

SUBJECT

Implementation of the COVID-19 Related Distributions Provisions of the Coronavirus Aid, Relief and Economic Security (CARES) Act Authorizing Resolution (Staff Representative: Debra Johnson)

RECOMMENDED ACTION

To adopt a resolution approving implementation of the COVID-19 related distributions provisions of the Coronavirus Aid, Relief and Economic Security (CARES) Act with respect to the Long Beach Transit 457(b) Deferred Compensation Plan for Governmental Employers and the Long Beach Transit 401(a) Matching Contribution Plan and Authorizing Subsequent Amendment of the Plans.

BACKGROUND

Long Beach Transit (LBT) currently maintains the Long Beach Transit 457(b) Deferred Compensation Plan for Governmental Employers and the Long Beach Transit 401(a) Matching Contribution Plan (collectively referred to as “the Plans”).

The Internal Revenue Code (IRC) 457(b) Plan is voluntary for all employees and allows them to make deferral contributions towards retirement. In accordance with the IRC and Internal Revenue Service (IRS) requirements, LBT must adopt a Deferred Compensation Plan that governs the administration of the Plan. LBT’s deferred compensation plan provider, Voya, provides the Plan document and updates it periodically based upon changes in laws and best practices.

The 401(a) Plan covers all regular, full-time employees who are not eligible to participate in any defined benefit plan sponsored by LBT. The 401(a) Plan provides non-elective and matching contributions to eligible participants. Best Best & Krieger provides the Plan document and periodically updates it based upon changes in laws and best practices. Voya serves as the 401(a) Plan recordkeeper.

There is currently a local, state and national emergency related to the COVID-19 pandemic. This pandemic has resulted in significant economic impacts throughout the nation.

As a result, on March 27, 2020, the Coronavirus Aid, Relief and Economic Security (CARES) Act became law. Among other provisions, the CARES Act provides several options that an entity can adopt in order to provide some financial relief to qualified plan participants impacted by COVID-19.

To assist qualified plan participants impacted by COVID-19, LBT staff proposes that LBT’s Board of Directors adopt the following recommendations:

Allow qualified participants in the 401(a) Plan and the 457(b) Plan to withdraw funds up to a total of \$100,000 of their vested accounts under the Plans without the application of the 20 percent tax withholding that is usually required of in-service distributions and, for the 401(a) Plan, without having to pay the 10 percent early distribution penalty.

Such withdrawals shall be made in the following order: (i) from the 457(b) Plan, (ii) from the vested portion of the matching contributions of the 401(a) Plan, and (iii) from the vested portion of the nonelective contributions of the 401(a) Plan.

A qualified participant is defined by the CARES Act. As a general summary, it includes participants who were diagnosed with COVID-19, whose spouse or dependent is so diagnosed, or who experience adverse financial consequences due to COVID-19 (such as being quarantined, being laid off or furloughed, unable to work due to child care, closing or reducing hours of a business, or other factors as determined by the Secretary of the Treasury).

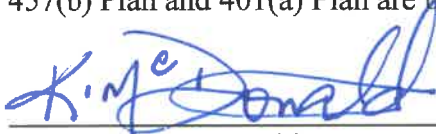
To implement any plan amendments, the IRS typically requires formal written amendments to the plan documents, which can be a lengthy process. The CARES Act allows immediate implementation of these provisions, as long as LBT amends its plan documents by the last day of the first plan year beginning on or after January 1, 2024.

As such, the attached resolution authorizes staff to implement certain provisions of the CARES Act to help address the economic impacts of COVID-19 that LBT employees are experiencing. These provisions apply to the Long Beach Transit 457(b) Deferred Compensation Plan for Governmental Employers (“457(b) Plan”) and the Long Beach Transit 401(a) Matching Contribution Plan (“401(a) Plan”) and will allow qualified participants who are impacted by COVID-19 to withdraw up to a total of \$100,000 without having the 20 percent tax withholding apply at distribution or having to pay the 10 percent early distribution tax, if applicable.

The resolution also authorizes the President and Chief Executive Officer, or his designee, to execute any documents consistent with and necessary to implement these provisions immediately, as well as prepare and execute the necessary Plan amendments to the 457(b) Plan and the 401(a) Plan by the deadline set forth in the CARES Act without necessitating further action by the LBT Board of Directors.

BUDGETARY/FISCAL IMPACT

There is no direct fiscal impact to LBT with this action, as all costs for administration of the 457(b) Plan and 401(a) Plan are borne by plan participants and/or the recordkeeper, Voya.



Kenneth A. McDonald
President and Chief Executive Officer

RESOLUTION OF LONG BEACH TRANSIT

Resolution Approving Implementation the COVID-19 related distributions provisions of the Coronavirus Aid, Relief and Economic Security (CARES) Act with respect to the 457(b) Deferred Compensation Plan for Governmental Employers and the 401(a) Matching Contribution Plan and Authorizing Subsequent Amendment of the Plans

WHEREAS, Long Beach Transit (LBT) previously established the LBT 457(b) Deferred Compensation Plan for Governmental Employers (the “457(b) Plan”) for the benefit of eligible employees and their beneficiaries with an effective date of April 13, 1979; and

WHEREAS, the 457(b) Plan was most recently restated effective as of May 1, 2011, and has been amended several times since that date; and

WHEREAS, LBT previously established the LBT 401(a) Matching Contribution Plan (the “401(a) Plan”) for the benefit of eligible employees and their beneficiaries with an effective date of April 1, 2011; and

WHEREAS, the 401(a) Plan was subsequently restated as of January 1, 2014, amended in 2018 pursuant to Amendment 2018-I; and amended in 2019 pursuant to Amendment 2019-I; and

WHEREAS, in recent months, the world, the nation, including the State of California and LBT have been threatened with an unprecedented Coronavirus (COVID-19) pandemic. This deadly virus has impacted every aspect of life and caused financial hardships resulting from lives lost to COVID-19 and loss of jobs. Under the California Governor’s Emergency Proclamation of March 4, 2020, closure of non-essential businesses was ordered to slow the rapid spread of COVID-19; and

WHEREAS, the Coronavirus Aid, Relief, and Economic Security (CARES) Act was enacted and allows qualified participants affected by COVID-19 the option to withdraw a total of up to \$100,000 from their vested accounts under the 457(b) and 401(a) Plans; and

WHEREAS, to offer this withdrawal option to qualified 457(b) and 401(a) Plan participants, amendments to the 457(b) and 401(a) Plan documents are required, but the CARES Act allows implementation prior to the formal amendments which must occur by the last day of the first plan year beginning on or after January 1, 2024; and

WHEREAS, the Board of Directors of LBT wishes to implement the withdrawal option under the CARES Act as set forth above; and

WHEREAS, the Board of Directors of LBT wishes to provide that such withdrawals shall be made in the following order: (i) from the 457(b) Plan, (ii) from the vested portion of the

matching contributions of the 401(b) Plan, and (iii) from the vested portion of the non-elective contributions of the 401(a) Plan; now

THEREFORE, BE IT RESOLVED by the Board of Directors of LBT:

1. The President and Chief Executive Officer, or his designee, is hereby authorized to implement the following Plan amendments in accordance with the CARES Act effective immediately:

Allow qualified participants in both the 457(b) Plan and the 401(a) Plan to withdraw funds up to a total of \$100,000 of their vested accounts without the application of the 20 percent tax withholding that is usually required of in-service distributions and, for the 401(a) Plan, without having to pay the 10 percent early distribution penalty. Such withdrawals shall be made in the following order: (i) from the 457(b) Plan, (ii) from the vested portion of the matching contributions of the 401(a) Plan, and (iii) from the vested portion of the nonelective contributions of the 401(a) Plan.

2. The President and Chief Executive Officer, or his designee, is authorized to execute any documents consistent with and necessary to implement these provisions immediately and is hereby directed to prepare and execute the necessary Plan amendments to the 457(b) Plan and the 401(a) Plan by the deadline set forth in the CARES Act.

CERTIFICATION

The undersigned duly appointed Secretary/Treasurer certifies that the foregoing is a true and correct copy of a resolution, adopted at a legally convened meeting of the LBT Board of Directors held on May 28, 2020.

Adam Carrillo
Secretary/Treasurer, Board of Directors

Date

APPROVED AS TO FORM AND CONTENT:
BEST BEST & KRIEGER, LLP

By: _____
Attorneys for Employer