

STAFF REPORT REGULAR MEETING

AGENDA DATE: June 4, 2024

DEPARTMENT: Human Resources

TITLE:

Authorization of a Voluntary Correction Program submission to request IRS approval of a retroactive amendment to the City of Lake Worth Beach (FPDP) 401(a) Plan

SUMMARY:

Request for authorization for the City's Director of Human Resources to file a VCP submission with the IRS to request IRS approval of a retroactive amendment to the City of Lake Worth Beach (FPDP) 401(a) Plan.

BACKGROUND AND JUSTIFICATION:

The City, as the sponsoring employer, established a tax-qualified, defined contribution retirement plan in 2010 for the benefit of eligible employees, which plan has been amended from time to time and is currently referred to as the City of Lake Worth Beach (FPDP) 401(a) Plan ("Plan").

The City is also the sponsoring employer of the City of Lake Worth Beach Employees' Retirement System ("Pension Plan").

In 2017, the City significantly restructured its retirement benefit offerings, including by creating a one-plan-or-the-other structure under which certain employees may actively accrue benefits either in the Plan or in the Pension Plan but not both simultaneously.

Among other actions, the Plan's written governing document was amended, effective February 1, 2017, to implement the one-plan-or-the-other structure.

To maintain the tax-qualified status of the Plan under the Internal Revenue Code, the Plan must be operated in accordance with its written governing document.

During an internal review of the Plan by the City's Human Resources and Finance personnel, it was recently discovered that all criteria for eligibility to participate in the Plan under the one-plan-or-the-other structure was inadvertently not included in the February 1, 2017 amendment to the Plan's governing document. This error jeopardizes the tax-qualified status of the Plan.

Under these particular circumstances, the City may cure the tax-qualification error by adopting a retroactive amendment to the Plan's governing document to align the terms of the Plan's governing document with past operations – but only if the City obtains IRS approval of the retroactive amendment under the Voluntary Correction Program ("VCP") of the IRS Employee Plans Compliance Resolution System, described in IRS Revenue Procedure 2021-30.

Accordingly, it is recommended that the City make a VCP submission to the IRS to request IRS approval of a retroactive amendment to the Plan's governing document to conform the terms of the governing Plan document to past operations, effective February 1, 2017.

It is further recommended that the City's Director of Human Resources, with the assistance of legal counsel, prepare and file the VCP submission package with the IRS for and on behalf of the City.

The IRS user fee for the VCP submission is Three Thousand Dollars (\$3,000.00).

MOTION:

Move to approve/disapprove the Director of Human Resources filing a Voluntary Correction Program submission with the IRS to request approval of a retroactive amendment to the City’s (FPDP) 401(a) Plan.

ATTACHMENT(S):

Fiscal Impact Analysis

FISCAL IMPACT ANALYSIS

Five Year Summary of Fiscal Impact:

Fiscal Years	2024	2025	2026	2027	2028
Inflows/Revenues					
Appropriated (Budgeted)	0	0	0	0	0
Program Income	0	0	0	0	0
Grants	0	0	0	0	0
In Kind	0	0	0	0	0
Outflows/Expenditures					
Appropriated (Budgeted)	\$3,000	0	0	0	0
Operating	0	0	0	0	0
Capital	0	0	0	0	0
Net Fiscal Impact <i>(If not budgeted)</i>	0	0	0	0	0
No. of Addn'l Full-Time Employee Positions	0	0	0	0	0

Contract Award - Existing Appropriation (Budgeted)	
	Expenditure
Department	HR
Division	N/A
GL Description	BENFITS FUND – OTHER CONTRACTUAL SERVICES
GL Account Number	540-1320-513.34-50
Project Number	N/A
Requested Funds	\$3,000.00
Remaining Balance	\$86.11
Source of Revenue (i.e. Paygo. Current Revenue, Bond Money, Grants, etc.)	Current Revenues/ Paygo