Attachment B

As approved by
Retirement Board
December 13, 2018

OAKLAND COUNTY

457(b) PART-TIME NON-ELIGIBLE PLAN

Adopted JAN, 2019

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OAKLAND COUNTY
457(b) PART-TIME NON-ELIGIBLE PLAN

Oakland County (the "Employer") hereby amends and restates the Oakland County 457(b) Part-Time Non-Eligible Plan (the "Plan") effective as of March 23, 2018 unless otherwise indicated herein.

ARTICLE 1 - INTRODUCTION

The Oakland County Board of Commissioner established the Plan by resolution No. 07271 adopted on December 13, 2007, which resolution included the major terms of the Plan, including the mandatory contributions to be made by Participants and the Employer. On January 1, 2008, the County entered into an Administrative Services Agreement with International City Management Association Retirement Corporation. The terms of the Plan, as it existed prior to this restatement, are found in the ICMA-RC standardized plan document, as modified by the 457 Deferred Compensation Plan Part-Time, Temporary, and Seasonal (PTS) Plan Supplement. The purpose of the Plan is to provide an alternative to Social Security coverage as permitted by the federal Omnibus Budget Reconciliation Act of 1990 (OBRA) for all part-time non-eligible employees of the Employer hired on or after April 1, 2008, and for electing employees hired prior to April 1, 2008. Participants in the Plan are not subject to tax on compensation under the Old Age, Survivors and Disability Income portion of FICA.

This Plan and Trust are to be interpreted and construed as a plan designed to constitute a governmental unit eligible deferred compensation plan within the meaning of section 457(b) of the Internal Revenue Code of 1986, as amended, the regulations issued thereunder and other applicable law.

ARTICLE 2 - DEFINITIONS

The following terms when used herein shall have the following meanings:

21 <u>Account</u> shall mean the bookkeeping account maintained with respect to each Participant which reflects the value of the Deferred Compensation credited to the Participant, the County's Contribution, any accounts established under Article 8, and the earnings or loss of the Trust (net of Trust expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distributions made to the Participant, Participant's Beneficiary, or Alternate Payee. A Participant is fully vested in his or her Account. If a Participant has more than one (1) Beneficiary at the time of the Participant's death, then a separate Account shall be established and maintained for each Beneficiary.

22 <u>Alternate Payee</u> means a person who is or was the spouse of the Participant or is the child of the Participant to the extent that such person has rights under a court order that the Plan Administrator has determined to be a Qualified Domestic Relations Order as described in Treas. Reg. Section 1.457-10(c), or any successor regulation or guidance.

2.3 Beneficiary shall mean the person or persons designated by the Participant in accordance with Section 6.2 to receive distributions from the Participant's Account after the Participant's death.

2.4 Board shall mean the Oakland County Retirement and Deferred Compensation Board.

2.5 Code means the Internal Revenue Code of 1986, as amended. Reference to a specific Code section shall include such section, any valid Treasury Regulation promulgated thereunder, and any comparable provision of any future legislation amending supplementing or superseding such section.

2.6 Compensation means all cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Employee's gross income for the calendar year as reported in the "Wages, Tips and Other Compensation" box on Form W-2.

2.7 Contributions means Employee contributions and Employer contributions deferred under the Plan according to the provisions of the Plan. Contributions shall not be reduced because of the Participant's attainment of any age. Contributions shall be made according to the payroll methods of, and at such times as may be determined by, the Employer.

2.8 County shall mean Oakland County, Michigan.

2.9 Deferred Compensation means the amount of Compensation otherwise payable to the Participant that the Participant and the County agree to defer according to the provisions of the Plan and any other amount which the Employer agrees to credit to a Participant's Account.

2.10 Effective Date for this restatement means March 23, 2018 unless otherwise indicated herein. The original effective date of the Plan was April 1, 2008.

2.11 Employee shall mean an individual employed by the County. Employee shall not include leased employees (as defined by Code Section 414(n)), or individuals determined by the County to be an independent contractor even if such individual is subsequently deemed to be the County's common law employee.

2.12 Eligible Employee means an Employee who on or after April 1, 2008 is classified under the Employer's policies as a part-time non-eligible employee. An employee who was classified as a part-time non-eligible employee prior to April 1, 2008 was given a one-time election to participate in the Plan.

2.13 Includible Compensation means an Employee's actual wages that are reported in box 1 of Form W-2 for a year for services to the Employer, but subject to a maximum of $200,000 (or such higher maximum as may apply under section 401(a)(17) of the Code), as adjusted thereunder from time to time, and increased (up to the dollar maximum) by any compensation reduction election under Section 125, 132(f), 401(k), 403(b), or 457(b) of the Code.

2.14 Normal Retirement Age shall mean any age the Participant declares his/her Normal Retirement Age in writing with the Plan Administrator prior to his/her Severance from Employment; however, the Participant must at least reach age 55 with 25 years of service or age 60 with 8 years of service. Some represented Employees' bargaining agreements may include a different definition of Normal Retirement Age. Under no circumstances shall a Participant's Normal Retirement Age under this 457(b) Plan be later than the age of 70 ½, and/or as modified by IRS regulations. Participants may only make one election to declare their Normal Retirement Age with the Plan Administrator, and any election made by a Participant applies with respect to all 457(b) plans sponsored by the County.

2.15 Participant shall mean an Eligible Employee who has been enrolled by the Employer in the Plan, or was previously enrolled in the Plan and who has not received a distribution of his or her entire Account.

2.16 Plan shall mean this Oakland County 457(b) Part-Time Non-Eligible Plan, as such may be amended from time to time.

2.17 Plan Administrator shall be the individual holding the position of Retirement Administrator, or in his or her absence, the Manager of Human Resources, or as appropriately appointed by the County in accordance with the County's policies and protocols.

2.18 Plan Year means the 12-month period commencing January 1 and ending December 31.

2.19 Qualified Domestic Relations Order or "QDRO" means any judgment, decree or order as defined in Code Section 414(p).

2.20 Severance from Employment means a voluntary or involuntary termination of employment or expiration of all contractual or at-will relationships with the County for any reason including death or disability, or for no reason. For purposes of the foregoing sentence, an approved leave of absence by an Employee shall not constitute a Severance from Employment.

2.21 Trust shall mean all of the assets of the Plan held in trust pursuant to the terms of this Plan or any separate written agreement made by and between the County and the Trustee under which the Trust is maintained.

2.22 Trustee shall mean the trustee duly appointed and currently serving under the Trust's written agreement.

2.23 USERRA means the Uniformed Services Employment and Reemployment Rights Act of 1994 (Public Law No. 103-353).

2.24 Valuation Date shall mean the date provided for valuing Plan Accounts as specified by the Trustee.

ARTICLE 3 – ELIGIBILITY AND PARTICIPATION

3.1 Eligibility. All Eligible Employees are automatically enrolled in the Plan. Any Employee who is not eligible to participate in the Plan as of the Effective Date of this restatement shall be automatically enrolled in the Plan upon classification as an Eligible Employee.

3.2 Procedure for and Effect of Admission. Any Eligible Employee must participate in this Plan as condition of employment. By becoming a Participant, such Eligible Employee shall for all purposes be deemed to have assented to the terms and provisions of this Plan and to all amendments thereto.

3.3 Time for Contributions to Begin. Compensation will be deferred from the date that an Employee becomes an Eligible Employee.

3.4 Contributions Made Promptly. Deferred Compensation by a Participant under the Plan shall be transferred to the Trust within a period that is not longer than is reasonable for the Employer to segregate the contributions from the Employer's assets. The County Contribution shall be contributed at the same time as the Participant's Deferred Compensation.

ARTICLE 4 – CONTRIBUTIONS AND LIMITATIONS

4.1 Employee Mandatory Deferral. Each Eligible Employer shall defer 6.2% of the Employee's Compensation.

4.2 County Contribution. The County shall make a contribution of 1.3% of each Eligible Employee's Compensation.

4.3 Employee Deferral General Limitations. Except as provided in section 4.4, the maximum Deferred Compensation amount under the Plan for any Participant for the taxable year shall not exceed the lesser of (i) the applicable dollar amount within the meaning of Code Sections 457(b)(2)(A) and 457(e)(15)(A) as adjusted for the cost-of-living in accordance with Code Section 457(e)(15)(B) or (ii) 100% of the Participant's Includible Compensation for such taxable year.

4.4 Special Rules. For purpose of this Article 4, the following rules shall apply:

(a) Participants covered by more than one (1) eligible 457(b) plan. If a Participant is or has been a participant in one (1) or more other eligible 457(b) plans (as defined by Code Section 457(b)), then this Plan and all such other 457(b) plans shall be considered as one (1) plan for purposes of applying the foregoing limitation of this Article 4. For this purpose, the Plan Administrator shall take into account any other such eligible plans maintained by the County and shall also take into account any other such eligible plans for which the Plan Administrator receives from the Participant sufficient information concerning his or her participation in such other plan.

(b) Disregard Excess Deferral. For purposes of Section 4.3, an individual is treated as not having deferred compensation under a plan for a prior taxable year to the extent excess deferrals under the plan are distributed, as described in Section 4.5.

4.5 Correction of Excess Deferrals. If the Deferred Compensation on behalf of a Participant for any calendar year exceeds the limitations described in Section 4.3, or the Deferred Compensation on behalf of a Participant for any calendar year exceeds the limitations described above when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under Code Section 457(b) for which the Participant provides information that is accepted by the Plan Administrator, then the Deferred Compensation, to the extent in excess of the applicable limitation adjusted for any income or loss in value, if any, allocable thereto, shall be distributed to the Participant.

4.6 Protection of Persons Who Serve In Uniformed Service. A Participant whose employment with the County is interrupted by qualified military service under Code Section 414(u) or who is on a leave of absence for qualified military service under Code Section 414(u) may elect to have additional Deferred Compensation made upon the resumption of employment with the County equal to the maximum Deferred Compensation that the Participant could have elected during that period if the Participant's employment with the County had continued (at the same level of compensation) without interruption or leave, reduced by Deferred Compensation, if any, actually made for the Participant during the period of interruption or leave. This right applies for five (5) years following the resumption of employment (or, if sooner, for a period equal to three (3) times the period of the interruption or leave).

ARTICLE 5 – DISTRIBUTIONS

5.1 Benefit Distributions. Upon Severance from Employment with the County, a Participant shall be entitled to receive a distribution of his or her Account balance under a form of distribution permitted under Section 5.3, and such distribution shall commence at the date provided in Section 5.2. A Participant on a leave of absence shall not be deemed to have had a Severance from Employment until the leave of absence expires and the Participant separates from employment with the County.

5.2 Benefit Commencement Date. In accordance with and subject to Code Section 401(a)(9) and Section 5.4, a Participant (or his or her Beneficiary) after Severance from Employment with the County shall be permitted to elect to receive a distribution from his or her Account. The election shall be made in accordance with procedures established by the Plan Administrator. Actual distributions shall be made as soon as administratively practicable after a Participant's proper election.

5.3 Forms of Distribution. In coordination with an election to commence benefits under Section 5.2, a Participant (or Beneficiary) shall elect to receive payment in one of the following distribution forms:

(a) one lump sum payment;

(b) installment payments; or

(c) a partial lump sum payment plus installment payments.

5.4 Minimum Distribution Rules. No payment option may be selected by a Participant (or Beneficiary) unless it satisfies the requirements of Code Sections 401(a)(9) and 457(d)(2) and applicable Treasury Regulations, including for payments that commence before the death of the Participant, the incidental death benefit requirements under Code Section 401(a)(9)(G). These Code sections require that the entire interest of the Participant be distributed, or commence to be distributed, not later than April 1 following the later of the calendar year in which the Participant attains age 70 ½ years or the calendar year in which the Participant has a Severance from Employment and provide for annual minimum distribution amounts.

5.5 Rollover Distributions.

(a) A Participant or the surviving spouse of a Participant (or a Participant's former spouse who is an alternate payee under a Qualified Domestic Relations Order) who is entitled to an eligible rollover distribution may elect, at the time and in the manner prescribed in the sole and absolute discretion of the Plan Administrator, to have all or any portion of the distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover. An eligible retirement plan means an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), a qualified trust described in Code Section 401(a), an annuity plan described in Code Sections 403(a) or 403(b), or an eligible governmental plan described in Code Section 457(b), that accepts eligible rollover distributions. The Plan Administrator may require any documentation that it deems necessary to effectuate the rollover.

(b) Distributions to Nonspouse Beneficiary. With respect to any portion of a distribution made after December 31, 2009 to an individual who is the designated beneficiary (as defined by Code Section 401(a)(9)(E)) of a deceased Participant and who is not the surviving spouse of the Participant, if a direct rollover is made to an eligible retirement plan (as defined in Code Section 402(c)(8)(B)(i) and (ii)) of the non-spouse designated beneficiary, such eligible retirement plan shall be treated as an inherited individual retirement account or inherited individual retirement annuity, pursuant to Code Section 402(c)(11).

(c) For purposes of this Section 5.5, an eligible rollover distribution means any distribution of all or any portion of a Participant's Account, except that an eligible rollover distribution does not include (i) any installment payment under Section 5.3 for a period of over ten (10) years or more; or (ii) for any other distribution, if any of the distribution is a required minimum distribution under Code Section 401(a)(9).

(d) Upon the transfer of assets pursuant to this Section 5.5, the Plan's liability to pay benefits to the Participant or Beneficiary under the Plan shall be discharged to the extent of the amount transferred on behalf of the Participant or Beneficiary. The Plan Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to effectuate the transfer.

5.6 <u>Distribution of Small Accounts After Severance From Employment</u>.

(a) Notwithstanding the prior provisions of this Article, if the value of a Participant's Account is less than $1,000 at the time that the Participant has a Severance from Employment, the Participant's Account shall be distributed to the Participant in a lump sum in accordance with procedures established by the Plan Administrator. Any Rollover Account is included when determining if a Participant's Account is valued at less than $1,000. Effective as of the date that this Restatement is adopted by the Board of Commissioners, this section is revoked.

5.7 <u>Distribution of Inactive Accounts</u>.

(a) *Mandatory Distribution*. If the value of a Participant's Account is less than $1,000, the Participant's Account shall be paid to the Participant in a single lump sum distribution, provided that:

(1) No amount has been deferred under the Plan with respect to the Participant during the 2-year period ending on the date of the distribution; and

(2) There has been no prior distribution under the Plan to the Participant pursuant to this Section 5.7.

(b) *Voluntary Distribution*. If the value of the Participant's Account is at least $1,000 but not more than the dollar limit under Section 411(a)(11)(A) of the Code, the Participant may elect to receive his or her entire Account in a lump sum payment if:

(1) No amount has been deferred under the Plan with respect to the Participant during the 2-year period ending on the date of the distribution; and

(2) There has been no prior distribution under the Plan to the Participant pursuant to this Section 5.7.

(c) The provisions of this Section 5.7 are revoked as of the date that this Restatement is adopted by the Board of Commissioners.

ARTICLE 6 – DEATH BENEFITS

6.1 Form and Amount of Death Benefits. Upon the death of a Participant, death benefits shall be payable as follows:

(a) Death Prior to Benefit Commencement Date. If a Participant's death occurs before his or her benefit commencement date, his or her Beneficiary shall elect a benefit commencement date that is no later than the later of (i) December 31 of the year following the year of the Participant's death if distributions are to be made in installments, (ii) for non-installment distributions, the December 31 of the fifth year following the year of the Participant's death or (iii) if the Beneficiary is the Participant's spouse, December 31 of the year in which the Participant would have attained age 70½. A Beneficiary may elect to receive distribution in a single lump sum, in installments based on life expectancy, or as a rollover distribution in accordance with Section 5.5, provided, however, that a method of distribution must satisfy the requirements of Code Sections 401(a)(9) and 457(d)(2) and applicable Treasury Regulations thereunder. In the event that the Participant's estate is the Beneficiary, payment shall be made to the estate in a lump sum. If the Beneficiary survives the Participant but dies before the payment of death benefits has commenced or been completed, the remaining balance of the Account shall be paid to the beneficiary designated by the Beneficiary, and if no such beneficiary was designated, then to the Beneficiary's estate. Any payment under this paragraph shall be made in a manner consistent with such procedures adopted by the Plan Administrator.

(b) Death After Benefit Commencement Date. If a Participant's death occurs after he/she has begun to receive benefits under a benefit payment option, the remaining payments, if any, shall be payable to the Participant's Beneficiary in a single lump sum or as a rollover distribution in accordance with Section 5.5, with such payment being made as soon as administratively practicable following the Participant's death. In no event shall the County or Plan Administrator be liable to the Beneficiary for the amount of any payment made in the name of the Participant before the Plan Administrator receives proof of death of the Participant. If the Beneficiary dies before completion of such payments, the remaining balance of the Account shall be paid to the beneficiary designated by the Beneficiary, and if no such beneficiary was designated, then to the Beneficiary's estate. Any payment under this paragraph shall be made in a manner consistent with such procedures adopted by the Plan Administrator.

6.2 Beneficiary Designation.

(a) In General. The Participant shall file with the Plan Administrator a designation of primary and contingent Beneficiary which shall indicate the person or persons who shall receive benefits payable under this Plan upon the Participant's death. In the case of multiple Beneficiaries, unless otherwise provided in the Beneficiary designation, each designated Beneficiary who survives the Participant shall be entitled to an equal share of the benefit payable after the Participant's death. The Participant accepts and acknowledges the burden for executing and filing a proper Beneficiary designation with the Plan Administrator.

(b) Change in Beneficiary Designation. Any change in Beneficiary designation shall become effective only upon receipt of the new Beneficiary designation by the Plan Administrator whether or not the Participant is living at the time of such receipt. Any change of Beneficiary designation filed in proper form with the Plan Administrator shall revoke all prior Beneficiary designations.

(c) Adequacy of Beneficiary Designation. The Plan Administrator shall determine the acceptability of a Beneficiary designation or change of Beneficiary designation. The Plan Administrator shall notify the Participant if the Beneficiary designation is not acceptable and inform the Participant of the method of correction. A corrected Beneficiary designation shall be effective as of the date on which the Participant first attempts to designate such individual.

(d) Death Without Beneficiary Designation. If the Participant fails to designate a Beneficiary or if every Beneficiary designated by the Participant has predeceased the Participant, the Participant's default beneficiary will be (a) the Participant's surviving spouse, if any, or (b) if there is no surviving spouse, the Participant's estate.

(e) Presumption that a Designation is Revoked by Divorce. In the event of a divorce, it is presumed that the Participant intended to revoke any designation of his or her divorced spouse as the Participant's designated Beneficiary, unless

(1) The Judgment of Divorce affirmatively states that the divorced spouse will remain the designated Beneficiary, or

(2) An Eligible Domestic Relations Order affirmatively states that the divorced spouse will remain the designated Beneficiary, or

(3) The Participant completes a new designation of Beneficiary after entry of the Judgment of Divorce, which names the divorced spouse as the Participant's designated Beneficiary.

ARTICLE 7 – QUALIFIED DOMESTIC RELATIONS ORDERS

7.1 Qualified Domestic Relations Orders. The Employer and the Plan Administrator shall comply with any qualified domestic relations order as defined in Code Section 414(p) (a "QDRO"), including an order requiring the distribution of a Participant's benefits to an Alternate Payee in advance of the general rules for distributions set forth herein. To the extent required in a QDRO, any portion of a Participant's benefits may be paid to (or a portion of a Participant's Account may be set aside for the benefit of) the Participant's spouse, former spouse or other Alternate Payee. Upon receipt of notification of any judgment, decree or order which relates to the provision of child support, alimony payments, or marital property rights of a spouse, former spouse, child, or other dependent of a Participant and which is made pursuant to a state domestic relations and/or community property law ("Court Order"), the Plan Administrator shall, within a reasonable period after receipt of such Court Order, determine whether it satisfies the requirements of a QDRO. The Plan Administrator shall establish reasonable procedures for determining the status of any such decree or order and for effectuating a distribution pursuant to the Qualified Domestic Relations Order.

(a) Segregation of Account, Payment. The Plan Administrator may segregate in a separate account in the Plan, the amounts which would be payable to the Alternate Payee pursuant to a QDRO. Such amounts may be paid to the Alternate Payee in advance of the general distribution rules under this Plan.

(b) Status, Rights and Privileges of Alternate Payees. Except as otherwise provided herein, an Alternate Payee shall have the status and rights of a Beneficiary under this Plan to the exclusion of all other rights associated with Participants under this Plan, including the right to receive payment under the terms of the QDRO at the time and manner specified in such QDRO (provided, however, that such payment may not be made in a form which is not available to Participants under the Plan), and the right to direct the manner in which Plan amounts allocated to such Alternate Payee are invested.

(c) QDRO Expenses. Any expense related to the administration of a QDRO shall be assessed against the Participant's Account.

ARTICLE 8 – TRANSFERS AMONG PLANS OF THE EMPLOYER; ROLLOVERS INTO THE PLAN

8.1 Outgoing Transfers. Subject to the requirements of Code Section 457(e)(10), and Treasury Regulations thereunder, and the procedures established by the Plan Administrator and effective as of April 1, 2008, an Account may be transferred to another eligible deferred compensation plan maintained by the Employer if such transfer complies with the following requirements:

(a) The Employer's other plan provides that such transfers will be accepted;

(b) The Participant whose amounts deferred are being transferred must have deferred compensation immediately after the transfer at least equal to the amount deferred with respect to the Participant immediately before the transfer;

(c) The Participant whose deferred amounts are being transferred must not be eligible to make additional annual deferrals under the transferee governmental eligible deferred compensation plan unless he or she is performing services for the Employer.

8.2 Rollovers. An eligible rollover distribution, excluding any portion that consists of after-tax contributions or Roth deferrals, may be accepted from an eligible retirement plan and credited to a Participant's Account under the Plan. The Plan Administrator may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Section 402 of the Code and to confirm that such plan is an eligible retirement plan within the meaning of Section 402(c)(8)(B) of the Code. The Plan shall separately account (in one or more separate accounts) for eligible rollover distributions from any eligible retirement plan.

(a) Definitions:

(1) An eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include (1) any installment payment for a period of ten (10) years or more, (2) any distribution made as a result of an unforeseeable emergency or other distribution which is made upon a hardship, or (3) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Code Section 401(a)(9).

(2) An eligible retirement plan means an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), a qualified trust described in Code Section 401(a), an annuity plan described in Code Sections 403(a) or 403(b), or an eligible governmental plan described in Code Section 457(b).

ARTICLE 9 – TRUST

9.1 General. All contributions and transfers to the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, shall be held and invested in the Trust in accordance with the terms of this Article and Article 10, unless a separate written Trust Agreement that constitutes a valid trust under the laws of the State of Michigan is adopted. As of the original Effective Date of the Plan, the Oakland County Retirement and Deferred Compensation

Board is the Trustee unless it has entered into an agreement by which it has designated another entity as the Trustee. As of March 23, 2018, the Oakland County Retirement and Deferred Compensation Board is the Trustee. The Trustee shall ensure that all investments, amounts, property, and other rights held under the Trust are held for the exclusive benefit of the Participants and their Beneficiaries and to defray any reasonable expenses of the Plan and/or the Trust. It shall be impossible, prior to the satisfaction of all liabilities with respect to the Participants and their Beneficiaries, for any part of the assets and income of the Trust to be used for, or diverted to, purposes other than for the exclusive benefit of the Participants and their Beneficiaries.

9.2 Custodial Accounts and Annuity Contracts. If assets are held in a custodial account or annuity contract, the term "Trust Agreement" shall also mean the custodial account agreement or annuity contract.

9.3 Trustee Powers.

(a) The Trustee has full discretion and authority to invest and re-invest the assets of the Plan in accordance with Article 10.

(b) In exercising its discretionary authority with respect to the management of the assets of the Plan, the Trustee shall exercise the care, skill, prudence and diligence, under the circumstances then prevailing, that an individual of prudence acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and similar objectives.

(c) The Oakland County Retirement and Deferred Compensation Board may employ (i) investment counsel to advise the Board in the making and disposition of investments; (ii) record keepers and third-party administrators to provide recordkeeping services for the assets of the Plan; (iii) custodians; (iv) legal counsel, and (v) such other advisors that the Board determines are necessary or prudent to engage in exercising its authority as Trustee.

ARTICLE 10 – INVESTMENT POWERS

10.1 Investment Powers. In accordance with the Investment Policy Statement prepared by the Board, the Trustee shall have full discretion and authority to invest the Trust's assets, except with respect to assets subject to Section 10.2.

10.2 Self-Directed Investments. A Participant may, subject to procedures established and applied in a uniform, nondiscriminatory manner, elect to direct the Trustee to invest his or her Account in specific assets or funds. In the absence of an election, Participant Accounts shall be invested in an "age based lifestyle fund" to be selected in the sole and absolute discretion of the Board.

The portion of a Participant's Account which is self-directed by the Participant shall not share in Trust net earnings or net losses, but shall be charged or credited as appropriate with net earnings, losses, appreciation and depreciation attributable to such investment activities directly related to the Participant Account that is self-directed.

The Trustee shall follow the directions given by a Participant subject to the limitations contained in this Plan. Neither the Trustee nor any other person shall be under a duty to question any direction of the Participant, or make any suggestions to the Participant in connection with any direction. The Trustee shall comply as promptly as practicable with directions given by a Participant.

All self-directed Participant Accounts shall be subject to the following limitations:

(a) The Board or Trustee shall not be responsible or liable for any loss or expense which may arise from or result from the compliance with any Participant direction, nor shall the Board or Trustee be liable for any loss or expense which may result from either the Board's or the Trustee's refusal or failure to comply with any Participant direction

(b) The Board shall establish rules and procedures limiting the investment vehicles which may be selected by Participants, provided however, that such rules and procedures shall be applied in a uniform and nondiscriminatory manner. The Board shall have the express power to refuse any investment direction which would be administratively burdensome or which the Board believes, in its sole and absolute discretion, would constitute a prohibited transaction as defined in Code Section 4975, which would generate unrelated business income or unrelated debt financed income to the Plan or would otherwise be improper by virtue of any applicable law.

(c) All expenses incurred by the Trust or Plan pursuant to a Participant's investment directions, including but not limited to fees, transfer taxes, state and federal income taxes arising from unrelated business taxable income or any other tax of any kind whatsoever which may be levied or assessed under existing or future laws upon or in respect to a Participant's investment directions or any other incidental expenses shall be paid solely with funds from the account of such Participant.

(d) No Participant shall have the right to elect to have the Trustee purchase an insurance contract on his or her life for his or her Account.

10.3 <u>Statutory Authorities</u>. Notwithstanding any other provision of the Plan to the contrary, the Trust's assets shall be invested in accordance with the applicable provisions of Code Section 457 (and the regulations thereunder) and Michigan Compiled Laws sections 38.1132-38.1141 (Public Employee Retirement System Investment Act; Public Act 314 of 1975).

ARTICLE 11 – PLAN ADMINISTRATOR POWER AND DUTIES

11.1 Duties and Responsibilities. The powers, duties and responsibilities of the Plan Administrator, in its sole and absolute discretion, with respect to the administration of the Plan, shall include but not be limited to the following:

(a) To determine and authorize payment of Plan benefits;

(b) To make, amend and enforce all necessary rules and regulations regarding the Plan's administration;

(c) To resolve any and all issues and problems as may arise in connection with the interpretation, construction and administration of the Plan;

(d) To direct the recordkeeper to invest Plan assets in accordance with each Participant's directions and the Plan's terms;

(e) To ensure that the Plan complies with all Federal, State and local statutory and regulatory agency requirements;

(f) To cause the preparation and filing of all required agency reports;

(g) To establish and maintain appropriate books and records for the Plan;

(h) To draft and disseminate information regarding the Plan; and

(i) To manage other duties assigned to him or her by the Board.

11.2 Binding Action. Any decision or action of the Plan Administrator concerning or in respect to any issue or problem arising out of or in connection with the construction, interpretation, administration and application of the Plan, including any rules and regulations promulgated hereunder, may, in the Board's sole discretion be appealable to the Board.

11.3 Cost. The Plan Administrator shall pay Plan costs as determined by the Board in accordance with Section 12.15.

ARTICLE 12 – PLAN ADMINISTRATION

12.1 Non-Assignability. Except as provided in Sections 12.2 and Article 7, the interests of each Participant or Beneficiary under the Plan are not subject to claims of the Participant's or Beneficiary's creditors; and neither the Participant nor any Beneficiary shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be non-assignable and non-transferable.

12.2 IRS Levy. Notwithstanding Section 12.1, the Plan Administrator may pay from a Participant's or Beneficiary's Account the amount that the Plan Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

12.3 Payments to Minors and Incompetents. If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Plan Administrator (in its sole and absolute discretion), benefits will be paid to such person as the Plan Administrator may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

12.4 Procedure When Distributee Cannot Be Located. The Plan Administrator shall make all reasonable attempts to determine the identity and address of a Participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on the County's or the Plan Administrator's records, (b) notification sent to any governmental authority with a forwarding program, (c) a search of public records using free electronic search tools, and (d) if circumstances warrant it, use a commercial locater service, with the cost of such service being charged to the Participant's account. If the Plan Administrator is unable to locate a person entitled to benefits hereunder, or if there has been no claim made for the benefits, the Participant's Account shall remain in the Plan. Any distribution check that was not cashed shall be deposited into the Participant's account to be held until the Participant, or if the Participant is deceased, the Participant's Beneficiary can be located.

12.5 Tax Benefits. The County does not and shall not guarantee any tax benefits or advantages under the Plan.

12.6 Rights of Participants. Each Employee, upon having elected to become a Participant, shall be deemed to have assented to the terms and conditions of the Plan. Each Participant shall at reasonable times be allowed to examine his or her particular Account to determine its status and condition.

12.7 Termination or Amendment. Subject to the applicable requirements of the Code and laws of the State of Michigan, the County reserves the right at any time to amend or terminate the Plan without the consent of any Participant or Beneficiary. Except as may be required to maintain the status of the Plan as an eligible deferred compensation plan under Code Section 457 or to comply with other applicable laws, no amendment, modification or termination shall impair any individual's right to benefits under the Plan or expand the County's obligation to provide benefits with respect to amounts previously credited to Participants' Accounts.

12.8 Conformity with Internal Revenue Code Section 457. The Plan shall be operated and administered consistent with Code Section 457 and all applicable regulations. Such authorities shall be controlling as to any inadvertent inconsistencies which may occur in the Plan's provisions.

12.9 Employment. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the County or to interfere with any right of the County to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon him or her as a Participant in the Plan.

12.10 Construction. The Plan shall be construed under the laws of the State of Michigan and in conformity with the requirements of Code Section 457 and all regulations thereunder applicable to eligible deferred compensation plans. Article headings are for convenience only and shall not be considered as part of the terms and provisions of the Plan. Words in the masculine gender shall include the feminine, and the singular shall include the plural, and vice versa, unless otherwise qualified by the context.

12.11 Binding Contract. The terms of the Plan, as duly amended from time to time, shall constitute a contract between each Participant and the County and shall be binding, as applicable, upon their heirs, administrators, trustees, successors, assigns, and Beneficiaries.

12.12 Plan Expenses. The expenses of administering the Plan and Trust, including (i) expenses incurred by the Board in the administration of the Plan and Trust, (ii) fees and expenses approved by the Board for investment advisory, custodial, recordkeeping, and other Plan administration and communication services, and (iii) any other expenses or charges allocable to the Plan or the Trust that have been approved by the Board shall be charged to the Trust; provided however, the Board, in its sole and absolute discretion, may charge an individual Participant's Account for expenses incurred by the Plan on behalf of the Participant (including, but not limited to, expenses incurred by the Plan in determining the status of a Qualified Domestic Relations Order or in preparation of loan documents). Brokerage fees, transfer taxes, and any other costs incident to the purchase or sale by the Trust of securities or other investments shall be deemed to be part of the cost of such securities or investments or deducted in computing the sales proceeds therefrom and shall be accounted for accordingly.

12.13 Right to Suspend Benefits and Correct Errors. The Plan Administrator shall take such steps as are considered necessary and appropriate to remedy any inequity that results from incorrect information received or communicated in good faith or as the consequence of an administrative error. The Plan Administrator may suspend the payment until satisfied as to the correctness of the payment or the person to receive the payment or to allow filing in any court of competent jurisdiction of a suit in such form as the Plan Administrator considers appropriate for a legal determination of the benefits to be paid and the persons to receive them.

The Plan Administrator specifically reserves the right to correct errors of every sort, and the Participant hereby agrees as Participant or on behalf of any Beneficiary or Beneficiaries to any method of error correction as the Plan Administrator shall specify. The objective of any such method of error correction shall be, to the extent reasonably possible, to adjust the Account of the Participant by reversing transactions or taking other actions to approach the situation that would have existed if the error had not been made. In the course of correcting an error, any amounts that are removed from a Participant's account and not owed to a Participant shall be allocated to a suspense account and used to offset future Employer contributions. The Plan Administrator shall also be authorized to recover any payment made in error including the right to make deductions from future benefits.

12.14 Reliance on Electronic Instructions, Directions, Signatures, Contracts and Records. For all purposes under the Plan, the Plan Administrator and the County may (but are not required to) give the same effect to electronic instructions, directions, signatures, contracts, records or similar communications (collectively, "records and signatures") as it would give to written records and signatures, and the Plan Administrator's and the County's actions in so doing shall be protected to the same extent as if such electronic records and signatures were, in fact, in written form. Any such electronic records and signatures shall be retained and provided by the Plan Administrator and/or the County in accordance with applicable law. For all purposes under the Plan, the term "electronic" or "electronically" shall mean relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

12.15 Communications from Participants. All enrollments, elections, designations, applications and other communications by or from an Employee, Participant, Beneficiary, or legal representative of any such person regarding that person's rights under the Plan shall be made in the form and manner established by the Plan Administrator and shall be deemed to have been made and delivered only upon actual receipt by the person designated by the Plan Administrator to receive such communication. Neither the Plan Administrator nor the County shall be required to give effect to any such communication that is not made on the prescribed form and in the prescribed manner and that does not contain all information called for on the prescribed form. The County shall promptly furnish the Plan Administrator or its designee a copy of any such communication that is delivered or transmitted to the County.

12.16 Communications to Participants. All notices, statements, reports, and other communications from the Plan Administrator or the County to any Employee, Participant, Beneficiary, or legal representative of any such person shall be deemed to have been duly given when delivered electronically, or when mailed by first class mail, to such person at his or her last mailing address appearing on the Plan's records.

12.17 Time Periods. As necessary or desirable to facilitate the proper administration of the Plan and consistent with the requirements of Code Section 457, the Plan Administrator may further restrict the time periods during which a Participant or Beneficiary is required to make any election under the Plan, including the making or amending of a Participation Agreement, the making or amending of investment option selections, the election of distribution commencement dates or distribution forms.

12.18 Reliance on Data and Consents. The County, the Plan Administrator, and all other persons or entities associated with the operation of the Plan, the administration management of its assets, and the provision of benefits thereunder, may reasonably rely on the truth, accuracy and completeness of all data provided by a Participant, and/or Beneficiary, including, without limitation, data with respect to age, health and marital status. Furthermore, the County, the Plan Administrator, and all persons identified above may reasonably rely on all consents, elections and designations filed with the Plan or those associated with the administration operation of the Plan by any Participant or Beneficiary, or the representatives of such persons without duty to inquire into the genuineness of any such consent, election or designation. None of the aforementioned persons or entities associated with the administration operation of the Plan, its assets and the benefits provided under the Plan shall have any duty to inquire into any such data, and all may rely on such data being current to the date of reference. It shall be the duty of the Participant or Beneficiary to advise the appropriate parties of any change in such data. The Plan Administrator shall not be liable for the consequences of such change in data.

12.19 Tax Consequences. Subject to the provisions of Section 12.23, the County does not represent or guarantee that any particular Federal or State income, estate, payroll, personal property or other tax consequences will occur because of the Participant's or Beneficiary's participation in this Plan. The Participant shall be responsible to obtain appropriate advice regarding all questions related to Federal, State or local income, estate, payroll, personal property or other tax consequences arising from participation in this Plan.

12.20 Withholding; Payroll Taxes. The trustee or custodian shall be entitled to withhold from payments or benefits hereunder any income tax or payroll taxes required to be withheld from such payments under local, state or federal law.

12.21 Equal Access to Benefits, Rights and Features. Any determination made by the County with respect to the availability of benefits, rights and features under this Plan shall apply on a non-discriminatory basis allowing equal access for all Participants; provided, however, that such access may be limited by the terms of a collective bargaining agreement or individual employment contract.

12.22 Entire Agreement. This Plan and all properly adopted amendments to the Plan shall govern the provision of deferred compensation benefits pursuant to Code

Section 457(b). No other instrument, communication statement of any sort shall modify this Plan in any way or be relied upon the parties to this Agreement.

12.23 Claims Procedures. Any person claiming a benefit, or requesting an interpretation or ruling under the Plan, or requesting information under the Plan, shall present his or her request in writing to the Plan Administrator. Any dispute over payment from Accounts under the Plan shall be resolved by the Plan Administrator pursuant to its written claims procedures. Such claims procedures shall comply with applicable State Laws including, but not limited to, civil service rules and applicable collective bargaining agreements.

(a) Initial Claim. In order to request a benefit (a "Claim"), a Participant or Beneficiary under the Plan (a "Claimant") or his or her duly authorized representative must file such Claim in accordance with procedures established by the Plan Administrator.

(b) Initial Decision.

(1) Time Limit. The Plan Administrator shall decide upon a Claim and notify the Claimant of the decision within a reasonable period of time after receipt of a Claim; provided however, that such period shall in no event exceed ninety (90) days, unless special circumstances require an extension of time for processing. If such an extension of time for processing is required, then the Claimant shall, prior to the termination of the initial ninety (90) day period, be furnished a written notice indicating such special circumstances and the date by which the Plan Administrator expects to render a decision. In the case of an extension, the Claimant shall receive a written determination regarding the Claim no later than ninety (90) days after the end of the initial ninety (90) day period.

(2) Notice of Denial. If the Claim is wholly or partially denied, then the Plan Administrator shall furnish to the Claimant, within the time limit applicable under (1) above, a written notice setting forth in a manner calculated to be understood by the Claimant:

(i) The specific reason or reasons for such denial;

(ii) Specific reference to the pertinent Plan provisions on which the denial is based;

(iii) A description of any additional material or information necessary for the Claimant to perfect his or her Claim and an explanation of why such material or information is necessary; and

(iv) Appropriate information as to the steps to be taken if the Claimant wishes to submit his or her Claim for review pursuant to Section 12.27, including notice of the applicable time limits set forth in Section 12.27(c)(1).

12.24 Claim Review Procedure.

(a) Claimant's Rights. If a Claim is wholly or partially denied under Section 12.26, the Claimant or his or her duly authorized representative shall have the following rights:

(1) To obtain, subject to (b) below, a full and fair review;

(2) To obtain, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to the Claimant's Claim;

(3) To submit written comments, documents, records and other information relating to the Claim; and

(4) For a review that takes into account all comments, documents, records and other information submitted by the Claimant relating to the Claim, without regard to whether the information was submitted or considered in the initial benefit determination.

(b) Request for Review.

(1) Filing. To obtain a review pursuant to (a) above, a Claimant entitled to a review or his or her duly authorized representative shall, subject to (2) below, request a review (a "Request for Review") in accordance with procedures established by the Plan Administrator.

(2) Time Limits for Requesting a Review. A Request for Review must be mailed or delivered within sixty (60) days after receipt by the Claimant of the written notice of the initial denial of the Claim.

(c) Decision on Review.

(1) Time Limit.

(i) If, pursuant to (b) above, a review is requested, the Plan Administrator shall make a decision regarding the Request for Review and notify the Claimant of the decision within a reasonable period of time after the receipt of the request; provided however that such period shall in no event exceed one hundred eighty (180) days, unless special circumstances require an extension of time for processing. If such an extension of time for processing is required, then the Claimant shall, prior to the termination of the initial one hundred eighty (180) day period, be furnished a written notice indicating the special circumstances and the date by which the Plan Administrator expects to render a decision. In the case of an extension, the Claimant shall receive a written determination regarding the Request for Review no later than sixty (60) days after the end of the initial one hundred eighty (180) day period.

(2) Notice of Decision. The Plan Administrator shall furnish to the Claimant, within the time limit applicable under (1) above, a written notice setting forth in a manner calculated to be understood by the Claimant:

(i) The specific reason or reasons for the decision on review;

(ii) Specific reference to the pertinent Plan provisions on which the decision on review is based;

(iii) A statement that the Claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the Claimant's Claim; and

(iv) A statement describing any voluntary appeal procedures that may be offered by the Plan and the Claimant's right to obtain the information about such procedures.

ARTICLE 13 – SIGNATURES

This Plan document is signed on ___1, 2019___.

Retirement and Deferred Compensation Board for Oakland County:

By:________________________