ORDINANCE NO. 172105

An Ordinance amending Sections 4.1401 (g)(1), 4.1404, 4.1405, 4.1406, 4.1603 (b), 4.1604 and 4.1605 of the Los Angeles Administrative Code to implement certain changes to the City's Deferred Compensation Plan and the City's Pension Savings Plan which are required or permitted by the Small Business Job Protection Act of 1996 (P. L. 104-188), and to make other related changes.

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. Paragraph (1) of Subsection (g) of Section 4.1401 of the Los Angeles Administrative Code is hereby amended to read in its entirety as follows:

(1) The maximum amount that may be deferred under the Plan for the taxable year of a participant shall not exceed the lesser of (1) $7,500, as adjusted for the cost-of-living in accordance with Internal Revenue Code section 457 (e) (15) for taxable years beginning after December 31, 1996, or (2) 33-1/3 percent of the participant’s includible compensation (typically 25% of the participant’s gross compensation.)

Sec. 2. Section 4.1404 of the Los Angeles Administrative Code is hereby amended to read in its entirety as follows:

Sec. 4.1404. Investment Fund and Trust.
The employer shall establish a separate City fund (the “Investment Fund”) to provide a convenient method of setting aside a portion of its assets to meet the City’s obligations under the Plan. The amounts placed in the Investment Fund and all other assets and income of the Plan shall be held by the City in trust for the exclusive benefit of participants and their beneficiaries in accordance with the terms and conditions of the Plan, and for defraying reasonable expenses of administration of the Plan. Amounts, assets and income held in custodial accounts or annuity contracts described in Internal Revenue Code section 401 (f) shall similarly be held by the City in trust for the exclusive benefit of the participants and their beneficiaries in accordance with the terms and conditions of the Plan, and the contract documents and all other pertinent documents therefor shall clearly state that the amounts, assets and income subject thereto are so held.

Neither the existence of the Plan, nor of the trust nor of the Investment Fund shall entitle any participant, beneficiary or other person to a claim or lien against the assets of the Investment Fund, the Plan or
the trust. The participants and their beneficiaries shall have only the right to receive the benefits payable under the Plan as provided in this chapter.

Sec. 3. Section 4.1405 of the Los Angeles Administrative Code is hereby amended to read in its entirety as follows:

Sec. 4.1405. Investment Accounts.

The City, (acting through the Administrators), shall cause to be established for each participant a book account (the "Investment Account") to provide a convenient method of measuring the City’s obligation to the participant under the Plan. The City shall cause to have credited to each account amounts equal to the compensation deferred by the participant under the Plan less any applicable fees. The assets of the account shall be invested in such investments as the law may allow. Each participant’s Investment Account shall further be credited with earnings, gains or losses applicable to such investments. The City shall not be liable to participants in the Plan, their beneficiaries or any other persons for any losses on any investment credited to any investment account.

Sec. 4. Subsection (a) of Section 4.1406 of the Los Angeles Administrative Code is hereby amended by renumbering paragraphs (3) and (4) thereof as paragraphs (4) and (5), respectively, and by adding a new paragraph numbered (3) thereto to read as follows:

(3) Elections to Defer Commencement of Distributions.

A participant may irrevocably elect within sixty (60) days following separation from service to have the distribution of benefits commence on a fixed determinable date which is at least sixty-one (61) days after separation from service, but not later than April 1 of the year following the year the participant separates from service or attains the age of seventy-and-a-half (70-1/2), whichever is later. A participant may also elect to defer the commencement of distribution of benefits to a fixed determinable date later than the date described in the foregoing sentence, but not later than April 1 of the year following the year of the participant’s separation from service or attainment of age seventy-and-a-half (70-1/2), whichever is later, provided (i) such election is made after the sixty-first (61st) day following separation from service and before commencement of distributions, and (ii) the participant may make only one such election. Notwithstanding the foregoing, the Board, in order to insure the orderly administration of this provision, may establish a deadline after which such election to defer the commencement of distributions shall not be allowed. A participant may elect to postpone distributions even after using the “catch-up” provision.
Sec. 5. Section 4.1406 of the Los Angeles Administrative Code is hereby further amended by adding a new Subsection (d) thereto at the end thereof to read as follows:

(d) De Minimis Accounts. Notwithstanding any other provisions of the Plan to the contrary, if the total amount payable to a participant under the Plan does not exceed Five Thousand Dollars ($5,000) and (i) no amount has been deferred under the Plan with respect to the participant during the two (2) year period ending on the date of the distribution, and (ii) there has been no prior distribution under the Plan to the participant pursuant to this provision, the participant may elect to receive or the Employer may distribute the participant’s entire account without the consent of the participant. Such distribution shall be made in a lump sum.

Sec. 6. Subsection (b) of Section 4.1603 of the Los Angeles Administrative Code is hereby amended to read in its entirety as follows:

(b) For any calendar year, total participant contributions plus City contributions credited to the participant’s investment account shall not exceed the lesser of 1) $7,500, as adjusted for the cost-of-living in accordance with Internal Revenue Code section 457 (e) (15) for taxable years beginning after December 31, 1996, or 2) 33-1/3 percent of the participant’s compensation.

Sec. 7. Section 4.1604 of the Los Angeles Administrative Code is hereby amended to read in its entirety as follows:

Sec. 4.1604. Pension Savings Investment Fund and Trust. The City shall establish a separate City fund (the “Pension Savings Investment Fund”) as a method of setting aside a portion of its assets to meet the City’s obligations under the Pensions Savings Plan. All participant and City contributions shall be invested in this fund and shall be held by the City in trust for the exclusive benefit of participants and their beneficiaries in accordance with the terms and conditions of the Plan, and for defraying reasonable expenses of administration of the Plan. Neither the existence of the Plan, nor of the trust nor of the Investment Fund shall entitle any participant, beneficiary or other person to a claim or lien against the assets of the Investment Fund, the Plan or the trust. The participants and their beneficiaries shall have only the right to receive the benefits payable under the Plan as provided in this chapter.

Sec. 8. The first unnumbered paragraph of Section 4.1605 of the Los Angeles Administrative Code is hereby amended to read in its entirety as follows:
The City shall cause to be established for each participant a book account to provide a method of measuring the City's obligation to the participant under the Pension Savings Plan. All participant and City contributions as well as earnings thereon, any applicable fees and any losses shall be credited or debited, as appropriate, to such investment account. The assets of the account shall be invested in such investments as the law may allow.

Sec. 9. The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was passed by the Council of the City of Los Angeles, at its meeting of ______________.

J. MICHAEL CAREY, City Clerk

Approved ______________

JUL 09 1998

Mayor

Approved as to Form and Legality

JUNE 17, 1998

James K. Hahn, City Attorney

By ______________

PEDRO B. ECHEVERRIA
Chief Assistant City Attorney

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