



County of Los Angeles
CHIEF EXECUTIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION
LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

December 4, 2007

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

CORRECTION TO THE DEFERRED COMPENSATION AND THRIFT PLAN

IT IS RECOMMENDED THAT YOUR BOARD:

Approve the attached ordinance and resolution to amend the 457 Deferred Compensation and Thrift Plan (Horizons) to "grandfather" contributions made on behalf of certain employees who became ineligible to make personal deferrals and receive County matching contributions because of a change in their employment status from full-time to part-time.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

In 2004, the County discovered an error in the enforcement of a Horizons participation eligibility requirement. Essentially, 79 employees who transitioned from full-time employment to part-time employment were inadvertently allowed to continue to participate in the Horizons Plan in violation of the Plan's provisions. Under the Plan's terms, part-time employees are not allowed to make tax deferred contributions into the Plan or receive matching contributions from the County.

Upon discovering the error, the County corrected the problem from that point forward and, on advice of counsel, submitted a request to the Internal Revenue Service Voluntary Correction Program (VCP) to approve our proposed amendment to the Plan. The amendment will grandfather the affected employees on a one-time-only basis and only with respect to the past contributions in question. This change will bring the Plan into compliance with its own terms, and that represents an acceptable correction in the view of the IRS. We also believe this change to be fair from an employee relations standpoint.

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

The IRS is requiring that the County take steps to implement this change as a condition of their issuing a closing agreement resolving this matter. The purpose of these recommendations is to effectuate the needed correction as required by the IRS.

FISCAL IMPACT/FINANCING

A one-time VCP filing fee of \$25,000 was paid by the County as plan sponsor upon filing the compliance statement request in 2005. No additional cost is anticipated once the correction is implemented and the compliance statement is issued.

The grandfathered contributions will remain in the participant's accounts until an eligible distribution is directed by the participant. The Horizons' routine administrative expenses are paid directly by participants through monthly administrative fees charged to their accounts.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Participation in Horizons is open to each full-time permanent employee who is employed in a classification established by the County, a member of the Los Angeles County Employees Retirement Association (LACERA) or Judges Retirement System, and granted eligibility to participate by the Board through a memorandum of understanding or other authorization. Under the terms of Horizons, if an employee's employment status changes, such as by becoming a part-time employee, his or her eligibility to participate in Horizons ends and deferral and matching contributions are supposed to cease ("Eligibility Change Provision").

In 2004, the County discovered that this Eligibility Change Provision was not properly implemented with regard to 79 employees – that is, contributions continued to be made to their Horizons accounts notwithstanding the fact that they were technically ineligible. These individuals were issued a written notice explaining they were ineligible to actively participate in Horizons and that all contributions would cease effective for compensation earned after March 31, 2004. For compensation earned after that date, the County established the necessary systems changes to ensure proper application of the Eligibility Change Provision. Since then, no additional cases of ineligible employees making contributions to Horizons have been identified.

The County subsequently submitted a request for a compliance statement through the IRS VCP. The request included the County's proposed correction to amend the plan document to make an exception to the Eligibility Change Provision, whereby, contributions made on behalf of the identified ineligible employees for compensation earned prior to March 31, 2004 would be grandfathered – that is, permitted to remain on

Honorable Board of Supervisors
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deposit – under Horizons. The IRS agent handling this case has notified the County that this correction will be covered by a closing agreement only after the correction is completed.

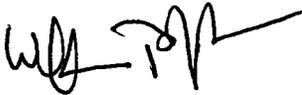
The accompanying resolution contains the list of affected employees, as required by the IRS, to be covered by the exception to the Eligibility Change Provision and grandfather their ineligible contributions.

The ordinance number is to be identified in Section 5.25.020.OO and the resolution.

The County's employee labor organizations have been notified about this amendment of a negotiated employee benefit. SEIU Local 721 concurs with the recommendation and the Coalition of County Unions has expressed no objection.

The County Counsel has reviewed the accompanying ordinance and resolution as to form.

Respectfully submitted,



WILLIAM T FUJIOKA
Chief Executive Officer

WTF:SRH:DL
WGL:DT:df

Attachments

c: County Counsel
Auditor-Controller
Director of Personnel
SEIU Local 721
Coalition of County Unions
Gregg Seller, Great-West Retirement Services

**RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF LOS ANGELES
AMENDING HORIZONS TO ADDRESS CERTAIN SPECIAL ELIGIBLE EMPLOYEES**

WHEREAS, the County maintains the County of Los Angeles Deferred Compensation and Thrift Plan ("Horizons"), which is intended to be an eligible deferred compensation plan within the meaning of Internal Revenue Code ("IRC") section 457(b);

WHEREAS, words and phrases used in this resolution with initial capital letters have the definitions set forth in Horizons as amended by Ordinance _____ (unless otherwise defined);

WHEREAS, under Horizons sections 5.25.020 and 5.25.030, active participation is open to Eligible Employees only;

WHEREAS, the County determined that 79 participants who ceased to be Eligible Employees due to a change in employment classification from full-time to part-time status (the "Special Eligible Employees" as defined in Horizons), were inadvertently permitted to continue to make Deferred Compensation Contributions and receive Matching Contributions under Horizons;

WHEREAS, all Deferred Compensation Contributions and Matching Contributions with regard to affected ineligible Employees have ceased for compensation earned after March 31, 2004;

WHEREAS, in order to address this operational issue, on June 23, 2005, the County filed a voluntary correction submission with the Internal Revenue Service ("IRS") to ensure Horizons' continued tax-favored status under IRC section 457(b);

WHEREAS, in connection with the submission, an IRS representative notified the County that the IRS will enter a closing agreement with the County addressing Horizons' continued tax-favored status provided that the County amends Horizons in the manner provided by Ordinance _____, which permits the affected Special Eligible Employees to leave contributions previously made on their behalf in their respective accounts;

WHEREAS, as required by the IRS, Ordinance _____ provides that the Board shall identify the Special Eligible Employees pursuant to this resolution;

NOW THEREFORE BE IT RESOLVED that the Special Eligible Employees are identified by their Participant identification numbers on Attachment A to this resolution;

BE IT RESOLVED FURTHER that Ordinance _____ amending Horizons is hereby adopted;

The foregoing resolution was on the ____ day of _____, 2007, adopted by the Board of Supervisors of the County of Los Angeles and ex officio the governing body of all other special assessment and taxing districts, agencies and authorities for which said Board so acts.

SACHI A. HAMAI
Executive Office-Clerk of the
Board of Supervisors
of the County of Los Angeles

By: _____

APPROVED AS TO FORM:

Reela Kapur
for RAYMOND G. FORTNER, JR.
County Counsel

ATTACHMENT A

SPECIAL ELIGIBLE EMPLOYEES

HORIZONS ID NO.	INELIGIBLE DATE	LAST ELIGIBLE CNT DATE	Ineligble Deferrals thru 15-Oct-2004	Ineligible Matches thru 15-Oct-2004	Last Deferral Date
891150	15-May-2001	15-Jul-2001	\$15,616.90	\$6,564.80	Mar-04
1725023	1-Aug-2002	15-Oct-2002	\$1,895.19	\$18.89	Apr-04
3135068	30-Jun-2003	15-Aug-2003	\$146.87	\$146.87	Mar-04
947643	13-Nov-2003	15-Jan-2004	\$5,900.76	\$2,214.81	Oct-04
2790711	9-Jun-2003	15-Aug-2003	\$1,694.64	\$931.98	Mar-04
897163	1-Feb-2000	15-Apr-2000	\$9,908.27	\$9,699.99	Mar-04
926741	16-Apr-2001	15-Jun-2001	\$5,740.46	\$5,740.46	Mar-04
2517278	19-Feb-2003	15-Apr-2003	\$779.73	\$779.73	Mar-04
3128724	2-Jan-2004	15-Mar-2004	\$15.34	\$0.00	Apr-04
2179201	1-May-2001	15-Jul-2001	\$2,749.82	\$2,749.82	Mar-04
897844	5-Nov-2001	15-Jan-2002	\$20,239.81	\$4,836.63	Mar-04
3160261	1-Jan-2004	15-Mar-2004	\$21.41	\$0.00	Apr-04
3022461	16-Jan-2003	15-Mar-2003	\$1,422.29	\$1,401.28	Mar-04
895103	7-Oct-2003	15-Dec-2003	\$362.85	\$362.85	Mar-04
3035917	16-Sep-2003	15-Nov-2003	\$503.72	\$463.84	Mar-04
894514	28-Jan-2004	15-Mar-2004	\$830.83	\$806.54	Oct-04
901249	1-Mar-1999	15-May-1999	\$22,953.48	\$6,907.55	Apr-04
896128	5-Mar-2001	15-May-2001	\$4,880.50	\$4,880.50	Mar-04
895976	9-Jan-2001	15-Mar-2001	\$13,030.16	\$5,233.15	Mar-04
2100008	5-Oct-2003	15-Dec-2003	\$1,040.49	\$900.39	Apr-04
902813	25-Jan-1998	15-Mar-1998	\$6,152.80	\$2,969.03	Mar-04
899701	1-Jun-2002	15-Aug-2002	\$6,982.26	\$1,949.02	Mar-04
904119	1-Oct-2001	15-Dec-2001	\$13,142.59	\$3,692.51	Apr-04
900453	30-Jun-1997	15-Aug-1997	\$13,229.52	\$459.20	Apr-04
2712859	1-Mar-2003	15-May-2003	\$889.72	\$889.72	Mar-04
900737	1-Sep-2000	15-Nov-2000	\$22,753.50	\$5,755.52	Apr-04
2495624	1-Oct-2001	15-Dec-2001	\$2,468.49	\$2,454.61	Apr-04
907515	8-Apr-2003	15-Jun-2003	\$4,672.19	\$1,797.39	Mar-04
2311508	1-Dec-2001	15-Feb-2002	\$5,488.88	\$3,675.62	Mar-04
904304	1-Jul-1999	15-Sep-1999	\$2,556.92	\$2,556.92	Mar-04
904544	6-Jul-1999	15-Sep-1999	\$3,402.72	\$3,402.72	Mar-04
1316707	18-Sep-2003	15-Nov-2003	\$2,125.23	\$757.08	Mar-04
926593	11-Sep-2002	15-Nov-2002	\$2,700.56	\$2,700.56	Mar-04
913554	1-Jan-2003	15-Mar-2003	\$2,109.72	\$2,109.72	Mar-04
2033124	1-Jan-2001	15-Mar-2001	\$11,982.62	\$10,083.57	Apr-04
1115954	16-Jan-2002	15-Mar-2002	\$1,955.24	\$1,955.24	Mar-04
907386	1-Dec-1993	15-Feb-1994	\$14,045.85	\$9,163.55	Mar-04
907610	1-Dec-2003	15-Feb-2004	\$224.83	\$224.83	Mar-04

HORIZONS ID NO.	INELIGIBLE DATE	LAST ELIGIBLE CNT DATE	Ineligble Deferrals thru 15-Oct-2004	Ineligible Matches thru 15-Oct-2004	Last Deferral Date
907881	16-Apr-2002	15-Jun-2002	\$8,259.77	\$3,283.31	Apr-04
3051538	5-Nov-2003	15-Jan-2004	\$179.28	\$177.28	Apr-04
908212	23-Dec-2002	15-Feb-2003	\$13,463.11	\$4,791.90	Oct-04
3057472	23-Sep-1997	15-Nov-1997	\$7,895.59	\$7,131.28	Oct-04
3034299	17-Sep-2003	15-Nov-2003	\$110.92	\$110.92	Mar-04
1111327	16-Aug-1998	15-Oct-1998	\$13,145.56	\$8,441.52	Apr-04
926428	16-Dec-2003	15-Feb-2004	\$1,201.55	\$857.81	Oct-04
3127052	6-Jan-2003	15-Mar-2003	\$1,017.60	\$951.33	Apr-04
913049	16-Jun-2000	15-Aug-2000	\$7,953.27	\$5,418.64	Apr-04
918820	23-Sep-1997	15-Nov-1997	\$45,411.78	\$15,731.96	Oct-04
2703623	16-Jan-2003	15-Mar-2003	\$1,532.87	\$1,401.28	Mar-04
1517627	1-Oct-2001	15-Dec-2001	\$4,496.76	\$3,157.09	Mar-04
926372	4-Jun-2001	15-Aug-2001	\$6,208.73	\$5,529.87	Mar-04
3306151	1-Apr-2002	15-Jun-2002	\$56.12	-\$3.25	Mar-04
919678	24-Jan-2001	15-Mar-2001	\$10,752.14	\$6,350.89	Apr-04
910479	1-Sep-2000	15-Nov-2000	\$10,425.74	\$3,803.65	Apr-04
926362	6-Mar-2002	15-May-2002	\$3,467.65	\$3,467.65	Mar-04
920348	7-Jul-1998	15-Sep-1998	\$18,643.43	\$7,033.47	Mar-04
2088061	11-Sep-2000	15-Nov-2000	\$2,609.75	\$2,506.12	Apr-04
1224194	1-Nov-2000	15-Jan-2001	\$18,981.28	\$5,174.60	Mar-04
1673063	10-Nov-2000	15-Jan-2001	\$3,854.39	\$38.63	Apr-04
923077	1-Dec-2003	15-Feb-2004	\$624.83	\$166.62	Mar-04
915072	1-Sep-2000	15-Nov-2000	\$10,305.10	\$4,079.15	Mar-04
2884151	3-Feb-2003	15-Apr-2003	\$2,815.05	\$1,205.49	Mar-04
924301	23-Sep-2003	15-Nov-2003	\$2,024.67	\$323.94	Mar-04
3430171	22-Dec-1999	15-Feb-2000	\$6,532.77	\$388.70	Oct-04
917764	1-Nov-1999	15-Jan-2000	\$5,322.40	\$5,322.40	Mar-04
2479468	15-Oct-2002	15-Dec-2002	\$1,537.68	\$1,537.68	Mar-04
1756241	1-Dec-1999	15-Feb-2000	\$4,323.97	\$4,323.97	Mar-04
1109071	24-Jan-2003	15-Mar-2003	\$2,583.08	\$2,481.57	Oct-04
922301	16-Apr-2000	15-Jun-2000	\$2,783.58	\$2,780.19	Apr-04
1109127	1-Jun-2000	15-Aug-2000	\$11,821.93	\$4,772.03	Mar-04
935724	1-Sep-1995	15-Nov-1995	\$33,680.44	\$6,864.55	Mar-04
2116133	1-Aug-2002	15-Oct-2002	\$5,363.67	\$1,863.03	Mar-04
2788062	16-Jan-2003	15-Mar-2003	\$1,442.89	\$1,400.88	Mar-04
2884991	1-Sep-2002	15-Nov-2002	\$586.88	\$23.10	Mar-04
2710312	16-Feb-2004	15-Apr-2004	\$288.52	\$115.41	May-04
3128729	9-Feb-2004	15-Apr-2004	\$71.33	\$71.33	May-04
3143351	15-Mar-2003	15-May-2003	\$324.66	\$24.03	Sep-03
3163607	16-Sep-2003	15-Nov-2003	\$634.64	\$463.84	Mar-04

ANALYSIS

This ordinance amends Title 5 - Personnel of the Los Angeles County Code, Section 5.25, County of Los Angeles Deferred Compensation and Thrift Plan, to grandfather certain employee contributions.

RAYMOND G. FORTNER, JR.
County Counsel

By:


HALVOR S. MELOM
Principal Deputy County Counsel
Labor & Employment Division

HSM:asv

Requested: 10/12/07

Revised: 11/14/07

ORDINANCE NO. _____

An ordinance amending Title 5—Personnel, of the Los Angeles County Code to grandfather certain employee contributions to the Deferred Compensation & Thrift Plan Horizons.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Subsection 5.25.020 is hereby amended to read as follows:

...

Q. "Eligible Employee" means a full-time permanent Employee (i) who is within an employment classification established by the County, (ii) who is a member of the Los Angeles County Employees Retirement Association ("LACERA") or the Judges Retirement System, and (iii) to whom eligibility to participate in this Plan has been extended pursuant to a memorandum of understanding or other authorization approved by the Board. For purposes hereof, "full-time permanent" means any Employee appointed to an "A," "L," or "N" item pursuant to Title 6 of the Los Angeles County Code or any Employee appointed to a "D" item pursuant to said Title 6 who is required to possess a California license to practice as a Registered Nurse. Any Employee who would otherwise cease to be an Eligible Employee because of a change in employment classification and/or withdrawal from a representation unit shall remain an Eligible Employee until the last day of the month following the month in which such change or withdrawal occurs or such later date as the CAO may provide. Effective as of December 1, 1993, Special Eligible Employees as defined in Section 5.25.020 OO shall

be treated as if they are Eligible Employees until March 31, 2004 for purposes of making Deferred Compensation Contributions and Matching Contributions.

SECTION 2. Subsection 5.25.020 is hereby amended to read as follows:

...

OO. "Special Eligible Employee" means each of the Employees designated by the Board of Supervisors of the County in the resolution enacting Ordinance No. * _____ who until March 31, 2004 shall be treated as if they are an Eligible Employee for purposes of making Deferred Compensation Contributions and Matching Contributions, notwithstanding the Employee's change in employment classification to other than full-time permanent.

PP. "TPA" means the third-party administrator who has entered into a contract with the County to provide record-keeping and other administrative services for the Plan.

QQ. "Trial Court Act" means the Trial Court Employment Protection and Governance Act, California Government Code Section 71600 et seq.

RR. "Trial Court Employee" means a "trial court employee," as defined under the Trial Court Act, who is an Eligible Employee.

SS. "Trial Court Entity" means each Los Angeles County Municipal Court, Los Angeles County Superior Court, and each unified, successor trial court entity (or portion thereof) established in the County of Los Angeles pursuant to California Government Code Section 70200 et seq.

TT. "Trust Agreement" means an agreement(s) executed by the County and a Trustee which establishes either a trust fund or custodial account to provide for the investment, reinvestment, administration and distribution of contributions made under the Plan and the earnings thereon, as amended from time to time.

UU. "Trust Fund" means the assets of the Plan held by the Trustee pursuant to the Trust Agreement.

VV. "Trustee" means the one or more persons or entities who have entered into a Trust Agreement as a trustee or custodian, and any duly appointed successor. For these purposes, the custodian of any custodial account created for the purposes of holding Plan assets must be a bank, as described in Code Section 408(n), or a person who meets the nonbank trustee requirements of paragraphs (2)-(6) of section 1.408-2(e) of the Income Tax Regulations relating to the use of non-bank trustees.

WW. "Valuation Date" means the date with respect to which the value of the assets comprising the Trust Fund or any portion thereof is determined. Unless otherwise determined by the Administrative Committee, a Valuation Date occurs each day.

ZZ. "Year of Service" for any Employee or former Employee means any Plan Year in which such Employee or former Employee was employed by the County and was a Participant in the Plan or was a "Participant" in the Savings Plan sponsored by the County.

SECTION 3. Section 5.25.030 is hereby amended to read as follow:

A. An Eligible Employee may become a Participant in the Plan by entering into a Participation Agreement with the County before an Entry Date. The Participant's election to defer Eligible Earnings shall become effective with respect to Eligible Earnings payable to the electing Eligible Employee for services rendered to the County on or after the next Entry Date following the execution of such Participation Agreement. Such Participation Agreement shall remain effective for a minimum of one calendar month and shall be effective thereafter for so long as the Participant remains an Eligible Employee unless revoked or modified by the Participant. The Participant may revoke or modify a Participation Agreement by providing notice, in accordance with procedures authorized by the County, prior to the commencement of the calendar month for which the revocation or modification is to be effective.

SECTION 4. Section 5.25.165 is added to read as follows:

5.25.165 Cessation of contributions upon ceasing to be an Eligible Employee; Exception for Special Eligible Employees.

Under existing Plan rules, a Participant who ceases to be an Eligible Employee may no longer be covered by a Participation Agreement and thus may not have Deferred Compensation Contributions or Matching Contributions made for him or her until he or she again commences participation pursuant to Section 5.25.030. Notwithstanding the foregoing, effective December 1, 1993, a Special Eligible Employee may continue to have Deferred Compensation and Matching Contributions made for him or her provided that no Deferred Compensation Contributions or Matching Contributions will be made

on behalf of any Special Eligible Employee for services performed after March 31, 2004 until he or she again commences participation pursuant to Section 5.25.030.

SECTION 5. Pursuant to Government Code Section 25123(f), this ordinance shall take effect immediately upon final passage.

*The Executive Office/Clerk of the Board of Supervisors shall insert the effective ordinance number provided for the classification added in Subsection 5.25.020 of the County Code.

[525DEFCOMPDTCEO]