

THE CHARTER TOWNSHIP OF GARFIELD

Grand Traverse County, Michigan

NON-QUALIFIED DEFERRED COMPENSATION PLAN - ORDINANCE NO. 22

SECTION I - NON-QUALIFIED DEFERRED COMPENSATION PLAN

The Charter Township of Garfield hereby establishes a Non-Qualified Deferred Compensation Plan under Section 457 of the Internal Revenue Code of 1954, as amended, whereby an officer, official or employee of the Township may be eligible to defer that individual's compensation or a portion thereof, said amounts deferred to be paid by the Township or it's agent to said officer, official or employee or said individual's beneficiary according to the terms of the agreement with said individual at a later date; said agreement shall be entered into by the Township Supervisor and the Township Clerk in the name of the Township; said deferred compensation shall be for the purpose of providing for the payment of said compensation in a different manner and at different times thereby more effectively providing for said officer, official or employee's retirement or death; said agreement shall be for the purpose of deferring federal and state income tax liability on said deferred compensation to the time of receipt by said officer, official or employee or said individual's beneficiary.

SECTION II - INDIVIDUALS COVERED

All Township officers, officials and employees who are employed for more than thirty (30) hours per week on a regular basis shall be eligible to participate in the Non-Qualified Deferred Compensation Plan established hereunder and may elect to participate in the plan by entering into a written Deferred Compensation Agreement with the appropriate officials of the Township, which said Agreement shall be as set forth in Exhibit A attached hereto and incorporated herein.

SECTION III - ADMINISTRATION AND INTERPRETATION OF THE PLAN

The Plan shall be administered by the Township Board of the Charter Township of Garfield. The Board shall represent the Township in all matters concerning the administration of the Plan. The Board or it's authorized agent or

official, shall investigate, review and approve any insurance company seeking to sell insurance, annuity or mutual fund contracts under this Plan. The Board shall have full power and authority to adopt rules and regulations for the administration of the Plan, provided that they are not inconsistent with the provisions of this Ordinance and to interpret, alter, amend or revoke any rules or regulations so adopted.

SECTION IV - TAX RAMIFICATIONS

It is the intention of the Township Board that this Non-Qualified Deferred Compensation Plan and the Agreement provided thereunder for the deferral of compensation complies with Section 457 of the Internal Revenue Code of 1954, as amended, pertaining to State deferred compensation plans. The participant's compensation which is deferred hereunder is intended to be nontaxable until actually received by said officer, official or employee or such individual's beneficiary. The administration of this Non-Qualified Deferred Compensation Plan and the operation and interpretation of the Agreement provided thereunder shall be done in such a manner so as not to result in the compensation deferred thereunder becoming taxable before actual receipt thereof by said officer, official or employee or such individual's beneficiary. Any provision contained herein which causes said deferred compensation to be taxed prior to receipt thereof shall be deemed null and void. However, although it is the opinion of the Charter Township of Garfield that the Non-Qualified Deferred Compensation Plan and the Agreement provided thereunder accomplishes the deferral of federal and state income tax for compensation deferred thereunder, no guarantee is given to any officer, official or employee or said individual's beneficiary as to its tax status and the Township hereby assumes no responsibility in the event of any adverse tax determination to any officer, official or employee or said individual's beneficiary.

Any provision of this Non-Qualified Deferred Compensation Plan, the Agreement or any Township rules or regulations pertaining thereto adopted thereunder, which are contrary to the Internal Revenue Code of 1954 or regulations

adopted thereunder shall be deemed to be superseded by such Internal Revenue Code of 1954 or regulations adopted thereunder.

SECTION V - SEVERABILITY

This Ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

SECTION VI - EFFECTIVE DATE; REPEAL OF PRIOR INCONSISTENT ORDINANCES: ADOPTION

This Ordinance shall become effective immediately. Any Ordinance or parts of ordinances inconsistent herewith shall be deemed to be repealed by this Ordinance and shall be of no further force and effect. However, the validity of any non-qualified deferred compensation agreements made by Township officers, officials or employees pursuant to any previous plan shall not be affected by this Ordinance and Plan, but such previously executed non-qualified deferred compensation agreements shall be subject to the terms of this Ordinance and Plan hereafter.

This Ordinance was introduced on April 22, 1982, and was adopted by the Township Board of the Charter Township of Garfield at a meeting thereof held May 13, 1982.

LEE F. WILSON, Supervisor
KAY JACOBS, Clerk
Charter Township of Garfield
3848 Townhall Road
Traverse City, MI 49684

Ord. No. 22
adopted by TB

5-13-82

**AMENDMENT TO PUBLIC OR SECTION 501 TAX-EXEMPT EMPLOYER
DEFERRED COMPENSATION PLAN
PURSUANT TO SECTION 457 OF THE INTERNAL REVENUE CODE**

[For Section 501 Tax-Exempt Employers, Items 2-5 must be omitted.]

WHEREAS, the MTA (“Employer”) established a Deferred Compensation Plan (“Plan”) pursuant to Section 457 of the Internal Revenue Code of 1986, as amended (“Code”) effective on August 1, 1988.

WHEREAS, the Small Business Job Protection Act of 1996 (“Act”) changed certain provisions of Code Section 457.

WHEREAS, the Employer desires to modify its Plan to comply with the provisions of the Act.

NOW, THEREFORE, the Employer hereby amends its Plan, effective May 1, 1997, as follows:

1. Sections 2.03a and 2.03b are modified by adding the following language in parenthesis after each place in which \$7,500 and \$15,000 appears:

“or such larger amount as may be prescribed by the Secretary of the Treasury.”

2. Section 4.02f is restated as follows:

Pursuant to procedures determined by the Committee, a Participant may request that the Employer change the designation of the Designated Institution utilized by the Employer to measure the Plan benefits payable to the Participant.

3. Section 5.01 is revised by deleting the phrase “which would have been” from the first sentence of the second paragraph, replacing the first reference to Employer with “Employee”, and restating the last paragraph to state:

-the premium is equal to the Participant’s Deferred Compensation which was applied as a premium to such annuity contract or life insurance policy within a reasonable time subsequent to the reduction in the Participant’s Compensation as authorized and as specified in the Participant’s Participation Agreement.

4. Sections 5.02 and 5.03 are deleted in their entirety, Section 5.04 is renumbered 5.03, and the following is added as a new Section 5.02:

The Employer will purchase an Investment Product and invest amounts of Deferred Compensation therein in order to provide a fund from which it can satisfy its obligation to make benefit payments pursuant to this Plan. Such Investment Product, and all amounts of Compensation deferred under this Plan, all property and rights which may be purchased by the Employer with such amounts and

all income attributable to such amounts, property or rights to property shall be held in trust (or a custodial account or annuity contract described in Code Section 401(f)) for the exclusive benefit of Participants and their Beneficiaries. All such amounts shall not be subject to the claims of the Employer's general creditors.

5. The new Section 5.03 is deleted and restated as follows:

The value of any benefit shall be determined by the actual value of the Investment Product at the time of benefit payment, unaffected by any independent or arbitrary standard of calculation with respect to such Investment Product. The Employer shall not be responsible for the investment or performance results of such Investment Product.

6. A second paragraph is added to Section 6.01e, as follows:

A Participant who has elected to defer his benefits pursuant to the paragraph above may, subsequent to his initial election, and prior to the commencement of benefits, elect to further defer payment of benefits to a later date as allowed by the Plan. A Participant is only permitted to make one such election.

7. A new Section numbered 6.01h is added, as follows:

If, prior to Separation from Service, the value of a Participant's benefits under the Plan does not exceed \$3,500, the Participant may elect at any time to receive such value in a lump sum if: 1) the Participant has not deferred any Compensation under the Plan during the two year period ending on the date of distribution; and 2) the Participant has not previously received a distribution under this subsection.

8. Article VIII is retitled "Leave of Absence and Military Service", the existing paragraph is numbered Section 8.01, and the following is added as Section 8.02:

This Plan will be administered in accordance with Code Section 414(u) for employees who return to work after absences from employment due to military service. This includes make-up contributions that were not made during the employee's period of military service. Contributions made up will be subject to the annual contribution limitations for the year in which they relate, rather than the year they are made.

IN WITNESS WHEREOF, the Employer has caused this amendment to be signed and attested to by its duly authorized officer on the 24th day of April, 1997

Maureen Hoar
Witness

John H. Lohr
Signature

Executive Director
Title Michigan Townships Association