

WASHTENAW COUNTY BOARD OF COMMISSIONERS

Wednesday, February 6, 2002

RECORD OF PROCEEDINGS

An adjourned session of the Washtenaw County Board of Commissioners was held at the Administration Building, in the City of Ann Arbor, Michigan, on Wednesday, February 6, 2002.

The meeting was called to order at 7:23 p.m. by Comm. Shaw, Chair.

MEMBERS PRESENT: Comms. Armentrout, Bergman, Craiger, DeLong, Gunn, Irwin, Kestenbaum, Montague, Prater, Shaw,

Sizemore, Solowczuk, Yekulis.

MEMBERS ABSENT: Comms. Kern, Peterson.

OTHERS PRESENT: Bob Guenzel, County Administrator, Curtis Hedger, Corporation Counsel; Peter Ballios, Finance;

Verna McDaniel, Bob Hubbard, Human Resources; Peggy M. Haines, Clerk/Register; David Behen, Amy Klinke, Administration; Donna Sabourin, Community Mental Health; Barbara King, Deputy Clerk;

and member of the press.

Pledge of Allegiance

Approval of the Minutes of the Previous Meeting

Comm. Yekulis seconded by Comm. Prater moved that the minutes of the January 16, 2002, Board of Commissioners meeting be approved. Motion carried.

Citizen Participation

None.

Commissioner Follow-Up to Citizen Participation

None.

Communications

Comm. Yekulis seconded by Comm. Montague moved that the communications be received and dealt with as recommended. Motion carried.

R-0032 RECEIVED: December 27, 2001. Letter to Chairperson, Washtenaw County, from John Ort, Captain, Deputy State Director of Emergency Management, Department of State Police, dated December 18, 2001, re: Department of Justice Terrorism Needs Assessment Grants. Received and filed; copy to Emergency Management.

R-0033 RECEIVED: January 18, 2002. Final Notice to Principal Contract and Governmental Unit (Ellis-Don Michigan, Inc. and Washtenaw County, from National Block Company dba National Ready-Mix, Inc., dated January 16, 2002, re: Demand for payment of claim. Received and filed; copy to Facility Management, Purchasing, and Corporation Counsel.

R-0034 RECEIVED: January 22, 2002. Letter to Ellis-Don Michigan and Washtenaw County Board of Commissioners, from Roseanne M. Denny, Co-Pipe Products, Inc., dated January 16, 2002, re: Juvenile Detention and day Treatment Center. Received and filed; copy to Purchasing and Facility Management.

R-0035 RECEIVED: January 22, 2002. Letter to Robert M. Guenzel, Administrator, from Chet Taraskiewicz, County Administrator/Controller, Jackson County, dated January 18, 2002, re: Invitation to make a presentation to the Jackson County Board relative to Washtenaw County's Business Improvement Plan. Received and filed; copy to Administration.

R-0036 RECEIVED: January 22, 2002. Meeting Notice for the State Boundary Commission to be held February 14, 2002, in Okemos, Michigan. Received and filed.

R-0037 RECEIVED: January 22, 2002. Letter to County Commission Chairman from Doug Rothwell, President and Chief Executive Officer, Michigan Economic Development Corporation, dated January 18, 2002, re: MEDC will be hosting a series of regional Local Official Academies designed for County Commissioners and Administrators, et al, who are interested in learning more about effective state and local economic development strategies. Received and filed; copy to each Commissioner.

R-0038 RECEIVED: January 23, 2002. Letter to Robert Guenzel, Administrator, from Mark T. Kettner, CPA, CGFM, Principal, Rehmann Robson, dated January 17, 2002, re: 2001 Audit Engagement Letter. Received and filed.

R-0039 RECEIVED: January 24, 2002. Letter to Suzanne Shaw from John Latham, dated January 21, 2002, re: Request for information regarding events that occurred on November 23, 2001, when Deputy Sheriffs came to his apartment. Received and filed; copy to Administration and Sheriff.

R-0040 RECEIVED: January 28, 2002. Meeting Agenda for the Washtenaw County Chapter of the Michigan Townships Association meeting on January 31, 2002, at the Scio Township Hall. Received and filed; copy to Comm. Sizemore.

R-0041 RECEIVED: January 28, 2002. Copy of letter to Hon. Timothy P. Connors from Dawn Monk, Deputy State Court Administrator, State Court Administrative Office, dated January 23, 2002, re: The Court Equity Fund first quarter disbursement. Received and filed; copy to Finance.

R-0042 RECEIVED: January 28, 2002. Letter to Washtenaw County Board of Commissioners from Daniel J. Minzey, Sheriff, dated January 22, 2002, re: Thanks for the support of Senate Bill 677 regarding the Secondary Road Patrol and Training Fund and Jail Reimbursement Program. Received and filed.

R-0043 RECEIVED: January 28, 2002. Letter to Partners from Douglas E. Howard, Director, Michigan Family Independence Agency, dated January 23, 2002, re: Michigan's Child Support Enforcement Program. Received and filed.

R-0044 RECEIVED: January 28, 2002. Resolution adopted by the Crawford County Board of Commissioners on January 16, 2002, re: Request that the State of Michigan re-instate funding for the Cooperative Management Initiative Program. Received and filed.

Report of the Chair of the Board

02-0015 Comm. Yekulis seconded by Comm. Montague moved that the resolution of appreciation to Mark Ptaszek for his years of service to the citizens of Washtenaw County, be adopted. Roll call vote: YEAS: 13. NAYS: 0. ABSENT: 2 (Kern, Peterson). Motion carried.

Reports of Standing Committees

Comm. Yekulis seconded by Comm. Montague moved that the minutes of the Ways & Means Committee dated January 16, 2002, be approved. Motion carried. (Complete reports on file in the County Clerk/Register's Office).

Reports of Special Committees

Comm. Yekulis seconded by Comm. Montague moved that the following reports be received: Accommodations Ordinance Commission dated December 4, 2001, Building Authority dated December 4, 2001, Employees' Retirement Commission dated December 19, 2001, Family Independence Agency dated November 14 and December 19, 2001, Library Board of Trustees dated December 11, 2001, Metropolitan Planning Commission dated December 13, 2001, Money Purchase Pension Plan dated December 20, 2001, Road Commission dated January 2, 2002, Statutory Drainage Board dated December 18, 2001, VEBA Board of Trustees dated January 3, 2002, Washtenaw Community Health Organization dated August 1, and September 25, 2001. Motion carried. (Complete reports are on file in the County Clerk/Register's Office.)

Other Reports

None.

Report of the Treasurer

Comm. Yekulis seconded by Comm. Montague moved that the Cash Position of Washtenaw County as of December 31, 2001, be received. Motion carried. (Complete report is on file in the County Clerk/Register's Office.)

Report from the County Administrator

Resolutions

02-0016 Comm. Yekulis seconded by Comm. Montague moved that the resolution creating six (6.0) FTE positions to be leased to the Washtenaw Community Health Organization, be adopted. Roll call vote: YEAS: 13. NAYS: 0. ABSENT: 2 (Kern, Peterson). Motion carried.

02-0017 Comm. Yekulis seconded by Comm. Montague moved that the resolution of support for the Washtenaw Community Health Organization's Regional Application for participation to the Michigan Department of Community Health, be adopted. Roll call vote: YEAS: 13. NAYS: 0. ABSENT: 2 (Kern, Peterson). Motion carried.

02-0018 Comm. Yekulis seconded by Comm. Montague moved that the resolution approving the Washtenaw County Money Purchase Pension Plan effective January 1, 1984, amended and restated effective January 1, 1989, further amended and restated effective December 31, 2001, be adopted. Roll call vote: YEAS: 13. NAYS: 0. ABSENT: 2 (Kern, Peterson). Motion carried.

02-0019 Comm. Yekulis seconded by Comm. Montague moved that the resolution approving the Ordinance amending Section 65 of the Washtenaw County Employees' Retirement System to comply with the Internal Revenue Code and related Authority to maintain the qualified status of the Defined Benefit Plan, be adopted. Roll call vote: YEAS: 13. NAYS: 0. ABSENT: 2 (Kern, Peterson). Motion carried.

02-0020 Comm. Yekulis seconded by Comm. Montague moved that the resolution ratifying the signature of the Chair of the Board on an estimate of authorized Expenditures Summary in the amount of \$182,342 to the State of Michigan, Department of Natural Resources, for a Marine Safety Program for calendar year 2002, be adopted. Roll call vote: YEAS: 13. NAYS: 0. ABSENT: 2 (Kern, Peterson). Motion carried.

Approval of Claims

02-0021 Comm. Yekulis seconded by Comm. Montague moved that the resolution authorizing payment of claims commencing with the last previously approved claim and continuing through the date of January 25, 2002, be adopted. Roll call vote: YEAS: 13. NAYS: 0. ABSENT: 2 (Kern, Peterson). Motion carried.

FUND/COMPANY	SYSTEM CHECKS	UTILITIES/CREDIT CARD	PRE-CLAIMS	TOTAL
1010 GENERAL FUND	\$1,289.74	\$0.00	\$0.00	\$1,289.74
1100 GYPSY MOTH SUPPRESSION	\$0.00	\$0.00	\$0.00	\$0.00
1110 CHILDRENS SERVICES GRANTS-COOP	\$0.00	\$0.00	\$0.00	\$0.00
1310 OPERATION NIGHT CAP	\$0.00	\$0.00	\$0.00	\$0.00
1320 COMMUNITY POLICING ENHANCEMENT	\$0.00	\$0.00	\$0.00	\$0.00
1330 MDSS REINTEGRATION SERV.	\$0.00	\$0.00	\$0.00	\$0.00
1340 I-94 SHORE TO SHORE	\$0.00	\$0.00	\$0.00	\$0.00
1400 SHERIFF ROAD PATROL	\$0.00	\$0.00	\$0.00	\$0.00
1412 L.A.W.N.E.T.	\$0.00	\$0.00	\$0.00	\$0.00
1414 L.A.W.N.E.T. HIDTA GRANT	\$0.00	\$0.00	\$0.00	\$0.00
1490 PA 302 TRAINING	\$0.00	\$0.00	\$0.00	\$0.00
1620 PROS ATTNY - CR	\$0.00	\$0.00	\$0.00	\$0.00
1690 SHELTER PLUS CARE	\$0.00	\$0.00	\$0.00	\$0.00
1710 BFI SOLID WASTE COORD.	\$0.00	\$0.00	\$0.00	\$0.00
1750 BUILDING INSPECTION & SOIL EROSION	\$0.00	\$0.00	\$0.00	\$0.00
1760 ENVIRONMENTAL HEALTH	\$0.00	\$0.00	\$0.00	\$0.00
1770 ILLEGAL DUMPING PROGRAM	\$0.00	\$0.00	\$0.00	\$0.00
1810 VETERANS TRUST FUND ADMIN.	\$0.00	\$0.00	\$0.00	\$0.00
1850 RRNWWD:STORM WATER GENERAL PE	\$0.00	\$0.00	\$0.00	\$0.00
1870 MICHIGAN GREAT LAKES PROTECTION	\$0.00	\$0.00	\$0.00	\$0.00
1880 DOMESTIC VIOLENCE COURT PILOT	\$0.00	\$0.00	\$0.00	\$0.00
1881 VIOLENCE AGAINST WOMEN	\$0.00	\$0.00	\$0.00	\$0.00
1900 3 - 911 FUND	\$0.00	\$0.00	\$0.00	\$0.00
2080 PARKS & RECREATION	\$0.00	\$0.00	\$0.00	\$0.00

2060 LAW LIBRARY	\$0.00	\$0.00	\$0.00	\$0.00
2110 COUNTY LIBRARY FUND	\$0.00	\$0.00	\$0.00	\$0.00
2150 FRIEND OF THE COURT	\$818.50	\$0.00	\$0.00	\$818.50
2370 JTPA ADMINISTRATION	\$0.00	\$0.00	\$0.00	\$0.00
2410 NO WRONG DOOR	\$0.00	\$0.00	\$0.00	\$0.00
2420 JTPA - FIRST	\$0.00	\$0.00	\$0.00	\$0.00
2490 EMPLOYMENT SERVICES	\$0.00	\$0.00	\$0.00	\$0.00
2510 CSA HEADSTART	\$0.00	\$0.00	\$0.00	\$0.00
2600 CSBG	\$0.00	\$0.00	\$0.00	\$0.00
2630 CSA SR NUTRITION	\$0.00	\$0.00	\$0.00	\$0.00
2650 FOSTER GRANDPARENTS	\$0.00	\$0.00	\$0.00	\$0.00
2700 CSA DOE - WEATHERIZATION	\$0.00	\$0.00	\$0.00	\$0.00
2800 MDSS REINTEGRATION SERVICES	\$0.00	\$0.00	\$0.00	\$0.00
2801 ZAAP	\$0.00	\$0.00	\$0.00	\$0.00
2804 COMMUNITY CORRECTIONS	\$0.00	\$0.00	\$0.00	\$0.00
2810 JUVENILE ACCOUNTABILITY	\$0.00	\$0.00	\$0.00	\$0.00
2820 STRONG FAMILIES/SAFE CHILDRFEN	\$0.00	\$0.00	\$0.00	\$0.00
2920 WCHO	\$0.00	\$0.00	\$0.00	\$0.00
2930 MENTAL HEALTH	\$0.00	\$0.00	\$0.00	\$0.00
2940 SUBSTANCE ABUSE	\$0.00	\$0.00	\$0.00	\$0.00
2960 HEALTH	\$0.00	\$0.00	\$0.00	\$0.00
2990 CHILD CARE/PROBATE CT.	\$0.00	\$0.00	\$0.00	\$0.00
4010 CAPITAL PROJECTS	\$0.00	\$0.00	\$0.00	\$0.00
4050 CAPITAL EQUIPMENT	\$0.00	\$0.00	\$0.00	\$0.00
4520 MULTI-LAKE SEWER SYSTEM	\$0.00	\$0.00	\$0.00	\$0.00
4860 B.A. E-911 CONSTRUCTION	\$0.00	\$0.00	\$0.00	\$0.00
5720 INMATE ENTERPRISE FUND	\$68.64	\$0.00	\$1,472.00	\$1,540.64
6280 DEL TAX REVOLVING #28	\$0.00	\$0.00	\$0.00	\$0.00
6310 FACILITIES MGMT - O & M	\$0.00	\$0.00	\$0.00	\$0.00
6320 FACILITIES MGMT - TRANSP	\$0.00	\$0.00	\$0.00	\$0.00
6330 FACILITIES MGMT - GEN SVC	\$0.00	\$0.00	\$0.00	\$0.00
6340 GEN SVCS - REVOLV.	\$0.00	\$0.00	\$0.00	\$0.00
6440 SELF INSURANCE	\$0.00	\$0.00	\$0.00	\$0.00
6630 MEDICAL SELF INSURANCE	\$0.00	\$0.00	\$0.00	\$0.00
6650 FRINGE BENEFIT REVOLVING	\$0.00	\$0.00	\$0.00	\$0.00
6900 CENTREX ASSOCIATION	\$0.00	\$0.00	\$0.00	\$0.00
6930 MENTAL HEALTH	\$0.00	\$0.00	\$0.00	\$0.00
7350 T&A 14A DISTRICT COURT	\$0.00	\$0.00	\$0.00	\$0.00
7412 LAWNET - DRUG ENFORCEMENT	\$0.00	\$0.00	\$0.00	\$0.00
7413 LAWNET NON-FORFEITURE FUND	\$0.00	\$0.00	\$0.00	\$0.00
7520 EMPLOYEE RETIREMENT FUND	\$0.00	\$0.00	\$0.00	\$0.00
7550 MONEY PURCHASE PENSION PLAN	\$0.00	\$0.00	\$0.00	\$0.00
7570 VEBA HEALTH TRUST	\$0.00	\$0.00	\$0.00	\$0.00
7900 REGIONAL DISPATCH FUND	\$0.00	\$0.00	\$0.00	\$0.00
7950 HAZ MATL RESPONSE TEAM	\$0.00	\$0.00	\$0.00	\$0.00
7990 CO-OP EXTENSION SERVICE	\$0.00	\$0.00	\$0.00	\$0.00
8005 PORTAGE-BASELINE LAKE LEVEL	\$0.00	\$0.00	\$0.00	\$0.00
8007 WHITMORE LAKE LEVEL	\$0.00	\$0.00	\$0.00	\$0.00
8008 FOUR MILE LAKE LEVEL	\$0.00	\$0.00	\$0.00	\$0.00
8297 SWAN CREEK & PLINEY HARRIS	\$0.00	\$0.00	\$0.00	\$0.00

TOTALS \$2,176.88 \$0.00 \$1,472.00 \$3,648.88

New Business

None.

Liaison Reports

Comm. Bergman reported that she recently attended a conference with Joe DeGraff, Community Corrections Program Manager. She said they discussed re-entry programs for folks leaving County Jails. She also talked about homeland security dollars and the fact that the Governor is proposing changing the My Child program to My Family.

Comm. Montague reported on the Joint Meeting of Workforce Development and Community Action Board held on January 28.

Comm. Yekulis said it was a tremendous honor to receive the Workforce Development award.

Items for Current/Future Discussion

Comm. Bergman asked Commissioners to read the material handed out for the Working Session tomorrow evening before they come to the meeting.

Citizen Participation

None.

Commissioners Follow-up to Citizen Participation

None.

Adjournment

Comm. Solowczuk seconded by Comm. Yekulis moved to adjourn until Wednesday, February 20, 2002, 6:45 p.m. in the Board Room, Washtenaw County Administration Building. Motion carried.

The meeting adjourned at 7:38 p.m.	
	Comm. Suzanne Shaw, Chair
Peggy M. Haines, Clerk/Register By: Barbara L. King, Deputy Clerk	

Board Approved: February 20, 2002

A RESOLUTION OF APPRECIATION TO MARK PTASZEK FOR HIS YEARS OF SERVICE TO THE CITIZENS OF WASHTENAW COUNTY

WASHTENAW COUNTY BOARD OF COMMISSIONERS

February 6, 2002

WHEREAS, Mark Ptaszek began his career with Washtenaw County in February 1975 as a part-time temporary Marine Safety Officer; and

WHEREAS, Mark Ptaszek's fulltime tenure with Washtenaw County began in September of 1976 as a Deputy Sheriff; and

WHEREAS, Mark Ptaszek has held numerous positions within the Sheriff's Department including, Sergeant, Lieutenant, Executive Lieutenant, Commander, and Undersheriff; and

WHEREAS, Mark Ptaszek became the Community Mental Health Associate Director on January 19, 2001; and

WHEREAS, Mark Ptaszek has played a key role in establishing the relationship between the Washtenaw Community Health Organization and Community Mental Health; and

WHEREAS, through Mark's leadership, Community Mental Health has transitioned organizationally building the partnership with the Washtenaw Community Health Organization; and

WHEREAS, Mark is highly-respected by those that he has worked with and clients he has served; and

NOW THEREFORE BE IT RESOLVED that the Washtenaw County Board of Commissioners hereby extends its appreciation to Mark Ptaszek for his unwavering dedication to the organization and the citizens of Washtenaw County and wishes him continued success in his future endeavors

CENTRE CONTROL CENTRE CENTRE CONTROL				TITLED CODE	OT T	CAT	T T70	TE TOTALE	13	Λ	_
Gunn	X			Peterson			X	Yekulis	X		
DeLong	X			Montague	X			Solowczuk	X		
Craiger	X			Kestenbaum	X	, and the second		Sizemore	X		
Bergman	X			Kern			X	Shaw	X		
Armentrout	X			Irwin	X			Prater	X		
COMMISSIONER	Y	N	Α	COMMISSIONER	Y	N	Α	COMMISSIONER	Y	N	A

CLERK/REGISTER'S CERTIFICATE - CERTIFIED COPY ROLL CALL VOTE: TOTALS 13 0 2

STATE OF MICHIGAN)
COUNTY OF WASHTENAW)^{SS.}

I, Peggy M. Haines, Clerk/Register of said County of Washtenaw and Clerk of Circuit Court for said County, do hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the Washtenaw County Board of Commissioners at a session held at the County Administration Building in the City of Ann Arbor, Michigan, on February 6, 2002, as appears of record in my office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at Ann Arbor, this day of

BY:	
	Deputy Cler

PEGGY M. HAINES, Clerk/Register



Res. No. 02-0015

A RESOLUTION CREATING SIX (6.0) FTE POSITIONS TO BE LEASED TO THE WASHTENAW COMMUNITY HEALTH ORGANIZATION

WASHTENAW COUNTY BOARD OF COMMISSIONERS

FEBRUARY 6, 2002

WHEREAS, Washtenaw Community Health Organization (WCHO) has received notification that it will be receiving funding to provide additional recipient rights services for Lenawee Community Mental Health Authority and needs to convert a current contract Recipient Rights position to a permanent position for the University of Michigan Recipient Rights service; and

WHEREAS, the WCHO has received notification that it will be receiving funding from the Health Resources Services Administration Grant for infrastructure and data warehouse development; and

WHEREAS, the WCHO has been chosen to provide Access Services for the Washtenaw Health Plan; and

WHEREAS; the WCHO needs to enhance Health Service Access staffing to accommodate substance abuse services screening; and

WHEREAS, this matter has been reviewed by the Washtenaw Community Health Organization Board, County Administration, the Finance Department, Human Resources, Corporation Counsel and the Washtenaw County Ways and Means Committee

NOW THEREFORE BE IT RESOLVED that the Washtenaw County Board of Commissioners hereby creates the following positions to be leased to the WCHO:

Position #	Title		Grade	Group	<u>FTE</u>
1720-0073	Client Service Manager	17	11	1.0	
2527-0030	Service Coordinator		25	11	1.0
2728-0004	Recipient Rights Officer I/II	27	32	1.0	
3025-0010	Senior Management Analys t	30	32	1.0	
3025-0011	Senior Management Analyst	30	32	1.0	
3025-0012	Senior Management Analyst	30	32	1.0	

COMMISSIONER	Y	N	Α	COMMISSIONER	Y	N	Α	COMMISSIONER	Y	N	Α
Armentrout	X			Irwin	X			Prater	X		
Bergman	X			Kern			X	Shaw	X		
Craiger	X			Kestenbaum	X			Sizemore	X		
DeLong	X			Montague	X			Solowczuk	X		
Gunn	X			Peterson			X	Yekulis	X		

CLERK/REGISTER'S CERTIFICATE - CERTIFIED COPY ROLL CALL VOTE: TOTALS 13 0 2

STATE OF MICHIGAN)
COUNTY OF WASHTENAW	J_i

I, Peggy M. Haines, Clerk/Register of said County of Washtenaw and Clerk of Circuit Court for

said County, do hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the Washtenaw County Board of Commissioners at a session held at the County Administration Building in the City of Ann Arbor, Michigan, on February 6, 2002, as appears of record in my office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at Ann Arbor, this _____day of _______.

PEGGY M. HAINES, Clerk/Register

BY:		
		Deputy Clerk



A RESOLUTION OF SUPPORT FOR THE WASHTENAW COMMUNITY HEALTH ORGANIZATION'S REGIONAL, APPLICATION FOR PARTICIPATION TO THE MICHIGAN DEPARTMENT OF COMMUNITY HEALTH

WASHTENAW COUNTY BOARD OF COMMISSIONERS

February 6, 2002

WHEREAS, Washtenaw County Community Mental Health Department, Washtenaw Community Health Organization, the University of Michigan Health System, Lenawee Community Mental Health Authority and Livingston County Community Mental Health Authority have been working on a regional affiliation since 1998; and

WHEREAS, a regional affiliation is required for a successful Application for Participation for Procurement of Specialty Prepaid Health Plans for Mental Health and Substance Abuse Services; and

WHEREAS, the Washtenaw Community Health Organization has been designated as the applicant organization for the Application for Participation for Washtenaw, Lenawee and Livingston Counties; and

WHEREAS, risk insurance has been purchased to protect all parties from expanded risk and liability; and

WHEREAS, this project has been presented to the Washtenaw County Board of Commissioners for information and feedback on June 20, 2001 and again on October 10, 2001; and

WHEREAS, this project has been reviewed by the Washtenaw Community Health Organization Board, the Finance Office, Corporation Counsel, Human Resources, the County Administrator's Office and the Ways and Means Committee:

NOW THEREFORE BE IT RESOLVED that the Washtenaw County Board of Commissioners supports the Washtenaw Community Health Organization in its application to serve as the regional prepaid health plan for Washtenaw, Lenawee and Livingston counties

BE IT FURTHER RESOLVED that the Washtenaw County Board of Commissioners wishes the Organization good luck in the submission of the application in February 2002.

COMMISSIONER	Y	N	A	COMMISSIONER	Y	N	A	COMMISSIONER	Y	N	A
Armentrout	X			Irwin	X			Prater	X		
Bergman	X			Kern			X	Shaw	X		
Craiger	X			Kestenbaum	X			Sizemore	X		
DeLong	X			Montague	X			Solowczuk	X		
Gunn	X			Peterson			X	Yekulis	X		

CLERK/REGISTER'S CERTIFICATE - CERTIFIED COPY

ROLL CALL VOTE: TOTALS 13

STATE OF MICHIGAN) COUNTY OF WASHTENAW)^{SS.} I, Peggy M. Haines, Clerk/Register of said County of Washtenaw and Clerk of Circuit Court for said County, do hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the Washtenaw County Board of Commissioners at a session held at the County Administration Building in the City of Ann Arbor, Michigan, on February 6, 2002, as appears of record in my office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at Ann Arbor,

this day of .

PEGGY	M	HA	INES	Clerk/F	?e oister

BY:	
	Deputy Cler



2

A RESOLUTION APPROVING THE WASHTENAW COUNTY MONEY PURCHASE PENSION PLAN EFFECTIVE JANUARY 1, 1984, AMENDED AND RESTATED EFFECTIVE JANUARY 1, 1989, FURTHER AMENDED AND RESTATED EFFECTIVE DECEMBER 31, 2001

WASHTENAW COUNTY BOARD OF COMMISSIONERS

February 6, 2002

WHEREAS, the Washtenaw County Board of Commissioners has previously approved the Washtenaw County Money Purchase Pension Plan; and

WHEREAS, it is necessary to revise and amend the plan to conform with changes in the Internal Revenue Code; and

WHEREAS, the Board of Trustees of the Washtenaw County Money Purchase Pension Plan has retained Legal Counsel to review and prepare necessary amendments to the plan in order to maintain the qualified status of the plan; and

WHEREAS, the Washtenaw County Money Purchase Pension Plan Board of Trustees has unanimously recommended the approval of these plan amendments; and

WHEREAS, the Corporation Counsel has reviewed the plan amendments and has recommended their approval; and

WHEREAS, this matter has been reviewed by Corporation Counsel, Human Resources, the County Administrator's Office and the Ways & Means Committee

NOW THEREFORE BE IT RESOLVED that the Washtenaw County Board of Commissioners hereby approves the Washtenaw County Money Purchase Pension Plan Effective January 1, 1984, Amended and Restated Effective January 1, 1989, Further Amended and Restated Effective December 31, 2001, a copy of which is attached hereto and made a part of.

BE IT FURTHER RESOLVED that the Washtenaw County Board of Commissioners authorizes David M. Parrott, Legal Counsel to the Washtenaw County Money Purchase Pension Plan, to take the necessary action to gain approval of the amended plans from the Internal Revenue Service.

COMMISSIONER	Y	N	A	COMMISSIONER	Y	N	Α	COMMISSIONER	Y	N	Α
Armentrout	X			Irwin	X			Prater	X		
Bergman	X			Kern			X	Shaw	X		
Craiger	X			Kestenbaum	X			Sizemore	X		
DeLong	X			Montague	X			Solowczuk	X		
Gunn	X			Peterson			X	Yekulis	X		

CLERK/REGISTER'S CERTIFICATE - CERTIFIED COPY

ROLL CALL VOTE: TOTALS

13 0 2

STATE OF MICHIGAN) **COUNTY OF WASHTENAW**)^{SS.}

I, Peggy M. Haines, Clerk/Register of said County of Washtenaw and Clerk of Circuit Court for said County, do hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the Washtenaw County Board of Commissioners at a session held at the County Administration Building in the City of Ann Arbor, Michigan, on February 6, 2002, as appears of record in my office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at Ann Arbor,

this ____, day of _____, ____,

PEGGY M. HAINES, Clerk/Register

BY:	
	Deputy Clerk
	COUNTY
	5. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1.

Res. No. 02-0018

WASHTENAW COUNTY MONEY PURCHASE PENSION PLAN

Subject to the limitations specified herein, the Board of Commissioners of Washtenaw County, Ann Arbor, Michigan (hereinafter referred to as the County) has approved the following Plan, originally effective as of January 1, 1984, as amended and restated effective January 1, 1989, and as further amended and restated effective December 31, 2001.

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ARTICLE I DEFINITIONS

- 1.01 <u>Account or Accounts</u> means for any Participant the record of money and assets held by the Trustee for an individual Participant or Beneficiary pursuant to the provisions of the Plan, derived from County Contributions to the Trust Fund, and Participant Contributions to the Trust Fund which are "Picked Up" by the County under Section 3.01. Such Accounts are primarily for accounting purposes and do not require the actual segregation of assets within the Trust Fund, although they will be separately invested pursuant to Section 4.01.
- 1.02 <u>Administrative Costs</u> means those expenses of Plan operation, which are reasonable, necessary and proper, as further described in Section 9.02.
- 1.03 <u>Board of Trustees</u> means those persons responsible for the general administration, management and proper operation of the Plan, and for construing the Plan. The members of the Board of Trustees are elected or appointed pursuant to established bylaws of the Plan, which are incorporated herein by this reference.
- 1.04 <u>Beneficiary</u> means the person, persons or entity designated or determined pursuant to the provisions of Section 8.043 of the Plan.
- 1.05 <u>Code</u> means the Internal Revenue Code of 1986, as amended from time to time. Any reference to a section of the Code shall be deemed to include any applicable regulations and rulings pertaining to that section and any comparable section or sections of any future legislation that amends, supplements or supersedes said section.
 - 1.06 Committee means the Board of Trustees.
- 1.07 <u>County</u> means Washtenaw County, a political subdivision of the State of Michigan.
- 1.08 <u>County Contribution</u> means a contribution made by the County pursuant to the provisions of Article III of the Plan.
- 1.09 <u>Covered Compensation</u> means, for purposes of determining statutory maximum retirement income as required by Code section 415 and set forth at section 3.03, all amounts paid to a Participant by the County for personal services as reported on the Participant's federal income withholding statement (Form W-2) for the Plan Year as provided at Internal Revenue Service Regulations section 1.415-2(d)(11)(ii).

Compensation, for all other purposes under the Plan means all of each Participant's W-2 earnings (as described above) for the Plan Year:

- (a) Increased by any amount which is contributed by the County pursuant to a salary reduction agreement and which is not includible in the gross income of the Participant pursuant to one or more of the following Code sections:
 - (1) 125 for cafeteria plans,
 - (2) 402(a)(8) for cash or deferred arrangements,
 - (3) 402(h) for simplified employee pensions,
 - (4) 403(b) for tax deferred annuities,
 - (5) 457 for eligible deferred compensation plans, and

- (6) 414(h) for picked up contributions to governmental plans such as participant contributions to this Plan described in Section 3.01.
- (b) Decreased by all of the following amounts (even if includible in gross income):
 - (1) Reimbursements or other expense allowances,
- (2) Fringe benefits (cash and non-cash),
 - (3) Moving expenses,
 - (4) Deferred compensation, and
 - (5) Welfare benefits such as the taxable cost of group term life insurance in excess of \$50,000.00

The annual Covered Compensation of each Participant taken into account under the Plan for any year shall not exceed \$200,000, as adjusted by the Secretary of Treasury at the same time and in the same manner as under section 415(d) of the Code. Effective January 1, 1994, the \$200,000 is reduced to \$150,000 (or such other amount, adjusted for the cost of living as may be determined by the Secretary of Treasury, pursuant to Code Section 401(a)(17)). The compensation of each Participant taken into account in determining allocations for any Plan year beginning after December 31, 2001, shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Code. Annual compensation means compensation during the Plan year or such other consecutive 12-month period over which compensation is otherwise determined under the Plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

- 1.10 <u>Disability</u> for purposes of this Plan means, in respect to any given Participant, that on the basis of medical evidence satisfactory to the Committee, including, if requested by the Committee, a certificate in form satisfactory to the Committee furnished by the Participant and signed by at least one medical doctor acceptable to the County, such Participant is determined to be unable indefinitely to meet requirements for employment by the County.
 - 1.11 <u>Effective Date</u> means January 1, 1984.
- 1.12 <u>Employee</u> means any person who is performing services for the County under such terms and conditions that his or her relationship to the County is that of employer and employee. The term Employee shall also include all elected officials of the County, including (without limitation) County Commissioners, Judges, the Sheriff, Prosecuting Attorney, County Clerk/Register of Deeds, Treasurer and Drain Commissioner. However, the term Employee shall not include:
 - (a) any person who is employed by the County on a basis that is not considered at least half-time employment,
 - (b) any person who is covered by a collective bargaining agreement entered into with the County, unless, and to the extent such agreement provides that the Plan shall apply to such person.
- 1.13 <u>Fund</u> means any or all of the investment funds established pursuant to Section 4.01 hereof.

- 1.14 <u>Highly Compensated Participant</u> means a Participant who, during the current Plan Year or the preceding Plan Year, (i) received Covered Compensation from the County in excess of \$85,000 \$80,000 (or such greater amount as determined by the Secretary of the Treasury pursuant to section 414(q) of the Code), or (ii) received Covered Compensation from the County in excess of \$50,000 (or such greater amount as determined by the Secretary of the Treasury pursuant to section 414(q) of the Code), and was in the "Top-Paid Group Of Employees" for such year. (The "Top Paid Group of Employees" is the top 20% of the Employees when ranked on the basis of compensation during a Plan Year, as further defined at Code section 414(q).) The provisions of section 414(q) shall apply in determining whether a Participant is a Highly Compensated Participant. The County for any Plan Year may elect to identify Highly Compensated Participants based upon only the current Plan Year to the extent permitted by section 414(q) of the Code and regulations issued thereunder.
- 1.15 <u>Participant</u> means an Employee included in the Plan in accordance with its provisions and whose participation in the Plan has not terminated.
- 1.16 <u>Participant Contributions</u> means the mandatory before-tax contributions, which are deducted from a Participant's Covered Compensation, Picked Up by the County and paid to this Plan.
- 1.17 <u>Plan</u> means the Washtenaw County Money Purchase Plan described herein or as hereafter amended.
 - 1.18 Plan Year means the calendar year.
- 1.19 <u>Spouse</u> means the person who is legally married to a Participant on the earlier of (a) the date payments commence or (b) the date of death of the Participant.
- 1.20 <u>Trust Fund</u> means the Agreement entered into between the County and the Trustee to carry out the provisions of the Plan.
- 1.21 <u>Trustee</u> means the Trustee with whom the funds of the Plan are held as provided in Article IV.
- 1.22 <u>Valuation Date</u> means each March 31, June 30, September 30, and December 31, and such other times as the Committee may designate.

ARTICLE II ELIGIBILITY AND PARTICIPATION

2.01 <u>Participation</u>

- (a) Any person who becomes an Employee of the County on or after April 1, 1984 shall participate in the Plan as of the date the person became an Employee.
- (b) Any person who becomes an Employee of the County prior to April 1, 1984 shall become a Participant in the Plan effective on such date as such person irrevocably elects to terminate active participation in the Washtenaw County Employees' Retirement System.
- (c) Subject to the following, after an Employee becomes a Participant, participation in the Plan shall continue until the Employee's employment with the County is terminated.
 - (i) Any Employee who has become a Participant and whose full-time equivalency (F.T.E.) becomes less than 50% shall remain a Participant so long as he or she is employed by the County, although neither the County nor the Participant shall contribute to the Plan while the Participant's FTE is less than 50%.
 - (ii) Any Participant who is on an approved leave of absence shall remain a Participant during the leave of absence, although neither the County nor the Participant shall contribute to the Plan during the leave of absence, *except as provided in Section 3.06*.

ARTICLE III CONTRIBUTIONS

3.01 <u>Participant Contributions</u> percentage, as negotiated by union collective bargaining agreements, Covered Compensation paid to such Participant during the applicable pay period shall be contributed to the Trust Fund.

Participant Contributions shall be remitted to the Trustee as soon as practicable after each payday for which such contributions were made.

The compensation paid to a Participant shall be reduced by the amount of the Participant Contribution. Participant Contributions shall be paid ("Picked Up") by the County in lieu of being paid by the Participant. Such amounts paid by the County shall be designated as County Contributions for all purposes under this Plan and shall be remitted to the Participant's County Contribution Account.

- 3.02 <u>County Contributions</u> The County will contribute biweekly on behalf of each of its Employees who are a Participant an amount equal to 100% of the Participant's Contributions for the period. County Contributions shall be allocated to the Participant's County Contribution Account as provided herein.
 - 3.03 Limitation on Contributions Under Section 415 of the Internal Revenue Code
 - (a) <u>Definitions for Purposes of Section 3.03</u> The "Limitation Year" for this Plan and for all other qualified plans maintained by the County, shall be the Plan Year. "Compensation", for purposes of this Section 3.03, means a Participant's Covered Compensation, less Participant Contributions reduced from Covered Compensation and paid ("Picked Up") by the County.
 - (b) Annual Limitation For Limitation Years beginning January 2, 2002 the amount of Annual Additions, which may be credited to a Participant's Account for any Limitation Year, may not exceed the lesser of:
 - (i) \$30,000, or such larger amount as may be determined by the Commissioner of Internal Revenue for Limitation Years ending on or after January 1, 1986, or
 - (ii) 25% of the Participant's Compensation for the Limitation Year.

For Limitation Years beginning after December 31, 2001, the amount of Annual Additions, which may be credited to a Participant's Account for any Limitation Year, may not exceed the lesser of:

- (iii) \$40,000, as adjusted for increases in the cost-of-living under section 415(d) of the Code, or
- (iv) 100% of the Participant's Compensation, within the meaning of section 415(c)(3) of the Code, for the Limitation Year.

The Compensation limit referred to in Section 3.03(b)(iv) shall not apply to any contribution for medical benefits after separation from service (within the meaning of section 401(h) or section 419A(f)(2) of the Code) which is otherwise treated as an Annual Addition.

- (c) <u>Definition of Annual Additions</u> shall mean the sum of the following amounts (if any) credited to a Participant's Account for the Limitation Year under all defined contribution plans maintained by the County:
 - (i) Employee Contributions,
 - (ii) County Contributions plus Participant Contributions, and
 - (iii) forfeitures.

If, due to a reasonable error in estimating a Participant's annual compensation, or due to the allocation of forfeitures, an excess Annual Addition exists, such excess will be used to reduce County Contributions for such Participant in the next, and succeeding, Limitation Years.

- 3.04 Exclusive Benefit of Employees All contributions and all principal and income of the Plan shall be held by the Trustee in accordance with the terms of the Plan and Trust Fund for the exclusive benefit of those Employees who are Participants under the Plan, including former Employees and their Beneficiaries, and shall be applied to provide benefits under the Plan and to pay administrative costs of the Plan and the Trust Fund, to the extent that such expenses are not otherwise paid. At no time prior to the satisfaction of all liabilities with respect to such Employees and their Beneficiaries shall any part of the Trust Fund (other than such part as may be required to pay administration expenses and taxes), be used for, or diverted to, purposes other than for the exclusive benefit of such Employees and their Beneficiaries. However, without regard to the provisions of this Section:
 - (a) If a contribution or any portion thereof is made by the County by a mistake of fact, the Trustee shall, upon written request of the County, return the contribution or such portion to the County within one year after the date of payment to the Trustee; and
- (b) Earnings attributable to amounts to be returned to the County pursuant to subsection (a) above shall not be returned, and losses attributable to amounts to be returned pursuant to subsection (a) shall reduce the amount to be so returned.
- 3.05 <u>Corrective Contributions</u> The Board of Trustees may correct any error by making adjustments to Participants' Accounts as may be appropriate. The County may make an additional or alternative contribution where appropriate to correct an error. Any contribution made under this Section shall be allocated in a manner, which corrects the error.
- 3.06 <u>Military Service</u> Notwithstanding any provision of the Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the Internal Revenue Code.
 - (a) Prior to entering military service, a Participant is required to provide advance written or verbal notice to the County unless giving such notice is precluded by military necessity or is otherwise impossible or unreasonable.
 - (b) A Participant who enters the uniformed services of the United States and thereafter returns to covered employment with the County within ninety (90) days of his or her discharge or within one (1) year from hospitalization continuing after such discharge, shall be credited with

contributions and service for a period not to exceed five (5) years unless such service is extended by the government for military necessity.

- (c) A Participant shall provide documentation to establish the timeliness of his or her application for reemployment. A copy of the Participant's discharge papers shall be sufficient.
- (d) A Participant who is absent from covered employment by reason of service in the uniformed services of the United States shall be entitled to County Contributions for the period or period of such service, in accordance with Chapter 43 of Title 38 of the United States Code, as amended by Public Law 103-353.
- (e) The Participant shall be permitted to make up Participant Contributions to the Plan in an amount not to exceed the amount of Participant Contributions the Participant would have been required to contribute had the Participant remained continuously employed by the County throughout the period of service in the uniformed services. Any payment of Participant Contributions shall be made during a period equal to three times the period of the Participant's service in the uniformed services, not to exceed five years, beginning on the date of the Participant's reemployment.
- (f) The Participant's compensation for purposes of determining the required Participant Contributions under this Section 3.06 shall be computed at the rate the Participant would have received but for such period of service, or in the case that the determination of such rate is not reasonably certain, on the basis of the Participant's average rate of compensation during the 12-month period immediately preceding such period of service (or, if shorter, the period of employment immediately preceding such period).
- 3.07 <u>Rollovers from Other Plans</u> The Plan will accept a direct rollover distribution made after December 31, 2001 from a qualified plan described in section 401(a) or 403(a) of the Code, excluding after-tax employee contributions.

ARTICLE IV INVESTMENT OF CONTRIBUTIONS

4.01 <u>Investment of Participant and County Contributions</u> Participant Contributions and County Contributions to the Plan shall be invested by the Trustee, upon the direction of each Participant in multiples of 1% in one or more funds.

The Trustee in its sole discretion may keep such amount of cash as it shall deem necessary or advisable as part of such funds.

Any fund established for the investment of contributions under this Plan may be a commingled trust fund established for the collective investment of employee benefit plans qualified under Section 401(a) of the Code and any declaration of trust establishing such a commingled trust fund is hereby incorporated by reference.

Funds may be established at the discretion of both the County and the Committee, provided, however, that should the Committee establish a self-directed brokerage account fund, no participant shall direct the investment of more of his or her Account Balance in such a self-directed brokerage account fund than allowed by the Trustee (in its sole discretion).

Dividends, interest and other distributions received on the assets held by the Trustee in respect to any funds shall be re-invested in that fund.

If a Participant fails to completely direct the investment of his or her entire account, any portion with respect to which directions has not been given shall be in a (money market) fund (invested primarily in short term securities) as designated by the Committee for such purpose.

- 4.02 <u>Change of Investment Election</u> A Participant may elect, by notice to the Committee or the Trustee in such form as the Committee establishes, to change his or her investment election with respect to future Participant Contributions and County Contributions. Such change in election shall be effective only with respect to subsequent contributions and shall be made prior to the Valuation Date such election will take effect.
- 4.03 <u>Reallocation of Funds</u> A Participant may elect, by notice to the Committee or the Trustee in such form as the committee establishes prior to a Valuation Date, to reallocate as of the respective Valuation Date, his or her Account Balance in any of the investment funds. Such reallocations to the different Funds must be allocated in multiples of 1%.
- 4.04 <u>Responsibility for Investment Options</u> Each Participant is solely responsible for the selection of his or her investment option(s) and the Trustee, the Committee, the County or any employees thereof shall not have any liability or responsibility with respect to investment option(s) selected by a Participant. If a Participant fails to completely direct the investment of his entire Account, any portion with respect to which direction has not been given shall be invested in Stable Value Fund.

ARTICLE V ESTABLISHMENT AND CREDITING OF ACCOUNTS

- 5.01 <u>Establishment of Accounts</u> The Trustee or such other persons or entity as may be designated by the Committee shall establish and maintain an Account for each Participant. Such Account shall reflect the value of the Contributions allocated thereto and the investment thereof. Each Participant shall be furnished at least annually with a statement of his or her Account.
- 5.02 <u>Allocations And Adjustments To Accounts</u> As of each Valuation Date, the Committee shall determine, on an accrual basis of accounting, the balance of each Participant's Account in the following manner:
 - (a) As soon as feasible after each Valuation Date, the Committee shall determine the earnings and the amount of any realized or unrealized appreciation or depreciation in the fair market value of each of the Funds determined as of the Valuation Date. In determining such value, the Committee shall use such generally accepted methods and bases as the Committee, in its discretion, shall deem advisable. The judgment of the Committee as to the fair market value of any asset shall be conclusive and binding on all persons.
 - (b) The earnings and market appreciation or depreciation on contributions made between Valuation Dates shall be allocated to Participants' Accounts in a manner which reflects the amount of the contribution, the date on which it was made, and the investment performance of the investment Fund or Funds to which it was allocated (pursuant to Section 4.01) from the date of contribution to the next Valuation Date. Earnings and market appreciation or depreciation so allocated is referred to as "interim gains or losses".
 - (c) The contributions allocable to each Participant's Account pursuant to Sections 3.01 and 3.02 shall be added to each Participant's Account and the withdrawals or distributions made therefrom since the prior Valuation Date shall be deducted.
 - The earnings and market appreciation or depreciation of each Fund for a (d) period ending on a Valuation Date which remain unallocated after the allocation of interim gains and losses (under Section 5.02(b) above) shall be allocated to each applicable Account that is invested in such Fund on the current Valuation Date by multiplying the earnings and market appreciation or depreciation of such Fund by a fraction, the numerator of which is the average of (1) the balance of such Account invested in the applicable Fund as of the prior Valuation Date (after recognizing any investment changes effective on such Valuation Date) and (2) the balance of the Account invested in the Fund after the application of Section 5.02(c) above, and the denominator of which is the total of the average of (1) the balances of all such Accounts invested in such Fund as of the prior Value Date (after recognizing any investment changes effective on such Valuation Date), and (2) the balances of all such Accounts invested in the Fund after the application of Section 5.02(c) above. Each such Account shall then be adjusted by adding thereto or subtracting therefrom its share of the earnings and market appreciation or depreciation of each Fund as determined by the preceding sentence.

ARTICLE VI VESTING

 $6.01 \quad \underline{\text{Vesting}} \quad \text{At all times a Participant shall be 100% vested in the value of his or her Account.}$

ARTICLE VII WITHDRAWALS PRIOR TO TERMINATION OF EMPLOYMENT

7.01 <u>Withdrawals During Employment</u> No withdrawals, loans or distributions of any kind from a Participant's Account are allowed prior to termination of employment.

ARTICLE VIII DISTRIBUTIONS UPON TERMINATION OF EMPLOYMENT

8.01 Time and Amount of Distribution

- (a) In the event of the Disability or termination of employment of a Participant for any reason whatsoever, including retirement, death, resignation or discharge with or without cause, the Participant's Account shall be valued pursuant to Section 5.02 as of the Valuation Date coincident with or immediately following the Participant's termination of employment, and shall be distributed to or for the benefit of the Participant or his or her designated Beneficiary. The distribution shall be made in a manner set forth in Article VIII, and shall be paid as soon as is practicable after the Valuation Date coincident with or next following the date of such Participant's termination of employment.
- (b) Any request for distribution under this Section 8.01 may be accompanied by a request, subject to the approval of the Committee, to defer withdrawal (and final valuation) until a Valuation Date not more than one year from the Valuation Date coincident with or next following the date the Participant's employment is terminated, but not later than the date a Participant attains age 70 1/2. Any request for withdrawal under this Section 8.01 resulting from Disability may be accompanied by an election to defer withdrawal until a Valuation Date to be selected by the Participant which shall not exceed the Valuation Date coincident with or next following the date the Participant becomes age 60. During any deferral of withdrawal, the Participant's Account shall be maintained in accordance with the procedures set forth in Article V.
- (c) A former Employee who is not employed by the County due to a layoff may elect to defer withdrawal (and final valuation) until a Valuation Date to be selected by the former Employee which shall not be later than the Valuation Date coincident with or next following the termination of the former Employee's expiration of right to recall.
- (d) Notwithstanding anything in the Plan to the contrary, distribution of a Participant's Account shall be made not later than April 1 of the year following the year in which the later of the following occurs:
 - (i) The Participant attains age 70 1/2,
 - (ii) The Participant retires.

The later of these events shall be the Participant's "Required Distribution Date".

8.02 <u>Method of Distribution</u> of the value of the Participant's Account shall be made in the form of a cash distribution of all his or her interest in such Account.

8.03 Distributions on Death

- (a) Upon the death of a Participant prior to the payment of his or her distribution from the Plan, the Committee shall promptly notify the Trustee in writing of the Participant's death and the name of his or her Beneficiary and shall direct the Trustee to make distribution as provided in Section 8.01. All payments by reason of death shall be paid in the form of a cash distribution of the Participant's interest in his or her Account.
- (b) Each Participant shall have the right to designate in writing on a form provided by the Committee a person or persons or entity as Beneficiary to receive the death benefit provided under Section 8.03. Successive designations may be made, and the last designation received by the Committee prior to the death of the Participant shall be effective and shall revoke all prior designations. If a designated Beneficiary shall die before the Participant, the Beneficiary's interest shall terminate, and, unless otherwise provided in the Participant's designation if the designation included more than one Beneficiary, such interest shall be paid in equal shares to those Beneficiaries, if any, who survive the Participant. A Participant to whom this subsection applies shall have the right to designate different Beneficiaries to receive the adjusted balance of his or her Account under the Plan and shall have the right to revoke the designation of any Beneficiary without the consent of the Beneficiary.
- (c) If a Participant fails to designate a Beneficiary, if such designation is for any reason illegal or ineffective, or if no Beneficiary survives the Participant, the death benefits otherwise payable pursuant to subsections (b) or (c) shall be paid:
 - (i) To his or her Spouse;
 - (ii) If there is no Spouse, to his or her descendants (including legally adopted children or their descendants) per stirpes;
 - (iii) If there is no Spouse nor surviving descendants, to the duly appointed and qualified executor or other personal representative of the Participant to be distributed in accordance with the Participant's will or applicable intestacy law; or
 - (iv) If no such representative is duly appointed and qualified within six months after the date of death of such deceased Participant, then to such provisions of the applicable statute then in force governing the descent of intestate property, in the proportions specified in such statute.
- (d) The Committee may determine the identity of the distributees of any death benefit payable under the Plan and in so doing may act and rely upon any information it may deem reliable upon reasonable inquiry, and upon any affidavit, certificate, or other paper believed by it to be genuine, and upon any evidence believed by it sufficient.

- 8.04 <u>Limitations on the Commencement and Duration of Benefits</u> Notwithstanding anything to the contrary contained elsewhere in the Plan:
 - (a) Benefits under the Plan will be paid in full to any Participant not later than the Required Distribution Date.
 - (b) If the Participant dies before distribution has been made, then distribution of such Participant's entire interest in the Plan shall be made in one lump sum by the December 31 of the calendar year containing the fifth anniversary of the Participant's death.
 - (c) With respect to distributions made for calendar years beginning on or after January 1, 2001, the minimum distribution requirements of section 401(a)(9) of the Internal Revenue Code will be applied in accordance with the regulations under section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision of this Plan to the contrary. This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under section 401(a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service.
- 8.05 <u>Direct Rollovers</u>. A Participant or the Participant's Spouse who is otherwise receiving a distribution under this Section 8.05 may elect to have the distribution paid, in whole or in part, directly to an Eligible Retirement Plan pursuant to the terms and provisions of this Section 8.05.
 - (a) <u>Definitions.</u> For purposes of this Section 8.05, the following terms shall have the following meanings:
 - "Eligible Retirement Plan". "Eligible Retirement Plan" means an (i) individual retirement account described in IRC Section 408(a), an individual retirement annuity (other than an endowment contract) described in Section 408(b), a qualified plan described in Section 401(a) if it is a defined contribution plan which permits the acceptance of rollover distributions, or an annuity plan described in IRC Section 403(a). For distributions made after December 31, 2001, an Eligible Retirement Plan shall also mean 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 which agrees to account for amounts transferred into such plan from this Plan separately, and the definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a domestic relations order, as defined in section 414(p) of the Code.
 - (ii) "Direct Rollover". A "Direct Rollover" is an Eligible Rollover Distribution that is paid directly to an Eligible Retirement Plan for the benefit of the Participant or the Participant's Spouse.
 - (iii) "Eligible Rollover Distribution". An "Eligible Rollover Distribution" means any distribution of all or any portion of the balance to the credit of the Participant in the Plan subject to the following exceptions:

- (1) Any distribution that is one of a series of substantially equal periodic payments (paid not less frequently than annually) paid over any one of the following periods: the life of the Participant (or the joint lives of the Participant and the Participant's designated beneficiary), the life expectancy of the Participant (or the joint life and last survivor expectancy of the Participant and the Participant's designated beneficiary), or a specified period of 10 years or more if and as applicable;
- (2) Any distribution to the extent the distribution is required under Section 401(a)(9) relating to the minimum distribution requirements;
- (3) The portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation described in IRC Section 402(e)(4)). An Eligible Rollover Distribution does not include the portion of any distribution that is excludable from gross income under IRC Section 72 as a return of the employee's investment in the contract but an Eligible Rollover Distribution does include net unrealized appreciation. For distributions made after December 31, 2001, a portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income; however, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to account for amounts so transferred separately, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible:
- (4) Returns of Section 401(k) elective deferrals described in Treasury Reg. Section 1.415-6(b)(6)(iv) that are returned as a result of the limitations under IRC Section 415 if and as applicable;
- (5) Corrective distributions of excess contributions and excess deferrals under qualified cash-or-deferred arrangements as described in Treasury Reg. Sec. 1.401(k)-l(fl(4) and 1.402(g)-l(e)(3), respectively, and corrective distributions of excess aggregate contributions as described in Treasury Reg. Sec. 1.401(m)-l(e)(3), together with the income allocable to these corrective distributions if and as applicable;
- (6) The P.S. 58 costs of life insurance coverage if and as applicable; or
- (7) Similar items designated in revenue rulings, notices, and other guidance from the Treasury Department of general applicability.

- (b) <u>Procedures.</u> If a Participant follows the procedures set forth below, then the distribution shall be paid as a Direct Rollover;
 - (i) The Committee shall provide to the Participant a notice as required by IRC Section 402(f) at least 30 days, but not more than 90 days, before the distribution is to occur.
 - (ii) If a distribution is one to which sections 401(a)(11) and 417 of the Internal Revenue Code do not apply, such distribution may commence less than 30 days after the notice required under section 1.411(a)-11(c) of the Income Tax Regulations is given, provided that:
 - (1) The Committee clearly informs the Participant that the Participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and
 - (2) The Participant, after receiving the notice, affirmatively elects a distribution.
 - (iii) Following receipt of such notice, on a form provided by the Committee, the Participant may elect a Direct Rollover of all or part of the distribution. The Participant may elect a Direct Rollover up until the date set for the distribution. The election is revocable until the date set for the distribution. If no election is made by the Participant prior to the date set for the distribution, then the distribution shall be paid directly to the Participant, subject to withholding required by IRC Section 3405.
 - (iv) The Participant electing a Direct Rollover must supply to the Committee the following information:
 - (1) The name of the Eligible Retirement Plan;
 - (2) A statement from the plan designated by the Participant to receive the Direct Rollover stating that:
 - (a) the plan is, or is intended to be, an individual retirement account, an individual retirement annuity, a qualified defined contribution plan described in IRC Section 401(a) which receives rollover distributions, or a qualified annuity plan described in IRC Section 403(a), as applicable; and
 - (b) the plan will accept the Direct Rollover for the benefit of the Participant;
 - (3) Additional information in order for the Committee to effectuate the Direct Rollover including, but not limited to, the name and address of the trustee of the qualified plan (or the name and address of the custodian of the individual retirement account) if the distribution is to be paid by check mailed to the trustee or custodian or sufficient information

to effectuate a wire transfer if the Direct Rollover is to be made by wire transfer.

(D) The Committee shall have complete discretion to choose the means for payment of a Direct Rollover. Payment may be by check mailed to the plan trustee or IRA custodian, a check delivered to the Participant to the plan trustee or IRA custodian, or by wire transfer to the plan trustee or IRA custodian. Under no circumstances shall a wire transfer or a check be directed to or made payable to the Participant for purposes of a Direct Rollover.

(c) <u>Limitations</u>.

- (i) In electing a Direct Rollover, the Participant shall specify only one Eligible Retirement Plan to which a Direct Rollover shall be made.
- (ii) If the aggregate of all distributions from the Plan in any calendar year is less than \$200, then the Participant shall not be entitled to elect a Direct Rollover.
- (iii) A Participant may elect a Direct Rollover of a portion of the distribution with the balance of the distribution to be received by the Participant (less applicable withholding); provided, however, that in no event shall the portion of the distribution for which a Direct Rollover is elected be less than \$500.

(d) <u>Effect on Non-Participant Beneficiaries</u>.

- (i) Payment to Participant's Spouse. If any distribution attributable to a Participant is paid to the Participant's surviving spouse, the above rules apply to the distribution in the same manner as if the Participant's surviving spouse were the Participant, except that only an individual retirement account or individual retirement annuity (other than an endowment contract) are treated as Eligible Retirement Plans with respect to the surviving spouse's Eligible Rollover Distribution.
- (ii) Payment to Spouse as Alternative Payee. If any distribution attributable to a Participant is paid to the Participant's Spouse or former spouse by reason of being an alternate payee under a qualified domestic relations order then the above rule shall apply to the distribution in the same manner as if the spouse (or former spouse) were the Participant.
- (iii) Distribution to Non-Spouse Beneficiary. A distribution to a beneficiary who is not the Participant, the Participant's surviving spouse (or spouse or former spouse by reason of being an alternate payee under a qualified domestic relations order) does not constitute an Eligible Rollover Distribution and such beneficiaries may not elect a Direct Rollover.
- (e) <u>Effective Date.</u> The rules regarding Direct Rollovers shall be effective for all distributions payable on or after January 1, 1993.

ARTICLE IX TRUST FUND AND INSURANCE CONTRACTS

- 9.01 <u>Establishment of the Trust Fund; Appointment of Insurance Company and Investment Managers</u> The Committee shall enter into a Trust Agreement with a Trustee providing for the administration of the Trust Fund in such form and containing such provisions as the Committee deems appropriate. The Committee may appoint one (1) or more investment managers to manage designated assets of the Trust. The Committee may amend the Trust Agreement and the Trustee, upon direction from the Committee, may amend the insurance contract at any time. The Committee may remove any Trustee, insurance company or investment manager at any time and appoint a replacement therefor.
- 9.02 Administrative Costs for the Plan, including advisory contracts, recordkeeping and fiduciary contracts shall be paid by the Trust Fund. The County shall pay for the annual audit until such time as the Plan has 350 Participants and thereafter it shall be paid by the Trust Fund. The County shall pay for the first evaluation and thereafter until such time as the Plan has 350 Participants. When the Plan has 350 Participants or more, the Trust Fund shall pay for the evaluation. If the Board of Trustees requires an evaluation of the Plan more often than every three years, the cost of the evaluation shall be paid by the Trust Fund. Any cost to the Plan in complying with a domestic relations order pursuant to Section 11.03 shall be borne by the accounts to which the order applies. The Board of Trustees shall be responsible for the approval of service contracts, providing that said contracts conform to the current Washtenaw County Procurement Policies for Professional Services and the remainder of said policy for non-professional services and are approved as to form by the Washtenaw County Corporation Counsel and the Administrator. The Board of Trustees may employ or appoint such legal, accounting and benefit consultant counsel as it deems advisable.

ARTICLE X ADMINISTRATION

- Administration The County, the Committee, the Trustee and any insurance company or investment manager appointed by the County shall have only those specific powers, duties, responsibilities and obligations as are specifically given them under this Plan and the Trust, and is not required to inquire into the propriety of any such direction, information or action. It is intended under this Plan and the Trust that each fiduciary shall be responsible for the proper exercise of its own powers, duties, responsibilities and obligations under this Plan and the Trust and shall not be responsible for any act or failure to act of another fiduciary. No fiduciary guarantees the Trust Fund in any manner against investment loss or depreciation in asset value.
- 10.02 <u>Delegation of Authority by the County</u> Any authority delegated to the County under this Plan or the Trust, including the power to designate Trustees, investment managers, insurance companies and to amend this Plan or the Trust Agreement, may be exercised by any duly authorized employee, agent or committee, including the Committee to the extent so authorized.
- 10.03 Claims Procedure Claims for benefits under the Plan shall be made in writing to the Committee. In the event a claim for benefits is wholly or partially denied by the Committee, the Committee shall, within a reasonable period of time, but not later than ninety (90) days after receipt of the claim, notify the claimant in writing of the denial of the claim. If the claimant shall not be notified in writing of the denial of the claim within ninety (90) days after it is received by the Committee, the claim shall be deemed denied. A notice of denial shall be written in a manner calculated to be understood by the claimant, and shall contain (i) the specific reason or reasons for denial of the claim, (ii) a specific reference to the pertinent Plan provisions upon which the denial is based, (iii) a description of any additional material or information necessary for the claimant to perfect the claim, together with an explanation of why such material or information is necessary, and (iv) an explanation of the Plan's review procedure. Within sixty (60) days of the receipt by the claimant of the written notice of denial of the claim, or within sixty (60) days after the claim is deemed denied as set forth above, if applicable, the claimant may file a written request with the Committee that it conduct a full and fair review of the denial of the claimant's claim for benefits, including the conducting of a hearing, if deemed necessary by the Committee. In connection with the claimant's appeal of the denial of his or her benefit, the claimant may review pertinent documents and may submit issues and comments in writing. The Committee shall render a decision on the claim appeal promptly, but not later than sixty (60) days after the receipt of the claimant's request for review, unless special circumstances (such as the need to hold a hearing, if necessary), require an extension of time for processing, in which case the sixty (60) day period may be extended to one hundred and twenty (120) days. The Committee shall notify the claimant in writing of any such extension. The decision upon review shall (i) include specific reasons for the decision, (ii) be written in a manner calculated to be understood by the claimant, and (iii) contain specific references to the pertinent Plan provisions upon which the decision is based.
- 10.04 <u>Specific Powers of the Committee</u> The Committee shall have such powers as may be necessary to administer the Plan, including, but not by way of limitation, the following:
 - (a) to construe and interpret the Plan, decide all questions of eligibility and determine the amount, manner and time of payment of any benefit hereunder;
 - (b) to prescribe procedures to be followed by Participants or their Beneficiaries in enrolling in the Plan and in filing applications for benefits;

- (c) Subject to approval of the County, to appoint or employ individuals to assist in the administration of the Plan, including legal counsel;
- (d) to adopt such rules as it deems necessary, desirable or appropriate for the administration of the Plan:
- (e) to select the Funds set forth in Article IV.
- 10.05 <u>Committee Procedures</u> The Committee shall only act at meetings which shall be held in accordance with the Michigan Open Meetings Act, M.C.L.A. Section 15.261 et seq, which Act is incorporated by reference in this Plan. The action of the Committee expressed by a vote at a meeting shall constitute the proper action of the Committee.
- 10.06 <u>Finality of Fiduciary Actions</u> Whenever the County or the Committee exercises discretion in interpreting or administering this Plan, the decision or action of the County or the Committee shall be conclusive, final and binding on all persons.
- 10.07 <u>Indemnification of the Committee</u> The Committee and the individual members thereof shall be indemnified by the County and not from the Trust Fund against any liability, cost or expense, including attorney fees and amounts paid in settlement of any claim, arising out of any act or omission to act, except in the case of willful misconduct.
- 10.08 <u>Non-Discriminatory Administration</u> In administering the Plan, the Committee shall act in a manner so as to not discriminate in favor of Highly Compensated Participants.

ARTICLE XI MISCELLANEOUS

- 11.01 <u>Non-Guarantee of Employment</u> Nothing contained in this Plan shall be construed as a contract of employment between the County and any Employee, or as a right of any Employee to be continued in the employment of the County, or as a limitation of the right of the County to discharge any of its Employees, with or without cause.
- 11.02 Non-Alienation of Benefits No interest of any person or entity in, or right to receive distributions from, the Trust Fund shall be subject in any manner to sale, transfer, assignment, pledge, attachment, garnishment, or other alienation or encumbrance of any kind; nor may such interest or right to receive distributions be taken, either voluntarily or involuntarily, for the satisfaction of the debts of, or other obligations or claims against, such person or entity, including claims in bankruptcy proceedings. The Accounts of any Participant, however, shall be subject to and payable in accordance with the applicable requirements of any Eligible Domestic Relations Order, as that term is defined in MCL 38.1702(e) and as set forth at Section 11.03. The Committee shall direct the Trustee to provide for payment from a Participant's Accounts in accordance with the applicable requirements of such order, provided however, the only form of payment available shall be a lump sum payment. All such payments pursuant to an Eligible Domestic Relations Order shall be subject to reasonable rules and regulations promulgated by the Committee respecting the time of payment pursuant to such order and the valuation of the Participant's Account or Accounts from which payment is made, provided that all such payments are made in accordance with such order and the Michigan Eligible Domestic Relations Order Act, MCL 38.1701 et seq. The balance of an Account that is subject to any Eligible Domestic Relations Order shall be reduced by the amount of any payment made pursuant to such order.

Notwithstanding anything in this Plan to the contrary, the benefit payable to an alternate pursuant to an eligible domestic relations order and this Section may be paid in a lump sum as soon as administratively feasible after the Committee determines that the order meets the requirements of MCL 38.1702(e), if so directed in such order.

11.03 Eligible Domestic Relations Orders

- (a) For purposes of this section the following definitions of terms will be applicable.
 - (i) "Alternate Payee" means a Spouse of a Participant under a judgment of separate maintenance, or a former Spouse, child, or dependent of a Participant who is named in an Eligible Domestic Relations Order.
 - (ii) "Domestic Relations Order" means a judgment, decree or order of a court made pursuant to Michigan domestic relations law and relating to the provision of alimony payments, child support, or marital property rights to a spouse of a Participant under a judgment of separate maintenance, or to a former spouse, child, or dependent of a Participant. To be an Eligible Domestic Relations Order ("EDRO"), a Domestic Relations Order must:
 - (1) Not require the Plan to provide a type or form of benefit not provided by the Plan, <u>provided</u> that immediate payment of benefits under an EDRO (as of a Valuation Date, and with appropriate reduction of the Participant's Account) may be made if the EDRO so requires, notwithstanding the continued employment of the Participant to whom the EDRO relates:
 - (2) Not require the Plan to provide an increased benefit (determined on the basis of actuarial value);
 - (3) Not require payment of a benefit to an Alternate Payee, that is required to be paid to another Alternate Payee under a previously filed Eligible Domestic Relations Order;
 - (4) Specify
 - (A) The name, Social Security number and the last known mailing addresses of the Participant and each Alternate Payee;
 - (B) The amount or percentage of the Participant's benefits to be paid by the Plan to each Alternate Payee, or the manner in which such amount or percentage is to be determined;

(b) In the case of any Domestic Relations Order received by the Plan, the Committee shall promptly notify the Participant and any Alternate Payee of the receipt of such order and the Plan's procedures for determining the *eligible* status of Domestic Relations Orders, and within a reasonable period after receipt of such order, the Committee shall determine whether such order is an *Eligible* Domestic Relations Order and notify the Participant and each Alternate Payee of such determination.

The Committee shall establish reasonable procedures to determine the *eligible* status of Domestic Relations Orders and to administer distributions under such *Eligible* orders. Such procedures shall be in writing, shall provide for the notification of each person specified in a Domestic Relations Order as entitled to payment of benefits under the Plan (at the address included in the Domestic Relations Order) of such procedures promptly upon receipt by the Plan or the Domestic Relations Order, and shall permit an Alternate Payee to designate a representative for receipt of copies of notices that are sent to the Alternate Payee with respect to a Domestic Relations Order.

- 11.04 <u>Unclaimed Funds</u> Each Participant shall keep the Committee informed of his current address and the current address of his Beneficiary or Beneficiaries. Neither the County, the Committee nor the Trustee shall be obligated to search for the whereabouts of any person. If the Committee cannot locate a Participant or Beneficiary at the time a distribution is payable, the Committee will withhold applicable taxes on the distribution, will prepare IRS Form W2-P (or its successor) to report the distribution, will send the funds by first class mail to the last-known available address, and will perform any other acts it deems necessary or proper, in all cases based on the best information available to the Committee. If the distribution check is returned or is not cashed, the distribution amount shall be held by the Trustee for the benefit of the distributee until such time (if ever) when the funds shall escheat to the State of Michigan, at which time the Plan shall have no further obligation to the distributee.
- 11.05 <u>Duty to Furnish Information and Documents</u> Participants and their Beneficiaries must furnish to the Committee and the Trustee such evidence, data or information as the Committee considers necessary or desirable for the purpose of administering the Plan, and the provisions of the Plan for each person are upon the condition that he or she will furnish promptly full, true, and complete evidence, data, and information requested by the Committee. All parties to, or claiming any interest under, the Plan hereby agree to perform any and all acts, and to execute any and all documents and papers, necessary or desirable for carrying out the Plan and the Trust Fund.
- 11.06 <u>Applicable Law</u> All questions pertaining to the validity, construction and administration of the Plan shall be determined in conformity with the laws of the State of Michigan.
- 11.07 No Guarantee Neither the Trustee, the Committee, nor the County in any way guarantee the Trust Fund from loss or depreciation or the payment of any benefits, which may be or become due to any person from the Trust Fund. No Participant or other person shall have any recourse against the Trustee, the County or the Committee if the Trust Fund is insufficient to provide Plan benefits in full. Nothing herein contained shall be deemed to give any Participant, former Participant, or Beneficiary an interest in any specific part of the Trust Fund or any other interest except the right to receive benefits out of the Trust Fund in accordance with the provisions of the Plan and Trust.
- 11.08 <u>Headings</u> The headings in this Plan are inserted for convenience of reference only and are not to be considered in construction of the provisions hereof.

- 11.09 <u>Gender and Number</u> Except when otherwise required by the context, any masculine terminology in this document shall include the feminine, and any singular terminology shall include the plural.
- 11.10 <u>Approval Under Internal Revenue Code</u> This Plan is intended to qualify as a Plan and Trust meeting the requirements of Sections 401 and 501(a) of the Code, as now in effect or hereafter amended. It shall be construed in a manner consistent with that intention.

ARTICLE XII AMENDMENT, TERMINATION OR MERGER OF THE PLAN

- 12.01 <u>Amendments</u> The County reserves the right, subject to any collective bargaining and obligations, at any time and from time to time to modify or amend, in whole or in part, any or all of the provisions of the Plan, provided that no modification or amendment shall be made which shall affect adversely any right or obligation of any Participant with respect to contributions theretofore made or which shall make it possible for funds paid to the Trust Fund to revert to the County. Notwithstanding the foregoing, any modification or amendment of the Plan may be made, retroactively, if necessary, which the County deems necessary or proper to bring the Plan into conformity with any law or governmental regulation relating to the Plan or Trust, including requirements relating to the Plan and the Trust within the meaning of the relevant provisions of the Internal Revenue Code.
- 12.02 <u>Termination</u> The County may, subject to any collective bargaining obligations, terminate the Plan in whole or in part or completely discontinue contributions hereunder for any reason at any time. In the case of such termination, partial termination or complete discontinuance of contributions hereunder, the remaining Accounts of all Participants and Beneficiaries will be distributed as soon as practicable, after final accounting is completed, Internal Revenue Service and other appropriate rulings obtained, and other actions necessary or proper to winding up the Plan and Trust Fund may be completed.

IN WITNESS WHEREOF, this instrument has been executed this 6th day of February, 2002.

WASHTENAW COUNTY MICHIGAN

By:	Suzanne Shaw , Chair
	Washtenaw County Board of Commissioner
By:	
ATTE	EST:
	M. Haines
Count	v Clerk/Register

A RESOLUTION APPROVING THE ORDINANCE AMENDING SECTION 65 OF THE WASHTENAW COUNTY EMPLOYEES' RETIREMENT SYSTEM TO COMPLY WITH THE INTERNAL REVENUE CODE AND RELATED AUTHORITY TO MAINTAIN THE QUALIFIED STATUS OF THE DEFINED BENEFIT PLAN

WASHTENAW COUNTY BOARD OF COMMISSIONERS

January 16, 2002

WHEREAS, the Washtenaw County Board of Commissioners has previously approved the Washtenaw County Employees' Retirement System; and

WHEREAS, it is necessary to revise and amend these plans to conform with changes in the Internal Revenue Code: and

WHEREAS, the Board of Trustees of the Washtenaw County Employees' Retirement System has retained Legal Counsel to review and prepare necessary amendments to the plan in order to maintain the qualified status of the plan; and

WHEREAS, the Washtenaw County Employees' Retirement System has unanimously recommended the approval of these plan amendments; and

WHEREAS, the Corporation Counsel has reviewed the plan amendments and has recommended their approval; and

WHEREAS, these requests have been considered by the Board of Commissioners

NOW THEREFORE BE IT RESOLVED that the Washtenaw County Board of Commissioners hereby approves the ordinance amending Section 65 of the Washtenaw County Employees' Retirement System to comply with the Internal Revenue Code and related authority to maintain the qualified status of the defined benefit plan, a copy of which is attached hereto and made a part of.

BE IT FURTHER RESOLVED that the Washtenaw County Board of Commissioners authorizes Michael J. VanOverbeke, Legal Counsel to the Washtenaw County Employees' Retirement System, to take the necessary action to gain approval of the amended plans from the Internal Revenue Service.

COMMISSIONER	Y	N	Α	COMMISSIONER	Y	N	Α	COMMISSIONER	Y	N	Α
Armentrout	X			Irwin	X			Prater	X		
Bergman	X			Kern			X	Shaw	X		
Craiger	X			Kestenbaum	X			Sizemore	X		
DeLong	X			Montague	X			Solowczuk	X		
Gunn	X			Peterson			X	Yekulis	X		

CLERK/REGISTER'S CERTIFICATE - CERTIFIED COPY ROLL CALL VOTE: TOTALS 13 0 2

 $\begin{array}{ll} \textbf{STATE OF MICHIGAN} &) \\ \textbf{COUNTY OF WASHTENAW})^{SS.} \end{array}$

I, Peggy M. Haines, Clerk/Register of said County of Washtenaw and Clerk of Circuit Court for said County, do hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the Washtenaw County Board of Commissioners at a session held at the County Administration Building in the City of Ann Arbor, Michigan, on February 6, 2002, as appears of record in my office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at Ann Arbor,

BY:	
	Deputy Clerl

PEGGY M. HAINES, Clerk/Register



Res. No. 02-0019

VANOVERBEKE
MICHAUD &
TIMMONY, P.C.

ATTORNEYS AND COUNSELORS

MICHAEL J. VANOVERBEKE THOMAS C. MICHAUD JACK TIMMONY LESLIE K. HOLMBERG MICHAEL E. MOCO 79 ALFRED STREET DETROIT,MI 48201 TEL: 313-578-1200 FAX: 313-578-1201 MPERSLAW@AOL.COM

MEMORANDUM

TO: BOARD OF TRUSTEES OF THE WASHTENAW COUNTY

EMPLOYEES RETIREMENT SYSTEM

FROM: VANOVERBEKE, MICHAUD & TIMMONY, P.C.

RE: QUALIFIED PLAN COMPLIANCE WITH INTERNAL REVENUE CODE

DATE: NOVEMBER 20, 2001

The Board of Trustees is vested with the fiduciary responsibility for the administration, management and operation of the Retirement System and has the authority to make rules and regulations necessary for the proper conduct of the pension trust fund. The Retirement System is intended to be and has been administered as a qualified governmental pension plan under Section 401 of the Internal Revenue Code, as amended ("IRC" or "Code") and is a tax-exempt organization under IRC § 501.

This "qualified plan" status provides the Retirement System with certain tax advantages, primarily (1) the member does not pay tax on employer contributions to the plan or the earnings and income generated by employer and member contributions until the member receives a distribution from the plan; and (2) certain favorable tax treatment may be available when benefits are actually distributed to members (e.g., rollover). In order to take advantage of these benefits, the Retirement System must satisfy numerous and complex IRC requirements.

Over the years, the qualified plan requirements have been amended by law and regulations. Such amendments include the Tax Reform Act of 1986 (TRA '86); the Technical and Miscellaneous Revenue Act of 1988 (TAMRA); the Unemployment Compensation Amendments of 1992 (UCA); the Omnibus Budget Reconciliation Acts (OBRA); the Uniformed Service Employment and Reemployment Rights Act of 1994 (USERRA); the Uruguay Round Agreements Act of 1994 (GATT); the Small Business Job Protection Act of 1996 (SBJPA '96); the Taxpayer Relief Act of 1997 (TRA '97); the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA '98); the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), and related laws, regulations and administrative authority.

While the Retirement System has operated in accordance with the IRC, the plan document should reflect the changes to the Code. Historically the IRS has extended the deadline for the plan amendments ("remedial amendment period") with the thought of amending, limiting or eliminating certain requirements for governmental plans. The remedial amendment period for governmental plans was the last day of the first plan year beginning on or after January 1, 2001 (i.e., for calendar

year plans - December 31, 2001; for July 1 fiscal year plans - June 30, 2002). However, pursuant to Revenue Procedure 2001-55, the December 31, 2001 has been extended to February 28, 2001. Please note that it is only required that the changes be incorporated into the plan document within the remedial amendment period. The Retirement System is not required to receive a determination letter from the IRS to maintain its qualified status.

The following is presented to provide an overview of the qualification rules applicable to governmental retirement plans under the Internal Revenue Code.

WHAT CONSTITUTES A "PENSION PLAN"?

IRC § 401(a)

- <u>Held in Trust</u>. To qualify for the favorable tax treatment, the plan must be governed by a **written** document that requires all contributions to be held in trust for the sole purpose of distributing benefits to members and their beneficiaries (IRC § 401(f) permits a custodial account or an annuity account to be used as a funding vehicle in lieu of a trust so long as the requirements of IRC § 401 are otherwise satisfied).
- <u>Determinable Benefits</u>. A plan that is established and maintained by an employer to provide systematically for the payment of definitely determinable benefits to employees over a period of years after retirement.

	Requires that benefits for each participant can be computed in accordance with an express contained in the plan. Rev. Rul. 74-385, 1974-2 C.B. 130; Treas. Reg. § 1.401-1(b)(1)(i).
	Requires that whenever the amount of any benefit is to be determined on the basis of
actuariai	assumptions, such actuarial assumptions are specified in the plan. IRC § 401(a)(25); Rev.
Rul. 79-9	90, 1979-1 C.B. 155.

NOTE: Both requirements ensure that there is always a known formula whereby the member's benefits may be calculated at any given time, free from any discretion by the employer or plan administrator.

• **Exclusive Benefit**. IRC \S 401(a)(2) requires that the plan be "for the exclusive benefit of the employees or their beneficiaries" Therefore:

Plan may not benefit a person other than the employee or their beneficiaries. Rev. Rul. 72
240, 1972-1 C.B. 108.
☐ Investments made on behalf of the employees must be for the exclusive benefit of
employees and their beneficiaries.
□ No funds may revert back to the employer until the trust is terminated and all liabilities ar
paid [IRC § 401(a)(2)]. Note that if the surplus is a result of a change in the benefit provisions of
in the eligibility requirements of the plan, the surplus may not be transferred back to the employer
Treas. Reg. § 1.401-2(b)(1).

WHAT IS A GOVERNMENTAL PENSION PLAN?

A governmental plan is a plan which is "established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing." IRC § 414(d) Recognition as a governmental plan under IRC § 414(d) exempts the plan from certain IRC requirements and ERISA.

WHAT IS A DEFINED CONTRIBUTION PLAN?

For purposes of the Internal Revenue Code, a defined contribution plan is defined as "a plan which provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant's account, and any income, expenses, gains and losses, and any forfeitures of accounts of other participants which may be allocated to such participant's account." [IRC § 414(i)].

Defined contribution plans require the employer to provide plan contributions that are either discretionary in amount <u>or</u> based on a specified formula. In contrast to a defined benefit plan, no specific benefits are promised to a participant under a DC plan. The amount of benefits received under a defined contribution plan is determined by the amount of contributions, earnings and forfeitures that are allocated to the participant's account under the plan. In the event the participant terminates employment before becoming fully vested in the plan, the participant is entitled to a benefit equal to the vested account balance. The nonvested portion is forfeited and may be applied in several ways, including to increase the accounts of remaining participants.

WHAT IS A DEFINED BENEFIT PLAN?

The Code defines a defined benefit plan as "any plan other than a defined contribution plan." [IRC § 414(j)]. Generally, defined benefit plans require the employer to provide benefits to plan participants according to a pre-determined formula established in the plan. The benefit formula provides for the payment of definitely determinable benefits to participants over a period of years. The amount of employer contributions to the plan depends on actuarial calculations of the amounts necessary to fund the benefits promised under the plan. As with defined contribution plans, a participant in a defined benefit plan is entitled to a benefit equal to the vested amount of his or her employee contributions, provided the particular defined benefit plan provides for such employee contributions. However, forfeitures arising under a defined benefit plan may not be allocated to other participants.

WHO MUST THE PLAN COVER?

The Taxpayer Relief Act of 1997 ("TRA '97") exempted governmental plans from the required minimum participation standards and coverage requirement tests of IRC § 401(a)(3) and the non-discrimination rules of IRC § 401(a)(4) which previously prohibited contributions, benefits, optional forms of benefits and other plan features from discriminating in favor of highly compensated employees.

Governmental plans are treated as satisfying Code § § 401(a)(3) [minimum participation rules of IRC 410(b)], 401(a)(4) [general nondiscrimination rules], 401(a)(26) [minimum participation rule], 401(k) [salary reduction nondiscrimination rules], 401(m) [matching employer contribution nondiscrimination rules], 403(b)(1)(D) and 403(b)(12) [403(b) nondiscrimination rules], and 410 [minimum participation rules] for all taxable years beginning before enactment of TRA '97.

WHEN MUST PENSION BENEFITS "VEST"?

"VESTING" commonly refers to the period of time after which a participant is entitled to a benefit (i.e., accrued benefits become nonforfeitable). The vesting requirements are established in the Plan. However, government plans must at a minimum satisfy the vesting requirements "resulting from the application of Sections 401(a)(4) and 401(a)(7) as in effect on September 1, 1974." IRC § 411(e). This requires that a governmental plan provide for:

- 100% vesting of accrued benefits when a member reaches the plan's normal retirement age. *Rev. Rul.* 66-11, 1966-1 C.B. 71.
- 100% vesting if their is a partial or complete termination of the plan, or complete discontinuation of contributions, but in either situation, vesting is required only to the extent the benefits are funded. IRC § 401(a)(7) (1974).

ARE THERE LIMITATIONS ON COMPENSATION FOR PENSION PURPOSES?

IRC § 401(a)(17) limits the maximum amount of annual compensation that may be taken into account for a participant in a qualified retirement plan.

For the year 2002, this limit is \$200,000. The prohibition on taking more than \$ 200,000 into account means that:

- Compensation in excess of \$200,000 may not be used when computing a pension benefit.
- Employee contributions may not be computed on more than \$200,000.

The limit may be adjusted for inflation, based in part on the adjustment made under IRC § 415(d). Treas. Reg. § 1.401(a)(17)-1(a)(3)(ii). Annual adjustments to the revised limit under IRC § 401(a)(17) are made in increments of \$5,000. Treas. Reg. § 1.401(a)(17)-1(a)(3)(iii).

ARE THERE LIMITATIONS ON CONTRIBUTIONS OR BENEFITS?

IRC § 401(a)(16) requires a qualified plan to abide by IRC § 415, which imposes annual limits on the amount of contributions and benefits.

IRC § 415 limits must be met by all plan members. If even one member accrues an annual benefit greater than IRC § 415 allows, or contributes more than IRC § 415 allows, the penalty provided is that the entire plan will be disqualified.

Definition of Compensation.

"Compensation" for IRC § 415 purposes includes the compensation actually paid to the employee during the limitation year. Treas. Reg. § § 1.415-2(d) and 1.415-3(a)(3). Treas. Reg. § 1.415-2(d)(2)(i) contains the basic definition of compensation for IRC § 415 purposes:

The employee's wages, salaries, fees for professional services, and other amounts received (without regard to whether or not an amount is paid in cash) for personal services actually rendered in the course of employment with the employer maintaining the plan to the extent that the amounts are includible in gross income (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements or other expense allowances under a nonaccountable plan (as described in § 1.62-2(c)).

Effective for years beginning after December 31, 1997, § 1434(a) of the SBJPA amended the definition of compensation for purposes of applying the IRC § 415 percentage of compensation limits on contributions to, and benefits from, qualified plans to include:

- (i) any elective deferral (as defined in § 402(g)(3)), and
- (ii) any amount which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of § 125 or 457 (i.e., 457 Plan contributions).

Please note that there is no requirement that the definition of compensation used for IRC § 415 purposes be the same definition as is used for benefit or contribution calculations, so long as both definitions independently satisfy IRC § 414(s), and the eventual benefit satisfies IRC § 415.

Limits for Defined Benefit Plans.

One of the requirements for a defined benefit plan to remain qualified is that the total amount of annual pension benefits provided to each member cannot exceed the amount specified in IRC § 415(b). The "Dollar Limit" in the year 2002 is \$160,000.

The SBJPA repealed the 100% salary limitation for governmental plans.

Adjustments to the Dollar Limit.

Certain adjustments must be made to the Dollar Limit.

- 1. The Dollar Limit is indexed for inflation. (Adjusted in increments of \$5,000).
- 2. The Dollar Limit is raised if an individual retires later than age 65, and lowered if an individual retires before age 62 or retires with fewer than ten years of participation in the plan. Code § § 415(b)(2)(D); 415(b)(5). The reductions for fewer than ten years of service or participation (as applicable) are made on a pro rata basis (i.e., reductions for fewer than ten years of service are reduced in proportion to ten years) See also Treas. Reg. § 1.415-3(g)(1). These rules do

not apply to (a) income received as a pension, annuity, or similar allowance as a result of personal injuries or sickness, or (b) amounts received as a result of an employee's death by the employee's beneficiaries, survivors, or estate. § 1444(c) of the SBJPA.

4. **Special Limits for Governmental Plans.** Certain adjustments were made to the Dollar Limit for governmental pension plans, so in cases of early retirement, members of governmental plans were subject to a Dollar Limit that was more generous than for members of private plans. However, as part of EGTRRA, the special adjustment rules contained in IRC § 415(b)(2)(F) have been deleted. Therefore, the Dollar Limit may now be reduced below \$75,000 if the employee retires at or after age 55. Notwithstanding, the rules provided for in TRA '97 which allow early retirement for police and fire personnel without a reduction in the Dollar Limit still apply (i.e., IRC § 415(b)(2)(G) provides that reductions for early retirement under IRC § 415(b)(2)(C) do not apply to police and fire personnel (including emergency medical services) who retire before the Social Security retirement age, so long as at least 15 years of service is required to receive a full benefit under the plan).

Defined Contribution Limits.

Prior to EGTRRA, if a member participated in a defined contribution plan, the annual amount that may be added to the member's account was limited to the lesser of \$35,000 or 25% of the member's compensation for the year. IRC § 415(c). The \$35,000 limit for year 2001 was indexed for inflation in increments of \$5,000. Effective for plan years beginning after December 31, 2001, the IRC § 415(c) limitation on contributions to defined contribution plans will be increased to the lesser of \$40,000 or 100% of Compensation. The \$40,000 dollar limit will be subject to more rapid indexing with annual cost of living adjustments in \$1,000 increments, instead of the current \$5,000 increments.

"Compensation" to which the 100% limit is applied includes wages received, as well as any amount which are contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of IRC § 457.

This test is applied on an annual basis.

"Annual Addition" is defined by Treas. Reg. § 1.415-6(b)(1) as the sum, credited to a participant's account for any limitation year, of:

- 1. Employer contributions;
- 2. Employee contributions; and
- 3. Forfeitures.

Nondeductible employee contributions (both mandatory and voluntary) to a defined benefit plan are treated as a separate defined contribution plan of the employer and must be taken into consideration in computing the annual additions defined contributions plans of the employer. Rev. Rul. 78-57; 1978-CB 128.

[&]quot;Annual Additions" do not include:

- 1. The restoration of an employee's accrued benefit by the employer in accordance with § 411(a)(3)(D) or § 411(a)(7)(C) will not be considered an annual addition for the limitation year in which the restoration occurs. (See § 1.411(a)-7(d)(6)(iii)(B).)
- 2. The transfer of funds from one qualified plan to another will not be considered an annual addition for the limitation year in which the transfer occurs.
- 3. Rollover contributions.
- 4. Repayments of loans made to a participant from the plan,
- 5. Repayments of amounts described in 411(a)(7)(B) (in accordance with 411(a)(7)(C)) and 411(a)(3)(D) (see 1.411(a)-7(d)(6)(iii)(B)), and
- 6. The direct transfer of employee contributions from one qualified plan to another.
- 7. Employee contributions "picked-up" pursuant to IRC § 414(h)(2) are not considered employee contributions to a separate defined contribution plan. IRS Letter § 1 Q&A-8. However, the current IRS position is that the resulting benefit must be tested under IRC § 415(b).

Note that there is no longer a combined test of both defined benefit and defined contribution amounts pursuant to IRC § 415(e).

WHEN IS A PLAN REQUIRED TO MAKE DISTRIBUTIONS?

IRC § 401 (a)(9) includes several rules governing distributions from "qualified" plans.

- Distributions must begin to be paid by the later of April 1 of the calendar year after member attains age $70 \frac{1}{2}$ or April 1 of the calendar year after the member actually retires.
- Proposed Regulations under § 401(a)(9) were published in 2001-11 I.R.B. 865 on March 12, 2001 (the 2001 Proposed Regulations) which significantly simplified the rules for required minimum distributions.
- The 2001 Proposed Regulations provide a simple, uniform table that most employees can use to determine minimum distributions during their life. If an employee's sole beneficiary is the employee's spouse and the spouse is more than 10 years younger than the employee, the employee can use the longer distribution period of the joint life and last survivor life expectancy of the employee and spouse.
- When the employee dies after the required beginning date with a designated beneficiary, the distribution period is the beneficiary's life expectancy for the year after death reduced by one for each subsequent year. When an employee dies after the required beginning date without a designated beneficiary, the distribution period is the employee's life expectancy for the year of death reduced by one for each subsequent year.
- The Proposed Regulations change the default rule in the case of death before the employee's required beginning date from the five-year rule to the life expectancy of the designated beneficiary.
- The 2001 Proposed Regulations would be effective for distributions for calendar years beginning on or after January 1, 2002. But effective immediately, taxpayers may rely on the 2001 Proposed Regulations for determining minimum required distributions for calendar year 2001, or they may rely on the regulations under § 401(a)(9) that were proposed in 1987 (the 1987 Proposed Regulations) for determining minimum required distributions for calendar year 2001.
- In addition to meeting the minimum distribution requirements, all distributions to beneficiaries or survivors must meet the incidental benefit requirements.

- The general incidental death benefit tests for pre-retirement death benefits require that the cost of providing such a death benefit cannot exceed 25% of the cost of all of the member's benefits or that the death benefit not exceed 100 times the expected monthly amount that would have been paid to the member. This rule applies only to benefits paid from "qualified" trusts. Distributions from federally or state funded line of duty death benefit programs can be set up separately to avoid a problem in this regard.
- The plan must be operated in a manner that complies with each of the rules under IRC §401(a)(9) and the plan document must specifically include a statement that distributions will be made in accordance with these rules and that any contradictory provisions in the plan are expressly overridden

WHAT IS A ROLLOVER?

IRC § 401(a)(31) requires a plan to permit its members to elect to have an otherwise taxable distribution paid directly to an eligible retirement plan.

Eligible Rollover Distributions.

IRC § 402(c) provides that any "eligible rollover distribution" from a qualified trust described in IRC § 401(a) may be rolled over to an "eligible retirement plan" within 60 days.

The amount of any distribution that is actually rolled over to an eligible retirement plan is not included in the recipient's taxable income. IRC § 402(c)(1).

An "eligible rollover distribution" means any distribution to an employee or surviving spouse of an employee of all or any portion of the balance to the credit of the employee in a qualified plan, except for the following:

- Any distribution that is one of a series of substantially equal periodic payments made (not less frequently than annually) over any one of the following periods: the life of the employee (or the joint lives of the employee and the employee's designated beneficiary), the life expectancy of the employee (or the joint life and last survivor expectancy of the employee and the employee's designated beneficiary), or a specified period of ten years or more;
- Any distribution to the extent the distribution is required by the minimum distribution requirements of IRC § 401(a)(9);
- The portion of any distribution that is not includible in gross income (i.e., the employee's post tax investment in contract (basis)); and
- Additional items designated by the Commissioner in revenue rulings, notices, and other guidance of general applicability. Those that already have been designated include dividends on employer securities, plan loans, taxable cost of life insurance coverage, and corrective distributions for 401(k) plans.

Eligible Retirement Plan.

IRC § 402(c) allow a member and a member's surviving spouse to execute a rollover to an "eligible retirement plan."

Regular Rollovers

A **regular rollover** occurs when a recipient of an eligible rollover distribution elects to personally receive the distribution (rather than have the distribution paid directly to an eligible retirement plan) and subsequently transfers all or part of the distributed amount to an eligible retirement plan within 60 days after receiving the distribution.

Under the regular rollover rules, an **eligible retirement plan** includes an individual retirement plan or a qualified plan. IRC § 402(c)(8)(B); Treas. Reg. § 1.402(c)-2 Q&A-2. With the adoption of EGTRRA, an eligible retirement plan includes an individual retirement account ("IRA") described in IRC § 408(a), an individual retirement annuity described in IRC § 408(b), an annuity plan or contract described in IRC § 403(a) and (b), an eligible plan under IRC § 457 which is maintained by a state, political subdivision of a state and which agrees to separately account for amounts transferred into such plan, or a qualified trust described in IRC § 401(a), that accepts the distributee's eligible rollover distribution. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a domestic relations order.

For purposes of the direct rollover provision, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in IRC § 408(a) or (b), or to a qualified plan described in IRC § 401(a) or 403(b) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

Direct Rollovers.

A direct rollover occurs whenever a participant or the participant's spouse elects to have an eligible rollover distribution paid directly to an eligible retirement plan. Direct rollovers may now be made to a defined contribution plan, an individual retirement account or annuity (IRC § 401(a)(31)(D)), to a defined benefit plan Treas. Reg. § 1.401(a)(31)-1 Q&A-2 or to a governmental 457 Plan.

A defined benefit plan is not required to accept rollovers.

ARE THERE IRC PROVISIONS WHICH GOVERNMENTAL PLANS ARE EXEMPT?

Code § 401(a)(3)

Requires minimum participation standards and coverage requirement tests to be met.

Code § 401(a)(4)

• Prohibits contributions, benefits, optional forms of benefits and other plan features from discriminating in favor of highly compensated employees.

Code § 401(a)(10) & 416

Top-Heavy Provisions

Code § 401(a)(11) & 417

• Joint and Survivor Annuities. Requires qualified joint and survivor annuity benefits to be payable at retirement and preretirement survivor annuity benefits to become payable upon death prior to retirement.

Code § 401(a)(12) & 414(l)

• Requires accrued benefits to be preserved when there is a plan merger, consolidation or transfer of assets.

Code § 401(a)(13)

• Prohibits assignment or alienation of benefits.

Code § 401(a)(14)

• Requires commencement of benefits to be no later than 60 days after the close of the plan year in which normal retirement (or age 65, if earlier), 10th anniversary of participation or termination occurs, whichever occurs later.

Code § 401(a)(15)

• Prohibits the reduction of retiree benefits due to increases in Social Security benefits after retirement.

Code § 401(a)(19)

• Prohibits accrued benefits derived from employer contributions to be forfeited as a result of withdrawal of employee contribution when such employee is at least 50% vested.

Code § 401(a)(20)

• Allows qualified total distributions to be made with appropriate notice to PBGC when a plan is terminating.

Code § 401(a)(26)

- Code § 401(a)(26) generally requires that for each day of the plan year, the plan must benefit the <u>lesser</u> of 50 employees or 40% or more of all of the employer's employees.
- This requirement is deemed satisfied by governmental plans for plan years beginning before the <u>later</u> of January 1, 1999, or 90 days after the opening of the first legislative session beginning on or after January 1, 1999, of the governing body with authority to amend the plan, if that body does not meet continuously.

Code § 401(m)

• Code § 401(m) includes special nondiscrimination tests that apply to employer matching contributions to defined contribution plans. This would generally not apply for public safety plans.

Code $\S 403(b)(12)(A)(i)$

• Code § 403(b)(12)(A)(i) set forth nondiscrimination requirements for those plans which received contributions not made pursuant to a salary reduction agreement.

Code § 410

• Requires governmental plans to meet pre-ERISA requirements of § 401(a)(3).

Code § 411

• Requires minimum vesting requirements to be met which stipulate that a plan may not discriminate in favor of officers, shareholders, supervisors, or highly compensated employees (401(a)(4)), and 100% vesting upon plan or discontinuance of employer contributions (401(a)(7)).

Code § 412

• Requires plans to be 100% vested upon the plan's termination or discontinuance of employer contributions.

Code § 4980A

- Code § 4980A imposes a 15% excise tax to the extent the aggregate amount of distributions paid to an individual from qualified retirement plans, tax sheltered annuities, and individual retirement accounts exceeds the greater of: (1) \$150,000 or (2) \$112,500 as indexed for inflation, which for 1994 is \$148,500.
- Death benefits, payments pursuant to qualified domestic relations orders, and rollovers are not taken into account for purposes of the excess distribution tax.

It is recommended that the Board incorporate the necessary IRC provisions by the adoption of the attached resolution prior to the expiration of the remedial amendment period.

As always, if you have any questions, please do not hesitate to contact this office. Thank you.

AN ORDINANCE AMENDING SECTION 65 OF THE WASHTENAW COUNTY EMPLOYEES RETIREMENT SYSTEM TO COMPLY WITH THE INTERNAL REVENUE CODE AND RELATED AUTHORITY TO MAINTAIN THE QUALIFIED STATUS OF THE DEFINED BENEFIT PLAN.

Be it ordained by the Board of Commissioners of the County of Washtenaw that Section 65 of the Washtenaw County Employees Retirement System is hereby amended to read as follows:

Internal Revenue Code Qualifications.

Section 65. (a) The Retirement System is intended and has been administered to be a qualified pension plan under § 401 of the Internal Revenue Code, as amended ("IRC" or "Code"), or successor provisions of law, including the Tax Reform Act of 1986 (TRA '86); the Technical and Miscellaneous Revenue Act of 1988 (TAMRA); the Unemployment Compensation Amendments of 1992 (UCA); the Omnibus Budget Reconciliation Acts (OBRA); the Uniformed Service Employment and Reemployment Rights Act of 1994 (USERRA); the Uruguay Round Agreements Act of 1994 (GATT); the Small Business Job Protection Act of 1996 (SBJPA '96); the Taxpayer Relief Act of 1997 (TRA '97); the Internal Revenue Service Restructuring and Reform Act of 1998 (RRA '98); the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), and other applicable laws, regulations and administrative authority. The Retirement System is a governmental plan under IRC § 414(d) and is administered for the exclusive benefit of the plan's participants and their beneficiaries. The Retirement System trust is an exempt organization under IRC § 501.

- (b) **Prohibition Against Reversion**. The Retirement System and trust have been created for the exclusive benefit of the members and beneficiaries as set forth herein. The funds thereof have been established for the benefit of the members and for the operation of the Retirement System. No part of the principal and income of any of the funds of the system and trust shall revert to or be returned to the County prior to the satisfaction of all liabilities hereunder to all members, beneficiaries and anyone claiming by or through them.
- (c) Actuarial Valuation Assumptions. Actuarial Valuation Assumptions may be changed by the Retirement Commission after consulting with the actuary. Actuarial equivalence will be determined on the basis of the interest rate and mortality tables adopted by the Retirement Commission. Actuarial assumptions that will be used to determine the amount or level of any optional benefit forms will be the actuarial equivalent of the normal retirement benefit. Optional benefits provided under the plan shall be actuarial adjusted in relation to the straight life annuity. For purposes determining the IRC § 415 limitations, the interest rate assumption will not be less than the greater of five (5%) percent or the rate specified in the plan for determining actuarial equivalence for the particular form of retirement benefit. The actuarial early retirement reduction and reduction of the Dollar Limit if the Employee has less than ten (10) years of participation under IRC § 415 do not apply to income received as a pension or annuity as a result of an employee's personal injury, sickness or death and shall be administered in accordance with IRC § 415(b)(2), as amended.

- (d) **Termination.** In the event of termination of this plan, a member's interest under the plan as of such date is nonforfeitable on the attainment of his/her normal retirement age, as defined in IRC § 411(d)(3), to the extent funded in conformity with applicable sections of the Internal Revenue Code and Regulations. Upon a member's termination date, the value of any forfeitable accrued benefit shall be forfeited by the member as of the termination date. The value of such forfeitures shall be used to reduce the employer's future contributions under the Plan in accordance with IRC § 401(a)(8). No forfeitures under the Plan shall be applied to increase the benefits that any member or beneficiary would otherwise receive at any time prior to the time when the Plan may be terminated. If a member whose employment has terminated does not retain a vested benefit under the Plan, he/she shall no longer be a member or retain or earn credited service under the Plan unless and until he/she again becomes an employee.
- (e) **Merger, Consolidation or Transfer**. In conformity with Section 414(1) of the Internal Revenue Code, in the case of any transfer of assets or liabilities of this plan to any other plan, each plan participant would (if the plan then terminated) receive a benefit immediately after the transfer that is equal to or greater than the benefit the participant would have been entitled to receive immediately before the transfer (if the plan had then terminated).
- (f) **Limitations of Benefits.** The Retirement System shall not pay any benefit that would exceed the benefit limitations for governmental plans as set forth in Section 415 of the Internal Revenue Code and regulations, as amended. For this purpose, compensation shall be determined in accordance with Code section 415(e)(3). In the event it should become necessary to reduce or restrict a benefit in order to comply with section 415(e), the employer-provided portion of the benefit payable under this Retirement System shall be reduced or restricted to the extent necessary.

The amount of annual benefits and contributions credited a member in any given year shall be subject to the following limitations:

- (A) **Defined Benefit Plans**. The maximum permissible Annual Pension Benefit with respect to any member shall be in accordance with IRC § 415(b) which provides that such Annual Pension Benefit shall not exceed \$90,000, as adjusted for inflation, which for 2002 is \$160,000 (the "Dollar Limit").
- (i) <u>Special Dollar Limitations</u>. If the benefit is payable prior to age 62, the dollar limitation shall be reduced to the actuarial equivalent of a benefit commencing at age 62. In the case of any full-time police or fire employee, who is a Qualified Participant as defined in IRC § 415(b)(2)(G), there is no reduction in the dollar limitation. If the benefit is not payable until after age 65, the dollar limitation shall be increased to the actuarial equivalent of a benefit commencing at age 65.
- (ii) In the case of an employee who has less than ten (10) years of participation in the Plan, the Dollar Limitation shall be reduced 1/10 for each year of participation in accordance with IRC § 415(b)(5).

(B) **Defined Contribution Plans**.

- (1) For limitation years beginning after December 31, 1986 the term "annual addition" means, for purposes of this section, the sum, credited to a participant's account for any limitation year, of:
- (A) Employer contributions;
- (B) Employee contributions; and
- (C) Forfeitures.
- (2) Annual additions that may be contributed or allocated to a participant's account for a limitation year will not exceed the lesser of:
- (A) 100% percent of participant's compensation, within the meaning of IRC § 415(c)(3), or
- (B) \$40,000, as adjusted for increases in the cost of living pursuant to IRC § 415(d).
- (c) **Excess Benefit Payment**. The Retirement System shall not pay any benefit that would exceed the benefit limitations for governmental plans as set forth in IRC § 415 and regulations, as amended.
- (d) **Compensation**. As defined by IRC § 415(c)(3)(D) and Treas. Reg.§ 1.415-2(d)(2)(i), compensation means amounts actually paid to the employee during the Limitation Year, including: wages, salary, professional fees, percentage of profits, commissions, tips and bonuses paid or made available to the member during the Limitation Year for personal services actually rendered in the course of employment, any elective deferral, and any amount which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of IRC §§ 125 or 457.
- (g) Distributions from the Retirement System will comply with the requirements of Code section 401(a)(9) and the regulations thereunder, including the following specific requirements. With respect to distributions under the Plan made for calendar years beginning on or after January 1, 2001, the Plan will apply the minimum distribution requirements of IRC § 401(a)(9) in accordance with the regulations under IRC § 401(a)(9) that were proposed in January 2001, notwithstanding any provision in the Plan to the contrary. This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under section 401(a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service. Pursuant to IRC § 401(a)(9)(A)(ii), distribution of a member's benefits will begin not later than April 1 of the calendar year following the later of the calendar year in which the employee attains age 70-1/2 and the calendar year in which the employee retires.
- (h) This subsection applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this subsection, a distributee may elect, at the time and in the manner prescribed by the Retirement

Commission, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee as a direct rollover. The following definitions shall apply with regard to this subsection.

- (i) 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: any distribution that is one of series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint live (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more, and any distribution to the extent such distribution is required under section 401(a)(9) of the Code. For purposes of the direct rollover provision, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in IRC § 408(a) or (b), or to a qualified plan described in IRC § 401(a) or 403(b) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.
- (ii) 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(a) of the Code, an annuity plan described in section 403(a) of the Code, an annuity contract described in IRC § 403(b), an eligible plan under IRC § 457 which is maintained by a state, political subdivision of a state and which agrees to separately account for amounts transferred into such plan or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a domestic relations order.
- (iii) **Distributee:** A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the surviving spouse.
- (iv) **Direct Rollover**: A direct rollover is a payment by the Retirement System to the eligible retirement plan specified by the distributee.
- (i) **Maximum Annual Earnings**. For Plan years beginning on or after January 1, 1989 and before July 1, 1996, the annual compensation of each Participant taken into account for determining all benefits provided under the Plan for any determination period shall not include any amounts in excess of the annual compensation limit (originally \$200,000) provided for in IRC § 401(a)(17) prior to the Omnibus Budget Reconciliation Act of 1993 ("OBRA '93") and adjusted for inflation in the manner provided by IRC § 401(a)(17). For Plan years beginning on or after July 1, 1996, the annual compensation of each employee taken into account shall not exceed the annual compensation limit provided for in IRC § 401(a)(17), as amended by the Omnibus Budget Reconciliation Act of 1993 ("OBRA '93") (\$200,000 in 2002). This limit may be adjusted as required by federal law for qualified government plans and shall be further adjusted for inflation in the manner provided by IRC § 401(a)(17). Annual compensation means compensation during the

plan year or such other consecutive 12 month period over which compensation is otherwise determined under the plan.

- (j) **Military Service.** Notwithstanding any provision of the Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with IRC § 414(u) and Regulations.
- (k) **Vesting**. Pursuant to IRC § 411(e) as in effect in 1974, a member shall be 100% vested in his/her accrued benefit when he or she attains Normal Retirement Age.
- (l) **Plan Year**. The plan year shall be the 12 consecutive month period commencing on January 1 and each anniversary thereafter.

Chair, Washtenaw County Board of Commissioners	Date
Attested to by: Peggy M. Haines, Clerk/Register	Date
Approved as to Form	Date

AN ORDINANCE AMENDING SECTION 65 OF THE WASHTENAW COUNTY EMPLOYEES RETIREMENT SYSTEM TO AUTHORIZE THE RETIREMENT COMMISSION TO AMEND THE RETIREMENT SYSTEM TO COMPLY WITH THE INTERNAL REVENUE CODE AND RELATED AUTHORITY TO MAINTAIN THE QUALIFIED STATUS OF THE DEFINED BENEFIT PLAN.

Be it ordained by the Board of Commissioners of the County of Washtenaw that Section 65 of the Washtenaw County Employees Retirement System is hereby amended to read as follows:

Section 65(m) shall be added to read as follows:

The Retirement Commission may adopt by resolution such additional provisions to the Retirement System as are necessary to comply with the Internal Revenue Code and related authority to maintain the qualified status of the defined benefit plan.

Chair, Washtenaw County Board of Commissioners	Date
Attested to by: Peggy M. Haines, Clerk/Register	Date
Approved as to Form	Date

A RESOLUTION RATIFYING THE SIGNATURE OF THE CHAIR OF THE BOARD ON AN ESTIMATE OF AUTHORIZED EXPENDIUTES SUMMARY IN THE AMOUNT OF \$182,342 TO THE STATE OF MICHIGAN, DEPARTMENT OF NATURAL RESOURCES FOR A MARINE SAFETY PROGRAM FOR CALENDAR YEAR 2002

WASHTENAW COUNTY BOARD OF COMMISSIONERS

FEBRUARY 6, 2002

WHEREAS, the State of Michigan supports Marine Safety Programs in the amount of threequarters of the County's authorized expenditures; and

WHEREAS, the amount of state revenue has historically remained approximately \$47,000 despite variations in Marine Safety expenditures, and

WHEREAS, the 2002 budget includes \$157,342 in expenditures and \$47,000 in state revenue for the Marine Safety Program; and

WHEREAS, it is hoped additional state revenue may be obtained to cover \$25,000 in capital purchases that the Marine Safety Program may incur in 2002, based on need and the availability of state funding; and

WHEREAS an Estimate of Authorized Expenditures Summary in the amount of \$182,342 has been submitted to the State of Michigan, Department of Natural Resources; and

WHEREAS, this matter has been reviewed by Corporation Counsel, the Finance Office, Human Resources, the County Administrator, and the Ways and Means Committee,

NOW THEREFORE BE IT RESOLVED that the Washtenaw County Board of Commissioners hereby ratifies the Chair of the Board's signature on the Estimate of Authorized Expenditures Summary to the State of Michigan, Department of Natural Resources, Law Enforcement Division, for a Marine Safety Program for the calendar year 2002, in the amount of \$182,342, as on file with the County Clerk.

BE IT FURTHER RESOLVED that the Board of Commissioners approves the following actions, contingent upon receipt of the grant award:

- 1. Authorizes the County Administrator to sign the Notice of Grant Award
- 2. Authorizes the County Administrator to sign delegate contracts, upon review of Corporation Counsel to be filed with the County Clerk

COMMISSIONER	Y	N	Α	COMMISSIONER	Y	N	A	COMMISSIONER	Y	N	Α
Armentrout	X			Irwin	X			Prater	X		
Bergman	X			Kern			X	Shaw	X		
Craiger	X			Kestenbaum	X			Sizemore	X		
DeLong	X			Montague	X			Solowczuk	X		
Gunn	X			Peterson			X	Yekulis	X		

CLERK/REGISTER'S CERTIFICATE - CERTIFIED COPY ROLL CALL VOTE: TOTALS 13 0 2

STATE OF MICHIGAN) **COUNTY OF WASHTENAW**)^{SS.}

PEGGY	7 M	HAIN	JES	Clerk	/Register
			11111	CICIN	/10215101

BY:	
	Denuty Clerk



Res. No. 02-0020

A RESOLUTION AUTHORIZING PAYMENT OF CLAIMS COMMENCING WITH THE LAST PREVIOUSLY APPROVED CLAIM AND CONTINUING THROUGH THE DATE OF JANUARY 25, 2002

WASHTENAW COUNTY BOARD OF COMMISSIONERS

February 6, 2002

WHEREAS, as filed with the County Clerk is a true copy of the record of claims commencing with the last previously approved claim and continuing through the date of January 25, 2002, inclusive; and

WHEREAS, the Board of Commissioners has been assured by the County Clerk that no claim received is withheld or rejected by the list, shows the name of the claimant, the amount of the claim and the date presented

NOW THEREFORE BE IT RESOLVED that the Washtenaw County Board of Commissioners hereby authorizes the payment of claims commencing with the last previously approved claim and continuing through the date of January 25, 2002, inclusive, as listed in the statement of claims as attached hereto and made a part hereof

CLE	CLERK/REGISTER'S CERTIFICATE - CERTIFIED COPY						CALL	_ VOT	E: TOTALS	13	0	2
	Gunn	Χ			Peterson			Χ	Yekulis	Х		
	DeLong	Х			Montague	Х			Solowczuk	Х		
	Craiger	Х			Kestenbaum	Х			Sizemore	Х		
	Bergman	Χ			Kern			Χ	Shaw	Χ		
	Armentrout	Χ			Irwin	Х			Prater	Χ		
	COMMISSIONER	Υ	N	Α	COMMISSIONER	Υ	N	Α	COMMISSIONER	Υ	N	Α

STATE OF MICHIGAN), I, Pe COUNTY OF WASHTENAW) SS. said County,

I, Peggy M. Haines, Clerk/Register of said County of Washtenaw and Clerk of Circuit Court for said County, do hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the Washtenaw County Board of Commissioners at a session held at the County Administration Building in the City of Ann Arbor, Michigan, on February 6, 2002, as appears of record in my office.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at Ann Arbor, this ______ day of _______.

PEGGY M. HAINES, Clerk/	Registe	r
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Res. No. 02-0021