

Attachment B

September 21, 2004 Board Letter, Resolution 04-257 and
Replacement Benefits Plan

**SANTA BARBARA COUNTY
BOARD AGENDA LETTER**



Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

COPY

Agenda Number:
Prepared on: 9/1/04
Department Name: County Administrator
Department No.: 012
Agenda Date: 9/21/04
Placement: Administrative
Estimate Time: N-A
Continued Item: NO
If Yes, date from:

AP
Fate

TO: Board of Supervisors
FROM: Michael F. Brown
County Administrator *B7*
STAFF CONTACT: Jim Laponis, Deputy County Administrator
568-3400
SUBJECT: Retirement Replacement Benefits Plan

RECEIVED
SEP 21 2004
SANTA BARBARA COUNTY
EMPLOYEES RETIREMENT SYSTEM

Recommendations:

That the Board of Supervisors approve the attached resolution that:

- a. Adopts the Santa Barbara County Replacement Benefits Plan ("Plan");
- b. Delegates the administration of the Plan to the County Auditor-Controller;
- c. Approves the attached Memorandum of Understanding between the County and the Santa Barbara County Employees' Retirement System ("Retirement System MOU") and directs the County Administrator to execute the Retirement System MOU;
- d. Approves the attached Administrative Services Agreement between the County and the Santa Barbara County Employees' Retirement System and directs the County Administrator to execute the Administrative Services Agreement; and
- e. Authorizes the County Administrator to execute a Memorandum of Understanding ("District MOU" copy attached) with any District that participates in the Retirement System and elects to participate in the Plan.

Alignment with Board Strategic Plan:

Goal 3: The recommendations are primarily aligned with Goal No. 3.
A Strong, Professionally Managed County Organization.

Executive Summary and Discussion:

County employees that work at least half time, and employees of certain Districts, are members of the Santa Barbara County Employees' Retirement System. The Retirement System was established under the County Employees Retirement Law of 1937 – Government Code Section 31450 et.seq. Retirement benefits that are otherwise earned and payable to members of the Retirement System are limited by the rules of Section 415(b) of the Internal Revenue Code of 1986. Section 415(b) limits the amount of annual retirement benefits that a retirement system can pay to a member. A retirement system potentially would lose its qualified tax-deferred status, if it were to pay benefits in excess of the 415(b) limits. If a retirement replacement benefits plan were not in place and a retiree's pension exceeded the 415(b) limits, the County would likely be sued over the loss of those benefits. There is a very high likelihood that the County would lose such a case.

The current 415(b) limits are \$165,000 per year for safety members with at least 15 years of service, and for general members who retire at age 62 or older. The dollar limit is reduced for general members that retire before age 62, for example it drops to \$38,740 at age 40. (Attached is a chart that shows the dollar limit corresponding to earlier retirement ages.) The dollar limits are subject to an annual cost of living adjustment.

There are only a few County employees that are projected to reach the 415(b) limits. The greatest risk is for Probation Department employees, because they are entitled to safety retirement benefits from the Retirement System, but the Internal Revenue Service does not recognize them as safety. Retirement safety status allows an individual to retire with a relatively higher benefit at a younger age, compared to a general member. A safety member is entitled to 3% of his/her final compensation for each year of service at a retirement age of 55, while a general member is entitled to only 2% of his/her final compensation for each year of service at a retirement age of 57. Even though probation officers earn higher safety retirement benefits, their pensions will be subject to the declining 415(b) limits. For example, if a Probation Department employee earned a pension of \$140,000 at a retirement age of 57, the pension would be limited to \$113,422 by 415(b). If the Retirement System were to pay a benefit in excess of the 415(b) limit, it would jeopardize its qualified tax-deferred status.

In accordance with Section 415(m) of the Internal Revenue Code, the County is authorized to set up a retirement replacement benefits plan solely for the purpose of providing to retired members of the Retirement System and to their eligible survivors, that part of the annual retirement benefit that exceeds the limitations on benefits imposed by Section 415(b). Retirement replacement benefits plan are used by many other entities, in both the private and public sector, to replace benefits limited by section 415(b).

If a member's annual retirement benefit were to exceed the 415(b) limits and a retirement replacement benefits plan were in place, a member would receive an annual retirement benefit up to the 415(b) dollar limit from the retirement system and then the retirement replacement benefits plan would pay the amount that exceeds the 415(b) limit. The Retirement System's actuary has indicated that a retirement replacement benefits plan should not increase the County's total net cost of providing retirement benefits.

It is recommended that the Board establish and adopt the attached retirement plan entitled the "Santa Barbara County Replacement Benefits Plan ("Plan"), in accordance with Section 415(m) of the Internal Revenue Code. The Plan would be a benefit to the County and its employees because it would ensure that

its employees would receive the entire retirement benefits that they earn. The Auditor-Controller has agreed to administer the Plan.

1. Memorandum of Understanding and Administrative Services Agreement with the Retirement System

The most efficient way for the County to operate a retirement replacement benefits plan is to enter into a memorandum of understanding with the Retirement System setting out the responsibilities of the County and the Retirement System. Under the Plan the County shall pay replacement benefits from its general assets. In accordance with Internal Revenue Code Section 415(m), no assets of the Retirement System shall be used to pay replacement benefits and no assets of the Retirement System shall be used to pay the cost of administration or any other costs regarding the operation of the Plan.

Under the Retirement System MOU, the Retirement System would determine the amount of benefits for any affected retired member and surviving beneficiaries that would be paid from the Retirement System without the limits of Section 415(b), and would determine the amount of the benefits that can be paid to such persons in accordance with the limits of Section 415(b). The difference between these two amounts (if any) is the amount of replacement benefits payable by the County under the Plan.

The attached Administrative Services Agreement between the County and the Retirement System designates the Retirement System as the contract administrator for the Plan. The County does not have the current systems to make payments under the Plan, to provide proper withholding and reporting of payments from the Plan, and to provide proper communication to participants in the Plan without expending substantial additional amounts of money. The Retirement System has the existing systems to undertake these and all other parts of the administration of the Plan. In order to help ensure that members of the Retirement System are paid the full amount of their retirement benefits, from both the Retirement System and the Plan, the Retirement System is willing to act as a contract administrator for the Plan as long as its full cost of doing this are paid by the County.

2. Memorandum of Understanding with District(s)

Section 415(b) also limits the retirement benefits paid to the District employees that are members of the Retirement System. The most efficient way for Districts to provide a replacement benefit is to participate in the County's Plan and sharing the related costs. If a District were to elect to participate in the County's Plan, it would be appropriate for the County and the District to enter into a memorandum of understanding ("District MOU"), setting out the responsibilities of the County and the District with respect to the District's participation in such a plan. It is recommended that the County Administrator be authorized to enter into a District MOU (copy attached) with any District that opts to participate in the Plan.

Mandates and Service Levels: The Employees' Retirement System is not mandated, however it is considered a business necessity.

Fiscal and Facilities Impacts: The Retirement System's actuary has indicated that a retirement replacement benefits plan should not increase the County's total net cost of providing retirement benefits.

Special Instructions: Clerk of the Board is requested to send an executed copy of the adopted resolution to Oscar Peters, Employee's Retirement System Administrator.

Concurrence: Robert Geis, Auditor-Controller
Stephen Shane Stark, County Counsel
Oscar Peters, Employee's Retirement System Administrator

Attachments:

Board Resolution
Replacement Benefits Plan
Memorandum of Understanding with Retirement System
Administrative Services Agreement with Retirement System
Memorandum of Understanding with District(s)
Internal Revenue Code Section 415(b) dollar limit chart

2004 Annual 415 Dollar Limits - Employer Provided Benefits

Age	General Members
40	38,740.00
41	41,052.00
42	43,511.00
43	46,138.00
44	48,958.00
45	51,984.00
46	55,223.00
47	58,702.00
48	62,453.00
49	66,487.00
50	70,836.00
51	75,535.00
52	80,618.00
53	86,126.00
54	92,104.00
55	98,605.00
56	105,689.00
57	113,422.00
58	121,883.00
59	131,162.00
60	141,359.00
61	152,592.00
62	165,000.00
63	165,000.00
64	165,000.00
65	165,000.00

BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA BARBARA

A RESOLUTION TO
ADOPT THE SANTA BARBARA
COUNTY REPLACEMENT BENEFITS
PLAN ("PLAN"); APPROVE A
MEMORANDUM OF
UNDERSTANDING AND
ADMINISTRATIVE SERVICES
AGREEMENT WITH THE
RETIREMENT SYSTEM REGARDING
THE PLAN; AND AUTHORIZE
COUNTY ADMINISTRATOR TO
ENTER MEMORANDUM OF
UNDERSTANDING WITH DISTRICTS
WISHING TO PARTICIPATE IN THE
PLAN.

Resolution No. 04-257

WHEREAS, the Santa Barbara County Employees' Retirement System ("System") provides retirement benefits to employees of the County of Santa Barbara and of participating Districts, and

WHEREAS, the amount of benefits that can be provided to System members is limited by Section 415(b) of the Internal Revenue Code ("Code"), and

WHEREAS, it is the County's responsibility under the County Employees Retirement Law of 1937 ("CERL") to provide a program to replace benefits that cannot be paid by the System because of the limits of section 415(b) of the Code, and

WHEREAS, the Code provides that the County can establish a replacement benefits plan to pay the full benefits earned by System members whose benefits cannot be paid by System under Section 415(b), and

WHEREAS, such a replacement benefits plan is used by many other entities, in both the private and public sector, to replace benefits limited by section 415(b), and

WHEREAS, the County has been advised by the System that there should be no net increase in the total cost of retirement benefits to the County of providing such a replacement benefits plan, and

WHEREAS, it would be to the benefit of the County to ensure that all of its employees receive the entire retirement benefit which they would earn under the System but for the limits of the Code; and

WHEREAS, the most efficient way for the County to operate a replacement benefits plan is to enter into a memorandum of understanding and an administrative services agreement with System setting out the responsibilities of the County and System with respect to such a plan, and

WHEREAS, some Districts located within the County also participate in System and the most efficient way for Districts to provide replacement benefits is to participate in a replacement benefits plan that is established by the County, sharing the cost thereof,

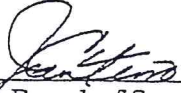
NOW THEREFORE BE IT RESOLVED, that the Board of Supervisors of the County of Santa Barbara hereby takes the following action:

1. Adopts the Santa Barbara County Replacement Benefits Plan ("Plan") as presented to the Board and attached to this Resolution.
2. Delegates the administration of the Plan to the County's Auditor-Controller.
3. Approves the memorandum of understanding (System MOU) between the County and the Santa Barbara County Employees' Retirement System as presented to the Board and attached to this Resolution, and authorizes and directs the County Administrator to enter into the System MOU.
4. Approves the attached Administrative Services Agreement between the County and the System and direct the County Administrator to execute the Agreement..
5. Authorizes the County Administrator to enter into a memorandum of understanding (District MOU) with any District that participates in System and that takes actions as required under the Plan to participate therein, which District MOU shall have terms and conditions as provided in the Plan and substantially as provided in the District MOU presented to the Board and attached to this Resolution.

BE IT FURTHER RESOLVED, that the Board of Supervisors of the County of Santa Barbara approves the effective date of the Plan to be September 21, 2004.

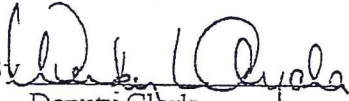
PASSED AND ADOPTED by the Board of Supervisors of the County of Santa
Barbara, State of California, this 21st day of September, 2004, by the following
vote:

AYES: Supervisor's Schwartz, Rose, Marshall, Gray and Centeno
NOES: None
ABSENT: None
ABSTAIN: None




Chair, Board of Supervisors
County of Santa Barbara

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

By 

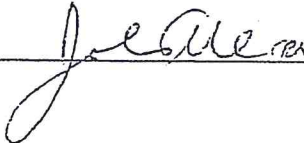
Deputy Clerk

Approved as to Form:
Stephen Shane Stark
County Counsel

By 

Deputy County Counsel

Approved as to Form:
Robert W. Geis C.P.A.
Auditor -Controller

By 

**SANTA BARBARA COUNTY
REPLACEMENT BENEFITS PLAN**

TABLE OF CONTENTS

Article 1 – Establishment and Status of Plan.....	1
Article 2 – Definitions	2
Article 3 – Participation	3
Article 4 – Retirement Benefits Payable	4
Article 5 – Participation in Plan by Districts	8
Article 6 – Exemption from Process; Assignments Prohibited	11
Article 7 – Administration	12
Article 8 – Source of Benefits	14
Article 9 – Miscellaneous	15
Article 10 – Amendment or Termination of Plan	15
APPENDIX 1 - PARTICIPATING DISTRICTS.....	17

**SANTA BARBARA COUNTY
REPLACEMENT BENEFITS PLAN**

Article 1 — Establishment and Status of Plan

1.1 Establishment

The County of Santa Barbara, State of California, hereby establishes and adopts a retirement plan entitled the "Santa Barbara County Replacement Benefits Plan" (the "Plan") to provide the annual retirement benefits otherwise earned by and payable to members of the Santa Barbara County Employees' Retirement System ("System") but which are limited by the rules of Section 415(b) of the Internal Revenue Code of 1986, as amended ("Code"). System is a tax qualified retirement plan under Section 401(a) of the Code and is a governmental plan as defined in Section 414(d) of the Code.

1.2 Effective Date

This Plan shall be effective, and benefits shall be payable from this Plan, for periods beginning as of September 21, 2004 or as of such later date on which this plan is made effective by the Board of Supervisors for retired Members who were employees of the County, or by a District for retired Members who were employees of the District, as provided herein.

1.3 "Portion of System"

This Plan shall be deemed a "portion" of System solely to the extent required by, and within the meaning of, Section 415(m)(3) of the Code as in effect on January 1, 2004, and not for any other purpose.

1.4 Purpose and Tax Status of this Plan

(a) In accordance with Section 415(m) of the Code, this Plan is solely for the purpose of providing to retired Members of System, and to their Eligible Survivors, that part of the annual benefit otherwise payable by System that exceeds the limitations on benefits imposed by Section 415(b) of the Code.

(b) It is intended that this Plan be treated as an "exempt governmental deferred compensation plan" described in Section 3121(v)(3) of the Code; therefore payments under this Plan are not included as wages subject to Social Security and Medicare taxes.

(c) No assets directly or indirectly relating to this Plan shall be held in trust, or otherwise held or set aside for the exclusive benefit of participants and their beneficiaries. This Plan shall be unfunded within the meaning of the federal

SANTA BARBARA COUNTY REPLACEMENT BENEFITS PLAN

income tax laws.

Article 2 — Definitions

2.1 Plan Definitions

Terms used in this Plan shall have the meaning set out below.

Beginning Date means the first date during a Plan Year with respect to which payment begins under this Plan.

Board of Supervisors means the Board of Supervisors of the County of Santa Barbara.

CERL means the County Employees Retirement Law of 1937 as set out in the California Government Code, as amended.

Code means the Internal Revenue Code of 1986, as amended, and any rules and regulations issued thereunder.

Commencement Date means the date of commencement of participation in this Plan as set out in Section 3.2 hereof.

County means the County of Santa Barbara, State of California.

District means any agency other than the County which is included in System pursuant to the CERL (including but not limited to the Superior Court of the County of Santa Barbara) and which has entered into an agreement with the County to participate in and be a sponsoring employer of this Plan in accordance with Article 5 hereof.

Effective Date means the first date with respect to which benefits are payable under this Plan as set out in Section 1.2 hereof.

Eligible Survivor means the surviving spouse, surviving child or children, surviving parent or parents, or surviving beneficiary designated by the Member, to whom benefits are payable from System on the death of the Member.

Member means a member, as defined in the CERL, of System who is a current or former employee of the County, or who is a current or former employee of a District.

Participant means a retired Member who participates in this Plan pursuant to Article 3 hereof. An Eligible Survivor is not a Participant in this Plan, but is a beneficiary who receives benefits under this Plan with respect to a Participant or

SANTA BARBARA COUNTY REPLACEMENT BENEFITS PLAN

Member.

Plan means this Santa Barbara County Replacement Benefits Plan.

Plan Administrator means the County of Santa Barbara, State of California.

Plan Year means the 12-month period beginning on January 1 and ending on December 31.

Section 415 means Section 415 of the Code.

System means the Santa Barbara County Employees' Retirement System.

Article 3 — Participation

3.1 System Members With Benefits Limited by Section 415(b)

(a) Participation in this Plan is limited solely to retired Members whose benefits payable by System are limited by Section 415(b) for periods on and after the Effective Date.

(b) Notwithstanding any other provision in this Plan, no person who is a Member and who is a current or former employee of a District shall be a Participant in this Plan, and no person who is an Eligible Survivor of such a Member, shall receive benefits under this Plan, unless and until that District participates in this Plan in accordance with all of the terms and conditions in Article 5 herein.

3.2 Commencement of Participation

Subject to the terms and conditions of this Plan, a retired Member shall commence participation in this Plan on the first date, on or after the Effective Date, for which his or her benefits payable from System cannot be fully paid because of the limits of Section 415(b). This date is the Commencement Date.

3.3 Cessation of Participation

(a) Participation in this Plan shall cease on the first date for which benefits payable to the retired Member from System are no longer limited by Section 415(b) and therefore can be fully paid by System. Participation shall also cease on the retired Member's death or when the retired Member's System benefits cease.

(b) If a District withdraws from this Plan (on a voluntary or mandatory basis), then any person who is a Member and who is a current or former employee of that District and who is a Participant in this Plan shall immediately cease such

SANTA BARBARA COUNTY REPLACEMENT BENEFITS PLAN

Participation and shall be entitled to no benefits under this Plan and no benefits shall be paid or due to such Participant on or after the date of such withdrawal. On the withdrawal of a District from this Plan, the District shall have sole and complete responsibility and liability for paying any benefits that may otherwise be due under this Plan to any person and the County shall have no responsibility or liability for any such benefits.

3.4 Recommencement of Participation

If a Participant has ceased participation in this Plan but at a later date the full payment of his or her System benefits is again limited by Section 415(b), he or she shall again commence participation as provided in Section 3.2 hereof and shall cease participation as provided in Section 3.3 hereof.

3.5 Eligible Survivors

(a) Any Eligible Survivor of a Member shall receive benefits under this Plan on the first date (on or after the Effective Date) on which benefits payable to him or her from System cannot be fully paid because of the limits of Section 415(b). The Eligible Survivor's benefits paid under this Plan shall cease on the first date for which his or her System benefit is no longer limited by Section 415(b) and therefore can be fully paid by System. The Eligible Survivor's benefits paid under this Plan shall recommence at a later date if full payment of his or her System benefits is again limited by Section 415(b), and shall thereafter cease on the next date that full payment of the System benefit is no longer limited by Section 415(b).

(b) If a District withdraws from the Plan (on a voluntary or mandatory basis), no benefits shall be paid or due under this Plan on or after the date of such withdrawal to the Eligible Survivor of any person who was a current or former employee of that District. On the withdrawal of a District from this Plan, the District shall have sole and complete responsibility and liability for paying any benefits that may otherwise be due under this Plan to any person and the County shall have no responsibility or liability for any such benefits.

3.6 No One Else Shall Receive Benefits

No one other than a person described in this Article shall receive any benefits under this Plan, except as required by qualified domestic relations orders or applicable law.

Article 4 — Retirement Benefits Payable

4.1 Amount of Benefit – Initial Determination

SANTA BARBARA COUNTY REPLACEMENT BENEFITS PLAN

(a) The benefit paid under this Plan in any Plan Year shall be initially determined for each Participant at the Participant's Commencement Date under the following steps.

(1) Determine the Participant's benefits payable at the time of the Commencement Date by System without regard to the limits of Section 415(b) and after taking into account the form of System benefit selected by the Participant .

(2) Determine the amount of the Participant's System benefits (if any) attributable, at the Commencement Date, to after- tax Member contributions, rollovers and direct transfers which are excluded from the limits of Section 415(b), after taking into account the form of System benefit selected by the Participant.

(3) Subtract the amount determined in (2) from the amount determined under (1); this is the amount subject to the Section 415(b) limits for the Participant.

(4) Determine the maximum benefits payable to the Participant from System under the then current benefit payment limits of Section 415(b), ignoring any benefits determined under (2). The determination under this step (4) shall take into account items such as the applicable dollar limits, the form of benefit payment chosen, the date that the Participant first became a Member, and whether he or she qualifies for special limits under Section 415(b) such as those for certain safety members.

(5) Subtract the amount determined under (4) from the amount determined under (3). If the amount in (3) is greater than that in (4), the difference is the initial benefit paid under this Plan for the Plan Year in which the Commencement Date occurs. If the amount in (4) is equal to or greater than the amount in (3), then no benefits are payable under this Plan.

(b) The total retirement benefit that will be paid to a Participant in any year will be the sum of the benefit paid under this Plan and the benefit paid by System, including amounts attributable to both County and after tax Member contributions. Therefore, the total retirement benefit that will be paid to a Participant under this Plan and System is the sum of the amounts in (2), (4) and (5) above. However, this Plan and System shall be separate entities and shall be administered separately. In addition, separate checks will be paid for the benefits under this Plan and System; the Plan Administrator shall provide separate tax reporting for the benefits paid under this Plan; and no assets of System shall be used, directly or indirectly, to pay for benefits or administration or any other costs of this Plan.

SANTA BARBARA COUNTY REPLACEMENT BENEFITS PLAN

(c) The Plan Administrator shall rely on the determination by System, for purposes of administering System in accordance with Section 415(b), of the amounts set out under each of steps (1) through (5) in paragraph (a) of this Section.

4.2 Amount of Benefit – Redeterminations

(a) As of each January 1 following the Participant's Commencement Date (or the date of commencement of benefits under this Plan for any Eligible Survivor), the Participant's, or Eligible Survivor's, benefit under this Plan shall be redetermined by following each of steps (1) through (5) of Section 4.1(a), but using the then current amounts determined by applying (i) cost of living adjustments and other changes (if any) to the benefits provided under System, and (ii) cost of living adjustments, and other changes (if any) to the maximum benefit limits established by Section 415(b).

(b) At the Plan Administrator's discretion, the amount of every Participant's and Eligible Survivor's benefits may be redetermined at a date other than January 1 for administrative convenience or if there is a material change in the rules governing the maximum benefit limits established under Section 415(b) or a material change in System benefits.

(c) The Plan Administrator shall rely on the redetermination by System, for purposes of administering System in accordance with Section 415(b), of any amounts in this Section.

4.3 Amount of Benefit – Eligible Survivors

Eligible Survivors shall be entitled to benefits under this Plan as follows:

(a) Eligible Survivors shall be entitled to benefits under this Plan only if they are entitled to benefits that are limited by Section 415(b) under System after the death of a Member or Participant.

(b) The benefit paid to an Eligible Survivor under this Plan shall be determined as if he or she were the Participant, substituting in the calculations under Sections 4.1 or 4.2, as applicable, the amounts due to the Eligible Survivor for the amounts due to the Participant.

4.4 Timing of Payments

(a) In any Plan Year, benefits shall only be paid under this Plan to a Participant or Eligible Survivor after the date in the Plan Year that the benefits paid to such person from System have reached the maximum annual benefit that System can pay under Section 415(b) for that Plan Year. The day after the

SANTA BARBARA COUNTY REPLACEMENT BENEFITS PLAN

maximum annual benefit payment from System is reached is the Beginning Date for the Participant or Eligible Survivor for that Plan Year. The Beginning Date may change from Plan Year to Plan Year as the amount payable under this Plan is redetermined.

(b) The amount of benefits provided under this Plan shall be paid monthly starting as of the Beginning Date and continuing through the end of the Plan Year, or (if earlier) the date that Participation ceases (or, for an Eligible Survivor, the date that they would cease if the Eligible Survivor were treated as a Participant)

(c) If a retired Participant is reemployed by the County or a District and on reemployment his or her System benefits cease, then his or her benefits under this Plan shall cease at the same time. Benefits shall resume (if at all) under this Plan when the Member again starts to receive benefits under System. At that time, a recalculation shall be made under Section 4.2 hereof, treating the first month for which System benefits resume as if it were a date of redetermination under Section 4.2. Similar rules shall apply if the benefits of an Eligible Survivor under System cease (or resume) under System for any reason, including without limitation ceasing to be an Eligible Survivor.

4.5 Form of Benefit Paid

The benefit paid to a Participant or Eligible Survivor under this Plan shall be paid in the same form as benefits are paid to him or her by System. For example, if the System benefit is paid as a 100% pension to the Member and 50% survivor benefit to his or her surviving spouse, the same benefit form shall be paid under this Plan.

4.6 Taxes

The Plan Administrator shall have full authority to withhold any and all taxes that are or may be due from any and all amounts paid under the Plan (including but not limited to income and payroll taxes), to pay them to the appropriate government agency, and to file and distribute necessary or appropriate tax reports and forms.

4.7 District Retirees and Eligible Survivors

No benefits shall be owed, or be paid, under this Plan to any Participant (or his or her Eligible Survivor) who is a former employee of a District unless and until the District has first paid to the County the amount that the County has invoiced the District for the benefits payable to such person, as provided in Article 5 hereof or has made other arrangements that are satisfactory to the County for payment to, or reimbursement of, the County for these benefits.

SANTA BARBARA COUNTY REPLACEMENT BENEFITS PLAN

4.8 Determination Solely By Plan Administrator

Subject to Sections 4.1 and 4.2 hereof, the Plan Administrator shall have sole authority and discretion to determine the amount of benefits (if any) payable under this Plan.

Article 5 -- Participation in Plan by Districts

5.1 Districts May Participate in this Plan

(a) Each District that is included in System pursuant to the CERL may, subject to the prior approval of the County, participate in and be a sponsoring employer of this Plan in order to provide benefits under this Plan for its former employees whose benefits from System are limited by Section 415(b).

(b) Each District that participates in, and is a sponsoring employer of, this Plan shall be listed on Appendix 1 to this Plan.

5.2 Actions Required for District to Participate in this Plan

A District may participate in and be a sponsoring employer of this Plan upon completion of all of the following actions:

(a) The County's Board of Supervisors adopts a resolution, by majority vote, that approves the District's participation in the Plan and approves a memorandum of understanding with respect to participation between the County and the District.

(b) The governing body of the District adopts a resolution, by majority vote, that provides that it will do the following: participate in and be a sponsor of this Plan; agree to be bound by all of the terms and conditions of this Plan including the administration of this Plan solely by the County; agree to promptly provide to the County as Plan Administrator all necessary and appropriate information and data for Plan administration; and agree to promptly pay to the County all amounts that the County invoices the District, including invoices for benefits payable hereunder, costs of administration, taxes, and any other reasonable and appropriate items.

(c) The governing body of the District enters into a memorandum of understanding with the County, as Plan Administrator, covering such issues that the County deems to be necessary or appropriate for the administration of this Plan, including but not limited to the payment of any amounts fixed and determined by the County for the payment of benefits under this Plan to former District employees, costs of administration, taxes, indemnification of the County

SANTA BARBARA COUNTY REPLACEMENT BENEFITS PLAN

for claims by current and former District employees, and any other reasonable and appropriate items.

(d) The District designates the County, as Plan Administrator, as its agent to hold and pay out any amounts received by the County from the District to pay benefits to former District employees and their Eligible Survivors. No such funds shall be held by the County in any manner on behalf of any Participant(s) or Eligible Survivor(s) but shall be held as general assets of the County in its capacity as agent of the District. If any funds paid to the County by a District are not paid by the County as benefits under this Plan or to provide for the cost of administration, for taxes or for other reasonable and appropriate items as determined by the County, such funds shall be returned to the District.

(e) The District designates the County, as Plan Administrator, as the agent of the District for purposes of paying taxes and filing such forms and returns as are required by the Internal Revenue Service and any other tax agency. The District executes and files such forms and other documents as are deemed necessary or appropriate by the Plan Administrator in connection with this designation.

(f) The District promptly pays all amounts fixed and determined by the County, as Plan Administrator, for benefits payable under this Plan to former employees of the District and their Eligible Survivors, costs of administration, taxes and other reasonable and appropriate items. Payment shall be at the time and in the manner that is fixed by the County.

5.3 Termination of District Participation in the Plan

(a) Voluntary Withdrawal

A District may cease participation in this Plan at any time with the written agreement of the County. In any event, a District that participates in and is a sponsor of this Plan may cease such participation and sponsorship by taking the following actions, if it has participated in and been a sponsor of this Plan for at least 5 years:

(i) The governing body of the District adopts a resolution, by majority vote, that provides that it withdraws from participation in and sponsorship of this Plan.

(ii) The District immediately pays to the County, as Plan Administrator, all amounts fixed and determined by the County for benefits payable under this Plan to former employees of the District and their Eligible Survivors, costs of administration, taxes and other reasonable and appropriate items. Payment shall be at the time and in the manner as is fixed by the County.

SANTA BARBARA COUNTY REPLACEMENT BENEFITS PLAN

(iii) The District enters into a written agreement that it will indemnify and hold harmless the County and all other Districts that participate in and sponsor this Plan from and against any and all direct or indirect liabilities, demands, claims, losses, costs and expenses including (without limitation) reasonable attorneys fees, arising out of (directly or indirectly) or resulting from the District's withdrawal from this Plan. The County shall determine the form and content of such agreement.

(iv) At the sole discretion of the County, the District provides security, that the County deems sufficient, to provide for the payment of any and all direct or indirect liabilities, demands, claims, losses, costs and expenses including (without limitation) reasonable attorneys fees, that may be suffered by the County and all other Districts that participate in this Plan arising out of (directly or indirectly) or resulting from the District's withdrawal from this Plan.

(b) Mandatory Withdrawal

(i) Any District that participates in and is a sponsor of this Plan shall cease such participation and sponsorship and be required to withdraw from this Plan if it fails, for 30 days after demand by the Plan Administrator to do any of the following: pay any amount that has been fixed and determined by the County or the Plan Administrator as due and owing from the District under this Plan; provide such information or data that is requested by the Plan Administrator for purposes of administering this Plan (including but not limited to filing reports with the Internal Revenue Service); otherwise fails to comply with any material provision of a memorandum of understanding or other written agreement that governs its participation in and sponsorship of this Plan.

(ii) In the case of a cessation of participation under clause (i) of this subsection (b), the District shall be deemed to have entered into a written agreement to indemnify and hold harmless the County and all other Districts that participate in and sponsor this Plan from any and all direct or indirect liabilities, demands, claims, losses, costs and expenses including (without limitation) reasonable attorneys fees, that may be suffered by the County and all other Districts that participate in this Plan that arise out of (directly or indirectly) or result from the District's withdrawal from this Plan.

(iii) In the case of a cessation of participation under clause (i) of this subsection (b), the District shall immediately pay to the County an administrative fee equal to the total direct and indirect cost to the County resulting from such cessation, as determined by the County in its sole discretion.

(c) Responsibility Of Districts For Benefits After Withdrawal

See Article 3 of this Plan with respect to the following effects of the withdrawal

SANTA BARBARA COUNTY REPLACEMENT BENEFITS PLAN

from this Plan by a District (on a voluntary or mandatory basis): (i) the cessation of Participation in this Plan by, and the cessation of benefits payable under this Plan to, persons who are current or former employees of such a District that withdraws from this Plan; (ii) the cessation of benefits payable under this Plan to persons who are Eligible Survivors of persons who are current or former employees of such District; and (iii) the sole responsibility and liability of such District for paying any benefits that would be due and payable to any such person under this Plan.

Article 6 — Exemption from Process; Assignments Prohibited

6.1 Prohibition Against Assignment

No benefit payable from the Plan to any Participant or Eligible Survivor or any other person shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void. No such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to execution, attachment or any process whatsoever for or against such person, except to such extent as may be permitted by Section 704.110 of the Code of Civil Procedure or as required by law.

Nothing in this Plan shall prohibit a Participant or Eligible Survivor from voluntarily agreeing to the assignment of benefits payable under this Plan. Such assignment shall be in accordance with rules established by the Plan Administrator and may be by payroll withholding or any other mechanism that is approved by the Plan Administrator, at its sole discretion.

6.2 Payment Upon Marital Dissolution or Legal Separation

The provisions of Section 6.1 will not apply in the case of any property settlements upon marital dissolution or legal separation which are made in accordance with a domestic relations order (DRO) issued in accordance with state domestic relations law. The provisions of Section 6.1 will apply in the case of any property settlement upon marital dissolution or legal separation which is made in accordance with a domestic relations order that is not qualified in accordance with this Section.

When the Plan Administrator receives a domestic relations order, the Plan Administrator shall:

(a) Notify the Participant (or Eligible Survivor) and the former spouse or dependent covered by the domestic relations order of the receipt of the order

SANTA BARBARA COUNTY REPLACEMENT BENEFITS PLAN

with a notice which explains the procedures for determining the qualified status of domestic relations orders; and

(b) Under procedures established by the Plan Administrator, determine the qualified status of the domestic relations order.

For purposes of this Section, "domestic relations order" or "DRO" means any judgment, decree, or order made in accordance with state domestic relations law which relates to the provision of child support, spousal maintenance, or marital property rights of any spouse, former spouse, child, or other dependent of a Participant. A domestic relations order shall not be considered a DRO with respect to this Plan if it is inconsistent with the Plan.

To the extent practicable, the rules under the CERL governing the treatment of a qualified domestic relations order shall equally govern payment of benefits under this Plan.

Article 7 — Administration

7.1 Powers of the Plan Administrator

The County shall administer the Plan, and in such capacity shall be the Plan Administrator. In addition to the powers of the Plan Administrator specified elsewhere in the Plan, the Plan Administrator shall be responsible for the general administration and interpretation of the Plan and for carrying out its provisions, and shall have such powers as may be necessary or appropriate to discharge its duties hereunder, including, without limitation, the following:

- (a) The Plan Administrator may adopt such Plan regulations, interpretations and procedures as it deems are necessary or appropriate for the effective operation of the Plan;
- (b) The Plan Administrator shall have the right to delegate administrative duties with regard to the management and operation of the Plan (except that no employee or agent of the Plan Administrator shall have the authority to modify this Plan or to make representations, warranties, or inducements that may provide benefits or any other payment other than as set forth in this Plan and the applicable Plan regulations). Any such representations, warranties, or inducements shall be null and void.
- (c) The Plan Administrator shall act with respect to this Plan separately and apart from any duties that he or she may have with respect to any other retirement plan.

SANTA BARBARA COUNTY REPLACEMENT BENEFITS PLAN

- (d) The Plan Administrator shall determine all issues relating to the rights of Participants and Eligible Survivors and any other persons, and any legal representatives thereof, under the terms of the Plan, including but not limited to eligibility, the amount and time of payment of the benefit (if any) and the calculation of any benefit under the Plan;
- (e) The Plan Administrator shall determine any factual questions arising in connection with the Plan's operation or administration after such investigation or hearing as the Plan Administrator deems necessary and appropriate;
- (f) The Plan Administrator may engage legal, administrative, actuarial, investment, accounting, consulting or other services as the Plan Administrator deems necessary or appropriate; and
- (g) The Plan Administrator may request and receive from Districts, Members and Participants and any other appropriate persons such information as necessary or appropriate for the proper administration of the Plan, including, without limitation, information to determine each Participant's eligibility to participate in the Plan and the benefits payable to each Participant or his or her Eligible Survivor.

7.2 Absolute Discretion of the Administrator.

The Plan Administrator (or any individual acting on its behalf) shall, in its sole and absolute discretion, construe and interpret the terms and conditions of the Plan, and any issue arising out of, relating to, or resulting from the administration and operation of the Plan, which interpretation or construction shall be final and binding on all parties, including, without limitation, any District, Member, Participant or Eligible Survivor. When making a determination or calculation, the Plan Administrator shall, in its sole and absolute discretion, be entitled to rely upon information furnished by Districts, Members, Participants and Eligible Survivors or other individuals acting on their behalf.

7.3 Costs of Administration

The costs of administration of the Plan shall be paid by the County and Districts. Such expenses shall include, but are not limited to, expenses for professional, legal, accounting, and other services and other necessary or appropriate costs of administration. No costs or expenses of administering this Plan shall be paid, directly or indirectly, by System. Further, no assets of System shall be used, directly or indirectly, to pay for benefits or administration or any other costs (direct or indirect) of this Plan.

7.4 Claims Review Procedure

SANTA BARBARA COUNTY REPLACEMENT BENEFITS PLAN

Any person who has a claim for benefits under this Plan and who does not receive such benefits must make a written claim for benefits with the Plan Administrator at the time and in the form and manner determined by the Plan Administrator. The Plan Administrator shall provide notice in writing to any person whose claim for benefits under the Plan is denied, and the Plan Administrator shall provide such person a review of its decision with respect to such claim, if requested in writing by the person who has made the claim. The decision of the Plan Administrator shall be final and binding on all parties.

7.5 Correction of Errors

If an error or omission is discovered in the administration of the Plan, the Plan Administrator shall take such necessary or appropriate and equitable action as may be necessary or appropriate to correct the error. Such action shall include but not be limited to taking all reasonable or necessary action to recover overpayments of benefits (plus interest) under the Plan.

7.6 Written Communications Mailed

All written notices or communications to Participants and Eligible Survivors and any other person who may be entitled to benefits under this Plan shall be effective when sent by first class United States mail, postage prepaid, to the individual's last known address. Any notice or document required to be given to or filed with the Plan Administrator shall be properly given or filed if delivered or sent by first class United States mail, postage prepaid, to the County's Auditor-Controller.

Article 8 — Source of Benefits

8.1 Unfunded Plan

(a) The Plan shall be unfunded within the meaning of the federal tax laws. Ownership of any assets, whether cash or other investments which might be used to pay any amount under the Plan, shall at all times remain solely in the County or in the Districts (with the County acting as their agent). Participants and Eligible Survivors and any other persons who might be entitled to amounts under this Plan shall not have any property interest, preferred claims, liens or any other beneficial interest whatsoever in any assets of the County or Districts, and shall have only general creditor status with respect to the County and Districts. Any rights created under this Plan shall be mere unsecured contractual rights against the County, or the District, by which the Participant was formerly employed.

(b) Benefits due under this Plan shall be paid by the County from its general assets, which are subject to the claims of the County's general creditors; with

SANTA BARBARA COUNTY REPLACEMENT BENEFITS PLAN

respect to benefits due to former employees of the Districts (or their Eligible Survivors), the County shall pay benefits from its general funds after receiving money from the Districts to pay these benefits; any amounts received from a District shall be held as general assets of the County, which are subject to the claims of the County's general creditors. The County shall also pay all costs, charges and expenses relating to this Plan from the same asset sources.

8.2 No Employee Deferrals

No employee contributions or deferrals shall be made or allowed under the Plan at any time. In accordance with Section 415(m), no election to defer compensation under this Plan shall be provided, at any time or in any manner, to any person.

8.3 No Use of System Assets

County and District assets used to provide benefits under this Plan shall not be commingled with the monies of System or any other qualified plans, nor shall this Plan ever receive or use any assets of System.

Article 9 — Miscellaneous

9.1 Applicable Law

This Plan shall be governed by the laws of the State of California and applicable federal law.

9.2 No Service Rights

Nothing in this Plan or in any resolution or regulation concerning this Plan shall be construed as giving to a Participant any right to be retained in the service of the County or any District.

9.3 Unclaimed Benefits and Accumulations

In any situation where benefits are payable under this Plan, a reasonable search, including mailing of a registered letter to the last known address, shall be made to ascertain the whereabouts of the Participant or Eligible Survivor.

If the person or persons entitled thereafter come forward and request payment and establish such entitlement, the amounts then due, including appropriate retroactive payments from the Commencement Date (but without payment of any interest thereon), shall be paid accordingly.

SANTA BARBARA COUNTY REPLACEMENT BENEFITS PLAN

9.4 Benefit Limits

(a) Nothing in this Plan shall be construed as creating an entitlement to any benefits greater than the difference between the amount of benefits that can be paid by System without regard to the limitations of Section 415 and what can be provided by System taking into account the limitations of Section 415.

(b) Payment of a benefit under this Plan does not create any eligibility for any additional benefits provided by this Plan, by System or under any other program maintained by the County or Districts.

Article 10 — Amendment or Termination of Plan

10.1 Right to Amend

The County has the right to amend this Plan at any time and in any manner for any reason whatsoever and may do so in its sole discretion. However, any amendment to this Plan that affects benefits paid shall be commensurate with the purposes of this Plan to provide Participants and Eligible Survivors with retirement benefits that are otherwise earned by and payable to members of System but which are limited by the rules of Section 415 of the Code.

10.2 Preservation of System Tax Status

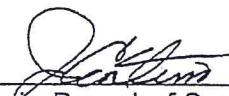
This Plan shall not in any way jeopardize the tax qualified status of System. To maintain this qualified status, the County shall take all necessary or appropriate action, including but not limited to amending this Plan and the rules governing this Plan, solely for the purpose of complying with applicable federal tax laws and regulations.

SANTA BARBARA COUNTY REPLACEMENT BENEFITS PLAN

10.3 Preservation of Section 415(m) Status

The County shall have the authority to make appropriate amendments to the Plan in order to accommodate changes in the Internal Revenue Code and United States Treasury Regulations in a manner that will preserve the status of the Plan under Section 415(m) of the Internal Revenue Code.

IN WITNESS WHEREOF, THIS PLAN IS EFFECTIVE AS OF SEPTEMBER 21, 2004 AND HAS BEEN EXECUTED ON THE 21st DAY OF September 2004.



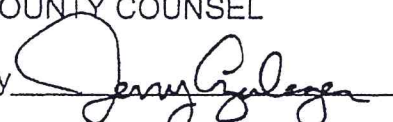
Chair, Board of Supervisors
County of Santa Barbara

ATTEST:
MICHAEL F. BROWN
CLERK OF THE BOARD

By 

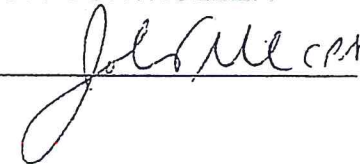
Deputy Clerk

Approved as to Form:
STEPHEN SHANE STARK
COUNTY COUNSEL

By 

Deputy County Counsel

Approved as to Form:
ROBERT W. GEIS C.P.A.
AUDITOR-CONTROLLER

By 

C.P.A.

SANTA BARBARA COUNTY REPLACEMENT BENEFITS PLAN

APPENDIX 1 – PARTICIPATING DISTRICTS

NAME OF DISTRICT	FIRST DATE OF PARTICIPATION IN THE REPLACEMENT BENEFITS PLAN	DATE SIGNED MOU WITH COUNTY