

**To:** Board of Directors

**Date:** 07/11/2024

**From:** William Churchill, General Manager

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**SUBJECT:** Establishment of a 401(a) Plan

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### **Background:**

A money purchase plan is an employer-sponsored qualified defined contribution retirement plan under section 401(a) of the Internal Revenue Code that provides a fixed employer contribution. This type of money purchase plan is commonly referred to as a "401(a) Plan." Governmental employers often use these plans as incentives to help attract and retain qualified employees. The main advantage of 401(a) Plans over cash compensation is that they offer tax-deferred retirement savings. The employer can design the plan's eligibility criteria, contribution formula, vesting schedule, and distribution provisions to best suit its and its employees' needs, so long as it is established and maintained for the exclusive benefit of employees or their beneficiaries and otherwise meets qualified plan requirements.

Over the past two months, the General Manager has engaged the Administration & Finance Committee in a discussion regarding the establishment of an employer-sponsored 401(a) Plan that would expand the available compensation structures.

### **401(a) Plan Proposal:**

Staff's initial concept for a 401(a) Plan was for the Executive Team to forgo a cost-of-living adjustment (COLA) for a single year in exchange for a comparable contribution to the 401(a) Plan. At the June Board of Directors meeting, a 4% COLA was approved for non-represented employees effective July 1, 2024.

Staff has been working with the benefits arm of the Authority's legal counsel to understand the regulations around the structure of a 401(a) Plan. During this process, it was discovered that the California Public Employees' Pension Reform Act (PEPRA) restricts the amounts that governmental employers in California may contribute to these plans. After discussing these restrictions with the legal team and discussing general plan rules with the administrator of the Authority's other deferred compensation plans, staff is proposing the following plan structure:

- **Eligibility:** Only Executive Team members are eligible to participate
- **Contribution:** 2% of base salary, or the legal limit<sup>1</sup>, whichever is less
- **Vesting:** 100% immediate

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<sup>1</sup> As defined by PEPRA

Since PEPPRA limitations prohibit the Authority from contributing the full 4% COLA to the 401(a) Plan, the remaining 2% would be provided to each Executive Team as regular taxable compensation. The addition of the proposed 401(a) Plan would be cost neutral to the Authority as the Executive Team would be shifting a portion of their approved COLA to the retirement plan.

**Financial Implications:**

The cost of the proposed new compensation structure is within the amount of the COLA and merit pool item that was approved by the Board last month and is included in the approved fiscal year 2024-2025 budget. There would be nominal savings to the Authority as the value shifted to the 401(a) Plan would not be considered when calculating the Authority's PERS contribution.

**Recommendation:**

The Administration & Finance Committee and staff recommend the establishment of an employer-sponsored 401(a) Plan for the Executive Team that moves 2% of the previously approved 4% COLA to the plan this year and either 2% or the legal limit for each subsequent year.

**Action Requested:**

The Administration & Finance Committee and staff request that the Board of Directors authority to the General Manager to establish a 401(a) Plan for the Executive Team, to fund the plan with 2% of ongoing base salary and preserve 2% of the COLA wage increase.

**Attachments:**

Attachment 1: Resolution No. 2025-04

**RESOLUTION NO. 2025-04**

**BOARD OF DIRECTORS  
CENTRAL CONTRA COSTA TRANSIT AUTHORITY  
STATE OF CALIFORNIA**

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**AUTHORIZING ESTABLISHMENT OF A 401(A) MONEY PURCHASE PLAN**

**WHEREAS**, the County of Contra Costa and the Cities of Clayton, Concord, the Town of Danville, Lafayette, Martinez, the Town of Moraga, Orinda, Pleasant Hill, San Ramon and Walnut Creek (Member Jurisdictions) have formed the Central Contra Costa Transit Authority (CCCTA), a joint exercise of powers agency created under California Government Code Section 6500 et seq., for the joint exercise of certain powers to provide coordinated and integrated public transportation services within the area of its Member Jurisdictions and certain unincorporated portions of Contra Costa County;

**WHEREAS**, over the past two months the General Manager discussed establishing an Internal Revenue Code section 401(a) money purchase plan, an employer-sponsored tax-qualified retirement plan (401(a) Plan), with the Administration and Finance Committee;

**WHEREAS**, staff initially considered proposing that the Executive Team forgo a cost-of-living adjustment (COLA) for one year in exchange for a comparable contribution to the 401(a) Plan;

**WHEREAS**, at its June 20, 2024, meeting, the Board of Directors approved a 4% COLA for non-represented employees effective July 1, 2024;

**WHEREAS**, staff consulted with CCCTA's legal counsel about the legal requirements applicable to 401(a) Plans, and discovered that limits under the California Public Employees' Pension Reform Act (PEPRA) on the amount a California public agency can contribute to a 401(a) Plan prohibit CCCTA from contributing the full 4% COLA to the 401(a) Plan;

**WHEREAS**, after discussing these limits with legal counsel and the general 401(a) Plan rules with CCCTA's deferred compensation plan administrator, staff recommends, and the Administration and Finance Committee concurs, that the Board authorize the General Manager to establish a 401(a) Plan for the Executive Team that provides for an employer contribution equal to 2% of base salary or the PEPRA limit, whichever is less, and no vesting period, with the remaining 2% of the previously approved 4% COLA for Fiscal Year 2024-2025 paid to each Executive Team member as regular taxable compensation; and

**WHEREAS**, staff's recommended 401(a) Plan design is cost neutral to CCCTA for Fiscal Year 2024-2025, because CCCTA will contribute 2% of each Executive Team member's previously approved 4% COLA for that fiscal year to the 401(a) Plan, with the understanding that should the Board approve additional COLA's in future fiscal years, the intent is to continue annual employer contributions equal to 2% of base salary or the PEPRA limit, whichever is less, and no vesting period, with the remaining approved COLA for each future fiscal year paid to each Executive Team member as regular taxable compensation.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors of the Central Contra Costa Transit Authority authorizes the General Manager to establish a 401(a) Plan for the Executive Team that provides for an employer contribution equal to 2% of base salary or the PEPRA limit, whichever is less, and no vesting period, with the remaining 2% of the previously approved 4% COLA for Fiscal Year

2024-2025 paid to each Executive Team member as regular taxable compensation, with the understanding that should the Board approve additional COLA's in future fiscal years, the intent is to continue annual employer contributions equal to 2% of base salary or the PEPRA limit, whichever is less, and no vesting period, with the remaining approved COLA for each future fiscal year paid to each Executive Team member as regular pay; and

**BE IT FURTHER RESOLVED** that the General Manager or designee is authorized to take any other actions necessary to give effect to this resolution.

Regularly passed and adopted this 18th day of July, 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Don Tatzin, Chair, Board of Directors

ATTEST:

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Lathina Hill, Clerk to the Board