

RESOLUTION 18-34 – AUTHORIZES AN AMENDMENT TO THE DELAWARE RIVER AND BAY AUTHORITY EMPLOYEES’ SECTION 457(b) DEFERRED COMPENSATION PLAN

WHEREAS, the Delaware River and Bay Authority (the “Authority”) maintains the Delaware River and Bay Authority Employees’ Section 457(b) Deferred Compensation Plan (the “457(b) Plan”); and

WHEREAS, pursuant to Section 7.1 of the 457(b) Plan, the Authority has the right to, at any time, amend the Plan; and

WHEREAS, the DRBA wishes to now amend the 457(b) Plan to clarify the definition of Compensation.

NOW, THEREFORE, BE IT RESOLVED, that the Delaware River and Bay Authority hereby approves the following clarifying amendment to the Plan:

Section 1.10 of the Section 457(b) Plan is amended by adding the following language to the end of that Section:

For a participant who has not had a severance from employment, Compensation includes accumulated sick pay, accumulated vacation pay, and back pay. Compensation that would otherwise be paid for a payroll period that begins before severance from employment is treated as an amount that would otherwise be paid or made available before an employee has a severance from employment.

For Participants who have had a severance from employment, Compensation includes cash-out of accrued but unused sick, vacation or other leave that could have been used if the severance from employment had not occurred and that is paid by the later of: (i) 2-1/2 months after severance from service, or (ii) the end of the limitation year in which the severance occurs.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the proper officers and employees of the Authority are hereby authorized to execute the necessary amendments to the 457(b) Plan and to take whatever action to execute whatever instruments with the advice and consent of General Counsel that may be necessary or convenient to carry out the foregoing resolution.

Resolution 18-34 Executive Summary

- Resolution:** Authorizing an amendment to the Delaware River and Bay Authority Employees' Section 457(b) Deferred Compensation Plan (the "457(b) Plan").
- Committee:** Personnel Committee
- Committee/Board Date:** September 18, 2018
- Purpose of Resolution:** To clarify the definition of Compensation under the 457(b) Plan.
- Background for Resolution:** The Authority has historically permitted severed Participants in the 457(b) Plan to contribute all or a portion of their accrual pay outs to the 457(b) Plan on a pre-tax basis up to the limits regulated by IRS Code.

DRBA has produced an election form for the express purpose of notifying severed Participants' of their right to make such contributions to the 457(b) Plan. The election form is attached as Exhibit A.

Including accrual pay outs within the definition of Compensation in the 457(b) Plan is permissible by law. Allowing pre-tax contributions to the 457(b) Plan from accrual payouts is also permitted.

The current Plan Document does not expressly include language regarding a severed Participant's ability to contribute all or a portion of their accrual pay out to the 457(b) Plan.

The recommended amendment will clarify this provision and reflect DRBA's past practice within the Plan Document. It will also make the definition of Compensation in the 457(b) Plan document consistent with the language used in the Retirement Plan document. The draft amendment is attached as Exhibit B.

EXHIBIT A



Employee Deferred Compensation Plan Voluntary - unmatched contribution/deduction from Accrual Payout (Must be returned to the Pension & Benefits Office)

This is a payroll deduction authorization for voluntary employee contributions to the 457(b) Plan in excess of the voluntary 2% employee contribution that is matched by DRBA in the Plan. In order to calculate the maximum amount eligible for contribution and determine the actual deduction to be made, complete the worksheet below, enter the amount you choose to contribute (within the limits), sign and **return this form, at least, five (5) business days in advance of your final paycheck date.**

Note: There is no employer matching contribution associated with this voluntary deduction/contribution

Calculation of additional contribution:

(#1) 457 contributions YTD (2%)
(Employee only) \$ _____

(#2) 457 additional contributions YTD (MAX)
(Employee only) \$ _____

(#3) Total of all 457 contributions YTD
(Employee Only) \$ _____

Note: The maximum limit for contributions to the 457(b) Plan for 2018 is \$18,500, unless you are eligible to make a "catch-up" contribution (employees aged 50 and over) which allows up to an additional \$6,000 in contributions in 2018 (\$24,500).

(#4) Maximum limit: \$18,500.00

(#5) Additional allowable: \$ _____ (\$6,000 "catch up" for employees aged 50 and over)

(#6) Maximum (#4 + #5) contributions \$ _____

Less '457 contributions YTD' (#3) \$ _____

Balance eligible to contribute \$ _____

Accrual Payout: \$ _____ (Contact HRSS at 302-571-6438 for payout estimate.)

CHECK THE APPLICABLE BOX:



I waive my right to contribute any portion of my accrual payout to the DRBA 457(b) plan.



I elect to have (\$ or %) _____ of the eligible balance deducted from my accrual payout and contributed to the DRBA 457(b) Plan on a pre-tax basis.

Signature: _____

Dated: _____

Name (Print): _____ Employee ID No. _____ Phone No. _____

Approved: _____ Dated: _____
Pension & Benefits Manager

EXHIBIT B
THE DELAWARE RIVER AND BAY AUTHORITY
EMPLOYEES' SECTION 457(b)
DEFERRED COMPENSATION PLAN

Amendment

WHEREAS, the Delaware River and Bay Authority ("DRBA") maintains the Delaware River and Bay Authority Employee's Section 457(b) Deferred Compensation Plan (the "457(b) Plan"); and

WHEREAS, Section 7.1 of the 457(b) Plan grants to DRBA the right to, at any time, amend the plan; and

WHEREAS, the DRBA wishes to now amend the Plan to clarify the definition of Compensation.

NOW THEREFORE, the 457(b) Plan is hereby amended as follows:

Section 1.10 of the Section 457(b) Plan is amended by adding the following language to the end of that Section:

For a participant who has not had a severance from employment Compensation includes accumulated sick pay, accumulated vacation pay, and back pay. Compensation that would otherwise be paid for a payroll period that begins before severance from employment is treated as an amount that would otherwise be paid or made available before an employee has a severance from employment.

For Participants who have had a severance from employment, Compensation includes cash-out of accrued but unused sick, vacation or other leave that could have been used if the severance from employment had not occurred and that is paid by the later of: (i) 2-1/2 months after severance from service, or (ii) the end of the limitation year in which the severance occurs.

IN WITNESS WHEREOF, the undersigned has executed this Amendment this ____ day of _____, 2018.

THE DELAWARE RIVER AND
BAY AUTHORITY

By: _____
Thomas J. Cook, Executive Director

