

Palm Beach First Responders Foundation, Inc.

Sponsored Retirement Plan for the Benefit of Town of Palm Beach Police Department and Fire Department Employees

Summary for Town Council

1/7/22

Overview: The Palm Beach First Responders Foundation, Inc., (“Foundation”) a charitable organization created to support the Town’s police and fire department employees, enhance the technology and equipment used by the departments, and provide financial assistance to first responders and their families, has established a retirement plan for the benefit of police and fire department employees. This retirement plan will be known as “The Palm Beach First Responders Foundation, Inc. Sponsored Retirement Plan for the Benefit of Town of Palm Beach Police Officers and Firefighters.” The purpose of the plan is to provide certain additional tax-qualified retirement benefits to certain employees of the Town’s police and fire department.

The plan will be sponsored, funded and administered by the Foundation, and will be maintained in addition to the Town’s existing employee retirement plans. The terms of the plan are described in the plan document. The plan will be effective as of January 1, 2021, upon Town Council’s approval of an agreement with the Foundation. This agreement provides that the Town agrees to and approves of the establishment and operation of the plan by the Foundation. The effective date of this agreement is December 31, 2021.

A brief summary of the agreement and retirement plan follows (note this is a summary and in the event of a conflict or inconsistency with any provision of the agreement or retirement plan, the language of the agreement and plan will control):

- The plan is sponsored, funded and administered by the Foundation with the approval of the Town. The Town will not provide any funding for the Plan, nor will the Town be involved in administering the Plan, other than as provided in the agreement between the Town and Foundation.
- The plan is intended to provide a tax-deferred retirement benefit for eligible police and fire department employees, in the form of an individual account for each participating employee, subject to IRS approval. An “eligible employee” is generally any employee in the police or fire departments, other than a DROP participant, who completes a year of service (i.e., works more than 1,000 hours in a 12-month period). Each year an amount determined by the Foundation will be contributed to the plan, and then allocated to participant accounts on a uniform percentage of compensation basis. In accordance with federal law, highly compensated employees (generally, those earning more than \$130,000 per year) will be placed in separate classes and may not receive an allocation, based on annual nondiscrimination testing. Participants will be able to direct the investment of their retirement accounts among several investment options, and each account may grow over time based on the selected investments. The plan is intended to be tax-qualified, with taxes deferred until the employee retires and begins receiving payments from their account.

- The agreement between the Town and Foundation will be effective as of December 31, 2021, upon Town Council's approval of the agreement. The agreement will remain in effect until terminated by either party with 30 days written notice, except the Town generally agrees not to terminate the agreement during the first 6 years.
- The Foundation has the exclusive right to amend or terminate the plan, with at least 60 days advance written notice to the Town (the notice period may be waived for an amendment that is necessary to maintain compliance with applicable laws).
- The Town will provide to the Foundation information related to the compensation and benefits of police and fire department employees as necessary for the establishment, funding and operation of the plan, but will not provide any records deemed confidential and exempt from disclosure under the Florida Public Records Act. The Town is required to notify the Foundation in writing if it maintains confidential information that cannot be disclosed under the Public Records Act. In that case, the Town will cooperate with the Foundation in the Foundation's efforts to collect such information.
- The Town agrees to any future amendments and other actions that may be reasonably required to preserve the Foundation's tax exempt status, provided the actions do not materially increase the costs and risks, or materially reduce the rights and benefits of the Town.
- The Foundation acknowledges that the Town is a governmental entity that operates qualified retirement plans for its employees. The Foundation agrees to any future amendments and other actions that may be reasonably required, including but not limited to terminating the plan, if operation of the plan jeopardizes the qualified status of the Town's retirement plans.
- The Foundation will determine and notify the Town in writing the dollar amount to be contributed to the plan by the Foundation for each year or allocation period. The amount deposited may vary from year to year, as determined by the Foundation in its sole discretion. Once deposited into the plan, the amount will be allocated to the accounts of eligible police and fire employees based on a percentage of eligible compensation earned by such employees during the specified allocation period, in accordance with the terms of the plan.
- After the plan has been in effect for 6 years, the Town may decline a contribution by notifying the Foundation in writing within 10 business days following receipt of a contribution notice from the Foundation. If the Town declines a contribution, no contribution will be made by Foundation for that year or allocation period and no allocations will be made to employee accounts for that period. Prior and future contributions would not be affected.
- The Town agrees it will not reduce other compensation and benefits of plan participants on account of allocations made under the plan, except as required by law.
- The Town consents to and approves the terms of the plan (set forth in the plan document attached to the agreement).
- The Town and the Foundation mutually agree that, to fulfill their duties and obligations under the agreement, each party must rely on oral and written representations of the other party, and both parties agree to hold the other party harmless from and against any loss or damage to the

plan, the Town or the Foundation due to their good faith reliance on these oral or written representations.

- The Town and the Foundation mutually agree to indemnify and hold harmless the other party from and against all claims arising from the first party's duties and obligations under the agreement and plan, to the extent not caused by the other party's negligence, willful misconduct and fraud.
- The Foundation agrees to comply with applicable provisions of the Florida Public Records Act.