

RESOLUTION NO. 220548

R. 78-1651
(REVISED)

MAR 28 1978

WHEREAS, the City of San Diego established a Deferred Compensation Plan (herein called "Plan") at the beginning of 1974 to provide a method for participating officers and employees to defer taxable consequences upon wages deferred; and

WHEREAS, the City established said "Plan" after lengthy communication and negotiation with appropriate officials of the United States Internal Revenue Service (herein called "IRS"); and

WHEREAS, said plan was approved and a Letter of Determination evidencing such approval was issued by the Internal Revenue Service District Director on December 20, 1973; and

WHEREAS, upon reliance of such approval by the IRS, many officers and employees of the City of San Diego elected to participate in said Plan, to the extent of promulgating estate plans in connection therewith; and

WHEREAS, officials of IRS have on several occasions, since December 20, 1973, reiterated the legality of the Plan as approved for the City of San Diego; and

WHEREAS, the deferral program is a valuable benefit to participating and eligible employees, since it is a significant element in salary and wage considerations; and

WHEREAS, the IRS published in the Federal Register of February 3, 1978 a notice of proposed rulemaking, proposing an amendment (Section 1.61-16) to the Income Tax Regulations

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(26 CFR Part I) under Section 61 of the Internal Revenue Code of 1954; and

WHEREAS, the proposed amendment, if adopted by the Treasury Department, would change the position of the IRS on the tax treatment accorded those amounts deferred under the City of San Diego Deferred Compensation Plan; and

WHEREAS, this action, if approved by the Treasury Department, will be prospective in nature only but will effectively render null and void any and all benefits associated with deferred compensation plans; and

WHEREAS, such action further represents arbitrary and capricious action by the IRS, in direct contravention to said prior IRS approval and authorization for said Plan, all without any supporting or justifiable rationale underlying such action; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

That this Council, for and on behalf of all participating officers and employees of the Deferred Compensation Plan of said City, hereby opposes the adoption by the Treasury Department of the proposed amendment (Section 1.61-16) to the Income Tax Regulations (26 CFR Part I) under Section 61 of the Internal Revenue Code of 1954 which would abolish tax deferral participatory plans for public agencies.

BE IT FURTHER RESOLVED, that this Council strongly supports Senate Joint Resolution No. 38 of the State of California which

urges the Congress of the United States to enact legislation which will require the Internal Revenue Service to issue regulations consistent with long standing Internal Revenue Service actions which will enable states and local governments to continue deferred compensation plans for their employees which have been established and to permit public agencies to establish new plans.

BE IT FURTHER RESOLVED, that the City Clerk be and he is hereby directed to transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Treasury, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States, and to the President pro tempore of the Senate of the State of California.

APPROVED: JOHN W. WITT, City Attorney

By 
Jack Katz
Chief Deputy City Attorney

JK:rc:352.2
3/1/78- REV. 3/8/78
Or. Dept.: Treasurer

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Passed and adopted by the Council of The City of San Diego on MAR 28 1978,
 by the following vote:

Councilmen	Yeas	Nays	Excused	Absent
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Lowery	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Leon L. Williams	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Fred Schnaubelt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Gade	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Larry Stirling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jess D. Haro	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON
 Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
 City Clerk of The City of San Diego, California.

By *Allyn D. North*, Deputy.

(Seal)

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 CITY OF SAN DIEGO
 1978 MAR -9 10:09
 SAN DIEGO, CALIF.

Office of the City Clerk, San Diego, California	
Resolution Number <u>220548</u>	Adopted <u>MAR 28 1978</u>

CC-1276 (REV. 11-77)

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