

RESOLUTION NO. 2003-01
RESOLUTION ADOPTING AMENDMENT TO

DEFERRED COMPENSATION PLAN

WHEREAS, the Nassau County Board of County Commissioners
(hereinafter "Employer") heretofore established the Hartford 457 Plan
(hereinafter "Plan"); and

WHEREAS, the Employer desires to amend the Plan to conform with the final and temporary Treasury regulations under §401(a)(9) of the Internal Revenue Code as published in the Federal Register on April 17, 2002, 74 FR 18987; and

WHEREAS, this amendment shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this amendment.

NOW THEREFORE, BE IT RESOLVED, that, effective as indicated herein, the Employer hereby amends the Plan as follows:

PART I – Plan Document Amendment – Section 4.7 of the Plan is replaced in its entirety with the following:

"Section 4.7 Minimum Distribution Requirements.

(a) General Rules

- (i) **Effective Date.** Unless an earlier effective date is specified in Part II below, the provisions of this article will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
- (ii) **Coordination with Minimum Distribution Requirements Previously in Effect.** If the Plan specifies an effective date of this article that is earlier than calendar years beginning with the 2003 calendar year, required minimum distributions for 2002 under this article will be determined as follows. If the total amount of 2002 required minimum distributions under the plan made to the distributee prior to the effective date of this article equals or exceeds the required minimum distributions determined under this article, then no additional distributions will be required to be made for 2002 on or after such date to the distributee. If the total amount of 2002 required minimum distributions under the plan made to the distributee prior to the effective date of this article is less than the amount determined under this article, then required minimum distributions for 2002 on and after such date will be determined so that the total amount of required minimum distributions for 2002 made to the distributee will be the amount determined under this article.
- (iii) **Precedence.** The requirements of this article will take precedence over any inconsistent provisions of the plan.
- (iv) **Requirements of Treasury Regulations Incorporated.** All distributions required under this article will be determined and made in accordance with the Treasury regulations under section 401(a)(9) of the Internal Revenue Code.
- (v) **TEFRA Section 242(b)(2) Elections.** Notwithstanding the other provisions of this article, distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the plan that relate to section 242(b)(2) of TEFRA.

(b) Time and Manner of Distribution.

- (i) **Required Beginning Date.** The participant's entire interest will be distributed, or begin to be distributed, to the participant no later than the participant's required beginning date.
- (ii) **Death of Participant Before Distributions Begin.** If the participant dies before distributions begin, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
- (1) If the participant's surviving spouse is the participant's sole designated beneficiary, then, except as provided in the adoption agreement, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age 70½, if later.
 - (2) If the participant's surviving spouse is not the participant's sole designated beneficiary, then, except as provided in the adoption agreement, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died.
 - (3) If there is no designated beneficiary as of September 30 of the year following the year of the participant's death, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.
 - (4) If the participant's surviving spouse is the participant's sole designated beneficiary and the surviving spouse dies after the participant but before distributions to the surviving spouse begin, this section 4.7(b)(ii), other than section 4.7(b)(ii)(1), will apply as if the surviving spouse were the participant.

For purposes of this section 4.7(b)(ii) and section 4.7(d), unless section 4.7(b)(ii)(4) applies, distributions are considered to begin on the participant's required beginning date. If section 4.7(b)(ii)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under section 4.7(b)(ii)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the participant before the participant's required beginning date (or to the participant's surviving spouse before the date distributions are required to begin to the surviving spouse under section 4.7(b)(ii)(1)), the date distributions are considered to begin is the date distributions actually commence.

- (iii) **Forms of Distribution.** Unless the participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with sections 4.7(c) and 4.7(d) of this article. If the participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the Code and the Treasury regulations.

(c) Required Minimum Distributions During Participant's Lifetime.

- (i) **Amount of Required Minimum Distribution For Each Distribution Calendar Year.** During the participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:
- (1) the quotient obtained by dividing the participant's account balance by the distribution period in the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the participant's age as of the participant's birthday in the distribution calendar year; or

(2) if the participant's sole designated beneficiary for the distribution calendar year is the participant's spouse, the quotient obtained by dividing the participant's account balance by the number in the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the participant's and spouse's attained ages as of the participant's and spouse's birthdays in the distribution calendar year.

(ii) **Lifetime Required Minimum Distributions Continue Through Year of Participant's Death.** Required minimum distributions will be determined under this section 4.7(c) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the participant's date of death

(d) Required Minimum Distributions After Participant's Death.

(i) Death On or After Date Distributions Begin.

(1) **Participant Survived by Designated Beneficiary.** If the participant dies on or after the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the participant's death is the quotient obtained by dividing the participant's account balance by the longer of the remaining life expectancy of the participant or the remaining life expectancy of the participant's designated beneficiary, determined as follows:

(I) The participant's remaining life expectancy is calculated using the age of the participant in the year of death, reduced by one for each subsequent year.

(II) If the participant's surviving spouse is the participant's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(III) If the participant's surviving spouse is not the participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the participant's death, reduced by one for each subsequent year.

(2) **No Designated Beneficiary.** If the participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the participant's death is the quotient obtained by dividing the participant's account balance by the participant's remaining life expectancy calculated using the age of the participant in the year of death, reduced by one for each subsequent year.

(ii) Death Before Date Distributions Begin.

(1) **Participant Survived by Designated Beneficiary.** Except as provided in this section 4.7, if the participant dies before the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the participant's death is the quotient obtained by dividing the participant's account balance by the remaining life expectancy of the participant's designated beneficiary, determined as provided in section 4.7(d)(i).

(2) **No Designated Beneficiary.** If the participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the

participant's death, distribution of the participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

- (3) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin.** If the participant dies before the date distributions begin, the participant's surviving spouse is the participant's sole designated beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under section 4.7(b)(ii)(1), this section 4.7(d)(ii) will apply as if the surviving spouse were the participant.

(e) 5-Year Rule

- (i) If the participant dies before distributions begin and there is a designated beneficiary, distribution to the designated beneficiary is not required to begin by the date specified in section 4.7(b)(ii) of the plan, but the participant's entire interest will be distributed to the designated beneficiary by December 31 of the calendar year containing the fifth anniversary of the participant's death. If the participant's surviving spouse is the participant's sole designated beneficiary and the surviving spouse dies after the participant but before distributions to either the participant or the surviving spouse begin, this section will apply as if the surviving spouse were the participant.
- (ii) Participants or beneficiaries may elect on an individual basis whether the 5-year rule in section 4.7(e)(i) or the life expectancy rule in sections 4.7(b)(ii) and 4.7(d)(ii) of the plan applies to distributions after the death of a participant who has a designated beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under section 4.7(b)(ii) of the plan, or by September 30 of the calendar year which contains the fifth anniversary of the participant's (or, if applicable, surviving spouse's) death. If neither the participant nor beneficiary makes an election under this paragraph, distributions will be made in accordance with sections 4.7(b)(ii), 4.7(d)(ii) and 4.7(e)(i) of the plan.
- (iii) A designated beneficiary who is receiving payments under the 5-year rule in section 4.7(e)(i) may make a new election to receive payments under the life expectancy rule until December 31, 2003, provided that all amounts that would have been required to be distributed under the life expectancy rule for all distribution calendar years before 2004 are distributed by the earlier of December 31, 2003 or the end of the 5-year period.

(f) Definitions.

- (i) **Designated beneficiary.** The individual who is designated as the beneficiary under section 5.1 of the plan and is the designated beneficiary under section 401(a)(9) of the Internal Revenue Code and section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.
- (ii) **Distribution calendar year.** A calendar year for which a minimum distribution is required. For distributions beginning before the participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the participant's required beginning date. For distributions beginning after the participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under section 4.7(b)(ii). The required minimum distribution for the participant's first distribution calendar year will be made on or before the participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.
- (iii) **Life expectancy.** Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.
- (iv) **Participant's account balance.** The account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year)

increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(v) **Required beginning date.** The required beginning date means the April 1st following the later of (i) the calendar year in which the Participant attains age 70-1/2 or (ii) the calendar year in which the Participant retires.

PART II – Plan Amendment Optional Effective Date

Section 1. Effective Date of Plan Amendment for Section 401(a)(9) Final and Temporary Treasury Regulations.

If elected below, the provisions of this amendment will apply as well for purposes of determining required minimum distributions for the 2002 distribution calendar year.

Option 1: Yes, this amendment will apply to the 2002 distribution calendar year for distributions that are made on or after _____, 2002.

Option 2: No, this amendment will not apply to the 2002 distribution calendar year.

If no option is selected, Option 2 shall be deemed to be selected.

IN WITNESS WHEREOF, the Employer has executed this Plan Amendment this 8th day of January, 2003.

Nassau County Board of County Commissioners
(Name of Employer)

SEAL

by Floyd L. Vanzant
Floyd L. Vanzant

its Vice Chairman
(Title)

Attest:

J. M. "Chip" Oxley, Jr.
(Title)

J. M. "Chip" Oxley, Jr.
Ex-Officio Clerk

(Witness)

Approved as to Form by the
Nassau County Attorney

Michael S. Mullin
Michael S. Mullin