




**COUNTY OF SAN MATEO**  
**Inter-Departmental Correspondence**  
Department of Housing



**DATE:** December 1, 2011  
**BOARD MEETING DATE:** December 13, 2011  
**SPECIAL NOTICE/HEARING:** None  
**VOTE REQUIRED:** Majority

**TO:** Honorable Board of Supervisors (Sitting as the Board of Commissioners of the Housing Authority)

**FROM:** Duane Bay, Director, Department of Housing  
William Lowell, Executive Director, Housing Authority 

**SUBJECT:** Execution of Amended 457(b) Deferred Compensation Plan and Associated Documents with The Variable Annuity Life Insurance Company

**RECOMMENDATION:**

Adopt Resolution 2011-09 authorizing the Executive Director of Housing Authority to enter into an Adoption Agreement for the Section 457(b) Deferred Compensation and its associated documents with The Variable Annuity Life Insurance Company (VALIC) to comply with recent legislative changes.

**BACKGROUND:**

The Housing Authority of the County of San Mateo (HACSM) employs forty-five staff as a legally separate and distinct employer operating within the County's Department of Housing. The 457(b) Deferred Compensation Plan is a component of the HACSM retirement system in which employees participate on a voluntary basis. VALIC is the plan provider. SST Benefits Consulting & Insurance Services (SST) provides consulting services to HACSM in the area of plan administration. In order to conform HACSM's 457(b) plan to recent legislative changes under the Pension Protection Act of 2006 (PPA), Heroes Earnings Assistance and Relief Act of 2008 (HEART), the Worker, Retiree and Employer Recovery Act of 2008 (WRERA), and the Small Business Jobs act of 2010 (Jobs Act), HACSM is submitting an Adoption Agreement Section 457(b) Deferred Compensation Plan (Governmental).

**DISCUSSION:**

VALIC notified HACSM of certain required changes to its 457(b) plan in accordance with recent federal tax legislation including PPA, HEART, WRERA, and the Jobs Act. Under a previously approved contract, the Housing Authority consulted with SST Benefits Consulting and Insurance Services, Inc. to complete the Adoption Agreement provided by VALIC. The plan changes are non-substantial revisions of language and citations of recent legislation. The amendment does not result in any changes of benefits for

employees.

County Counsel has reviewed and approved Adoption Agreement and Resolution as to form and content.

Approval of this Resolution contributes to the Shared Vision 2025 of a Livable Community by helping us to comply with recent legislative changes.

**FISCAL IMPACT:**

There is no Net County Cost associated with this action. All expenses associated with this adoption agreement and with the retirement plan administration, including expenses for legal services and the consulting services of SST, are absorbed by the plan.

## **RESOLUTION NO. 2011-09**

**BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, SITTING AS THE BOARD  
OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE COUNTY OF SAN  
MATEO, STATE OF CALIFORNIA**

\* \* \* \* \*

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR OF HOUSING  
AUTHORITY TO ENTER INTO AN ADOPTION AGREEMENT FOR THE SECTION  
457(b) DEFERRED COMPENSATION PLAN AND ITS ASSOCIATED DOCUMENTS  
WITH THE VARIABLE ANNUITY LIFE INSURANCE COMPANY (VALIC) TO  
COMPLY WITH RECENT LEGISLATIVE CHANGES.**

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**RESOLVED**, by the Board of Supervisors of the County of San Mateo, sitting as  
the Board of Commissioners of the Housing Authority of the County of San Mateo, State  
of California, that

**WHEREAS**, the Housing Authority of the County of San Mateo (HACSM)  
employs forty-five staff as a legally separate and distinct employer operating within the  
County's Department of Housing; and

**WHEREAS**, the 457(b) Deferred Compensation Plan is a component of the  
HACSM retirement system in which employees participate on a voluntary basis; and

**WHEREAS**, the 457(b) Deferred Compensation Plan is to comply with  
legislative changes under the Pension Protection Act of 2006 (PPA), Heroes Earnings  
Assistance and Relief Act of 2008 (HEART), Worker, Retiree and Employer Recovery  
Act of 2008 (WRERA), and Small Business Jobs Act of 1010 (Jobs Act); and

**WHEREAS**, HACSM has a contract with SST Benefits Consulting & Insurance  
Services, Inc. to provide retirement system consulting services and SST assisted with



the analysis of the 457(b) plan condition, and current legal requirements; and

**WHEREAS**, the Housing Authority of the County of San Mateo established the Adoption Agreement Section 457(b) Deferred Compensation Plan (Governmental), effective January 1, 2012 for the exclusive benefit of its employees and their beneficiaries; and

**WHEREAS**, there has been presented to the Board of Commissioners for its consideration the Adoption Agreement Section 457(b) Deferred Compensation Plan (Governmental) and associated documents, and the Board of Commissioners has examined and approved the same as to form and content.

**NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED** that the Board of Commissioners of the Housing Authority approve the resolution authorizing the Executive Director of the Housing Authority of the County of San Mateo to enter into an Adoption Agreement Section 457(b) Deferred Compensation and its associated documents with VALIC (The Variable Annuity Life Insurance Company) to comply with the Pension Protection Act of 2006 (PPA) legislative changes.

\* \* \* \* \*

**SPECIMEN**  
**SECTION 457(b) DEFERRED COMPENSATION PLAN**  
**GOVERNMENTAL EMPLOYERS**

This specimen plan document (which includes both an Adoption Agreement and a Basic Plan Document) is intended to meet the requirements of an eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, that is sponsored by a governmental employer, as defined thereunder. This document has not been approved by the Internal Revenue Service and is provided for consideration by the employer and its legal counsel. Modifications may be required depending on the specific facts and circumstances of the employer, including any applicable state or local laws, rules or regulations regarding deferred compensation or retirement benefits for governmental employees. VALIC cannot and does not provide legal or tax advice.

**ADOPTION AGREEMENT**  
**SECTION 457(b) DEFERRED COMPENSATION PLAN**  
**(Governmental)**

The undersigned employer hereby adopts or restates, as applicable, this Plan. This Plan shall comprise both (1) this Adoption Agreement and (2) the Basic Plan Document. Article and section references in this Adoption Agreement refer to articles and sections of the Basic Plan Document unless otherwise indicated.

Employer Name: Housing Authority of the County of San Mateo  
Employer Address: 264 Harbor Blvd, Bldg A, Belmont CA 94002  
\_\_\_\_\_  
\_\_\_\_\_

Plan Name: Housing Authority of the County of San Mateo 457(b) Deferred  
Compensation Plan

1. Plan Effective Date. ("Effective Date.") (Check one.)
  - ☐ This Plan is being established by the Employer as a new Plan, effective \_\_\_\_\_, \_\_\_\_\_.
  - ☒ This Plan amends and restates the Plan previously established by the Employer and is effective January 1, 2012. The Plan was originally established by the Employer effective \_\_\_\_\_, \_\_\_\_\_.
2. Eligible Employees. (Check one.)
  - ☒ All Employees shall be eligible to participate.
  - ☐ The Employer, in its sole discretion, shall determine each Plan Year which Employees shall be eligible to participate in the Plan.
  - ☐ All Employees shall be eligible to participate except the following Employees (specify which Employees shall not be allowed to participate in the Plan):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. Roth Contributions. (Check one.)
  - ☒ Designated Roth Contributions are not permitted, and Section 4.10 shall not apply to this Plan.
  - ☐ Participants may make Designated Roth Contributions (as described in Section 4.10) in lieu of or in addition to pre-tax Elective Deferral Contributions, effective \_\_\_\_\_, \_\_\_\_\_ (insert date not earlier than the later of January 1, 2011 or the date of the Employer's resolution adopting Designated Roth Contributions).
4. Employer Contributions. (Check one.) Note: Employer Contributions are combined with Elective Deferral Contributions and Designated Roth Contributions in applying the contribution limits described in Section 2.18.
  - ☒ There shall be no Employer Contributions under this Plan.
  - ☐ Discretionary Employer Contribution. The Employer may, in its absolute discretion, make an Employer Contribution to the Plan, and may determine, in its absolute discretion, how any such Employer Contribution shall be allocated among Plan Participants. This Discretionary Employer Contribution may be a matching or non-matching contribution.
  - ☐ FICA Opt-out Contribution. As described in Section 4.11, the Employer shall make FICA Opt-out Contributions (contributions other than Elective Deferral Contributions or Designated Roth Contributions) on behalf of the following Employees in lieu of paying/withholding FICA taxes for such Employees and in the amounts indicated below (check applicable box and fill in blanks for required contribution percentages):
    - ☐ All Employees
    - ☐ Part-time, seasonal and temporary Employees only



☐ Other (indicate which Employees shall be eligible for the FICA Opt-out Contributions):

\_\_\_\_\_

\_\_\_\_\_

The required FICA Opt-out Contribution shall consist of the following types of contributions (which must total 7.5% or more of the Participant's Compensation):

☐ Employer Contribution = \_\_\_\_\_% of Compensation

☐ Mandatory Employee Contribution = \_\_\_\_\_% of Compensation

☐ Other: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. Loans. (Check one.)

☒ Yes, loans are allowed and Article IX shall apply to this Plan.

☐ No, loans are not allowed and Article IX shall not apply to this Plan.

6. Unforeseeable Emergency Withdrawals. (Check one.)

☒ Yes. Withdrawals under Section 6.08 shall be available under this Plan. (Check one.)

☐ Withdrawals on account of an illness, accident or need to pay for the funeral expenses of the Participant's primary Beneficiary shall be available effective the later of (a) August 17, 2006, (b) the original effective date of the Plan or, if applicable, (c) \_\_\_\_\_, \_\_\_\_\_ (insert date that this option was first available, if such date was later than August 17, 2006).

☐ Withdrawals on account of an illness, accident or need to pay for funeral expenses of the Participant's primary Beneficiary shall not be available.

☐ No. Withdrawals under Section 6.08 shall not be available under this Plan.

7. Participant's Election to Receive In-Service Distribution. A Participant may elect to receive an in-service distribution of his account balance as described in Section 6.10. (Check one.)

☒ Yes, if the total amount payable to a Participant under the Plan does not exceed the dollar amount under Code Section 411(a)(11)(A) (currently \$5,000).

☐ No. Section 6.10 shall not apply to this Plan.

8. Distribution without Participant's Consent. Small accounts of certain inactive Participants may be distributed without the Participant's consent as described in Section 6.11. (Check one.)

☒ Yes, if the total amount payable to a Participant under the Plan does not exceed \$1,000. Such amount will be paid in cash to the Participant.

☐ No. Section 6.11 shall not apply to this Plan.

9. Distributions to Individuals in Uniformed Services. (Check one.)

☐ The Plan does not permit distributions to individuals who are deemed to have a Severance from Employment solely on account of their performing services in the uniformed services and Section 6.13 shall not apply to this Plan.

☒ Participants who are deemed to have a Severance from Employment on account of their performing services in the uniformed services for a period of 30 days or more may elect to receive a distribution of all or a portion of their Account (subject to the post-distribution restrictions described in Section 6.13).

10. In-plan Roth Conversions. (Check one.) (Note: Employer cannot allow in-plan Roth conversions unless it also elects to allow Designated Roth Contributions under Section 3, above, of this Adoption Agreement.)

☒ In-plan Roth conversions are not permitted, and Section 6.12 shall not apply to this Plan.


☐ Participants may convert certain pre-tax amounts to Roth contributions in an "in-plan" rollover/conversion described in Section 6.12, but only if such amounts are currently distributable under the terms of the Plan, effective \_\_\_\_\_, \_\_\_\_\_ (insert date not earlier than the later of January 1, 2011 or the date of the Employer's resolution adopting in-plan Roth conversions).

11. Deductions from Distributions to Eligible Retired Public Safety Officers. (Check one.)
- ☐ For distributions after December 31, 2006, an Eligible Retired Public Safety Officer may elect, pursuant to Section 6.14, to have up to \$3,000 of the distribution deducted and paid directly to the provider of an accident or health insurance plan or qualified long-term care insurance plan.
- ☒ The Plan does not allow elections by Eligible Retired Public Safety Officers under Section 6.14.
12. Non-spousal Beneficiary Rollovers. As described in Section 8.03, non-spousal Beneficiary rollovers are allowed after December 31, 2006, unless elected otherwise below. (Note: Such distributions are required by law to be allowed after December 31, 2009.)
- ☐ Non-spousal Beneficiary rollovers are not allowed prior to January 1, 2010.
- ☒ Non-spousal Beneficiary rollovers are allowed effective January 1, 2007 (insert date not earlier than January 1, 2007 and not later than December 31, 2009).
13. Required Minimum Distributions for 2009. (Check one of the boxes in each of subsections (a) and (b) below. If none of the boxes in a subsection is checked, the first option shall apply to the Plan.)
- (a) For purposes of 2009 required minimum distributions:
- ☒ **This option reflects VALIC standard operations during 2009.** The provisions of Section 6.05(a) apply (Required Minimum Distributions continue in accordance with the terms of the Plan for Participants or Beneficiaries receiving installment payments unless such Participant or Beneficiary elects otherwise, whereas Required Minimum Distributions are suspended for all other Participants and Beneficiaries).
- ☐ The provisions of Section 6.05(b) apply (Required Minimum Distributions continue in accordance with the terms of the Plan for all Participants and Beneficiaries, unless otherwise elected by a Participant or Beneficiary).
- ☐ The provisions of Section 6.05(c) apply (Required Minimum Distributions continue in accordance with the terms of the Plan for all Participants and Beneficiaries, but only Participants or Beneficiaries receiving installment payments may elect otherwise).
- ☐ Other: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- ☐ Not applicable (Plan established as a new Plan after 2009). (Do not complete subsection (b) below.)
- (b) For purposes of Section 6.05(d), the Plan will treat the following as eligible rollover distributions in 2009:
- ☒ **This option reflects VALIC standard operations during 2009.** A direct rollover option shall be offered only for distributions that would be eligible rollover distributions without regard to Code Section 401(a)(9)(H).
- ☐ Eligible rollover distributions shall include 2009 Required Minimum Distributions and installment payments that include 2009 Required Minimum Distributions.
- ☐ Eligible rollover distributions shall include 2009 Required Minimum Distributions, but only if paid with an additional amount that is an eligible rollover distribution without regard to Code Section 401(a)(9)(H).
14. Optional Benefit Accruals under HEART Act. (Check one.)
- ☐ The optional benefit accrual provisions described in Section 4.12 for individuals who die or become disabled while performing qualified military service shall not apply.
- ☒ The optional benefit accrual provisions described in Section 4.12 for individuals who die or become disabled while performing qualified military service shall apply effective January 1, 2007 (insert date not earlier than first day of 2007 Plan Year).
15. Governing Law. This Plan shall be construed under the laws of the State/Commonwealth of State of California (insert State/Commonwealth). This Plan shall be subject to any applicable State, county or local deferred compensation rules and regulations.



The Employer hereby causes this Adoption Agreement to be executed by its duly authorized representative on the date specified below.

Employer (Please Print): Housing Authority of the County of San Mateo

Employer's Signature: 

Name (Please Print): William Lowell

Title: Executive Director Date: November 21, 2011

**PARTICIPATION AGREEMENT**  
**SECTION 457(b) DEFERRED COMPENSATION PLAN**  
**(Governmental)**

Complete this page *only if more than one Employer will adopt this Section 457(b) Deferred Compensation Plan. Each Participating Employer must execute a separate Participation Agreement.*

☒ Check here if not applicable and do not complete this page.

The undersigned governmental entity, by executing this Participation Agreement, elects to become a Participating Employer in the Section 457(b) eligible deferred compensation plan identified in the accompanying Adoption Agreement and below (the "Plan"), as if the Participating Employer were a signatory to the Adoption Agreement for the Plan. The Participating Employer accepts, and agrees to be bound by, all of the elections made by the signatory Employer in the Adoption Agreement for the Plan, except as otherwise provided in this Participation Agreement.

1. **EFFECTIVE DATE.** (Note: The Effective Date of the Participating Employer's adoption of the Plan cannot be earlier than the original effective date of the Plan, as adopted by the signatory Employer. If the Participating Employer is adopting the Plan as a restatement of an existing governmental Section 457(b) plan of the Participating Employer, the Effective Date of the Participating Employer's adoption of the Plan must not be earlier than the later of (i) the original effective date of the Participating Employer's existing Section 457(b) plan, (ii) the effective date of the most recent restatement of the Plan by the signatory Employer, or (iii) the first day of the Plan Year that includes the date the Participation Agreement is executed.)

The Effective Date of the Participating Employer's adoption of the Plan is: \_\_\_\_\_.

2. **NEW PLAN/RESTATEMENT.** The Participating Employer's adoption of this Plan constitutes: (Check one.)

- ☐ The adoption of a new governmental Section 457(b) plan by the Participating Employer.
- ☐ An amendment and restatement of a governmental Section 457(b) plan currently maintained by the Participating Employer identified as the \_\_\_\_\_ and having an original effective date of \_\_\_\_\_.

The Participating Employer hereby causes this Participation Agreement to be executed by its duly authorized representative on the date specified below.

Plan Name (Please Print): \_\_\_\_\_

Participating Employer Name (Please Print): \_\_\_\_\_

Participating Employer's Signature: \_\_\_\_\_

Name (Please Print): \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

Acceptance by the Signatory Employer of the Adoption Agreement.

Signatory Employer Name (Please Print): \_\_\_\_\_

Signatory Employer's Signature: \_\_\_\_\_

Name (Please Print): \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_