



CITY COUNCIL STAFF REPORT



November 9, 2021

ITEM TITLE

Amendments to City's Nationwide 401(a) Money Purchase Plan: Approval of Amendments to the Plan to Conform to the Employment Contracts for the City Manager and City Clerk

Report Number: 21-0225

Location: No specific geographic location

Department: Finance

Environmental Notice: The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

Recommended Action

Adopt a resolution to approve amendments to City's Nationwide 401(a) Money Purchase Plan ("Plan") to conform its terms to the employment contracts for the City Manager and City Clerk.

SUMMARY

The City Manager and City Clerk have in their employment contracts requirements that the City contribute specified amounts to the Plan. However, their contracts do not require mandatory contributions on their part. Nationwide, the City's 401(a) administrator, informed the City that the Plan has a mandatory contribution for participating employees. In addition, it was discovered by staff that the City's contributions to the Plan on behalf of the City Manager and City Clerk as documented in the Plan are not consistent with the contribution terms in their respective employment contracts.

This item seeks to align the terms of the Plan with the City Manager and City Clerk employment contracts by removing the requirement for mandatory employee contributions and conforming the City contribution amounts to the employment contracts.

ENVIRONMENTAL REVIEW

The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

BOARD/COMMISSION/COMMITTEE RECOMMENDATION

Not applicable.

DISCUSSION

The City Manager and City Clerk have in their employment contracts requirements that the City contribute specified amounts to the Plan. However, their contracts do not require them to make mandatory contributions to the Plan. Nationwide, the City's 401(a) administrator, informed the City that the Plan nonetheless has a mandatory contribution for participating employees. In addition, City contribution amounts to the Plan as specified in their respective employment contracts are not reflected correctly in the Plan documents.

This item seeks to align the Plan with the City Manager and City Clerk employment contracts by removing the requirement for mandatory employee contributions and conforming the City contribution terms to the employment contracts. This action is also necessary to ensure compliance with IRS requirements regarding 401(a) Plans, which requires that 401(a) Plan terms be followed precisely.

To remove the mandatory employee contribution and correct the employer contribution amounts, the following is a summary of key amendments to the 401(a) Plan that are required:

- Item 6.b – the restatement is effective November 19, 2021. This changes contributions on a go forward basis.
- Item 11.d – mandatory employee contributions will no longer be required
- Item 12.b.5 – Only the incumbents in the City Manager and City Clerk positions are eligible to participate in the Plan.
- Item 24.a.4 – Provides for employer contributions consistent with the employment agreements for the City Manager and City Clerk.
- Item 31 – mandatory contributions are no longer required.

City Council adoption of the resolution will approve amending the Plan so that it is consistent with the City Manager and City Clerk employment contracts.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site specific and consequently, the 500-foot rule found in California Code of Regulations section 18704.2(a)(1), is not applicable to this decision. Staff is not independently aware, and has not been informed by any Council member, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

CURRENT-YEAR FISCAL IMPACT

There is no fiscal impact from this action as the position is in the City adopted budget.

ONGOING FISCAL IMPACT

There is no fiscal impact from this action as the position is in the City adopted budget.

ATTACHMENTS

1. Amended 401(a) Plan

Staff Contact: Simon Silva, Deputy City Attorney/Hanna Ecijan, Finance Dept.