

ORDINANCE NUMBER O- 20196 (NEW SERIES)

DATE OF FINAL PASSAGE OCT 02 2012

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING THE AMENDED AND RESTATED SUPPLEMENTAL PENSION SAVINGS PLAN H (SPSP-H) TO ALLOW PARTICIPATION BY EMPLOYEES EXCLUDED FROM THE DEFINED BENEFIT PLAN UNDER SAN DIEGO CHARTER SECTION 140.

WHEREAS, on June 5, 2012, City of San Diego (City) voters approved Proposition B, a citizens' initiative to amend the San Diego Charter (Charter), known as "Comprehensive Pension Reform for San Diego" (Proposition B); and

WHEREAS, the Charter amendments set forth in Proposition B became effective on July 20, 2012; and

WHEREAS, Proposition B amends Articles VII (entitled "Finance") and IX (entitled "The Retirement of Employees") of the Charter related to retirement benefits of City employees; and

WHEREAS, among other things, Proposition B adds sections 140, 150 and 151 to Article IX of the Charter; and

WHEREAS, Charter section 140 states that, except for sworn police officers, all officers and employees, who are initially hired or assume office on or after the date the Charter amendment goes into effect are ineligible to participate in the City's defined benefit plan, and may participate only in a defined contribution plan (or plans); and

WHEREAS, Charter section 150 authorizes the Council of the City of San Diego (Council) to establish "by ordinance" a defined contribution plan consistent with the terms of section 150; and

WHEREAS, before the City may establish a defined contribution plan for future employees who will be represented by one of the City's recognized employee organizations, it must first negotiate the terms of the plan with the affected employee organizations in accordance with the Meyers-Milias-Brown-Act (MMBA); and

WHEREAS, from July 25, 2012 until September 5, 2012, the City negotiated with the following recognized employee organizations regarding the establishment of a defined contribution plan for future employees: San Diego Municipal Employees' Association (MEA); San Diego City Firefighters, International Association of Fire Fighters Local 145 (Local 145); Local 127, American Federation of State, County and Municipal Employees, AFL-CIO (Local 127); the International Brotherhood of Teamsters, Local 911 (Local 911); and the Deputy City Attorneys Association (DCAA); and

WHEREAS, the City has reached agreement with the employee organizations concerning the terms of an interim defined contribution plan for employees initially hired on or after July 20, 2012, as memorialized in the "Tentative Agreement" that is before the Council for approval on the same date on which the Council considers this ordinance; and

WHEREAS, the City is not required to negotiate with its unrepresented employees over the terms of the proposed interim defined contribution plan for future unrepresented employees; and

WHEREAS, the City wants to extend the terms of the Tentative Agreement to its future unrepresented employees, and to establish an interim defined contribution plan covering all employees initially hired or assuming office on or after July 20, 2012 who are not sworn police officers, until the City is able to complete labor negotiations with the affected employee organizations and establish a permanent defined contribution plan for all City employees; and

WHEREAS, the City is in negotiations with the affected employee organizations in accordance with the MMBA regarding the establishment of a permanent defined contribution plan; and

WHEREAS, the City sponsors and maintains the City of San Diego Supplemental Pension Savings Plan H, as amended and restated on January 1, 2010, and as further amended on May 10, 2011 and May 23, 2011 (the SPSP-H Plan); and

WHEREAS, the City has determined that the SPSP-H Plan is an appropriate defined contribution plan to use to provide retirement benefits on an interim basis for employees initially hired or assuming office on or after July 20, 2012; and

WHEREAS, it is necessary to amend and restate the SPSP-H Plan to allow participation by employees initially hired or assuming office on or after July 20, 2012; and

WHEREAS, Charter section 150 states that “[a]ny ordinance adopted under this section shall take effect immediately if the City Council finds that the Ordinance must take immediate effect to meet a legal deadline for compliance with this Charter or any other law or regulation”; and

WHEREAS, the Tentative Agreement requires that the interim plan be effective on October 2, 2012; and

WHEREAS, the necessary amendments to the SPSP-H Plan are reflected in the Amended and Restated SPSP-H Plan; and

WHEREAS, the Council finds that this ordinance adopting the amendments to the SPSP-H Plan must take effect immediately, to comply with the Tentative Agreement, and to allow the City to lift the hiring freeze that has been in place since August 1, 2012; and

WHEREAS, the City's outside tax counsel has recommended amendments to the SPSP-H Plan to comply with current federal tax law, and these technical changes are reflected in the Amended and Restated SPSP-H Plan; and

WHEREAS, the Amended and Restated SPSP-H Plan also includes changes made to clarify the terms of the plan, correct typographical errors, and ensure that all defined terms are used consistently; NOW, THEREFORE,

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


Section 1. That the Council of the City of San Diego adopts the Amended and Restated SPSP-H Plan, which is on file in the Office of the City Clerk as Document No. 00-20196, and authorizes the Mayor or his designee to execute the plan document.

Section 2. That a full reading of this ordinance is dispensed with before its passage, a written or printed copy having been available to the Council and the public a day before its passage.

Section 3. That, pursuant to Charter section 150, this ordinance will take effect immediately and continue in force from the date of its adoption by the Council.

APPROVED: JAN I. GOLDSMITH, City Attorney

By

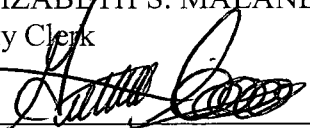


Roxanne Story Parks
Deputy City Attorney

RSP:mr
9/18/2012
Or.Dept:Risk Management
Doc. No.: 432515

I certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of 10/1/2012.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 10-2-12
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor