RESOLUTION NO. 146 - 2003

A RESOLUTION PERTAINING TO
THE DEFERRED COMPENSATION
PLAN FOR KITSAP COUNTY

WHEREAS, by Resolution No. 59-1973 adopted on April 16, 1973, the Kitsap County Board of Commissioners (the “Board”) adopted plan of deferred compensation (the “Plan”) for employees;

WHEREAS, the Plan was amended and restated by Resolution No. 43-1974 on February 11, 1974;

WHEREAS, by Resolution No. 64-1980 dated February 25, 1980, the Board rescinded Resolution No. 59-1973 and Resolution No. 43-1974, and adopted a restatement of the Plan, providing for a continuation of the Plan in the amended form;

WHEREAS, the Plan was amended and restated on June 19, 1989 and October 21, 1996;

WHEREAS, pursuant to Section 5.3 of the Plan, the Board may amend the Plan at any time; and

WHEREAS, pursuant to Section 2.5 of the Plan, the Board has the authority to operate and administer the Plan; and

WHEREAS, the Deferred Compensation Committee has recommended that it is necessary to amend and restate the Plan to bring the Plan into compliance with the provisions of the Economic Growth and Tax Reduction Reconciliation Act of 2001, as amended (“EGTRRA”), the regulations thereunder, and other applicable law and guidance; and

WHEREAS, the primary purpose of amending and restating the Plan is to continue to provide a program under which employees of Kitsap County may defer a portion of their compensation to pay retirement benefits in accordance with the provisions of Section 457(b) of the Internal Revenue Code of 1986, as amended.

NOW, THEREFORE, THE KITSAP COUNTY BOARD OF COMMISSIONERS RESOLVES AS FOLLOWS:

1. The Deferred Compensation Plan for Kitsap County attached hereto is adopted effective on the first day of the month following thirty days after subscription by the Board.
2. This adopted and restated Deferred Compensation Plan amends the former Plan and is a continuation of the former Plan in this amended and restated form.

3. The Administrator of the Plan shall be the Kitsap County Deferred Compensation Plan Committee, which shall consist of the County Administrator, the Personnel Manager of the Department of Personnel and Human Services, the Financial Services Manager of the Auditor’s Office, and Investment Officer of the Treasurer’s Office.

4. Additions and deletions of funding arrangements offered under the Plan shall be referred to the Board for approval.

5. The Director of Personnel and Human Services shall include the Deferred Compensation Plan for Kitsap County in the appendix to the Kitsap County Personnel Manual, and make copies of the Plan available to employees.

6. This resolution and the Plan shall be liberally construed to achieve their stated purposes and the purposes intended under 26 U.S.C. §457 and the laws of the State of Washington. If any provision of this resolution or the Plan or their application to any person or circumstance is held invalid or unconstitutional the remainder of the resolution and Plan or their application to other persons or circumstances shall not be affected.

DATED this 11th day of August 2003.

BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON

[Signature]
JAN ANGEL, Chair

ATTEST:

[Signature]
Opal Robertson
Clerk of the Board

NOT PRESENT

CHRIS ENDRESEN, Commissioner

[Signature]
PATTY LENT, Commissioner
HIGHLIGHTS FOR 403(b) TAX SHELTERED ANNUITIES AND 457 PLANS:
The Economic Growth and Tax Reconciliation Act of 2001 (EGTRRA)

THESE EGTRRA CHANGES ARE GENERALLY EFFECTIVE FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2001

<table>
<thead>
<tr>
<th>Issue</th>
<th>Prior Law</th>
<th>EGTRRA of 2001 Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limit on Plan Contributions</td>
<td>Elective deferrals limited to $10,500</td>
<td>Elective deferral limit increased to $11,000 in 2002; increased $1,000 each succeeding year to $15,000 in 2006, and indexed thereafter in $500 increments.</td>
</tr>
<tr>
<td>Limit on employer allocations: Maximum contribution to defined contribution 403(b) arrangement is limited to the lesser of $35,000, or 25% of compensation</td>
<td>Increased to the lesser of $40,000 or 100% of compensation. However, the old definition of includable compensation applies for this purpose</td>
<td></td>
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</tbody>
</table>
| Tax Sheltered Annuity plan contributions limited to lesser of IRC 402(g) elective deferral dollar limit, IRC 415(c) contribution limit lesser of 25% of compensation or $35,000), or IRC 403(b)(2) Maximum Exclusion Allowance | • IRC 403(b)(2) Maximum Exclusion Allowance is repealed; no longer affects TSA contributions as a limit or allowance.  
• For tax years beginning after 12/31/99 (& before 1/1/2002), a plan may disregard the requirement that contributions to the employer’s defined benefit plan be treated as previously excluded amounts for purposes of the exclusion allowance calculation.  
• Post retirement employer contributions to 403(b) plans permitted for up to five years after severance from employment. Contribution limits based on retiree’s compensation during final year of service. |

March 27, 2002
### Tax Sheltered Annuity Issue Highlights

<table>
<thead>
<tr>
<th>Issues</th>
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<th>EGTRRA 2001 Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>IRC 415(c)(4) Special election for section 403(b) Contracts Purchased by Educational Organizations, etc.</td>
<td>An employee of an educational institution, hospital and other specified organizations may make an irrevocable election to use one of three special limitations for contribution limits on 403(b) annuity contracts. These options were alternatives to the limit on employer contributions. The “A” limit permits a special election for the tax year in which the employee separates from service. The “B” election was an “any year” election. The “C” election permitted contributions up to the 415(c) limits, without regard to the Maximum Exclusion Allowance.</td>
<td>This section was repealed.</td>
</tr>
<tr>
<td>Purchase of Service Credits in Governmental Defined Benefit Plans</td>
<td>No prior provision in the Internal Revenue Code. Under various state laws, state and local government employees may have the option of purchasing credit for prior service. This credit would be for additional benefits in a defined benefit 401(a) plan which covers the employee.</td>
<td>State and local government employees may use funds from their 403(b) arrangements or 457(b) plans to purchase service credits under their defined benefit plans. This will be a trustee to trustee transfer of the actuarially determined amounts.</td>
</tr>
<tr>
<td>Rollovers Between IRC sections 401(a), 403(b), 457(b) and IRA arrangements.</td>
<td>IRC section 403(b) rollover provisions were very limited, consisting of only 403(b) to 403(b) or 403(b) to a conduit IRA. After tax contributions may not be rolled over.</td>
<td>Rollovers permitted from and to IRC 401(k), 403(b) and governmental 457(b) arrangements without restriction. Such distributions also become subject to 10% early withdrawal tax, if the distribution consists of amounts attributable to rollovers from another type of plan. After tax employee contributions can be included in an eligible rollover distribution to a qualified plan, or to an IRA or between 403(b) arrangements. Taxable IRA distributions can be rolled over to any of these plans.</td>
</tr>
</tbody>
</table>

March 27, 2002
<table>
<thead>
<tr>
<th>Issues</th>
<th>Prior Law</th>
<th>Tax Sheltered Annuity Issue Highlights</th>
</tr>
</thead>
<tbody>
<tr>
<td>Catch-up Contributions</td>
<td>No provision</td>
<td>EGTRRA 2001 Changes</td>
</tr>
<tr>
<td>Workers Age 50 and Older</td>
<td>2002 $1,000</td>
<td>Additional Deferrals</td>
</tr>
<tr>
<td></td>
<td>2003 $2,000</td>
<td></td>
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<tr>
<td></td>
<td>2004 $3,000</td>
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<td>2005 $4,000</td>
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<td>2006 $5,000</td>
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<tr>
<td>Repeal of the &quot;Same Desk Rule&quot;</td>
<td>Under the &quot;same desk rule&quot;, a distribution to a terminated employee is not allowed if the employee continues performing the same functions for a successor employer.</td>
<td>The same desk rule is eliminated by replacing &quot;separation from service&quot; with &quot;severance from employment.&quot;</td>
</tr>
</tbody>
</table>
## 457 Issue Highlights

<table>
<thead>
<tr>
<th>Issues</th>
<th>Prior Law</th>
<th>EGTRRA 2001 Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basic limit increases for 457(b) plans</td>
<td>Current 2001 limit is $8,500</td>
<td>• Primary 457(b) limit to $11,000 for 2002 to $15,000 in 2006</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Conforms to elective deferral limits of IRC 402(g), as amended</td>
</tr>
<tr>
<td>Catch up contributions</td>
<td></td>
<td>Last 3 years before retirement, deferrals of twice basic limit. (Underutilized limitation still applies)</td>
</tr>
<tr>
<td>Contribution coordination limits with tax sheltered annuities and 401(k) plans</td>
<td>A maximum of $8,500 in compensation may be deferred per year in a 457(b) plan. This limit is generally reduced by elective deferrals under other types of arrangements.</td>
<td>The section 457 limit on deferred compensation is not reduced by elective deferrals under other types of arrangements.</td>
</tr>
<tr>
<td>Age 50 or over catch-up contributions for governmental plan participants ONLY</td>
<td></td>
<td>Individuals who are age 50 or older may make additional contributions to the plan.</td>
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<tr>
<td></td>
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<td>Year</td>
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<tr>
<td></td>
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<td>2002</td>
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<td></td>
<td>2005</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2006</td>
</tr>
<tr>
<td>Purchase of permissive service credit</td>
<td></td>
<td>Allows transfers from 457 governmental plans to governmental defined benefit plan to buy additional service credits</td>
</tr>
</tbody>
</table>

March 27, 2002
DEFERRED COMPENSATION PLAN
FOR KITSAP COUNTY

Amended and Restated
Effective October 1, 2003
DEFERRED COMPENSATION PLAN
FOR KITSAP COUNTY

ARTICLE 1. INTRODUCTION AND PURPOSE

Kitsap County established the Deferred Compensation Plan for Kitsap County ("the Plan") effective April 16, 1973. The Plan was previously amended and restated on February 25, 1980, January 1, 1989 and October 21, 1996. The purpose of this amendment and restatement is to bring the Plan into compliance with the provisions of the Economic Growth and Tax Reduction Reconciliation Act of 2001, as amended ("EGTRRA"), the regulations thereunder, and other applicable law and guidance. This amendment and restatement of the Plan is effective October 1, 2003.

The primary purpose of this Plan is to provide a program under which Employees of Kitsap County may defer a portion of their Compensation to pay retirement benefits in accordance with the provisions of Section 457(b) of the Internal Revenue Code of 1986, as amended ("the Code"). The Plan is a governmental plan within the meaning of Code Section 414(d). The Plan is maintained, and all assets are held in trust for the exclusive benefit of Plan Participants and their Beneficiaries (as defined in this Plan).

ARTICLE 2. DEFINITIONS

2.1 Account

"Account" or "Participant’s Account" means the separate account maintained for each Participant to which Deferred Compensation shall be allocated. The Account shall be credited (or debited, as the case may be) with investment gains or losses attributable to the investment of the Account, amounts transferred from another governmental Eligible 457(b) Plan as permitted by this Plan, any distributions from the Account and any fees or expenses charged against the Account. The Account may include sub accounts, such as a Rollover Account.

2.2 Administrator

"Administrator" or "Plan Administrator" means the Kitsap County Deferred Compensation Plan Committee or its duly authorized designee for that purpose, who shall exercise the discretion and carry out the functions conferred upon it under the terms of the Plan.

2.3 Annuity Contract

"Annuity Contract" means an annuity contract or custodial arrangement qualified for sale in the State of Washington and approved by the Employer as a Funding
Arrangement under this Plan. Annuity Contracts shall be held in the name of the Employer and may be amended or replaced from time to time by action of the Employer. Annuity Contracts shall be deemed to be a trust for purposes of the Plan, as permitted by Code Section 457(g). Such action shall not necessitate the amendment of the Plan.

2.4 Beneficiary

"Beneficiary" means the person or persons designated by the Participant to receive a benefit from the Plan in the event of the Participant’s death.

2.5 Compensation

"Compensation" means all wages, salary and other amounts, as set forth in the annual salary regulations or ordinances of the Employer, that would be payable by the Employer to an Employee for services rendered if the Employee did not have a Deferred Compensation election in effect during the taxable year.

2.6 Deferred Compensation

"Deferred Compensation" means that portion of an Employee’s Compensation which the Employee, by agreement of the Employer, has elected to defer in accordance with the provisions of this Plan.

2.7 Disability

"Disability" means a physical or mental condition that permanently prevents a Participant from performing the essential functions of his or her position with Kitsap County, as determined by the Administrator in its sole discretion.

2.8 Dollar Limitation

"Dollar Limitation" means the applicable dollar amount within the meaning of Section 457(b)(2)(A) of the Code, as adjusted for the cost of living in accordance with Code Section 457(c)(15)(B).

2.9 Eligible 457(b) Plan

"Eligible 457(b) Plan" means a plan described in Code Section 457(b), other than this Plan.

2.10 Employee

"Employee" means any common law employee, officer, or elected official of the Employer who receives any type of Compensation from the Employer for services rendered, and excludes all other individuals.
2.11 Employer

“Employer” means Kitsap County.

2.12 Funding Arrangement

“Funding Arrangement” means any trust agreement, plan and trust, custodial account agreement or Annuity Contract entered into by the Employer or its designee from time to time pursuant to which Investment Funds are offered under the Plan.

2.13 Includible Compensation

“Includible Compensation” means the amount of a Participant’s Compensation that is includible in the Employee’s gross income for the taxable year, as defined in Section 457(e)(5) of the Code.

2.14 Investment Fund

“Investment Fund” means a separate investment option or vehicle that is offered under a Funding Arrangement, in which all or a portion of the Plan’s assets may be invested, and to which all or a portion of the Participant’s Account may be allocated in accordance with the Participant’s direction as provided in this Plan.

2.15 Normal Retirement Age

“Normal Retirement Age” or “Normal Retirement Date” means the Participant’s age on the last day of the month in which the Participant retires pursuant to the normal retirement practices of the Employer. For purposes of the special Section 457 catch up under Section 4.2.B., such age shall be no later than age 70½, and no earlier than the earliest age at which the Participant has the right to retire under the Employer’s basic pension plan, without consent of the Employer, and to receive immediate retirement benefits without actuarial or similar reduction. Except for purposes of Section 4.2.B, if the Participant continues to work beyond age 70½, the Participant’s Normal Retirement Age shall be the date selected by the Participant, provided that such date is no later than the date of the Participant’s Termination of Employment.

2.16 Participant

“Participant” means any Employee who elects to participate in the Plan by executing and delivering to the Administrator a completed Participation Agreement.

2.17 Participation Agreement

“Participation Agreement” means the written agreement by which the Employee and the Employer agree that a portion of the Employee’s Compensation will be deferred in accordance with the provisions of the Plan, and the Employee designates his
Beneficiary, investment choices and payment options as permitted by the Plan. The Participation Agreement may also provide for deferrals of accrued sick leave, accrued vacation, or back pay, as permitted by Section 3.4. The Participation Agreement shall contain a provision whereby the Participant, on behalf of himself and his heirs, successors and assigns, holds harmless the Employer and Administrator from any liability for losses due to the Participant’s investment choices, payment options, and to the extent permitted by law, all acts performed in good faith.

2.18 Percentage Limitation

“Percentage Limitation” means, after December 31, 2002, 100% of the Participant’s Includible Compensation for the taxable year. Prior to January 1, 2003, “Percentage Limitation” means the lesser of the Dollar Limitation in effect for the taxable year or 25% of the Participant’s Compensation.

2.19 Plan Year

“Plan Year” means the calendar year.

2.20 Rollover Account

“Rollover Account” means a separate subaccount of the Participant’s Account maintained to which Eligible Rollover Contributions (as defined in Section 6.10), if any, shall be allocated.

2.21 Termination of Employment

“Termination of Employment” means, after December 31, 2002, a severance of the Participant’s employment with the Employer, within the meaning of Code Section 457(d)(1)(A)(ii), including a severance of employment due to retirement, Disability or death. Prior to January 1, 2003, “Termination of Employment” means a separation from service, within the meaning of Code Section 402(e)(4)(D)(III), including a separation from service due to retirement, Disability or death. In the case of a Participant who is an elected official, a Termination of Employment shall be deemed to have occurred on the date the Participant’s term of office ended without the Participant being elected to a new term, provided that it is not anticipated that the Participant will again become an Employee of the Employer, or as otherwise permitted by the Code.

2.22 Trust Fund

“Trust Fund” means the aggregate of Plan assets, together with all earnings, income and increments thereon, that the Plan Administrator allocates to a separate Investment Fund under a Funding Arrangement.
2.23 Unforeseeable Emergency

"Unforeseeable Emergency" means a severe financial hardship to the Participant resulting from a sudden and unexpected illness or accident of the Participant or of a dependent (as defined in Code Section 152(a)), impending personal bankruptcy of the Participant, loss of the Participant’s property due to casualty or any other major personal expense arising from extraordinary and unforeseeable events beyond the control of the Participant. "Unforeseeable Emergency" does not include foreseeable personal expenditures that may ordinarily be budgeted, such as a down payment on a house, the purchase of an automobile, or college or other school expenses. Only under extraordinary circumstances would the purchase of a home or the payment of college tuition constitute an "Unforeseeable Emergency." "Unforeseeable Emergency" also does not include any hardship which may be relieved (i) through reimbursement or compensation through insurance or otherwise, (ii) by liquidation of the Participant’s own assets, to the extent that the liquidation of such assets would not itself cause severe financial hardship, or (iii) by cessation of deferrals under the Plan. The Plan Administrator shall determine in its sole discretion whether a hardship to a Participant constitutes an Unforeseeable Emergency.

2.24 USERRA

Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credits with respect to qualified military service (as defined in the Uniformed Services Employment and Reemployment Rights Act of 1994) will be provided in accordance with Section 414(u) of the Code.

ARTICLE 3. PARTICIPATION AND CONTRIBUTIONS

3.1 Participation

An Employee may elect to become a Participant of the Plan and to defer payment of part of his or her Compensation by executing a written Participation Agreement and submitting it to the Plan Administrator. In order for Compensation to be deferred for any calendar month, a Participation Agreement providing for such deferral must be executed by the Participant and approved by the Plan Administrator before the first day of the month in which the Compensation is paid or made available. A new Employee may defer Compensation payable in the first calendar month of employment if the Employee enters into a Participation Agreement providing for such deferral on or before the first day on which the Participant performs services for the Employer. By signing the Participation Agreement, the Participant elects to defer at least $20 per month, or such larger amount as the Employer may designate from time to time. The Participant’s deferrals under this Plan shall continue in effect until modified, disallowed or revoked in accordance with the terms of this Plan, or until the Participant’s Termination of Employment.
An Employee may also become a Participant by electing, in the form and manner required by the Plan Administrator, to transfer to this Plan amounts deferred by the Employee, and the earnings on such amounts, under another Eligible 457(b) Plan maintained by a previous governmental employer (as defined in Code Section 457(e)(1)(A)), or, commencing after 2002, Eligible Rollover Distributions as permitted under Section 6.10. Such amounts shall be treated as if they originally had been deferred under this Plan, and shall be governed by the applicable provisions of this Plan.

3.2 Amendment or Revocation of Participation Agreement

The Participant may at any time revoke his Participation Agreement or decrease the amount of Compensation to be deferred by filing a written revocation with the Administrator. A Participant may increase the amount of Compensation to be deferred or change his investment options during an enrollment period (as provided in Section 3.3) by executing and filing with the Administrator an amendment to his Participation Agreement, in a form approved by the Administrator.

3.3 Enrollment Periods

A new Employee shall have 30 days from the date of employment to make an election to participate in the Plan by completing a Participation Agreement. Any Employee may elect to participate during enrollment periods for the Plan, which shall be held during the months of March and September, and at such other times as the Plan Administrator may designate. Such elections shall be effective only for months subsequent to the date on which the Employee’s Participation Agreement is filed with the Plan Administrator.

3.4 Employer Nonelective Contributions

The Employer in its sole discretion may make nonelective contributions to the Plan on behalf of any Participant. Such nonelective contributions shall be treated as additional Deferred Compensation, provided that such additional Deferred Compensation, when added to all other Compensation deferred under the Plan, does not exceed the Maximum Deferral limitation of Section 4.1. Such nonelective contributions may be subject to such vesting provisions as the Employer, in its sole discretion, may impose. Any such vesting requirements shall be communicated to the Administrator in a writing filed with the records of the Plan.

3.5 Time of Remittances

The Employer shall remit a Participant’s Deferred Compensation for each payroll period to the authorized agent for the Funding Arrangement designated to receive such Deferred Compensation as soon as administratively feasible after the date such amounts would otherwise have been paid to the Participant.
ARTICLE 4. LIMITATION ON PARTICIPANT DEFERRALS

4.1 Maximum Deferral

A. Except as otherwise provided in Section 4.2 of this Plan, the maximum amount ("Maximum Deferral") that a Participant may defer during any taxable year under this Plan (other than rollover amounts under Section 6.10) shall not exceed the lesser of:

(i) The Dollar Limitation; or

(ii) The Percentage Limitation, reduced by any amount excluded from the Participant’s gross income under Code Section 457(a) for the taxable year other than such amounts attributable to elective deferrals made under this Plan.

B. For Plan Years prior to January 1, 2003, the Maximum Deferral under Section 4.1.A. shall also be reduced by any amount:

(i) excluded from the Participant’s gross income under Code Section 403(b) for the taxable year, and

(ii) except in the case of a Participant in a rural cooperative plan (as defined in Code Section 401(k)(7)), excluded from the Participant’s gross income under Code Section 402(e)(3) or Section 402(h)(1)(B) or (k) for the taxable year, or with respect to which a deduction is allowable by reason of a contribution to an organization described in Code Section 501(c)(18).

4.2 Catch-Up Deferrals

A. **Age 50 Catch Up.** Effective for Plan Years after 2002, a Participant who has attained age 50 before the close of the Plan Year, and who are prohibited by the Maximum Deferral limitation under Section 4.1 from making other elective deferrals to the Plan for the Plan Year, may elect under the Participation Agreement to make elective deferrals in addition to those permitted by Section 4.1 in an amount not to exceed the lesser of:

(i) The applicable dollar amount as defined in Code Section 414(v)(2)(B), as adjusted for the cost of living under Code Section 414(v)(2)(C), or

(ii) The excess (if any) of (a) the Participant’s compensation (as defined in Code Section 415(c)(3)) for the year, over (b) any
other elective deferrals of the Participant for such year which are made without regard to this Section 4.2.A.

Any additional contribution made pursuant to this Section 4.2.A shall not be subject to any otherwise applicable limitation contained in Code Section 402(g) with respect to the year in which the contribution is made, or be taken into account in applying such limitation to other contributions or benefits under the Plan or any other plan. The provisions of this Section 4.2.A. of the Plan shall not apply in any year to which Section 4.2.B. applies.

B. Special Section 457 Catch Up. For one or more of a Participant’s last three taxable years ending before the Participant’s Normal Retirement Age, the Maximum Deferral under the Plan shall be the lesser of:

(i) For Plan Years after 2002, twice the Dollar Limitation (for years prior to 2003, $15,000), or

(ii) The sum of:

(a) the Maximum Deferral determined under Section 4.1 for the taxable year (determined without regard to this Section 4.2), plus

(b) so much of the Maximum Deferral determined under Section 4.1 hereof, or determined under any other Eligible 457(b) Plan sponsored by an entity located in the same state as the Employer, for any prior taxable year or years (beginning after December 31, 1978 and during all or any portion of which the Participant was eligible to participate in this Plan or such other plan) as has not previously been used under Sections 4.1 and 4.2 hereof, or under such other plan.

This Section 4.2.B. shall not apply with respect to any Participant who has previously utilized in whole or in part the special 457 catch up under this subsection B. or under any other Eligible 457(b) Plan. For purposes of determining the Participant’s underutilized Maximum Deferral under subsection (b) for any taxable year prior to 2003, the Maximum Deferral shall be reduced by amounts excluded from the Participant’s gross income for such taxable year by reason of a salary reduction or elective contribution under any other Eligible 457(b) Plan, Code Section 401(k) qualified cash or deferred arrangement, Section 402(h)(1)(B) simplified employee pension, Section 403(b) annuity contract, and Section 408(p) simple retirement account, or any plan for which a deduction is allowed because of a contribution to an organization described in Code Section 501(c)(18).
4.3 Excess Deferrals

Any excess deferrals resulting from a failure of the Plan to apply the limitations of this Article 4 to a Participant’s deferrals under the Plan will be distributed to the Participant, with net income attributable to such deferrals, as soon as administratively practicable after the Administrator determines that the amount is an excess deferral. For purposes of determining whether there is an excess deferral, all plans in which the Participant participates by virtue of his relationship with the Employer are treated as a single plan.

ARTICLE 5. ADMINISTRATION AND PARTICIPANTS’ ACCOUNTS

5.1 Administration

The Administrator shall administer this Plan and shall prescribe such rules and regulations as are necessary to carry out the purposes of the Plan. The Administrator shall have full power, discretion and authority to interpret the provisions of the Plan, to decide all questions of eligibility and benefits, and to adopt, modify or revoke rules and regulations for the administration of the Plan. The Administrator may delegate any or all of its powers and duties to another person, persons or entity, and may pay reasonable compensation for such services as an administrative expense of the Plan, to the extent that such compensation is not otherwise paid by the Employer.

5.2 Participant Accounts

A separate Account shall be maintained for each Participant. The Participant’s Deferred Compensation for each payroll period shall be credited to the Account, together with earnings or losses on investment of the account and any funds transferred from another eligible plan as permitted under Section 6.11.

All interest, dividends or market changes applicable to each Participant’s Account shall be credited or debited to the Account as they occur. A written report of the status of the Participant’s Account shall be furnished to the Participant at least quarterly. The written Account statement shall show the amount of any contributions to or distributions from the Account since the date of the preceding Account statement, and the Investment Funds to which the Account is allocated.

5.3 Claims Procedures

The Plan Administrator may establish a claims and appeal procedure for resolution of disputed claims for benefits.
ARTICLE 6. PAYMENT OF BENEFITS

6.1 Commencement of Distributions

Effective for Plan Years after 2002, unless the Participant elects a different distribution date pursuant to Section 6.3, distribution of a Participant’s Account to the Participant shall commence on or before April 1 following the close of the Plan Year in which the Participant’s Termination of Employment occurs, or, if applicable, such other date selected by the Administrator and permitted under Code Section 401(a)(9) and the regulations thereunder. Prior to 2003, distribution of the Participant’s Account to the Participant shall commence on the first day of the month following 45 days after the occurrence of the distributable event (Termination of Employment) unless deferred pursuant to Section 6.3.

6.2 Payment of Small Amounts

Notwithstanding Section 6.1, a Participant may elect payment of his Account (or the Administrator may distribute the Account without the Participant’s consent) in one lump sum on any date before or after his Termination of Employment, provided that the Account (exclusive of any amount attributable to rollover contributions from another plan) does not exceed $5,000 (or the dollar amount limit under Code Section 411(a)(ii), if greater). Such amount may be distributed only if no amount has been deferred under the Plan with respect to such Participant during the two-year period ending on the date of the distribution, and there has been no prior distribution under the Plan to such Participant to which this Section 6.2 applies.

6.3 Deferred Distribution Date

Notwithstanding Section 6.1, a Participant may elect to defer payment of his Account until a fixed or determinable date after the commencement date specified in Section 6.1, but in no event later than the required beginning date, as described in Section 6.6.

6.4 Normal Form of Payment

The normal form of distribution to a Participant for Plan Years after 2002 shall be (i) one lump sum distribution if the Participant’s Account balance is less than $10,000 on the date payment is required to commence, or (ii) 120 monthly installments if the Participant’s Account balance is equal to or greater than $10,000 on the date payment is required to commence. Benefits will automatically be paid in the normal form unless the Participant elects an optional form of payment in accordance with Section 6.5. For Plan Years before 2003, if the Participant fails to select an optional form of payment, he will be deemed to have elected payments over a period of 10 years as provided in Section 6.5(ii).
6.5 Payment Options

Notwithstanding Section 6.4, a Participant or the Participant’s Beneficiary after the death of the Participant (but prior to the commencement of distribution) may select one of the following payment options:

(i) One lump sum cash payment;

(ii) Annual or more frequent equal installment payments (monthly, quarterly or semiannually) over a period of 3 to 30 years; provided that the period shall not exceed the life expectancy of the Participant or the joint life expectancies of the Participant and the Participant’s Beneficiary; and provided further that (effective after 2002), such installment distribution may (as permitted by the Administrator) be revised or terminated and followed by a full distribution of the Account on a specified date that is permissible under the Code;

(iii) A life annuity payable during the lifetime of the Participant or his Beneficiary;

(iv) A life annuity with period certain guaranteed: the annuity is payable during the lifetime of the Participant, or his Beneficiary, with the guarantee that if at his death payments have not been made for the guaranteed period as elected, benefits will continue to the Beneficiary. The guaranteed period must be 10, 15 or 20 years;

(v) A joint and survivor annuity, payable during the lifetimes of the Participant and the Participant’s Beneficiary; or

(vi) For distributions commencing after 2002, any other payment option elected by the Participant and agreed to by the Employer and Administrator.

The election of an optional payment form may be made or modified until the date 30 days prior to the time that payments are to commence.

6.6 Minimum Distribution Requirements

All distributions under this Plan will be made in accordance with Code Sections 401(a)(9) and 457(d) and regulations thereunder, which provisions are hereby incorporated in this Plan. Notwithstanding any other provision of this Plan, distribution of a Participant’s Account shall begin not later than April 1 of the calendar year following the later of (i) the calendar year in which the Participant attains age 70½ or (ii) the calendar...
year in which the Participant retires. Payment of benefits shall be made over a period not to exceed the life or life expectancy of the Participant or the joint lives or life expectancies of the Participant and the Participant’s designated Beneficiary.

6.7 Designation of Beneficiary

The Participant may file with the Administrator a written designation of Beneficiary form (provided by the Administrator) signed by the Participant, designating the person or persons who shall receive the benefits payable under this Plan in the event of the Participant’s death. The Participant may also change his Beneficiary designation from time to time by filing a subsequent signed designation of Beneficiary form with the Administrator, and such subsequent designation of Beneficiary shall be effective to revoke any prior designation of Beneficiary. No designation of Beneficiary shall be binding on the Administrator unless it is signed, filed with the Administrator and accepted by the Administrator. If the Participant dies without designating a Beneficiary and has no surviving spouse, payments under this Plan shall be made to the properly appointed fiduciary of the Participant’s probate estate. If no such fiduciary has been appointed and qualified within 120 days after the Participant’s death, however, the payment may be made first, to a surviving spouse; second, to a surviving child or children; and third, to a surviving parent or parents.

By participating in this Plan, the Participant accepts and acknowledges that he has the burden of executing and filing with the Administrator a Beneficiary designation, in a form acceptable to the Administrator.

6.8 Payments to a Beneficiary

A. In the event of the Participant’s death prior to commencement of benefits under the Plan, the Participant’s designated Beneficiary may select payment options (i) or (ii), or in the case of a surviving spouse, options (i), (ii) or (iii) under Section 6.5. Such selection shall be made within 60 days after the close of the Plan Year in which the Participant’s death occurs. If the Beneficiary fails to make such an election, payments shall be made to the Beneficiary in accordance with Section 6.5 (ii) over a 10-year period.

B. Notwithstanding any other provision of this Plan to the contrary, if the Participant dies before payment of his or her Account has begun, the Account (or any portion thereof) shall be distributed as follows:

(i) If there is no designated Beneficiary: Distribution must begin no later than one year after the Participant’s death, and the entire Account must be distributed within five years after the Participant’s death.
(ii) If there is a designated Beneficiary other than the surviving spouse: Distribution must begin no later than one year after the Participant’s death (or at such later date as may be permitted under the Code Section 401(a)(9) regulations), and the entire amount of the Beneficiary’s portion of the Account must be distributed over a period that does not exceed the life or life expectancy of such Beneficiary.

(iii) If the Beneficiary is the Participant’s surviving spouse: If the Beneficiary is the Participant’s surviving spouse, distribution of such Beneficiary’s portion of the Account shall begin no later than one year after the Participant’s death, except that payment may be delayed until no later than the year in which the Participant would have attained age 70½. If the surviving spouse dies before distributions to such spouse begin, the provisions of this Section 6.8 shall be applied as if the spouse were the Participant.

C. If the Participant dies after distribution of his or her Account has commenced, any portion of the Account that is not distributed during his or her lifetime shall be distributed to the Participant’s Beneficiary at least as rapidly as under the method of distribution to the Participant in effect as of the date of his or her death.

D. Notwithstanding any other provision of this Plan, all distributions to a Beneficiary shall be made in compliance with the requirements of Code Sections 401(a)(9) and 457(d) and the regulations thereunder, which are hereby incorporated into this Plan.

6.9 Unforeseeable Emergency Payments

Notwithstanding any other provision herein, a Participant may apply to the Plan Administrator for distribution of all or a portion of his or her Account under the Plan in the event of an Unforeseeable Emergency. Such a request shall be treated as a request for revocation of deferrals under the Participation Agreement. If the application or withdrawal is approved by the Plan Administrator, payment shall be made as soon as it is administratively feasible following such approval. Payment shall be limited to that amount necessary to meet the Unforeseeable Emergency situation constituting the financial hardship and may include any amounts necessary to pay income taxes or penalties that are reasonably anticipated to result from the distribution.

6.10 Eligible Rollover Distributions

A. Rollovers To Another Plan.
Effective January 1, 2002, notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's payment election under this Plan, a Distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the distributee in a Direct Rollover.

B. Rollovers To This Plan.

Effective January 1, 2003, the Plan may accept an Eligible Rollover Distribution from an Eligible Retirement Plan maintained by another employer, and credit such distribution to the Participant’s Account under this Plan. The Administrator may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Code Section 402 and to confirm that such plan is an Eligible Retirement Plan. Any Eligible Rollover Distributions from an Eligible Retirement Plan other than an Eligible 457 Plan maintained by an eligible government employer described in Code Section 457(e)(1)(A) shall be credited to the Participant’s separate Rollover Account.

C. Definitions.

As used in this section, the following terms have the following meanings:

(i) “Eligible Rollover Distribution” means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life and/or life expectancy of the Distributee or the joint lives (or joint life expectancy) of the Distributee and the Distributee’s designated beneficiary, or for a specified period of 10 years or more; any distribution to the extent such distribution is required under Code Sections 401(a)(9) and 457(d)(2); and any distribution made upon the hardship of the employee. For purposes of distributions from other eligible retirement plans rolled over into this Plan, the “Eligible Rollover Distribution” shall not include the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

(ii) Eligible Retirement Plan means an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), an annuity plan described in Code Section 403(a), an annuity contract described in Code Section 403(b), a qualified trust...
described in Code Section 401(a), or an eligible deferred compensation plan described in Code Section 457(b) maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state described in Code Section 457(e)(1)(A) that accepts the distributee’s eligible rollover distribution.

(iii) “Distributee” includes an employee or former employee. In addition, the employee’s or former employee’s surviving spouse and the employee’s or former employee’s spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), are Distributees with regard to the interest of the spouse or former spouse.

(iv) “Direct Rollover” means a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.
6.11 Plan to Plan Transfers

A. Transfers Between Governmental 457(b) Plans.

A Participant who incurs a Termination of Employment (other than by death, Disability or retirement) may elect to transfer his Account under this Plan to another Eligible 457(b) Plan maintained by a governmental employer (as defined in Code Section 457(e)(1)(A)), provided that:

(i) The receiving plan provides for such transfers;

(ii) The Participant would (if the plan then terminated) receive a benefit under the transferee plan immediately after the transfer which is equal to or greater than the benefit the Participant the Participant would have been entitled to receive immediately before the transfer (if the Plan had then terminated); and

(iii) The Participant is performing services for the entity maintaining the receiving plan; provided, however, that this subsection (iii) need not be satisfied if all of the assets of this Plan are transferred to a plan maintained by a state entity within the State of Washington, and the Participants whose Accounts are being transferred are not eligible for additional deferrals under the receiving plan unless they are performing services for the entity maintaining the plan.

This Plan shall accept transfers of an Employee’s deferred compensation under the Eligible 457(b) Plan of a prior governmental employer, and the provisions of (ii) and (iii) shall apply to such transfers.

B. Transfers to a Qualified Plan.

All or a portion of a Participant’s Account under this Plan may be transferred directly to the trustee of a defined benefit governmental plan (as defined in Code Section 414(d)) if such transfer is (i) for the purchase of permissive service credit (as defined in Code Section 415(n)(3)(A)) under such plan, or (ii) a repayment to which Code Section 415 does not apply by reason of subsection (k)(3) thereof.
ARTICLE 7. INVESTMENT OF PLAN ASSETS

7.1 Investment Funds and Funding Arrangements

The Employer shall in its sole discretion determine the number and type of Investment Funds to be offered under a Funding Arrangement and may change the Investment Funds from time to time. All assets of the Plan invested in the Investment Funds shall be held and administered as a separate Trust Fund.

7.2 Participant Direction of Investments

In accordance with the procedures and requirements established by the Plan Administrator, each Participant shall designate one or more Investment Funds established under the Plan for the investment of the funds held in his or her Account. Amounts credited to a Participant’s Account for each payroll period shall be allocated by the Plan Administrator among the Investment Funds in accordance with the Participant’s election. Under procedures and requirements established by the Plan Administrator, and subject to the terms and conditions of any affected Investment Fund, a Participant may elect to change his or her investment designation with respect to future contributions under the Plan or to elect to transfer investments from any Investment Fund to any other Investment Fund. The Employer shall not be responsible for any investment results from Participant’s investment choices.

7.3 Funding Arrangements

The Employer shall enter into one or more Funding Arrangements for purposes of holding and investing the assets maintained under the Plan. Any Funding Arrangement shall constitute a trust under this Plan, and the person or entity holding assets of this Plan under the Funding Arrangement shall be deemed the trustee thereof for the exclusive benefit of the Participants and their Beneficiaries within the meaning of Code Section 457(g). In the event of a conflict between the terms of this Plan and the terms of any Funding Arrangement, the terms of this Plan shall control.

ARTICLE 8. AMENDMENT OR TERMINATION

The Employer may at any time modify, amend or terminate this Plan. Except as may be required to maintain the status of the Plan under Code Section 457(b), no amendment or termination of the Plan shall divest any Participant of any rights with respect to Compensation deferred before the date of the amendment or termination.

ARTICLE 9. GENERAL PROVISIONS

9.1 Nonassignability

Neither a Participant nor his or her Beneficiary may assign, transfer, sell, hypothecate or otherwise dispose of any or all of his or her Account or the right to receive
any payments under the Plan, and any attempt to do so shall be null and void, except as provided below in Section 9.2 with respect to a qualified domestic relations order, or as may be required by applicable law.

9.2 Qualified Domestic Relations Orders

A distribution or payment from this Plan shall be treated as made pursuant to a qualified domestic relations order if it is made pursuant to a domestic relations order which creates or recognizes the existence of an alternate payee’s right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to a Participant, as authorized under Code Section 414(p). A “domestic relations order” means any judgment, decree or order (including approval of a property settlement agreement) which

(i) relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child or other dependent of a Participant; and

(ii) is made pursuant to a state domestic relations law (including a community property law).

An “alternate payee” means any spouse, former spouse, child or other dependent of a Participant who is recognized by a domestic relations order as having the right to receive all, or a portion of, the benefits payable under the Plan with respect to such Participant.

The Plan Administrator may adopt additional rules and regulations as it deems necessary or appropriate to provide for distributions under this section 9.2.

9.3 Leave of Absence

A Participant’s participation in the Plan will continue during a paid leave of absence from the Employer. If the Participant takes an unpaid leave of absence, and such leave continues for more than six months, the Participant’s Participation Agreement under this Plan will be deemed to have terminated automatically at the end of such six-month period. Such termination of participation will not cause a distribution of benefits. Upon the Employee’s return from leave, his full compensation on a non-deferred basis will be restored. The Employee may again become a Participant by completing a Participation Agreement as provided under this Plan.

9.4 Retirement System Integration

Benefits payable by, and deductions for Employee contributions to any retirement system maintained by the Employer shall be computed without reference to amounts deferred pursuant to this Plan, and shall instead be based upon gross compensation that the Participant would receive if he or she had not elected to defer Compensation under this Plan.

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9.5 No Employment Rights Created

Participation in this Plan shall not be construed as giving the Participant any right to continue his or her employment with the Employer.

9.6 Controlling Law

This Plan is created and shall be administered and interpreted in accordance with Code Section 457 and the laws of the State of Washington.

9.7 Entire Agreement

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

9.8 Successors and Assigns

The Plan shall be binding upon and shall inure to the benefit of the Employer, its successors and assigns, all participants and beneficiaries and their heirs and legal representatives.

9.9 Gender

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

9.10 Written Notices

Any notice or other communication required or permitted under the Plan shall be in writing, and if directed to the Employer or the Administrator shall be sent to the designated office of the Employer and, if directed to a Participant or to a Beneficiary, shall be sent to such Participant or Beneficiary at his last known address as it appears on the Employer’s records.

9.11 Disclaimer

The Employer and the Administrator make no representation or guarantee of, and shall not be liable to any Participant or to the Plan for, the tax consequences of an Employee’s participation in this Plan, or the financial soundness, investment performance, or suitability of any investment option or vehicle offered pursuant to this Plan.