

**FINAL CODE §401(a)(9) AMENDMENT  
REGARDING MINIMUM DISTRIBUTION REQUIREMENTS**

**Name Of Plan:** Kent County Water Authority Pension Plan (the "Plan")

**Plan Sponsor:** Kent County Water Authority (the "Sponsor")

**This Amendment** is hereby adopted by the Sponsor in order to permit the Plan to make required minimum distributions in accordance with final Internal Revenue Service regulations under Code §401(a)(9) effective no later than for calendar years which begin in 2003 in accordance with Rev. Proc. 2002-29.

**Section 1. General Rules**

- 1.1. Effective Date.** The provisions of this amendment will apply for purposes of determining required minimum distributions for calendar years beginning with the 2002 calendar year.
- 1.2. Coordination with Minimum Distribution Requirements Previously In Effect.** Required minimum distributions for calendar 2002 will be determined as follows: If the total amount of 2002 required minimum distributions under the Plan made to a distributee for calendar 2002 (a) equals or exceeds the required minimum distributions determined under this amendment, then no additional distributions will be required to be made for 2002 on or after such date to the distributee; or (b) is less than the amount determined under this amendment, then required minimum distributions for 2002 on and after such date will be determined so that the total amount of required minimum distributions for 2002 made to the distributee will be the amount determined under this amendment.
- 1.3. Precedence.** The requirements of this amendment will take precedence over any inconsistent provisions of the Plan and any prior amendments thereto.
- 1.4. Requirements of Internal Revenue Service Regulations Incorporated.** All distributions required under this amendment will be determined and made in accordance with the Internal Revenue Service regulations under Code §401(a)(9).
- 1.5. TEFRA §242(b)(2) Elections.** Notwithstanding the other provisions of this amendment, distributions may be made under a designation made before January 1, 1984, in accordance with §242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the plan that relate to §242(b)(2) of TEFRA.

**Section 2. Time and Manner of Distribution**

- 2.1. Required Beginning Date.** The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.
- 2.2. Death of Participant Before Distributions Begin.** If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

- (a) If the Participant's surviving Spouse is the sole designated Beneficiary, then subject to section 2.2 (e) below distributions to the surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
- (b) If the Participant's surviving Spouse is not the sole designated Beneficiary, then subject to section 2.2(e) below distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
- (c) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (d) If the Participant's surviving Spouse is the sole designated Beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this section 2.2 other than section 2.2(a) will apply as if the surviving Spouse were the Participant.
- (e) If the Participant dies before distributions begin and there is a designated Beneficiary, distribution to the designated Beneficiary is not required to begin by the date specified in sections 2.2(a) or (b) above if the Participant's entire interest is distributed to the designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death. In addition, a designated Beneficiary who is receiving payments under this 5-year rule may make a new election to receive payments under the life expectancy rule until December 31, 2003, provided that all amounts that would have been required to be distributed under the life expectancy rule for all distribution calendar years before 2004 are distributed by the earlier of December 31, 2003 or the end of the 5-year period.

For purposes of this section 2.2 and section 5, distributions are considered to begin on the Participant's Required Beginning Date (or, if section 2.2(d) applies, the date distributions are required to begin to the surviving Spouse under section 2.2(a)). If annuity payments irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving Spouse before the date distributions are required to begin to the surviving Spouse under section 2.2(a)), the date distributions are considered to begin is the date distributions actually commence.

**2.3. Form of Distribution.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with sections 3, 4 and 5 of this amendment. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code §401(a)(9) and IRS regulations. Any part of the Participant's interest which is in the form of an individual account described in Code §414(k) will be distributed in a manner satisfying the requirements of Code §401(a)(9) and the IRS regulations that apply to individual accounts.

### **Section 3. Determination of Amount to be Distributed Each Year**

**3.1. General Annuity Requirements.** If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

- (a) annuity distributions will be paid in periodic payments made at intervals not longer than one year;
- (b) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in section 4 or 5;
- (c) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
- (d) payments will either be nonincreasing or increase only as follows: (1) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics; (2) to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the Beneficiary whose life was being used to determine the distribution period described in section 4 dies or is no longer the Participant's Beneficiary pursuant to a qualified domestic relations order within the meaning of Code §414(p); (3) to provide cash refunds of employee contributions upon the Participant's death; or (4) to pay increased benefits that result from a Plan amendment.

**3.2. Amount Required to be Distributed by Required Beginning Date.** The amount that must be distributed on or before the Participant's Required Beginning Date (or, if the Participant dies before distributions begin, the date distributions are required to begin under section 2.2(a) or (b)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's Required Beginning Date.

**3.3. Additional Accruals After First Distribution Calendar Year.** Any additional benefits accruing to the Participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

#### **Section 4. Requirements For Annuity Distributions That Commence During Participant's Lifetime**

**4.1. Joint Life Annuities When Beneficiary Is Not the Participant's Spouse.** If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a non-Spouse Beneficiary, annuity payments to be made on or after the Participant's Required Beginning Date to the designated Beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table in Q&A-2 of §1.401(a)(9)-6T of the IRS regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a non-Spouse Beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated Beneficiary after the expiration of the period certain.

**4.2. Period Certain Annuities.** Unless the Participant's Spouse is the sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in §1.401(a)(9)-9 of the IRS

regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in §1.401(a)(9)-9 of the IRS regulations plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the annuity starting date. If the Participant's Spouse is the Participant's sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this section 4.2, or the joint life and last survivor expectancy of the Participant and the Participant's Spouse as determined under the Joint and Last Survivor Table set forth in §1.401(a)(9)-9 of the IRS regulations, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the calendar year that contains the annuity starting date.

## **Section 5. Requirements For Minimum Distributions If Participant Dies Before Distributions Begin**

- 5.1. Participant Survived by Designated Beneficiary.** If the Participant dies before the date distribution of his or her interest begins and there is a designated Beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in section 2.2(a) or (b), over the life of the designated Beneficiary or over a period certain not exceeding (a) unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or (b) if the annuity starting date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of his or her birthday in the calendar year that contains the annuity starting date.
- 5.2. No Designated Beneficiary.** If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- 5.3. Death of Surviving Spouse Before Distributions to Surviving Spouse Begin.** If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving Spouse is the Participant's sole designated Beneficiary, and the surviving Spouse dies before distributions to the surviving Spouse begin, this section 5 will apply as if the surviving Spouse were the Participant, except that the time by which distributions must begin will be determined without regard to section 2.2(a).

## **Section 6. Definitions.**

- 6.1. Designated Beneficiary.** The Beneficiary designated by the Participant is the designated Beneficiary under Code §401(a)(9) and §1.401(a)(9)-1, Q&A-4 of the IRS regulations.
- 6.2. Distribution calendar year.** A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to section 2.2.
- 6.3. Life expectancy.** Life expectancy as computed by use of the Single Life Table in §1.401(a)(9)-9 of the IRS regulations.

**KENT COUNTY WATER AUTHORITY**

By \_\_\_\_\_  
Francis J. Perry, Chairman

Date September 15, 2004

**EGTRRA "GOOD FAITH" PLAN AMENDMENT  
FOR DEFINED BENEFIT PLANS**

**per IRS Notices 2001-42, 2001-56, and 2001-57;  
and the Job Creation and Worker Assistance Act of 2002 (the 2002 Tax Act)**

**Name Of Plan:** Kent County Water Authority Pension Plan (the "Plan")

**Plan Sponsor:** Kent County Water Authority (the "Sponsor")

**This Amendment** is hereby adopted by the Sponsor to reflect certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA"), is intended as good faith compliance with the requirements of EGTRRA, and is to be construed in accordance with EGTRRA and guidance issued thereunder, including IRS Notices 2001-42, 2001-56, and 2001-57, and with the Job Creation and Worker Assistance Act of 2002 (the 2002 Tax Act). This amendment will supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this amendment, and except as otherwise indicated, is effective as of the first day of the first Plan Year beginning after December 31, 2001.

- **§611(c) of EGTRRA; INCREASE IN COMPENSATION LIMIT UNDER CODE §401(a)(17)**

The term annual Compensation means Compensation during the Plan Year or such other consecutive 12-month period over which Compensation is otherwise determined under the Plan (the determination period).

*The following is adopted so that the Plan increases the Code §401(a)(17) limit on annual Compensation in plan years beginning after December 31, 2001 to \$200,000 for annual Compensation for all plan years, including annual Compensation for plan years which began on or before December 31, 2001.*

Except for purposes of determining the maximum 3-highest consecutive year average compensation under Code §415, in determining Average Compensation and Accrued Benefits for any Plan Year which begins on or after January 1, 2002 the annual Compensation for each Participant (including Compensation for years prior to 2002) which is taken into account shall not exceed \$200,000. The \$200,000 limit on annual Compensation shall be adjusted for cost-of-living increases in accordance with Code §401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to annual Compensation for the determination period that begins with or within such calendar year.

- **§§641, 642 and 643 of EGTRRA - DIRECT ROLLOVERS OF PLAN DISTRIBUTIONS**

1. **Effective date:** This section shall apply to distributions made after December 31, 2001.
2. **Modification of definition of eligible retirement Plan:** For purposes of the direct Rollover of the Plan, an eligible retirement Plan shall also mean an annuity contract described in Code §403(b) and an eligible Plan under Code §457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such Plan from this Plan. The definition of eligible retirement Plan shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Code §414(p).

● **§648 of EGTRRA - ROLLOVERS DISREGARDED IN INVOLUNTARY CASH-OUTS**

*The following optional amendment may be adopted by Plans that provide for involuntary cash-outs. Note that this amendment will result in the involuntary distribution of a separated Participant's lump sum Actuarial Equivalent value over \$5,000 if the portion that is not attributable to rollover contributions is \$5,000 or less.*

*EGTRRA provided this capability for plans, other than Plans that are subject to the qualified joint and survivor annuity requirements of Code §401(a)(11) and Code §417. In accordance with the 2002 Tax Act, however, a clarification was promulgated to the effect that no spousal consent is required for a permitted involuntary cash-out of \$5,000 or less.*

Rollovers disregarded in determining Actuarial Equivalent value of the Participant's non-forfeitable Accrued Benefit for involuntary distributions: For purposes of the Plan provisions that provide for the involuntary distribution of vested Accrued Benefits of \$5,000 or less, the Actuarial Equivalent value of the Participant's non-forfeitable Accrued Benefit shall be determined without regard to that portion that is attributable to Rollover Contributions (and earnings allocable thereto) within the meaning of sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16). If the Actuarial Equivalent value of the Participant's non-forfeitable Accrued Benefit as so determined is \$5,000 or less, the entire Actuarial Equivalent value of the Participant's non-forfeitable Accrued Benefit shall be considered immediately distributable. This election shall apply with respect to distributions made on or after January 1, 2002.

**KENT COUNTY WATER AUTHORITY**

By \_\_\_\_\_

**Francis J. Perry, Chairman**

Date September 15, 2004

**PLANNING DOCUMENT \$25,000/YEAR ALLOCATION**

<b>PROJECT</b>	<b>STATUS</b>
Water Supply System Management Plan WSSMP	Approved & completed 5 year update due 2007
Clean Water Infrastructure Plan	Approval June 13, 2003. 5 year update due 2008
Vulnerability Assessment Bio-Terrorism Bill	Submitted December 19, 2003
Revised Emergency Response Plan	By June 19, 2004
Simplified EFP Topic Sheets/Employee distribution	December 2004

**UPDATED CIP PROJECTS BOND FUNDING**

<b>PROJECT</b>	<b>STATUS</b>
Mishnock Well Field (new wells) CIP - 1A	Project closed out.
Mishnock Transmission Mains CIP - 1B	Project closed out.
Mishnock Treatment Plant CIP - 1C	Project closed out.
R-CIP 19 Tiogue Avenue Main	Project closed out.
East Greenwich Well Treatment Plant - CIP-2	Temporary Sequestering Online.
Blackrock Road Transmission Main - CIP-4	Construction on-going.
Clinton Avenue Pump Station Rehabilitation CIP - 7A	Design Submitted to D.O.H. for Approval.
Mishnock 4 Well Installation	On hold. RFP 4 & 5 plus control facility / T.P.

**IFR FUNDED PROJECTS**

<b>PROJECT</b>	<b>STATUS</b>
IFR 2003	Construction ongoing.
IFR 2004	Design ongoing.
Geographic Information System Base Map	Completed.
Geographic Information System Second Phase	Mapping ongoing.
Tiogue Tank Modified Service Area	Construction submittals ongoing.
Knotty Oak Road. Old CIP 5	Construction completed. Final Paving November 2004.
Setian Lane new pumping station and Frenchtown vault rehabilitation.	Liquidated damages being assessed. Punch list pending.
Setian Lane Tank painting	Legal/Settlement.
Oaklawn Meter Replacement IFR	Installed/Damage Repair/Survey Location
PWSB 78 <sup>th</sup> / Johnson Blvd. P.S. Modification	Project to be delayed due to Setian Lane P.S.
Rehabilitation Mishnock #3	Redevelopment completed.
Revised Hydraulic Model	Task order 3 ongoing
Color Study Mishnock Wells	Ongoing.
<b>PROJECT</b>	<b>STATUS</b>
Web site preparation	Up and running.
Strategic Plan	Schedule September 21 & 22
Newsletter	To printer this week.
CCR 2003	Mailed.
Colvintown Road	Pipe installed - Services late Fall
Middle Road extension	Rock Removal Bid