

KING COUNTY EMPLOYEES DEFERRED COMPENSATION PLAN DOCUMENT
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KING COUNTY EMPLOYEES
DEFERRED COMPENSATION PLAN

1. INTRODUCTION

In accordance with RCW 41.50.770, Deferred Compensation Plans, and as provided in Section 457 of the Internal Revenue Code, the King County Employees Deferred Compensation Plan Board (the "Board") hereby establishes the King County Employees Deferred Compensation Plan, hereinafter referred to as the "Plan." Nothing contained in this Plan shall be deemed to constitute an employment agreement between the Participant and King County and nothing contained herein shall be deemed to give a Participant any right to be retained in the employ of King County.

The Plan was established effective January 1, 1996, and has been amended and restated effective January 1, 1999, January 1, 2002, January 1, 2003, September 8, 2010, January 1, 2014, and January 1, 2016. The Plan is hereby again amended and restated as of January 1, 2019, except as otherwise specifically provided in the Plan, to reflect changes to the operation of the Plan made by the Board.

2. DEFINITIONS

- 2.1. **“Account Balance”** means all Compensation deferred by an individual Employee Participant under the Plan, adjusted by income and gains received, increases or decreases in investment value, Rollovers, reductions for loans and increases for loan repayments, fees and costs, revenue share rebates, transfers, and distributions. Account Balance also means funds held in a Plan account established for a Beneficiary or Alternate Payee, adjusted for the foregoing as applicable.
- 2.2. **“Beneficiary”** means the persons or legal entities designated by a Participant to receive any benefits payable in the event of the Participant's death. The designation or change of designation of a Beneficiary is effective when received by the Recordkeeper in the written form prescribed by the Recordkeeper. If an Employee Participant fails to designate a Beneficiary, the Beneficiary shall be the beneficiary designated by the Employee Participant to receive the Employee Participant's life insurance benefit on file with the Employer. If no beneficiary has been designated in accordance with this Section 2.2, the Beneficiary shall be the Participant's estate, and the Account Balance shall be distributed as provided in subsections 5.2 c (3) and (4).
- 2.3. **“Board”** means the King County Employees Deferred Compensation Plan Board.
- 2.4. **“Code”** means the Internal Revenue Code of 1986, as amended, or any future United States Internal Revenue Law. References within this Plan to specific section numbers shall refer to Internal Revenue Code sections and to corresponding provisions of any applicable United States Internal Revenue regulation.
- 2.5. **“Compensation”** means all payments made to an Employee by King County as remuneration for services rendered.
- 2.6. **“Deferrals”** means the contributions the Employer makes to the Plan pursuant to an

Employee Participant's Employee Salary Reduction Agreement and includes both Pre-tax Deferrals and Roth Deferrals. The Plan permits an Employee Participant to make Roth Deferrals effective as of January 1, 2014. Deferrals are deposited into an Employee Participant's Account Balance when administratively practicable and reasonable.

- 2.7. **“Employee”** means any regular full-time or regular part-time employee, regular career-service exempt employee and term limited temporary employee (including an elected or appointed official) who is a common law employee of the Employer (as reflected on the Employer's payroll records) and entitled to receive benefits as defined by the King County Code, and any employee as defined in RCW 41.50.770 (1) who is entitled to elect to defer Compensation into the Plan. However, except as otherwise required by law, Employee will in no case include any independent contractor, including but not limited to any individual paid or supplied by an agency or a party other than the Employer, such as a staffing company, temporary employment agency, temporary help service company, employee leasing organization, professional employment organization, or other third-party provider of labor. The definitions and classifications herein shall apply notwithstanding any subsequent reclassification of an individual as an employee by a court, governmental agency, or settlement agreement.
- 2.8. **“Employee Participant”** means an Employee who is a Participant.
- 2.9. **“Employer”** means King County.
- 2.10. **“Includible Compensation”** means, for purposes of the limitations set forth in Section 4, the same as the term “participant's compensation” in section 415(c)(3) of the Code.
- 2.11. **“Normal Retirement Age”** means, for purposes of Section 4.7, the age designated by the Employee Participant which is on or after the earlier of: (1) age 65, or (2) the age at which the Employee Participant has the right to retire and receive, under the Washington State Public Employees' Retirement Systems, immediate pension benefits without actuarial reduction. In no case shall the designated Normal Retirement Age be greater than age 70½.
- 2.12. **“Participant”** means anyone who has an Account Balance in the Plan and is a current or retired Employee; former Employee after Severance from Employment; Alternate Payee; or Beneficiary.
- 2.13. **“Plan Year”** means the calendar year.
- 2.14. **“Pre-tax Deferrals”** means an Employee's Deferrals that are not includible in the Employee's gross income (for purposes of federal income tax) when deferred and that the Employee has irrevocably designated as Pre-tax Deferrals in his or her Employee Salary Reduction Agreement. An Employee's Pre-tax Deferrals will be separately accounted for along with any adjustments attributable to the Pre-tax Deferrals, as specified in Section 2.1. All Employee Deferrals prior to January 1, 2014 are Pre-tax Deferrals, unless they have been converted to Roth Deferrals as provided in Section 17.
- 2.15. **“Recordkeeper”** means the person, persons, or entity selected by the Board to operate, administer, and keep records for the Plan under contract with King County.
- 2.16. **“Rollover”** means (a) a payment into the Plan from an Employee or Participant that the Recordkeeper reasonably believes is a qualified rollover contribution under Code Section

408(d)(3) or from an eligible retirement plan under Code Section 402(c)(8)(B); or (b) a direct transfer of funds or property into the Plan for the account of an Employee or Participant where the funds or property are received directly from a plan which the Recordkeeper reasonably believes to be an eligible retirement plan under Code Section 402(c)(8)(B).

- 2.17. **“Roth Deferrals”** means an Employee’s Deferrals that are includible in the Employee’s gross income (for purposes of federal income tax) at the time deferred and that the Employee has irrevocably designated as Roth Deferrals in his or her Employee Salary Reduction Agreement. An Employee’s Roth Deferrals will be separately accounted for along with any adjustments attributable to the Roth Deferrals, as specified in Section 2.1.
- 2.18. **“Severance from Employment”** means the termination of an Employee Participant's employment with the Employer, occurring other than by reason of death. An approved leave of absence from the Employer is not a Severance from Employment.
- 2.19. **“Spouse”** means the person to whom a Participant is legally married and who is treated as a Spouse under the Code. For purposes of this definition, same-sex marriages and Spouses are recognized in accordance with IRS Revenue Ruling 2013-17, effective June 26, 2013.

3. ADMINISTRATION

- 3.1. Plan Administration. This Plan shall be administered by the Board, which shall represent the Employer in all matters concerning the administration of this Plan.
- 3.2. Board Authority and Responsibility. The Board has full power and the sole and exclusive discretion and authority to take actions within its authority regarding the Plan and to adopt rules, regulations, policies and procedures for the administration of the Plan, interpret, construe, and resolve any ambiguities in the Plan and other Plan documents, make all factual and equitable determinations, and decide all claims for coverage, eligibility or benefits. The Board may delegate its responsibilities.
- 3.3. Presumption of Fairness and Reasonableness. Every action taken by the Board or its designated representative shall be presumed to be fair and reasonable, and a proper exercise of the authority vested in or the duties imposed upon it or the representative. The Board, its individual members, or the representative shall be deemed to have acted impartially as to all persons interested, unless the contrary is proven by affirmative evidence. Neither the Board, its individual members, nor its representative shall be liable for amounts of Compensation deferred by Employee Participants, gains accrued or losses incurred, or for other amounts payable under the Plan.
- 3.4. Individual or Ledger Accounts. The Recordkeeper will maintain individual or ledger accounts for each Participant that reflect the value of the Participant's Account Balance. Each Participant shall receive quarterly reports showing the Participant’s Account Balance. Individual accounts may be reduced by fees and costs, including but not limited to administration expenses, investment fees, and other reasonable fees, in such amounts and at such times as deemed necessary by the Board for the establishment, termination, or maintenance of the Plan.

4. PARTICIPATION IN THE PLAN

- 4.1. Eligibility. Any Employee, as defined in Section 2.7, is eligible to defer Compensation into the Plan.
- 4.2. Employee Salary Reduction Agreement.
- a. In General. Compensation may be deferred for any calendar month by salary reduction only if an agreement prescribed by the Board (“Employee Salary Reduction Agreement”) between an Employee and the Employer providing for the deferral has been entered into within an administratively practicable time before the first day of the month in which the Compensation is paid or made available. The Employee Salary Reduction Agreement will remain in effect until the Employer or Employee revokes or alters the terms of the agreement, which an Employee may do by filing a new Employee Salary Reduction Agreement. Employee Salary Reduction Agreements, and any changes or revocations to such agreements, shall be made in the form, manner, and time prescribed by the Board. Employee Salary Reduction Agreements apply to all Compensation paid or made available to the Employee while they are in effect. Notwithstanding the foregoing, Deferrals shall be made with respect to vacation and/or sick leave cashout paid to a retiring or terminating Employee only to the extent such Deferral is specifically provided for in a separate Employee Salary Reduction Agreement submitted by the Employee at least two weeks prior to the Employee’s last day of work. Deferrals with respect to vacation and/or sick leave cashout are not subject to the minimum and maximum Deferral amounts specified in Section 4.4 but are (together with all Deferrals) subject to the Maximum Annual Deferral specified in Section 4.5. In addition, an Employee’s Compensation in any pay period shall be reduced first for all deductions imposed by the Employer, such as deductions for local or Federal taxes, garnishments, outstanding Plan loan payments, and the Employee’s election to pay for benefits under another Employer benefit plan, and only then by any Pre-Tax Deferrals (non-catch-up contributions first and then catch-up contributions), followed by Roth Deferrals (non-catch-up contributions first and then catch-up contributions). In the event an Employee’s net pay during any pay period is less than the full Deferral amount, the Employee shall be treated as having withdrawn his or her election, in part or in full, for the following categories in the following order, until the Employee’s Deferral would not be less than the Employee’s net pay: Roth contributions (catch-up contributions first and then non-catch-up contributions), followed by Pre-Tax contributions (catch-up contributions first followed by non-catch-up contributions).
- b. Automatic Enrollment. An Employee hired or rehired on or after January 1, 2019 shall, to the extent required by a collective bargaining agreement to which the Employer is a party and as soon as administratively practicable, be automatically enrolled in the Plan with a default pre-tax Deferral of 3% of Compensation. Sixty days prior to enrollment, the Plan shall notify the Employee of the

automatic enrollment. During that period, an Employee may opt-out or otherwise change the Deferral amount. Once automatically enrolled, an Employee may suspend enrollment submitting an Employee Salary Reduction Agreement and electing a 0% Deferral.

- c. Automatic Increases. Each Employee who is making Deferrals shall, except as provided below, be deemed to have changed his or her Employee Salary Reduction Agreement to increase the amount of such Deferrals by the applicable automatic increase amount (described below) each January 1st, subject to the limits described in Sections 4.4 and 4.5. Such increase shall be in the form of Pre-Tax and/or Roth Deferrals as described in Section 4.3 and as elected by the Participant. The applicable automatic increase amount is 1% (up to a maximum Deferral percentage as may be established by the Board from time to time) of Compensation in the case of Employees with a percentage of Compensation Deferral election and \$10 (up to a maximum Deferral amount as may be established by the Board from time to time) in the case of Employees with a flat dollar amount Deferral election. The automatic increase provisions described in this subsection (b) apply only to Employees who first become Participants on or after August 1, 2015, except that other Employee Participants may elect to participate in this program in the time and manner prescribed by the Board.

The automatic increase described above shall not apply if the Employee changes his or her Deferral in an Employee Salary Reduction Agreement during the 30-day period prior to the scheduled automatic increase or to an Employee who is not making any Deferrals to the Plan. An Employee may elect to opt out of the automatic increase provisions described above. In addition, an Employee may elect to change the manner in which the automatic increase described above applies to his or her Employee Salary Reduction Agreement by (1) choosing a different date for scheduled automatic increases; (2) choosing a different whole percentage of Compensation or flat dollar amount for the amount of automatic increases; and/or (3) choosing a different maximum Compensation reduction percentage or maximum flat dollar amount for automatic increases. An Employee's election to opt out of automatic increases or to change the manner in which automatic increases apply must be made in the time and manner prescribed by the Board.

4.3 Types of Deferrals.

- a. An Employee may designate all or a portion of his or her Deferrals as Pre-tax Deferrals. Each Pre-tax Deferral must be at least the minimum and cannot exceed the maximum dollar or percentage amount prescribed under Section 4.4.
- b. An Employee may designate all or a portion of his or her Deferrals as Roth Deferrals. Each Roth Deferral must be at least the minimum and cannot exceed the maximum dollar or percentage amount prescribed under Section 4.4.

- 4.4. Deferral Amounts. Deferrals pursuant to an Employee Salary Reduction 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 amounts as may be established by the Board from time to time.
- 4.5. Maximum Annual Deferral. Except as provided in Sections 4.6, 4.7 and 4.8, the maximum that an Employee may defer under the Plan for any calendar year shall not exceed the lesser of (a) the dollar limitation contained in Code Section 457(e)(15) in effect for such calendar year, as such amount is adjusted from time to time by the Secretary of Treasury; or (b) 100% of the Employee's Includible Compensation.
- 4.6. Catch-up Deferrals. An Employee who has deferred the maximum allowed by Section 4.5 may defer an additional amount for the calendar year in which his or her fiftieth birthday occurs and all calendar years thereafter, subject to the limitation that total deferrals not exceed 100% of the Employee's Includible Compensation. This additional deferral amount shall be no more than the amount prescribed by Code Section 414(v) for such calendar year, and shall be in accordance with, subject to the limitations of and be adjusted automatically as the amount is adjusted from time to time by the Secretary of Treasury pursuant to Code Sections 414(v) and 457(b), or any other amount as amended or set forth by the Code. An Employee who is using the Special Catch-up provision of Section 4.7 is not eligible for this Catch-up Deferral.
- 4.7. Special Catch-up. As described in Code Section 457(b)(3), for one or more of an Employee's last three full taxable years ending before the taxable year in which Normal Retirement Age under the Plan is attained, the maximum deferral shall be the lesser of:
- a. The Employee's Includible Compensation; or
 - b. Twice the maximum deferral under Section 4.5 of the Plan; or
 - c. The sum of:
 - (1) An amount equal to (A) the aggregate Section 4.5 limit for the current year plus each prior calendar year beginning after December 31, 2001 during which the Participant was an Employee under the Plan, minus (B) the aggregate amount of Compensation that the Participant deferred under the Plan during such years, plus
 - (2) An amount equal to (A) the aggregate limit referred to in section 457(b)(2) of the Code for each prior calendar year beginning after December 31, 1978 and before January 1, 2002 during which the Participant was an Employee (determined without regard to Sections 4.6 and 4.7), minus (B) the aggregate contributions to Pre-2002 Coordination Plans for such years. "Pre-2002 Coordination Plans" means any employer contribution, salary reduction or elective contribution under any other eligible Code section 457(b) plan, or a salary reduction or elective contribution under any Code section 401(k) qualified cash or

deferred arrangement, Code section 402(h)(1)(B) simplified employee pension (SARSEP), Code section 403(b) annuity contract, and Code section 408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in section 501(c)(18) of the Code, including plans, arrangements or accounts maintained by the Employer or any employer for whom the Participant performed services. However, the contributions for any calendar year are only taken into account for purposes of this Section 4.7(c)(2)(B) to the extent that the total of such contributions does not exceed the aggregate limit referred to in section 457(b)(2) of the Code for that year.

This Section 4.7 shall not apply with respect to any Employee who has previously utilized in whole or in part the special catch-up under this Plan or under any other eligible deferred compensation plan within the meaning of Section 457 of the Code and the regulations thereunder.

- 4.8. USERRA. Any Employee who qualifies for benefits rights under the Uniformed Service Employment and Re-employment Rights Act of 1994 (“USERRA”) and Code Section 414(u) may make Deferrals, including catch-up deferrals, as provided by USERRA and Code Section 414(u)(2). In addition, notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code Sections 414(u) and 401(a)(37), except that Code Section 414(u)(9) shall not apply.
- 4.9. Right to Modify or Disallow Deferrals. The Employer shall have the right to modify or disallow the periodic deferral of Compensation elected by the Employee:
- a. In excess of the limitations stated in Sections 4.5 through 4.7;
 - b. In excess of the Employee 's Includible Compensation for any pay period;
 - c. To round periodic deferrals to the nearest whole dollar amount;
 - d. To the extent not inconsistent with applicable guidance from the IRS and state law, in the event that the amount actually deferred for any pay period differs, for any reason whatsoever, from the amount elected by the Employee in the Employee’s Employee Salary Reduction Agreement; or
 - e. If the deferral elected for any pay period is less than the minimum amount established by the Board.
- 4.10. Disallowing Deferrals – Board’s Duty. The Employee acknowledge the right of the Board to disallow deferral of Compensation under the Plan in excess of the limitations stated above. However, the Board shall have no duty to assure that amounts deferred are in compliance with such limitations and shall have no liability to an Employee if the Board fails to disallow a deferral in excess of such limitations, if the Employee directed

such deferral. Any excess deferral resulting from a failure of the Plan to apply the limitations of Sections 4.5, 4.6 or 4.7 to amounts deferred under the Plan (without regard to the individual limitations applicable to Participants in multiple eligible plans) will be distributed to the Employee, with allocable net income, as soon as administratively practicable after the Plan determines that the amount is an excess deferral. Any excess deferral resulting solely from an Employee exceeding the individual deferral limit applicable under Code Section 457(c) and regulations thereunder may, in the Board's discretion, be refunded to the Employee if the Employee notifies the Board of the excess prior to the end of the calendar year in which the deferral was made.

4.11. Investments.

- a. Participant Selection of Investment Options. Each Participant will designate the investment option(s) in which he or she wishes to have his or her Account Balance invested. If the Participant fails to designate an investment option, the investment option will default to a retirement date investment based on his or her year of birth if known, or the most conservative retirement date investment if unknown.
- b. Investment Options Offered. The Board will select investment options to be available for the investment of Account Balances by Participants. The investment options shall be selected and made available for this purpose in the Board's sole discretion.
- c. Board's Right to Select or Change Investment Options. The Board has the right to change the investment options under the Plan, including the default investment option, and to establish and maintain an investment policy for the Plan. If the Board eliminates a certain investment option, all Participants who had chosen that investment will select another option; the Participants will have no right to require the Board to select or retain any investment option. To the extent permitted by and subject to any rules or procedures adopted by the Board, a Participant may from time to time change his or her Account Balance investments from the choice of investment options offered under the Plan. Any change with respect to investment options made by the Board or a Participant, however, will be subject to the terms and conditions, including any rules or procedural requirements of the affected investment option.

5. DISTRIBUTION OF BENEFITS

5.1. Time of Distribution. Subject to Section 5.2, all or any part of a Participant's Account Balance may be distributed to the Participant when:

- a. The Participant has a Severance from Employment or dies;
- b. The Participant is not an Employee; or
- b. The amount distributed is all or part of a Rollover into the Plan.

5.2. Distribution Methods and Limitations.

- a. Method of Distribution. A Participant may elect to have his or her Account Balance distributed by:
- (1) A single lump sum payment of all the Account Balance.
 - (2) Partial payments from the Account Balance.
 - (3) A series of substantially equal periodic monthly, quarterly, semi-annual or annual payments based upon a fixed period that is not longer than the life expectancy of the Participant or the joint life expectancy of the Participant and his or her Spouse or Beneficiary.
 - (4) Any combination of (2) and (3)

A Participant may change the method of distribution at any time before the Account Balance has been completely distributed except as prohibited by Code Section 401(a)(9) and Treasury Regulation Sections 1.401(a)(9)-1 through -9.

The Participant may request alternative methods of distribution by petitioning the Board or its representative or delegate in writing. The Board's decision will be final.

- b. Minimum Required Distribution. For purposes of this section 5.2 b., "Participant" means an Employee Participant or Participant who is a former Employee. Notwithstanding any provision of this Plan to the contrary, in the case of distributions made prior to the Participant's death, the following minimum required distribution rules shall apply. The entire interest of each Participant shall be distributed not later than as follows: (1) to the Participant not later than his or her Required Beginning Date, or (2) beginning not later than the Participant's Required Beginning Date, in accordance with Treasury Regulation Sections 1.401(a)(9)-1 through -9, over the life of the Participant or over the lives of the Participant and his or her designated Beneficiary, or over a period not extending beyond the life expectancy of the Participant or the life expectancy of the Participant and his or her designated Beneficiary. If the Participant's Spouse is not his or her designated Beneficiary, a method of payment to the Participant may not provide more than incidental benefits to the Beneficiary pursuant to the minimum distribution incidental benefit requirement described in Code Section 401(a)(9)(G) and Treasury Regulation Sections 1.401(a)(9)-2 and -6. For purposes of this Section 5.2, a Participant's "Required Beginning Date" means April 1 of the calendar year following the later of the calendar year in which the Participant reaches age 70 ½ or the calendar year in which the Participant retires or otherwise has a Severance from Employment. All distributions will be made in accordance with Code Section 401(a)(9) and Treasury Regulation Sections 1.401(a)(9)-1 through -9, and this Section 5.2 b. shall be construed and applied in

accordance therewith.

c. Distribution After Death. For purposes of this section 5.2 c., “Participant” means an Employee Participant or Participant who is a former Employee.

- (1) If the Participant’s death occurs after his or her Required Beginning Date, the remaining portion of the Participant’s Account Balance shall be distributed to the Participant’s Beneficiary, in accordance with Code Section 401(a)(9) and Treasury Regulation Sections 1.401(a)(9)-1 through -9, at least as rapidly as under the method of distributions to the Participant being used under Section 5.2 b. as of the date of the Participant’s death.
- (2) If the Participant’s death occurs prior to his or her Required Beginning Date, distribution of the Participant’s Account Balance shall be made to the Participant’s Beneficiary as a lump sum no later than the end of the calendar year containing the fifth anniversary of the Participant’s death. However, the Participant’s Beneficiary may elect, in accordance with Treasury Regulation Sections 1.401(a)(9)-1 through -9, to receive distribution of the Participant’s Account Balance over a period not exceeding the Beneficiary’s life expectancy, provided that distribution to the Beneficiary commences no later than December 31 of the calendar year immediately following the calendar year in which the Participant died or, if later and the Beneficiary is the Participant’s Spouse, December 31 of the calendar year in which the Participant would have attained age 70 ½. All distributions will be made in accordance with Code Section 401(a)(9) and Treasury Regulation Sections 1.401(a)(9)-1 through -9, and this Section 5.2 c. shall be construed and applied in accordance therewith. To the extent not inconsistent with the foregoing, any Beneficiary who is a person may elect to have the Beneficiary’s share of the Account Balance distributed:
 - (a) In a single lump sum payment;
 - (b) By partial payments, provided the entire Account Balance must be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death;
 - (c) In equal or substantially equal payments over a period not exceeding the Beneficiary’s life expectancy, computed in accordance with the Code Section 401(a)(9) and Treasury Regulation Sections 1.401(a)(9)-1 through -9. Such payments must begin no later than December 31 of the calendar year following the year of the Participant’s death, unless the Beneficiary is the Participant’s surviving Spouse, in which case this

distribution is not required to begin before December 31 of the year in which the Participant would have turned age 70 ½; or

- (d) By partial payments before the December 31 by which equal or substantially equal payments under subsection 5.2 c(2)(c) would be required to commence computed in accordance with subsection 5.2 c (2)(b), and the remaining Account Balance in equal or substantially equal payments under subsection 5.2 c (2)(c).

For any year, a Beneficiary who has elected periodic payments under subsections 5.2 c (2) (c) or (d) can elect a distribution of an amount greater than the amount of the partial payment calculated under the formula in subsections 5.2 c (2) (c) or (d).

- (3) The Account Balance shall be distributed to the Participant's estate if the Participant has not designated a Beneficiary in accordance with Section 2.2, all Beneficiaries have predeceased the Participant or renounce their rights to receive their share of the Account Balance, or the Plan is unable to locate at least one Beneficiary after reasonable effort. The Plan and its agents shall have no higher duty under this subsection than the exercise of good faith, and shall incur no liability by reason of any action taken in reliance upon erroneous, inaccurate or fraudulent information reported by any source assumed to be reliable, or by reason of incomplete information in its possession at the time of such distribution. Upon distribution of the Account Balance pursuant to the provisions of this subsection, the Plan and its agents shall be discharged fully and forever from all liabilities respecting the distribution of the Account Balance.
- (4) Any part of the Account Balance that is payable to an organization, estate, or trust shall be distributed in a single lump sum.

5.3. Participants Retired or Separated From Service Before January 1, 2002. Any Participant who attained Normal Retirement Age and retired under the terms of the Participant's retirement system or Separated from Service before January 1, 2002, may elect either the times of distribution, distribution methods and distribution limitations in effect at the time the person attained Normal Retirement Age and retired under the terms of the Participant's retirement system or Separated from Service, or those provided in Sections 5.1 and 5.2. Such Participants also may elect Rollovers and transfers as provided in Section 16.

5.4. Account Balance \$1,000.00 or Less. If the Employee Participant's Account Balance is One Thousand (\$1,000.00) or less, determined as of the date the Participant has a Severance from Employment, then notwithstanding any election made or other provision hereunder, the Board or its representative or delegate shall pay the Account Balance to the Participant. Distribution may also be made to a Beneficiary or Alternate Payee if that

individual's Account Balance is \$1,000 or less..

- 5.5 In-Service Distribution. If an Employee Participant's Account Balance does not exceed \$5,000, and such Participant has not made any Deferrals under the Plan during the preceding two-year period, such Participant may, upon request, receive a distribution of the Participant's total Account Balance, provided that the Participant has not previously received a distribution under this Section 5.5.

6. UNFORESEEABLE EMERGENCY

- 6.1. Board Approval: Unforeseeable Emergency Request. In the event of an unforeseeable emergency, an Employee Participant may request authorization of payment of all or a part of the Participant's Account Balance. The existence of an unforeseeable emergency shall be determined by the Board or its representative or delegate in conformity with Section 457(b)(5) of the Code and any regulations of the Secretary of the Treasury that may be promulgated thereunder. The Board or its representative or delegate may require the Participant to provide supporting documentation to verify the existence of the emergency. If the application for payment is approved, payment will be made as soon as practicable. The amount to be paid shall be limited strictly to that amount reasonably necessary to satisfy the emergency need (which may include any amount necessary to pay federal, state, and local income taxes reasonably anticipated to result from the distribution). Any remaining Account Balance shall be paid in accordance with and at the times permitted by Section 5 of the Plan. The Board may establish a written unforeseeable emergency policy and any such policy, as amended from time to time, is incorporated herein by this reference.
- 6.2. Unforeseeable Emergency Definition. For purposes of this Section, an Unforeseeable Emergency is a severe financial hardship of the Employee Participant resulting from an illness or accident of the Employee Participant, the Employee Participant's Spouse, or the Employee Participant's dependent (as defined in Code Section 152 and without regard to Sections 152(b)(1), (b)(2), and (d)(1)(B)); loss of the Employee Participant's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, such as damage that is the result of a natural disaster); the need to pay for the funeral expenses of the Employee Participant's Spouse or dependent; the need to prevent eviction or foreclosure; or other similar extraordinary and financial hardship arising as a result of events beyond the control of the Employee Participant.

The circumstances that will constitute an Unforeseeable Emergency will depend upon the facts of each case, but payment may not be made to the extent that such Unforeseeable Emergency is or may be relieved:

- a. Through reimbursement or compensation by insurance or otherwise;
- b. By liquidation of the Employee Participant's other assets, to the extent the liquidation of such assets would not itself cause severe financial hardship;

- c. By cessation of Deferrals; or
- d. Through obtaining a loan (including refinancing).

7. PRINCIPAL RESIDENCE LOAN

Principal Residence Loan Program. The Board may establish a written loan policy separate from this document, and any such policy, as amended from time to time, is incorporated herein by this reference. Effective September 28, 2018, an Employee Participant may borrow a limited amount, not to exceed the maximum amount permitted under Code Section 72(p), from his or her Account Balance in order to acquire a principal residence. The Board or its representative or delegate may make such loan to an Employee Participant from the Employee Participant's Account Balance in accordance with this Section and any written loan policy, upon the application of an Employee Participant, and subject to the Board's or its representative's or delegate's satisfaction that the Employee Participant meets the requirements of this Section, any such loan policy, and applicable law. Any loan under this Section will be for a specific term and must be repaid in accordance with the loan policy and applicable loan documents. Failure to repay a loan in accordance with this Section will result in a taxable event (i.e., loan offset and/or deemed distribution, as applicable). Any loan will bear a reasonable rate of interest and be adequately secured.

8. DOMESTIC RELATIONS ORDERS

- a. For purposes of Section 8., "Participant" means an Employee Participant or Participant who is a former Employee. To the extent required under a final judgment, decree, or order made pursuant to a state domestic relations law that meets the requirements of Code Section 414(p)(1)(A)(i), herein referred to as a Qualified Domestic Relations Order (QDRO), which is duly filed upon the Employer, any portion of a Participant's Account Balance may be paid, transferred or set aside for payment or transfer to a Spouse, former Spouse, child, or other dependent (as defined in Code Section 152) of the Participant (an "Alternate Payee"). Where necessary to carry out the terms of such a QDRO, a separate account shall be established with respect to an Alternate Payee and such person shall be entitled to make investment selections with respect thereto in the same manner as the Participant, and may elect a distribution at any time and in any form available to a Participant or may delay distribution until the Participant's Required Beginning Date. All costs and charges incurred in carrying out the investment selection, and any other expenses ordinarily charged to a Participant's account, shall be deducted from the account created for the Alternate Payee as applicable. The QDRO may also direct the Recordkeeper to transfer the share of the Account Balance awarded to the Alternate Payee to an eligible retirement plan in accordance with Section 16.2 herein.
- b. The Participant's Account Balance shall be reduced to the extent that amounts have been paid, transferred or set aside for payment to an Alternate Payee pursuant to this Section. No amount will be paid, transferred or set aside unless the Employer, or its agents or assigns, has been provided with satisfactory evidence releasing them from any further claim by the Participant with respect to

these amounts. The Participant shall be deemed to have released the Employer from any claim with respect to such amounts in any case in which the Employer has received a QDRO as described in this Section 8. concerning the Participant's Account Balance.

- c. The Employer shall not be obligated to comply with any judgment, decree or order which attempts to require the Plan to violate any Plan provision or any provision of Section 457 of the Code or any other law. Neither the Employer nor its agents shall be obligated to defend against or set aside any judgment, decree, or order described herein or any legal order relating to the division of a Participant's Account Balance under the Plan unless the full expense of such legal action is borne by the Participant. In the event that the Participant's action (or inaction) nonetheless causes the Employer, its agents or assigns to incur such expense, the amount of the expense may be charged against the Participant's Account Balance and thereby reduce Employer's obligation to pay benefits to the Participant.

In the course of any proceeding relating to divorce, separation or child support, the Employer, its agents and assigns shall be authorized to disclose information relating to the Participant's individual account to the Alternate Payee (including the legal representatives of the Alternate Payee), or to a court.

9. AMENDMENT OR TERMINATION OF PLAN

- 9.1. Right to Amend. The Employer or the Board may amend the provisions of this Plan at any time; provided, however, that no amendment shall affect the rights of Participants and their Beneficiaries regarding their Account Balance at the time of such amendment unless the amendment is required by the Code or other applicable law, regulation or ruling.
- 9.2. Employer's Right to Terminate. Although the Employer has established this Plan with the expectation that it will maintain the Plan indefinitely, the Employer may at any time terminate this Plan. If the Plan is terminated, the Account Balance will be paid to each Participant in accordance with procedures adopted by the Board.

10. RELATIONSHIP TO OTHER PLANS - RETIREMENT AND SOCIAL SECURITY NOT REDUCED

Pursuant to Section 457 of the Code, the amount of Compensation deferred under the Plan will be included as Compensation in determining contributions under the Federal Insurance Contributions Act (FICA) and Washington State public employment retirement system plans. Distributions under this Plan will supplement retirement and death benefits payable under the Employer's group insurance and other retirement plans.

11. NON-ASSIGNABILITY CLAUSE - ACCUMULATED DEFERRALS NOT ASSIGNABLE

Neither the Participant nor his or her Beneficiary, nor any other designee shall have any right to commute, sell, assign, transfer, pledge, encumber or otherwise convey the right to receive any

payments hereunder, which payments and right thereto are expressly declared to be non-assignable and non-transferable; and in the event of attempt to assign or transfer, the Employer shall have no further liability hereunder, nor shall any unpaid amounts be subject to attachment, garnishment, or execution or be transferable by operation of law in event of bankruptcy or insolvency, except to the extent otherwise required by law and Section 8 herein.

12. ACCOUNT BALANCE IS HELD FOR THE EXCLUSIVE BENEFIT OF THE PARTICIPANT

In accordance with Code Section 457 (g), the Account Balance shall be held in a custodial account for the exclusive benefit of the Participant.

13. PARTICIPATION BY BOARD MEMBERS

Members of the Board are Participants in the Plan under the same terms and conditions as apply to other Participants, but an individual member shall not participate in any Board action taken with respect to that member's participation or request for an Unforeseeable Emergency withdrawal.

14. EMPLOYER PARTICIPATION

Notwithstanding any other provision of this Plan, the Employer may add to the benefits payable to any Employee Participant under the Plan additional deferred Compensation for services to be rendered by the Employee to the Employer during an employment period, provided:

- a. The Employee has elected to have such additional Compensation deferred, invested, and distributed, pursuant to this Plan, before the employment period in which the Compensation is earned; and
- b. Such additional deferred Compensation, when added to all other deferred Compensation under the Plan does not exceed the maximum deferral permitted by Section 4.

15. INVESTMENT RESPONSIBILITY

- 15.1. No Guarantees. Any action by the Board in investing funds, or approving of any such investment of funds shall not be considered to be either an endorsement or guarantee of any investment, nor shall it be considered to attest to the financial soundness or the suitability of any investment for the purpose of meeting future obligations. The Participant is solely responsible for determining the nature, value, potential value, and suitability of the investment the Participant chooses.
- 15.2. Employer, Board and Representatives Not Liable. Neither the Employer, the Board, nor the Board's representative makes any endorsement, guarantee, or any other representation and shall not be liable to the Plan or to any Participant, Beneficiary, or any other person with respect to (a) the financial soundness, investment performance, fitness, or suitability (for meeting a Participant's objectives, future obligations under the Plan, or any other purpose) of any investment option offered pursuant to Section 4.8 or any investment

vehicle in which amounts deferred under the Plan are actually invested, or (b) the tax consequences of the Plan to any Participant, Beneficiary, or any other person.

- 15.3. Indemnification of Board Members. Upon approval of the Prosecuting Attorney's Office and in accordance with King County Code Section 2.21.050, the County shall indemnify all persons who have served or may serve at any time as members of the Board and their heirs, executors, administrators, successors, and assigns, from and against any and all loss and expense, including amounts paid in settlement before or after suit is commenced, and reasonable attorney fees actually and necessarily incurred as a result of any claim, demand, action, proceeding, or judgment that may be asserted against any such persons or in which any such persons are made parties by reason of their being or having been members of the Board. However, this right of indemnification shall not exist in relation to matters to which it is adjudged in any action, suit, or proceeding, that any such persons did not act in good faith and are liable for gross negligence or misconduct in the performance of their duty.

16. ROLLOVERS AND TRANSFERS TO DEPARTMENT OF RETIREMENT SYSTEMS

- 16.1. Rollovers into the Plan Allowed. Any Employee or Participant may pay or have transferred into the Plan an amount that is a Rollover. All such Rollovers, including Rollovers of Roth elective deferral amounts, shall be accounted for separately and shall constitute a part of the Participant's Account Balance. A Rollover from another eligible retirement plan under Code Section 402(c)(8)(B) shall not be considered Compensation deferred under the Plan in the taxable year of such Rollover in determining the maximum deferral under Sections 4.3, 4.4 and 4.5.
- 16.2. Rollovers out of the Plan Allowed. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section 16.2, a Distributee may elect, at the time and in the manner prescribed by the Board or its representative or delegate, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover. For purposes of this Section 16.2, the following definitions shall apply:
- a. Eligible Rollover Distribution: An Eligible Rollover Distribution is 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: (1) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or life expectancies) of the Distributee and the Distributee's designated Beneficiary, or for a specified period of ten years or more; (2) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; (3) any Unforeseeable Emergency withdrawal; or (4) the portion of any distribution that is not includable in a Distributee's gross income ("after-tax amounts"). However, a distribution shall not fail to be an Eligible Rollover Distribution merely because it includes after-tax amounts, provided that such amounts may be transferred only (i) to an individual retirement account or annuity described in Section 408(a) or (b) of the Code or to

a Roth IRA described in Section 408A of the Code, or (ii) in a direct trustee-to-trustee transfer to a qualified trust that is a defined contribution plan that provides for separate accounting for amounts so transferred (and earnings thereon), including separate accounting for the portion which is includible in gross income and for the portion which is not so includible.

- b. Eligible Retirement Plan: An Eligible Retirement Plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code that accepts the Distributee's Eligible Rollover Distribution. An Eligible Retirement Plan shall also include an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such from this Plan. Effective January 1, 2008, an Eligible Retirement Plan also includes a Roth IRA described in Section 408A of the Code. If any portion of an Eligible Rollover Distribution is attributable to payments or distributions from a designated Roth account, an Eligible Retirement Plan with respect to such portion shall include only another designated Roth account of the individual from whose account the payments or distributions were made or a Roth IRA of such individual.
- c. Distributee: A Distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's Spouse or former Spouse or 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 Section 414(p) of the Code, are Distributees with regard to the interest of the Spouse or former Spouse. Effective January 1, 2010, a Distributee also includes an Employee's or former Employee's non-Spouse designated Beneficiary. However, in the case of a non-Spouse designated Beneficiary, the Direct Rollover may be made only to (i) an individual retirement account or annuity described in Sections 408(a) or (b) of the Code ("IRA"), or (ii) a Roth IRA as described in Section 408A of the Code, provided such IRA or Roth IRA is established on behalf of the Beneficiary and will be treated as an inherited IRA pursuant to Section 402(c)(11) of the Code.
- d. Direct Rollover: A Direct Rollover is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

16.3 Transfers to the Department of Retirement Systems Allowed. Any Employee or former Employee Participant may transfer part or all of his or her Account Balance to the Washington Department of Retirement Systems to purchase permissive service credit (as defined in Code Section 415(n)(3)(A)) or repay a prior cash-out distribution to which Code Section 415 does not apply by reason of Code Section 415(k)(3) in any fund the department administers, as listed in RCW 41.50.080. A Participant may petition the

Board in writing to allow a similar transfer to other pension plans. The Board's decision will be final.

- 16.4 Administrative Rules. The Board shall prescribe such rules consistent with the provisions of Sections 16.1 through 16.3 of the Plan and Section 457 and other sections of the Code concerning Rollovers and transfers as the Board in its sole judgment deems desirable for the orderly administration of the Plan. The Board or its representative or delegate may require in its sole discretion that part or all of a Rollover be transferred in cash or its equivalent. The Participant is solely responsible for insuring that a Rollover or transfer complies with the requirements of the Code.

17. IN-PLAN ROTH CONVERSIONS

An eligible Participant may elect, at the time and in the manner prescribed by the Recordkeeper, to have any portion of the Participant's Pre-Tax Deferrals account transferred to the Participant's Roth Deferrals account under this Plan. Such in-plan transfer must satisfy the requirements of IRC §402A(c)(4).

18. RIGHT OF APPEAL OF DENIED CLAIMS

- 18.1 Appealing a Denied Claim. A Participant or other individual who believes he or she is being denied rights or benefits in whole or in part under the Plan, or whose claim to benefits or against the Plan is otherwise denied (a "claimant"), may file a petition for reconsideration with the Board or its designated committee or representative. A petition for reconsideration must be filed with the Board by the claimant or his or her duly authorized representative within 30 days after the claimant receives notice of the denial. Failure to timely do so will result in the claim being processed in accordance with the original decision and may eliminate the opportunity to obtain a modification or reversal of the decision. The provisions of this Section apply to and include any and every claim to benefits from the Plan, and any claim or right asserted under the Plan or against the funds under the Plan, including but not limited to any dispute regarding a claimant's investment decisions or instructions, and regardless of the basis asserted for the claim, regardless of when the act or omission upon which the claim is based occurred, and regardless of whether or not the claimant is a Participant or other person or entity.
- 18.2 Contents of Petition for Reconsideration. A petition for reconsideration must be in writing, must state in clear and concise terms the reason or reasons for disputing the denial, and must be accompanied by any pertinent documentary material not already furnished to the Plan. The claimant or his or her duly authorized representative may submit written comments, documents, records, or other information relating to the claim. The petition may also indicate whether the claimant or his or her designated representative wishes to appear before the Board to present the claim.
- 18.3 Timing of Decision. The Board will make a decision on any petition for reconsideration at its next regularly scheduled meeting immediately following the date the petition for reconsideration is filed, unless the petition is filed within thirty (30) days preceding the date of such meeting. In such case, a decision will be made no later than the date of the

second meeting following the receipt of the petition for reconsideration. If special circumstances require a further extension of the time for review, a decision must be rendered not later than the third meeting of the Board following the receipt of the petition for reconsideration and the claimant will be notified of the reason for the extension and the expected date of the decision.

If an extension is required because the claimant has not provided the information necessary to decide his or her claim, the time period for processing the claim will not run from the date written notice of an extension is given until the earlier of (1) the date the Plan receives the claimant's response to a request for additional information, or (2) the date set by the Plan for the claimant's requested response (at least 45 days from the date of the request).

- 18.4 Board Role in Addressing the Complaint. The Board will issue a written decision granting or denying the petition for reconsideration. Depending on the situation, the Board may inform other affected parties (e.g., the Recordkeeper or a Beneficiary) of the request for review and hearing and may accept and consider any of their statements and comments concerning the matter.

19. MISCELLANEOUS PROVISIONS

- 19.1. Terms of Plan Take Precedence. In the event any form or other document used in administering this Plan, including but not limited to enrollment forms and marketing materials, conflict with the terms of the Plan, the terms of the Plan shall prevail.
- 19.2. Board's Decisions Binding on Participants, and Beneficiaries. The Board is authorized to determine any matters concerning the rights of any Participant under this Plan and such determination shall be final and binding on the Participant and any Beneficiary thereof.
- 19.3. Board's Right to Construe Plan and Resolve Ambiguities. The Board has the sole and exclusive discretionary authority to construe this Plan and resolve any ambiguity in the Plan in accordance with its policies and procedures, and the Board's construction shall be final. The Plan and any form or other document used in administering the Plan shall be interpreted, and this Plan shall be administered, so as to comply with Section 457 of the Code and the regulations of the Treasury Department promulgated thereunder.
- 19.4. Participants Responsible for Financial, Legal, and Other Professional Advice. The Board does not represent or guarantee that any particular Federal and State income, payroll, personal property or other tax consequence will occur because of the Participant's participation in this Plan. The Participant should consult with his or her own financial and legal advisors regarding all questions of Federal or State income, payroll, personal property, or other tax consequences arising from participation in this Plan.

- 19.5. Payments May Be Suspended. The Board or the Employer, if in doubt concerning the correctness of their action in making a payment of a benefit, may suspend that benefit until satisfied as to the correctness of the payment or the person to receive the payment or to allow the filing in any state court of competent jurisdiction of a civil action seeking a determination of the benefits to be paid and the persons to receive them. The Board and the Employer shall comply with the final, non-appealable orders of the court in any such suit, and the Participant, on behalf of himself/herself, and Beneficiaries, consents to be bound thereby.
- 19.6. Lapse of Benefits. If after any benefit becomes due under the Plan to any person, the Plan is unable to make payment because the identity or whereabouts of such person cannot be ascertained, the Board shall make reasonable attempts to identify or locate such person. If the person cannot be identified or located, such benefits and all other benefits with respect to such person shall lapse five years after the benefit first became due and all amounts due to the person shall be reported and delivered to the State of Washington in accordance with Ch. 63.29 RCW.
- 19.7. Source of Benefits. The Account Balance is the only source of benefits to a Participant, or Beneficiary under this Plan.
- 19.8. Severability. If any provision of the Plan is found to be invalid or unenforceable, all other provisions will remain in force.
- 19.9. Limitation of Lawsuits. A lawsuit to obtain benefits cannot be filed until all applicable claims and appeal procedures have been exhausted and a final decision has been made by the Board. Any lawsuit against the Plan, the Board, or King County must be filed within two years after an appeal has been denied by the Board, or if earlier, within two years after the date the cause of action first accrued.

20. APPLICABLE LAW

- 20.1. Construction. This Plan shall be construed under the laws of the State of Washington.
- 20.2. Interpretation. This Plan is intended to be an eligible state deferred compensation plan within the meaning of Section 457 of the Code and RCW 41.50.770, and shall be interpreted consistent with such Section, RCW and all regulations promulgated thereunder.

21. HEADINGS

The headings of articles, sections, or other subdivisions hereof are included solely for convenience of reference, and if there is any conflict between such headings and the text of the Plan, the text shall control.

22. EFFECTIVE DATE

King County has caused this Plan as amended to be effective the first day of January 2019, except as otherwise specifically provided in the Plan.

On Behalf of the King County Employees Deferred Compensation Plan this Plan Document is adopted by the Board and effective date:

By: 

Printed Name: Doug Hodson

Date: 1/9/19