

# Agenda Report

**DATE:** APRIL 12, 2004

**TO:** CITY COUNCIL/DEFERRED COMPENSATION PLAN TRUSTEES

**FROM:** DEFERRED COMPENSATION OVERSIGHT COMMITTEE

**SUBJECT:** JOINT ACTION: APPROVAL OF AMENDMENTS TO THE DEFERRED COMPENSATION PLAN DOCUMENT AND INVESTMENT POLICY AND REVIEW OF THE CITY'S FOURTH QUARTER 2003 DEFERRED COMPENSATION PLAN PERFORMANCE

## **RECOMMENDATION**

It is recommended that the City Council/Deferred Compensation Plan Trustees:

- i) Approve amendments to the Deferred Compensation Plan document as detailed in the Background section of this report;
- ii) Approve the revised Deferred Compensation Investment Policy, and;
- iii) Receive the performance review for the City's Deferred Compensation Plan for the period ending December 31, 2003;

## **BACKGROUND**

The City of Pasadena offers its employees the opportunity to participate in a Deferred Compensation Plan. As of December 31, 2003 the plan had over 2,000 participants, comprised of current and former employees, with total assets of \$99,887,190.

The Director of Finance serves as the Plan Administrator and is responsible for day-to-day management of the program. The Deferred Compensation Oversight Committee, which consists of three members elected by current city employees participating in the plan, and two members appointed by the City Council, provide oversight and direction. The members of the City Council serve as trustees and have ultimate responsibility for the Plan. Each of these parties has the fiduciary obligation to ensure that participant assets are managed in an appropriate fashion.

In keeping with this responsibility, the Oversight Committee developed an investment policy for the Deferred Compensation Plan. This policy was subsequently approved by the City Council, in its role as Plan Trustee on September 17, 2001.

In order to ensure that investment options in the Plan are within the parameters established by the investment policy, the City contracted with the firm of Arnerich and Massena to perform semi-annual evaluations (2<sup>nd</sup> and 4<sup>th</sup> calendar year quarters) of each investment option contained in the Plan. Transmitted along with this report is the evaluation for the period ending December 31, 2003. It should be noted that Hartford Life, the current plan provider, also performs semi-annual evaluations after the 1<sup>st</sup> and 3<sup>rd</sup> calendar year quarters. Although the Oversight Committee has been receiving these quarterly evaluations and they have been made available through the City's Deferred Compensation Webpage, not all have been forwarded to the City Council. This will be corrected, and the Council will receive these performance reviews along with a formal presentation by Arnerich and Massena, as they are completed.

In addition to performing analysis of the investment options, Arnerich and Massena has reviewed the existing investment policy and has made a number of suggestions to further strengthen it. The Oversight Committee has reviewed the proposed changes, has made some additional changes of its own, and recommends that the City Council approve the revised policy. A "redline" version of the proposed revised policy is attached.

In January 2003, the City Council approved a series of amendments to the Deferred Compensation Plan to bring it into conformance with the federal Tax Relief Reconciliation Act of 2001 (Economic Growth and Tax Relief Reconciliation Act of 2001, i.e., EGTRRA) and the Job Creation and Workers Assistance Act of 2002, as well as to implement a number of optional provisions. Specifically, the Council approved:

1. An increase in the maximum deferral amount and catch-up limits.
2. Additional contributions for participants age 50 and over.
3. Flexible distributions – allowing participants who have separated from the City to change their election choices.
4. In-service transfers for the purchase of defined benefit service credit.
5. Rollovers from 403(b) and other 457 Deferred Compensation Plans.

The IRS has recently issued additional regulations affecting Deferred Compensation Plans. As a result the City's outside legal counsel for matters related to the City's Plan, has recommended that the following amendments be made to the City's Plan document. These amendments are largely technical in nature and will not alter the character of the City's Plan. The Plan Administrator has reviewed the amendments and concurs with their addition.

1. Outgoing Transfers. Currently, only former participants may elect to make a direct transfer of assets to another eligible Section 457 plan. Based on the new IRS regulations, the Plan must be revised to also permit beneficiaries to make such transfers.
2. Direct Rollovers. The definition of 'eligible retirement plan' contained in the Plan document must be revised to include all types of qualified retirement plans, such as 401(a) plans and others.
3. Termination of the Plan. The current Plan document provides that the City may terminate the Plan. However, as presently drafted the City would still be required to retain the assets in trust until all participants became eligible to receive distributions from the Plan, essentially maintaining the trust indefinitely.

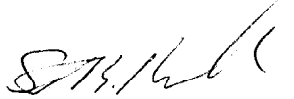
The new IRS regulations allow the City the option to distribute the plan assets immediately upon termination of the plan, should such ever occur, to the participants or some successor Plan. Although termination of the Plan appears highly unlikely, adopting this provision will give the City more options in the event the Plan is ever terminated.

These proposed amendments are included in the attached "redline" revised Plan document.

### **FISCAL IMPACT**

Although there is no direct fiscal impact as a result of these actions, they will further strengthen the City's Deferred Compensation Plan, thus securing participant investments and fulfilling the City's fiduciary responsibility.

Respectfully submitted,



Steve Mermell,  
Chair, Deferred Compensation  
Oversight Committee