

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Financial Services
AGENDA DATE: May 1, 2007
CONTACT PERSON/PHONE: Robert Ash / 541-4545
DISTRICT(S) AFFECTED: All

SUBJECT:

APPROVE a resolution / ordinance / lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

A Resoution whereby the City elects to change the manner in which employee contributions to the El Paso City Employees' Pension Fund (the"Fund") are made from a post-tax to a pre-tax basis.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

The Fund currently does not comply with the funding guidelines prescribed by GASB 25, which requires that the unfunded actuarial accrued liability be amortizable over a 30-year period. In order to comply with GASB 25, the City is proposing that the employer and employee contributions to the Fund be increased. Currently, the City employee contributions to the Fund are made on a post-tax basis. The City is proposing that said contribution be made on a pre-tax basis rather than a post-tax basis in order to mitigate the negative financial impact to the employee resulting from an increase in the employee contribution rate.

A public hearing regarding a related proposed pension ordinance amendment will also take place on May 1, 2007. The ordinance amendment, if approved, would require a one percent increase in employee contributions to the Fund.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

No.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

None Required.

BOARD / COMMISSION ACTION:

Enter appropriate comments or N/A

The Board of Trustees of the City Employees' Pension Fund voted and recommended approval of this Resolution.

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____

FINANCE: (if required) _____

DEPARTMENT HEAD:

Scott Allen (C.E.P.T.)

APPROVED FOR AGENDA:

CITY MANAGER:

Woj

DATE:

9/13/07

RESOLUTION

WHEREAS, Title 2, Chapter 2.64 (City Employees Pension Fund) of the El Paso City Code (the "*Code*"), establishes the creation of a pension fund (the "*Fund*") for all non-uniformed employees of the City of El Paso (the "*City*");

WHEREAS, the Fund recently received an actuarial valuation, which stated that the Fund's current contribution rates are not sufficient to keep the Fund actuarially sound over a reasonable period of time;

WHEREAS, the Fund currently does not comply with the funding guidelines prescribed by GASB 25, which requires that the unfunded actuarial accrued liability be amortizable over a 30-year period;

WHEREAS, increasing employee and employer contributions to the Fund will improve the financial and actuarial positions of the Fund and will cause the Fund to become compliant with current GASB funding guidelines;

WHEREAS, the last increase in contributions by either the City or the employees occurred over twenty (20) years ago on September 1, 1984;

WHEREAS, beginning with the first full pay period after May 1, 2007, contributions to the Fund by the employees shall increase from 6.75 percent to 7.75 percent of his/her salary or wages. Also, beginning with the first full pay period following May 1, 2007, contributions to the Fund by the City and all its departments and divisions of a proprietary nature, and all other employers whose employees are permitted to participate in the Fund, shall increase from 10.25 percent to 11.65 percent of the salary or wages of their respective employees who contribute to the Fund;

WHEREAS, the City employee contributions to the Fund are currently made on a post -tax basis;

WHEREAS, changing contributions to the Fund from a post-tax basis to a pre-tax basis shall mitigate the negative financial impact on the employee resulting from an increase in the employee contribution rate;

WHEREAS, the City finds that it would be in the collective best interest of the City, the Fund, and the Fund's participants and beneficiaries that contributions to the Fund be made on a pre-tax basis; and

WHEREAS, the current rules and regulations promulgated by the Internal Revenue Service require that the City adopt a resolution regarding changing the method of employees contributing to the Fund from a post-tax basis to pre-tax basis.

07 APR 24 AM 9:26
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NOW; THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

1. That, the City, pursuant to the provisions of Section 414(h)(2) of the Internal Revenue Code of 1986, as amended (the “**IRC**”) shall pick-up the employee contributions required by Section 2.64.190 of the Code for all compensation that is earned by participating employees of the Fund on or after the effective date (as defined in paragraph 3 below). The contributions so picked-up shall be treated as employer contributions for purposes of determining the amounts of federal income taxes to withhold from the employee’s compensation. Employee contributions picked-up as provided by this Resolution are in lieu of deductions of employee contributions from paychecks and shall be paid by the City to the Fund from the same source of funds that is used in paying compensation to the employees.

2. That, employee contributions picked-up pursuant to this Resolution shall be deposited to the credit of the individual account of each affected employee and shall be treated for all other purposes of Chapter 2.64 of the Code as if the contributions had been deducted from the compensation of employees. Picked-up contributions are not includable in a computation of contribution rates of the City.

3. That prior to the Effective Date (as defined herein below) the City shall file with the Board of Trustees of the Fund a notice stating that the United States Internal Revenue Service has issued a favorable determination stating that:

(i) The mandatory employee contributions to the Fund, which are picked-up for those employees who participate in the Fund, will be treated as employer contributions picked-up by the City within the meaning of Section 414(h)(2) of the IRC, and that the amounts picked-up will not be included in the employee’s gross income in the year of the contribution, but will instead be included in the employee’s gross income at the time such amounts are distributed to the employee;

(ii) The picked-up contributions will not constitute wages under Section 3401(a)(12)(A) of the IRC, for federal income tax withholding purposes; and

(iii) The picked-up contributions will not be treated as “annual additions” for purposes of Section 415(c) of the IRC.

4. That, the City’s pick-up of employee contributions shall take effect on the first full pay period following May 1, 2007 (“**Effective Date**”).

07 APR 24 AM 9:26
CITY CLERK DEPT.

5. That, the contributions, although designated as employee contributions, shall be paid by the City and shall not be includable in the gross income of the employee until such amounts are distributed or made available to the employee or the employee's beneficiary.

6. That, the employee shall not have the option to receive the contributed amounts directly instead of having them paid by the City to the Fund.

7. That, a pick-up of the employee contributions by the City is terminated on January 1 of the year following the year in which:

(a) said termination has been approved by a two-thirds vote of the participating employees of the Fund at an election by secret ballot at which at least fifty percent (50%) of the participating employees vote; and

(b) the City Council has repealed this Resolution and ordinance that adopted the pick-up of employee contributions.

8. That, unless the pick-up of employee contributions by the City is terminated as provided in paragraph 7 hereinabove, the provisions of this Resolution shall remain in full force and effect so long as the Fund covering employees of the City is a "qualified plan" under Section 401(a) of the IRC and its related trust is tax exempt under Section 501(a) of the IRC.

(Signature page to follow)

07 APR 24 AM 9:26
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Signature Page

ADOPTED this _____ day of _____, 2007.

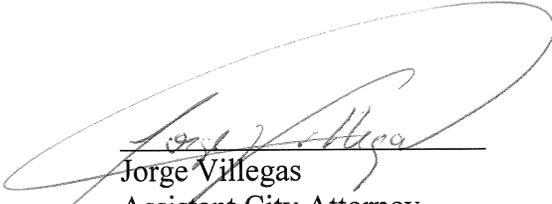
CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda D. Momsen
City Clerk

APPROVED AS TO FORM:



Jorge Villegas
Assistant City Attorney

APPROVED AS TO CONTENT:



Robert B. Ash
Administrator – City Pension Fund



Eduardo Miranda
Legal Counsel

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07 APR 24 AM 9:27