

City of Columbia

701 East Broadway, Columbia, Missouri 65201



Agenda Item Number: R 175-14

Department Source: Finance

To: City Council

From: City Manager & Staff

Council Meeting Date: September 15, 2014

Re: Revisions to the 457 employee Money Purchase Plans.

Documents Included With This Agenda Item

Council memo, Resolution/Ordinance, Exhibit to the Resolution/Ordinance

Supporting documentation includes: None

Executive Summary

Currently city employees can obtain loans from their 401a plans. Uniformed employees of the Police and Fire Departments starting city employment October 1, 2012 or later do not have the option to participate in the 401a plan. These employees do have the option to participate in the 457 plans. This resolution would allow all city employees to obtain loans from their 457 plans.

The United States Supreme Court's ruling in *United States vs. Windsor* struck down Section 3 of the Defense of Marriage Act. This ruling requires the city to revise its definition of "spouse" in all of its benefit plans.

Discussion

Currently city employees can obtain loans from their 401a plans. Uniformed employees of the Police and Fire Departments starting city employment October 1, 2012 or later do not have the option to participate in the 401a plan. These employees do have the option to participate in the 457 plan. This resolution would allow all city employees to obtain loans from their 457 plans.

The United States Supreme Court's ruling in *United States vs. Windsor* struck down Section 3 of the Defense of Marriage Act. This ruling requires the city to revise its definition of "spouse" in all of its benefit plans.

Fiscal Impact

Short-Term Impact: None.

Long-Term Impact: None.

Vision, Strategic & Comprehensive Plan Impact

Vision Impact: Not Applicable

Strategic Plan Impact: Workforce

Comprehensive Plan Impact: Not Applicable

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Suggested Council Action

Passage of this resolution.

Legislative History

None.



Department Approved



City Manager Approved

Introduced by _____ Council Bill No. R 175-14

A RESOLUTION

authorizing the City Manager to execute documents necessary to modify or amend the terms of the 457 deferred compensation plans for the City of Columbia, Missouri in order to authorize loans to participants of such plans; authorizing the City Manager to execute documents necessary as it relates to the definition of "spouse" in such plans.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Manager is hereby authorized to execute any and all documents necessary to modify or amend the terms of each and every 457 deferred compensation plan in which the City participates for the benefit of its employees in order to authorize loans to participants of such plan(s) in general conformity with the terms and conditions set forth in "Exhibit A" attached hereto.

SECTION 2. The City Manager is hereby authorized to execute any and all documents necessary to modify or amend the terms of each and every 457 deferred compensation plan in which the City participates for the benefit of its employees in order to amend the definition of "spouse" in substantially the same manner as follows:

"Effective September 16, 2013, "spouse" means a person, as of the earlier of a Participant's Benefit Payment date or a Participant's death, who is alive and to whom a Participant is legally married under the laws of the state where the marriage occurred (regardless of the laws of the state where the Participant or spouse are domiciled); provided such marriage is evidenced by a valid marriage certificate or other proof acceptable to the Contract Owner and Nationwide. For the avoidance of doubt, any references to "spousal" or "married" in this Plan shall be determined in accordance with this Section ____."

ADOPTED this _____ day of _____, 2014.

ATTEST:

City Clerk

Mayor and Presiding Officer

APPROVED AS TO FORM:

City Counselor

City of Columbia, Missouri
Section 457 Deferred Compensation Plan
Loans to Participants

Division ____.

Section _____. Participant Benefit Payments.

_____ Loans to Participants.

____.1 General Loan Rules. A Participant may, upon application to the Contract Owner in such manner as the Contract Owner shall prescribe, obtain a loan from his or her Participant Account in accordance with the provision of this Section _____. Loans shall be available to all Participants on a reasonably equivalent basis.

(a) **Amount.** The amount of the loan shall be neither less than \$1,000 nor more than the excess of (1) the greater of (A) \$10,000 or (B) 50% of the Participant's Account Value, determined as of the date Nationwide and the Contract Owner approve the loan, over (2) the sum of the outstanding balances (including both principal and accrued interest) on all prior outstanding loans to the Participant under this Plan. Notwithstanding the foregoing sentence, in no event shall the Plan lend a Participant an amount that, when added to the outstanding balance of all other loans to the Participant from the Plan, exceeds the Participant's Account Value.

(b) **Additional Limits.** The amount borrowed under this Section _____ shall not cause the sum of (1) the amount of the loan, plus (2) the aggregate outstanding balance (including both principal and accrued interest) on all prior loans to the Participant under this Plan or any other qualified plan maintained by the Employer (an "*Other Plan*"), to exceed an amount equal to \$50,000, reduced by the excess (if any) of (A) the highest aggregate outstanding balance on all loans under this Plan and all Other Plans during the one-year period ending on the day before the date the loan is to be made, over (B) the aggregate balance on all such loans on the date the loan is made.

(c) **Number of Loans.** No Participant shall be permitted to borrow under this Section _____ if the borrowing would result in his or her having more than one (1) loan outstanding under the Plan.

(d) Loans made under this Plan shall comply with Section 72(p) of the Internal Revenue Code of 1986, as amended, including Treas. Reg. Sections 1.457-6(f)(2) and 1.72(p)-1.

____.2 Minimum Requirements of Each Loan. The terms of any loan made under this Section _____ shall be evidenced by a promissory note signed by the Participant, and such terms shall satisfy the following minimum requirements:

(a) **Separate Accounting.** Each loan shall be considered as a separate, earmarked investment of the Participant's Account from which it is made. The investment gains or losses attributable to the loan (including any gain or loss attributable to interest payments or default) shall not be included in the calculation or allocation of the increase or decrease in the

fair market value of the general assets of the Plan, but shall instead be allocated solely to the Account of the Participant to whom the loan is made.

(b) **Term.** The term of the loan shall not exceed five (5) years, or if sooner, upon the Participant's termination of employment with the Contract Owner.

(c) **Interest Rate.** Each loan shall bear a reasonable rate of interest, as determined by the Contract Owner, which shall be comparable to the interest rate which is charged under similar circumstances by persons in the business of lending money.

(d) **Repayment Schedule.** A definite repayment schedule shall be established for each loan which shall require level and periodic payments of both principal and interest over the agreed term of the loan, with payments not less frequently than quarterly and payment in full being required at the end of the loan term. A Participant may prepay at any time any of or the entire amount remaining due under the loan.

(e) **Withholding.** No loan shall be made unless the Participant agrees to make principal and interest payments on each loan, together with any and all charges imposed by the Contract Owner in connection with the loan by payroll withholding.

(f) **Security.** Each loan shall be adequately secured by the Participant's Account Value and such other collateral as the Contract Owner may require to secure his or her repayment obligations under the loan.

(g) **Spousal Consent.** No loan may be made to a Participant who is married at the time the loan is to be made without spousal consent, given no more than 90 days before the date of the loan, in which the Participant's spouse consents in writing to the loan and to the possible reduction of the balance credited to the Participant's Account in the event the loan is in default. The same spousal consent requirement shall apply with respect to any renegotiation, renewal or other revision of the loan.

.3 **Commencement of Distributions.** If any amount remains outstanding as a loan obligation of a Participant upon commencement of distributions from the Participant's Account under the Plan, the balance credited to the Account shall include the Participant's note reflecting the loan.