



CITY OF BANNING STAFF REPORT

TO: CITY COUNCIL

FROM: Douglas Schulze, City Manager

PREPARED BY: Nicole Jews, Human Resources Manager
Lincoln Bogard, Administrative Services Director

MEETING DATE: December 10, 2024

SUBJECT: Consideration of Resolution 2024-191, Approving the Restatement of the City of Banning Section 125 Cafeteria Plan

RECOMMENDATION:

Adopt Resolution 2024-191.

BACKGROUND:

Section 125 of the Internal Revenue Code (Code) authorizes employers to offer employees benefits on a pre-tax basis. An employer's benefit plan that offers benefits on a pre-tax basis is referred to as a "Section 125 Plan", "Section 125 Cafeteria Plan", or a "Cafeteria Plan" (due to the fact that the employee can select from among different benefit options, including some pre-tax). Employer's use these plans to provide their employees with a choice between taxable cash and certain qualified benefits without adverse tax consequences. Paying for benefits on a pre-tax basis reduces the employees' taxable income and therefore reduces the employees' tax liability. In order to receive these tax advantages, the plan must comply the rules and regulations of the Internal Revenue Services and the Code, one of which requires a Section 125 Plan must have a written plan document outlining the qualified benefits.

JUSTIFICATION:

The City of Banning has offered its employees pre-tax benefits, including health benefits, for some time and engaged Liebert Cassidy Whitmore, an experienced employment law firm, to draft its restated Section 125 Cafeteria Plan document that describes all cafeteria plan benefits and establishes rules for eligibility and elections. The City must adopt the restated Section 125 Cafeteria Plan document, which requires Council approval, in order to ensure the City continues to maintain the pre-tax benefits for IRS purposes.

Employees participating in a Section 125 Plan must be permitted to choose among at least one taxable benefit and one qualified benefit. The qualified benefits under the City's Section 125 Cafeteria Plan include health insurance benefits (medical, dental and vision insurance), dependent care assistance, health flexible spending account, and group term life insurance coverage. In addition, once an employee makes a Section 125 Cafeteria Plan election, he or she may not change that election until the next plan year, unless the employee experiences a permitted election change event. The next "Plan Year" is effective January 1, 2025, for the calendar year 2025.

Staff recommends the City Council approve and adopt the attached restated Section 125 Cafeteria Plan, and authorize the City Manager, or designee, to execute and administer the Plan and related documents.

FISCAL IMPACT:

The adoption of the proposed resolution and the Plan document does not have an impact on the adopted budget but will ensure the City's continued compliance with Section 125 of the Internal Revenue Code.

ALTERNATIVES:

Do not approve Resolution 2024-191 and provide alternative direction to staff.

BUDGETED?:

Yes

CONTRACT/AGREEMENT:

No

ATTACHMENTS:

1. [Resolution 2024-191, Cafeteria Plan.docx](#)
2. [City of Banning - Section 125 Cafeteria Plan Document\(12531485.1\).docx](#)