



## Legislation Details (With Text)

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**Title:** APPROVE CONTRACT AMENDMENT NO. 3 WITH VOYA RETIREMENT INSURANCE AND ANNUITY COMPANY AND VOYA FINANCIAL PARTNERS, LLC (CITY COUNCIL)  
**Sponsors:**  
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**Attachments:** 1. Exhibit 1, 2. Exhibit 2, 3. Exhibit 3, 4. Exhibit 4

Date	Ver.	Action By	Action	Result
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## Report to Mayor and City Council

Tuesday, June 02, 2020

Consent

### SUBJECT:

**APPROVE CONTRACT AMENDMENT NO. 3 WITH VOYA RETIREMENT INSURANCE AND ANNUITY COMPANY AND VOYA FINANCIAL PARTNERS, LLC (CITY COUNCIL)**

### I. SUMMARY

On May 1, 2015, the City of Carson entered into the City of Carson Deferred Compensation Program Administrative Services Agreement ("Agreement") with Voya Retirement Insurance and Annuity Company and Voya Financial Partners, LLC to make improvements to the City of Carson's Deferred Compensation Plan and City of Carson 401 (a) Retirement Plan, Voya Plan Numbers 666972 and 666973. On December 15, 2015, the Agreement was first amended to correct certain errors with the Expense Account for Services Account. On December 3, 2019, the Agreement was further amended to reduce the administrative fee. The proposed amendment will now incorporate certain tax and distribution provisions required pursuant to the Coronavirus Aid, Relief, and Economic Security Act, or CARES Act (the "Act").

### II. RECOMMENDATION

WAIVE further reading and APPROVE THE VOYA ADMINISTRATIVE SERVICES

CONTRACT AMENDMENT NO. 3 WITH VOYA RETIREMENT INSURANCE AND ANNUITY COMPANY AND VOYA FINANCIAL PARTNERS, LLC"; AND

AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT UPON APPROVAL AS TO FORM BY THE CITY ATTORNEY.

### **III. ALTERNATIVES**

Take any other action deemed appropriate.

### **IV. BACKGROUND**

On May 1, 2015, the City entered into the City of Carson Deferred Compensation Program Administrative Services Agreement with Voya Retirement Insurance and Annuity Company and Voya Financial Partners, LLC to make improvements to the City of Carson's Deferred Compensation Plan (Exhibit 1). The Agreement contains a section for Reimbursement of Plan Expenses to be withdrawn from the Expense Account for Services of Expenditures ("EASE Account"). The EASE Account is an expense account to be used to defray the reasonable expense of administering this Plan.

On December 15, 2015, the City approved Amendment No. 1 to the Agreement with Voya Retirement Insurance and Annuity Company and Voya Financial Partners, LLC correcting certain errors related the EASE Account (Exhibit 2).

On December 3, 2019, the Plan Sponsor and Contractor entered into that certain Amendment No. 2 to the City of Carson Deferred Compensation Program Administrative Services Agreement to amend the Agreement to update certain services provided to the Plan and reflect the reduced administration fee from .33 basis points to .21 basis points (Exhibit 3).

On March 13, 2020, the President of the United States declared the ongoing coronavirus pandemic of sufficient severity and magnitude to warrant a nationwide emergency declaration. On March 27, 2020, the President of the United States signed into law the Coronavirus Aid, Relief, and Economic Security Act, or CARES Act (the "Act"). The Act includes a number of tax and distribution provisions that affect retirement plans.

On May 5, 2020, City Council approved allowing current plan participants with an existing loan to take out a new COVID-19 related loan thus having two (2) outstanding loans at a time. Voya has reviewed the City's decision, accepted the request and has made the required Voya system updates to reflect this decision.

Staff is presenting Voya Administrative Services Agreement Amendment No. 3 (Exhibit 4)

to City Council for approval to amend the Agreement to reflect the provisions that will permit limited early withdrawals and higher loan amounts from qualified retirement accounts, as enacted by the CARES Act. The CARES Act provision implemented by Voya temporarily increases the loan limit to \$100,000, thereby waiving the standard IRS limit of no higher than 50% of the account balance or \$50,000 whichever is less. Participants must meet the eligibility defined in the CARES Act in order to take a COVID-19 related loan.

Note, the Internal Revenue Service ("IRS") has yet to provide CARES Act model plan amendment language and has not provided an estimated delivery date. Therefore, the IRS imposed deadline to amend the 457(b) plan document is 12/31/2024. Accordingly, Staff anticipates it will bring the City Council an additional amendment to the Plan to implement any additional changes or clarifications issued by the IRS once the model language is issued.

## **V. FISCAL IMPACT**

There is no additional fiscal impact to the City. These provisions are intended to provide plan participants with additional tools and resources as we all navigate this unprecedented pandemic.

## **VI. EXHIBITS**

1. City of Carson Deferred Compensation Program Administrative Services Agreement with Voya Retirement Insurance and Annuity Company and Voya Financial Partners, LLC. (pgs. 4-53)
2. Amendment No. 1 to the City of Carson Deferred Compensation Program Administrative Services Agreement with Voya Retirement Insurance and Annuity Company and Voya Financial Partners, LLC. (pgs. 54-60)
3. Amendment No. 2 to the City of Carson Deferred Compensation Program Administrative Services Agreement with Voya Retirement Insurance and Annuity Company and Voya Financial Partners, LLC. (pgs. 61-67)
4. Amendment No. 3 to the City of Carson Deferred Compensation Program Administrative Services Agreement with Voya Retirement Insurance and Annuity Company and Voya Financial Partners, LLC. (pgs. 68-76)

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