



ORDINANCE NO. 28573

1 AN ORDINANCE relating to pay and compensation; amending Section
2 1.12.229 of the Tacoma Municipal Code (“VEBA Accounts”) regarding
3 leave deposits, and removing a cash-out option, to align with the VEBA
4 Plan document.

5 WHEREAS Ordinance No. 26070, passed September 30, 1997,
6 amended Chapter 1.12 of the Tacoma Municipal Code (“TMC”),
7 “Compensation Plan,” to allow employee participation in a VEBA (Voluntary
8 Employee Beneficiary Association) Account as an alternative to the incentive
9 payment for non-use of sick leave, and

10 WHEREAS employees retiring from the City benefit from depositing
11 untaxed severance pay into a VEBA Account and using the funds for post-
12 retirement medical expenses, as authorized pursuant to Internal Revenue
13 Code Section 501(c)(9), without any additional cost to the City, and

14 WHEREAS it is necessary to amend TMC 1.12.229 (“VEBA Accounts”)
15 to clarify leave deposits and remove language that allows a retiring employee
16 to apply for a cashout in lieu of a deposit to a VEBA Account, which is
17 inconsistent with the VEBA Plan document; Now, Therefore,
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BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That Section 1.12.229 of the Tacoma Municipal Code (“VEBA Accounts”) is hereby amended as set forth in the attached Exhibit “A.”

Section 2. That Section 1 is effective as provided by law.

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney



EXHIBIT "A"

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2 **1.12.229 VEBA Accounts.**

3 A. The City shall deposit into a VEBA (Voluntary Employee Beneficiary Association) Account a sum
4 equivalent to 25 percent of the sick leave accruals for a nonrepresented employee; or, if provided for in a
5 collective bargaining agreement, 25 percent of the sick leave accruals, and 100 percent up to the amount
6 provided in the specific collective bargaining agreement of Personal Time Off accruals for any employee
7 who meets the following criteria:

- 8
- 9 1. The employee must qualify under subsection B of this section; and
 - 10 2. The employee must be separated from the City service due to (i) retirement for disability or length of
11 service with attendant pension payments under any City employee pension system; or (ii) death.

12 The sum deposited into the VEBA Account shall be calculated at the employee's regular classification rate
13 of pay effective at the time of retirement or death.

14 B. An employee shall qualify for a deposit into a VEBA Account pursuant to subsection A of this section if
15 the following three criteria are met:

16 1. a. The employee is not a member of one of the City's collective bargaining units at the time of retirement
17 or death, or

18 b. If the employee is a member of a duly selected collective bargaining unit at the time of his or her
19 retirement or death, the employee shall qualify for a deposit into a VEBA Account only if, at the time of
20 the employee's retirement or death, a valid collective bargaining agreement confers upon the employee the
21 right to a VEBA account; and

22 2. The employee shall qualify for a deposit into a VEBA Account only if the VEBA Account deposit is a
23 reasonable and equitable substitute for the cashout payment under Section 1.12.230D.1 which was in effect
24 immediately prior to the effective date of the ordinance codified in this section: ~~and However, an~~
25 ~~employee may apply for a cashout where the VEBA Account will be clearly detrimental when compared to~~
26 ~~the preexisting benefit in the unusual circumstances of his or her particular case. The employee must prove~~
~~he or she is not qualified under a preponderance of evidence standard for a VEBA Account due to one or~~
~~more of the following circumstances: (a) the employee has access to alternative post retirement benefits~~
~~and therefore will not use the VEBA Account in a reasonably foreseeable time or manner following~~
~~separation from the City; (b) the employee, his or her spouse, and dependents have only nominal medical~~
~~expenses and the panel is convinced that, due to the employee's circumstances, projected medical expenses~~
~~will be substantially below what would normally be expected; (c) the employee possesses a compelling~~
~~immediate need for cash to prevent a hardship to the employee or his or her dependents, such as loss of~~
~~shelter or inability to obtain food; (d) a bona fide emergency need exists due to events beyond the control~~
~~of the employee, such as for airfare to attend a seriously ill or incapacitated relative in the absence of other~~
~~reasonable alternative methods of payment; or (e) such similar circumstance as the panel finds unique and~~
~~compelling which would render the VEBA deposit an inequitable or unreasonable alternative to the cash~~
~~out payment. An employee's desire for cash without any additional compelling factors set forth above shall~~
~~not render the VEBA deposit an unreasonable or inequitable benefit; and~~

3. The total sum due to the employee is \$100.00 or greater.

23 C. ~~In the event an employee contends he or she is entitled to the cashout, upon application for retirement,~~
24 ~~he or she shall submit to the Human Resources Department a written application on such form as the~~
25 ~~Human Resources Department shall identify and require. The Human Resources Department shall then~~
26 ~~convene a panel to consider such declaration. The panel shall be comprised of the Director or Acting~~
~~Director of the Human Resources Department, the Manager or Acting Manager of the Risk Management~~
~~Division of Human Resources, the City Treasurer or Acting City Treasurer, the City Attorney or his or her~~
~~designee, and a representative appointed by the Joint Labor Council. Such panel shall convene within~~



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~~14 days of receipt of the declaration and shall render its decision within 28 days of receipt of the declaration. Such panel shall receive evidence from the employee in a manner prescribed by the panel. In no case shall a cashout payment be made until the panel has issued its decision. The panel shall determine whether an employee is qualified for the VEBA deposit solely upon the criteria set forth in this section and such administrative guidelines as the Human Resources Director shall issue to aid in the interpretation of this section. The determination of the panel shall be binding.~~

DC. In addition to VEBA benefits for which an employee may be eligible under subsections A and B above, the City shall deposit \$250.00 per month into an individual VEBA Account for each employee represented by the Tacoma Police Management Association, Local 26, who is also an LEOFF II pension system member, per the collective bargaining agreement; provided, however, contributions for employees who become represented by said bargaining unit after May 21, 2001, will be made beginning the first full month following an employee's permanent appointment to a classification represented by the bargaining unit.