

**FORT BEND COUNTY FY 2010  
COMMISSIONERS COURT AGENDA REQUEST FORM**

Return Completed Form by E-Mail to: Agenda Coordinator, County Judge's Office

<b>Date Submitted:</b>	<b>March 15, 2010</b>	<b>Submitted By:</b>	<b>Kent Edwards</b>
		<b>Department:</b>	<b>Human Resources</b>
<b>Court Agenda Date:</b>	<b>March 23, 2010</b>	<b>Phone Number:</b>	<b>281.341.8631</b>

**SUMMARY OF ITEM:** Approve amendments to two of the County's 457(b) Deferred Compensation Plan Agreements to allow participant loans. (The plan agreement with the remaining provider already includes this provision, so this will conform features of all 3 Plans.)

**RENEWAL AGREEMENT/APPOINTMENT** YES ☐ NO ☐  
**REVIEWED BY COUNTY ATTORNEY'S OFFICE:** YES ☒ NO ☐

**List Supporting Documents Attached:** *Participant Loan Agreements for Nationwide and for Hartford (Edward Jones), Trust Agreements, and Administrative Procedures.*

**FINANCIAL SUMMARY:**

**BUDGETED ITEM:** YES ☐ NO ☐

**FUNDING SOURCE:** Accounting Unit: \_\_\_\_\_ **Account Number:** \_\_\_\_\_  
 Activity (If Applicable): \_\_\_\_\_

**DESCRIPTION OF LAWSON ACCOUNT:** \_\_\_\_\_

**Instructions to submit Agenda Request Form:**

- Completely fill out agenda form: incomplete forms will not be processed.
- Agenda Request Forms should be submitted by e-mail, fax, or inter-office mail, and all back-up information must be provided by Wednesday at 2:00 p.m. to all those listed below.
- All original back-up must be received in the County Judge's Office by 2:00 p.m. on Wednesday.

**DISTRIBUTION:**

**Original Form** Submitted with back up to County Judge's Office ☐ (✓ when completed)  
 If by E-Mail to [ospindon@co.fort-bend.tx.us](mailto:ospindon@co.fort-bend.tx.us) If by Fax to (281) 341-8609

Distribute copies with back-up to all listed below. If by fax, send to numbers below:

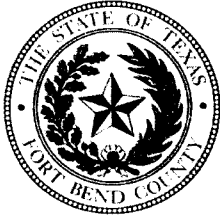
<input checked="" type="checkbox"/> Auditor	(281-341-3774)	<input checked="" type="checkbox"/> Comm. Pct. 1	(281-342-0587)
<input checked="" type="checkbox"/> Budget Officer	(281-344-3954)	<input checked="" type="checkbox"/> Comm. Pct. 2	(281-403-8009)
<input type="checkbox"/> Facilities/Planning	(281-633-7022)	<input checked="" type="checkbox"/> Comm. Pct. 3	(281-242-9060)
<input checked="" type="checkbox"/> Purchasing Agent	(281-341-8642)	<input checked="" type="checkbox"/> Comm. Pct. 4	(281-980-9077)
<input type="checkbox"/> Information Technology	(281-341-4526)	<input checked="" type="checkbox"/> County Clerk	(281-341-8697)
<input type="checkbox"/> Other:		<input checked="" type="checkbox"/> County Atty	(281-341-4557)

**RECOMMENDATION / ACTION REQUESTED:**

Authorize County Judge to execute Participant Loan Amendments to the existing 457(b) Deferred Compensation Plan Agreements with Hartford Life Insurance Company and Nationwide Retirement Solutions, Inc., and the related Trust Agreements and Administrative Procedures.

**Special Handling Requested (specify):**

4-6-10 orig. ret. to Kent at H.R.



HUMAN RESOURCES DEPARTMENT  
FORT BEND COUNTY, TEXAS

17A

Kent M. Edwards, PHR  
Director of Human Resources

**Interoffice Memorandum** AGENDA ITEM

**Date:** March 15, 2010

**To:** County Judge Bob Hebert  
Commissioners Morrison, Prestage, Meyers, Patterson

**From:** Kent Edwards

**cc:** Lynnette Montgomery

**Subject:** HR Agenda Item for the March 23, 2010 Commissioners' Court –  
Approve Participant Loan Amendments to existing 457(b) Plan Agreements

---

The following information is a summary of an HR Agenda Item for the March 23, 2010 Commissioners' Court.

Agenda Item:

**Authorize County Judge to execute Participant Loan Amendments to the existing 457(b) Deferred Compensation Plan Agreements with Hartford Life Insurance Company and Nationwide Retirement Solutions, Inc., and the related Trust Amendments and Administrative Procedures.**

Explanation and Background:

The County has three approved and active providers of 457(b) Deferred Compensation Plans to our employees.

At the present time, only one of those plans (Dearborn & Creggs / Security Benefit) offers participant loans and the other two plans (Nationwide and Hartford / Edward Jones) do not.

This agenda item will authorize the execution of the necessary paperwork to allow the employees enrolled in the other two plans to take advantage of the participant loan feature if they choose to do so.

These are simply amendments to two existing Plan Agreements which are already in place.

Should you have any questions, please do not hesitate to contact me 281-341-8631.

**NATIONAL ASSOCIATION OF COUNTIES  
DEFERRED COMPENSATION PROGRAM**

**THE DEFERRED COMPENSATION PLAN FOR PUBLIC EMPLOYEES**

**LOANS TO PARTICIPANTS AMENDMENT TO PLAN DOCUMENT**

WHEREAS, PLAN SPONSOR executed the above referenced Plan Document, as amended: and

WHEREAS, effective **March 23, 2010**, PLAN SPONSOR now desires to further amend the plan document.

The following Section 8.06 is hereby added:

**8.06 Loans to PARTICIPANTS**

- (a) PLAN SPONSOR has elected to make loans available to PARTICIPANTS and has delegated certain administrative duties regarding loans from the PLAN to the ADMINISTRATOR.
- (b) Any loan by the PLAN to a PARTICIPANT under this Section shall be subject to the loan administrative procedures established by the ADMINISTRATOR as well as the following requirements:
  - (i) **Loan Eligibility.** Any PARTICIPANT may apply for loan under the PLAN. A PARTICIPANT who has defaulted on a previous loan from the PLAN shall not be eligible for another loan from the PLAN until all defaulted loans are repaid in full, including accrued interest and fees.
  - (ii) **Loan Application and Loan Agreement.** A PARTICIPANT must complete and return to ADMINISTRATOR a loan application. A non-refundable application fee established by ADMINISTRATOR will be deducted from the PARTICIPANT'S ACCOUNT(s) at the time of loan origination. Before a loan is issued, the PARTICIPANT must enter into a legally enforceable loan agreement as provided for by the ADMINISTRATOR.
  - (iii) **Loan Repayment.** The PARTICIPANT receiving a loan shall be required to furnish to ADMINISTRATOR any information and authorization necessary to effectuate repayment of the loan prior to the commencement of a loan. In the event that a payment cannot be processed because of lack of sufficient funds, the ADMINISTRATOR shall assess an insufficient funds charge, which will be deducted from the PARTICIPANT'S ACCOUNT(s).

- (iv) **Loan Term and Interest Rate.** The maximum term over which a loan may be repaid is five (5) years (fifteen (15) years if the PLAN SPONSOR permits loans for the purchase of a PARTICIPANT'S principal residence). Each loan shall be amortized in substantially equal payments consisting of principal and interest during the term of the loan, except that the amount of the final payment may be higher or lower. The ADMINISTRATOR shall establish the interest rate for any loan.
- (v) **Loan Frequency.** Each Participant may have only one (1) PLAN loan outstanding at any given time. A PLAN loan which is in default, even if the defaulted loan was treated as a "deemed distribution" under federal regulations, shall be treated as an outstanding loan until such PARTICIPANT'S account balance is offset by the amount of principal and accrued interest under the loan. A PARTICIPANT will be granted a loan no more frequently than two (2) times in any twelve (12) month period.
- (vi) **Default.** The PARTICIPANT must pay the full amount of each loan payment (principal and interest) on the date that it is due. Failure to make such a payment by the due date, or within any cure period established by the ADMINISTRATOR, shall cause the PARTICIPANT to be in default for the entire amount of the loan, including any accrued interest. A loan will also be in default if the PARTICIPANT either refuses to execute, revoke, or rescind any agreement necessary to comply with the provisions of this Section or the loan administrative procedures established by the ADMINISTRATOR, commences or has commenced against PARTICIPANT a bankruptcy case, or upon the death of the PARTICIPANT.
- (vii) **Loan Security.** By accepting a loan, the PARTICIPANT is giving a security interest in their vested PLAN balance as of the loan process date, together with all additions thereof, to the PLAN that shall at all times be equal to 100% of the unpaid principal balance of the loan together with accrued interest.
- (viii) **Loan Amount.** The maximum amount of any loan permitted under the PLAN is the lesser of (i) 50% of the PARTICIPANT'S vested account balance less any outstanding loan balances under the PLAN or (ii) \$50,000 less the highest outstanding loan balance during the preceding one-year period. The ADMINISTRATOR shall establish the minimum loan amount. The PARTICIPANT and not the ADMINISTRATOR shall at all times remain responsible for ensuring that any loan received under the PLAN is in accordance with these

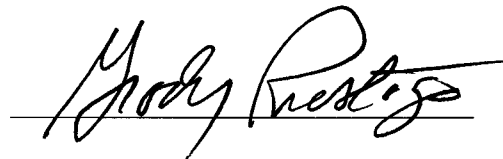
- (ix) Loan Maintenance Fee. Until a loan is repaid in full, an annual loan maintenance fee as established by ADMINISTRATOR will be deducted from the PARTICIPANT'S ACCOUNT(s).
- (x) Loan Default Fee. At the time when a default occurs, a loan default fee established by ADMINISTRATOR will be deducted from the PARTICIPANT'S ACCOUNT(s).

(c) The ADMINISTRATOR shall fix such other terms and conditions necessary to the administrative maintenance of the provisions of this Section and as necessary to comply with the IRC and regulations there under.

IN WITNESS WHEREOF, the undersigned has executed this Amendment this 23 day of March, 2010.

Fort Bend County

(Name of PLAN SPONSOR)



By: Grady Prestage, Commissioner Precinct 2  
Presiding Officer, Commissioners Court, March 23, 2010

# **NATIONAL ASSOCIATION OF COUNTIES DEFERRED COMPENSATION PROGRAM**

## **PARTICIPANT LOAN ADMINISTRATIVE PROCEDURES**

Nationwide Retirement Solutions, Inc. ("NRS"), as Third Party Administrator of the National Association of Counties Deferred Compensation Program, administers your Deferred Compensation Plan for Public Employees ("Plan"). Recently issued proposed regulations under Internal Revenue Code Section 457 provide that eligible governmental 457(b) plans may permit loans to Participants. NRS recommends that you, as Plan Sponsor and/or Employer (hereinafter collectively referred to as "Plan Sponsor"), consult with your own legal advisor in determining whether you wish to add this optional feature to your Plan.

In the event that you decide to offer loans from your Plan to Participants, you will need to return to NRS at **Nationwide Retirement Solutions, PO Box 182797, Columbus, OH 43272-8450 Attn: Loans Administrator** a fully executed original of this document and a fully executed original of the enclosed Plan Document Amendment. NRS cannot begin processing Participant loans from your Plan until it receives fully executed originals of both of these documents.

NRS may need from time-to-time to make changes to the administrative procedures set forth herein and in the Plan Document Amendment. In such a case, NRS will provide you with timely notice of such changes as they become necessary.

The following administrative procedures shall govern the making of loans from your Plan:

1. **Loan Administration.** Plan Sponsor delegates to NRS certain administrative duties regarding the administration of loans from the Plan, which are set forth herein and which may be modified by NRS upon timely notice to Plan Sponsor.
2. **Loan Eligibility.** Any Plan Participant is eligible for a loan from the Plan. Each Participant is entitled to one (1) loan at any time. In addition, a Participant who has defaulted on a previous loan shall not be eligible for another loan from the Plan until all defaulted loans are repaid in full, including accrued interest and fees.
3. **Loan Application and Loan Agreement.** In order to receive a loan from the Plan, an eligible Participant must complete a loan application and return it to NRS. A loan application fee of \$50.00\* will be deducted from the Participant's account(s). Before a loan is issued, the Participant must enter into a legally enforceable loan agreement as provided by NRS. If the Plan Sponsor permits loans for the purchase of the Participant's principal residence, the Participant will be required to sign a Primary Residence Certificate form and provide NRS with a copy of the contract or other documents relating to the acquisition of the dwelling unit. If the source for a single loan includes both the Participant's Deferred Compensation and Eligible Rollover Accounts, the Participant will be required to complete a loan application and loan agreement for each account which will be treated as separate and distinct for all purposes herein except that they will be considered a single loan for purposes of Sections 2, 6, and 10 herein.
4. **Loan Repayment/Maximum Loan Term.** Repayment of any loan made to a Participant shall be made in a manner and pursuant to the terms set forth in loan agreement. The Participant receiving a loan shall be required to furnish the information and authorization necessary to effectuate the foregoing payments prior to the commencement of a loan. The maximum term over which a loan may be repaid is five (5) years (fifteen (15) years if the Plan Sponsor permits loans for the purchase of the Participant's principal residence).

\* These fees, rates, and minimums are subject to change by NRS upon reasonable notice to the Plan Sponsor. Loan fees will appear as administrative charges on Participant Statements.

In the event that a Participant elects to receive a distribution from the Plan (other than a distribution due to an unforeseeable emergency or other in-service withdrawal) at a time when such person has a Plan loan outstanding, the principal and any accrued interest with respect to such loan shall be taxable.

5. **Loan Amortization.** Each loan shall be amortized in substantially equal payments consisting of principal and interest during the term of the loan. Payments of principal and interest shall be made in a manner and pursuant to the terms set forth in the loan agreement on a monthly basis in equal amounts, except that the amount of the final payment may be higher or lower. Before the loan is made, the Participant will be notified of the date on which the first payment will be deducted and the dates on which subsequent payments are due.

6. **Loan Frequency/Renegotiations.** Each Participant may have only one (1) Plan loan outstanding at any given time. A Plan loan which is in default, even if the defaulted loan was treated as a "deemed distribution" under federal regulations, shall be treated as an outstanding loan until such Participant's account balance is offset by the amount of principal and accrued interest under the loan. NRS shall offset a defaulted loan at any time that is administratively practicable, including but not limited to severance from employment by the Participant or upon a request for a distribution from the Plan. A Participant will be granted a loan no more frequently than two (2) times in any twelve (12) month period. Under no circumstances may loan terms be renegotiated. A new loan shall not be granted prior to the repayment of an outstanding loan.

7. **Default.** The Participant must pay the full amount of each payment (principal and interest) on the date that it is due by having sufficient funds in the account designated for loan payments through the ACH process. If NRS is unable to process a payment on the date due because the Participant fails to have sufficient funds in the account on that date, NRS will assess a fee of \$25.00 that will be deducted from Participant's account(s) and will send written notification to the Participant. The Participant shall be in default for the entire amount of the loan UNLESS the Participant does each of the following: 1) contacts NRS at the Deferred Compensation Service Center, 2) mutually agrees with NRS on a date, which is within 30 days of the missed payment on which funds sufficient to cover the missed payment will be in the account and; 3) actually pays the missed payment. Failure to make such a payment through mutually agreeable terms shall cause the Participant to be in default for the entire amount of the loan. The loan also shall be defaulted upon the death of the Participant or if the Participant commences or has commenced against Participant a bankruptcy case. No additional loans shall be made to a Participant who has defaulted on a Plan loan and who has not repaid all defaulted loans in full, including accrued interest and fees.

8. **Loan Prepayment.** The entire amount of a loan, including outstanding principal and any accrued interest, may be paid without penalty prior to the end of the term of the loan in the manner prescribed by NRS. However, payments made that are less than the remaining principal amount of the loan and any accrued interest with respect to the loan, or which are not paid in the form prescribed by NRS, are not permitted.

9. **Loan Security.** By accepting a loan, the Participant is giving a security interest in his or her vested Plan balance as of the date of the Loan Process Date, together with all additions thereof, to the Plan that shall at all times be equal to 100% of the unpaid principal balance of the loan together with accrued interest.

10. **Maximum/Minimum Loan Amount.** The maximum amount of any loan permitted under the Plan is the lesser of (i) 50% of the Participant's vested account balance (not including any value attributable to applicable life insurance or deemed IRA account) less any outstanding loan balances under the Plan or (ii) \$50,000 less the highest outstanding loan balance during the preceding one-year period. The minimum loan amount permitted is \$1,000.00\*. Loans shall be made in accordance with these limits and those limits imposed under federal regulations without regard to any other loans received by the Participant from any other investment provider under the Plan or any other plan of the employer. The Participant and not NRS

\* These fees, rates, and minimums are subject to change by NRS upon reasonable notice to the Plan Sponsor. Loan fees will appear as administrative charges on Participant Statements.

shall at all times remain responsible for ensuring that any loan received under the Plan is in accordance with regard to any other loans received by the Participant under any other plans of the Participant's employer. Any tax reporting required as a result of the receipt by a Participant of a loan that exceeds the limits imposed by federal regulations shall not be the responsibility of NRS, unless it is determined that such limits were exceeded solely as a result of a loan made through NRS as service provider. Consequently, NRS shall not be required to account for loans made pursuant to a plan other than this Plan or loans made under this Plan that are made by an investment provider other than Nationwide Life Insurance Company.

11. **Suspension of Loan Payments.** NRS may suspend a Participant's obligation to repay any loan under the Plan during the period in which the Participant is performing service in the uniformed services as may be required by law. At the expiration of any suspension of loan payments period, the outstanding loan balance, including any accrued interest and fees, will be re-amortized and the Participant will be required to execute an amended Loan Agreement.

12. **Loan Interest Rate.** The interest rate for any loan shall be established by NRS. These interest rates shall commensurate with interest rates being charged by entities in the business of lending money under similar circumstances. Generally, the rate assumed will be Prime Rate + 1.00%\*. The Prime Rate shall be the prime rate published by the Wall Street Journal two weeks prior to the end of the most recent calendar-year quarter. NRS may adjust the loan interest rate for Participants entering active duty in the military services as may be required by law.

13. **Annual Loan Maintenance and Asset Fees.** An annual loan maintenance fee of \$50.00\* will also be deducted from the Participant's account until the loan is repaid in full. The amount of the outstanding loan balance will be subject to the Asset Fee equal to the maximum Variable Account Annual Expense Fee applicable under the Plan at the time the loan is issued.

14. **Loan Default Fee.** At the time when a default occurs, a \$50.00\* loan default fee will be deducted from the Participant's account. This charge will only affect Participants who fail to make a required loan payment.

15. **Loans for the Purchase of a Principal Residence.** All loans issued by the Plan will be general loans to be repaid in five (5) years unless the Plan Sponsor affirmatively elects to offer loans for the purchase of the Participant's principal residence, which may be repaid in fifteen (15) years. Such loans shall be solely secured by the Participant's vested account balance. All administrative procedures set forth herein shall apply to such loans.

**If the Plan Sponsor elects to permit loans for the purchase of the Participant's principal residence, please check this box. ☒**

The undersigned Plan Sponsor hereby adopts these Participant Loan Administrative Procedures, effective for loans issued on or after the effective date set forth in the Loans to Participants Amendment to Plan Document, and instructs NRS to administer loans made to Plan Participants in accordance with these terms.

The Plan Sponsor acknowledges the following: (i) that the Plan Sponsor has decided to offer loans under the Plan and is instructing NRS to administer loans under the Plan; (ii) that it understands that, as a result of offering loans under the Plan, the Plan Sponsor, its Participants, and/or the Plan could be subject to adverse tax consequences; (iii) that the Plan Sponsor has independently weighed this risk and has determined that offering loans under the Plan is in the best interest of the Plan Sponsor, its Participants, and the Plan; and (iv) NRS shall not be liable for any adverse tax consequences described in (ii), except as

\* These fees, rates, and minimums are subject to change by NRS upon reasonable notice to the Plan Sponsor. Loan fees will appear as administrative charges on Participant Statements.



specifically stated under paragraph 10 herein, resulting from the Plan Sponsor's decision to offer loans under the Plan.

Plan Sponsor  
or Employer: Fort Bend County  
Attention Human Resources

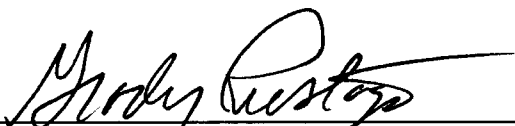
Street Address: 4520 Reading Road

City, State, Zip Code: Rosenberg, TX 77471

E-mail Address: edwarken@co.fort-bend.tx.us

Plan Name: Fort Bend County Deferred Compensation Plan

Entity No.: 643072

By: \_\_\_\_\_

Grady Prestage, Commissioner Precinct 2  
Presiding Officer, Commissioners Court, March 23, 2010

Date: March 23, 2010

\* These fees, rates, and minimums are subject to change by NRS upon reasonable notice to the Plan Sponsor. Loan fees will appear as administrative charges on Participant Statements.

# Give yourself a **helping hand.**

## Your Guide to the Nationwide Retirement Solutions 457(b) Loan Option

NRM-3195A0.2

### Loan Guide

NRM-3195A0.2

## Borrowing from your retirement account

Many employers are faced with the same question from employees: "Why can't I use 'my money' in my retirement account to pay down debts, buy a home or help my child through college?"

In the past, the answer was easy —the law didn't allow it. Today, though, some employers have elected to allow employees to take loans from their 457(b) Deferred Compensation Plan. Your employer has adopted this option on behalf of its employees.

### Advantages and Disadvantages of Taking a Loan from your Retirement Account

While taking a loan from Deferred Compensation Plan can be a benefit, it also can open you to potential liabilities.

*Take a moment now to recognize the advantages and disadvantages of borrowing from your retirement account and you'll avoid any misunderstanding on down the road.*

#### Disadvantages

- Loan repayments are made with after-tax dollars.  
Because repayments are made with after-tax dollars, you may be on taxed twice: once on the repayments dollars and again when you take distributions from the plan.
- Loans must be repaid with interest. If a default on the loan occurs, the loan is considered to be a distribution, and the entire outstanding loan amount, including accrued interest, is subject to income taxes.
- The true cost of the loan may be more than the interest alone, especially if the market gains significantly over the life of the loan, which means that you could end up with significantly fewer assets for retirement than you planned.

#### Advantages

- No credit check – You're essentially "borrowing from yourself."
- No taxes to pay, since a Plan loan is not considered a distribution when the loan is granted
- Competitive interest rates – generally "Prime Rate" + 1%.

- You essentially "pay interest to yourself," rather than a conventional lender.
- You can pay off higher interest debt.
- Reasonable repayment terms – one to five years for general purpose loans and up to fifteen for primary residence loans.

### How the Loan Program Works

Your Plan's loan program is similar to programs that you could find at any lending institution such as a bank or savings-and-loan.

#### Eligibility

To qualify, you must complete and sign a loan application, pay an application fee and acknowledge receiving a Truth-in-Lending document.

#### Minimum / Maximum Loan Amounts

- The minimum loan amount is \$1,000.
- The maximum available loan amount is 50% of your account up to \$50,000.
- Systematic payouts are taken into consideration and will reduce the balance of funds available for loan consideration.

*Nationwide representatives don't give tax or legal advice. You should consult your attorney or tax advisor for answers to specific questions.*

©2007, Nationwide Retirement Solutions Inc.  
Retirement specialists are Registered Representatives of  
Nationwide Investment Services Corporation: Member FINRA.  
In MI only, Nationwide Investment Svcs. Corporation



**Nationwide®**  
*On Your Side*



### Terms and Number of Loans Allowed

- Primary residence loans are structured to be repaid within fifteen (15) years from the date that the money is disbursed.
- All other general purpose loans are structured so that they will be repaid within five (5) years of the date the money is disbursed.
- Only one outstanding loan from the Plan may be granted at any given time. A new loan will not be granted prior to full repayment of any outstanding loan. If a participant defaults on a loan, (s)he will not be granted another loan from the Plan until the defaulted loan – including accrued interest and fees – is paid in full.

### Loan Fees

All loan fees appear as administrative charges on your statements.

- Application fee – \$50, nonrefundable
- Annual fee – \$50, assessed on the anniversary date of the loan while the loan is outstanding
- Insufficient Funds Fee - \$25 for each insufficient fund payment
- Default fee – \$50, at the time of the default

*Nationwide reserves the right to change the fee amount after advising the Plan in writing at least 30 days in advance of when the new fee schedule goes into effect.*

*The amount of any loan balance will be subject to the maximum Variable Account Annual Expense Fee applicable under the Plan at the time the loan is issued.*

### Interest Rate

As previously noted, the interest rate is based on market conditions at the time the loan is processed. Generally, the rate is the "Prime Rate" + 1%.

- "Prime Rate" is defined as the Prime Rate published by The Wall Street Journal two weeks prior to the end of the most recent calendar-year quarter.

*Nationwide reserves the right to redefine how the interest rate is calculated by advising the Plan in writing at least 30 days in advance of when the new definition goes into effect.*

*NRS may adjust the loan interest rate for participants entering active duty in the military services as may be required by law.*

### Payments

You must pay the full amount of each payment (principal and interest) on the specified due date. Level payments of principal and interest are made monthly through payroll deduction with after-tax dollars. Non-payment of the full amount by the specified due date will result in the following:

- If you fail to make one full payment on the designated due date, Nationwide will send written notification advising you that you must pay the missed payments plus interest within 30 days after the date of the missed payment.
- If you fail to pay the missed payments plus interest within 30 days after the date of the missed payment, the loan will be placed in default.
- Loans may be repaid in full prior to the term due date without penalty if the payment is made with a lump sum payment.
- Loans must be repaid at termination of employment.\*  
\*(Exception: Retirees may continue to repay an existing loan through an automatic banking deduction process.)
- In the event of death, the amount of the outstanding loan will affect your beneficiary's tax status and amount of receipt of account assets.

### Defaulted Loans

Once a loan is in default, Federal law requires that the entire loan amount be reported to the Internal Revenue Service as a deemed distribution. This means that

the entire amount of the outstanding loan and accrued interest-to-date on the date of default will be includible in your income and is subject to income tax.

If NRS is unable to process a payment on the date due because you fail to have sufficient funds in your account on that date, NRS will assess a fee of \$25.00 that will be deducted from your account and will send written notification to you. You shall be in default for the entire amount of the loan UNLESS you do each of the following:

1. contact NRS at the Deferred Compensation Service Center,
2. mutually agree with NRS on a date, which is within 30 days of the missed payment on which funds sufficient to cover the missed payment will be in the account and;
3. actually pay the missed payment. failure to make such a payment through mutually agreeable terms shall cause you to be in default for the entire amount of the loan.

Once the loan is in default, no future loans may be granted to you from the Plan until the defaulted loan has been repaid in full, including accrued interest and fees. Also, at the time of default, a default fee of \$50.00\* will be charged to your account.

### Suspension of Payment Due to Military Service\*

In compliance with USERRA and other applicable laws, Nationwide may suspend a participant's obligation to repay a loan under the Plan during the period in which the participant is serving on Active Duty with the military. At the expiration of this suspension, the outstanding loan balance, including accrued interest and fees, will be re-amortized and the participant will be required to execute an amended loan agreement or repay the recomputed balance in full.

\* May also apply to Medical Leave of Absence.

Contact Nationwide to initiate the loan and approval process. To talk personally with a representative, please call ☎ **1-877-677-3678**. Visit us on the web at 💻 **NRSforu.com**.

**AMENDMENT TO  
ADMINISTRATIVE SERVICES AGREEMENT**

**PARTICIPANT LOANS**

**WHEREAS**, Hartford Life Insurance Company, a Connecticut corporation (hereinafter "**Hartford Life**") entered into an Administrative Services Agreement (hereinafter "**Agreement**") effective October 6, 2006 with Fort Bend County (hereinafter "**Plan Sponsor**") to provide certain nondiscretionary recordkeeping, reporting and processing services to the Fort Bend County 457(b) Deferred Compensation Plan (hereinafter "**Plan**") on behalf of the Plan Sponsor; and

**WHEREAS**, Hartford Life and the Plan Sponsor desire and agree to amend the Agreement;


**NOW THEREFORE**, effective **March 23, 2010**, the Agreement is hereby amended as set forth herein. The terms of the Agreement shall apply herein except as may be otherwise provided by the terms of this Amendment.

A new Section 5.5 is hereby made a part of the Agreement as follows:

**"5.5 Participant Loans** - The Plan Sponsor shall notify Hartford Life in writing of each Participant the Plan Sponsor has determined is entitled to receive a loan under the terms of the Plan. Loan requests will be processed within one business day following receipt by Hartford Life. The loan agreement and promissory note outlining the terms of the loan will be mailed with the distribution by Hartford Life within three business days following trade settlement. Hartford Life will prepare an amortization schedule for the loan based upon the data provided, a copy of which will be sent to the Plan Sponsor. Loans from a Participant's Account will be accounted for separately and repayments of the loans will be allocated to the Participant's Account in accordance with the instructions filed with Hartford Life by the Plan Sponsor. Loan repayments will be submitted to, or received by, Hartford using one or more of the administrative methods offered by Hartford and selected in writing by the Plan Sponsor. In the event that a repayment is less than or exceeds the amount expected under the amortization schedule on file at The Hartford, the payment will be applied to the next payment(s) due under such schedule without reamortization. Hartford Life will provide the Plan Sponsor a listing of Participant loans that are in arrears. The Plan Sponsor shall notify Hartford Life in writing of any Participant loan it considers to be in default. For loans in default, where Hartford Life processed and distributed such loan, Hartford Life will prepare and file the appropriate federal tax reporting form. The provisions of Section 5.4 shall also apply to tax reporting under this paragraph."

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be signed.

For the Plan Sponsor:

By:  Date: 3/26/10

Name: Grady Prestage, Commissioner Precinct 2  
Presiding Officer, Commissioners Court, March 23, 2010

For Hartford Life Insurance Company:



March 12, 2010

By: \_\_\_\_\_ Date: \_\_\_\_\_

Kathleen Ciullo

Vice President

Name: \_\_\_\_\_ Title: \_\_\_\_\_

**SPECIMEN**  
**GOVERNMENTAL EMPLOYER SPONSORED**  
**ELIGIBLE DEFERRED COMPENSATION PLAN**  
**PARTICIPANT LOAN AMENDMENT**

**This specimen deferred compensation plan amendment is for illustrative purposes only. A plan sponsor must rely on the advice of its own legal adviser.**

This specimen plan loan amendment is based upon the text of the **IRS Model Amendment 4** found in **IRS Revenue Procedure 2004-56**.

Note that this specimen plan amendment includes a change to the IRS model amendment text. The section that addresses the loan interest rate has been modified to reflect the recordkeeping options available to customers illustrated as follows:

“(ii) provide for interest at a rate equal to (select one):

- (1) ☐ \_\_\_\_\_ %;
- (2) ☐ the prime rate as published by Bloomberg L.P. (or similar independent financial news service), such rate to apply to new loans within 5 business days of its publication; or
- (3) ☒ the rate in (2) above plus (select one): ☒ 1%; or ☐ 2%.

“(ii) Default. In the event that a Participant fails to make a loan payment under this Section 5.13 within 90 days after the date such payment is due, a default on the loan shall occur. In the event of such default, (A) all remaining payments on the loan shall be immediately due and payable, (B) interest shall continue to accrue on the outstanding loan balance until the loan is foreclosed, (C) no contributions shall be made on such Participant's behalf prior to the first payroll period that follows by 12 calendar months the date of repayment in full of such loan, and (D) the Participant shall be permanently ineligible for any future loans from the Plan.

**RESOLUTION ADOPTING AMENDMENT TO  
FORT BEND COUNTY 457(B) DEFERRED COMPENSATION PLAN**

**WHEREAS**, the Fort Bend County (hereinafter "Employer") heretofore established the Fort Bend County 457(b) Deferred Compensation Plan ( hereinafter "Plan"); and

**WHEREAS**, the Employer desires to amend the Plan to allow the Plan to make loans to Plan Participants.

**NOW THEREFORE, BE IT RESOLVED**, that, effective March 23, 2010, the Employer hereby amends the Plan by adding a new Section 5.13 as follows:

**"5.13 Loans.**

(a) **Loans.** A Participant who is an Employee may apply for and receive a loan from his or her Account Balance as provided in this Section 5.13. Any such loan may not be for an amount less than the minimum amount specified by the Administrator. If not specified by the Administrator, the minimum loan amount shall be \$ 1,000.

(b) **Maximum Loan Amount.** No loan to a Participant hereunder may exceed the lesser of:

- (i) \$ 50,000, reduced by the greater of (A) the outstanding balance on any loan from the Plan to the Participant on the date the loan is made or (B) the highest outstanding balance on loans from the Plan to the Participant during the one-year period ending on the day before the date the loan is approved by the Administrator (not taking into account any payments made during such one-year period), or
- (ii) one half of the value of the Participant's vested Account Balance (as of the Valuation Date immediately preceding the date on which such loan is approved by the Administrator).

For purposes of this Section 5.13(b), any loan from any other plan maintained by a participating employer shall be treated as if it were a loan made from the Plan, and the Participant's vested interest under any such other plan shall be considered a vested interest under this Plan; provided, however, that the provisions of this paragraph shall not be applied so as to allow the amount of a loan under this Section 5.13(b) to exceed the amount that would otherwise be permitted in the absence of this paragraph.

(c) **Terms of Loan.** The terms of the loan shall:

- (i) require level amortization with payments not less frequently than quarterly throughout the repayment period, except that alternative arrangements for repayment may apply in the event that the borrower is on an bona fide unpaid leave of absence for a period not to exceed one year for leaves other than a qualified military leave within the meaning of section 414(u) of the Code or for the duration of a leave which is due to qualified military service;
- (ii) require that the loan be repaid within five years unless the Participant certifies in writing to the Administrator that the loan is to be used to acquire any dwelling unit which within a reasonable time is to be used (determined at the time the loan is made) as a principal residence of the Participant; and
- (ii) provide for interest at a rate equal to (select one):
  - (1) ☐ \_\_\_\_\_ %;
  - (2) ☐ the prime rate as published by Bloomberg L.P. (or similar independent financial news service), such rate to apply to new loans within 5 business days of its publication; or
  - (3) ☒ the rate in (2) above plus (select one): ☒ 1%; or ☐ 2%.

(d) **Security for Loan; Default.**

- (i) **Security.** Any loan to a Participant under the Plan shall be secured by the pledge of the portion of the Participant's interest in the Plan invested in such loan.

- (ii) **Default.** In the event that a Participant fails to make a loan payment under this Section 5.13 within 90 days after the date such payment is due, a default on the loan shall occur. In the event of such default, (A) all remaining payments on the loan shall be immediately due and payable, (B) interest shall continue to accrue on the outstanding loan balance until the loan is foreclosed, (C) no contributions shall be made on such Participant's behalf prior to the first payroll period that follows by 12 calendar months the date of repayment in full of such loan, and (D) the Participant shall be permanently ineligible for any future loans from the Plan.

In the case of any default on a loan to a Participant, the Administrator shall apply the portion of the Participant's interest in the Plan held as security for the loan in satisfaction of the loan on the date of Severance from Employment. In addition, the Administrator shall take any legal action it shall consider necessary or appropriate to enforce collection of the unpaid loan, with the costs of any legal proceeding or collection to be charged to the Account Balance of the Participant.

Notwithstanding anything elsewhere in the Plan to the contrary, in the event a loan is outstanding hereunder on the date of a Participant's death, his or her estate shall be his or her Beneficiary as to the portion of his or her interest in the Plan invested in such loan (with the Beneficiary or Beneficiaries as to the remainder of his or her interest in the Plan to be determined in accordance with otherwise applicable provisions of the Plan).

- (e) **Repayment.** The Participant shall be required, as a condition to receiving a loan, to enter into an irrevocable agreement authorizing the Employer to make payroll deductions from his or her Compensation as long as the Participant is an Employee and to transfer such payroll deduction amounts to the Trustee in payment of such loan plus interest. Repayments of a loan shall be made by payroll deduction of equal amounts (comprised of both principal and interest) from each paycheck, with the first such deduction to be made as soon as practicable after the loan funds are disbursed; provided however, that a Participant may prepay the entire outstanding balance of his loan at any time (but may not make a partial prepayment); and provided, further, that if any payroll deductions cannot be made in full because a Participant is on an unpaid leave of absence or is no longer employed by a participating employer (that has consented to make payroll deductions for this purpose) or the Participant's paycheck is insufficient for any other reason, the Participant shall pay directly to the Plan the full amount that would have been deducted from the Participant's paycheck, with such payment to be made by the last business day of the calendar month in which in which the amount would have been deducted.

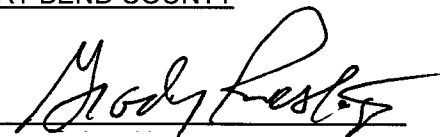
IN WITNESS WHEREOF, the Employer has executed this Plan Amendment this 23 day of

March, 2010.

FORT BEND COUNTY


SEAL

by



Grady Prestage, Commissioner Precinct 2  
Presiding Officer, Commissioners Court, March 23, 2010

Attest:

  
\_\_\_\_\_  
County Clerk  
(Title)

\_\_\_\_\_  
(Witness)



## **TRUST AGREEMENT**

This Trust Agreement is made and entered into as of the 23rd day of March, 2010, by and among Fort Bend County, (hereinafter referred to as the "Employer") and Reliance Trust Company (hereinafter referred to as the "Trustee").

### **WITNESSETH:**

**WHEREAS,** The Employer established the Fort Bend County 457(b) Deferred Comp Plan (the "Plan"), a plan under Section 457 of the Internal Revenue Code. Pursuant to Section 1448 of the Small Business Job Protection Act of 1996 (the "Act") Section 457 plans are required to establish a trust to hold the assets of such plans for the exclusive benefit of participants and their beneficiaries. Accordingly, this Trust is hereby established as of October 6, 2006 for the exclusive benefit of Plan Participants and their Beneficiaries.

**NOW, THEREFORE,** the Employer and the Trustee agree as follows:

### **ARTICLE I**

#### **NAME OF TRUST**

1.1 This Trust shall be known as the "Fort Bend County 457(b) Hartford Plan Trust Agreement."

### **ARTICLE II**

#### **DEFINITIONS**

2.1 Any term used in this Trust Agreement which is not otherwise defined herein shall have the meaning set forth in the Plan.

2.2 "Investment Manager" shall have the meaning given such term under Section 3(38) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA").



ARTICLE III  
GENERAL DUTIES

3.1 It shall be the duty of the Trustee to hold title to assets held in respect of the Plan in the Trustee's name as directed by the Employer and/or its designees in writing. The Trustee shall not receive custody or possession of any such assets. The Trustee shall not be under any duty to compute the amount of contributions to be paid by the Employer or to take any steps to collect such amounts as may be due to be held in trust under the Plan. The Trustee shall not be responsible for the custody, investment, safekeeping or disposition of any assets comprising the Trust, such functions to be performed by the Employer and/or the Employer's designees, who shall be the agents of the Employer.

3.2 It shall be the duty of the Employer, subject to the provisions of the Plan, to pay over to the administrator or other person designated hereunder from time to time the Employer's contributions under the Plan and to inform the Trustee in writing as to the identity and value of the assets titled in the Trustee's name hereunder and to keep accurate books and records with respect to the Participants of the Plan and their compensation.

3.3 The Trustee shall be entitled to compensation for its services under this Agreement at such rates as from time to time the Trustee and the Employer shall agree in writing.

ARTICLE IV  
INVESTMENTS

4.1 The Trustee shall perform its functions as a nondiscretionary, noncustodial Trustee, and the Trustee shall not have any discretion or authority with regard to the investment of the Trust and shall act solely as a directed Trustee of the assets of which it holds title. The Trustee, as a nondiscretionary Trustee, as may be directed by the Employer (or the Participants to the extent provided herein) is authorized and empowered, (subject, however, to the provisions of Section 4.2 below) by way of limitation, with the following powers, rights and duties, each of which the Trustee shall exercise in a nondiscretionary manner as directed in accordance with the direction of the Employer (or the Participants) (except to the extent that Plan assets are subject to the control and management of a properly appointed Investment Manager):

(a) To arbitrate, compromise, and adjust claims in favor of or against the Trust upon such terms and conditions as it deems advisable.

(b) To execute such instruments, deeds, leases, mortgages, contracts, agreements, assignments, transfers, bills of sale, and other documents of any kind as it is directed to do by the Employer and that the Trustee deems advisable or acceptable to execute in its discretion.

(c) To cause stocks, bonds, securities, or other investments to be registered in its name as Trustee or in the name of a nominee, or to take and keep the same unregistered.

(d) To employ such agents and counsel as it deems advisable or proper in connection with its duties and to pay such agents and counsel a reasonable fee. No agent or counsel so employed shall be disqualified by reason of any interest in the Trust or in any corporation whose securities comprise a part of the same. The Trustee shall not be liable for the acts of such agents and counsel or for acts done in good faith and in reliance upon the advice of such agents and counsel, provided it has used reasonable care in selecting such agents and counsel.

(e) To exercise all rights of ownership in any contracts of insurance in which any part of the Trust may be invested and to pay the premiums thereon.

(f) At the direction of the Employer (or the Participants or Investment Manager, as the case may be) to sell, write options on, convey or transfer, invest and reinvest any part thereof in each and every kind of property, whether real, personal or mixed, tangible or intangible, whether income or non-income producing and wherever situated, including but not limited to, time deposits (including time deposits in the Trustee or its affiliates, or any successor thereto, if the deposits bear a reasonable rate of interest), fee simple, leasehold or lesser estates in real estate, shares of common and preferred stock, mortgage, bonds, leases, notes, debentures, equipment or collateral trust certificates, rights, warrants, convertible or exchangeable securities, and/or other corporate, individual or government securities or obligations, annuity, retirement or

other insurance contracts, mutual funds (including funds for which the Trustee or its affiliates serve as investment advisor, custodian or in a similar or related capacity), or in units of any other common, collective or commingled trust fund heretofore or hereafter established and maintained by the Trustee or its affiliates; as long as the Trustee holds title to any units hereunder, the instrument establishing such common trust fund (including all amendments thereto) shall be deemed to have been adopted and made a part of this Trust.

4.2 Notwithstanding anything to the contrary in this Article IV or any other section of this Trust Agreement, the Trustee shall have no power:

(a) To divert any part of the Trust to any purpose other than the exclusive benefit of Participants and their Beneficiaries; under the Plan; provided, however, that if the Plan and this Trust which is a part thereof is required to be filed with the Internal Revenue Service for a determination of its qualification and said plan is not approved by the Internal Revenue Service retroactive to its inception, the Trustee shall transfer title to Trust assets to the Employer.

(b) To lend any part of the Trust without adequate security and a reasonable rate of interest; to pay any compensation in excess of a reasonable allowance for services or other property for less than fair market value; to make any part of the Trust available on a preferential basis; or to engage in any other transaction which results in a substantial diversion of any part of the Trust, to the Employer, or to any person or entity with whom or which such a transaction is prohibited by the Internal Revenue Code of 1986, as amended (the "Code") or ERISA.

4.3 Notwithstanding anything to the contrary in this Trust Agreement, the assets of the Plan shall be held by the Trustee as title holder only. Persons holding custody or possession of assets titled to the Trust shall include the Employer and any agents and subagents or other persons designated by the Employer, but not the Trustee. The Trustee shall not be responsible or liable for any loss or expense which may arise from or result from compliance with any direction from the Employer or such agents or other persons, to take title to any assets nor shall the Trustee be responsible or liable for any loss or expense which may result from the Trustee's refusal or

failure to comply with any direction to hold title, except if the same shall involve or result from the Trustee's gross negligence or intentional misconduct. The Trustee may refuse to comply with any direction from the Employer or such agents or other persons, in the event the Trustee, in its sole and absolute discretion, deems such direction improper by virtue of applicable law.

4.4 The Employer acknowledges that it has the sole responsibility for qualification of the Plan under Section 457 of the Code, and for selection of the investment funds offered under the Plan and the custody and possession of Trust assets.

4.5 The Employer hereby indemnifies and holds the Trustee and its affiliates and nominees harmless from any and all actions, claims, demands, liabilities, losses, damages or reasonable expenses of whatsoever kind and nature in connection with or arising out of (i) any action taken or omitted in good faith by the Trustee in accordance with the directions of the Employer, or its agents and subagents or other persons designated by Employer hereunder, or (ii) any disbursements of any part of the Trust made by the Trustee in accordance with the directions of the Employer, or (iii) any action taken by or omitted in good faith by the Trustee with respect to an investment managed by an Investment Manager in accordance with any direction of the Investment Manager or any inaction with respect to any such investment in the absence of directions from the Investment Manager.

Anything hereinabove to the contrary notwithstanding, the Employer shall have no responsibility to the Trustee under the foregoing indemnification if the Trustee fails intentionally or recklessly to perform any of the duties undertaken by it under the provisions of this Trust.

4.6 Notwithstanding anything herein to the contrary, the Employer or, if so designated by the Employer, the Investment Manager or another agent of the Employer, will be responsible for valuing all other assets so acquired for all purposes of the Trust and of holding, investing, trading and disposing of the same. The Employer will indemnify and hold the Trustee harmless against any and all claims, actions, demands, liabilities, losses, damages, or expenses of whatsoever kind and nature, which arise from or are related to any use of such value by the Trustee or holding, trading or disposition of such assets.

ARTICLE V  
DISBURSEMENTS

5.1 The Employer or its designee shall make such payments from the Trust at such time to such persons and in such amounts as shall be authorized by the provisions of the Plan; provided, however, that the assets of the Plan (i) are held in trust for the exclusive benefit of the Participants and their Beneficiaries, and no payment shall be made, either during the existence of or upon the discontinuance of the Plan, which would cause any part of the Trust to be used for or diverted to purposes other than the exclusive benefit of the Participants and their Beneficiaries pursuant to the provisions of the Plan; (ii) may be used only to pay Plan benefits and defray reasonable expenses of administering the Plan; and (iii) cannot revert to the Employer until all Plan benefits have been paid to Participants and Beneficiaries in accordance with the terms of the Plan.

5.2 All payments of benefits under the Plan shall be made exclusively from the assets of the Plan accounts of the Participant to whom or to whose Beneficiary such payments are to be made, and no person shall be entitled to look to any other source for such payments.

ARTICLE VI  
ACCOUNTING BY TRUSTEE

6.1 The Trustee shall not be required to keep accounts of the investments, receipts, disbursements, and other transactions of the Trust, except as necessary to perform its title-holding function hereunder. All accounts, books, and records relating thereto shall be maintained by the Employer or its designee.

6.2 As promptly as possible following the close of each year, the Trustee shall file with the Employer a written account setting forth assets titled to the Trust as reported to the Trustee by the Employer or its designee.

ARTICLE VII  
MISCELLANEOUS ADMINISTRATIVE PROVISIONS

7.1 Neither the Trustee nor any affiliate thereof shall be required to give any

bond or to qualify before, be appointed by, or account to any court of law in the exercise of its powers hereunder.

7.2 No person transferring title or receiving a transfer of title from the Trustee shall be obligated to look to the propriety of the acts of the Trustee in connection therewith.

7.3 The Employer shall indemnify the Trustee (and any delegate of the Trustee) against any liability to any Participant or Beneficiary under the Plan for any action taken by the Trustee that is in accordance with the direction of the Employer. Furthermore, the Employer agrees to indemnify and hold harmless the Trustee (and any delegate) for any losses, costs, damages, or expenses, including reasonable attorneys' fees and expenses, which the Indemnitees may incur or pay out by reason of any (alleged or actual) action or inaction on the part of any predecessor or successor trustee of the Trust.

7.4 The Trustee shall use ordinary care and reasonable diligence in the exercise of its powers and the performance of its duties as Trustee hereunder, but shall not be liable for any mistake of judgment or other action taken in good faith, or for any loss, unless resulting from its own gross negligence or intentional misconduct.

7.5 The Employer may engage the Trustee as its agent in the performance of any duties required of the Employer under the Plan, but such agency employment shall not be deemed to increase the responsibility or liability of the Trustee under this Trust Agreement.

7.6 In the management of the Trust Fund, the Trustee may employ agents and delegate to them such ministerial and administrative duties as the Trustee shall see fit. As of the effective date of the Trust Agreement, the Trustee has appointed Hartford Life Insurance Company ("Hartford") as the agent to which it has delegated certain nondiscretionary administrative and ministerial duties. The Trustee and the Employer understand and agree that nothing in this Agreement, including the delegation of such nondiscretionary duties to Hartford, shall cause Hartford to be a fiduciary to the Plan. Also, as of the effective date of the Trust Agreement, the Trustee appoints the Employer as its authorized representative to which it has



delegated the authority to sign on the Trustee's behalf all documents relating to the investment of Plan assets in any vehicle sponsored by or made available through Hartford and its affiliates.

7.7 The expenses incurred by the Trustee in the performance of its duties hereunder, including fees for legal services, rendered to the Trustee, compensation of the Trustee and all other proper charges and disbursements of the Trustee, including all personal property taxes, income taxes and other taxes of any and all kinds whatsoever, that may be levied or assessed under existing or future laws upon or in respect of the Trust or any money, property or security forming a part of the Trust Fund, shall be paid by the Trustee from the Trust Fund, and the same shall constitute a charge upon the Trust Fund, unless the Employer pays the same or any part thereof.

## ARTICLE VIII

### AMENDMENT AND TERMINATION

8.1 The Employer reserves the right to alter, amend, or terminate this Trust Agreement at any time for any reason without the consent of the Trustee, or any other person, provided that such amendment or termination shall not reduce or eliminate any protected benefit and provided that no amendment affecting the rights, duties, or responsibilities of the Trustee shall be adopted without the written consent of the Trustee. Any such amendment shall become effective as of the date provided in the amendment upon delivery of the written instrument of amendment, as adopted by the Employer, to the Trustee and the endorsement of the Trustee of its agreement thereto.

## ARTICLE IX

### SUCCESSOR TRUSTEES

9.1 The Employer reserves the right to discharge the Trustee at any time by giving sixty (60) days' written notice.

9.2 The Trustee reserves the right to resign at any time by giving sixty (60) days' written notice to the Employer.

9.3 In the event of discharge or resignation of the Trustee, the Employer may appoint a successor Trustee who shall succeed to all the rights, duties, and responsibilities of the former Trustee under this Trust Agreement, and the terminated Trustee shall be deemed discharged of all duties under this Trust Agreement and responsibilities for the Trust.

## ARTICLE X APPLICABLE LAW

10.1 This Trust and its validity, construction and effect shall be governed by the laws of the jurisdiction in which the headquarters of the Trustee is located.

## ARTICLE XI RULES, CONSTRUCTION, AND INTERPRETATION

11.1 The Trustee shall have the sole discretionary authority to construe and interpret the Trust and to determine all questions arising in the administration, interpretation, and application of the Trust. All such determinations by the Trustee shall be conclusive and binding on all persons.

11.2 Notwithstanding anything in this Agreement to the contrary, the Trustee (including any delegate of the Trustee) shall not be responsible or liable for its failure to perform under this Agreement or for any losses to the Trust Fund resulting from any event beyond the reasonable control of the Trustee, its delegates, agents or subcustodians, including but not limited to nationalization, strikes, expropriation, devaluation, seizure, or similar action by any governmental authority, de facto or de jure; or enactment, promulgation, imposition or enforcement by any such governmental authority of currency restrictions, exchange controls, levies or other charges affecting the Trust Fund's property; or the breakdown, failure or malfunction of any utilities or telecommunications systems; or any order or regulation of any banking or securities industry including changes in market rules and market conditions affecting the execution or settlement of transactions; or acts of war, terrorism, insurrection or revolution; or acts of God; or any other similar or third-party event. This Section shall survive the termination of this Agreement.

## ARTICLE XII

### VALIDITY

12.1 The Trustee shall select any officers deemed necessary, and adopt rules governing its procedures not inconsistent herewith. The Trustee shall keep a record of its meetings and actions. The Trustee shall not be liable, jointly or severally, to any person for any actions or omissions in connection with its duties as Trustee unless resulting from its own gross negligence or willful misconduct. The Trustee shall not be responsible for the validity of the Plan and this Trust Agreement.

## ARTICLE XIII

### CONSTRUCTION


13.1 Pronouns and other similar words uses herein in the masculine gender shall be read as the feminine gender where appropriate, and the singular form of words shall be read as the plural where appropriate.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Employer and the Trustee have executed this Trust Agreement as of the date and year first set forth above.

**WITNESS/ATTEST**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

  
\_\_\_\_\_  
Print Name: DIANNE WILSON  
COUNTY CLERK

**RELIANCE TRUST COMPANY**

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EMPLOYER** FORT BEND COUNTY

By: Grady Prestage

Grady Prestage, Commissioner Precinct 2  
Presiding Officer, Commissioners Court, March 23, 2010

Date: 3/23/2010