

257.
2002-0167

**INTRODUCED BY: ALBERT D. LAQUE, PARISH PRESIDENT
(DEPARTMENT OF FINANCE)**

ORDINANCE NO. 02-5-5

An ordinance to approve and authorize the execution of the restated plan document for the National Association of Counties Deferred Compensation Program to incorporate the changes in the program resulting from the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA").

WHEREAS, the Enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001 contains significant reforms for deferred compensation plans established under Internal Revenue Code 457; and,

WHEREAS, the Deferred Compensation Plan Administrators, Nationwide Retirement Solutions, has issued a restated Deferred Compensation Plan Document Pursuant to EGTRRA to ensure that the plan complies with the new Internal Revenue Code regulations.

THE ST. CHARLES PARISH COUNCIL HEREBY ORDAINS:

SECTION I. That the attached document for the National Association of Counties, Deferred Compensation Program is hereby approved and accepted for the Administration of St. Charles Parish Deferred Compensation Plan.

- 1) Restatement to Plan Document previously approved by Ordinance No. 93-5-10 and amended by Ordinance No. 97-1-5 and Ordinance No. 98-1-4; this restatement is attached hereto and made a part hereof.

The foregoing ordinance having been submitted to a vote, the vote thereon was as follows:

YEAS: RAMCHANDRAN, FAUCHEUX, HILAIRE, FABRE, ABADIE, AUTHEMENT, BLACK, MARINO, MINNICH

NAYS: NONE

ABSENT: NONE

And the ordinance was declared adopted this 6th day of May, 2002, to become effective five (5) days after publication in the Official Journal.

Deferred Compensation Program

CHAIRMAN: *Clayton Faulkner*

SECRETARY: *Barbara J. Jure*

DLVD/PARISH PRESIDENT *May 7, 2002*

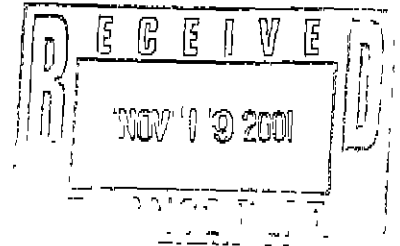
APPROVED DISAPPROVED:

PARISH PRESIDENT *Albert D. Laque*

RETD/SECRETARY *May 7, 2002*

AT *3:30pm* RECD BY. *BJJ*

**NATIONAL ASSOCIATION OF COUNTIES
DEFERRED COMPENSATION PROGRAM**



THE DEFERRED COMPENSATION PLAN FOR PUBLIC EMPLOYEES

**RESTATED PLAN DOCUMENT
Effective January 1, 2002**

The PLAN consists of the provisions set forth in this document, and is applicable to each PUBLIC EMPLOYEE who elects to participate in the PLAN. The PLAN is effective as to each such PUBLIC EMPLOYEE upon the date he becomes a "PARTICIPANT" by entering into and filing with the ADMINISTRATOR the PARTICIPATION AGREEMENT referred to herein.

**ARTICLE I
Definitions**

1.01. The following terms shall, for purposes of this PLAN, have the meaning set forth below.

- (a) ADMINISTRATOR means the organization selected by the PLAN SPONSOR to administer the PLAN.
- (b) BENEFICIARY means the person properly designated by a PARTICIPANT to receive the PARTICIPANT'S benefit under this PLAN.
- (c) COMPENSATION means all payments made by the PLAN SPONSOR as remuneration for services rendered, including salaries, fees, etc.
- (d) DEFERRED COMPENSATION means the amount of COMPENSATION that a PARTICIPANT elects to defer into the PLAN under the PARTICIPATION AGREEMENT.
- (e) DEFERRED COMPENSATION ACCOUNT means the separate bookkeeping account maintained by the ADMINISTRATOR within the PLAN for a PARTICIPANT for amounts of COMPENSATION deferred into the PLAN.
- (f) ELIGIBLE ROLLOVER ACCOUNT means the separate bookkeeping account maintained by the ADMINISTRATOR within the PLAN for a PARTICIPANT for amounts of ELIGIBLE ROLLOVER DISTRIBUTIONS as defined in Section 1.01(g).

- (p) **PLAN SPONSOR** means the above referenced county or any of its agencies, departments, subdivisions or instrumentalities for which services are performed by a PARTICIPANT.
- (q) **PLAN YEAR** means the calendar year in which the PLAN becomes effective, and each succeeding calendar year during the existence of this PLAN.
- (r) **PUBLIC EMPLOYEE** means any person who receives any type of compensation from the PLAN SPONSOR for which services are rendered (including, but not limited to, elected or appointed officials, salaried employees, and INDEPENDENT CONTRACTORS).
- (s) **SEVERANCE FROM EMPLOYMENT** means the severance of a PARTICIPANT'S employment with the EMPLOYER, as defined by IRC 457(d)(1)(A), or on account of the PARTICIPANT'S death or retirement. An INDEPENDENT CONTRACTOR shall not be considered SEVERED FROM EMPLOYMENT with the PLAN SPONSOR and shall not receive any benefits hereunder unless (i) at least 12 months have expired since the date on which the last contract, pursuant to which the INDEPENDENT CONTRACTOR provided any services to the PLAN SPONSOR, was terminated, and (ii) the INDEPENDENT CONTRACTOR has performed no services for the PLAN SPONSOR, during the 12-month period referred to herein either as an INDEPENDENT CONTRACTOR or employee.
- (t) **UNFORESEEABLE EMERGENCY** means severe financial hardship to the PARTICIPANT resulting from a sudden and unexpected illness or accident of the PARTICIPANT or dependent (as defined in IRC Section 152(a)) of the PARTICIPANT, loss of the PARTICIPANT'S property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the PARTICIPANT.

1.02. Whenever used herein, the masculine gender shall include the feminine and the singular shall include the plural unless the provisions of the PLAN specifically require a different construction.

ARTICLE II
Election to Defer Compensation

2.01. The PARTICIPANT may elect to participate by agreeing to the PARTICIPATION AGREEMENT and consenting to a reduction of salary by the deferral amount specified in the PARTICIPATION AGREEMENT. The amount of DEFERRED COMPENSATION must equal at least \$20 per month.

- 2.05.** The maximum deferral amount described in Section 2.04 under the PLAN for the PARTICIPANT'S taxable year is increased for a PARTICIPANT who has attained age 50 or over by the end of the taxable year. The additional amount permitted under this section is the lesser of (a) the applicable dollar amount set forth in IRC Section 414(v)(2)(B) or (b) the PARTICIPANT'S COMPENSATION for the taxable year reduced by any other elective deferrals of the PARTICIPANT for the taxable year. This Section shall not be applicable for any taxable year in which Section 2.06 applies.
- 2.06.** For one or more of the PARTICIPANT'S last three taxable years ending before the attainment of NORMAL RETIREMENT AGE under the PLAN, the maximum deferral shall be the lesser of (a) twice the applicable dollar amount in effect under IRC Section 457(b)(2)(A), or (b) the limitation established for the taxable year under Section 2.04, plus the limitation established for purposes of Section 2.04 for each of the prior taxable years beginning after December 31, 1978, during which the PARTICIPANT was eligible to participate less the amount of COMPENSATION deferred under the PLAN for each of such prior taxable years.
- 2.07.** Notwithstanding the preceding provisions of Article II, a PARTICIPANT who is entitled to reemployment pursuant to the terms of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) may defer an additional amount under the PLAN as provided in that Act for the years of his or her service in the uniformed services (as defined in USERRA). Any such deferrals will not be subject to the limits set forth above in the year in which deferred, but will be subject to the limits for the year to which such deferrals relate.

ARTICLE III

PLAN SPONSOR Contributions

- 3.01.** The PLAN SPONSOR may contribute to the PLAN for PARTICIPANTS. PLAN SPONSOR contributions shall vest at the time such contributions are made. For purposes of PLANS administering Sections 2.04, 2.05, and 2.06 PLAN SPONSOR contributions shall apply toward the maximum deferral limits in the PLAN YEAR that such contributions are made.

ARTICLE IV

PLAN Transfers and Eligible Distribution Rollovers

- 4.01.** If a PARTICIPANT terminates employment with the PLAN SPONSOR and accepts employment with another employer which maintains an eligible deferred compensation plan (as defined in IRC Section 457) and the new employer's plan accepts transfers, the PARTICIPANT may transfer his account balance from the PLAN to the plan maintained by the new employer.

ARTICLE V

Designation of BENEFCIARY

- 5.01** The PARTICIPANT shall have the right to file, with the ADMINISTRATOR, a written BENEFCIARY or change of BENEFCIARY form designating the person or persons who shall receive the benefits payable under the PLAN in the event of the PARTICIPANT'S death. The form for this purpose shall be provided by the ADMINISTRATOR and will have no effect until it is signed, filed with the ADMINISTRATOR by the PARTICIPANT, and accepted by the ADMINISTRATOR prior to the PARTICIPANT'S death. If the PARTICIPANT dies without having a BENEFCIARY form on file, the benefits will be paid to the PARTICIPANT'S estate.
- 5.02** The PARTICIPANT accepts and acknowledges that he has the burden for executing and filing with the ADMINISTRATOR prior to the PARTICIPANT'S death a proper BENEFCIARY designation form.

ARTICLE VI

Accounts and Reports

- 6.01.** The PLAN SPONSOR shall remit DEFERRED COMPENSATION amounts to the ADMINISTRATOR or its designated agent. The ADMINISTRATOR shall have no duty to determine whether the funds paid to it by the PLAN SPONSOR are correct, nor to collect or enforce such payment. For convenience and to facilitate an orderly administration of the PLAN, the ADMINISTRATOR shall maintain a DEFERRED COMPENSATION ACCOUNT with respect to each PARTICIPANT. A written report of the status of the PARTICIPANT'S DEFERRED COMPENSATION ACCOUNT shall be furnished at least annually to the PARTICIPANT.
- 6.02.** The PARTICIPANT or an ELIGIBLE RETIREMENT PLAN shall remit ELIGIBLE ROLLOVER DISTRIBUTION amounts to the ADMINISTRATOR or his designated agent. The ADMINISTRATOR shall maintain an ELIGIBLE ROLLOVER ACCOUNT with respect to each PARTICIPANT'S ELIGIBLE DISTRIBUTION amounts. A written report of the status of the PARTICIPANT'S ELIGIBLE ROLLOVER ACCOUNT shall be furnished to the PARTICIPANT.
- 6.03.** The ADMINISTRATOR shall file with the PLAN SPONSOR a written report of the assets of the PLAN, a schedule of all receipts and disbursements, and a report of all material transactions of the PLAN during the preceding year at least annually.
- 6.04.** The ADMINISTRATOR'S records shall be open to inspection during normal business hours by the PLAN SPONSOR or its designated representatives.

8.02. Mode of Payment: Benefits shall be paid in accordance with the payment option elected by the PARTICIPANT. Payment, method of payment, and settlement options are available as provided by each of the available investment specifications. The PARTICIPANT shall elect the mode of payment based upon the options then available. A PARTICIPANT or BENEFICIARY who has chosen a payment option, other than an annuity option, shall have the ability to change his payment option, administrative charge or restrictions may be applicable as determined by the PLAN SPONSOR and the ADMINISTRATOR. Distributions to a PARTICIPANT must comply with IRC Section 401(a)(9) required minimum distribution rules and must begin no later than April 1 of the year following the calendar year in which the PARTICIPANT attains age 70 ½ or severs employment, whichever is later. If the PARTICIPANT fails to elect a payment option that meets the required minimum distribution rules of IRC Section 401(a)(9), then the ADMINISTRATOR will initiate such a distribution.

8.03. Payments to BENEFICIARY: Distributions to a BENEFICIARY must comply with IRC 401(a)(9). If the PARTICIPANT dies while employed with the PLAN SPONSOR, or if the PARTICIPANT dies before the benefits to which he is entitled under this PLAN have been exhausted, then the benefit payable under this PLAN shall be paid to his designated BENEFICIARY. The BENEFICIARY shall have the right to elect the time and mode of payment of such benefits, subject to the limitations set forth in this PLAN. Such election as to the time of payment (distribution commencement date) shall be filed by the BENEFICIARY not later than ninety (90) days following the PARTICIPANT'S death. Failure to file an election as to the form of payment may result in the ADMINISTRATOR making a lump sum payment to the BENEFICIARY.

(1) If a PARTICIPANT dies on or after the required minimum distribution date, payments shall continue to be paid to the BENEFICIARY at least as rapidly as under the method of distribution in effect at the time of the PARTICIPANT'S death.

(2) If a PARTICIPANT dies before the required minimum distribution date, payments to a BENEFICIARY must comply with one of the following requirements:

(i) The entire account value must be distributed by the end of the calendar year which contains the fifth anniversary of the PARTICIPANT'S death; or

(ii) If the BENEFICIARY is a person other than the PARTICIPANT'S spouse, distribution of the account must begin on or before December 31 of the calendar year following the PARTICIPANT'S death, and the entire account must be paid over a period not extending beyond the life expectancy of the BENEFICIARY; or

- (c) no amount has been deferred under the PLAN with respect to the PARTICIPANT during the two-year period ending on the date of the in-service distribution; and
- (d) the PARTICIPANT elects to receive the distribution.

ARTICLE IX

Administration of PLAN

9.01. The PLAN SPONSOR may at any time amend, modify or terminate the PLAN without the consent of the PARTICIPANT (or any BENEFICIARY thereof), provided, however, that the assets of the PLAN shall be held for the exclusive benefit of PARTICIPANTS and BENEFICIARIES at all times. All amendments shall become effective forty-five (45) days after the issuance of notice of the amendments by the ADMINISTRATOR to the PLAN SPONSOR. No amendments shall deprive the PARTICIPANT of any of the benefits to which he is entitled under this PLAN with respect to deferred amounts credited to his account prior to the effective date of the amendment.

If the PLAN is curtailed, terminated, or the acceptance of additional deferred amounts are suspended permanently, the ADMINISTRATOR shall nonetheless be responsible for the supervision of the payment of benefits resulting from amounts deferred prior to the amendment, modification, or termination in accordance with Article VIII hereof.

- 9.02.** Any companies that may issue any policies, contracts, or other forms of investment media used by the PLAN SPONSOR or specified by the PARTICIPANT, are not parties to this PLAN and such companies shall have no responsibility or accountability to the PARTICIPANT or his BENEFICIARY with regard to the operation of this PLAN.
- 9.03.** Participation in this PLAN by a PUBLIC EMPLOYEE shall not be construed to give a contract of employment to the PARTICIPANT or to alter or amend an existing employment contract of the PARTICIPANT, nor shall participation in this PLAN be construed as affording to the PARTICIPANT any representation or guarantee regarding his continued employment.
- 9.04.** The PLAN SPONSOR and the ADMINISTRATOR do not represent or guarantee that any particular Federal or State income, payroll, personal property, or other tax consequence will occur because of the PARTICIPANT'S participation in this PLAN. The PARTICIPANT should consult with his own representative regarding all questions of Federal and State income, payroll, personal property, or other tax consequences arising from participation in this PLAN.
- 9.05.** The ADMINISTRATOR shall have the power to appoint agents to act for and in the administration of this PLAN and to select depositories for the assets of this PLAN.

- 10.03.** The PARTICIPANT specifically agrees not to seek recovery against the PLAN SPONSOR, the ADMINISTRATOR or any other employee, contractee, or agent of the PLAN SPONSOR or ADMINISTRATOR for any loss sustained by the PARTICIPANT or his BENEFICIARY, for the non-performance of their duties, negligence, or any other misconduct of the above named persons except that this paragraph shall not excuse fraud or wrongful taking by any person.
- 10.04.** The PLAN SPONSOR, the ADMINISTRATOR, or their respective agents, if in doubt concerning the correctness of their action in making a payment of a benefit, may suspend the payment until satisfied as to the correctness of the payment or the identity of the person to receive the payment or allow the filing in any State court of competent jurisdiction, a suit in such form as they consider appropriate for a legal determination of the benefits to be paid and the persons to receive them. The PLAN SPONSOR shall comply with the final orders of the court in any such suit and the PARTICIPANT, for himself and his BENEFICIARY, consents to be bound thereby insofar as it affects the benefits payable under this PLAN or the method or manner of payment.
- 10.05.** The PLAN SPONSOR, the ADMINISTRATOR, and their respective agents are hereby held harmless from all court costs and all claims for the attorney's fees arising from any action brought by the PARTICIPANT or any BENEFICIARY thereof under this PLAN or to enforce his rights under this PLAN, including any amendment, modification or termination hereof.
- 10.06.** The ADMINISTRATOR shall not be required to participate in any litigation concerning the PLAN except upon written demand from the PLAN SPONSOR. The ADMINISTRATOR may compromise, adjust or effect settlement of litigation when specifically instructed to do so by the PLAN SPONSOR.
- 10.07.** Notwithstanding any contrary provision of the PLAN, including any annuity contract issued under the PLAN, in accordance with Section 457(g) of the IRC, all amounts of compensation deferred pursuant to the PLAN, all property and rights purchased with such amounts, and all income attributable to such account, property, or rights shall be held for the exclusive benefit of PARTICIPANTS and BENEFICIARIES under the PLAN and shall be held in a trust, in an annuity contract, as defined in 401(g) of the IRC, or in one or more custodial accounts. For purposes of this paragraph:
- (a) a trust must be established under the PLAN pursuant to a written agreement that constitutes a valid trust under the law of state in which the PLAN SPONSOR is located,