

AMENDMENT TO
SEDGWICK COUNTY, KANSAS

SECTION 457(b) DEFERRED COMPENSATION PLAN
AND
TRUST AGREEMENT
Dated December 21, 2011

Pursuant to Section 11.02 of the Section 457(b) Deferred Compensation Plan and Trust Agreement ("the Plan") adopted by the Board of County Commissioners of Sedgwick County, Kansas ("the Board") on December 21, 2011, the following amendments to the Plan are made effective January 1, 2016, consistent with the Board's vote on December 16, 2015, to authorize in-plan Roth transfers.

1. Section H. of the Adoption Agreement Great-West Retirement Services Section 457(b) Eligible Deferred Compensation Plan for Governmental Employers, effective September 4, 2007 ("Adoption Agreement"), is hereby amended to add the following:

4. ☒ If Box 1 of Section K is checked, eligible rollovers contributions of designated Roth contributions made from an applicable retirement plan described in §402A(e)(1) SHALL BE allowed.

2. The Adoption Agreement is hereby amended to add the following:

K. ROTH CONTRIBUTIONS. *(Check Box 1 OR Box 2.)*

1. ☒ Participant Roth Contributions SHALL BE allowed after January 1, 2016.
2. ☐ Participant Roth Contributions SHALL NOT BE allowed.

3. The Adoption Agreement is hereby amended to add the following:

L. IN-PLAN ROTH ROLLOVERS. *(Check all that apply.)*

1. ☒ If box 1 of Section K is checked, In-Plan Roth Rollovers of eligible rollover distributions SHALL BE allowed in accordance with Section 6.01(b) beginning on January 1, 2016.
2. ☒ If box 1 of Section K is checked, In-Plan Roth Rollovers of amounts otherwise not distributable SHALL BE allowed in accordance with Section 6.01(c)
3. ☐ In-Plan Roth Rollover SHALL NOT BE allowed.

4. Section 1.01 of the Plan Document is hereby amended to read as follows:

1.01 "Account Balance." The bookkeeping account maintained with respect to each Participant which reflects the value of the deferred Compensation credited to the Participant, including the Participant's Annual Deferrals, the Participant's Designated Roth Contributions if allowed by the plan, the earnings or loss of the Trust Fund (net of Fund expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to the Participant or the Participant's Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant's death, then each Beneficiary's share of the Account Balance shall be treated as a separate account for each Beneficiary. The Account Balance includes any account established under Article VI for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant's death, and any account or accounts established for an Alternate Payee (as defined in Code § 414(p)(8)).

5. Section 1.04 of the Plan Document is hereby amended to read as follows:

1.04 "Annual Deferral." The amount of Compensation deferred in any taxable year as a pre-tax deferral, Roth contribution, or both, if allowed by the Plan.

6. Section 2.13 of the Plan Document is hereby amended to read as follows:

2.13 Designated Roth Contributions.

- (a) Designated Roth Contributions. Beginning March 1, 2012, or as soon thereafter as administratively feasible, each Participant may make designated Roth Contributions; provided, however, that a Participant shall not make a Roth Contribution to the Plan for any Plan Year to the extent such Roth Contribution would exceed the limitations of Article III.

- (1) General Application. This Subsection will apply to designated Roth Contributions beginning with the effective date specified in the Adoption Agreement.

- (i) As of the effective date under (1), the Plan will accept elective deferrals designated as Roth Contributions made on behalf of Participants. A Participant's designated Roth Contributions will be allocated to a separate account maintained for such deferrals as described in (2).

- (ii) Unless specifically stated otherwise, designated Roth Contributions will be treated as elective deferrals for all purposes under the Plan.
- (2) Separate Accounting. Contributions and withdrawals of designated Roth Contributions will be credited and debited to the Roth Contribution Account maintained for each Participant.
 - (i) The Plan will maintain a record of the amount of designated Roth Contributions in each Participant's Roth Contribution Account.
 - (ii) Gains, losses and other credits or charges must be separately allocated on a reasonable and consistent basis to each Participant's Roth Contribution Account and the Participant's other accounts under the Plan.
 - (iii) No contributions other than designated Roth Contributions and properly attributable earnings will be credited to each Participant's Roth Contribution Account.
- (3) Designated Roth Contributions Defined. A Designated Roth Contribution is an elective deferral that is:
 - (i) Designated irrevocably by the Participant at the time of the deferral election as a Roth Contribution that is being made in lieu of all or a portion of the pre-tax deferrals the Participant is otherwise eligible to make under the Plan; and
 - (ii) Treated by the Employer as includible in the Participant's income at the time the Participant would have received that amount in cash if the Participant had not made a deferral election

7. Section 5.10 (a) of the Plan document is hereby amended to read as follows:

- (a) General. Notwithstanding any provision of the Plan to the contrary that would otherwise limit an election under this Section, a Participant, the surviving spouse of a Participant (or a Participant's former spouse who is the Alternate Payee under a qualified domestic relations order as defined in Code § 414(p)) (herein collectively called "distributee") may elect, at the time and

in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan in a direct rollover or an in-plan Roth direct rollover. A non-spousal Beneficiary may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution paid in a direct rollover to an inherited IRA referred to in Code § 402(c)(11).

8. Section 6.01 of the Plan document is hereby amended to read as follows:

6.01 Eligible Rollover Contributions to the Plan.

- (a) If so specified in the Adoption Agreement, and only to the extent so specified, a Participant and who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan. The Administrator may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with Code § 402 and to confirm that such plan is an eligible retirement plan within the meaning of Code § 402(c)(8)(B).
- (b) In Plan Roth Rollover. Beginning March 1, 2012, or as soon thereafter as administratively feasible, a Participant may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid to the Plan in an in-plan Roth rollover to the Participant's Designated Roth Contribution Account. A loan transferred in an in-plan Roth direct rollover without changing the repayment schedule is not treated as a new loan for purposes of Code § 72(p). The amount rolled over in an in-plan Roth direct rollover continues to be taken into consideration for mandatory distributions.
- (c) If so specified in the Adoption Agreement and only to the extent so specified, a Participant may elect, at the time and in the manner prescribed by the Plan Administrator, to have any amount not otherwise distributable under the plan to be transferred to a designated Roth account maintained for the benefit of the Participant in accordance with Code § 402A(c)(4)(E). A loan transferred without changing the repayment schedule is not treated as a new loan for purposes of Code § 72(p). The amount transferred continues to be taken into consideration for mandatory distributions.
- (d) For purposes of Subsections (a) and (b) of Sections 6.01, an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, as defined in Section 5.10(c), except that an eligible rollover distribution does not include:

- (1) any installment payment for a period of 10 years or more,
 - (2) any distribution made as a result of an unforeseeable emergency or other distribution which is made upon hardship of the employee,
 - (3) any deemed distribution under the provisions of Code § 72(p),
 - (4) the portion of any distribution that is not includable in gross income,
 - (5) any distribution of excess deferrals or
 - (6) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Code § 401(a)(9).
- (e) Notwithstanding any other provisions of Section 6.01 of the Plan, and solely for purposes of applying the rollover provisions of the Plan, 2009 RMDs and Extended 2009 RMDs, will be treated as eligible rollover distributions.
- (f) The Plan shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is not an eligible governmental plan under Code § 457(b). The Plan shall establish and maintain a separate account for any Roth Contributions paid to the Plan from any eligible retirement plan that is not an eligible governmental plan under Code § 457(b). In addition, the Plan shall establish and maintain for the Participant a separate account for any eligible rollover distribution including paid to the Plan from any eligible governmental plan under Code § 457(b). The Plan shall establish and maintain a separate account for any Roth Contributions paid to the Plan from any eligible retirement plan that is an eligible governmental plan under Code § 457(b). The Plan shall establish and maintain for the Participant a separate account for any in-plan Roth rollover made within the Plan.
- (g) Notwithstanding the above, unless otherwise provided by the Employer in the Adoption Agreement, the Plan will accept a rollover contribution from another Roth Contribution Account under an applicable retirement plan described in § 402A(e)(1) and only to the extent the rollover is permitted under the rules of § 402(c) and § 1.402A-2 of the Treasury regulations. The Plan Administrator or other responsible party must provide the Plan with a statement indicating the first year of the five-taxable-year period and the portion of the rollover distribution that is attributable to investment in the contract under Code § 72 or a statement that the distribution is a qualified distribution.

9. Article XII. of the Plan Document is hereby amended to read as follows:

XII. TAX TREATMENT OF AMOUNTS CONTRIBUTED

It is intended that pursuant to Code § 457, the amount deferred shall not be considered current compensation for purposes of federal income taxation except to the extent that the amount deferred is Designated Roth Contributions. This rule shall also apply to state income taxation unless applicable state laws provide otherwise. Such amounts shall, however, be included as compensation to the extent required under the Federal Insurance Contributions Act (FICA). Payments under this Plan shall supplement retirement and death benefits payable under the Employer's group insurance and retirement plans, if any.

Executed this _____ day of _____, 2016.

EMPLOYER'S AUTHORIZED SIGNOR:

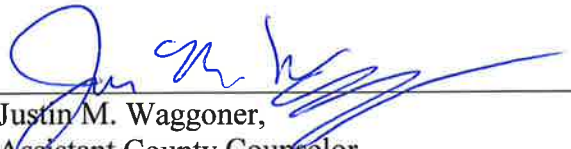
BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

JAMES M. HOWELL, Chairman
Commissioner, Fifth District

ATTEST:

Kelly B. Arnold, County Clerk

APPROVED AS TO FORM:



Justin M. Waggoner,
Assistant County Counselor