RESOLUTION 2004-178

RESOLUTION ADOPTING AMENDMENT TO

DEFERRED COMPENSATION PLAN

WHEREAS, the Nassau County Board of County Commissioners

(hereinafter "Employer") heretofore established the <u>DEFERRED</u> COMPENSATION PLAN

(hereinafter "Plan") effective <u>DECEMBER 8, 2004</u>; and

WHEREAS, the Employer desires to amend the Plan to provide for the distribution of Deferred Compensation in excess of the limitations set forth in the Plan and under the Code; and

WHEREAS, the Employer desires to amend the Plan to allow for the distribution of amounts attributable to Rollover Contributions to a Participant upon request in conformance with the Internal Revenue Service Revenue Ruling 2004-12; and

WHEREAS, this amendment is intended as good faith compliance with the requirements of the Revenue Ruling;

NOW THEREFORE, BE IT RESOLVED, that, effective January 1, 2004, the Employer hereby amends the Plan by adding the following Section 2.10:

"2.10 Excess Deferrals

- (a) Excess Deferrals The term "excess deferral" means any amount deferred under the Plan for the taxable year of a Participant that exceeds the maximum deferral limitations set forth in this Section 2.0 and any amount that exceeds the individual limitation under Treasury Regulation §1.457-5.
- (b) Deferrals in Excess of Plan Limitations Any excess deferral resulting from a failure of the Plan to apply the limitations of this Section 2.0 (determined without regard to amounts deferred to an Eligible Deferred Compensation Plan of another employer and without regard to the individual limitation under Treasury Regulation §1.457-5) will be distributed to the Participant, with allocable net income, as soon as administratively practicable after the Plan determines that the amount is an excess deferral. For purposes of determining whether there is an excess deferral resulting from a failure of the Plan to apply the limitations of Section 2.0, all Eligible Deferred Compensation Plans under which an individual participates by virtue of his or her relationship with the Employer are treated as a single plan (without regard to any differences in funding).
- (c) Deferrals in Excess of Individual Limitation A Participant may assign to this Plan any excess deferral that is a result solely of a failure of the Participant to comply with the individual limitation under Treasury Regulation §1.457-5 for a taxable year. Any such excess deferral will be distributed to the Participant, with allocable net income, as soon as administratively practicable after the Participant notifies the Plan and the Plan determines that the amount is an excess deferral for the applicable tax year."

BE IT FURTHER RESOLVED, that, effective with the issuance of Revenue Ruling 2004-12, the Employer hereby amends the Plan by adding the following paragraph to Section 4.1 as follows:

"Distribution of Rollover Contributions. Notwithstanding any provision of the Plan to the contrary, to the extent amounts attributable to Rollover Contributions have been separately accounted under the Plan, a Participant may elect to receive a single sum distribution of all or a portion of the Participant's Participation Account attributable to Rollover Contributions at any time."

IN WITNESS WHEREOF, the Employer has executed this Plan Amendment this

<u>818</u> day of <u>DECEMBER</u> , <u>2004</u>

NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS

SEAL

(Name of Employer) Floyd L. Vanzant lts <u>Chairman</u> (Title)

Attes itle)

(Witness)

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

Approved as to form by the Nassau County Attorney:

Michael S. Mullin