ANALYSIS

An ordinance amending Title 5 – Personnel of the Los Angeles County Code, relating to Chapter 5.19, "Pension Savings Plan," Chapter 5.25, "Deferred Compensation & Thrift (Horizons) Plan," and Chapter 5.26, "Savings Plan" to:

- Define the administration and responsibilities related to the self-direct brokerage option made available in the Horizons; and
- Incorporate technical changes to the Pension Savings Plan and Horizons to satisfy and comply with tax laws and regulations.

ROBERT E. KALUNIAN
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By: _____
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Labor & Employment Division

HSM:gr

Requested: 12-04-08
Revised: 07-29-09

ORDINANCE NO. 2009-0040

An ordinance amending Title 5 - Personnel of the Los Angeles County Code, relating to Chapter 5.19, Pension Savings Plan and Chapter 5.25, Deferred Compensation & Thrift (Horizons) Plan.

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

SECTION 1. Section 5.19.020 is hereby amended to read as follows:

5.19.020 Definitions.

...

R. "Eligible Retirement Plan" means: (i) an individual retirement account under Code Section 408(a); (ii) a "conduit" individual retirement account described in Code Section 408(d)(3)(A)(ii); (iii) an individual retirement annuity under Code Section 408(b); (iv) an annuity plan described in Code Section 403(a); (v) a plan which is qualified under Code Section 401(a); (vi) a tax-sheltered annuity contract under Code Section 403(b); ~~and~~ (vii) an eligible deferred compensation plan under Code Section 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 (viii) effective for distributions made on or after January 1, 2008, a Roth IRA under Code Section 408A.

...

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

5.25.020 Definitions.

...

F. "Broker" means the brokerage house with which the Administrative Committee contracts to administer Personal Brokerage Account Windows opened by Participants.

G. "Brokerage Investments" means those investments in which a Participant may elect to invest through a Personal Brokerage Account Window that the Participant may open. Brokerage Investments are not designated by the Administrative Committee as investment alternatives under the Plan; however, the Administrative Committee may place trading restrictions on the types of Brokerage Investments that may be held by the Plan.

H. "Brokerage Money Market Fund" means the default money market fund in which the Broker holds a Participant's Investment Account assets under a Participant Brokerage Account Window: (1) when such assets are first transferred to the Personal Brokerage Account Window from Core Funds and until they have otherwise been invested in Brokerage Investments as directed by the Participant; (2) when such assets are held under the Personal Brokerage Account Window but have not otherwise been invested at the Participant's direction; (3) before such assets are transferred back to Core Funds; and (4) if the Participant has otherwise directed that such assets be invested in that Fund.

~~F.~~ I. "CAO" means the Chief Executive Officer of the County appointed by the Board pursuant to the Los Angeles County Code. The CAO shall designate his or her County Representative to the Administrative Committee.

~~G.~~ J. "Catch-Up Contributions" means contributions made by the County on or after September 1, 2003, as specified in Section 5.25.040 C.

~~H.~~ K. "CDRO" means a "certified domestic relations order," which is a domestic relations order that the Administrative Committee has determined satisfies the requirements of a qualified domestic relations order, as defined in Code Section 414(p)(1), and is consistent with the terms of this Plan.

~~I.~~ L. "Code" means the Internal Revenue Code of 1986, as amended.

~~J.~~ M. "Compensation" means base rate, as established in Title 6 of the Los Angeles County Code, as amended, plus any monthly bonus established as a designated number of schedules and/or levels in the Standardized Salary Schedule contained in such Title 6. Compensation shall not include any of the following:

...

~~K.~~ N. "Core Funds" means the investment alternatives designated by the Administrative Committee as available investment options under the Plan. The Administrative Committee shall design the investment policies governing the Core Funds.

O. "County" means the County of Los Angeles and (i) any governmental entity of which the Board is the governing body, and (ii) any Trial Court Entity to the extent participation in the Plan by such Entity is authorized by state law or rules of court and provided such Entity has not elected not to participate in the Plan.

~~L.~~ P. "Deferred Account" means an account established by the Trustee for a Participant to which any Deferred Compensation Contribution and, effective September 1, 2003, any Catch-Up Contributions, subject to any action taken by the Administrative Committee under Section 5.25.060 to establish a separate account or

subaccount for such Catch-Up Contributions, made for each Participant, and any earnings and investment gains or losses allocable thereto, shall be credited.

~~M.~~ Q. "Deferred Compensation Contribution" means any amount of Eligible Earnings deferred by a Participant pursuant to a Participation Agreement. Effective on or after September 1, 2003, such term shall also include any Catch-Up Contributions made to the Plan on behalf of a Participant as specified in Section 5.25.040 C.

~~N.~~ R. "Disability" means medically determinable physical or mental impairment of such a nature that the Participant is unable to engage in any substantial gainful activity, which impairment can be expected to result in death or to be of long-continued and indefinite duration, as determined by the County upon the basis of evidence satisfactory to it.

~~O.~~ S. "Effective Date" means January 23, 1981, with respect to the Deferred Compensation Plan originally established in Chapter 5.24 of the County Code, September 1, 1984, with respect to the Thrift Plan originally established by this Chapter 5.25 of the County Code, and October 1, 1991 (also known as the "Merger Date"), with respect to this Plan, which resulted from the merger and continuation of both the Deferred Compensation Plan and the Thrift Plan as described in Section 5.25.105. The "Restatement Effective Date" for this Plan is January 1, 1999, unless a provision expressly states otherwise. Certain provisions of this amendment and restatement, however, are effective before or after the effective date. Provisions which are effective prior to the Effective Date shall be deemed to amend the corresponding provisions of the Plan as amended and in effect before this restatement. Events occurring before the applicable effective date of any provisions of this restatement shall be governed by the

applicable provisions of the Plan in effect on the date of the event. Certain provisions of this amendment and restatement are intended as good faith compliance with the requirements of EGTRRA and are to be construed in accordance with EGTRRA and guidance issued thereunder.

~~P.~~ T. "Eligible Earnings" means any compensation for service performed for the County which is currently includible in gross income under the Code. Any monetary award received for recruitment of registered nurse employees shall not be included in Eligible Earnings. On or after January 1, 2003, Eligible Earnings shall have the same meaning as Includible Compensation.

~~Q.~~ U. "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)~~(ii) 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~~ TT

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

~~R.~~ V. "Eligible Rollover Distribution" means any distribution made on or after January 1, 2002 of all or part of the balance to the credit of the Participant in an Eligible Retirement Plan other than: (i) any distribution which is one of a series of substantially equal periodic payments made not less frequently than annually for the life (or life expectancy) of a Participant or beneficiary or the joint lives (or joint life expectancies) of such individual and his designated beneficiary, or for a specified period of 10 years ~~of~~ or more; (ii) any distribution to the extent such distribution is required by Code Section 401(a)(9); (iii) any distribution which is made upon hardship or unforeseeable emergency of the employee; and (iv) any distribution which is (a) a return of elective deferrals described in Section 1.415-6(b)(6)(iv) of the Treasury Regulations which is returned due to the limitations under Code Section 415, (b) a corrective distribution of excess contributions described in Section 1.401(k)-1(f)(4) of the Treasury Regulations, excess deferrals described in Section 1.402(g)-1(e)(3) of the Treasury Regulations or excess aggregate contributions described in Section 1.401(m)-1(e)(3) of the Treasury Regulations, together with the income allocable thereto, (c) a loan treated as a distribution under Code Section 72(p) and not excepted from such treatment under Code Section 72(p)(2), (d) a deemed distribution of a loan in default, (e) a dividend on employer securities described in Code Section 404(k), (f) the P.S. 58 cost of life insurance coverage, and (g) any other similar item designated by the Commissioner of Internal Revenue.

~~S.~~ W. "Eligible Retirement Plan" means: (i) an individual retirement account under Code Section 408(a); (ii) a "conduit" individual retirement account described in Code Section 408(d)(3)(A)(ii); (iii) an individual retirement annuity under Code Section 408(b); (iv) an annuity plan described in Code Section 403(a); (v) a plan which is qualified under Code Section 401(a); (vi) a tax-sheltered annuity contract under Code Section 403(b); ~~and~~ (vii) an eligible deferred compensation plan under Code Section 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 (viii) effective for distributions made on or after January 1, 2008, a Roth IRA under Code Section 408A.

~~T.~~ X. "Employee" means an individual who has been determined by the County (regardless of any determination made by any other person or entity) to be a common law employee of the County for federal income and/or employment tax purposes. If it is determined that an individual was erroneously categorized as not being an Employee, he or she shall be treated as an Employee under the Plan only prospectively from the date of such determination.

~~U.~~ Y. "Entry Date" means the first day of each month.

~~V.~~ Z. "Includible Compensation" means wages, within the meaning of Section 3401(a) of the Code (for purposes of income tax withholding) but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed, paid to an Employee by the County for services performed for the County. Includible Compensation also includes (i) any elective deferral (as defined in Code Section 402(g)(3)), such as Tax Deferred Contributions under the Savings Plan, (ii) any amount which is contributed to a plan

sponsored by the County at the election of the Employee and which is not includible in gross income under Code Sections 125, 132(f)(4) or 457, and (iii) any amount that is not available in cash to an Employee under the Choices, Options, Flexible Benefit Plans or Mega-Flex Plans (or a successor plan) because the Employee is unable to certify that the Employee has other health coverage. In order to be taken into account as Includible Compensation, an item of compensation must be paid (or treated as paid) to the Participant prior to Separation from Employment, provided, however, the following types of post-employment payments are included within Includible Compensation if they are paid by the later of 2½ months after Separation from Employment or the end of the calendar year in which the Separation from Employment occurs: (i) payments that, absent a Separation from Employment, would have been paid to the Participant in the normal course of employment and are regular compensation for services during regular working hours or outside regular working hours (such as overtime or shift differential), bonuses or other similar compensation; and (ii) Termination Pay. Except as provided in Section 5.25.055, Includible Compensation shall not include any Settlement Award (as defined in Section 5.25.055). Any item of taxable income that is not included in this definition of Includible Compensation may not be deferred in accordance with a Participant's Participation Agreement.

~~W.~~ AA. "Investment Accounts" means the accounts established by the Trustee for a Participant pursuant to Section 5.25.060, comprised of the Deferred Account, the Matching Account and, effective September 1, 2003, the Rollover Account. This term

shall also include a Catch-Up Account if the Administrative Committee establishes a separate account for Catch-Up Contributions pursuant to its authority under Section 5.25.060.

~~X.~~ BB. "Investment Fund" means ~~any investment alternative~~ the Core Funds, ~~made available under the Plan including~~ the Participant Loan Fund, and the Brokerage Money Market Fund and Brokerage Investments in which Participants invest through a Personal Brokerage Account Window, if such Personal Brokerage Account Window is authorized by the Administrative Committee. Any such Investment Fund shall be consistent with any limitations on forms of investment imposed under applicable state law.

~~Y.~~ CC. "Investment Manager" means a person or entity appointed by the Administrative Committee who, with respect to ~~an~~ any Investment Fund, except the Brokerage Investments in which Participants invest through a Personal Brokerage Account Window, has the discretion to determine which assets in such Fund shall be sold (or exchanged) and what investments shall be acquired for such Fund or a person or entity that provides investment services to an investment company registered under the Investment Company Act of 1940. Any Investment Manager must be either registered as an investment adviser under the Investment Advisers Act of 1940, a bank as defined thereunder or an insurance company qualified to manage, acquire or dispose of Plan assets under the laws of more than one state, provided, however, that this requirement shall not apply to the County Treasurer and, with respect to an Investment Fund that provides for investments in securities issued by an investment company registered under the Investment Company Act of 1940, the requirements of that act

shall control. Any Investment Manager shall accept such appointment in writing and shall constitute a fiduciary with respect to the investment of Plan assets held in the particular Investment Fund for which the appointment applies, unless such person would not be treated as investing assets of the Plan if the Plan were covered by the Employee Retirement Income Security Act of 1974, as amended.

~~Z.~~ DD. "Matching Account" means an account established by the Trustee for a Participant to which any Matching Contribution, and any earnings and investment gains or losses allocable thereto, shall be credited.

~~AA.~~ EE. "Matching Contribution" means a portion of the Matching Fund determined pursuant to Section 5.25.050.

~~BB.~~ FF. "Matching Fund" means the aggregate amount designated by the County to be used during a period specified by the County to match Deferred Compensation Contributions pursuant to Section 5.25.050.

~~CC.~~ GG. "Normal Retirement Age" means age 70½, unless the Participant shall have designated an alternative normal retirement age. A Participant's Normal Retirement Age shall not be earlier than age 65 or the earliest date at which the Participant will become eligible to retire and receive a full pension benefit pursuant to the provisions of the County Employees Retirement Law of 1937 or the Judges Retirement Law, as amended, and shall not be later than age 70½. Notwithstanding the foregoing, a Participant who is a qualified police or firefighter, as defined in Code Section 415(b)(2)(H)(ii)(I), may designate a Normal Retirement Age that is not earlier than age 40 and shall not be later than age 70½. If a Participant uses the increased deferral limit set forth in Section 5.25.040 B2, such Participant shall be deemed to have

selected as his or her Normal Retirement Age the third Plan Year following the first Plan Year in which such increased limit is utilized or such earlier year as is necessary to comply with the limitations set forth above. Once a Participant has utilized the increased deferral limit to any extent, his or her Normal Retirement Age may not thereafter be changed for the purpose of utilizing the additional deferral limit provided under Section 5.25.040 B2 of this Plan.

~~DD.~~ HH."Participant" means an Eligible Employee or a former Eligible Employee who has entered into a Participation Agreement and who has a balance in his or her Investment Accounts.

~~EE.~~ II."Participation Agreement" means the agreement with the County by which an Eligible Employee elects to become a Participant under the Plan as of an Entry Date and to defer irrevocably a portion of his or her Eligible Earnings.

~~FF.~~ JJ."Participant Loan Fund" means the Investment Fund provided for in Section 5.25.080 I.

KK. "Personal Brokerage Account Window" means an arrangement under which a Participant contracts with the Broker to open a brokerage account through which a portion of his or her Investment Account may be invested in the Brokerage Money Market Fund and various Brokerage Investments. The Administrative Committee shall have authority to authorize or discontinue the Personal Brokerage Account Window at its discretion.

~~GG.~~ LL."Plan" means the County of Los Angeles Deferred Compensation and Thrift Plan, the terms and provisions of which are herein set forth, as the same may be amended, supplemented or restated from time to time.

~~HH.~~ MM."Plan Year" means a calendar year.

~~II.~~ NN."Represented Employee" means any Employee in a bargaining unit represented by an employee organization certified by the County Employee Relations Commission.

~~JJ.~~ OO."Retirement" means Separation from Employment after having met or exceeded the minimum age and service requirements for a service retirement benefit under the County Employees Retirement Law of 1937 or the Judges Retirement Law.

~~KK.~~ PP."Rollover Contributions" means contributions received by the Plan on or after September 1, 2003, pursuant to Section 5.25.108 B.

~~LL.~~ QQ."Rollover Account" means a separate account to which the Rollover Contributions received on or after September 1, 2003, on behalf of each Participant, and any earnings and investment gains or losses allocable thereto, are credited. The Rollover Account may include additional record-keeping subaccounts (if necessary) for purposes of separately accounting for (i) Rollover Contributions from (a) an eligible deferred compensation plan under Code Section 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 (b) a "conduit" individual retirement account described in Code Section 408(d)(3)(A)(ii) provided that it only includes amounts rolled over from an eligible deferred compensation plan under Code Section 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 (ii) Rollover Contributions from (a) an individual retirement account under Code Section 408(a); (b) a "conduit" individual retirement account described in Code Section 408(d)(3)(A)(ii) that includes amounts rolled over

from Eligible Retirement Plans described in subsections (ii)(a), (c), (d), (e), and (f) of this subsection LL; (c) an individual retirement annuity under Code Section 408(b); (d) an annuity plan described in Code Section 403(a); (e) a plan which is qualified under Code Section 401(a); (f) a tax-sheltered annuity contract under Code Section 403(b), and (g) an eligible deferred compensation plan under Code Section 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 that includes any amounts rolled over from an Eligible Retirement Plan described in subsection (ii) of this subsection LL.

~~MM.~~ RR. "Savings Plan" means the County of Los Angeles Savings Plan.

~~NN.~~ SS. "Separation from Employment" or "Separated from Employment" means any termination of a Participant's relationship with the County as an Employee, including termination due to death or Retirement.

~~OO.~~ TT. "Special Eligible Employee" means each of the Employees designated by the Board of Supervisors of the County in the resolution enacting Ordinance No. 2007-0116 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.~~ UU. "Termination Pay" means amounts paid by the later of 2½ months after the Participant's Separation from Employment or the end of the calendar year in which the Participant's Separation from Employment occurs in redemption of accrued bona

fide sick, vacation or other leave that otherwise would be paid in cash to the Participant under section 6.24.040A of the Los Angeles County Code, and which the Participant would have been able to use if employment had continued.

~~QQ.~~ VV."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.

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

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

~~TT.~~ YY."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.

~~UU.~~ ZZ."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.

~~VV.~~ AAA."Trust Fund" means the assets of the Plan held by the Trustee pursuant to the Trust Agreement.

~~WW.~~ BBB."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 non-bank 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.

~~YY.~~ CCC. "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.~~ DDD. "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.

Unless the context otherwise indicates, the masculine wherever used shall include the feminine and neuter, and the singular shall include the plural.

SECTION 3. Section 5.25.070 is hereby amended to read as follows:

5.25.070 Investment of the trust fund.

...

B. Investment by Participants. Each Participant may instruct the Trustee or TPA, as applicable, to allocate his or her Deferred Compensation Contributions and the portion of his or her Matching Contributions that are 100 percent vested and nonforfeitable (collectively, "Contributions") among the Investment Funds. A Participant may only instruct the Trustee or TPA to allocate amounts to the Personal Brokerage Account Window if the Participant's Investment Account balance invested in the Core

Funds satisfies the threshold level determined by the Administrative Committee. A Participant may change the allocation of future Contributions among Core Funds and may transfer past Contributions, adjusted for earnings, gains and losses, and applicable Plan charges, if any, from one Core Fund to another, or between a Core Fund and the Personal Brokerage Account Window. ~~Investment Fund to another~~. Amounts allocated to and from the Personal Brokerage Account Window are allocated pursuant to Section 5.25.070.C. A Participant may make investment elections at the time and manner prescribed by procedures established from time to time by the Administrative Committee.

C. Investment through Personal Brokerage Account Window. Any amount of a Participant's Investment Account allocated by a Participant to the Personal Brokerage Account Window pursuant to Section 5.25.070.B shall be transferred first into the Brokerage Money Market Fund. Thereafter, the Participant may direct the Broker to invest those amounts in any available Brokerage Investments. The Administrative Committee, in its discretion, may restrict the types of Brokerage Investments that may be held by the Plan. Transfers from the Personal Brokerage Account Window to Core Funds shall be made only from the Brokerage Money Market Fund.

~~C.~~D. Investment by Administrative Committee. Plan assets that are not invested pursuant to Participant instructions under Section 5.25.070B, including but not limited to Plan assets for which no Participant investment instructions are received, non-vested Matching Contributions that are not subject to Participant instructions under Section 5.25.070B, forfeiture accounts, accumulated fees and unallocated Plan earnings, shall be invested by the Trustee as instructed by the Administrative

Committee in one or more Investment Funds as the Administrative Committee in its discretion may determine.

SECTION 4. Section 5.25.075 is hereby amended to read as follows:

5.25.075 Trust fund allocation and valuation.

...

2. Except as may otherwise be provided by the Administrative Committee, the assets credited to each Participant's Investment Accounts shall be allocated among the ~~Investment~~ Core Funds in accordance with the investment option or options chosen by such Participant or the Administrative Committee, as the case may be, effective no later than the first business day following the business day on which the Trustee or its Agent has received appropriate instructions, or such later date as is commercially reasonable under the circumstances. Transfers from the Core Funds to the Personal Brokerage Account Window, from the Personal Brokerage Account Window to Core Funds, from the Brokerage Money Market Fund to Brokerage Investments, between Brokerage Investments, and from such Brokerage Investments back to the Brokerage Money Market Fund shall be completed within a commercially reasonable time and in accordance with the terms of any applicable TPA and Broker contracts.

...

B. Valuation.

1. As of the close of business each Valuation Date, the TPA or the custodian, as delegated by the Administrative Committee, shall determine or cause to be determined the value of each ~~Investment~~ Core Fund. Valuation of the Participant

holdings in the Brokerage Investments shall be communicated to the TPA by the Broker pursuant to the agreement between the Administrative Committee and the Broker. The TPA or custodian may rely on net asset value calculations, book values and other data with respect to the value of Plan assets held in the Investment Funds furnished to it by the Administrative Committee, Investment Managers, the County Treasurer, custodians or other entities authorized to provide valuation data. The transfer of funds to or from an Investment Fund, the allocation of Deferred Compensation Contributions, Rollover Contributions and Matching Contributions, and payments, distributions and withdrawals from an Investment Fund to provide benefits under the Plan for Participants or Beneficiaries shall not be deemed to be income, expenses or losses of an Investment Fund. The TPA or custodian shall communicate such valuations to the Trustee.

2. One or more methods of valuation may be used in determining the value of the ~~Investment~~ Core Funds. Subject to the TPA's or custodian's rights and duties under the contract between it and the County, the reasonable and equitable decision of the TPA or custodian as to the value of each ~~Investment~~ Core Fund as of each Valuation Date shall be conclusive and binding upon all Participants and Beneficiaries having any interest, direct or indirect, in such ~~Investment~~ Core Fund.

...

SECTION 5. Section 5.25.080 is hereby amended to read as follows:

5.25.080 Benefit distributions, withdrawals and loans.

...

B. Distributions Upon Separation from Employment Generally.

1. If the vested balance of a Participant's Investment Account (determined without regard to the Participant's Rollover Account) is at least $5,000.00 (or the dollar limit under Code section 411(a)(11), if greater), it may be distributed to a Participant or his or her Beneficiary following Separation from Employment in cash, or in kind to the extent permitted under Section 5.25.080J.2., in accordance with one of the following methods:

. . .

7. If, following the Participant's death and subject to the required minimum distribution rules under Section 5.25.080 C of the Plan, a Beneficiary elects to defer distribution of the Participant's Account, he may direct the investment of such Account as though he was the Participant in accordance with section 5.25.070; provided, however, that if a portion of the Participant's Account is invested through the Personal Brokerage Account Window, the Beneficiary will be required to enter his own contract with the Broker to open a brokerage account and retain any investments held in the Account through the Personal Brokerage Account Window.

...

D. Voluntary In-Service Distribution.

...

4. The Participant elects to receive the distribution.

Any distribution permitted pursuant to this subsection shall be paid from amounts held in the Participant's Investment Accounts in accordance with procedures established by the Administrative Committee or its Agent (provided that, to the extent possible to satisfy

the Participant's distribution request, amounts attributable to Eligible Retirement Plans described in Section 5.25.020 ~~LL~~QQ(ii) and held in a separate Rollover Account (or subaccount) shall be used last to satisfy the distribution requested).

E. Emergency Withdrawals.

...

4. Withdrawal of amounts based on an unforeseeable emergency will be permitted by the Administrative Committee or its Agent only to the extent reasonably needed to satisfy the emergency (which may include any amounts necessary to pay any taxes or penalties reasonably anticipated to result from the distribution), and shall not exceed the vested amounts credited to such Participant's Investment Accounts. Any withdrawal permitted pursuant to this subsection shall be paid from amounts held in the Participant's Investment Accounts in accordance with procedures established by the Administrative Committee or its Agent (provided that, to the extent possible to satisfy the Participant's withdrawal request, amounts attributable to Eligible Retirement Plans described in Section 5.25.020 ~~LL~~QQ(ii) and held in a separate Rollover Account (or subaccount) shall be used last to satisfy the emergency withdrawal requested).

...

I. Loans to Participants.

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a. The lesser of:

...

(2) 50 percent of the vested portion of the Participant's Account balance; or

(3) 100 percent of the vested portion of the Participant's Account balance allocated to Core Funds.

...

3. Loans made pursuant to subsection 1 of this section:

a. Shall be secured by the Participant's Investment Accounts (provided that, to the extent possible to satisfy the loan application, amounts attributable to Eligible Retirement Plans described in Section 5.25.020 ~~LL~~QQ(ii) and held in a separate Rollover Account (or subaccount) shall be used last to satisfy the loan amount requested) and such other collateral as the Administrative Committee may require or permit;

...

J. 1. Distributions, Withdrawals or Loans from Core Funds Generally. Except as provided in subsection J.2. of this Section 5.25.080, all Distributions, Withdrawals or Loans must be made from amounts allocated to Core Funds. If the Participant has allocated an insufficient amount to Core Funds for a requested Distribution, Withdrawal, or Loan, the Participant must transfer sufficient amounts from the Personal Brokerage Account Window to Core Funds to enable the requested Distribution, Withdrawal or Loan. The Administrative Committee may reallocate the funds in a Participant's Investment Accounts from the Personal Brokerage Account Window to Core Funds if such action is necessary for the administration of the plan.

2. Notwithstanding subsection J.1. of this Section 5.25.080, a Participant or Beneficiary may request an in-kind distribution of securities held through the Personal Brokerage Account Window subject to the following requirements: (1) the

Participant or Beneficiary must be entitled to receive and must request a full distribution of the Account from both the Core Funds and the Personal Brokerage Account Window, and (2) the in-kind distribution must be made in the form of a direct rollover to an "Eligible Retirement Plan" as authorized in section 5.25.108 and such Eligible Retirement Plan must accept the in-kind rollover.

SECTION 6. Section 5.25.090 is hereby amended to read as follows:

5.25.090 Administration of the plan.

...

C. Authority.

1. In addition to responsibilities and powers set out elsewhere in the Plan, the Administrative Committee shall have the following powers, which may be delegated to one or more Agents or the County:

...

e. The Administrative Committee may contract with one or more Investment Managers, or enter one or more investment arrangements, with respect to the Investment Funds and may contract with a Broker.

...

G. Expense Charges to Plan.

...

2. TPA, Trustee fees, and investment management and custodial fees incident to the Investment Funds are limited by the contract or contracts approved by the Administrative Committee or the Board. TPA and Trustee fees will be charged through the Trustee or reimbursed from Plan assets and will be allocated to the

individual Participants' accounts and reflected on quarterly statements. Fees incident to investment in specific Brokerage Investments available through the Personal Brokerage Account Window are not limited by the contract or contracts approved by the Administrative Committee or the Board. Investment management and custodial fees incident to the Investment Funds shall be periodically charged to the appropriate Investment Fund.

...

SECTION 7. Section 5.25.095 is hereby amended to read as follows:

5.25.095 Fiduciary responsibility.

A. Responsibilities Generally. The Plan fiduciaries shall have only such powers, duties, responsibilities and authorities as are specified in the Plan or the Trust Agreement. The Board has the responsibility for appointing, employing or removing any Plan Trustee and the Board Appointee to the Administrative Committee, for approving certain expenses charged to the Plan in accordance with Section 5.25.090G, and for other duties as set forth in the Plan. The Administrative Committee, as Plan Administrator, is a Plan fiduciary with the responsibility and discretionary authority for interpreting the terms of the Plan, for administering the Plan in accordance with its terms, for appointing or removing any Investment Manager, for entering into investment arrangements with respect to the ~~Investment Funds~~ Core Funds and with the Broker, for incurring or approving certain expenses and charging them to the Plan in accordance with Section 5.25.090G, and for other duties as set forth in the Plan. The Administrative Committee and all other persons with discretionary control respecting the operation, administration, control or management of the Plan or the Trust Fund: (i) will

perform their duties under the Plan and the Trust Agreement for the exclusive benefit, and solely in the interest, of Participants and their Beneficiaries; (ii) shall be governed by, and adhere to, Chapter 7 of Title 9 of the California Government Code (Section 87000, et seq.), including but not limited to the disclosure and disqualification requirements and the limitations on gifts and honorariums set forth therein; and (iii) shall act in accordance with the Uniform Prudent Investor Act and the other provisions of California Trust Law. Provisions (ii) and (iii) in the previous sentence shall not apply to a Plan fiduciary to the extent such provisions conflict with, or another standard of fiduciary conduct is expressly provided in, the terms of the applicable Trust Agreement, TPA contract or Investment Manager contract negotiated with such fiduciary.

...

SECTION 8. Section 5.25.108 is hereby amended to read as follows:

5.25.108 Rollovers and Plan-to-Plan Transfers.

...

B. Rollovers into Horizons from Other Eligible Retirement Plans.

...

3. An Eligible Rollover Distribution received by the Plan shall be held in the Participant's Rollover Account, including any record-keeping subaccounts established under 5.25.020~~LL~~QQ, and invested in accordance with the Participant's instructions in accordance with Sections 5.25.070.

C. Rollovers to Horizons.

1. Effective for any distribution made on or after January 1, 2002, a Participant who is entitled to receive an Eligible Rollover Distribution from the Plan, may

direct the Administrative Committee to have the distribution transferred in a lump sum directly to the trustee of an Eligible Retirement Plans, as defined in 5.25.020~~S~~W, that permits the acceptance of rollover contributions.

...

SECTION 9. Section 5.25.125 is hereby amended to read as follows:

5.25.125 Rights of an alternate payee under a CDRO.

...

D. Segregation of Alternate Payee's Interest

1. Generally, t~~T~~he Alternate Payee's interest specified in the CDRO shall be segregated and/or distributed from the Participant's Accounts, and the ~~Investment Funds~~ Core Funds in which such Accounts are invested, on a pro rata basis. If the assets invested in the Core Funds are insufficient to satisfy the CDRO, the Administrative Committee may transfer amounts from the Personal Brokerage Account Window to the Core Funds as necessary.

2. Notwithstanding subsection D.1. of this Section 5.25.125, a CDRO may provide for an in-kind division and/or distribution of securities held through the Personal Brokerage Account Window subject to the following requirements: (1) the Alternate Payee is the Participant's former spouse, (2) the CDRO clearly states the number of shares and the identities of the securities awarded to the Alternate Payee; and (3) either: (a) if the amounts are remaining in the Alternate Payee's Account under the Plan, the Alternate Payee must enter his own contract with the Broker to open a brokerage account through the Personal Brokerage Account Window, or (b) if the amounts are to be distributed in-kind, the Alternate Payee must request, or the CDRO

must provide for, a full distribution of the Alternate Payee's Account from both Core Funds and the Personal Brokerage Account Window and the distribution must be made in the form of a direct rollover to an "Eligible Retirement Plan" as authorized in section 5.25.108 and such Eligible Retirement Plan must accept the in-kind rollover.

...

SECTION 10. Section 5.26.210 is hereby amended to read as follows:

5.26.210 Trust Fund Allocation and Valuation.

A. Allocation.

1. Except as may otherwise be provided by the Administrative Committee, the assets credited to each Participant's Account shall be allocated among the Core Funds in accordance with the investment option or options chosen by such Participant or the Administrative Committee, as the case may be, effective no later than the first business day following the business day on which the Trustee or its agent has received appropriate instructions, or such later date as is commercially reasonable under the circumstances. ~~Assets transferred from the Core Funds to the Personal Brokerage Account Window shall be swept into the Brokerage Money Market Fund effective no later than the evening of the business day in which the Broker receives complete cashiering instructions requesting the transfer, or such later date as is commercially reasonable under the circumstances. Assets transferred from the Personal Brokerage Account Window to the Core Funds shall be wired from the Broker to the Trustee and allocated to the Core Funds effective no later than the first business day following the business day on which the Broker receives cashiering instructions requesting the transfer, or such later date as is commercially reasonable under the~~

~~circumstances. Transfers from the Brokerage Money Market Fund to Brokerage Investments, between Brokerage Investments, and from such Brokerage Investments back to the Brokerage Money Market Fund, shall be made in the time and manner provided for in the agreement between the Participant and the Broker.~~ Transfers from the Core Funds to the Personal Brokerage Account Window, from the Personal Brokerage Account Window to Core Funds, from the Brokerage Money Market Fund to Brokerage Investments, between Brokerage Investments, and from such Brokerage Investments back to the Brokerage Money Market Fund shall be completed within a commercially reasonable time and in accordance with the terms of any applicable TPA and Broker contracts.

...

SECTION 11. Section 5.26.245 is hereby amended to read as follows:

5.26.245 Distribution, Withdrawals or Loans from Core Funds.

A. Distributions, Withdrawals or Loans from Core Funds Generally. Except as provided in subsection B. of this section, ~~A~~all Distributions, Withdrawals or Loans must be made from amounts allocated to Core Funds. If the Participant has allocated an insufficient amount to Core Funds for a requested Distribution, Withdrawal, or Loan, the Participant must transfer sufficient amounts from the Personal Brokerage Account Window to Core Funds to enable the requested Distribution, Withdrawal or Loan. The Administrative Committee may reallocate the funds in a Participant's Account from the Personal Brokerage Account Window to Core Funds if such action is necessary for the administration of the plan.

B. Notwithstanding subsection A. of this section, a Participant or Beneficiary may request an in-kind distribution of securities held through the Personal Brokerage Account Window subject to the following requirements: (1) the Participant's Account must be 100% vested, (2) the Participant or Beneficiary must be entitled to receive and must request a full distribution of the Account from both the Core Funds and the Personal Brokerage Account Window, and (3) the in-kind distribution must be made in the form of a direct rollover to an "eligible retirement plan" as authorized in section 5.26.610 and the "eligible retirement plan" must accept the in-kind rollover.

SECTION 12. Section 5.26.260 is hereby amended to read as follows:

5.26.260 Distributions on Retirement or Disability.

A. Notwithstanding the provisions of Section 5.26.250, the entire Account of a Participant whose employment with the County terminates after he is age 70 or qualified for a service retirement benefit under the County Employees Retirement Law of 1937, as amended, if earlier, or whose employment with the county terminates because of Disability, shall be nonforfeitable and fully vested. Such Account shall be paid to the Participant or his Beneficiary, in cash or in kind to the extent permitted under section 5.26.245B., in accordance with one of the following methods as the Participant determines:

...

SECTION 13. Section 5.26.270 is hereby amended to read as follows:

5.26.270 Distributions on Death.

...

D. If distributions have not already begun at the time of the Participant's death, and to the extent permitted under section 5.26.290, a Beneficiary may elect to defer distribution of the Participant's Account and direct the investment of such Account as though he was the Participant in accordance with section 5.26.200; provided, however, that if a portion of the Participant's Account is invested through the Personal Brokerage Account Window, the Beneficiary will be required to enter his own contract with the Broker to open a brokerage account and retain any investments held in the Account through the Personal Brokerage Account Window.

SECTION 14. Section 5.26.450 is hereby amended to read as follows:

5.26.450 Fiduciary Responsibilities.

The fiduciaries shall have only such powers, duties, responsibilities and authorities as are specified in the Plan or the Trust Agreement. The Board of Supervisors of the County shall have the authority to appoint, employ and remove the Trustee, any Investment Manager, or any other person that is employed for purposes of the Plan and to approve certain expenses charged to the Plan in accordance with Section 5.26.420. The Administrative Committee shall be the Plan Administrator and shall have the responsibility and authority to appoint or remove any Investment Manager or Broker and to interpret and administer the Plan, subject to the provisions hereof. The Trustee shall have the responsibility and authority for the administration of the Trust Agreement.

SECTION 15. Section 5.26.465 is hereby amended to read as follows:

5.26.465 Rights of an Alternate Payee Under a QDRO.

...

D. Segregation of Alternate Payee's Interest

1. The Alternate Payee's interest specified in the QDRO shall be segregated and/or distributed from the Participant's Accounts, and the Core Funds in which such Accounts are invested, on a pro rata basis. If the assets invested in the Core Funds are insufficient to satisfy the QDRO, the Administrative Committee may transfer amounts from the Personal Brokerage Account Window to the Core Funds as necessary.

2. Notwithstanding subsection D.1. of this Section 5.26.465, a QDRO may provide for an in-kind division and/or distribution of securities held through the Personal Brokerage Account Window subject to the following requirements: (1) the Participant's Account is 100% vested and nonforfeitable; (2) the Alternate Payee is the Participant's former spouse, (3) the QDRO clearly states the number of shares and the identities of the securities awarded to the Alternate Payee; and (3) either: (a) if the amounts are remaining in the Alternate Payee's Account under the Plan, the Alternate Payee must enter his own contract with the Broker to open a brokerage account through the Personal Brokerage Account Window, or (b) if the amounts are to be distributed in-kind, the Alternate Payee must request, or the QDRO must provide for, a full distribution of the Alternate Payee's Account from both Core Funds and the Personal Brokerage Account Window and the distribution must be made in the form of a direct rollover to an "eligible retirement plan" as authorized in section 5.26.610 and such Eligible Retirement Plan must accept the in-kind rollover.

[525020DTCEO]

SECTION 16. This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.

Don Knabe
Chairman

ATTEST:

Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that at its meeting of September 15, 2009 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

	Ayes		Noes
Supervisors	Gloria Molina	Supervisors	None
	Mark Ridley-Thomas		
	Zev Yaroslavsky		
	Michael D. Antonovich		
	Don Knabe		

Effective Date: October 15, 2009

~~Operative Date:~~

Sachi A. Hamai
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that pursuant to
Section 25103 of the Government Code,
delivery of this document has been made.

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By _____
Deputy

APPROVED AS TO FORM:
ROBERT KALUNIAN
Acting County Counsel

By _____
For Leela Kapur
Chief Deputy County Counsel

S:\Ordinances\County Counsel\2009\2009-0040