Approved:

City of Riverside, California
Human Resources Policy and Procedure Manual

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Human Resources Director

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City Manager

Number: V-12 Effective Date: ~~07/06~~

SUBJECT: **DEFERRED COMPENSATION**

PURPOSE:

To define the City of Riverside Deferred Compensation Plan as arranged under Section 457 of the Internal Revenue Code (IRC) and provide basic guidelines for Plan administration.

POLICY:

1. **Establishment of Trust**

   Contributions under Section 457 allow participants to defer a designated portion of their salary on a pre~~-~~tax and/or ROTH (after-tax) basis ~~salary~~ to a Deferred Compensation 457 Plan ("the Plan") ~~-~~for investment purposes. These funds are intended to provide participants the ability to create ~~for the~~ long-term accumulation of savings~~benefit of the City's employees~~ through individual participant accounts and the earnings thereon.

   The City of Riverside ("City") has established a trust arrangement within the Plan to ensure participant assets ~~for the deferred compensation plans~~ are protected and used exclusively for the benefit of plan participants and their beneficiaries. In the event of a financial crisis, this trust will protect the participants' assets from the City's creditors.

2. **Enrollment**

   ~~A.~~ All benefited City employees may participate in the ~~Deferred Compensation~~ Plan~~(s)~~. Eligible employees may enroll each calendar month as long as the election is made before the first day of the month. ~~The City of Riverside currently has a continuous open enrollment for deferred compensation whereby enrollments or changes may be submitted at any time during the year.~~ To enroll, employees must complete the online enrollment process.~~, or make changes, appropriate forms must be submitted to the Human Resources Department.~~

   Representatives from the Deferred Compensation Provider~~(s)~~ will be available to answer questions on a regular basis by phone, virtually, or in-person at ~~different~~ various work sites throughout the City. Availability can be found on the provider's online portal and on-site visits will be communicated ~~via city-wide email~~by the Human Resources D~~d~~epartment ~~calendars will be sent out and posted in all City divisions~~. ~~Employees may contribute to~~

~~any or all of the plans offered. The deferred compensation companies will send quarterly~~ Quarterly statements ~~to~~ are available in each ~~the~~ participant's online account.

B. ~~Enrollment in the Section 3121 deferred compensation plan for temporary/seasonal employees is automatic and mandatory under Federal law. Temporary/seasonal employees may be excluded if the employee is a current member of unless/until the employee becomes vested in CalPERS or a CalPERS retired annuitante. To be vested, members must have five (5) years of service with CalPERS and have funds still in the system.~~

~~This temporary plan is in lieu of Social Security. The City matches the required employee contribution of 3.75% for temporary/seasonal employees.~~

3. **Employee Contributions**

A. ~~A.~~ The minimum a benefited employee can contribute is $10.00 per pay period. Contributions ~~are~~can be made on a pre-tax basis and/or ROTH (after-tax) basis for ~~and can be made~~ up to 24 times per calendar year.

B. Regular Contributions: The ~~annual~~ maximum (combined pre-tax and after-tax) an employee can contribute to~~wards a 457~~ the Plan is set annually ~~at the federal level~~ by the Internal Revenue Service (IRS) ~~Code Section 457 Plan for Government Employees~~. Employee and employer contributions cross-accumulate toward the annual maximum limit set by the IRS.

C. Catch-Up Contributions: Participants' age 50 or older at any time during the calendar year may make "Catch-Up" contributions up to the IRS Catch-Up limit. This contribution would be in addition to the regular IRS contribution limit. Participants turning age 50 during the year do not have to wait until their birthday to contribute. Catch-up contributions are not allowed if participants are making "Special Catch-Up" contributions (see item D).

D. Special Catch-Up Contributions: In accordance with IRS regulations, the Plan allows employees meeting certain criteria to contribute up to two-times the IRS regular annual compensation limit for a period not to exceed three calendar years, the last of which must fall in the calendar year prior to the calendar year in which the employee retires. The retirement year cannot be earlier than the year the employee is eligible to receive full CalPERS retirement pension benefits, which is considered the normal retirement year. Contribution limits are determined based upon each employee's ~~457(b)~~457 contribution history while employed by the City. A contribution worksheet must be completed to determine if an employee is eligible to make "Special Catch-Up Contributions." Employees making Special Catch-Up contributions may change their contribution amounts as long as the contributions do not exceed the pre-determined limits. Under Internal Revenue Code, if contributions are completely stopped, they cannot be restarted. Catch-Up contributions (item C) and Special Catch-Up contributions are not allowed in the same plan year.

E. Employee contribution changes may be made monthly as long as the election is made before the first day of the month. Employees must complete the appropriate change form and submit to the Human Resources Department.

F.

~~B.~~ Rollovers: Participants who have a balance in a ~~457~~, 401(k), 401(a), and/or 403(b) plan ~~account~~ through a previous employer may roll these funds into the Plan~~ir 457 account with the City of Riverside~~. ~~This r~~Rollover assets do~~es~~ not count toward the annual contribution limit.

~~C.~~ As permitted by the Memoranda of Understanding (MOU) or the Fringe Benefit and Salary Plan (FBSP), ~~E~~employees who have an excess of vacation and/or compensatory~~ion~~ time on the books over what is authorized by the City~~, and in accordance with the Fringe Benefits and Salary Resolution~~, may once a year at the end of the calendar year, request in writing to the Human Resources Department that excess time be transferred into their deferred compensation account. ~~Employees must refer to their respective MOU for cash-out options as not all bargaining units are eligible for this option.~~ The transfer ~~is on a pretax basis, and~~ must not exceed the Federal compensation maximum for that calendar year. The transferred amount will count toward the IRS annual contribution limit. Transferring excess time is calculated on base current hourly rate times hours transferred. Other transfers of accrued leave may be allowed as outlined in the Memoranda of Understanding or the Fringe Benefit and Salary Plan.

~~D. Upon separation from employment, an employee may elect to transfer any percentage or flat dollar amount of final payoff check to the Plan during the year the employee separates. Transferred amounts will count toward the IRS up to the annual contribution limitallowed federal maximum into deferred compensation for the year in which the employee separates. The employee must complete the Payout Rollover Request Form and submit itmake the request in writing to the Human Resources Department at CityBenefits@RiversideCA.gov thirty (30) days prior to separation. Employees separating at the end of the calendar year may only transfer final payoff check through pay period that is paid in the calendar year in which the employee separates.~~

4. **City Contributions**

As indicated in the Memoranda of Understanding or Fringe Benefit and Salary Plan, ~~T~~the City will contribute a flat negotiated dollar amount per month for ~~Safety Management and non-Safety Management~~ employees who contribute the specified minimum~~at least $25.00~~ per pay period. Where applicable ~~I~~if the employee is enrolled in the long-term disability plan, corresponding premiums ~~are~~will be deducted from the City contribution.

~~The City will contribute a flat negotiated dollar amount per month for Confidential employees who contribute at least $25.00 per pay period.~~

~~City contributions are made during the first pay period of the month. For those employees who are promoted effective the second pay period of the month, a prorated City contribution will be made.~~[1]

~~[1]Prior to 03/05/98, City contributions were not pro-rated for those employees promoted during the second pay period of the month.~~

~~5. **Pre-Retirement Catch-up Provision**~~

~~In accordance with IRS regulations and the deferred compensation plan document the plan will allow for eligible employees to participate in the pre-retirement catch-up provision. This provision allows the City to calculate how much the employee could have put into deferred compensation based on salary since 1979. The employee may contribute the difference between what could have been contributed and what was actually contributed, with a maximum set by the IRS in addition to regular contributions. The earliest a catch up~~~~catch-up~~ ~~provision can begin is three (3) years prior to eligible CalPERS retirement year without reduction of benefits.~~

~~Eligible Eemployees may participate in the pre-retirement catch-up provisionCatch-up for a period not to exceed three calendar years, the last of which must fall in the calendar year prior to the calendar year in which the employee retires.~~

~~Participants may change the amount contributed; however, under the IRC, if contributions are completely stopped, they cannot be restarted.~~

5. ~~6.~~ **Withdrawal of Funds**

In accordance with Section 457 of the IRC, there are specific instructions that pertain to withdrawal of funds. Section 457 states that funds may be withdrawn from the employee's account upon:

A. Retirement;

B. Separation from the City;

C. Death; or

D. Inactivity for two years if the balance is less than an amount set by the IRS. Such distributions can be employer or employee initiated (as stated in the IRC de minimis rule, effective January 1, 1997).

If a withdrawal is made under 6.D above, this cannot be used in calculating allowable ~~Catch~~catch-up contributions at a later date.

Furthermore, an employee may request an ~~The only other circumstance under which the employee may withdraw funds is an~~ Unforeseeable Emergency ~~Withdrawal~~ distribution where if the employee experiences an ~~A~~unforeseeable emergency, ~~@ and~~ exhausts all other means of resolving the financial situation and the IRS specific requirements are met. An unforeseeable emergency is defined as a ***severe financial hardship*** resulting from an illness or accident, loss of property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant or beneficiary.~~:~~ The participant seeking the distribution must show that the emergency expenses could not otherwise be covered by insurance, liquidation of the participant's assets or cessation of deferrals under the plan. Examples of an emergency and non-emergency circumstances as defined by the IRS are listed on the Emergency Withdrawal packet.

~~A. A sudden and unexpected illness or accident of the participant or dependent;~~

~~B. Loss of the participant's or dependent's property due to casualty; or~~

~~C. Other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant or dependent.~~

~~**BANKRUPTCY, DIVORCE, AND TAX LIENS ARE NOT BONA FIDE HARDSHIPS UNLESS THEY RESULT IN A SEVERE FINANCIAL HARDSHIP. Other examples of what are not considered to be unforeseeable emergencies include: the need to send a Participant's child to college; the desire to purchase a home; or the need to pay off credit cards/loans. Other**~~ ~~examples of a emergency and non-emergency situations are defined by the IRS and listed on the Emergency Withdrawal F~~

~~If the employee meets the minimum requirements, the~~The Emergency Withdrawal ~~Packet~~ Form must be completed and ~~returned~~ submitted to the deferred compensation provider. ~~to the Human Resources Department.~~ The City of Riverside Deferred Compensation Committee will also ~~convene to~~ review the facts and circumstances of the hardship. The Committee's decision will be based upon the rules and regulations as set forth in Section 457 of the IRC as well as the recommendation made by the Deferred Compensation provider who will make an initial review and recommendation to the committee. The Human Resources Department will notify the employee immediately following the decision. This benefit is only for benefited, active ~~City~~ city employees.

Withdrawals of amounts because of an ~~Unforeseeable~~ unforeseeable ~~Emergency~~ emergency must only be permitted to the extent reasonably needed to satisfy the emergency need. The Committee will review and decide whether or not the request can be granted under the applicable State and Federal laws and the City's Plan. Approved requests will be paid in a lump sum. Other payment options are subject to Committee approval. In accordance with the IRS guidelines, all information subject to review by the Committee will be considered confidential.

~~7.~~6. Loan Provision

As allowed by the plan document, ~~B~~benefited, active ~~City~~ city employees may borrow up to $50,000 or 50% of their account balance, whichever is less. General purpose loans must be repaid within five (5) years ~~for up to five (5) years, with a maximum of $50,000~~. Loans taken for the purchase of a primary residence must be repaid within fifteen (15) years. The minimum an employee can borrow is $1,000. Refinancing of general purpose loans are permitted by the C~~c~~ity with loan balances increased but term of loan not extended. ~~Employees can only receive one loan at a time.~~ Loans are repaid through payroll deduction and are paid on after~~-~~-tax dollars. Early loan payoff is allowed.

~~Employee must contact deferred compensation provider directly for a loan request.~~Loan requests can be made electronically via the provider's portal by accessing the ~~in the~~ participant's online account. Upon a leave of absence with no pay, it is the employee's responsibility to ensure loan payments are made to the deferred compensation provider directly; failure to make loan payments for an outstanding loan may result in the outstanding loan balance being treated as a taxable distribution and the employee not being eligible for requesting future loans unless the distributed amount is repaid.

7. Separation from Service

Upon separation from employment, an employee may elect to transfer any percentage or flat dollar amount (up to the allowable IRS limit) of their final payoff check to the Plan during the year the employee separates. Transferred amounts will count toward the IRS annual contribution limit and contributions made by the employee during that plan year. The employee must complete the Payout Rollover Request Form and submit it to the Human Resources Department thirty (30) days prior to separation. Separated employees may elect to leave their contributions on deposit with the City's Deferred Compensation provider or they may transfer their contributions to another provider; alternatively, they may also elect to take a lump sum, monthly or quarterly distribution. The required distribution or rollover forms must be completed and submitted to the City's provider. Separating employees will be able to transfer or take a distribution of their funds after the City has sent the last contribution to the provider and the provider has posted the contribution to the member's account. No new contributions are allowed in the plan after separation from service.

8. Section 3121 Deferred Compensation Plan ("3121 Plan")

Enrollment in the 3121 Plan is automatic and mandatory under Federal law for temporary/seasonal employees under Federal law. Temporary/seasonal employees may be excluded if the employee is a current member of CalPERS or a CalPERS retired annuitant.

This temporary plan is in lieu of Social Security. The City matches the required employee contribution of 3.75% for temporary/seasonal employees.

9. Lost Participants

~~At least annually,~~ T~~t~~he Human Resources Department will annually review reports provided by the record-keepers for the 457(b), 401(a) and 3121 plans that identify participants with undeliverable addresses, aka lost participants. The Human Resources Department will make reasonable efforts to find lost participants and coordinate with the record-keepers to contact or send communication to the participants.

10.~~8.~~ Deferred Compensation Committee

A Deferred Compensation Retirement Plan Committee ("Committee") has been established by the City Manager to provide fiduciary governance over the C~~c~~ity's 457 plan. Article XVI, Section 17 of the California Constitution requires fiduciaries to: 1) Act solely in the interest of plan participants and their beneficiaries; 2) Carry out their duties prudently; 3) Follow plan documents; 4) Diversify investments; 5) Ensure plan and investment expenses are reasonable; and 6) Have a fidelity bond.

~~The nine m~~Members of ~~this~~ the Committee are appointed by the City Manager and represent a cross-section of ~~City~~ C~~c~~ity departments. In partnership with a city selected deferred compensation consultant, the committee has fiduciary responsibility over the plan. The

Committee makes all determinations on selecting service providers to assist in fulfilling the ~~c~~City's fiduciary duties as plan sponsor, including but not limited to plan administration, investment selection and monitoring, and record-keeping services. ~~issues regarding implementation of the Plan, investment options, and/or selecting a deferred compensation provider, not specifically set forth by the Plan itself or State law. All requests for emergency withdrawals are reviewed and decided by the Committee. In accordance with the IRS guidelines, all information subject to review by the Committee will be considered confidential. Three members constitute a quorum when a decision is needed.~~

The Committee will make best efforts to meet quarterly to review plan fees and investments. Plan design discussions and any and all other discussions related to the plan may occur during the planned quarterly meeting or off-quarter per a committee members request and approval of the committee.

~~PROCEDURE:~~

~~**Responsibility**~~	~~**Action**~~
~~Employee~~	~~1. Completes all necessary paperwork to enroll, change, or stop contributions, and submits to the Human Resources Department.~~
	~~2. Completes all necessary paperwork to with-draw funds after separation/retirement.~~
	~~3. Contacts the appropriate company representative for assistance with paperwork.~~
~~Human Resources~~	~~4. Processes all paperwork as necessary.~~
	~~5. Schedules Deferred Compensation Committee meetings as needed to review implementation of the Plan.~~
	~~6. Convenes Deferred Compensation Committee as soon as possible to review Emergency Withdrawal Requests. Notifies the employee as soon as a decision is made.~~
	~~7. Schedules the Plan Representatives for avail-ability throughout the City.~~
	~~8. Notifies all employees of the Plan Representative availability via printed calendars.~~
~~Department/Division~~	~~9. Posts availability notices/calendars for all deferred compensation representatives.~~

Disclaimer: This policy is for internal processes only. Should a discrepancy exist between this document and the Deferred Compensation Plan Document, the Deferred Compensation Plan Document will prevail. Should a discrepancy exist between this document and Federal or State Law, the Federal or State Law will prevail.