

# North Bay Cooperative Library System

RESOLUTION 510

## RESOLUTION ADOPTING AMENDMENT TO North Bay Cooperative Library System

### DEFERRED COMPENSATION PLAN

WHEREAS, the North Bay Cooperative Library System

(hereinafter "Employer") heretofore established the North Bay Cooperative Library System  
Deferred Comp. Plan (hereinafter "Plan"); and

WHEREAS, the Employer desires to amend the Plan to conform with the final 457 Treasury regulations ("regulations") issued in July 2003; and

WHEREAS, this amendment is intended as good faith compliance with the requirements of the regulations, and

NOW THEREFORE, BE IT RESOLVED, that, effective March 4, 2004, the Employer hereby amends the Plan by:

A. replacing section 2.3 with the following:

#### " 2.3 Agreement Effective Date

In general, an Employee must complete and file with the Employer a Participation Agreement prior to the month deferrals begin. Notwithstanding this requirement, the Employer may establish a cutoff date for receiving Participation Agreements as long as the cutoff is no later than the deadline provided in section 1.457-4(b) of the final 457 regulations and the cutoff date is applied in a nondiscriminatory manner. Thereafter, during each month in which the Employee is a Participant in the Plan, that portion of his said Compensation which is specified by the Employee in the Participation Agreement, shall be deferred and paid in accordance with the provisions of this Plan."

B. deleting the following portion of section 2.6 and renumbering section 2.6(d) and 2.6(e) as 2.6(c) and 2.6(d) respectively:

"(c) The pre-retirement catch-up provision may not be used during the calendar year that the Participant ceases to be an Employee."

C. replacing section 4.2, 7.2 and 7.3 with the following:

#### "4.2 Unforeseeable Emergency Distribution

A Participant may apply for a lump sum withdrawal of funds from the Plan in the event of an unforeseeable emergency. The Employer will evaluate the request for conformity with its interpretation of the applicable regulations. The decision of the Employer concerning whether an unforeseen emergency exists shall be final.

An unforeseeable emergency is a severe financial hardship of the Participant or Beneficiary resulting from an illness or accident of the Participant or Beneficiary, the Participant's or Beneficiary's spouse, or the Participant's or Beneficiary's dependent (as defined in Code section 152(a)); loss of the Participant's or Beneficiary's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, e.g., as a result of a natural disaster); or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant or the beneficiary.

Examples of unforeseeable emergencies include (1) imminent foreclosure of or eviction from the Participant's or Beneficiary's primary residence, (2) the need to pay for medical expenses (including non-refundable deductibles), as well as for the cost of prescription drug medication and (3) the need to pay for the funeral expenses of a spouse or a dependent (as defined in Code section 152(a)). Note that the purchase of a home and the payment of college tuition are typically not unforeseeable emergencies.

The Participant must satisfy the Employer that the facts and circumstances of his or her situation fall within the definition of unforeseeable emergency. A distribution on account of an unforeseeable emergency may not be made to the extent the emergency is or may be relieved through reimbursement or compensation from insurance or otherwise by liquidation of the Participant's assets (to the extent liquidation would not itself cause severe financial hardship) or by cessation of deferrals under the Plan."

## **"7.2 Transfers In**

All or a portion of an Employee's benefit may be transferred from another Eligible Deferred Compensation Plan maintained by the Employer or another eligible governmental employer and credited to the Participant's Account under this Plan as long as the transferor plan provides that such transfer can be made and

- (a) the transfer is from a plan of another employer and the Employee has severed employment with such other employer; or
- (b) the transfer is made between eligible governmental plans sponsored by the Employer; or
- (c) the entire plan's assets are transferred from another eligible governmental plan in the same state.

As it deems necessary, the Employer may require such documentation from the transferor plan to effect the transfer, to confirm that such plan is an Eligible Deferred Compensation Plan within the meaning of Code Section 457(b) and to ensure that transfers are provided for under such plan.

The Employer may refuse to accept a transfer in the form of assets other than cash, unless the Employer agrees to hold such other assets in trust under the Plan.

Any amounts transferred that have been deferred during the current calendar year will be considered deferrals subject to current calendar year deferral limitation.

If a transfer, occurring on or after January 1, 2002, is associated with a distributable event and the Employee is eligible to receive an eligible rollover distribution as defined in Section 402(c)(4) of the Code, such transfer will be considered a Rollover Contribution subject to the provisions of Section 2.8."

**"7.3 Transfers Out**

All or a portion of a Participant Account may be transferred to another Eligible Deferred Compensation Plan maintained by another eligible governmental employer as long as the transferee plan provides that transfers can be made and

- (a) the transfer is to a plan of another employer and the Employee has severed employment; or
- (b) the transfer is made between eligible governmental plans sponsored by the Employer; or
- (c) the entire plan's assets are transferred to another eligible governmental plan in the same state.

Upon the completion of the transfer, the Plan and Employer are discharged of any liability to the Participant to pay amounts so transferred.

As it deems necessary, the Employer may require such documentation from the other plan to effect the transfer, to confirm that such plan is an Eligible Deferred Compensation Plan within the meaning of Code Section 457(b) and to ensure that transfers are provided for under such plan. Such transfers shall be made only under such circumstances as are permitted under Code Section 457 and the applicable regulations.

If a transfer, occurring on or after January 1, 2002, is associated with a distributable event and the distribution is an eligible rollover distribution as defined Section 402(c)(4) of the Code, such transfer will be considered a Direct Rollover subject to the provisions of Section 7.1."

**IN WITNESS WHEREOF**, the Employer has executed this Plan Amendment this

4th day of March, 2004.



North Bay Cooperative Library System  
(Name of Employer)

by Erna DeMille

Its Chair, Board of Directors

(Title)

Attest:  
Administrator  
(Title)

Arnette M. DeBull  
(Witness)