

**MOORPARK CITY COUNCIL
AGENDA REPORT**

TO: Honorable City Council

FROM: Deborah Traffenstedt, Deputy City Manager
Prepared by: Jennifer Mellon, Administrative Services Manager

DATE: October 23, 2014 (CC Meeting of 11/05/14)

SUBJECT: Consider Resolution Adopting Safe Harbors under the Patient Protection and Affordable Care Act

BACKGROUND AND DISCUSSION

On July 1, 2013, the City Manager authorized the 2013 transitional measurement period for Affordable Care Act implementation and adoption of “look back measurement method safe harbor” pursuant to IRS permitted rules and advisement from the City’s Human Resource legal advisor, Liebert Cassidy Whitmore (LCW).

The City has contracted with LCW to assist with ongoing compliance with regards to the Patient Protection and Affordable Care Act (ACA). Due to the changes in law since the City’s action in 2013, LCW has advised that the City adopt a resolution giving the City Manager authority to create an ACA Administrative Policy. The City will continue to work with LCW to draft the policy and other necessary documents to maintain compliance with the ACA.

The attached resolution states the City of Moorpark establishes the Look Back Measurement Method Safe Harbor with regard to all employees and that the City delegates authority to the City Manager to create an ACA Administrative Policy that establishes measurement, administrative, and stability periods; governs the measurement and tracking of employees’ hours of service; and/or otherwise establishes procedures to comply with the Look Back Measurement Method Safe Harbor as well as other actions to comply with the ACA.

FISCAL IMPACT

There is no direct Fiscal Impact.

Honorable City Council
November 5, 2014 Regular Meeting
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STAFF RECOMMENDATION

Adopt Resolution No. 2014-____, Safe Harbors under the Patient Protection and Affordable Care Act.

Attachment A: Resolution No. 2014-_____

RESOLUTION NO. 2014-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MOORPARK, CALIFORNIA, ADOPTING SAFE HARBORS UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT

WHEREAS, The Patient Protection and Affordable Care Act (“ACA”) was enacted on March 23, 2010; and

WHEREAS, ACA added Section 4980H Shared Responsibility for Employers Regarding Health Care Coverage (Section 4980H) and Section 6056 Certain Employers Required to Report on Health Insurance Coverage (Section 6056) to Title 26 of the United States Code, the Internal Revenue Code; and

WHEREAS, Section 4980H imposes an assessable payment on an applicable large employer when (1) it fails to offer “substantially all” of its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage or offers coverage to “substantially all” of its full-time employees (and their dependents), but that coverage is “unaffordable” or does not provide “minimum value” and (2) any full-time employee is certified to the employer as having received a subsidy for coverage through the exchange (“Assessable Payment”); and

WHEREAS, Section 6056 requires an applicable large employer to file with the Internal Revenue Service an annual return for each full-time employee; and

WHEREAS, the City of Moorpark (“City”) is considered an applicable large employer because it employed an average of at least 50 full-time employees (including full-time equivalents) on business days during the preceding calendar year; and

WHEREAS, the Department of Treasury issued final regulations regarding Section 4980H, that permit the City to adopt the Look Back Measurement Method Safe Harbor in order to determine the status of an employee as “full-time” for purposes of reporting and calculating the Assessable Payment, if any (79 Federal Register 8544, 8586, February 12, 2014); and

WHEREAS, the City intends to adopt the provisions of the Look Back Measurement Method Safe Harbor in order to determine the full-time status of its employees for reporting purposes related to the Assessable Payment; and

WHEREAS, the Department of Treasury issued final regulations regarding Section 4980H that permit the City to use one of three affordability safe harbors for any reasonable category of employees as long as it is applied on a uniform and consistent basis for all employees in the category (79 Federal Register 8544, 8599-8601, February 12, 2014); and

WHEREAS, the City intends to use the affordability safe harbors as contemplated in the final regulations; and

WHEREAS, the City intends to use good faith efforts to comply with legal requirements under ACA despite that they have not yet been fully developed; and

WHEREAS, the City expects that further guidance and regulations may be issued regarding ACA.

NOW THEREFORE, be it resolved by the City Council of the City of Moorpark as follows:

SECTION 1. The City hereby establishes the Look Back Measurement Method Safe Harbor with regard to all employees for the purpose of identifying full-time employees for IRS reporting purposes relating to the Assessable Payment.

SECTION 2. The City does not establish the Look Back Measurement Method Safe Harbor for the purpose of determining eligibility for an offer of medical coverage as to any employee. All represented employees' eligibility for an offer of medical coverage shall be governed by the terms of any applicable memorandum of understanding.

SECTION 3. The City hereby delegates authority to the City Manager, including his/her designee(s), to create an ACA Administrative Policy ("Policy") that establishes measurement, administrative, and stability periods; governs the measurement and tracking of employees' hours of service; and/or otherwise establishes procedures in accordance with Section 4980H to comply with the Look Back Measurement Method Safe Harbor.

SECTION 4. For each reasonable category of employees, the City in its sole discretion, but on a uniform and consistent basis for all of the employees in a reasonable category, will apply one of the three affordability safe-harbors (i.e. Form W-2 Safe Harbor, Rate of Pay Safe Harbor, or Federal Poverty Line Safe Harbor) to determine the affordability of the minimum value coverage that it may, if applicable, offer to its full-time employees.

SECTION 5. The City hereby delegates authority to the City Manager, including his/her designee(s), to establish the Policy to comply with any of the three affordability safe harbors in accordance with and as permitted by Section 4980H.

SECTION 6. The City Manager, including his/her designee(s), shall have authority to modify the Policy to ensure the City's compliance with Sections 4980H and 6056 of the Internal Revenue Code.

SECTION 7. The City Clerk shall certify to the adoption of this resolution and shall cause a certified resolution to be filed in the book of original resolutions.

PASSED AND ADOPTED this 5th day of November, 2014.

Janice S. Parvin, Mayor

ATTEST:

Maureen Benson, City Clerk