

CITY OF LOS ANGELES ADMINISTRATIVE CODE

CHAPTER 14 DEFERRED COMPENSATION PLAN

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Sec. 4.1400. Deferred Compensation Plan.

The name of this plan is the City of Los Angeles Deferred Compensation Plan (the "Plan"). It is the primary purpose of the Plan to attract and hold personnel by permitting all officers and Employees of the City to enter into agreements with the City which will provide for deferral of payment of a portion of their compensation until death, disability, retirement, termination of employment, or other events as provided herein, in accordance with the applicable provisions of Section 457 of the Internal

Revenue Code of 1986, as amended (26 U.S.C Section 1 et seq.). The Plan shall be considered an Employee benefit plan or savings plan for purposes of California Civil Code Section 5106(b) as amended from time to time, or its successor sections. The City of Los Angeles Board of Deferred Compensation Administration shall prepare and adopt a Plan Document which together with the provisions of this Chapter shall be the governing document for the Plan. The Plan Document and any amendments thereto shall be consistent with the provisions of this Chapter. The provisions of this Chapter shall be controlling. Any conflicts or inconsistencies between the provisions of the Plan and this Chapter shall be resolved in favor of the provisions of this Chapter.

SECTION HISTORY

Added by Ord. No. 154,806, Eff. 2-13-81.

Amended by: In Entirety, Ord. No. 174,407, Eff. 2-28-02, Oper. 1-1-02.

Sec. 4.1401. Definitions.

(a) "Employer" or "City" means all offices, bureaus, and departments of the City of Los Angeles and includes therein departments which have control of their own definite revenues.

(b) "Employee" means any full-time employee or officer of the City or any member of one of the City's retirement or pension plans, excluding the Pension Savings Plan, who performs services for the City.

(c) "Participant" means any employee who has fulfilled the requirements of enrollment in the Plan.

(d) "Beneficiary" means any person, trust, corporation, or firm, or any combination thereof, designated by a participant to receive benefits under the Plan.

(e) "Participation Agreement" means the agreement filed by an employee with the Administrator(s) in which the Employee elects to become a Participant in the Plan.

(f) "Compensation" means all wages or salaries to be paid to an Employee for services rendered including any amounts of Deferred Compensation that may be credited to the Participant's Account. Compensation shall be taken into account at its present value and its amount shall be determined without regard to any community property laws.

(g) "Deferred Compensation" means that portion of an Employee's compensation which said Employee has elected to defer in accordance with the provisions of this Deferred Compensation Plan, subject to the following limitations:

(1) The maximum amount that may be deferred under the Plan for the taxable year of a Participant shall not exceed the lesser of (1) \$11,000 for the taxable year 2002, \$12,000 for the taxable year 2003, \$13,000 for the taxable year 2004, \$14,000 for the taxable year 2005, and \$15,000 for the taxable year 2006, and as adjusted for the cost-of-living in accordance with Internal Revenue Code Section 457 (e) (15) for taxable years beginning after December 31, 2006, or (2) any other applicable limitation established under the Internal Revenue Code related to the participant's compensation or includible compensation.

(2) Provided, however, that for one or more of a Participant's last three taxable years ending prior to either a Participant's Normal or Deferred Retirement Date, the maximum amount that may be deferred under the Plan shall be the lesser of (1) twice the dollar amount of the applicable dollar limit for that taxable year as defined under (1) above, or (2) the sum of (i) the limitation in (1) above for the taxable year and (ii) the limitation under (1) above for any taxable year or years which began after December 31, 1982, and in which the participant was eligible to participate in the Plan less the amount of Compensation deferred under the Plan for any such prior taxable year or years. A Participant may only utilize this Subsection (2) once, whether under this Plan or any other Eligible Deferred Compensation Plan.

(3) Individuals who are age 50 or over prior to the end of a taxable year are eligible for an additional elective deferral which shall not exceed the lesser of \$1,000 for the taxable year 2002, \$2,000 for the taxable year 2003, \$3,000 for the taxable year 2004, \$4,000 for the taxable year 2005, and \$5,000 for the taxable year 2006, and as adjusted for the cost-of-living in accordance with Internal Revenue Code Section 414(v)(2) for taxable years beginning after December 31, 2006, or (2) the excess (if any) of (a) the Participant's compensation (as defined in Section 415(c)(3) for the year), over (b) any other elective deferral of the Participant for such year which are made without regard to this subsection.

(h) "Includible Compensation" means compensation as determined under Internal Revenue Code Section 457(e)(i).

(i) "Administrator" means the duly authorized designee contracted for that purpose to act as the employer's agent. The Board may elect to contract with one or more Administrator(s).

(j) "Board" means the Board of Deferred Compensation Administration established by the City and operating according to the provisions of Section 4.1407. The Board is responsible for administration of the Plan.

(k) "Normal Retirement Date" refers to an age which is no later than age 70½ and no earlier than the earliest age at which a Participant has the right to retire under the Employer's basic pension plan, without consent of the Employer, and to receive immediate retirement benefits without actuarial or similar reduction.

(l) "Deferred Retirement Date" means the date beyond the Normal Retirement Date specified in (k) which is designated by the participant. Such date shall not exceed the date on which the participant incurs a termination of employment.

(m) "Eligible Deferred Compensation Plan" has the meaning given it by Internal Revenue Code Section 457 and the regulations thereunder.

(n) "Investment Account" or "Account" means the account established for a Participant by the Board or the Administrator pursuant to Section 4.1405.

SECTION HISTORY

Added by Ord. No. 154,806, Eff. 2-13-81.

Amended by: Subsecs. (a), (b), (c), (e), (g), and (i) amended, Subsecs. (k), (l), and (m) added, Ord. No. 158,396, Eff. 11-14-83; Subsec. (j), Ord. No. 170,512, Eff. 6-10-95; Subsec. (g)(1), Ord. No. 172,105, Eff. 7-14-98; Subsecs. (b), (e), (f), (g), (h), (i), (j), (k) and (m) amended, Subsec. (n) added, Ord. No. 174,407, Eff. 2-28-02, Oper. 1-1-02.

Sec. 4.1402. Participation in the Plan.

(a) The Plan Document established by the Board shall provide the requirements for participation in the Plan.

(b) A participant may transfer to this Plan amounts previously deferred under another Eligible Section 457 Deferred Compensation Plan. A participant may transfer to this Plan amounts in other eligible plans if provided for under the Plan Document and if authorized by Section 457 of the Internal Revenue Code and the Regulations promulgated thereunder. The Plan

Document established by the Board shall define the requirements and eligibility for transfers into the Plan.

SECTION HISTORY

Added by Ord. No. 154,806, Eff. 2-13-81.

Amended by: In Entirety, Ord. No. 158,396, Eff. 11-14-83; Subsec. (g), Ord. No. 162,923, Eff. 12-13-87; Subsecs. (f) and (g), Ord. No. 170,511, Eff. 6-10-95; In Entirety, Ord. No. 174,407, Eff. 2-28-02, Oper. 1-1-02.

Sec. 4.1403. Deferral of Compensation.

During each payroll period in which the Employee has elected to defer compensation under a Participation Agreement, the City Controller and Department of Water and Power Payroll shall defer payment of such part of the Employee's Compensation as is specified by the Employee in the Participation Agreement.

SECTION HISTORY

Added by Ord. No. 154,806, Eff. 2-13-81.

Amended by: In Entirety, Ord. No. 158,396, Eff. 11-14-83; Subsec. (g), Ord. No. 162,923, Eff. 12-13-87; In Entirety, Ord. No. 174,407, Eff. 2-28-02, Oper. 1-1-02.

Sec. 4.1404. Investment Fund and Trust.

The Employer shall establish a separate fund to hold all assets and income of the Plan, including amounts, assets and income held in custodial accounts or annuity contracts described in Internal Revenue Code Section 401(f). Such fund shall be held in trust for the exclusive benefit of Participants and their Beneficiaries in accordance with the terms and conditions of the Plan, and for defraying reasonable expenses of administration of the Plan. With respect to custodial accounts or annuity contracts described in Internal Revenue Code Section 401(f), the contract documents and all other pertinent documents therefor shall clearly state that the amounts, assets and income subject thereto are so held. Neither the existence of the Plan, nor of the trust nor of the fund shall entitle any Participant, Beneficiary or other person to a claim or lien against the assets of the Plan or the trust. The Participants and their Beneficiaries

shall have only the right to receive the benefits payable under the Plan as provided in this chapter.

SECTION HISTORY

Added by Ord. No. 154,806, Eff. 2-13-81.

Amended by: In Entirety, Ord. No. 159,849, Eff. 6-22-85; In Entirety, Ord. No. 172,105, Eff. 7-14-98; In Entirety, Ord. No. 174,407, Eff. 2-28-02, Oper. 1-1-02.

Sec. 4.1405. Investment Accounts.

The City (acting through the Administrators), shall cause to be established for each Participant a book account (the "Investment Account"). The City shall cause to have credited to each account amounts equal to the Compensation deferred by the Participant under the Plan less any applicable fees. The assets of the account shall be invested in such investments as the law may allow and as offered under the Plan. Each Participant's Investment Account shall further be credited with earnings, gains or losses applicable to such investments. The City shall not be liable to Participants in the Plan, their Beneficiaries or any other persons for any losses on any investment credited to any Investment Account.

SECTION HISTORY

Added by Ord. No. 164,806. Eff. 2-13-81.

Amended by: Ord. No. 158,396, Eff. 11-14-83; In Entirety, Ord. No. 172,105, Eff. 7-14-98; In Entirety, Ord. No. 174,407, Eff. 2-28-02, Oper. 1-1-02.

Sec. 4.1406. Distribution of Benefits.

(a) The Plan Document established by the Board shall provide the requirements for distributions from the Plan, including distributions for financial hardship.

(b) Notwithstanding any other provisions of this section or of the Plan Document, the City may change the time or methods of distribution of benefits available under the Plan provided such changes comply with Internal Revenue Service rules and regulations. The City may, at its discretion, discharge in full obligations under the Plan to any participant, or following

the death of the participant by distributing to the participant's beneficiary or beneficiaries, an amount equal to the balance of the participant's Investment Account plus or minus gains or losses, but less any fees and income taxes required to be withheld.

SECTION HISTORY

Added by Ord. No. 154,806, Eff. 2-13-81.

Amended by: In Entirety, Ord. No. 158,396, Eff. 11-14-83; Subsec. (a), Ord. No. 172,105, Eff. 7-14-98; Subsec. (d) added, Ord. No. 172,105, Eff. 7-14-98; In Entirety, Ord. No. 174,407, Eff. 2-28-02, Oper. 1-1-02.

Sec. 4.1407. Administration of the Plan.

(a) The Board shall have the sole authority for the operation of the Plan in accordance with its terms and shall rule on all questions arising out of the administration, interpretation and application of the Plan, which determination shall be conclusive and binding on all Participants. Actions of the Board are subject to the provisions of Charter section 245.

(b) One or more organization(s) shall be selected and contracted with by the Board to assist the Board in the administration of the Plan and to provide Plan investment options, Plan consulting services, Plan auditing services, and other services related to the administration of the Plan. The contractor(s) shall be governed by the Board.

(c) The Board shall be responsible for making hardship determinations.

(d) The Board shall also report annually to the City Council and to all Plan Participants concerning the administration and financial condition of the Plan.

(e) Effective July 1, 2008, the Board of Deferred Compensation Administration shall consist of nine Board Members (Board Members), as follows:

(1) The General Manager of the Personnel Department who shall coordinate and/or disseminate rulings and responses necessitated by Board actions; and shall, through his/her Office, provide staff assistance and support to the Board.

(2) The General Manager of the Los Angeles City Employees Retirement System.

(3) The General Manager of Fire and Police Pensions.

(4) The Retirement Plan Manager of the Water and Power Employees Retirement Plan.

(5) One elected representative from the Los Angeles City Employees Retirement System, who shall be an active City employee and Plan Participant, elected by a plurality vote of the active membership of the Los Angeles City Employees Retirement System.

(6) One elected representative from the Fire and Police Pensions, who shall be an active employee and Plan Participant, elected by a plurality vote of the active membership of Fire and Police Pensions.

(7) One elected representative from the Water and Power Employees Retirement Plan, who shall be an active employee and Plan Participant, elected by a plurality vote of the active membership of the Water and Power Employees Retirement Plan.

(8) One elected retired employee representative, who shall have retired or otherwise severed employment from the City and be a Plan Participant, elected by a plurality vote of Plan Participants who have retired or otherwise severed employment from the City.

(9) One employee organization representative selected by the City's recognized employee organizations. The representative shall be an active City employee and Plan Participant. Beginning July 1, 2008, the selection of the representative must occur and be certified by formal action of the recognized employee organizations not less frequently than once every two years.

An elected term for Board Members designated in (5) through (8) above shall be three years. The Office of the City Clerk shall administer those elections, and the Plan shall bear the costs of the elections. Should a vacancy occur within an elected position, wherein the balance of the term is between one and three years, a special election shall be held to fill the vacancy. Should a vacancy occur within an elected position, wherein the balance of the term is less than one year, the position may be filled with a representative selected by the corresponding retirement board.

The selection of the employee organization representative shall be conducted by the City's recognized employee organizations in accordance with the procedures established by those organizations for that purpose.

Until July 1, 2008, the Board shall continue to be constituted, and its members selected in the manner specified as of July 1, 2007. The new terms of all Board Members shall begin July 1, 2008, with the exception of the elected representative of the Water and Power Employees Retirement Plan and the elected retired employee representative whose terms shall begin on July 1, 2009. The persons representing the Water and Power Employees Retirement Plan and the retired employees on July 1, 2008, shall continue to serve as Board Members until July 1, 2009. No elected Board Member shall be subject to a limit on the number of terms he or she may serve. Board Members shall serve without compensation. The Board shall elect a new chairperson and vice-chairperson from among its members at its first meeting in January of every even numbered year, and shall promulgate rules and bylaws for the conduct of its meetings within the Deferred Compensation Plan Document.

(f) It is the intent of the City Council that the Plan operate at no cost to the City. Administrative and operating costs are to be defrayed by the participating Employees through direct assessments or fees to be determined by the Board based upon arrangements that the Board may negotiate with service/product providers.

(g) Department managers will permit Employees to attend up to two presentations annually to be given by the Administrator(s) to explain the Plan. Department managements will permit Employees to use accumulated overtime or adjust their hours or otherwise make up for the time spent at the presentation. The method of making up the time is subject to department management approval. Presentations will be scheduled in City facilities and may occur during normal business hours. The Administrator(s) shall not directly contact any department management to set up these meetings, but shall work through the Board.

(h) The Administrator(s) shall be provided space to meet individually by appointment with Employees interested in participating in the Plan. Employees wishing to meet with the Administrator(s) during their normal working hours must obtain prior permission from their department managers and must arrange to make up the time taken to meet with the Administrator(s). Time can be made up by using compensatory time, or another method that the department management approves.

(i) The Board is hereby authorized to approve, and the chair of the Board is hereby authorized to execute, amendments to contracts with Plan administrators when the amendments result in no new costs to either the City or to any participants in the Plan.

(j) The Board shall periodically cause to be conducted

representative sample surveys of Plan Participants to determine member satisfaction, complaints, ideas for improvement of the Plan, and to obtain similar information.

SECTION HISTORY

Added by Ord. No. 154,806, Eff. 2-13-81.

Amended by: In Entirety, Ord. No. 158,396, Eff. 11-14-83; Ord. No. 162,923, Eff. 12-13-87; Ord. No. 162,980, Eff. 1-3-88; Ord. No. 165,932, Eff. 7-6-90; Ord. No. 170,511, Eff. 6-10-95; Ord. No. 170,512, Eff. 6-10-95; Ord. No. 172,415, Eff. 2-22-99; In Entirety, Ord. No. 174,407, Eff. 2-28-02, Oper. 1-1-02; In Entirety, Ord. No. 179,803, Eff. 5-26-08.

Sec. 4.1408. Rights of Participants.

Each participant shall be deemed to have assented to all the terms and conditions of the Plan upon execution of a Participation Agreement. No participant shall have the power or right to sell, transfer, assign, hypothecate, or otherwise dispose of all or any part of the Investment Account or any right which the participant may have under the Plan.

Each participant shall have the right to designate a beneficiary or beneficiaries, including contingent beneficiaries, to receive any benefits which may be payable under the Plan upon the death of such participant.

Each participant may request the City to make distribution of benefits to such participant or the designated beneficiaries in any manner authorized in the Plan. The City shall give due consideration to such requests but shall not be bound by them. Final determination regarding the method and manner of all distributions from the Plan shall, at all times, be at the discretion of the City.

SECTION HISTORY

Added by Ord. No. 154,806, Eff. 2-13-81.

Sec. 4.1409. Amendment and Termination.

The Plan may be amended or terminated by the City at any time. No amendment or termination of the Plan shall reduce or impair the rights of any Participant or Beneficiary which may have already accrued. Upon

termination of the Plan, the City may, at its option, distribute to all Participants an amount equal to the balance of their Investment Accounts, less any tax liabilities as soon as administratively feasible upon termination of the Plan.

SECTION HISTORY

Added by Ord. No. 154,806, Eff. 2-13-81.

Amended by: In Entirety, Ord. No. 174,407, Eff. 2-28-02, Oper. 1-1-02.

Sec. 4.1410. Miscellaneous.

(a) Nothing in the Plan shall be construed as conferring upon any participant any right to continue employment with the City.

(b) The Plan shall be subject to the applicable laws of the State of California, including but not limited to those laws pertaining to community property, and to the applicable laws of the United States, including but not limited to the Internal Revenue Code of 1986, as amended (26 U.S.C. Sections 1 et. seq.).

(c) The captions used in this chapter are for the purpose of convenience only and shall not limit, restrict, or enlarge the provisions of the Plan.

(d) The Plan shall be binding upon and shall inure to the benefit of the City, its successors and assigns, all participants and beneficiaries, and their heirs and authorized representatives.

(e) As used in this chapter, the masculine, feminine, or neuter gender, and the singular or plural number, shall each be deemed to include the others unless the context clearly indicates otherwise.

(f) Any notice or other communication required or permitted under the Plan shall be in writing and, if directed to the City, shall be sent to its principal office and, if directed to a participant or to a beneficiary, shall be sent to such participant or beneficiary at the last known address for such person as it appears in the City's records.

(g) Deductions for employee contributions to all City retirement plans shall be made without reference to amounts deferred pursuant to this Plan and shall be based upon the gross salary the participant would receive if the participant had not elected to defer income.

(h) Each participant in the Plan shall be deemed to have waived any rights to periodic payments of salaries or wages pursuant to the provisions of the Charter concerning periodic payment of salaries or wages to officers and employees of the City.

(i) If any participant terminates employment with the City, dies, or retires, with an unpaid debt owing to the City, and neglects or refuses to liquidate the debt by any other means when due and upon demand, the City shall collect the amounts due from the deferred compensation owed to such participant under the Plan.

(j) The City shall not be liable to any participant, a participant's beneficiary, heir, successor in interest, or any other person for any losses incurred in connection with the Plan. Any action by the City in investing funds or approving of any such investment of funds shall not be construed to be either an endorsement or guarantee of any investments, nor shall it be construed to attest to the financial soundness or the suitability of any investment for the purpose of meeting future obligations under the Plan.

SECTION HISTORY

Added by Ord. No. 154,806, Eff. 2-13-81.

Amended by: Subsecs. (e), (h) repealed; (i), (j), (k), renamed (h), (i), (j), Ord. No. 158,396, Eff. 11-14-83; Subsec. (b), Ord. No. 174,407, Eff. 2-28-02, Oper. 1-1-02.

Sec. 4.1411. [No Title.]

(k) Beginning January 1, 2009, Employees may make voluntary contributions to deemed individual retirement accounts in accordance with the requirements in Internal Revenue Code Section 408(q) and the Deferred Compensation Plan Document.

SECTION HISTORY

Added by Ord. No. 180,339, Eff. 12-23-08.