CITY OF Los Angeles
DEFERRED COMPENSATION PLAN

Board Report 21-35

Date: June 15, 2021

To: Board of Deferred Compensation Administration

From: Staff

Subject: Domestic Partnerships within the Deferred Compensation Plan

Discussion:

Following is a report regarding the operation of domestic partnerships within the Deferred Compensation Plan (DCP).

A. Background

At its meeting on January 19, 2021, Board member Raymond Ciranna requested staff to report back regarding the operation of domestic partnerships within the DCP. This report provides information regarding considerations for DCP participants who have established domestic partnerships.

B. Discussion

(1) Beneficiary Rules and Domestic Partners

Beneficiary distribution rules for defined contribution plans are governed under federal law (although certain additional considerations exist under state law related to the division of community property, which will be addressed in the next section). Under federal law, defined contribution participants establish accounts and can name beneficiaries to their accounts. Beneficiaries fall into two primary categories:

- Persons (e.g. a spouse, domestic partner, relative, or friend)
- Non-Persons (e.g. a trust, estate, or charity)

Upon the death of a participant, federal law establishes certain provisions related to distributions differentiated by the following beneficiary categories:

- Spouse
- Non-spouse
- Non-Person

In general, spouses can defer distribution for longer periods of time than is the case for non-spouses and non-persons. As federal law does not, for the purpose of beneficiary rules, recognize domestic partnerships as a distinct category, a named beneficiary who also happens to be a domestic partner is treated as any other non-spouse person.

Once a participant passes away and a beneficiary steps forward to transfer account ownership and/or take distribution from the account, the role of the plan sponsor is to verify (a) the death of the participant and (b) the identity of the beneficiary. For a non-person beneficiary, the status of the beneficiary must also be provided (e.g. proper documentation of the trust). However, a spouse is not required to submit a marriage certificate and a non-spouse beneficiary is not required to submit any information documenting the relationship of the beneficiary to the participant (since the nature of the relationship is not relevant to federal rules regarding distribution).

(2) Community Property Considerations

California is a community property state. For the purpose of a defined contribution plan, this means that spouses and domestic partners may accrue a community property interest in defined contribution accounts during the dates of marriage. The community property interest is 50% of the contributions to the account during the dates of marriage, plus or minus gains or losses attributable to those contributions. This community property right exists regardless of whether the participant has designated the spouse or domestic partner as the account beneficiary in an amount sufficient to provide for the spouse/domestic partner's community property interest. In the event the account holder did not provide the spouse/domestic partner with an amount sufficient to encompass the community property interest, it is the responsibility of the spouse or domestic partner to claim the community property interest following the participant's death.

(3) Distributions Without a Named Beneficiary

In cases involving the death of a participant without a named beneficiary, the distribution of DCP assets is governed by state probate law. If there are no beneficiaries on file, DCP assets will be distributed in accordance with state probate law. If a valid domestic partnership exists and the domestic partner steps forward to claim a community property interest under state probate law, proof of a domestic partnership filed with the State of California will need to be provided.

(4) Domestic Partnerships and Divorce

Upon the dissolution of a domestic partnership, a domestic partner may be entitled to his/her share of the DCP account under California community property law. Qualified Domestic Relations

Orders (QDROs) are reviewed by the City Attorney and City Attorney staff works directly with the DCP's Third-Party Administrator, Voya for processing account separations due to divorce.

Submitted by: ____

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