

**AMENDED AND RESTATED
MASTER DEFERRED COMPENSATION PLAN**

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BROWARD COUNTY
BOARD OF COUNTY COMMISSIONERS
AMENDED AND RESTATED MASTER DEFERRED COMPENSATION PLAN

The Broward County Board of County Commissioners adopts this Amended and Restated Master Deferred Compensation Plan for Broward County employees. The Plan (as hereinafter defined) is intended to be an “eligible deferred compensation plan” as defined in Section 457(b) of the Internal Revenue Code of 1986 (“Eligible 457 Plan”). The Plan consists of the provisions set forth in this document and is applicable to any Employee who elects to participate in the Plan.

ARTICLE 1
DEFINITIONS

- 1.01 **Administrator** means the person, department, division, or office designated by the Employer to administer the Plan. Pursuant to Section 26-4 of the Broward County Code of Ordinances, the Director of the Finance and Administrative Services Department (“CFO”) or his or her designee is authorized to administer this Plan.
- 1.02 **Accounts** mean the separate Accounts that the Provider maintains under the Plan for a Participant’s Deferred Compensation including, but not limited to, separate Accounts for Pre-Tax Salary Reduction Contributions and Roth Deferral Contributions with the corresponding respective gains and losses. The Accounts may also include any Employer Contributions under Article 5 of the Plan, any eligible rollover account(s), any Plan-to-Plan transfers, and any account established for a Beneficiary after a Participant’s death. If a Participant has more than one Designated Beneficiary at the time of the Participant’s death, then a separate account shall be established and maintained for each Beneficiary.
- 1.03 **Age 50 Catch-up Contribution** means the catch-up contribution for Participants who are or who will attain age 50 during a Plan Year, as allowed under Internal Revenue Code (“IRC”) Section 414(v).
- 1.04 **Alternate Payee** means a person entitled to receive a benefit under the Plan through a Qualified Domestic Relations Order, as defined in IRC Section 414(p)(8).
- 1.05 **Beneficiary** means the person or entity designated by a Participant in accordance with Article 11 of the Plan to receive the Participant’s Plan benefits in the event of the Participant’s death. If no Beneficiary has been designated in accordance with Article 11, the Beneficiary shall be the Participant’s estate.
- 1.06 **Compensation** means all cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includable in the Participant’s gross income for the calendar year, plus the amount that would be cash compensation for services to the Employer includable in the Participant’s gross income for the calendar year

but for a compensation reduction election under IRC Sections 125(a), 132(f)(4), 401(k)(2), or 457(b), including an election to defer Compensation under Article 3 of the Plan.

- 1.07 **Deferral** or **Deferral Contribution** means a salary reduction contribution the Employee makes to the Plan pursuant to the Participant Agreement. The terms “Deferral” or “Deferral Contribution” include the pre-tax Deferral Contributions to a 457(b) account and after-tax Deferral Contributions to a Roth 457 Account.
- 1.08 **Differential Pay** means any payment made by the Employer to an Employee who has been called to active military duty for longer than thirty (30) days and to whom payment is intended to make up some or all the difference between the Employee’s higher civilian wages and his or her active duty military pay.
- 1.09 **Eligible Retirement Plan** means an individual retirement plan as defined in IRC Section 408(a); an individual retirement annuity as described in IRC 408(b); a qualified trust as described in IRC Section 401(a); an eligible governmental plan as described in IRC Section 457(b), or any other eligible governmental plan as may be adopted under the IRC.
- 1.10 **Employee** means a Participant, including an elected or appointed official, who is benefit eligible and who performs services on a full-time or qualified part-time basis for the Employer, and who receives compensation from the Employer for such services rendered.
- 1.11 **Employer** means the Broward County Board of County Commissioners or any of its agencies, departments, subdivisions, or instrumentalities for which services are performed by a Participant.
- 1.12 **Includable Compensation** means the Participant’s wage, and other taxable compensation for services performed for the eligible employer, as defined in IRC Section 415(c)(3); usually defined as compensation reported in Box 1 of Form W-2 for the calendar year plus elective deferrals to IRC Sections 125(a), 132(f)(4), 401(k)(2), and 457(b), or any other amount excludable from the Employee’s gross income for Federal income tax purposes.
- 1.13 **Investment Option** means the annuity contracts, custodial accounts, or any one or more of the various financial products offered as investments under the Plan by a Provider.
- 1.14 **IRC** means the Internal Revenue Code of 1986, as amended, or any future United States Internal Revenue Law. References within this Plan to specific numbers shall refer to Internal Revenue Code sections and to corresponding provisions of any applicable United States Internal Revenue regulation. All citations to sections of the IRC are to such sections as they may, from time to time, be amended or renumbered.
- 1.15 **Managed Account** means a discretionary asset allocation and management service designed for a Participant who delegates his or her individual plan investment decisions to a financial expert for applicable fees, not associated with any underlying mutual fund and plan administration fees.

- 1.16 **Normal Retirement Age** means the age specified in writing by the Participant if the Employer participates in the Florida Retirement System (“FRS”), as provided in Section 121.01, Florida Statutes. Normal Retirement Age specified by the Participant must be an age at which the Participant is eligible to retire pursuant to the FRS due to age, length of service, or both, without consent of the Employer and with the right to receive immediate retirement benefits without actuarial reduction.
- 1.17 **Participant** means any benefit eligible Employee who is or has been eligible to defer Compensation under the Plan by salary reduction, who has not received a distribution of his or her entire Account Balance, and who participates in this Plan by signing a Participation Agreement.
- 1.18 **Participation Agreement** means the agreement to enroll and participate in the Plan that is completed by the Participant and provided to the Provider. The Participation Agreement is the agreement by which the Employer reduces the Participant’s Compensation for contribution to the Participant’s account.
- 1.19 **Plan** means the deferred compensation plan for Broward County Board of County Commissioners’ Employees as set forth in this document, and as may be amended from time to time.
- 1.20 **Plan Provider** means a third party organization selected by the Employer to administer the Plan and provide investment options under the Plan.
- 1.21 **Plan Sponsor** means Broward County, which is an eligible governmental Employer pursuant to IRC Section 457(e)(1) for which services are performed by Broward County Employees (Participants) who participate in the Plan.
- 1.22 **Pre-Tax Deferral Contribution** means a Participant’s Deferral Contributions which are not includable in the Participant’s gross income at the time of deferral, and have been irrevocably designated as a pre-tax Deferral Contribution by the Participant. A Participant’s pre-tax Deferral Contributions shall be separately accounted for, as shall gains and losses attributable to those pre-tax Deferral Contributions. All Deferral Contributions of a Participant prior to the effective date a Participant first contributes to a Roth 457 Account are pre-tax contributions.
- 1.23 **QDRO** means a “qualified domestic relations order” as defined in IRC Section 414(p).
- 1.24 **Rollover Contribution** means the amount of cash or property that an Eligible Retirement Plan described in IRC Section 402(c)(8)(B) distributes to an eligible Employee or to a Participant in an eligible rollover distribution under IRC Section 402(c)(4) and that the eligible Participant transfers directly or indirectly to an eligible 457 Plan. A Rollover Contribution includes net income, gain, or loss attributable to the Rollover Contribution. A Rollover Contribution excludes after-tax Employee contributions, as adjusted for net income, gain, or loss.

- 1.25 **Roth 457 Account** means a voluntary, irrevocable after-tax salary deferral account that allows the Participant to pay no taxes on qualified contributions when such money is withdrawn.
- 1.26 **Roth Deferral Contribution** means a Participant's Deferral Contribution that is includable in the Participant's gross income at the time the contribution is deferred and that has been irrevocably designated as Roth Salary Reduction Contribution by the Participant in his or her Deferral election. A Participant's Roth Deferral Contribution shall be separately accounted for, as shall gains and losses attributable to the Roth 457 Account.
- 1.27 **Self-Directed Brokerage Account** means a Participant, for applicable account and trade fees, who contracts with a commercial brokerage company to access and invest in mutual funds, individual securities, stocks, and bonds.
- 1.28 **Severance from Employment** means the termination of the Participant's employment with the Employer as defined by IRC Section 457(d)(1)(A), or when, in accordance with the established practices of the Employer, the employment relationship is considered to have been actually terminated, on account of the Participant's death or retirement.
- 1.29 **Spouse** means the person to whom a Participant is married and who is treated as a Spouse under the IRC for federal income tax purposes. For purposes of this definition, same-sex marriages and Spouses are recognized in accordance with IRS Revenue Ruling 2013-17, effective June 26, 2013.
- 1.30 **Unforeseeable Emergency** means severe financial hardship to the Participant resulting from sudden and unexpected illness or accident of the Participant or his or her dependents as defined in IRS Section 152, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances.

ARTICLE 2

ELIGIBILITY AND PARTICIPATION

- 2.01 **Eligibility.** Any Employee, as defined in Section 1.10 of the Plan, is eligible to participate in the Plan and defer Compensation.
- 2.02 **Election Required for Participation.** An eligible Employee may elect to become a Participant in the Plan by entering into a Participation Agreement and filing it with the Administrator or designee. The Participation Agreement shall specify:
- (a) The amount of the Participant's Compensation that he or she agrees to defer, subject to Section 3.02 of the Plan;
 - (b) The Participant's agreement to be bound by all the terms and conditions of the Plan;
 - (c) The date when the deferral of Compensation shall begin, which date shall be as early as administratively practicable but not earlier than the calendar month following the month in which the election to participate in the Plan is made;
 - (d) The designation of a Provider and investment specifications; and

- (e) The designation of a Beneficiary.
- 2.03 **Information Required from Participant.** The eligible Employee must provide such other information as reasonably required by the Administrator or Plan Provider including, without limitation, regarding whether the Employee is or has been a participant in any other deferred compensation plan under IRC Section 457(b) during the applicable Plan year.
- 2.04 **Amendments of Participation Agreements.**
- (a) The election of a Participant to participate under the Plan is irrevocable as to all previous deferred compensation under the Participation Agreement. The Participant may, by amendment of the Participation Agreement or by any manner as the Administrator may prescribe, do any of the following:
 - (i) Change the amount of investment allocations for deferrals in the future;
 - (ii) Change Investment Option(s);
 - (iii) Terminate the election to participate; or
 - (iv) Change the amount of Compensation to be deferred, subject to applicable limits.
 - (b) An amendment or termination of a Participation Agreement shall be effective as early as administratively practicable, but not earlier than the first day of the calendar month following execution of the amendment to the Participation Agreement.
- 2.05 **Application for Leave of Absence and Disability.** If a Participant takes a leave of absence or becomes disabled, the Plan will continue to deduct Deferrals from the Participant's salary, so long as the Participant continues to earn Compensation, not including imputed compensation or disability benefits, unless otherwise directed by the Participant in writing.

ARTICLE 3

DEFERRAL CONTRIBUTIONS AND LIMITATIONS

- 3.01 **Deferral Amounts.** Deferrals pursuant to the Participation Agreement may be made as a flat dollar amount or as a percentage of Compensation (whole percentages only), subject to such minimum or maximum Deferral percentages or accounts as may be established by the Plan Sponsor from time to time.
- 3.02 **Types of Deferrals.** A Participant may designate all or a portion of his or her Deferrals as:
- (a) Pre-tax Deferrals which must be at least the minimum dollar or percentage amount and cannot exceed the maximum dollar or percentage amount provided under Sections 3.03 and 3.04 of the Plan; and
 - (b) Roth Deferrals which must be at least the minimum dollar or percentage amount and cannot exceed the maximum dollar or percentage amount provided under Sections 3.03 and 3.04 of the Plan.

- 3.03 **Minimum Deferral.** The minimum Deferral shall be at least ten dollars (\$10) per pay period.
- 3.04 **Maximum Annual Deferral.** Except as provided in Sections 3.05 and 3.06 of the Plan, the maximum that a Participant may defer under this Plan for any calendar year shall not exceed the lesser of (a) the dollar limitation contained in IRC Section 457(e)(15) in effect for such calendar year, or such amount as adjusted from time to time by the Secretary of Treasury, or (b) 100% of the Participant's Includable Compensation.
- 3.05 **Age 50 Catch-up Deferrals.** In addition to the Maximum Annual Deferral provided in Section 3.04 of the Plan, a Participant who has attained age 50 or older during a Plan Year may elect the catch-up provision under IRC Section 414(v) and commence making such Age 50 Catch-Up Deferrals to his or her Deferred Compensation Account. Age 50 Catch-Up Deferrals are in addition to the Maximum Annual Deferral provided under Section 3.04 of the Plan. A Participant who is using the Special Catch-up provision in Section 3.06 of the Plan is not eligible for this Catch-up Deferral.
- 3.06 **Special Catch-up Deferrals.** As described in IRC Section 457(b)(3), for one or more of a Participant's last three full taxable years ending before the taxable year in which the Participant attains Normal Retirement Age for any period that Participant is in the Deferred Retirement Option Program with the Florida Retirement System, the Participant's maximum Deferral Contributions may not exceed the lesser of:
- Twice the maximum deferral allowed under Section 3.04 of the Plan; or
 - The underutilized limitation.
- (A) **Underutilized Limitation.** A Participant's underutilized limitation is equal to the sum of: (i) the normal limitation for the Taxable Year, and (ii) the normal limitation for each of the prior Taxable Years of the Participant commencing after December 31, 1978, during which the Participant was eligible to participate in the Plan and the Participant's Deferral Contributions were subject to the normal limitation or any other IRC Section 457(b) limit, less the amount of Deferral Contributions for each such prior Taxable Year, excluding Age 50 Catch-up Deferrals.
- (B) **Multiple 457 Plans.** If a Participant participates in more than one IRC Section 457(b) plan, the maximum deferral under all such plans shall not exceed the maximum limit described in Section 3.04 of the Plan, subject to modification by the Age 50 Catch-up limitations in Section 3.05 of the Plan.
- (C) **Pre-2002 Coordination.** In determining a Participant's underutilized limitation, the coordination rule in effect under IRC Section 457(c)(2), which has since been repealed, applies. Additionally, the normal limitation for pre-2002 Taxable Years also applies in accordance with IRC Section 457(b)(2).

- 3.07 **Distribution of Excess Deferrals.** In the event a Participant has excess Deferrals, the Plan shall distribute the Excess Deferrals to the Participant and allocate net income, gain, or loss. The Plan Sponsor shall distribute Excess Deferrals from the Plan as soon as is reasonably practicable following the Provider's determination of the amount of such Excess Deferrals.

ARTICLE 4
DEFERRALS TO A ROTH 457 ACCOUNT

- 4.01 **Deferrals to a Roth 457 Account Permitted.** Effective January 1, 2019, in lieu of all or a portion of the Pre-Tax Salary deferrals, any Employee may elect to participate in a Roth 457 Account, subject to the Maximum Annual Deferral described in Section 3.04 of the Plan. Deferrals to a Roth 457 Account shall be treated in the same manner as Deferral Contributions for all Plan purposes, except as provided otherwise in the Plan.
- 4.02 **Taxation in Same Year of Roth 457 Account Contribution.** Pre-tax funds that are converted to Roth 457 Account contributions within the same plan are subject to taxation in the year the Participant contributes to the designated Roth 457 Account.
- 4.03 **Mandatory Five-Year Hold to Avoid Additional Taxation.** In order for a Roth 457 Account distribution to be considered qualified, five years must have passed since January 1 of the year in which the Participant first contributed to his or her Roth 457 Account. Any withdrawals of funds, except as provided under IRC Section 72(t), will be subject to 10% additional taxes on the total amount of funds withdrawn or such other amount as established by applicable law.
- 4.04 **Rollovers.** A direct rollover of a distribution from a Roth 457 Account shall only be made to a plan which allows Roth 457 Account Deferrals as described in IRC Section 402A(e)(1), or to a Roth IRA as described in IRC 408(A), and only to the extent the rollover is permitted under the rules of IRC 402(c).
- Subject to the Plan Sponsor's determination whether it wishes to accept such rollovers, the Plan may accept a rollover contribution of Roth 457 Account funds only if it is a direct rollover from another plan which permits Roth 457 salary contributions as described in IRC Section 402A(e)(1) and only to the extent the rollover is permitted under IRC Section 402(c).
- 4.05 **Separate Accounting and Tracking.** Contributions to a Roth 457 Account, related gains and losses, and loans shall be separately tracked and maintained from other pre-tax 457(b) Accounts in the Plan. The Administrator shall modify Plan procedures and materials to accommodate Roth 457 Account contributions, as necessary and from time to time.

ARTICLE 5
EMPLOYER CONTRIBUTIONS

The Employer may contribute to the Plan on behalf of the Participants. Employer contributions shall vest at the time such contributions are made. Employer contributions shall apply toward the Maximum Annual Deferral limits provided under Section 3.04 of the Plan, in the Plan Year that such contributions are made.

ARTICLE 6
TIME AND METHOD OF DISTRIBUTIONS

- 6.01 **Distribution Restrictions.** All distributions are subject to the requirements of IRC Sections 457(d) and 401(a)(9), and with all other applicable Treasury Regulations. Initial distribution payment elections and subsequent changes will be effective only if made on forms provided or in the manner prescribed by the Provider and received by the date determined by the Provider. Distribution payments, except from the contributions described in Sections 1.26 and 4.01 of the Plan, are taxable income to Participants, Beneficiaries, and Alternate Payees in the year of distribution and are subject to required tax withholdings.
- 6.02 **Time of Distribution.** Except as otherwise provided in the Plan, distributions from the Plan may not be made to a Participant earlier than:
- (a) The calendar year in which the Participant attains age 70½;
 - (b) The calendar year in which the Participant retires from Employment; or
 - (c) The calendar year in which the Participant has a Severance from Employment.
- 6.03 **Distribution Methods and Limitations.** A Participant may elect one of the following methods of payment, subject to the availability of such payment methods under the Plan at the time of distribution:
- (a) A single lump sum payment of the entire account balance;
 - (b) Partial lump sum payment;
 - (c) Installment; or
 - (d) An annuity.
- 6.04 **Time and Manner of Distribution.** All distributions shall be determined and made in accordance with IRC Section 401(a)(9) and any other applicable Treasury Regulations.
- (A) Required Beginning Date for Minimum Distributions. The Participant's required beginning date is April 1 of the calendar year following the later of: (1) the calendar year in which the Participant attains age 70½, or (2) the calendar year in which the Participant retires, or has a Severance from Employment, as provided under IRC Section 401(a)(9), which requires the commencement of minimum distributions.

(B) Death of Participant Before Distribution Begins. If the Participant dies before distributions begin, the Participant's entire interest shall be distributed, or begin to be distributed, as follows:

(1) *Spouse Beneficiary.* If the Spouse is the Participant's sole Beneficiary, distribution of payments may be delayed until the later of (a) December 31 of the year in which the Participant would have attained age 70½, or (b) December 31 of the year immediately following the year in which the Participant died.

(2) *Non-Spouse Beneficiary.* If the Participant's surviving Spouse is not the Participant's sole Beneficiary, distributions to the Beneficiary shall begin by December 31 of the year immediately following the year in which the Participant died.

(3) *No Beneficiary.* If there is no Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest shall be distributed by December 31 after the fifth anniversary year of the Participant's death.

(4) *Death of a Spouse.* If the Participant's surviving Spouse is the Participant's sole Beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, Section 6.03 of the Plan will apply as if the surviving Spouse were the Participant.

(C) Required Minimum Distributions during Participant's Lifetime. During the Participant's lifetime, the minimum amount that shall be distributed for each distribution year is the lesser of:

(1) The quotient obtained by dividing the Participant's account balance by the number in the Uniform Life Table set forth in Treas. Reg. Section 1.401(a)(9)-9, using the Participant's age as of the Participant's birthday in the distribution year; or

(2) If the Participant's sole Beneficiary for the distribution year is the Participant's Spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and last Survivor Table set forth in Treas. Reg. Section 1.401(a)(9)-9, using the Participant's and Spouse's ages as of the Participant's and spouse's birthdays in the distribution calendar year.

(D) Required Minimum Distributions after Participant's Death. If the Participant dies on or after distributions begin, the Participant's entire interest shall be distributed, or begin to be distributed, as follows:

(1) *Participant survived by Spouse Beneficiary.* If the Participant's sole Beneficiary is the surviving Spouse, the minimum amount that will be distributed for each year following the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the surviving Spouse's life expectancy which is calculated using the age of the surviving Spouse as of the Spouse's birthday in that year. For distribution years after the year of the surviving Spouse's death, the remaining life expectancy of the surviving Spouse is calculated using the age of the surviving Spouse as of the Spouse's birthday in the year of the Spouse's death, reduced by one for each subsequent year.

(2) *Participant survived by Non-Spouse Beneficiary.* If the Participant's surviving Spouse is not the Participant's sole Beneficiary, the minimum amount that shall be distributed for each year following the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Beneficiary's remaining life expectancy, which is calculated using the age of the Beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(3) *No Beneficiary.* If there is no Beneficiary as of September 30 of the year following the year of the Participant's death, the minimum amount that shall be distributed for each year following the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy, which is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(E) Election of Payment Option. If a Participant or Beneficiary fails to elect a payment option that meets the requirements of IRC Section 401(a)(9), the Plan Provider will initiate such distribution. A Participant or Beneficiary who has chosen a payment option, other than an annuity option, shall have the ability to change his or her payment option.

ARTICLE 7

DISTRIBUTION PRIOR TO SEVERANCE FROM EMPLOYMENT

7.01 **In-Service Distributions Permitted.** Notwithstanding any distribution provisions under Article 6 of the Plan, the Plan permits in-service distributions in the following circumstances:

(A) Unforeseeable Emergency. If the Participant has an unforeseeable emergency before the Participant's retirement or other severance from employment, the Participant may elect to receive a lump sum distribution equal to the amount requested or, if less, the maximum amount determined by the Administrator to be permitted to be distributed under the Plan.

(B) Unforeseeable Emergency Defined. An unforeseeable emergency is a severe financial hardship to a Participant resulting from:

- (1) Illness or accident of the Participant, Spouse of Participant, or Beneficiary of Participant as defined under IRC Section 152(a);
- (2) Loss of property due to casualty;
- (3) Need to pay for funeral expenses of the Participant's spouse or dependent as defined in IRC Section 152(a); or
- (4) Other similar extraordinary and unforeseeable circumstances arising from events beyond the control of the Participant or Beneficiary.

(C) Unforeseeable Emergency Distribution Limits. An unforeseeable emergency distribution may be used if:

- (1) The distribution does not exceed the amount reasonably necessary to satisfy the emergency need, including such amounts necessary to pay any federal, state, or local taxes or applicable penalties resulting from the distribution; and
- (2) The distribution is being made to pay for financial hardships that may not otherwise be satisfied through insurance or other reimbursement, or by liquidation of the Participant's individual assets to the extent such liquidation would not cause severe hardship.

7.02 **De Minimis Distribution.** A Participant may elect to receive a distribution of his or her account where:

- (1) The Participant's total annual deferrals under the Plan, excluding any Rollover contributions, do not exceed \$5,000 (or such other amount that does not exceed the limits set under IRC Section 411(a)(11)(a);
- (2) The Participant has not made or received an allocation of any Deferral Contributions under the Plan during the two-year period ending on the date of distribution; and
- (3) The Participant has not received a prior distribution under Article 7 of the Plan.

7.03 **Loans to Participants.** Loans shall be permitted under the Plan subject to the limitations in IRC Section 72(p). A Participant may borrow from his or her Plan subject to the following limitations:

- (1) The Participant may borrow no more than 50% of the balance in his or her Plan account during any one loan request, subject to the following terms and conditions;
- (2) The maximum allowable loan is Fifty Thousand Dollars (\$50,000);
- (3) The Participant must repay any borrowed money back to his or her Plan account within sixty (60) months after the date in which the loan is first disbursed; and

- (4) In addition to the principal loan amount, the Participant must pay interest based on an interest rate established by the Administrator. The Administrator may change the loan interest rate from time to time; however, the then current interest rate, as set by the Administrator, that is applicable on the day in which the loan is first disbursed shall be assigned to the loan until it is repaid.

7.04 **Administration of Loans.** The Administrator may establish, amend, or terminate the procedures for administering loans, at her or his sole discretion, from time to time. Policies and procedures may include the following:

- (1) Procedures for applying for a loan;
- (2) Financial criteria for approving or denying a loan;
- (3) The types of loans available in the Plan;
- (4) Loan repayment terms, interest rates, or loan repayment options; and
- (5) Such other factors as are necessary to effectively process loans to a Participant.

ARTICLE 8

DISTRIBUTIONS UNDER QUALIFIED DOMESTIC RELATIONS ORDERS

8.01 **Distribution to Alternate Payee Permitted.** The Plan permits distribution to an alternate payee under a Qualified Domestic Relations Order (“QDRO”) at any time without regard to whether the Participant has attained his or her earliest retirement age, as provided in IRC Section 414(p).

- (A) Recognition of QDRO. To the extent required under a final judgment, decree, or order made pursuant to a state domestic relations law, which is served upon the County, and that meets the requirements of a QDRO as defined in IRC Section 414(p)(1)(A)(i), any portion of the Participant’s account may be paid, transferred, or set aside for payment or transfer to a Spouse, former Spouse, or a child of the Participant.
- (B) Permissible QDRO. A QDRO that otherwise satisfies IRC Section 414(p)(1)(A)(i) shall not fail to be a QDRO: (i) solely because the order is issued after, or revises, another domestic relations order or QDRO; or (ii) solely because of the time at which the order is issued, including issuance after the annuity starting date or after the Participant’s death.
- (C) Processing of a QDRO. If determined that a QDRO applies to a Participant’s account, unless specifically directed otherwise by the Plan Sponsor, the Administrator shall comply with the QDRO. To the extent it does not contradict the provisions of the QDRO, the Administrator may segregate, or may direct the Provider to segregate, the QDRO amount in a separate investment account. The Provider shall make any required payments or distributions by separate benefit checks or other separate distribution to an alternate payee.

(D) No Liability for Distributions. If the Participant has begun receiving distributions from his or her account prior to the determination that a QDRO is valid, the Administrator shall process a QDRO based on the most current existing value of the Participant's account within sixty (60) days after the determination that the QDRO is valid. The Administrator, Plan Sponsor, its agents, or assigns shall not be liable for any prior distributions made to the Participant or to his or her beneficiary.

ARTICLE 9

BENEFITS FOR QUALIFIED MILITARY SERVICE

- 9.01 **Differential Pay Contributions.** Effective January 1, 2009, all differential pay received by a Participant who is on active military duty for longer than thirty (30) days must be included in the Participant's total compensation value. The Plan Sponsor may permit a Participant who is on active military to contribute all or a portion of earned differential pay to his or her 457(b) account, subject to IRC Sections 457(E)(15) and 414(v).
- 9.02 **Make-up Contributions.** A Participant who is on active military duty shall be allowed to contribute, or "make-up," deferrals that were missed during the time he or she was absent due to active service in the military, as allowed in IRC Section 414(u). These make-up contributions are subject to the annual contribution limitations for the year to which it relates, and not the year such contributions are made.
- 9.03 **Death Benefits for Qualified Military Service.** Following January 1, 2007, if a Participant dies while performing qualified military service, as defined in IRC Section 414(u), the Participant's Beneficiary is entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Participant had resumed employment and then terminated employment due to his or her death. Moreover, the Plan will credit the Participant's qualified military service as service for vesting purposes, as though the Participant had resumed employment under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) immediately prior to the Participant's death.

ARTICLE 10

ROLLOVERS AND PLAN-TO-PLAN TRANSFERS

- 10.01 **Eligible Rollover Distribution Defined.** An eligible rollover distribution is any contribution of all or any portion of a Participant's account under another eligible retirement plan, except an eligible rollover distribution does not include:
- (a) Payments based on a Participant's life expectancy, or payments that are expected to last ten (10) years or longer;
 - (b) Distributions from foreign retirement plans;
 - (c) Any required minimum distribution under IRC Section 401(a)(9);
 - (d) Any unforeseeable emergency distribution;
 - (e) Returned excess contributions and earnings;

- (f) Distributions from Roth IRAs; or
- (g) Loans treated as deemed distributions.

- 10.02 **Eligible Incoming Rollover Contributions.** A Participant, who is entitled to receive a qualifying eligible rollover distribution, as defined in IRC Sections 402(c)(4) or 408(d)(3), from another eligible retirement plan, may request to have all or a portion of the eligible distribution paid to the Plan. Any amounts rolled into this Plan will be separately accounted for and may be subject to the same tax treatment as applicable in the original plan.
- 10.03 **Eligible Outgoing Rollover Contributions.** A Participant who has had a severance from employment, or the Beneficiary of a deceased Participant, or a Participant's spouse or former spouse who is an alternate payee under a QDRO, may elect to have all or any portion of his or her eligible rollover distribution from this Plan paid directly to another eligible retirement plan at a time and manner prescribed by the Administrator.
- 10.04 **Plan-to-Plan Transfers Allowed.** The Administrator may permit a Participant from another eligible 457(b) Plan to transfer assets to this Plan so long as such eligible 457(b) Plan provides for a direct transfer of a Participant's interest. Transfers from other 457(b) Plans to this Plan will be accepted if such transfers are in cash. Any such transferred amount shall not be subject to the limitations of IRC Section 457(e)(15), maximum annual Deferral, Section 414(v), age 50 catch-up Deferral, and Section 457(b)(3), Special catch-up Deferral; however, the actual amount deferred under both Plans in the calendar year of such transfer shall not exceed the Maximum Annual Deferral provided in IRC Section 457(e)(15).
- 10.05 **Required Documentation for Transfers.** The Administrator may require documentation from the other 457(b) Plan to substantiate that such Plan is an eligible and valid governmental deferred compensation plan as described in Treasury Regulation Section 1.457-2(f).
- 10.06 **Outgoing Plan Transfer to another 457(b) Plan.** The Administrator may permit a Participant who has had a severance from employment to transfer all or any portion of his or her account, in cash, to another eligible 457(b) Plan, provided, however, that such plan provides for the acceptance of plan-to-plan transfers within the meaning of IRC Section 457(e)(10) and Treasury Regulation 1.457-2(f).
- 10.07 **Permissive Service Credit Transfers.** If a Participant or Beneficiary also contributes to a tax-qualified defined benefit governmental plan that provides for the acceptance of plan-to-plan transfers as defined in IRC Section 414(d), then the Participant or Beneficiary may elect to have any portion of his or her account balance transferred to the defined benefit governmental plan, including in the form of a direct trustee-to-trustee transfer, for the purchase of permissive service credits as defined in IRC Section 415(n)(3)(A), or for the repayment of service credits under IRC Section 415(k)(3). This transfer is not treated as a distribution in IRC Section 414(d) and may be made before the Participant has a severance from employment.

ARTICLE 11
BENEFICIARIES

- 11.01 **Designation of Beneficiaries.** Upon commencing participation in the Plan, each Participant shall designate a Beneficiary on a form furnished by an approved Provider. Such forms shall be maintained in files held by the Provider. The Participant may change the Beneficiary designation by written notice on forms furnished by and returned to the Provider. Upon such change, the rights of all previously designated Beneficiaries to receive any benefits under the Plan shall cease. To the extent there is no Beneficiary designated under the Plan at the date of the Participant's death, the Beneficiary has predeceased the Participant, or the Participant has revoked a prior Beneficiary designation in writing filed with the Provider without having filed a new designation, any benefits that would have been payable to the Beneficiary in the Plan shall be payable to the Participant's surviving Spouse, or if there is no surviving Spouse, to the Participant's estate.
- 11.02 **Election of Trust as Beneficiary.** If a trust is named as a Beneficiary, satisfactory evidence must be furnished to the applicable Provider that the trust is the only Beneficiary qualified to receive payment, or payment will be made as though no primary Beneficiary had been named, to the contingent Beneficiary if named, or to the estate of the Participant. The Employer, Plan Sponsor, Administrator, its agencies, departments, subdivisions, or instrumentalities for which services are performed by a Participant will be fully discharged of liability for any action taken by the trustee and for all amounts paid to, or at the direction of, the trustee and will have no obligation as to the use of the amounts. The Employer, Plan Sponsor, Administrator, its agencies, departments, subdivisions, or instrumentalities will not be charged with notice of a change of trust as Beneficiary unless written evidence of the change is made on a form and in a process prescribed by the Plan Sponsor and unless the written evidence is received by the Provider; at which time, the date filed and accepted by the Plan becomes the effective date of the Beneficiary designation.

ARTICLE 12
INVESTMENT OF DEFERRED AMOUNTS

- 12.01 **Investment Designation.** Each Participant will designate the Investment Option(s) in which he or she wishes to have deferrals invested. Any change in the investment direction shall only be effective prospectively and shall be subject to any restrictions, limitations, or fees imposed by the Plan Sponsor, the Administrator, an Investment Option provider, any regulatory agency, or as otherwise required by the law.
- 12.02 **Participant Account Credits and Debits.** All interest, dividends, charges for premiums, administrative expenses, and changes in value due to market fluctuations applicable to each Participant's account shall be credited or debited to the account balance. All dividends shall be reinvested in the associated investment options.
- 12.03 **Investment Options Offered.** The Administrator shall consider and approve the Plan's Investment Options which are made available for investments of Participant's Deferrals and account balances. Investment Options, investment services, and/or investment providers

may also be amended, deleted, or added, from time to time, at the sole discretion of the Administrator.

- 12.04 **Managed Investment Account.** A Participant may invest all or a portion of his or her Deferral Contributions by hiring an investment advisor or financial planner affiliated with a current Provider for an administrative fee or an asset-based fee established by the investment advisor or financial planner. If the Participant elects to proceed with a Managed Investment Account, the Participant delegates his or her individual plan investment decisions to an investment advisor or financial planner who manages the investment of Participant's Deferral Contributions at the direction of, and on behalf of, the Participant.
- 12.05 **Self-Directed Investment Account.** A Participant may enroll with a commercial brokerage company affiliated with a current Plan Provider which gives the Participant access to mutual funds, individual securities, stocks, and bonds to direct and self-manage the investment of all or a portion of his or her Deferral Contributions. The commercial brokerage company may charge the Participant such commission fees, trade fees, or any other brokerage service related fees for use of any brokerage commercial brokerage services.
- 12.06 **Limitations on Transfers and Exchanges.** At his or her sole discretion, the Administrator may adopt or amend rules and procedures governing the investment elections and options that a Participant, Beneficiary, or Alternate Payee may elect under the Plan. The Administrator may also, at his or her sole discretion, impose limitations on transfers and exchanges from one investment option within the Plan to another.

ARTICLE 13 **ADMINISTRATION OF PLAN**

- 13.01 **Amendment or Termination of Plan.** The Employer may, at any time, amend, modify, or terminate the Plan in whole or in part, or cease deferring Compensation pursuant to the Plan for some or all Participants, without the consent of the Participant, any Beneficiary, or Alternate Payee. In the event of such action, the Plan Sponsor shall deliver to each affected Participant a notice of any modification, amendment, or termination, or a notice that it shall cease deferring Compensation. However, the assets of the Plan shall be held for the exclusive benefit of Participants, Beneficiaries, or Alternate Payees. Furthermore, the Plan Sponsor shall not have the right to reduce or affect the value of any Participant's account balance or any rights accrued under the Plan prior to such modification, amendment, termination, or cessation. No amendments, modifications, terminations, or cessation shall deprive the Participant of any of the benefits to which he or she is entitled under the Plan with respect to deferred amounts credited to his or her account prior to the effective date of any amendments, modifications, terminations, or cessation.
- 13.02 **Provider Responsibility in Amendment or Termination of Plan.** If the Plan is amended, modified, or terminated, or the acceptance of additional deferred amounts is suspended permanently, the Provider shall nonetheless be responsible for the supervision of the payment of benefits resulting from amounts deferred prior to the amendment, modification, or termination in accordance with Article 13 of the Plan.

- 13.03 **Relationship to Employment Agreement.** Neither the establishment of the Plan or any modification thereto, or the establishment of any account, or any agreement between the Employer and the Provider, or the payment of any benefits, shall be construed as giving to any Participant or to any other person, any legal or equitable right against the Employer, except as provided herein, and in no event shall any such action affect the terms of employment of the Employee. Further, participation in the Plan by an eligible Employee shall not be construed to give a contract of employment to the Participant or to alter or amend an existing employment contract of the Participant, nor shall participation in the Plan be construed as affording to the Participant any representation or guarantee regarding his or her continued employment.
- 13.04 **Participants Responsibility for Financial, Legal, and Other Professional Advice.** The Employer and the Provider(s) make no representations or guarantees relating to federal income, state income, payroll, or personal property tax consequences to any Participants, Beneficiaries, or Alternate Payees for investments, transfers, loans, withdrawals, or any other financial directions they may choose under the Plan. The Participant, Beneficiary, Alternate Payee, or any other persons eligible to receive benefits under the Plan, should consult with his or her own financial or legal advisor regarding all questions on federal income, state income, payroll, personal property, and any other tax consequences arising from participation in the Plan.
- 13.05 **Appointment of Agent.** The Provider shall have the power to appoint agents to act for and in administration of this Plan, and the Provider shall have the power to select depositories for the assets of the Plan.
- 13.06 **Participant's Rights against Creditors.** A Participant's, Beneficiary's, or Alternate Payee's rights under the Plan are not subject to the rights of creditors of the Participant, Beneficiary, or Alternate Payee and shall be exempt from execution, attachment, prior assignment, or any other judicial relief or order for the benefit of creditors or other persons or parties. In accordance with Section 522 of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (the "Act"), retirement funds that are in a fund that is exempt from taxation under IRC Section 457 may be exempted from an individual's property estate for purposes of the Act.
- 13.07 **Intent of Plan.** The Plan is intended to be an "eligible deferred compensation plan" as defined in Section 457(b) of the Internal Revenue Code of 1986 ("Eligible 457 Plan"). The Plan may be amended to the extent that it may be necessary to conform the Plan to the requirements of IRC Section 457 and any other applicable law, regulation, or ruling, including, to the full extent permitted under applicable law, amendments that are retroactive to the effective date of the Plan. In the event the Plan is deemed by the Internal Revenue Service to be administered in a manner inconsistent with the IRC, the Employer shall correct such administration.

- 13.08 **Severability.** In the event any part of the Plan is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from the Plan and the balance of the Plan shall remain in full force and effect.
- 13.09 **Interpretation.** The titles and headings contained in the Plan are for reference purposes only and shall not in any way affect the meaning or interpretation of the Plan. All personal pronouns used in the Plan shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as “herein,” “hereof,” “hereunder,” and “hereinafter” refer to the Plan as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of the Plan, such a reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to “days” means calendar days, unless otherwise expressly stated.

ARTICLE 14
AUTHORITY OF EMPLOYER AND ADMINISTRATOR

- 14.01 **Authorization to Decide Question of Fact.** The Administrator shall be authorized to resolve any questions of fact necessary to decide the Participant’s rights under the Plan and such decision shall be binding on the Participant, Beneficiary, and Alternate Payee thereof, provided, however, that assets of the Plan shall be held for the exclusive benefit of Participants, Beneficiaries, and Alternate Payees at all times.
- 14.02 **Ambiguities.** The Administrator shall be authorized to construe the Plan and resolve any ambiguity in the Plan consistent with any applicable Florida or federal law.
- 14.03 **No Recovery.** The Participant may not, and specifically agrees that he or she shall not, seek recovery against the Employer, Plan Sponsor, Administrator, or any employee that administers the Plan for any loss sustained by the Participant, Beneficiary, or Alternate Payee, for the nonperformance of their duties, negligence, or any other misconduct of the above-named persons, except that this paragraph shall not excuse fraud or wrongful taking by any person.
- 14.04 **Payment Suspension.** The Employer, Administrator, or their respective agents, if in doubt concerning the correctness of their action in making a payment of benefit, may suspend the continuation of any such payments until satisfied as to the correctness of the amount of payment to the payee, or allow the filing in any Florida or federal court of competent jurisdiction of a suit in such form as the Employer deems appropriate for a legal determination of the benefits to be paid and the persons to receive them. The Employer shall comply with the final orders of the court in any such suit, and all Participants, Beneficiaries, and Alternate Payees consent to be bound thereby insofar as it affects the benefits payable plan under the Plan or the method or manner of payment.
- 14.05 **Hold Harmless.** The Employer, Administrator, or their respective agents are hereby held harmless from all causes of action, court costs, and claims for attorneys’ fees arising from

any action brought by any Participant, Beneficiary, or Alternate Payee under the Plan, or from any action to enforce his or her rights under the Plan, including any amendments, modifications, or termination brought by any Participant, Beneficiary, or Alternate Payee.

14.06 **No Liability.** The Employer, Administrator, and any employees who administer the Plan shall not be responsible for any loss or expense that may arise from a Participant's investment selections or choice of Plan Provider. The Employer, Administrator, and any employees who administer the Plan shall not be liable for any loss or damage arising out of: any section in approving or purchasing an investment contract or other investment; any bankruptcy, insolvency, liquidation, supervision or any issuer or any other impairment of any issuer's ability to meet its obligations; the performance or any investments held under the Plan; any mistakes or errors in the execution of the investment directions or instructions; or investing or failing to invest any deferred amounts.

14.07 **Exclusive Benefit of Participants and Beneficiaries.** All assets under the Plan shall be held in a trust, custodial account, or annuity contract pursuant to Section 457(g) for the exclusive benefit of Participants, Beneficiaries, and Alternate Payees of the Plan, and the assets may not be diverted to any other use. For purposes of this paragraph:

(a) A trust must be established under the Plan pursuant to a written agreement that constitutes a valid trust under the laws of the state of Florida;

(b) An annuity contract shall be issued by an insurance company qualified to do business in the state where the contract was issued and may not include any life, health, accident, property, casualty, or liability insurance contract; and

(c) The custodian of any custodial account created pursuant to this Plan must be a bank, as described in IRC Section 408(n), or a person who meets the non-bank trustee requirements of paragraphs (2)-(6) of Section 1.408-2(e) of the Income Tax Regulations relating to the use of non-bank trustees.

ARTICLE 15 **PRIOR PLAN**

The Employer intends that the Plan shall amend and restate any previous Master Deferred Compensation Plans ("prior plans"). In such event, the Plan shall apply to all Participants in the prior plans on the effective date hereof, and to each Employee who elects to participate in the Plan on and after the effective date hereof.

ARTICLE 16 **MISCELLANEOUS**

16.01 **No Assignment or Alienation.** A Participant, Beneficiary, or Alternate Payee shall have no right to commute, sell, assign, pledge, transfer, or otherwise convey or encumber the right to receive any payments under the Plan. The payments and rights are non-assignable and nontransferable. A Participant's or Beneficiary's interests in the Plan is not subject to attachment, garnishment, levy, execution, or other legal or equitable process.

- 16.02 **IRS Levy.** Notwithstanding Section 16.01 of the Plan, No Assignment or Alienation, the Administrator may pay from a Participant's, Beneficiary's, or Alternate Payee's account balance the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant, Beneficiary, or Alternate Payee or that is sought to be collected by the United States government under a judgment resulting from an unpaid tax assessment against the Participant, Beneficiary, or Alternate Payee.
- 16.03 **Mistaken Contribution.** If any contribution, or a portion thereof, is made to the Plan by a good faith mistake of fact, then within one (1) year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value) shall be directly returned to the Participant or, to the extent required or permitted by the Administrator, to the Employer.
- 16.04 **Employment Not Guaranteed.** Nothing contained in the Plan, or any modification or amendment to the Plan, or in the creation of any account, or the payment of any benefit, gives any Employee, Participant, or Beneficiary any right to continue employment, or any legal or equitable right against the Employer, any other Employee of the Employer, or any agents thereof except as expressly provided by the Plan.
- 16.05 **Law, Jurisdiction, Venue, Waiver of Jury Trial.** This instrument shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this instrument shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this instrument must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court for the Southern District of Florida. **THE PARTICIPANT AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OR ANY LITIGATION RELATED TO THIS INSTRUMENT.**
- 16.06 **Change in Tax Laws.** Any reference to a provision of the Internal Revenue Code, Treasury Regulations, or any other applicable tax laws shall include a reference to any applicable successor provision of the Internal Revenue Code, Treasury Regulations, or any other applicable tax laws.
- 16.07 **Termination or Freezing of Plan.** The Employer may, at any time, terminate the Plan or cease (freeze) further deferral contributions to the Plan. Upon termination or freezing of the Plan, the provisions of the Plan (other than provisions permitting continued deferral contributions) remain operative until distribution of all accounts. Upon Plan termination, the Provider shall distribute to Participants and Beneficiaries all deferred compensation as soon as is reasonably practicable following termination.
- 16.08 **Sovereign Immunity.** Except to the extent sovereign immunity may be deemed to be waived by entering into this Agreement, nothing herein is intended to serve as a waiver of

sovereign immunity by Broward County nor shall anything included herein be construed as consent by Broward County to be sued by third parties in any matter arising out of this Agreement. County is a political subdivision as defined in Section 768.28, Florida Statutes, and shall be responsible for the negligent or wrongful acts or omissions of its employees pursuant to Section 768.28, Florida Statutes.

- 16.09 **Third-Party Beneficiaries.** Neither Participant or County intends to directly or substantially benefit a third party by this agreement. Therefore, the parties acknowledge that there are no third-party beneficiaries to this agreement and that no third party shall be entitled to assert a right or claim against either of them based on this agreement.

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