

## **SELF-FUNDED LEAVE OF ABSENCE PLAN**

### **POLICY**

In 1991, the then Board of Commissioners of The City of Calgary approved the implementation of a Self-Funded Leave of Absence Plan (the "Plan") for Employees who wish to defer receipt of a portion of their salaries for the purposes of funding an unpaid leave of absence.

The City of Calgary places no restrictions on the activities the employee wishes to pursue during the leave.

### **EXECUTIVE SUMMARY OF THE PLAN**

- The unpaid leave of absence ("Leave Period") under this Plan must be for a period of not less than six (6) consecutive months and up to a maximum of twelve (12) consecutive months; such Leave Period to be mutually agreed upon by the Plan participant and Director of the employee's Business Unit.
- The maximum period of salary deferral ("Contributory Period") is six (6) years. The Leave Period must commence within six (6) years of the date of the initial salary deferral.
- The maximum amount of deferral is one third (1/3) of gross salary.
- The employee may not receive a salary from the employer (The City of Calgary) or anyone with whom the employer does not deal with at arm's length throughout the Leave Period, except for the deferred salary and any fringe benefits normally received by the employee.
- The deferred salary is held in a trust governed by a plan or arrangement that is an "employee benefit plan" as defined in the Income Tax Act. Income of the trust must be paid to the employee annually in each relevant year and would be taxable as employment income to such employee on a current basis.
- All funds must be paid out of the trust by the end of the first taxation year that commences after the end of the deferral period.
- The employee must agree to return to work for a period not less than the Leave Period.

- The purpose of the Plan must not be to provide an early retirement opportunity for the employee.

## **1. *Effective Date***

- 1.1** This document constitutes the Self-Funded Leave of Absence Plan (the "Plan") for the employees of The City of Calgary as established on 1991 July 1 and last revised on 2018 May 1.

## **2. *Eligibility and Approval***

- 2.1** All permanent employees are eligible to apply for participation in the Plan. Employees are not eligible to apply if it is reasonably anticipated that they will retire from The City of Calgary prior to the commencement of the Leave Period.
- 2.2** To apply for participation in the Plan, an eligible employee must complete a Self-Funded Leave of Absence Plan Application form (P 903), which shall include the following information:
- (i) the date of commencement of the Contributory Period and the date the Contributory Period will end,
  - (ii) the amount of the employee's salary to be deferred biweekly,
  - (iii) the date of the proposed leave of absence's commencement and the leave of absence period,
  - (iv) the designation of a beneficiary of the funds in the Plan,
  - (v) the recommendations of the employee's Manager and Business Unit Director,
  - (vi) the confirmation, by the Plan Administrator, of the employee's eligibility and the application's conformance with the Plan.
- 2.3** Recommendation of an employee's Application form is at the discretion of Management (the employee's Manager and Business Unit Director) and is subject to the operational requirements of The City of Calgary. Management will take into consideration the department's operational requirements in terms of staff and budget availability.
- 2.4** An employee's Application form must be approved by the Business Unit Director on the recommendation of the employee's Manager. Application forms for Directors must be approved by the General Manager and forms for General Managers must be approved by the City Manager.

2.5 Employees will be notified, by signed copy of the Application form, of their approval for participation in the Plan within sixty (60) days of application.

### 3. **General Conditions of Leave of Absence Without Pay**

3.1 In addition to and subject to the terms of the Plan laid out in this document, the general conditions of a Leave of Absence without Pay (Leave of Absence Policy (HR-LR-003), Section One – Conditions for Leave of Absence without Pay) will be applicable to participants in the Plan as follows:

- (i) Employees returning to the City's employ from a leave may be returned to their previous position or be re-deployed or transferred to an identical or similar position subject to operational requirements.
- (ii) A change in compensation which is implemented during the Leave Period and affects the employee will be implemented upon return to work.
- (iii) Service-related benefits and entitlements will be rested during periods of leave which exceed 30 calendar days (e.g., Vacation, seniority and increment timing).
- (iv) Employees on leave are responsible for knowing of and are eligible to apply on job postings, and if successful, the employee will report to work as per the Department's requirements.

**NOTE:** if successful, the employee will not be obligated to report to work until a Leave Period of not less than six (6) consecutive months has elapsed unless it can be established to the satisfaction of the City (after consultation with Canada Revenue Agency if considered necessary) that there are special extenuating circumstances that require the Leave Period to be reduced in that particular case.

- (v) An employee returning to the City's employ at the end of the Leave Period will be required to meet all terms and conditions of employment; e.g., medical fitness, driver's license.
- (vi) Should an employee on leave resign, the resignation must be forwarded in written form to the Department.
- (vii) Should an employee desire to return from the leave earlier than established, the employee's written request will be considered by the Business Unit Director.

**NOTE:** Except in special extenuating circumstances, an employee will not be permitted to return from the leave before a period of six (6) consecutive months has passed.

#### **4. Contributions**

- 4.1 "Contributions" are the amount of monies, agreed upon by the participant and The City of Calgary and stipulated in the Application form, representing the portion of gross salary for a particular year that a participant elected to defer and have contributed to the Plan on the participant's behalf.
- 4.2 Each participant shall designate on the Application form the amount of gross salary to be contributed to the Plan and Contributions will be made in accordance with each participant's designation. Any contributions made to the Plan on behalf of the participant will be made in lieu of payment to the participant of an equal amount of gross salary.
- 4.3 A participant will be allowed to adjust the amount of Contribution, no more than once annually, by written request to the Plan Administrator.
- 4.4 The salary deferral period ("Contributory Period") will be a maximum of six (6) years. Once determined, the Contributory Period is not subject to alteration except as noted in the Withdrawals and Deferrals Section of this document. Under no circumstances will a Contributory Period exceed six (6) years.
- 4.5 The amount deferred cannot exceed one third (1/3) of the participant's gross annual salary (calculated biweekly).
- 4.6 The participant's biweekly pay will be reduced by the amount of the contributions starting with the first available pay period coinciding with or following the beginning of the participant's designated Contributory Period. The amount of the biweekly contribution will be remitted to the Plan's Trustee for credit to the participant's Account with the Trustee.

#### **5. Trustees and Accounts**

- 5.1 The City of Calgary will remit all contributions made by Plan participants to the Trustee which will be selected by The City of Calgary and will be a Canadian Financial Institution. The City of Calgary may select more than one Trustee to hold the funds, and may replace a Trustee with a new Trustee at any time.
- 5.2 An account ("Account"), managed by the Trustee, will be established for each participant.
- 5.3 A participant's Account will be credited biweekly with all contributions made by the participant during the Contributory Period, and will be charged monthly (or as otherwise agreed upon by the participant and the Trustee) with any payments to or on behalf of the participant.
- 5.4 The Trustee will invest the contributions made on the participant's behalf in a Guaranteed Investment Certificate (GIC) pool.

- 5.5** During the Contributory Period and the Leave Period, interest and other income will be credited to a participant's Account based on the investment return actually earned on the contributions. Interest and other income will be credited to the participant's Account in the calendar year in which they are earned. They will be taxed as regular employment income based upon the exemptions recorded on the most recent Canada Revenue Agency's forms TD-1 (federal) and TD1-AB (provincial) filed with the Plan Administrator by the participant.
- 5.6** The amount of interest and other income credited to the participant's Account in a particular calendar year shall be paid to the employee for the year in question.
- 5.7** A participant will become immediately and irrevocably vested in all contributions made hereunder at the time such contributions are remitted to the Trustee; all investment earnings deriving therefrom will be held for the exclusive benefit of the participant until such funds are paid to the participant as provided in Clause 5.6.

## **6. *Leave Period Payments***

- 6.1** The terms of a leave of absence ("Leave Period") under this Plan must be for a period not less than six (6) consecutive months and up to a maximum of twelve (12) consecutive months mutually agreed upon by the Plan participant and The City of Calgary. The Leave Period must commence within six (6) years of the date of the commencement of the Contributory Period. Except in exceptional circumstances as described in Clause 3.1, an employee may not terminate a Leave Period before a period of not less than six (6) consecutive months has elapsed.
- 6.2** Monies payable hereunder on any date relate to the balance standing to the credit of the particular participant's Account on such date, as determined by the Trustee.
- 6.3** During the Leave Period, the Trustee will return to the participant monthly instalments equivalent to the participant's total Account Balance at the commencement of the Leave Period divided by the number of months in the Leave Period, less any deductions made by the Trustee – see Deductions and Benefits Section 7 below – and any other deductions required by law to be made on behalf of the participant. Such return of monies shall continue until the Account of the participant is exhausted or until the end the Leave Period. Any such monies remaining in the participant's Account at the end of the Leave Period will be returned no later than 60 days after the end of the Leave Period or the end of the first calendar year commencing after the end of the contributory period, whichever is earlier.

**6.4** All payments from that Plan, whether Leave Period Payments, investment earnings (see Clause 5.7) or special refunds (see Article 8 - Withdraws and Deferrals), will be treated as regular employment income and will be subject to all statutorily required employee deductions including those for income tax and Canada Pension Plan ("CPP").

**6.5** Upon completion of the Leave Period, participants must return to employment at The City of Calgary for a period of time at least equal to the length of the leave of absence.

## **7. *Deductions and Benefits***

**7.1** During the Contributory Period, participants will be entitled to benefit coverage at 100% of gross salary with the commensurate employee deductions for such coverage.

**7.2** During the Leave Period, participants will be entitled to normal benefit coverage at 100% of the participant's gross salary. Participants will receive coverage on the condition that the participant pays to The City of Calgary the entire employee portion of all required premiums in one lump sum prior to the commencement of the Leave Period. The City of Calgary will pay the corresponding employer contributions, if any, during the Leave Period. The level of employee benefit contributions and entitlements will be based on pre-deferral gross earnings.

**7.3** The Board of the Local Authorities Pension Plan has ruled that gross salary before deferral is to be considered the gross salary for pension purposes for an employee participating in the Plan.

After the Leave Period, the employee may buy back the leave of absence period in accordance with the provisions of the Local Authorities Pension Plan.

**7.4** During the Contributory Period, The City of Calgary will report as regular employment income an amount determined by subtracting from total gross salary the participant's designated contributions to this Plan. Income Tax deductions and Canada Pension Plan contributions shall be based on this reduced amount.

**7.5** Employment Insurance premiums, during the Contributory Period, will be based on pre-deferral insurable gross earnings. No Employment Insurance deductions will occur during the Leave Period and the monies paid to the participant during the Leave Period will not constitute insurable earnings eligible for Employment Insurance benefits.

**7.6** During the Leave Period, the Trustee is responsible for deducting the employee's contributions to the Canada Pension Plan and Income Tax deductions based on the monies being paid during the Leave Period. The City of Calgary is responsible for remitting the employer's portion of Canada Pension Plan contributions.

**7.7** As participation in the Self-Funded Leave of Absence Plan may have a significant impact on employee's income, benefits, and personal taxation, it is strongly recommended that an employee considering participation in the Plan consult with a personal financial advisor before making formal application for Plan participation.

## **8. *Withdraws and Deferrals***

**8.1** If a participant dies, the Trustee will pay to the designated beneficiary or, in the absence of such a designation, to the estate of the participant, the total of the participant's Account balance as determined by the Trustee on the valuation next following the later of the date on which such participant dies or the date all required documentation is received.

The participant will file written instructions with The City of Calgary as to the identification of the Beneficiary and the method of payment of the participant's Account in the event of the participant's death, through a designation made on the Application form. A participant may change the beneficiary designation or method of payment to the beneficiary at any time by completing a change to the Application Form (P 903).

**8.2** Contributions will continue during any period of paid short-term sickness and accident leave (S & A). The level of participant's contributions and entitlements would be based on pre-deferral gross earnings. Should a participant be in a position to begin receiving long-term disability benefits, the participant may request that contributions be suspended or that participation in the Plan be terminated due to special extenuating circumstances. Approval of such a request will be at the discretion of the employee's Manager and the Plan Administrator in the case of Plan suspension, and the Business Unit Director in the case of Plan termination.

**8.3** Contributions will be held in the Plan during any unpaid leave of absence until the employee's return from such leave at which time contributions will recommence. Contributions in respect of any unpaid leave of absence will be at the discretion of the participant's Business Unit Director and the Plan Administrator.

**8.4** A participant may suspend contributions for a period of not less than six (6) consecutive months and to a maximum of twelve (12) consecutive months only if a participant's Manager and Business Unit Director approve such suspension. The suspension of Contributions may require a postponement of the Leave Period.

- 8.5** The commencement of the Leave Period may be postponed by up to one year, but not beyond the date six (6) years after the first Contribution payment, by the participant's request and the approval of the participant's Manager and Business Unit Director. The participant will be required to give written notice of a request for postponement to their Manager and Business Unit Director and submit an amended P 903 form to Pay Services at least three (3) months prior to the commencement of the original Leave Period. Only one request for postponement will be accepted from a participant. Approval will depend on operational requirements. Once approved, the postponement date cannot be rescinded.
- 8.6** Due to significant, unforeseen operational circumstances beyond the normal control of the Business Unit (or The City of Calgary) and where no other feasible option exists, a participant's Leave Period may be postponed up to six (6) months at the request of the Manager and Business Unit Director. The Leave Period must commence within six (6) years of the initial Contribution date to the Plan by the participant.
- 8.7** A participant may request receipt of part or all of the value of the participant's Account prior to the expiry of the Contributory Period due to special extenuating circumstances. This request must be in writing and include the reason for the request. Approval of the request will be at the discretion of the participant's Manager and Business Unit Director.
- 8.8** A participant, upon termination of employment for any other reason other than death, will be entitled to receive the participant's Account balance as determined by the Trustee on the valuation date next following the date such termination takes place.
- 8.9** If the Leave Period is not taken as provided under the Plan, all amounts held for benefit will be paid by the end of the first calendar year commencing after the end of the Contributory Period.

## **9. Administration**

- 9.1** The City of Calgary is responsible for the overall operation and administration of the Plan. An "Administrator" has been designated by the Board of Commissioners (Administrative Leadership Team) to administer the Plan; that Administrator is the Leader, Corporate Payroll, Human Resources Support Services.
- 9.2** The duties and responsibilities of the Administrator will include:
- (i) dealing with the participants of the Plan and with employees eligible for participation;
  - (ii) maintaining all Plan records;



- (iii) dealing with the Trustee on any matters related to the operation of the Plan;
  - (iv) certifying the amount of benefit payable to any beneficiary;
  - (v) interpreting the Plan;
  - (vi) providing participants with information about the Plan;
  - (vii) establishing the rules and procedures which govern the administration of the Plan; and
  - (viii) ensuring the Plan complies with any applicable legislation.
- 9.3** The Administrator may appoint a third party, which may be the Trustee, to perform any or all of the duties and responsibilities outlined above.
- 9.4** The Administrator will report to the Administrative Leadership Team regarding the Plan on an annual basis, or as often as deemed necessary.
- 9.5** Any complaint arising out of the Plan's terms and conditions will be referred to the Administrative Leadership Team through an employee's or participant's Business Unit Director and the responsible General Manager. The complaint will be reviewed and a decision rendered by the City Manager that is final and binding on the parties.
- 9.6** In addition to any statements or forms that the Trustee may be required by law to issue to each participant, the Trustee will also issue to each participant, within sixty (60) days of the end of each calendar year the following items:
- (i) a statement as to the contributions which have been made to the participant's Account;
  - (ii) the total amount in the Account at the end of that calendar year;
  - (iii) the amount of investment earnings that were allocated and paid to the participant in that calendar year; and
  - (iv) the expenses that were incurred and allocated to the participant in respect of that calendar year.
- 9.7** The Trustee and The City of Calgary will co-operate with one another in order to comply with the reporting and disclosure requirements of the Income Tax Act and any other applicable laws by supplying such information to each other as may be reasonably required for that purpose.

**10. *Amendment or Termination of the Plan***

**10.1** Although The City of Calgary intends to continue the Plan indefinitely, it nevertheless reserves the sole right to amend or terminate the Plan at any time provided:

- (i) No such action will adversely affect the rights of any participant with respect to Contributions and benefits which have accrued prior to the time the action is taken;
- (ii) A participant will be given an option to continue to defer gross salary and apply for a leave of absence;
- (iii) All participants' Accounts have to be fully paid by the Trustee prior to the Plan's termination.

**10.2** Once The City of Calgary has stated in writing its intention to terminate the Plan, new applications will no longer be approved.

**11. *Non-Alienation of Benefits***

**11.1** None of the participant's rights and interests under the Plan will be subject to the claims of, or to the execution, attachment, garnishment or other legal or equitable process by a creditor of the participant or any other person. No participant, or any other person, will have the right to alienate, assign, anticipate, pledge or use as collateral or otherwise encumber any of the benefits provided under the Plan.