/her regular Employee Contributions to Catch-Up Contributions for the remainder of the Plan Year or until he/she revokes or changes the election.
- (1) **Eligible Participants.** To be eligible to make Catch-Up Contributions for a Plan Year, a Participant must have reached age 50 or must be projected to reach age 50 before the end of the taxable year (the Plan Year).
 - (2) **Annual Catch-Up Limit.** Each eligible Participant may make Catch-Up Contributions, up to the statutory limit in effect for the Plan Year (\$6,000 for 2017) as indexed to the CPI under IRC § 414(v). When a Participant's

Catch-Up Contributions reach the statutory Dollar Limit in effect for the Plan Year, the Plan will suspend his/her election until the first day of the following Plan Year and will automatically reinstate it unless he/she has elected to modify his/her election or to cease making Catch-Up Contributions, or the County has required new elections. A Participant may modify or change his/her election to make Catch-Up Contributions in accordance with the rules set forth in Section 3.3.

- (3) **Exclusion of Catch-Up from Statutory Limits.** The Plan excludes Catch-Up Contributions from the IRC § 457(e)(15) Dollar Limit (\$18,000 for 2017). The Plan is exempt from the IRC § 415 Annual Addition limit.
- (4) **Refund of Disqualified Catch-Up Contributions.** If the County determines that a Participant was not eligible to make Catch-Up Contributions for any Plan Year, the County will direct the Trustee to refund any amount that exceeds the Dollar Limit for regular Employee Contributions in effect for the Plan Year.
- (e) **Make-Up Contributions After Qualified Military Service.** The County will permit each Participant who resumes active Employment after a Qualified Military Service leave to elect to make special Employee Contributions, in an amount up to the maximum amount he/she could have contributed under this Section 3.1 if he/she had remained in Employment during his/her period of leave. Each make-up Employee Contribution will be subject to the Annual Dollar Limit under IRC § 457(e)(15) in effect for the Plan Year to which the Employee Contribution relates. The Plan will permit the Participant to make his/her special Elective Deferrals and/or Roth Contributions during the period beginning on the date when he/she resumes Employment and continuing for a period equal to the lesser of three times the length of his/her military leave, or five years. The amount of his/her special before-tax and/or after-tax Roth Contributions will be based on the Compensation he/she would have received if he/she had remained in active Employment, at his/her rate of pay in effect when he/she began his/her leave. If that pay rate cannot be determined with certainty, the Plan will treat him/her as having Compensation equal to the amount he/she received during the 12-month period

preceding his/her leave, or during the entire period of his/her Employment if shorter than 12 months. The Plan will treat make-up Employee Contributions as having been made in the Plan Year designated by the re-employed veteran Participant.

- 3.2 **Vesting in Employee Contributions.** All Employee Contributions, and all earnings allocated to Employee Contribution Accounts, are 100% vested at all times.
- 3.3 **Election to Make Employee Contributions.** Except for Plan Years for which the County requires all Participants to submit new elections, once a Participant submits an affirmative election to make Employee Contributions as a percentage of Compensation or as a dollar amount, that percentage or dollar amount is *evergreen* (i.e., it remains in effect until he/she affirmatively elects a different percentage or dollar amount, or zero, or ceases to be an Employee). A Participant's elected percentage or dollar amount will apply to his/her increased or decreased Compensation. When a Participant's Employee Contributions reach a Plan or statutory limit for a Plan Year, the Plan will suspend his/her election until the first day of the following Plan Year and will automatically reinstate it unless he/she has elected to modify his/her election or to stop contributing, or the County has required all Participants to make new elections for the following Plan Year.
- (a) **Electronic Elections.** For periods when the Service Provider accepts electronic elections and/or interactive telephone elections, and subject to County approval, Participants may make their elections using those methods, and may change their elections for Employee Contributions as of the first day of any month. Participants must submit their electronic or telephone elections by the last day of the month preceding the month in which the election becomes effective, or by any earlier deadline the County establishes and announces from time to time.
- (b) **Paper Elections.** For any period when electronic or telephone elections are not available, an Employee who wishes to begin or resume contributing must properly complete the enrollment procedures (including execution of his/her Employee Contribution election, investment election, and beneficiary designation form provided by the Committee or the Service Provider), and must submit the election to the Committee or its designee before the last day of the month preceding the

month in which the election becomes effective, or by any earlier deadline the Committee establishes and announces from time to time. If for any reason the Plan is unable to implement an election to make Employee Contributions as of the payroll period for which the election is intended, the Plan will implement the election as soon thereafter as administratively practicable and will allow the affected Participant to make up the missed Employee Contributions in future pay periods.

- (c) **Modification of Election.** A Participant who has elected to make Employee Contributions as a percentage or dollar amount of his/her Compensation, may modify his/her election as of the first day of any month by submitting his/her change election by the last day of the preceding month. A Participant may elect to have a higher or lower percentage or dollar amount deducted from his/her Compensation. Each modification will remain in effect until the Participant makes a new election.
- (d) **Cessation.** A Participant may elect to cease making Employee Contributions effective for any payroll period, provided that he/she must submit his/her election before the beginning of that payroll period. He/she may elect to resume making Employee Contributions as of the first day of any month, by submitting his/her election by the last day of the preceding month.
- (e) **Mistakes in Contributions.** Plan Fiduciaries will take reasonable steps to ensure that the Plan is administered as written and in compliance with the IRC and applicable laws of the State of Georgia, and to correct defects as promptly as practicable. If the County discovers a material defect related to Employee Contributions, it will correct the defect, either by implementing increased Employee Contributions, or by refunding any excess, as may be needed to put the affected Participant in the same position he/she would have enjoyed if the defect had not occurred, and/or as may be needed to put the 457(b) Plan in the same position it would have enjoyed if the defect had not occurred. The County will comply with the principles of the self-correction procedures described in Revenue Procedure 2016-51 or any superseding IRS guidance. See Subsection 4.1(e) for additional provisions regarding correction of mistakes.

- (f) **Committee Regulations.** The Committee may from time to time establish, publish, and uniformly apply rules governing elections, including rules regarding the method and frequency with which elections may be made, modified or revoked.

3.4 Rollover Contributions into the Plan.

- (a) **Eligible Rollover Distribution.** For purposes of this Section, an Eligible Rollover Distribution means a payment an Employee receives from another qualified plan, 403(b) plan, or governmental 457(b) plan, or from a conduit individual retirement account (IRA), as described in Treasury Regulations § 1.402(c)-2, Q&A No. 3 (i.e., it is either (1) a lump sum distribution, or (2) a payment other than one that is part of a series of substantially equal periodic payments, made at least annually, over a period of at least 10 years, or over the lifetime or life expectancy of the Participant, or the joint lifetimes or life expectancies of the Participant and his/her named beneficiary). The Plan will not treat as an Eligible Rollover Distribution: (1) any minimum distribution required under IRC § 401(a)(9); (2) any corrective refund of employee contributions to any plan; (3) any hardship withdrawals; (4) any distributions from any plan that is not qualified under IRC § 401(a), or that does not meet the requirements for a 403(b) plan or a governmental 457(b) plan, or from an IRA that is not a conduit IRA. The Plan will not accept rollovers from a simplified employee pension (SEP) plan or a SIMPLE retirement account, or rollovers of after-tax contributions except rollovers from Designated Roth Accounts.
- (b) **Roth Contributions.** The Plan will accept a rollover from a Designated Roth Account in another plan to a Participant's Roth Rollover Account in this Plan, only if it is a direct rollover from a retirement plan that meets the requirements described in IRC § 402A(e)(1), and only to the extent the rollover is permitted under IRC § 402(c). The Plan will not accept a rollover from any Roth IRA.
- (c) **Rollover or Direct Plan-to-Plan Transfer.** An Employee who receives an Eligible Rollover Distribution may roll over all or part of the distribution to the Trustee, if the Plan determines that it complies with the requirements described in this Section 3.4. The Trustee may accept the distribution as a direct plan-to-plan transfer. An Employee may make a Rollover Contribution before he/she begins to participate,

and will have his/her Rollover Contribution as his/her sole interest in the Plan until he/she begins making Employee Contributions. The Plan may accept rollovers pursuant to affirmative rollover elections, and pursuant to default procedures as permitted under Treasury Regulations § 1.401(a)(31)-1 Q&A No. 7.

- (d) **Timing.** A rollover that is not a direct transfer must be made within 60 days after the Participant receives the Eligible Rollover Distribution, except to the extent the IRS permits a longer period due to the Participant's circumstances. The Plan will deposit the rollover check into the Trust Fund as soon as practicable after receipt.

- (e) **Required Information and Separate Rollover Account.** The Committee will adopt such procedures, and may require such information from the Employee who applies to make a Rollover Contribution, as it considers necessary to determine whether the proposed rollover or direct plan transfer will meet the requirements of this Section. The Committee may require the Employee to submit a written certification that he/she received his/her Eligible Rollover Distribution from another eligible retirement plan or from a conduit IRA. Upon approval, the Rollover Contribution will be deposited in the Trust Fund and will be credited to the Employee's applicable Rollover Account.

- (f) **Prohibited Rollovers and Transfers.** The Plan will not accept Rollover Contributions from any plan that is subject to the joint and survivor annuity requirements set forth in IRC §§ 401(a)(11) and 417, unless the Employee presents acceptable evidence that his/her Spouse consented in writing to the distribution from such plan in a manner that complies with the spousal consent requirements prescribed under IRC §§ 401(a)(11) and 417. The Plan may require the Employee to submit a written certification that he/she received his/her distribution from a qualified plan that either was not subject to the spousal consent requirements or contained an exemption for his/her distribution, or that his/her Spouse properly consented to the distribution. Unless the Committee adopts a resolution providing otherwise, the Plan will not accept the rollover of loans or any property other than cash.

- (g) **Refund of Prohibited Rollovers.** If the Plan discovers that a Participant has made a Rollover Contribution to the Plan that fails to comply with this Section or with any applicable law, the Plan will refund the Rollover Contribution and all earnings attributable to it as soon as practicable.

- (h) **Reliance on Employee's Representations.** The County may in good faith rely on the representations made by an Eligible Employee in his/her application to make a Rollover Contribution and will not be held accountable for any misrepresentation of which it did not have actual knowledge.

3.5 **Transfer of Deferrals and Contributions to the Trustee.** The County will transfer to the Trustee the Employee Contributions that are withheld from payroll, as of the earliest date when such Contributions can reasonably be segregated from The County's general assets, but in no event later than the 15th business day of the month following the month during which the amounts were withheld.

ARTICLE 4
Allocations to Accounts

4.1 Adjustments to Account Balances.

- (a) **Regular Valuation Dates.** As of each Valuation Date, the Trustee or Service Provider will determine the fair market value of the Trust Fund. As soon as practicable after the Service Provider processes the County's payroll data and other relevant records, the Service Provider will adjust the Account balances of each Participant to reflect his/her allocations of Employee Contributions (if any), distributions from his/her Accounts, and investment gains or losses and expenses.
- (b) **Administrative Fees.** The Plan may charge reasonable and uniform administrative fees to Participant Accounts, both for general administration and for any individual services a Participant may use. The Service Provider will disclose all such fees to affected Participants.
- (c) **Valuations Binding.** In determining the value of the Trust Fund and the individual Accounts, the Trustee or Service Provider and the County will exercise their best judgment. All determinations of value are binding upon Participants and their beneficiaries.
- (d) **Statement of Account Balances.** As soon as practicable after the end of each calendar quarter, the Plan will provide to each Participant and beneficiary for whom an Account is maintained a statement showing all allocations to and distributions from his/her Accounts, and the current value of his/her Accounts. For any Plan Year, the Plan may provide statements more frequently, and may provide Participants electronic access to their statements in lieu of paper statements.
- (e) **Mistakes in Account Balances.** The Committee will take reasonable steps to ensure that this Plan document is in compliance with all applicable laws as in effect from time to time, and to ensure that the Plan is administered as written. If the Committee discovers a material defect in any Account balance or distribution from the Plan, it will take reasonable steps to correct the defect as promptly as practicable. The Committee will make a good faith effort to correct administrative

errors in the manner it considers appropriate under the circumstances and in compliance with the principles of Revenue Procedure 2016-51 or any succeeding IRS guidance on self-correction of operational defects. If the Committee determines that the burden or expense of seeking recovery of any overpayment or correcting any immaterial defect would be greater than is warranted under the circumstances, it may in its discretion forego recovery or other correction efforts. In correcting administrative defects, the Committee may make insignificant variances from Plan provisions (including but not limited to timing of payment), to the extent any such variance would comply with applicable compliance requirements if it were set forth in a written provision of the Plan.

4.2 **Investment Elections.**

- (a) **Investment Funds.** From time to time, the Committee will direct the Service Provider and/or the Plan's investment advisor(s) to make available one or more funds for the investment of Account balances, as elected by each Participant or beneficiary. The Committee or its agent will timely describe to Participants and their beneficiaries the investment funds that are available from time to time, either electronically or in written notices or in prospectuses upon request.
- (b) **Liquidity.** The Trust Funds may hold cash and other liquid investments in such amounts as the Committee and/or the Trustee consider necessary to meet the Plan's liquidity requirements and to pay administrative expenses.
- (c) **Investment Elections.** Participants must contact the Service Provider to make their investment elections. The Service Provider will issue a written confirmation of each election.
 - (1) **Initial Election.** Participants may elect to have the aggregate balances in their Accounts invested among the investment funds in 1% increments.
 - (2) **Failure to Elect.** The Committee will direct the Trustee and/or the Service Provider to invest the Account balances of any Participant who fails to timely submit his/her investment election. Although this is a governmental plan, the

Trustee and/or Service Provider may invest 100% of such Participant's contributions in a fund that meets the statutory requirements for Qualified Default Investment Alternatives (QDIAs) under ERISA § 404(c) (i.e., life-cycle funds, balanced funds, and/or professionally managed funds).

- (d) **Change in Investment Election.** As of any Valuation Date, each Participant may change his/her investment election for the balance(s) in his/her existing Account(s), in 1% increments. Re-investment elections for existing balances will become effective as of the Valuation Date when made if the Participant submits his/her investment election no later than the daily time deadline established by the Service Provider and communicated to Participants. Otherwise, the election will become effective as of the next following Valuation Date. Investment elections for future Employee Contributions and Employer Contributions will be effective when made.
- (e) **Investment Fee Payment and Disclosure.** All fees related to each investment fund will be paid from that fund. Although the Plan is governmental, it may comply with guidance on disclosure of investment fees as may be issued by the U. S. Department of Labor from time to time.
- (f) **Special Election Procedures.** The Committee may direct or permit (1) termination of investment funds; (2) selection of new investment funds; (3) other election submission dates; and/or (4) any other variance from the provisions stated in this Article 4 as it considers appropriate, under procedures adopted by the Committee, published to Employees, and uniformly applied.
- (g) **Election Rights of Terminated Participants.** The Plan will permit a terminated Participant, to continue to direct the investment of his/her Account balances until the balances are distributed.

ARTICLE 5
In-Service Withdrawals and Loans

5.1 In-Service Withdrawals.

- (a) **Small Balances.** If (a) a Participant's aggregate Employee Contribution Account balance does not exceed \$5,000; (b) he/she has not made any Employee Contributions during the two-year period ending on the withdrawal date; and (c) he/she has not previously received an in-service withdrawal under this Section 5.1, he/she may elect to withdraw his/her entire Account balance(s) in the Plan, or the Plan may distribute his/her entire Account balance(s) without his/her consent to prevent diminution in value due to administrative fees. Such distributions are eligible rollover distributions under Section 6.10.
- (b) **Age 70 1/2 Withdrawals.** An active Participant who has reached age 70-1/2 may make an inservice withdrawal or rollover of all or part of his/her Account balances.

5.2 Unforeseeable Emergency Hardship Withdrawals. An active Participant who wishes to make an unforeseeable emergency hardship withdrawal during his/her Employment must contact the Committee, and must specify the amount to be withdrawn. He/she must provide a written explanation of the reasons for the withdrawal and such other information and documentation as the Committee may request. The Trustee will issue payment of the amount withdrawn as promptly as practicable after approval of the request. Terminated Participants, and their beneficiaries, are not eligible for hardship withdrawals. Such withdrawals are not eligible rollover distributions under Section 6.10.

- (a) **Available Amount.** The amount withdrawn may not exceed the actual expenses incurred or to be incurred by the Participant because of his/her hardship. The amount cannot be less than the lesser of \$1,000 or the total balance in the Participant's Employee Contribution Account.
- (b) **Unforeseeable Emergency Events Test.** A Participant may make a hardship withdrawal only if he/she provides acceptable evidence that he/she has an unforeseeable emergency that creates a severe financial hardship that he/she

cannot meet without the withdrawal. A hardship withdrawal must be necessitated by either (1) sudden and unexpected illness or accident of the Participant or his/her *qualifying child*, *qualifying relative*, or designated beneficiary under this Plan, which would be deductible under IRC § 213(d) if determined without regard to whether medical expenses exceed 7.5% of adjusted gross income; (2) loss of the Participant's property due to casualty; or (3) other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the Participant's control, such as the imminent foreclosure of or eviction from the his/her primary residence, or the need to pay for funeral expenses.

For purposes of this Subsection, the terms *qualifying child* and *qualifying relative* have the meanings stated in IRC § 152 and/or any other applicable law as in effect from time to time. A qualifying child may be the Participant's natural, adopted or step child, foster child, sibling, or a descendant of any such person; he/she must share the Participant's residence for more than half the year, must be younger than the Participant and under age 19 (or under age 24 if a full-time student, or any age if totally and permanently disabled). Any other dependent must be a qualifying relative (natural, adoptive or step parent, in-law, child, grandchild, sibling, niece, nephew, aunt, uncle, or unrelated individual who shares the Participant's residence as a member of the household) who receives over half of his/her support from the Participant; it is irrelevant that such relative files a joint tax return with his/her spouse.

- (c) **Facts-and-Circumstances Needs Test.** The 457(b) Plan will treat a withdrawal as needed to meet the Participant's unforeseeable emergency hardship based on the following facts and circumstances. This test does not require the suspension of Elective Contributions after a hardship withdrawal, unless suspension would relieve the hardship.
- (1) **Amount Needed.** The amount withdrawn cannot exceed the amount of the need, plus (as part of the same withdrawal) the reasonably estimated amount of taxes and penalties he/she must pay on the withdrawal.

- (2) **Reliance on Participant's Representation.** The Committee may in good faith rely on the Participant's written representation that he/she cannot relieve his/her need from other resources that are reasonably available, including (A) insurance; (B) sale of assets; (C) cessation of deferrals under the Plan; (D) other available withdrawals, distributions, and nontaxable loans under qualified and nonqualified Plan maintained by the County or any other employer; or (E) loans from commercial sources on reasonable terms. The Committee will not consider any resource as being reasonably available to meet the need if the effect would be to increase the amount of the need or create additional hardship. The Committee will not be held accountable for any misrepresentation of which it did not have actual knowledge.
- (d) **Order of Withdrawal from Accounts.** The Plan will withdraw the hardship amount from the Participant's Accounts (as applicable) in the following order: Elective Deferral Account, Rollover Account, Designated Roth Account, Roth In-Plan Conversion Account, and Roth Rollover Account (the hierarchy method). The Plan will withdraw the hardship amount pro rata from the investment funds in which the Account balances used for the withdrawal are invested (the pro rata method). Because an in-service withdrawal from a Roth Account or Roth Rollover Account is taxable to the extent of pro-rated earnings unless the Participant is eligible for a Qualified Roth Distribution (i.e., has met the age 59-1/2 and 5-year requirements), the Trustee will withdraw from a Roth Account or Roth Rollover Account only to the extent required for the withdrawal. If the distribution is non-qualified, the Plan will report the taxable portion of the withdrawn amount on Form 1099-R, including a pro-rata portion of earnings allocated to the Roth Accounts and Roth Rollover Account, regardless of whether earnings are actually withdrawn. The amount available for future hardship withdrawals will be reduced by the amount of the withdrawal.
- (e) **Uniformity.** The Plan will determine the existence of the Participant's immediate and heavy financial need and the necessity for the withdrawal to meet the need, in a uniform and nondiscriminatory manner.

5.3 **Qualified Reservist Distribution.** The statutory provisions for Qualified Reservist Distributions do not apply to 457(b) plans.

5.4 **Loans.** The Plan will grant loans in a uniform and nondiscriminatory manner, subject to the following rules.

- (a) **Application and Eligibility.** An active Participant who wishes to make a loan from his/her Account(s) during his/her Employment must contact the Service Provider and specify the amount to be borrowed. No Participant may receive a loan after he/she terminates Employment, and no beneficiary is eligible for a loan. The Plan may deny a Participant's loan application if he/she failed to repay a previous Plan loan according to his/her repayment schedule. Any Participant who has defaulted on the outstanding balance of a previous loan is not eligible to make a loan from the Plan(s).
- (b) **Available Amount.** A Participant may request a loan from the vested balances in his/her Account(s). The loan from the Plan may not exceed the lesser of (1) 50% of his/her vested Account balance as of the date the loan is approved, or (2) \$50,000. If he/she had an outstanding loan balance within the past 12 months, the \$50,000 limit will be reduced by an amount equal to his/her highest outstanding balance during the 12 months immediately preceding the date when his/her loan is approved. The minimum amount of each loan will be \$1,000.00, unless the Plan has published another limit.
- (c) **Loan Processing Fees.** The Service Provider may assess an individual service fee for processing each loan, a loan maintenance fee, and/or a repayment processing fee for terminated Participants, according to a fee schedule in effect from time to time and communicated to Participants. The affected Participant's Account statement will disclose the amount of fees assessed for processing his/her loan. Early repayment of a loan will not result in reimbursement of any of the fees. The Service Provider will not deduct individual service fees from the proceeds of a loan made to a Participant who is on a Qualified Military Service leave, but rather will treat such fees as a Plan expense.
- (d) **Frequency of Loans.** Each Participant will be eligible to have no more than one outstanding loan at any one time.

- (e) **Interest.** Each loan will bear interest at a reasonable rate established by the Plan from time to time on the basis of rates currently charged by commercial lenders. As of the Effective Date, the Plan uses the prime rate as determined by the Service Provider, unless the Plan establishes a different rate. The Plan will charge interest on loans in a uniform and nondiscriminatory manner. See Subsection (j) for interest rates used during Qualified Military Leaves.
- (f) **Security.** Each loan must be secured by the Participant's pledge of the balances in his/her vested Account from which his/her loan is made. The Plan treats each loan as an investment of the Participant's borrowed Account balance and credits his/her principal and interest payments to his/her Account. Principal and interest payments are invested according to the Participant's investment election in effect on the date when each repayment is made.
- (g) **Term.** Each loan will be for a term not exceeding 5 years, except that the term may extend up to 15 years if the loan proceeds are used to purchase a Participant's principal residence (including land purchase and construction costs). If the Plan suspends the repayment obligation of a Participant who is on active Qualified Military Service leave, the Plan will extend the term of his/her loan by a period equal to the suspension period. The Plan will not extend the term of any loan for any Participant other than one who is on active Qualified Military Service leave as provided in Subsection (j) below.
- (h) **Repayment.**
 - (1) **Payroll Deduction for Active Participant.** So long as a Participant earns Compensation, he/she must make his/her loan repayments by payroll deductions in equal amounts throughout the term of the loan.
 - (2) **Inactive Participant.** A Participant who has an outstanding loan balance when he/she terminates or retires, or takes an unpaid leave of absence, and wishes to repay all or part of his/her outstanding balance, must either deliver a single lump sum payment to the Service Provider no later than the last day of the calendar quarter following the quarter in which he/she stops repaying

via payroll deductions, or make arrangements with the Service Provider to repay the loan by making regular periodic payments in a specified minimum amount.

- (i) **Default.** If a Participant fails to timely make one or more repayments due on his/her loan, and fails to make up the missed payment(s) with accrued interest by the end of the calendar quarter following the calendar quarter in which a repayment was first missed, the Plan will declare a default of the entire outstanding balance. If the Participant has terminated Employment, the Plan will treat the outstanding balance as a distribution, unless the Participant has made arrangements to repay the loan no later than the end of the original term of the loan. If the Participant has not terminated Employment, the Plan will treat the outstanding balance as a deemed distribution and will hold the canceled note in the affected Account(s) and accrue interest on the defaulted amount until the Participant terminates Employment, and will then treat the outstanding balance as a distribution. Whether or not a defaulted Participant has terminated, the Plan will issue a Form 1099-R for the outstanding balance for the year in which the default occurs. The earnings portion of a defaulted amount in a Roth Account will be a taxable distribution regardless of whether the Participant is eligible for a Qualified Roth Distribution.

- (j) **Suspension of Repayments During Military Leave.** Each Participant may elect to suspend his/her loan repayments while he/she is on unpaid Qualified Military Service leave. The maximum repayment period will be extended by the length of the suspension. For any period for which the Committee approves a Participant's documentation of his/her Qualified Military Service leave, the Plan will charge an interest rate not greater than 6% (or such other rate prescribed by the Servicemembers Civil Relief Act (SCRA) or other applicable law); this maximum rate includes all loan fees. The Participant must submit proper documentation of his/her Qualified Military Service leave within 180 days after the last day of such Service. The Plan will adjust the interest rate to the extent necessary to comply with the SCRA.

- (k) **Suspension of Repayments During Unpaid Leave.** Each Participant may elect to suspend his/her loan repayments for a period up to 12 months while he/she is

on an approved unpaid leave of absence, other than a Qualified Military Service leave. This suspension will not extend the original term of the loan beyond 5 or 15 years (as applicable), and the amount of each repayment due after the leave ends or after the first year of the leave, will not be less than the repayment amount required under the terms of the original loan. Unless the Participant makes periodic repayments sufficient to achieve full repayment within the original term of the loan, he/she must make a balloon payment before the end of the original loan term in the amount of the suspended repayments plus accrued interest, unless the Plan has recalculated and increased the monthly payments so that the loan is repaid in full within the original term of the loan.

- (l) **Revisions to Loan Rules and Procedures.** The Committee may in its discretion revise the rules and procedures that govern Plan loans, as it considers appropriate for administrative and/or compliance purposes.

5.5 **No Rollover Rights.** Hardship withdrawals and loan proceeds are not eligible for rollover.

ARTICLE 6

Post-Employment Distributions

- 6.1 **Distribution Events.** Each Participant may leave his/her Account balance(s) in the Plan(s) until the later of his/her Termination Date or the end of the Plan Year when he/she reaches age 70-1/2. Each beneficiary may leave his/her Account balance(s) in the Plan(s) until his/her Required Distribution Date under Section 6.6.
- (a) **Termination of Employment.** A Participant who terminates Employment for any reason will be eligible for either immediate or deferred distribution of his/her aggregate vested Account balance(s). The Participant must apply for distribution using the procedures prescribed by the Committee from time to time, and must provide all requested documentation. The Trustee will issue the distribution as soon as practicable after approval of the application.
- (b) **Death.** If a Participant dies with an Account balance in the Plan, the Plan will pay his/her vested balances to his/her beneficiary(s). The Surviving Spouse will be the sole primary beneficiary unless the Participant has designated another beneficiary. The beneficiary(s) must apply for a distribution using the procedures prescribed by the Committee from time to time, and must provide proof of death, proof of identity, and all documentation required by the Committee. If the Surviving Spouse is the beneficiary, he/she may apply for the distribution at any time after the Participant's death, but the distribution must be made no later than the end of the year when the Participant would have reached age 70-1/2. If the beneficiary is not the Surviving Spouse, the Plan will make the distribution no later than the end of the fifth year following the year of the Participant's death. Upon request, the Plan will make all or part of the distribution as a direct rollover, which will permit the beneficiary(s) to defer taxation until they are required to receive a distribution. The Surviving Spouse or non-Spouse beneficiary will be assessed ordinary income tax on the amount distributed for the year when it is received from this Plan or from the rollover plan or account, except for the portion that is a Qualified Roth Distribution, if any. The Trustee will issue the distribution or implement the rollover as soon as practicable after approval of the application.

- (c) **Disability.** If a Participant incurs a medically certified total and permanent disability and applies for distribution of his/her Account balance(s) before his/her Termination Date, the Committee will defer the distribution until after his/her Termination Date.
 - (d) **Plan Termination.** If the County terminates the Plan in part or in whole, and the Committee directs distribution of benefits to affected Participants, the Plan will make lump sum distributions as soon as practicable.
 - (e) **Qualified Military Service.** If a Participant is called to active Qualified Military Service for more than 30 days, the Plan will treat him/her as having terminated Employment solely for the purpose of his/her eligibility to receive a distribution of all or part of his/her Account balance(s) upon request. The Participant who elects a distribution will be suspended from making Employee Contributions for a period of 6 months after the distribution.
- 6.2 **Amount of Distribution.** A Participant or beneficiary will receive his/her distribution based on the amount of his/her Account balance(s) determined as of the Valuation Date on which the distribution is processed.
- 6.3 **Timing of Distribution.** The Plan will direct the Trustee to make distribution to a Participant or beneficiary as soon as practicable after his/her application is approved.
- (a) **Automatic Cash-Out.** The Plan automatically will distribute any Account balance not over \$1,000 as soon as practicable after the Participant's Termination Date.
 - (b) **Distribution to a Participant.** A Participant may elect to receive distribution of his/her Account balance(s) as soon as administratively practicable after his/her Termination Date, or may defer distribution to the extent permitted by the Minimum Required Distribution rules in Section 6.6. A terminated Participant whose Account balance in the Plan exceeds \$1,000 may leave his/her Account balance in the Plan until distribution is required under Section 6.6.
 - (c) **Distribution to a Beneficiary.** Each beneficiary of a deceased Participant may elect to receive distribution of his/her Account balance(s) as soon as administratively

practicable after providing evidence satisfactory to the Committee of the Participant's death and the beneficiary's identity. A non-Spouse beneficiary may not defer distribution later than December 31 of the fifth year following the year of the Participant's death (the *Five-Year Distribution Rule*). A Surviving Spouse may not defer distribution later than December 31 of the year in which the deceased Participant would have reached age 70-1/2.

- (d) **Automatic Rollover Rules.** If a terminated Participant's Account balance in the Plan is more than \$1,000, and the Participant does not affirmatively elect to receive the distribution directly or to have the distribution paid directly to an eligible retirement plan or IRA by the first day of month in which his/her Required Distribution Date occurs under Section 6.6, the Plan will pay his/her Account balances to him/her in a single lump sum. The Committee reserves the right to automatically roll over any Account balance between \$1,000 and \$5,000 to an individual retirement account (IRA) designated by the Committee if it determines that the administrative expense of retaining such balances in this Plan is not in the best interest of the Plan or its Participants.

6.4 **Lump Sums, As-Needed Distributions, and Annuity Contracts.**

- (a) **Automatic Cash-Out.** The Plan will cash out the Account balance of any terminated Participant in the Plan whose balance is not over \$1,000.
- (b) **Lump Sum Form of Distribution.** The Plan will make all post-Employment distributions in a single lump sum, except as provided in Subsection (c).
- (c) **As-Needed Distributions.** Any Participant whose Account balance in the Plan exceeds \$1,000, and who defers distribution after his/her Termination Date, may request distributions as needed, but not more frequently than once each calendar quarter and not in amounts less than \$1,000. The Plan will not make an as-needed distribution that reduces an Account balance below \$1,000. Each terminated Participant may elect a final distribution at any time and is required to take a final distribution no later than his/her Required Distribution Date under Section 6.6.

- (d) **Annuity contracts.** Each annuity contract will specify the times and optional forms of distribution available under the contract .

6.5 **Distributions from Roth Accounts.**

- (a) **Qualified Roth Distribution.** To facilitate each affected Participant's right to claim an exemption from federal income tax for all or part of his/her distribution, which is the purpose for Roth Contributions, the Plan will designate each Qualified Roth Distribution as such. A Qualified Roth Distribution is a withdrawal from a Roth Account and/or Roth Rollover Account that is not subject to federal income tax because it is made (1) after the Participant has terminated Employment (the *Qualified Purpose Rule*), and (2) at least five calendar years after the beginning of the earlier of: (A) the first year for which the Participant made a Roth Contribution under this Plan, or (B) if he/she made a Rollover Contribution to his/her Roth Rollover Account in this Plan, the first year for which he/she made a Roth Contribution under the 403(b) plan, 401(k) plan, or governmental 457(b) plan from which the Rollover Contribution was made (the *Five-Year Rule*).
- (b) **Distributions to Alternate Payee or Beneficiary.** If the Plan makes a distribution from a Roth Account or Roth Rollover Account to an alternate payee or beneficiary, the Plan will use the Participant's age, death or disability date to determine whether the distribution is a Qualified Roth Distribution.
- (c) **Nonqualified Distribution.** If the Plan makes a distribution to a Participant that does not meet the requirements for a Qualified Roth Distribution, the portion of the payment that constitutes earnings will be subject to federal income tax in the year when the distribution is made.

- 6.6 **Minimum Required Distributions.** The requirements of this Section take precedence over any inconsistent provisions of the Plan. The Plan will determine and pay all distributions required under this Section in accordance with IRC § 401(a)(9) and Treas. Regs. § 1.401(a)(9), which are incorporated into the Plan. If any provision of this Plan document is inconsistent with IRC § 401(a)(9), the latter will prevail.

- (a) **Applicable Definitions.** For purposes of this Section, the following terms have the meanings set forth below.
- (1) **Account Balance** means the Participant's aggregate Account balances as of the last valuation date in the calendar year immediately preceding the Distribution Calendar Year.
 - (2) **Distribution Calendar Year** means a calendar year for which a minimum distribution is required.
 - (3) **Designated Beneficiary** means the Participant's Surviving Spouse, or another individual who is designated as a beneficiary under Section 6.7, and is a Designated Beneficiary within the meaning of Treasury Regulations § 1.401(a)(9)-4 and remains so as of September 30 of the year following the Participant's year of death. The Plan permits Participants to designate multiple beneficiaries.
 - (4) **Five-Year Rule** means the rule that requires the Plan to distribute the entire balance in a Participant's Account(s) by December 31 of the fifth year following the year of his/her death, or the Surviving Spouse's death if he/she is the sole beneficiary and does not survive long enough to receive the distribution.
 - (5) **Required Distribution Date**, means December 31 of the later of the calendar year in which the Participant reaches age 70-1/2 or the year in which he/she terminates from the County (although IRC § 401(a)(9) would permit distribution to be deferred to the following April 1). The Required Distribution Date for a Surviving Spouse is December 31 of the calendar year in which the Participant would have reached age 70-1/2 if he/she had survived, or if later December 31 of the year when the Participant died while in Employment. The Required Distribution Date for a non-Spouse Beneficiary is December 31 of the fifth year following the year of the Participant's death. The Plan will distribute each Participant's and each beneficiary's entire interest no later than his/her Required Distribution Date. A Participant may

elect to receive as-needed withdrawals under Section 6.4 until his/her Required Distribution Date.

- (b) **Participant's Death Before his/her Required Distribution Date.** If a Participant dies before his/her Required Distribution Date, the Plan will distribute the entire balance in his/her Account(s) no later than the Designated Beneficiary's Required Distribution Date, as follows:
- (1) **If the Surviving Spouse is a Designated Beneficiary,** the Plan will make a lump sum distribution to him/her by December 31 of the calendar year following the later of the calendar year in which the Participant died or the calendar year in which he/she would have attained age 70-1/2 if he/she had survived.
 - (2) **If the Surviving Spouse is not the sole Designated Beneficiary,** the Plan will make a lump sum distribution to the non-Spouse Designated Beneficiary(s) by December 31 of the fifth calendar year following the calendar year in which the Participant died.
 - (3) **If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death,** the Plan will make a lump sum distribution of the entire balance in the Account(s) by December 31 of the fifth calendar year following the year of the Participant's death, to the beneficiary(s) who have that status under Subsection 6.7(a).
 - (4) **If the Surviving Spouse is the sole Designated Beneficiary and the Surviving Spouse dies after the Participant but before distribution to the Surviving Spouse is made,** the Plan will apply Subsections (b) (2) and (3) above as if the Surviving Spouse were the Participant.
- (b) **Trust as Designated Beneficiary.** If a Participant names a trust as a beneficiary, the Plan(s) may treat the beneficiaries of the trust as the Designated Beneficiaries for purpose of the minimum distribution requirements, if the trust complies with Treas. Regs. § 1.401(a)9-4 Q & A 5. The Designated Beneficiaries must provide the Committee the trust documentation that certifies

the Designated Beneficiaries under the trust, by October 31 of the year following the year of the Participant's death.

6.7 **Beneficiary Designation.**

- (a) **Procedure.** Each Participant may name as his/her primary and/or contingent /beneficiary one or more individuals or an entity other than a natural person, e.g., a trust, estate, foundation, charity, school, church, etc., to receive any Account balance remaining in the Plan after his/her death. If no designated beneficiary survives a Participant, the Plan will treat his/her Surviving Spouse (if any) as the beneficiary, or if none then the Participant's descendants per stirpes, or if none then the Participant's estate. If the Participant names more than one beneficiary, he/she must designate the amount or percentages payable to each, and may indicate whether each beneficiary is primary or secondary. A Participant may change his/her beneficiary(s) at any time before his/her death. After the Participant's death, the beneficiary will have the right to make investment elections under Section 4.2, and to elect distribution under the rules set forth in this Article 6. The Plan will not honor any beneficiary designation that the Plan did not receive before the Participant's death. A Participant's designation of his/her Spouse as the beneficiary of his/her Account balance(s) will be automatically revoked at the date and time when their divorce is final.
- (b) **Distribution to Minor or Incompetent Beneficiaries.** If a deceased Participant's beneficiary is a minor, or is legally incompetent, the Trustee will make distribution to the court-appointed guardian or representative of such beneficiary, or to a trust established for the benefit of such beneficiary, as applicable. If no guardian or representative is appointed, and no trust is established, the Plan may defer distribution until the earlier of the date the beneficiary reaches majority or becomes legally competent under applicable state law, or the end of the fifth calendar year following the Participant's death, at which time the Plan may distribute the balance due to the beneficiary into an IRA or similar account established in the beneficiary's name. Such distribution will be in full satisfaction of all liabilities that the Plan and Plan Fiduciaries have with respect to the deceased Participant and the beneficiary.

(c) **Disclaimer of Beneficiary Status.** An individual beneficiary may disclaim the right to receive all or part of any Account balance that otherwise would be payable, by presenting to the Committee a written and notarized disclaimer. The Plan will treat the beneficiary who has disclaimed his/her rights as if he/she predeceased the Participant.

(d) **Judicial Determination.** If the Committee for any reason considers it improper to direct any distribution as specified in this Section, it may have a court of applicable jurisdiction determine to whom distributions should be made.

6.8 **Distribution to the Participant's Representative.** If a Participant is incompetent to handle his/her affairs at any time while he/she is eligible to receive a distribution from the Plan, the Trustee will make distribution to his/her court-appointed personal representative, or if none is appointed the Trustee may in its discretion make distribution to his/her next-of-kin or attorney-in-fact, for the benefit of the Participant. The Committee may request a court of competent jurisdiction to determine the payee. Such distribution will be in full satisfaction of all liability that the Plan and Plan Fiduciaries have with respect to the Participant.

6.9 **Unclaimed Benefits.** If the Committee cannot locate, with reasonable effort and after a period of five years, any person entitled to receive a Participant's Account balances, his/her balances will be forfeited to avoid continued administrative fees, but will be reinstated without interest in the event he/she subsequently makes a claim for benefits. Pursuant to O.C.G.A. § 44-12-207, no unclaimed benefits under the Plan will escheat to the State of Georgia.

6.10 **Direct Rollover of Eligible Distributions.**

(a) **Applicable Definitions.** For purposes of this Section, the following terms have the meanings set forth below:

(1) **Eligible Rollover Distribution.** Eligible Rollover Distributions include (A) lump sum distributions, and (B) any other distribution that is not part of a series of substantially equal periodic distributions, made at least annually, over a period of at least 10 years, or over the lifetime or life expectancy of a

Participant or the joint lifetimes or life expectancies of the Participant and his/her named beneficiary. The Plan into which a Participant or beneficiary may roll over his/her Eligible Rollover Distribution include the following, if they accept such rollovers: (A) an IRC § 401(a) qualified retirement plan; (B) an annuity contract described in IRC § 403(b); (C) an eligible deferred compensation plan described in IRC § 457(b) maintained by a governmental employer (if the plan agrees to separately account for the rollover); (D) an individual retirement account (IRA) described in IRC § 408(a); (E) a Roth IRA described in IRC § 408A; (F) an individual retirement annuity described in IRC § 408(b) other than an endowment contract; and (G) an annuity plan described in IRC § 403(a).

- (2) **Ineligible Distribution.** Distributions that are not Eligible Rollover Distributions include (A) minimum required distributions under IRC § 401(a)(9) as described in Section 6.6; (B) hardship withdrawals; (C) refunds of Employee Contributions in excess of the Annual Dollar Limit; (D) refunds of Catch-Up Contributions that failed to meet the requirements stated in Subsection 3.1(d); and (E) amounts less than \$200.

- (c) **Persons Eligible to Direct a Rollover.** The following persons are eligible to instruct the Plan to roll over all or part of their Eligible Rollover Distribution to an Eligible Rollover Plan: (1) a Participant; (2) a Surviving Spouse; and (3) a non-Spouse beneficiary (but only a direct rollover to an inherited IRA that he/she established in his/her name as beneficiary of the deceased Participant and solely to receive the distribution). Trusts, estates, and other non-human beneficiaries are not eligible to make rollovers.

- (d) **Written Explanation.** The Plan will timely provide a written explanation of the right to make a direct rollover, and the right to take a distribution, minus 20% mandatory withholding for federal income tax, and roll over all or part of the distribution within 60 days. The notice will include all information required under IRC § 402(f).

- (e) **Rollover Procedures.** The payee who wishes to direct a rollover must timely provide to the Plan written information required to implement the rollover.

6.11 **IRC § 415 Limitation.** The 457(b) Plan is exempt from IRC § 415.

ARTICLE 7
Amendment, Termination and Merger

7.1 Amendment.

- (a) **Procedure.** The Committee reserves the right to amend the Plan from time to time. The Committee will determine the circumstances that necessitate a formal Plan amendment, and will draft or cause the amendment to be drafted. The Chairperson of the Committee may execute any amendment that does not require the Governing Authority's approval. The Governing Authority must approve any amendment that would substantially affect the funding or expense of the Plan, or that would significantly change a material feature of the Plan.

- (b) **Prohibited Amendments.** The Committee will not permit the adoption of any amendment that would have the effect of any of the following:
 - (1) **Exclusive Benefit.** No amendment will permit any part of the Trust Fund to be used for purposes other than the exclusive benefit of Participants and beneficiaries whose Account balances are in the Trust Fund, and the payment of reasonable administrative expenses.

 - (2) **Non-reversion.** No amendment will cause any assets of the Trust Fund to revert to the County or escheat to the State of Georgia.

 - (3) **No Reduction in Account Balances.** No amendment will eliminate or reduce any Participant's Account balance(s).

- (c) **Administrative Changes Without Plan Amendment.** The Committee reserves authority to make administrative changes to this Plan document, without formal amendment to the Plan. The Committee may implement such changes by substituting pages in the Plan document with corrected pages. Administrative changes include, but are not limited to corrections of typographical errors and similar errors, conforming provisions for administrative procedures to actual practice and changes in practice, and deleting or clarifying language that fails to accurately reflect the intended provision of the Plan.

7.2 **Termination of the Plan.**

- (a) **Right to Terminate.** The County expects the Plan to be continued indefinitely but necessarily reserves the right to terminate the Plan or any portion thereof, and all Contributions attributable to the terminated portion, at any time, subject to approval of the Governing Authority.

- (b) **Provision for Benefits Upon Plan Termination.** If the County terminates the Plan, the Committee may either: (1) continue the affected Trust, or any portion of the Trust for so long as it considers advisable and so long as permitted by law, either through the existing trust agreement(s), or through successor funding media; or (2) terminate the Trust, or any portion of the Trust, pay all expenses, and direct the payment of the benefits, either in the form of lump sum distributions, transfer to a IRC §§ 401(a) plan, a 403(b) plan, or a 457(b) governmental plan, or any other form selected by the Committee and approved by the Governing Authority, to the extent permitted by applicable law.

ARTICLE 8
Administration

- 8.1 **The Governing Authority.** The Governing Authority (the Board of Commissioners and the CEO of the County) has the responsibility for (a) making decisions about proposed amendments that would substantially affect the Plan’s funding or expense, or that would significantly change a material feature of the Plan; and (b) monitoring the performance of the Committee via self-evaluation reports quarterly unless prevented by unusual circumstances, but not less frequently than annually. The Governing Authority may choose to exercise its authority to disapprove or override the Committee’s selection of a Service Provider, Trustee, or any other investment advisor, recordkeeper, or third party administrator.
- 8.2 **The Administrative Committee.** The Governing Authority will delegate responsibility for administering the Plan to the Administrative Committee, by adopting an amended version of the Administrative Committee Charter (“Charter”) that was originally adopted for the County’s 401(a) Plan. This Charter will provide for the same Administrative Committee to serve as the Plan Administrator for both the 401(a) and 457(b) Plans, beginning on August 1, 2017. The Charter describes how Committee members are chosen, the Committee’s authority and limitations on that authority, and the timing and circumstances of its meetings.
- (a) **Plan Administrator.** The Committee will serve as the Plan Administrator, and will have the primary responsibility for the administrative functions of the Plan, and the authority to delegate such functions to Employees of the County, to third party administrators, and to other agents and representatives as the members consider appropriate for the proper administration of the Plan.
- (b) **Powers and Duties of the Committee.** The County has delegated to the Committee the primary responsibility for administering the Plan. Subject to the Governing Authority’s approval, the Committee may from time to time appoint, remove, or replace the Service Provider, the Trustee, and other investment advisors, recordkeepers, and third party administrators. The Committee will have all powers necessary to enable it to properly perform its duties, and will have sole and complete discretionary authority in the exercise of all its powers and duties.

The Governing Authority has granted to the Committee such sole and complete discretionary authority in the exercise of all its powers and duties as to invoke the arbitrary-and-capricious standard of review as opposed to the de novo standard of review in litigation. The Committee's powers and duties will include, but will not be limited to:

- (1) **Interpretation** - interpret the Plan and make final decisions on all questions and disputes arising under the Plan;
- (2) **Individual Accounts** – select and retain a third party administrator (subject to approval of the Governing Authority) to maintain individual Accounts for each Participant and allocate Contributions, expenses, investment earnings/losses, withdrawals, and distributions, to the proper Accounts;
- (3) **Employee Data** – collect and maintain complete information regarding the Compensation and Employment of each Participant, and other facts necessary to determine their rights, obligations, and benefits;
- (4) **Rights to Benefits** - determine the eligibility of any individual to participate in the Plan, the right of any Participant or beneficiary to receive benefits (including in-service withdrawals) and the amount of benefits to which each claimant is entitled, and to implement the claims procedure described in Section 8.5;
- (5) **Payments** - direct the payment of Account balances from the Fund, or appoint a disbursing agent, and specify the payee, the amount and the conditions of each payment;
- (6) **Disclosure** - prepare and distribute, or make available to Employees, plan summaries, notices, prospectuses, fee disclosures, and other Plan information required by State law and any other applicable law;
- (7) **Election Forms** – provide electronic and/or paper forms for use by Participants in making contribution and investment elections, in-service withdrawals, and applying for benefits;
- (8) **Financial Statements** – prepare or cause to be prepared periodic reports of the Plan's operation, showing its assets and liabilities in reasonable detail;
- (9) **Reporting** – oversee the timely preparation and filing of any reports that may be required under Title 47 of the Georgia Code or the IRC;
- (10) **Plan Document** – ensure that required amendments are timely drafted and adopted, maintain the Plan document in compliance with all applicable laws as

in effect from time to time, and ensure that the Plan is administered as written;

- (11) **Correction of Defects** – upon the discovery of any material defect in the Plan's administration, take reasonable steps to correct the defect as promptly as practicable and in compliance with guidance issued by the IRS for the correction of operational failures;
- (12) **Rules and Procedures** – adopt, communicate, and implement rules and procedures as necessary for the proper administration of the Plan; and
- (13) **Statutory Immunity** – perform all duties in a manner to preserve the immunity granted to Committee members under O.C.G.A. § 51-1-20.

(c) **The Trustee.** The Committee may appoint the Trustee(s), discharge any Trustee(s) and appoint one or more successor Trustees, subject to approval of the Governing Authority. Each Trustee will have the duties and responsibilities described in the trust agreement executed by the County and the Trustee(s), which is an integral part of this Plan.

8.3 **Expenses.** The Committee will determine whether the expenses incurred in administering the Plan and Trust Fund will be paid by the County or by the Trustee from, the Service Provider and/or, other investment advisors, recordkeepers, third party administrators, and the Trust Fund. Plan expenses include but are not limited to fees and charges for attorneys, accountants, consultants, the Service Provider, and/or other investment advisors, recordkeepers, third party administrators, and the Trustee(s). No County Employee will receive any additional compensation for services performed in connection with the Plan. Unless the Committee directs otherwise, the Trustee will pay from the Trust Fund the expenses incurred in connection with the investment of Plan assets and recordkeeping for the Plan. The Committee may direct the Trustee to reimburse the County for reasonable administrative expenses it has paid directly on behalf of the Plan.

8.4 **Indemnification.** Subject to the terms and conditions of DeKalb County Code sections 2-91 through 2-98, the County will indemnify and hold harmless the Committee and each member, and each County Employee to whom the Committee has delegated responsibility under this Article, from all joint or several liability for their acts and omissions in the administration of the Plans, including reasonable attorneys' fees and

costs of litigation, except for their own willful breach of fiduciary duty and willful misconduct.

8.5 **Claims Procedure.**

- (a) **Application for Benefits.** Each Participant, or beneficiary, must submit a written application for payment, with such documentation as the Committee considers necessary to process the claim. The Committee may adopt forms and require that the forms be used for the submission of claims. The Plan will not treat as a claim any oral or electronic request for information or for a re-determination of benefits. Any claim other than a Participant's claim for payment of his/her Account balance after he/she has a distribution event, must be submitted in writing to the Committee, stating all facts that support the claim and appending all available documentation of such facts. The claim must be submitted within 12 months from the earlier of (1) the date on which the claimant learned of facts sufficient to enable him/her to assert the claim, or (2) the date on which the claimant reasonably could be expected to have learned of facts sufficient to enable him/her to assert the claim. Any claim attempted to be made after expiration of such 12-month period will be time-barred. The Committee reserves the right to withhold payment of any claim for which conflicting claims have been asserted. The Trustee will not pay any benefit under the Plan until the Committee has determined, in its sole and complete discretion, that the claimant is entitled to the benefit.
- (b) **Decision on Claim.** Within 90 days after receipt of a claim and all necessary information, the Committee will issue a written decision. If the claim is denied in whole or in part, the notice will set forth (1) specific reasons for the denial and references to Plan provisions upon which the denial is based; (2) a description of any additional information necessary to process the claim; and (3) an explanation of the Plan's appeals procedure. If special circumstances require an extension of time (which cannot exceed 90 additional days), the Committee will furnish the claimant written notice of the extension, and an explanation why it is necessary, before the end of the initial 90-day period.

- (c) **Appeal.** The claimant and/or his/her representative may appeal an adverse decision by requesting in writing, within 60 days after he/she receives the decision, that the Committee review the decision, or, if the Committee fails to issue a decision, the claimant must submit his/her appeal within 150 days after he/she initially filed his/her claim, or 240 days if the Committee secured the 90-day extension described in Subsection (b). The claimant may submit a statement of issues and supporting arguments and any evidence that he/she has to support his/her claim. He/she may inspect all documents that are reasonably pertinent to his/her case, upon reasonable notice to the Committee, but may not inspect confidential information concerning any other person. The Committee may set the matter for oral hearing and give the claimant reasonable notice of the time and place. The Committee will issue a written appeal decision, with a statement of reasons and references to supporting provisions of the Plan, within 60 days after it receives the request for a review including all information and documentation that the Committee needs to evaluate the appeal. If special circumstances require an extension of time, the Committee will render a decision as soon as possible, but not later than 120 days after receipt of the appeal. If an extension is required, the Committee will issue written notice with an explanation of the circumstances requiring the extension, before the extension period begins.
- (e) **Exhaustion of Administrative Remedies.** No legal action to recover Plan benefits, or alleging any fiduciary breach or prohibited transaction, or to enforce or clarify rights under the Plan, may be commenced unless and until the claimant has first exhausted the claims and appeal procedures available under the Plan, as described in this Section. A claimant must raise all issues and present to the Committee all theories related to his/her claim at one time, including claims of fiduciary breach and/or prohibited transactions. Otherwise, the claimant will be deemed to have abandoned forever all issues and theories that he/she did not raise and present to the Committee. Proper exhaustion of administrative remedies is a jurisdictional prerequisite to filing a legal action. The failure to file a claim and an appeal in the manner and within the time limits stated in this Section will be deemed to be a failure of the claimant to exhaust his/her administrative remedies and will constitute a waiver of the rights or benefits sought to be established under the Plan.

- (f) **Limitation Period for Litigation.** After the Committee issues a denial of an appeal, the claimant must file his/her complaint in state or federal court within 180 days, or he/she will forever be barred from filing a complaint based upon or directly or indirectly related to the appeal denial.

8.6 **Suspension of Transactions.** The Committee reserves the right to adopt rules and procedures that, in its discretion, it determines to be reasonably necessary:

- (a) to impose a *blackout period* or any other reasonable period of suspension, restriction, or limitation, on the rights of all or any Participants to make investment elections or transfers, or distributions, to accommodate changes in recordkeepers, trustees, investment managers or advisors, and/or investment funds;
- (b) to comply with restrictions on investment elections imposed by law or by third parties, such as stock exchanges, investment managers, fund managers or the Securities Exchange Commission or other regulatory body;
- (c) to comply with investment fund limitations on market timing, and/or
- (d) to protect the interests of other Participants and beneficiaries.

The Committee may impose penalties on any Participant who fails to comply with the Committee's rules and procedures.

8.7 **Blackout Periods.** Although this is a governmental plan, if a period of suspension of Participant rights is a *blackout period* within the meaning of ERISA § 404(c), the Committee may provide advance notice to the affected Participants in compliance with DOL Regulations § 2520.101-3(d)(1). A *blackout period* is a period for which any ability that is otherwise available under the affected Plan, for Participants or beneficiaries to direct or diversify their Account balances, or to obtain distributions, is temporarily suspended, limited, or restricted for any period longer than three consecutive business days.

ARTICLE 9
Miscellaneous

- 9.1 **Headings.** The headings and subheadings in this Plan document have been inserted for convenient reference, and to the extent any heading or subheading conflicts with the text, the text will govern.
- 9.2 **Construction.** The Plan will be construed in accordance with the laws of the State of Georgia, without regard to its choice-of-law rules, except to the extent such laws are preempted by the IRC or any other applicable federal law.
- 9.3 **Qualification for Tax-Favored Status.** Notwithstanding any other provision of this Plan document, the Plan is adopted on the condition that this Plan will not be disapproved by the Internal Revenue Service as meeting the requirements of IRC § 457(b) for tax-favored status. In the event the Internal Revenue Service should deny tax-favored status, and the County cannot remedy the denial by revisions satisfactory to the County, the County may declare the Plan null and void in its entirety.
- 9.4 **Nonalienation.** No benefits payable under the Plan will be subject to the claim or legal process of any creditor of any Participant or beneficiary, and no Participant or beneficiary will alienate, transfer, anticipate or assign any benefits under the Plan, except that distributions will be made pursuant to (a) judgments and levies resulting from federal tax assessments, and (b) agreements between a Participant or beneficiary and the County for the use of all or part of his/her benefits under the Plan to repay his/her indebtedness to the County, which amount of benefits will be paid in a lump sum as soon as practicable after the agreement is executed and will be subject to the withholding requirements set forth in Section 9.7; and (c) as otherwise required by law. The County will offset the Account balances of any Participant or beneficiary if required under a judgment of conviction for a crime involving the Plan, or under a civil judgment or a consent order, or settlement agreement with a governmental agency, in an action brought in connection with a violation of fiduciary duty under the Plan.
- 9.5 **No Employment Rights.** Participation in the Plan will not give any Employee the right to be retained in employment with the County, or upon termination of Employment any right or interest in the Plan, except as provided in this Plan document.

- 9.6 **No Enlargement of Rights.** No person will have any right to or interest in any part of the Plan except as specifically provided in this Plan document.
- 9.7 **Exclusive Benefit Rule.** Under no circumstance will any part of the corpus or income of this Plan be used for, or diverted to, purposes other than the exclusive benefit of the Participants and their beneficiaries
- 9.8 **Withholding for Taxes.**
- (a) **Employee Contributions.** The County withholds FICA and Medicare tax on Employee Contributions for the payroll period when they are made. The County withholds federal and state income tax, in addition to FICA and Medicare tax, on Roth Contributions for the payroll period when they are made.
 - (b) **Taxable Distributions.** Taxable distributions from the Plan are subject to withholding for state and federal income taxes as required by law. The County withholds 20% federal income tax from each eligible rollover distribution over \$200 that is not rolled over directly into another eligible retirement plan or individual retirement account under Section 6.9. The County withholds the amount or percentage elected by each Participant for any payment that is not an eligible rollover distribution.
 - (c) **Nontaxable Distributions.** The County does not withhold taxes from Qualified Roth Distributions.

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July 10, 2017

The attached Amended and Restated DeKalb County 457(b) Plan, effective August 1, 2017, which I have drafted and reviewed, is approved as to form this 10th day of July.

Helen Cleveland
Cleveland Gilbreath LLC
Attorney for DeKalb County, Georgia