

ADMINISTRATIVE REGULATION 2023-09
Mayor Blessing Mobolade

DATE: November 14, 2023

TOPIC: 457 Deferred Compensation Plan Committee

LEGAL AUTHORITY: City Charter § 3-10(b), 4-10 and 4-40(k)
City Code § 1.2.307 and 1.2.314

1.0 Purpose and Scope: This Administrative Regulation establishes the 457 Deferred Compensation Plan Committee and sets forth the appointment of members and the Committee's purpose and scope.

2.0 Procedures

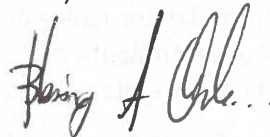
2.1. In General: Pursuant to City Charter § 3-10(b), the Mayor shall perform all executive and administrative functions of the City, including designation of administrative guidelines. Appointment of administrative committees is an executive and administrative function of the City government in accord with City Code § 1.2.307.

2.2. Establishment of 457 Deferred Compensation Plan Committee: The establishment of the 457 Deferred Compensation Plan Committee is made pursuant to City Code § 1.2.307, and its purpose, scope and procedures are set forth in Exhibit A, attached hereto and incorporated herein.

3.0 Miscellaneous

3.1. This Administrative Regulation shall be effective as of **November 14, 2023**, and shall remain in effect until amended or rescinded.

3.2. This Administrative Regulation shall be filed with the City Attorney and made available for public inspection on the City's website.



Blessing A. Mobolade, Mayor

APPROVED AS TO FORM:



Office of the City Attorney

Exhibit A

I. Introduction

The 457 Deferred Compensation Plan Committee ("Committee") is an administrative committee delegated certain authority with respect to the Mission Square Retirement 457, 401A and Retirement Health Savings (RHS) plans by the City of Colorado Springs ("City"). The Committee has oversight responsibility for the Plan, primarily relating to: (a) maintaining the Plan's design and administration in a manner that satisfies business needs and complies with applicable law; and (b) offering a core set of investments that provide an opportunity for participants to save income through contributions to individual participant accounts and the earnings thereon on a tax-advantaged basis in accordance with Section 457 of the Internal Revenue Code.

These Operating Guidelines describe the structure and responsibilities of the Committee.

II. Structure and Membership of the Committee

The Committee is comprised of five (5) members who occupy the position by job title within the City.

1. Director of Human Resources
2. Assistant Director of Human Resources
3. Chief Financial Officer
4. Assistant Finance Director
5. Payroll and Pension Supervisor

The Committee shall appoint a Secretary to be responsible for scheduling Committee meetings, collecting material for the meeting and distributing to all members, and taking meeting minutes.

III. Plan Fiduciaries Roles and Responsibilities

The Committee is the named fiduciary and Plan Administrator and acts with the authority and discretion to control and manage the operations and administration of the Plan and shall have all powers necessary to accomplish these purposes. The Committee will perform its fiduciary duties under the Plan solely in the interest of participants and their beneficiaries.

The responsibility and authority of the Committee shall include, but shall not be limited to, the following:

- Construing the Plan and determining all questions that arise as to interpretations of Plan provisions, including determination of eligibility of employees, method of payments, and participation and benefits under the terms of the Plan.
- Establishing rules and procedures by which the Plan will operate.
- Adopting amendments to the Plan which are deemed necessary or desirable to facilitate administration of the Plan and/or to maintain or bring the Plan into compliance with Internal Revenue Code Section 457 and regulations thereunder.
- Maintaining or compiling all records it determines to be necessary, appropriate, or convenient regarding the administration of the Plan.
- Selecting and reviewing investment options under the Plan.

to the extent such indemnification is specifically prohibited by the law. The City will have the obligation to conduct the defense of such persons in any proceeding to which this paragraph applies. The City may satisfy its obligation under this paragraph in whole or in part, through the purchase of a policy or policies of insurance, but no insurer will have any rights against the City arising out of this paragraph.

VI. Binding Effect of Decisions

The Committee will conduct business by a majority vote of the five (5) Committee Members at a meeting for which a proper quorum has been established. A quorum will be established if four (4) of the members are present.

The Committee may hold an electronic vote if a particular matter requires a vote that cannot wait until the next scheduled committee meeting. In this case, the appropriate documents will be sent to each Committee member to be reviewed. An electronic vote will have a set deadline of not less than one week and not more than two weeks for Committee members to respond. The results of the electronic vote will be made known to all Committee members as soon as possible and will be documented in the Committee's notes that are presented at the next formal Committee meeting. For an email vote to be valid, a response from a majority of Committee members will be considered a quorum and is required.

Decisions of the Committee made in good faith upon any matter within the scope of its authority will be final, conclusive and binding upon all persons, including participants and their legal representatives or beneficiaries; but the City will at all times, in giving effect to its decisions, act without discrimination in favor of or against any participant, legal representative or beneficiary.

VII. Meetings

Committee meetings will be conducted at least one time per year, with the objective of meeting quarterly, and are scheduled by the Secretary based on direction of the Committee Chair. The Committee Secretary shall be responsible for collecting material from service providers necessary for the meeting and distributing to all Members not less than one week prior to the meeting. Meeting minutes will be taken by the Secretary and distributed to the Committee not less than one week prior to the next Committee Meeting. Meeting Minutes are subject to the Colorado Open Records Act. Non-members may attend meetings, in a non-voting capacity, at the invitation of a Committee member.

VIII. Plan Documents

The Plan shall be governed by and administered under one or more plan documents and trust agreements. These Plan documents and trust agreements, together with any other formal documents maintained for the operation and administration of the Plan, shall be on file in the permanent records of the Committee and shall be available for inspection by Plan participants during business hours.

- Monitoring Plan fees and expenses which are charged to Plan assets and/or paid by Plan participants, including, but not limited to, investment management fees, trustee fees and fees paid to other Plan service providers.
- Periodically reviewing the fees assessed to participant accounts to pay for the ongoing administration of the Plan including the allocation of fees paid to plan expenses and the reimbursement of participants with excess revenue, if elected.
- Ensuring that the share classes of investment options are periodically reviewed and adjusted to reduce fees, where available.
- Ensuring the service providers of the Plan are providing education to Plan participants.
- Evaluating the performance of all service providers necessary or desirable for the administration of the Plan including a consultant, a third-party administrator, a trustee or trustees, a custodian, insurance companies, regulated investment companies and other such service providers as shall be necessary or appropriate for the administration and operation of the Plan.
- Establishing procedures for requests for proposals, criteria for acceptance and selection, and making recommendations related to the selection and termination of any service provider.
- Administering the determination of all appeals under the Plan's claim procedures.
- Delegating any of its administrative responsibilities under the Plan, including the day-to-day operations of the Plan, to one or more employees or to one or more persons or organizations that it has employed to perform such administrative responsibilities.

In the exercise of its power and responsibilities as the named fiduciary with respect to selection of investment options under the Plan, the Committee will have the power, authority and responsibility for the following:

- Selecting the investment design features of the Plan; this includes establishing:
 - The investment policy and objectives,
 - The number and types of investment alternatives available to Plan participants, and
 - Participant investment procedures
- Appointing, monitoring and evaluating all investment fund options in accordance with guidelines and benchmarks established within this document and consistent with applicable laws.

IV. Standard of Care

When acting on behalf of the Plan, the Committee will meet the standard of care or conduct of a fiduciary of the Plan, acting in the interest of participants and beneficiaries, in a manner that is consistent with the terms of the Plan and applicable law.

V. Indemnification

The City will indemnify and hold harmless the members of the Committee appointed by the City from and against any and all liabilities, costs and expenses, including attorneys' fees, incurred by such persons as a result of any act, or omission to act, in connection with the performance of their duties, responsibilities and obligations under the Plan and under the Code, other than such liabilities, costs and expenses as may result from the bad faith, willful misconduct or criminal acts of such persons or