

**ROTH CONTRIBUTION AMENDMENT
TO THE DEFERRED COMPENSATION PLAN FOR PUBLIC EMPLOYEES
457 GOVERNMENTAL PLAN AND TRUST**

Preamble

- 1.1 Adoption and effective date of amendment - The Employer adopts this Amendment to reflect Internal Revenue Code Section 402A, as amended by the Small Business Jobs Act of 2010 (SBJA). This Amendment is intended as good faith compliance with the requirements of Internal Revenue Code Section 402A and guidance issued thereunder, and this Amendment shall be interpreted in a manner consistent with such guidance. This Amendment shall be effective as of the date selected below.
- 1.2 Eligible governmental 457 plan - The Employer is an eligible employer as defined in Internal Revenue Code §457(e)(1)(A).
- 1.3 Supersession of inconsistent provisions - This Amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.

Article II: Effective Date and Unforeseeable Emergency

- 2.1 Effective Date of Designated Roth Contributions - Designated Roth Contributions are permitted under the Plan as of the date this Amendment is executed below, which is no earlier than the earlier of (i) the Effective Date as defined herein or (ii) the effective date of any prior adoption of Designated Roth Contribution provisions.
- 2.2 Unforeseeable Emergency - If the Plan permits distributions of Elective Deferrals on account of an unforeseeable emergency, Designated Roth Contributions may be withdrawn on account of an unforeseeable emergency subject to the same qualifications that apply to Pre-tax Elective Deferrals.

Article III: Designated Roth Contributions

- 3.1 Designated Roth Contributions are permitted - The Plan's definitions and terms shall be amended as follows to allow for Designated Roth Contributions as of the Effective Date. Designated Roth Contributions shall be treated in the same manner as Deferral Contributions for all Plan purposes except as provided in Article II of this amendment. The Employer may, in operation, implement deferral election procedures provided such procedures are communicated to Participants and permit Participants to modify their elections at least once each Plan Year.
- 3.2 Deferral Contributions - "Deferral Contribution" means Salary Reduction Contributions, Non-elective Contributions, Matching Contributions and Designated Roth Contributions. The Employer or the Administrative Services Provider (if applicable) in applying the Internal Revenue Code § 457(b) limit will take into account Deferral Contributions in the Taxable Year in which contributed. The Employer or Administrative Services Provider (if applicable) in determining the amount of a Participant's Deferral Contributions disregards the net income, gain and loss attributable to Deferral Contributions.
- 3.3 Salary Reduction Contributions - "Salary Reduction Contributions" means a Participant's Elective Deferrals which are not includible in the Participant's gross income at the time deferred and have been irrevocably designated as Salary Reduction Contributions by the Participant in his or her deferral election. A Participant's Salary Reduction Contributions will be separately accounted for, as will net income, gain or loss, attributable to those Salary Reduction Contributions. All Deferral Contributions prior to this amendment are Salary Reduction Contributions.
- 3.4 Designated Roth Contributions - "Designated Roth Contributions" means a Participant's Deferral Contributions that are includible in the Participant's gross income at the time deferred and have been irrevocably designated as Designated Roth Contributions by the Participant in his or her deferral election. A Participant's Designated Roth Contributions will be separately accounted for, as will gains and losses attributable to those Designated Roth Contributions. However, forfeitures may not be allocated to such account. The Plan must also maintain a record of a Participant's investment in the contract (i.e., designated Roth contributions that have not been distributed) and the year in which the Participant first made a Designated Roth Contribution.

- 3.5 Distribution Rule - Withdrawals (including, but not limited to, withdrawals on account of an unforeseeable emergency) from Participant's accounts may be directed by the Participant from either Salary Reduction Contributions, Designated Roth Contributions or pro rata from Salary Reduction Contributions and Designated Roth Contributions.
- 3.6 Corrective distributions attributable to Designated Roth Contributions - For any calendar year in which a Participant may make both Designated Roth Contributions and Salary Reduction Contributions, the corrective distribution from the Participant's accounts will be taken pro rata from a Participant's Salary Reduction Contributions and Designated Roth Contributions made during a calendar year. Furthermore, the Participant may elect which type of Deferral Contributions shall be distributed first.
- 3.7 Loans - All Participant Roth Accounts will be considered for the purposes of loans in accordance with this section. Roth Accounts include the following: Designated Roth Contribution accounts, all Rollover and Transfer accounts, to the extent those accounts constitute Roth Accounts. For any loans made on or after the Effective Date of this Amendment, the loan policy or program is amended to enable a Participant's Roth Account in the calculation of the loanable amount; however, loans may not be funded from the Participant's Roth Account. For Plans that amend a loan policy or program on or after the date of the Amendment, the Plan's loan policy or program shall govern in the event of a conflict.
- 3.8 Rollovers - An In-Plan Roth Rollover Contribution may be made only by a Direct Rollover. A direct rollover of a distribution from Designated Roth Contributions shall only be made to a Plan which includes Designated Roth Contributions as described in Internal Revenue Code Section 402A(e)(1) or to a Roth IRA as described in Internal Revenue Code Section 408A, and only to the extent the rollover is permitted under the rules of Internal Revenue Code Section 402(c). A Participant may make an In-Plan Roth Rollover from any account (other than a Roth account).
- 3.8.1 The Plan shall accept a rollover contribution of Designated Roth Contributions only if it is a direct rollover from another Plan which permits Designated Roth Contributions as described in Internal Revenue Code Section 402A(e)(1) and only to the extent the rollover is permitted under the rules of Internal Revenue Code Section 402(c). The Employer, operationally and on a uniform and nondiscriminatory basis, may decide whether to accept any such rollovers.
- 3.8.2 The Plan shall not provide for a direct rollover (including an automatic rollover) for distributions from a Participant's Designated Roth Contribution account if the amounts of the distributions that are eligible rollover distributions are reasonably expected to total less than \$200 during a year. In addition, any distribution from a Participant's Designated Roth Contribution account is not taken into account in determining whether distributions from a Participant's other accounts are reasonably expected to total less than \$200 during a year. Furthermore, the Plan will treat a Participant's Designated Roth Contribution account and the Participant's other accounts as held under two separate plans for purposes of applying the automatic rollover rules. However, eligible rollover distributions of a Participant's Designated Roth Contributions are taken into account in determining whether the total amount of the Participant's account balances under the Plan exceed the Plan's limits for purposes of mandatory distributions from the Plan.
- 3.9 Operational Compliance - The Plan and the Administrative Services Provider will administer Designated Roth Contributions in good faith with applicable regulations or other binding authority not reflected in this amendment. Any applicable regulations or other binding authority shall supersede any contrary provisions of this Amendment

Article IV: In-Plan Roth Conversions

- 4.1 In-Plan Roth Conversions – El Dorado County hereby elects to include In-Plan Roth Conversions. An In-Plan Roth Conversion means a Rollover Contribution to the Plan that consists of a distribution or transfer from a Participant's Plan Account, other than a Designated Roth Contribution Account, that the Participant transfers to the Participant's In-Plan Roth Conversion Account in the Plan, in accordance with Code §402(c)(4).
- 4.2 Converted Balances - Earnings on Roth Elective Deferrals and balances converted by In-Plan Roth Conversions will not be taxable if distributed in a Qualified Distribution with a distribution date that is at least five years after the Employee's initial Roth contribution and after:
- The Employee attains age 59½ or becomes disabled, and the Employee has a severance from employment; or
 - The Employee's death.

If a distribution is not a Qualified Distribution, earnings on these balances will generally be taxed under the basis recovery rules found in Internal Revenue Code section 72.

- 4.3 Conversions Are Irrevocable – A Participant’s election to do an In-Plan Roth Conversion is irrevocable. The amount converted is subject to state and federal income tax in the year converted and will be reported as taxable income to the Participant. The Plan does not withhold any amounts for state or federal income taxes in connection with an In-Plan Roth Conversion; the Participant will be responsible to pay applicable income taxes even though there is no withholding.
- 4.4 Converted Balances – Balances converted as an In-Plan Roth Conversion remain subject to any and all distribution restrictions that applied prior to the conversion.
- 4.5 Eligibility for Distribution and Rollover – A Participant may not make an In-Plan Roth Rollover Contribution with regard to an otherwise distributable amount which is not an Eligible Rollover Distribution.
- 4.6 Parties Eligible to Elect – For purposes of eligibility for an In-Plan Roth Rollover, the Plan will treat a Participant's surviving spouse Beneficiary or alternate payee spouse or alternate payee former spouse as a Participant. A non-spouse Beneficiary may not make an In-Plan Roth Rollover.

This Amendment has been executed and effective this _____ day of _____, 2020 .

By: _____
Signature

Title: Chair Board of Supervisors

Name of Plan: El Dorado County 457 Plan & Trust

Plan Number: 0041629