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## CITY COUNCIL CONSIDERATION ITEM

### CITY OF FAIR OAKS RANCH, TEXAS

January 20, 2022

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AGENDA TOPIC:      Consideration and possible action approving a Resolution to formalize the Application of Benefit Plan Surplus funds.

DATE:                      January 20, 2022

DEPARTMENTS:      Human Resources & Communications & Finance

PRESENTED BY:      Joanna Merrill, IPMA-SCP, Director of Human Resources & Communications  
Scott Huizenga, Assistant City Manager, Administrative Services

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#### **INTRODUCTION/BACKGROUND:**

The City of Fair Oaks Ranch offers its employees a Section 125 Flexible Benefit Plan through its health insurance provider, United Healthcare. One of the benefits offered under the Section 125 Flexible Benefit Plan is a Health Flexible Spending Account (FSA).

Council adopted the Employee Benefit Trust in September 2020 to provide a tax exemption for certain premiums paid on group health, accident, and life insurance policies. An FSA allows employees who participate to elect an annual contribution amount for the plan year. This election amount is fully funded by the City at the start of the plan year and placed into the Employee Benefit Trust. The City then recoups these funds from employees through bi-weekly payroll deductions. Since the accounts must be fully funded at the start of the plan year the City could potentially incur the expense and not be able to recoup all of the funds from an employee's election due to separation from the City. Conversely, the opposite may also occur. The City could potentially see a surplus due to an employee's forfeiture of unused funds over the allotted annual carryover amount.

Carryover within the Employee Benefit Trust refers to election funds that an employee did not use during the plan year. Currently up to \$500 of an employees unused election funds can be carried over into the next plan year. Any funds not eligible for carryover are forfeited by the employee and remain in the Employee Benefit Trust. The resolution adopting the Employee Benefit Trust designated all members of the City Council to be Trustees of said Trust. As such, staff is seeking direction from Council regarding the application of benefit plan surplus.

Article VI Section 7.2 of the Benefit Plan states any surplus or "forfeited" amounts credited to the benefit plan surplus must be accounted for after the close of the Plan Year, which coincides with the City's fiscal year. The plan further designates that forfeited funds may be used only in specific ways.

A preliminary review by the city auditor prompted staff to request Council formalize a process for the application of Benefit Plan surplus or "forfeitures" pursuant to Internal Revenue code §1.125 and the provisions referenced in Article VI Section 7.2 of the Benefit Plan. As Trustees of the aforementioned Trust, Council can opt for one of the following processes:

- 1.) To defray expenses of administering the benefit plan under which the FSA program is offered

- 2.) Return funds to employees on a reasonable and uniform basis per Treasury regulations
- 3.) Revert funds back to the City

Staff recommends that council adopt option three (3) to revert surplus “forfeited” funds back to the City.

**POLICY ANALYSIS/BENEFIT(S) TO CITIZENS:**

- 1.) The City incurs administrative expenses in its General Fund.
- 2.) Treasury regulations do not define what is reasonable and uniform in option two (2).
- 3.) It provides formalized allocation of FSA surplus or “forfeitures” to recover administrative expenses in the General Fund.

**LONG-TERM FINANCIAL & BUDGETARY IMPACT:**

There will be no impact on the budget.

**LEGAL ANALYSIS:**

None

**RECOMMENDATION/PROPOSED MOTION:**

I move to approve a resolution formalizing the allocation of surplus or “forfeited” funds under Article VI Section 7.2 of the Benefit Plan “Application of Benefit Plan Surplus” to revert back to the City in accordance with Benefit Plan and IRS guidelines and to authorize the City Manager to execute applicable documents.